



ECOLOGICAL ADVICE SERVICE

TO: Rebecca Harrison

FROM: Emma England

DATE: 27 February 2024

SUBJECT: 20231313 / Eastcourt Marshes Electricity Distribution Site, Gravesend

The following is provided by Kent County Council's Ecological Advice Service (KCC 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 if sufficient/appropriate ecological information has been provided.

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.

SUMMARY – ADDITIONAL INFORMATION REQUIRED

We have reviewed the ecological information submitted in support of this application and advise that additional information is sought from the applicant prior to determination of the planning application.

Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 180 and 186 of the National Planning Policy Framework (NPPF) 2023, biodiversity should be maintained and enhanced through the planning system.

We can suggest wording for relevant conditions if planning permission is granted, once sufficient information relating to biodiversity net gain, reptiles and water voles has been provided.

We were surprised that Natural England has not provided formal comments on this application as the ES Biodiversity Chapter indicates that during consultation prior to submission of the application, Natural England was concerned regarding potential impacts to a Site of Special Scientific Interest (SSSI) notification project, and on the potential for functionally linked land within the application site for birds designated in nearby SPA habitat. Further, the applicant has carried out an Appropriate Assessment for noise disturbance effects during construction on the Thames Estuary & Marshes SPA/Ramsar

site (30m south of the application site). We would urge Gravesham Borough Council to reconsult with Natural England to establish whether it has provided no comment in error. Further dialogue and clarification from Natural England will ensure that Gravesham Borough Council can be confident that the proposed measures to minimise/manage/mitigate/compensate any likely significant negative effects are acceptable.

We would also highlight that Gravesham Borough Council must consider the impact the proposal will have on these designated sites in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the NPPF 2023. The responsibility for carrying out a Habitat Regulations Assessment (HRA) Screening and Appropriate Assessment lies with the Competent Authority, Gravesham Borough Council.

Detailed comments are provided below.

Detailed Comments

Reptiles

Reptiles are protected through the Wildlife and Countryside Act 1981 (as amended). All British reptiles are also [listed as rare and most threatened species](#) under Section 41 of the Natural Environment and Rural Communities Act (2006) and local planning authorities are required to have regard for the conservation of Section 41 species as part of planning decisions under their [biodiversity duty](#).

Necessary mitigation/ compensation for reptiles needs to be provided prior to determination of any planning application. This is in alignment with paragraph 99 of the ODPM 06/2005, which states *“it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”*.

We note there are severe limitations regarding the results of the reptile surveys undertaken. However, we also acknowledge that the project ecologists have taken a precautionary approach with regards to expected numbers of reptiles at the site.

Even so, we consider that there will be both a permanent and temporary loss of reptile habitat from the site. A precautionary approach to vegetation clearance has been proposed within the outline Construction Environmental Management Plan (CEMP), but no reptile translocation has been proposed. Whilst it may be possible to avoid immediate killing and injury of reptiles by encouraging them to move into adjacent retained habitat outside the works area, this habitat is unlikely to be suitable to support significant numbers of additional animals. Further, the image shown on page 4 of this advice note indicates that large areas of habitat are to be affected by works across the site. As such, we consider that the mitigation measures proposed for reptiles are insufficient, particularly in the short-term.

We would encourage the applicant to consider a clear receptor site with sufficient carrying capacity to accept displaced reptiles. The receptor site will need to be ready to accept reptiles in advance of site clearance works. This may necessitate reptile translocation to an off-site receptor site.

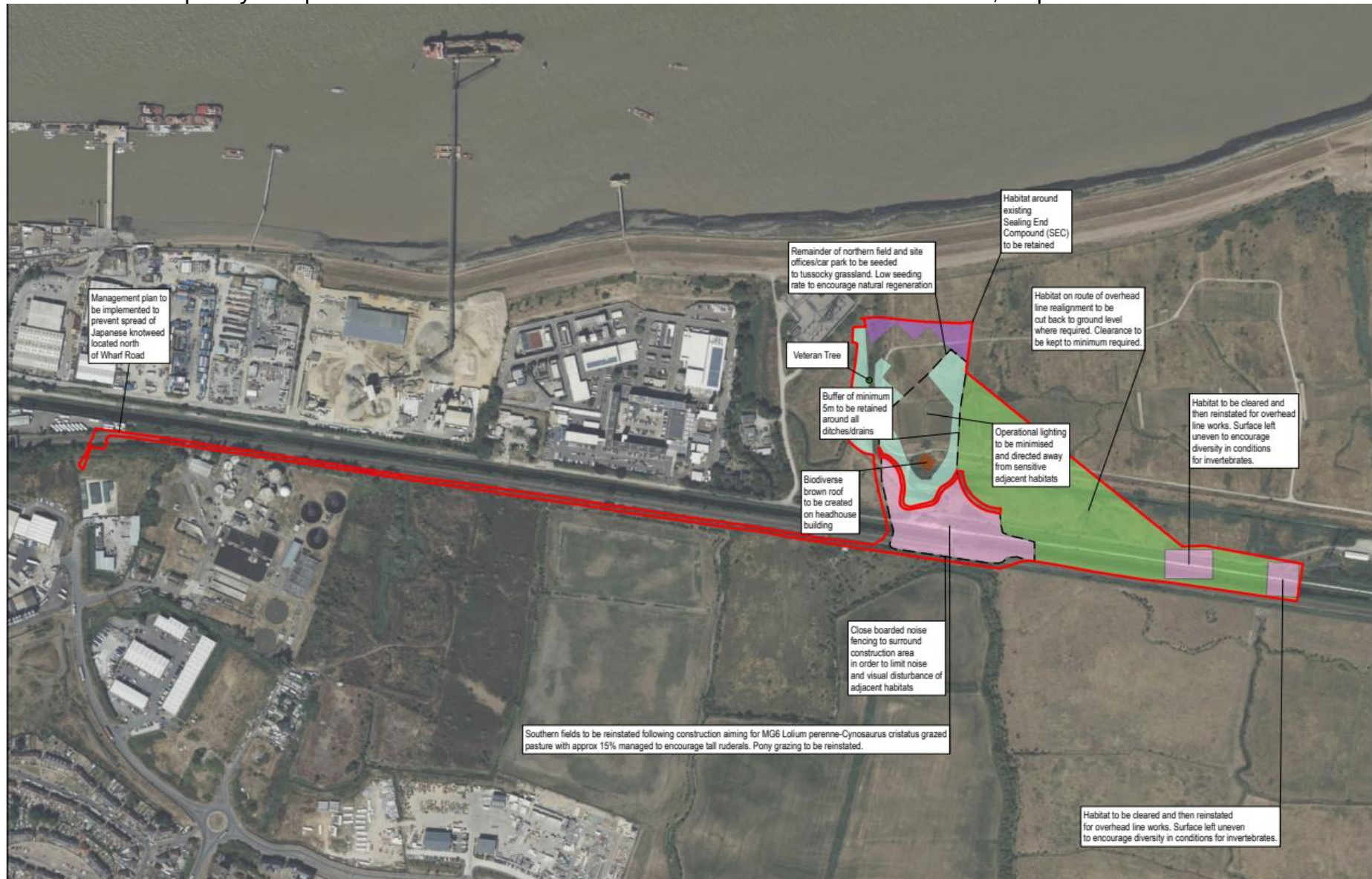
For a receptor site, we expect the following criteria to be met (as per government advice¹):

- The site should be close to the development site, and within the same local planning authority (LPA) if possible;
- The site should be at least the same size as the habitat that will be lost, and larger if the lost habitat is of high quality;
- The site should serve the same function as the habitat to be lost, for example have hibernation features;
- The site should have similar habitat to the area that will be lost, including water bodies;
- The site should not currently support the same species, but can be improved to make it suitable. Or the proposal could introduce small numbers of reptiles to an area with an existing population if the habitat is improved to support the increased numbers. The proposal must allow enough time for new habitats to become suitable for the reptiles before capturing them; and
- The site must be safe from future development and managed in the long term for the benefit of reptiles. Evidence that this can be secured needs to be provided to the LPA.

¹ [Reptiles: advice for making planning decisions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/advice/reptiles)

Impacts

The areas of temporary and permanent habitat loss at the Gravesend site are re-shown below, as per the submitted information.



Non-statutory Designated Sites and Biodiversity Net Gain

Local Wildlife Sites (LWSs) are important for the conservation of wildlife at the county level. These are non-statutory designations which are generally recognised by local authorities and given weight and protection by inclusion in development plan policies in accordance with paragraphs 181 and 185 of the National Planning Policy Framework (NPPF) 2023.

Proposals lie within the Canal and Grazing Marsh, Higham Local Wildlife Site (LWS). This LWS has been designated for its managed and unmanaged grazing marsh, dykes, sea wall, salt marsh and a long stretch of the Thames and Medway Canal. The site lies adjacent to the South Thames Estuary & Marshes Site of Special Scientific Interest (SSSI) and adds to the overall importance of this stretch of the North-West Kent Marshes.

The NPPF 2023 states under paragraph 180 that: *“Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);...d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures”*.

Gravesham Borough Council's Local Plan states within Policy CS12: Green Infrastructure:

“5.7.23 Sites designated for their biodiversity value will be protected, with the highest level of protection given to internationally designated Special Protection Areas, Special Areas of Conservation and Ramsar sites, followed by nationally designated Sites of Special Scientific Interest, followed by Local Wildlife Sites and then by other areas of more local importance for biodiversity.

5.7.24 There will be no net loss of biodiversity in the Borough, and opportunities to enhance, restore, re-create and maintain habitats will be sought, in particular within the Biodiversity Opportunity Areas shown on the Strategic Green Infrastructure Network map and within new development.

5.7.25 Where a negative impact on protected or priority habitats/species cannot be avoided on development sites and where the importance of the development is considered to outweigh the biodiversity impact, compensatory provision will be required either elsewhere on the site or off-site, including measures for ongoing maintenance.”

Based on the current plans for the Site, the proposed development (including Tilbury) is predicted to result in a biodiversity net loss of 10.80%. However, a biodiversity net gain of 4.08% is proposed at an off-site location. The applicant is understood to be exploring further options for biodiversity net gain in line with the applicant's own policies.

We have not reviewed the biodiversity metric calculation tool associated with this application as the pdf format provided is difficult to read. We would require the calculation tool in excel format to be able to review the calculations effectively. We are therefore unable to comment on the validity of the proposed biodiversity net gain and to what extent proposals are capable of compensating for the loss of the Canal and Grazing Marsh, Higham LWS.

It would be helpful to see a copy of the biodiversity metric calculation tool in excel format prior to determination. If the off-site provision has been decided, it would be helpful to see further details regarding the proposed off-site location. This is to better understand/review the biodiversity net gain/loss associated with proposals. The assessment of the suitability of off-site compensation sites will need to include an assessment of any other constraints to achieving the target habitat (e.g., whether other protected or notable species already present will be affected by a change in management/habitats at the off-site compensation site).

If planning permission for proposals is granted, the on-site biodiversity measures (including detailed soft landscaping plans), and off-site net gain site should be secured through planning obligation. However, we note that the applicant's preferred off-site provision is not within Gravesham Borough Council's area, but in Medway Council's. The off-site provision is also proposed to deal with biodiversity losses at the Tilbury site. These factors will need to be considered with regards to any planning obligations.

A detailed Landscape and Ecological Management plan for both the on-site and off-site habitats should also be secured by a suitably worded condition if planning permission is granted in order to ensure that the proposed habitats can be effectively created and managed into the future.

Water Voles

Water voles are assumed present at the Gravesend site as surveys were inconclusive. Submitted information indicates that whilst ditches will be largely protected from impacts through a 5m buffer, it is not clear whether reedbed habitat will be similarly protected during construction. The Biodiversity Net Gain Assessment indicates that there will be a temporary loss in the coverage of reedbed habitat across the site as a whole (including Tilbury). The figure on page 3 of this advice note also indicates that there may be clearance within areas of reedbed habitat at the Gravesend site. It is not clear how impacts to water vole will be effectively mitigated and compensated for if reedbed habitats are to be impacted. Further, it is not clear from the submitted information how previous limitations regarding obtaining accurate survey data² will be dealt with to inform licensing (where relevant).

We would request clarification prior to determination regarding the above. This is in alignment with paragraph 99 of the ODPM 06/2005, which states *"it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"*.

Invertebrates and Birds

A number of invertebrate (hornet robberfly, shrill carder-bee; brown-banded carder-bee, and small heath butterfly) and bird species found at the Gravesend site,^{3,4} are listed under Section 41 of the Natural Environment and Rural Communities Act (2006) and local

² Consideration should be given to using specially trained wildlife detection dogs to survey areas that are difficult for humans to access.

³ [Invertebrates: advice for making planning decisions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/invertebrates-advice-for-making-planning-decisions)

⁴ [Wild birds: advice for making planning decisions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/wild-birds-advice-for-making-planning-decisions)

planning authorities are required to have regard for the conservation of Section 41 species as part of planning decisions under their [biodiversity duty](#)⁵. Paragraph 84 of the ODPM Circular 06/2005 states that “...*The potential effects of a development, on habitats or species listed as priorities... ...are capable of being a material consideration in the ... making of planning decisions*”.

The applicant should take appropriate measures to avoid, mitigate and, as a last resort, compensate for any negative effects on Section 41 species in the development proposal, in accordance with relevant government standing advice.

Submitted information appears to indicate that there will be a permanent reduction in semi-natural habitats as a result of proposals. Submitted information indicates that in the long-term, taking into consideration mitigation and compensation measures, this is expected to result in a negligible effect on the invertebrate populations of District importance, and bird populations of District and Local importance.

Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 180 and 186 of the National Planning Policy Framework (NPPF) 2023, biodiversity should be maintained and enhanced through the planning system. If planning permission is granted for the project, we recommend that a condition is included to ensure invertebrate and bird populations at the site are not only protected in the long-term, but also to ensure that the project is able to deliver net gains to the local invertebrate and bird populations.

Statutory Designated Sites, Bats, Badgers, Protected/Notable Plant Species, Japanese Knotweed, Marine Mammals, Veteran Tree

Following a review of the submitted information, we are satisfied that should planning permission be granted, that a detailed Construction Environmental Management Plan (CEMP) secured by condition, and including noise fencing around the construction site, will be sufficient to avoid and mitigate for impacts upon bats, badgers, protected/notable plant species, Japanese knotweed, marine mammals, veteran trees, the Thames Estuary and Marshes SSSI, SPA and Ramsar and the Medway Estuary and Marshes SPA and Ramsar during construction.

Lighting and Biodiversity

We note that operational lighting has the potential to have adverse impacts upon biodiversity (e.g., bats). Local authorities have a duty to ensure impacts upon legally protected species are avoided and impacts upon bats are a material consideration in any planning permission under the NERC Act 2006 and through the NPPF 2023.

Therefore, to mitigate against potential adverse effects on biodiversity, the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night'⁶ should be consulted in the lighting design of the development.

We advise that the incorporation of sensitive lighting design for biodiversity is submitted to the local planning authority and secured via an attached condition with any planning permission. Dark buffer zones should be used to separate habitats or features from

⁵ [Complying with the biodiversity duty - GOV.UK \(www.gov.uk\)](#)

⁶ [‘Bats and Artificial Lighting at Night’ ILP Guidance Note update released - News - Bat Conservation Trust](#)

lighting. Where 'complete darkness' on a feature or buffer is required, we will consider this to be where illuminance is below 0.2 lux on the horizontal plane and below 0.4 lux on the vertical plane.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Emma England
Biodiversity Officer

This response was submitted following consideration of the following documents:

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume IV. Chapter 15 Biodiversity – Gravesend.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Biodiversity Net Gain Assessment and Strategy Report.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.10 – Marine Assessment Screening.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.9 – National Vegetation Classification Survey Report.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.8 – Invertebrate Report.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.7 – Reptile Survey Report.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.6 – Badger Survey Report.
CONFIDENTIAL.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.5 – Otter and Water Vole Survey Report.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.4 – Bat Survey Report.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.3 – Great Crested Newt eDNA Surveys.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.2 – Ornithological Baseline Report.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 7.1 – Preliminary Ecological Appraisal.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Outline Landscape and Ecological Management Plan.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Environmental Statement Volume VI. Appendix 3.1 – Outline Construction Environmental Management Plan.

AECOM (December 2023) National Grid Cable Tunnel Replacement Project. Report to inform Habitats Regulations Assessment.

National Grid (October 2023) Gravesend Headhouse – Planning – Site Plan. PDD-100116-LAY-053 P03.

National Grid (January 2024) Gravesend Headhouse Compound Block Plan – Existing (Planning Drawing). PDD-100116-LAY-233 P01.

Natural England (February 2024) Planning Consultation: Proposed construction of a new cable tunnel beneath the River Thames between Gravesend and Tilbury to provide additional transmission capacity. Above ground infrastructure in the form of a new Cable Sealing End compound and a new head house building along with associated electricity infrastructure, access, parking, boundary treatment and two overhead gantry structures for future overhead lines. Temporary compound for the duration of the project to provide parking, staff welfare facilities, delivery vehicle parking, and equipment and machinery storage, including boundary treatment and lighting. Location: Eastcourt Marshes Electricity Distribution Site , Mark Lane, Gravesend, Kent DA12 2HN.