



ECOLOGICAL ADVICE SERVICE

TO: Karen Cronin
FROM: Luke Wallace
DATE: 19 April 2022
SUBJECT: 20220238 / Lomer Farm, Meopham

The following is provided by Kent County Council's Ecological Advice Service (EAS) for Local Planning Authorities. It is independent, professional advice and is not a comment/position on the application from the County Council. It is intended to advise the relevant planning officer(s) on the potential ecological impacts of the planning application; and whether sufficient and appropriate ecological information has been provided to assist in its determination. Any additional information, queries or comments on this advice that the applicant or other interested parties may have must be directed in every instance to the Planning Officer, who will seek input from the EAS where appropriate and necessary.

We have reviewed the ecological information submitted by the applicant and advise that sufficient ecological information has been provided.

Roosting Bats

During bat emergence surveys, Common Pipistrelle bats were observed emerging from buildings B1 and B2 (as labelled within the report). As all bat species and their roosts are protected, and because these buildings will be demolished as part of the proposed development, mitigation measures will need to be implemented under licence from Natural England.

A European protected species mitigation (EPSM) licence will be required to carry out the proposed development due to the impacts upon roosting bats. The Conservation of Habitats and Species Regulations 2017 requires the competent authority to have regard to the requirements of the Habitats Directive in the exercise of their functions. As such, the local planning authority must consider whether it is likely that an EPSM Licence from Natural England will be granted, and in so doing must address the three tests when deciding whether to grant planning permission for the proposed development. The three tests are that:

1. Regulation 55(2)(e) states: a licence can be granted for the purposes of "*preserving public health or public safety or other imperative reasons of overriding public interest*"

including those of a social or economic nature and beneficial consequences of primary importance for the environment”.

2. Regulation 55(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied *“that there is no satisfactory alternative”.*
3. Regulation 55(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied *“that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.”*

We are only able to comment on test 3; favourable conservation status.

A suitable mitigation strategy has been proposed, including specific timings of work and hand-stripping of roof tiles under supervision from a licenced ecologist. The proposals also include replacement roost space; specifically, two *integrated* roost boxes. We strongly recommend that these are included in the elevation plans prior to determination of the application to demonstrate they can be adequately incorporated.

Once this has been demonstrated, we advise that a condition is attached to any granted planning permission to secure the implementation of the mitigation strategy (subject to variation from Natural England). Suggested wording:

From the commencement of works (including site clearance), all mitigation measures for bats will be implemented in accordance with the details in section 5 of the ‘Bat Emergence Report’ (Corylus Ecology September 2021), unless otherwise varied by Natural England.

Bats and Lighting

To mitigate against potential adverse effects on bats, and in accordance with the National Planning Policy Framework 2021, we suggest that the Bat Conservation Trust’s ‘Guidance Note 8 Bats and Artificial Lighting’ is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats is submitted to the local planning authority and secured via an attached condition with any planning permission. Suggested wording:

Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

Breeding Bird Informative

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need to be removed during the breeding season, mitigation measures need to be implemented during construction. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged. We suggest the following informative is included with any planning consent:

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

Biodiversity and Ecological Enhancement

Under section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2021) and the Environment Act (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.

The most effective way in which to maximise biodiversity value is to implement a native species-only landscape scheme. As such, we advise that this is secured via condition with any granted planning permission. Suggested wording:

Within six months of works commencing, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include a native species-only landscape scheme and provision of bird/bat boxes. The approved details will be implemented and thereafter retained.

Luke Wallace **Biodiversity Officer**

This response was submitted following consideration of the following documents:

- *Preliminary Ecological Appraisal. Corylus Ecology. September 2021.*
- *Bat Emergence Report. Corylus Ecology. September 2021.*