



ECOLOGICAL ADVICE SERVICE

TO: Katherine Parkin
FROM: Lucy McGinley
DATE: 03 June 2026
SUBJECT: 20260352 – Land to the Rear of Brook Road

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 – FURTHER INFORMATION REQUIRED

We have reviewed the information submitted in support of this application and advise that insufficient ecological information has been provided to determine the application. The following information is required prior to determination:

- Ecological Impact Assessment to be submitted with PEA to consider the highlighted species;
 - o Reptile Surveys – due to hibernacula and dense scrub found on site
 - o Bat Surveys to determine if felt roof overhang is being used as a roosting area
 - o Breeding Birds

OUTDATED ECOLOGY

The submitted ecological information is over 7 years old and, as such, is subject to consideration in accordance with CIEEM guidance on the lifespan of ecological surveys and reports which indicates that survey data between 18 months and three years requires re-assessment by a professional ecologist. Key considerations include (1) whether the site supports, or may support, a mobile species which could have moved on to site, or changed its distribution within a site, (2) whether there have been significant changes to the habitats present within the site and (3) whether the local distribution of a species in the wider area around a site has changed (or knowledge of it increased).

We cannot rule out the 1st, 2nd or 3rd of these considerations and, as such, we request that a suitably qualified ecologist conducts a site visit to carry out an updated PEA to assess the potential for protected/notable species to be present within the site.

In addition to this, we note that within the previously submitted PEA that the recommended further surveys are completed due to habitat suitability or the potential of these protected species being present:

- Bat Emergence or Endoscopy Survey – **survey seasons May to October**
- Reptile Survey – **survey seasons March to October**
- Breeding birds
- Stag beetles

The previous PEA detailed that habitats and features including dense scrub, hibernacula of unmanaged vegetation, and the overhanging felt roof, are present on and around the site, indicating ecological value and the potential for protected species presence that must be taken account of in the planning decision. As such, an Ecological Impact Assessment (EclA) should be undertaken by a suitably qualified ecologist.

The EclA will need to include the following:

- Details of the impacts of development proposals on the ecological baseline established via a Preliminary Ecological Appraisal (PEA) and any necessary additional surveys undertaken;
- Details of any necessary and achievable ecological mitigation and/or compensation measures – taking caution with species or habitats already highlighted from previous ecological assessments including stag beetles/invertebrates, breeding birds, hedgehogs, bats, and reptiles;
- Details of ecological enhancement measures, and;
- Provision of sufficient information to determine whether the project accords with relevant nature conservation policies and legislation.

To ensure that the planning determination is adequately informed in respect of all potential ecological impacts, we advise that the EclA is sought prior to determination of the planning application. This is in accordance with paragraph 99 of the Office of the Deputy Prime Minister (ODPM) Circular 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”*.

Under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 187 through 195 of the NPPF 2024, biodiversity should be maintained and enhanced through the planning system.

BATS

Bats and their roosts are fully protected from disturbance and harm through the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). Some species of bat (including Bechstein's, noctule, soprano pipistrelle and brown long-eared) are also listed under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 as Species of Principal Importance

for conservation. Local planning authorities must have regard for the conservation of Section 41 species and all bat species as part of their planning decisions¹⁵.

The application site has been identified within the PEA by Martin Townsend on 7/11/2019 that whilst there are no suitable lofts, wall cavities and minimal crevices of suitability for bats, as well as disturbance from the urbanised area, the possibility of bats – especially those commuting or foraging – cannot be ruled out. Additionally, the felt roof on the external shelter area of the existing structure is overhanging and has been identified as potentially acting as refuge for bat populations. Surrounding habitat of dense scrub is suitable for supporting commuting and foraging bat species. The PEA provided highlights that the suitability of the application area is of low suitability, meaning that there is still the potential for the area to support bat species.

We advise that the PEA carries out a roost assessment and if the building continues to have potential for roosting bats there is a requirement for further surveys be completed during roosting season to determine if the structure and habitat is being utilised by bat species.

REPTILES

All British reptiles are protected from killing/injury by the Wildlife and Countryside Act 1981 (as amended) and are listed as being of principal importance for conservation under Section 41 of the Natural Environment and Rural Communities Act (2006).

Suitable habitat for reptiles is present on site, and it is unclear how the development will impact on these species. To assess the potential impacts to any reptile populations, we advise that a reptile survey will need to be undertaken by a suitably qualified ecologist⁹⁹ and in accordance with good practice guidelines¹⁰⁰. The reptile survey, along with any necessary mitigation/ compensation, will need to be submitted prior to determination of any planning application. This is in alignment with paragraph 99 of the Office of the Deputy Prime Minister (ODPM) Circular 06/2005¹⁰¹, 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”*.

The application area had been identified to be mostly of a built-up mixed scrub area with a lot of opportunity for refugia for reptiles. Particularly as it has been identified within the PEA that within 200m of the application site there has been breeding Slow Worm populations at Copperfield Academy. It cannot be ruled out, that if suitable habitat is present that some of the previously found population may have relocated to the dense shrub area of the application site.

We advise that the PEA assesses the potential for reptiles and if suitable carries out a reptile surveys to confirm the presence or lack thereof of reptile populations on the application site.

DESIGNATED SITES

SPECIAL AREA OF CONSERVATION (SAC)/SPECIAL PROTECTION AREA (SPA)/RAMSAR

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are protected by the Conservation of Habitats and Species Regulations 2017 (as amended). Proposed SACs, potential SPAs, Ramsar sites (listed and proposed), and areas secured as sites compensating for damage to a National Site Network site are given the same protection as per the NPPF 2024, paragraph 195. This requires that, in line with Regulation 63 of the CHSR 2017:

63.— (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

- a. is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 - b. is not directly connected with or necessary to the management of that site,
- must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.

Whilst the application site is within proximity of the Thames Estuary and Marshes statutory designated site, we acknowledge that it is unlikely it will impact the stated statutory designations, and therefore will not require a HRA.

RECREATIONAL DISTURBANCE

The application site falls within the 6km of influence of the Thames Estuary and Marshes Special Protection Area and its/their associated Wetland(s) of International Importance under the Ramsar Convention (Ramsar Site).

This type of development may cause additional recreational disturbance, and likely significant effects on birds using the SPA and Ramsar sites. As such, the North Kent Strategic Access Management and Monitoring Strategy (SAMMS for Medway, Swale, Thames Estuary) applies and the applicant will be required to make a tariff payment which is based on the net number of additional dwellings/overnight accommodation proposed. The payment is to mitigate for additional recreational effects on the designated sites. The local planning authority must ensure that adequate means are in place to secure this mitigation before first occupation.

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 (CHSR) 2017 (as amended) and the National Planning Policy Framework (NPPF) 2024.

A decision from the Court of Justice of the European Union (CJEU: C-323/17) has detailed that mitigation measures cannot be considered when carrying out a screening assessment to decide whether a full 'Appropriate Assessment' is needed under the Habitats Directive. Therefore, we advise that there is a need for the local planning authority to carry out an Appropriate Assessment as part of a Habitats Regulations Assessment (HRA).

For this type of development, it is possible to obtain an autogenerated Natural England advice letter.

BIODIVERSITY NET GAIN SELF-BUILD EXEMPTION

The applicant considers the proposals to be exempt from statutory biodiversity net gain under the self-build exemption. For this exemption to apply, the proposals must:

- consist of no more than 9 dwellings;
- on a site that has an area no larger than 0.5 hectares; and
- consist exclusively of dwellings that are self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015

It is not within our remit to verify that the proposed dwelling(s) meet the definition of self-build or custom housebuilding as defined in the 2015 Act. The LPA should therefore ensure that the proposals meet the definition and that a mandatory 10% biodiversity net gain does not apply.

Government guidance on self-build and custom housebuilding indicates that *“[in] considering whether a home is self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout ... Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing”*.

A recent appeal decision¹⁴² indicates that a *“suitably robust mechanism such as a planning obligation/legal agreement or other means”* is necessary to properly secure a development as self-build and to prevent it reverting to an open market dwelling where a mandatory 10% biodiversity net gain would otherwise apply.

Lucy McGinley Biodiversity Officer

This response was submitted following consideration of the following documents:

- Preliminary Ecological Assessment, Martin Townsend, Nov19
- Application Form, DAC Architects, Mar26
- Design and Access Statement, DAC Architects, Mar26