



ECOLOGICAL ADVICE SERVICE

TO: *Alison Webster*

FROM: *Emma England*

DATE: *01 May 2024*

SUBJECT: *20230399 / Barn North of Abbey Farm Barn, Higham*

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 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.

Ecological Impact Assessment

The submitted information only addresses a preliminary appraisal of potential impacts to roosting bats and barn owls. There is no evidence submitted that the further survey work recommended for roosting bats has been undertaken. Additionally, submitted information does not address potential impacts to other protected species that may occur within the construction zone (e.g., in vegetation around the barn for conversion), neither does it address the potential impacts upon designated sites within 10-85m of the site.

The following sites are within 10m of the site: Thames Estuary and Marshes Ramsar Site, South Thames Estuary and Marshes Site of Special Scientific Interest (SSSI). The following sites are within 85m of the site: Thames Estuary and Marshes Special Protection Area (SPA). The applicant is required to submit sufficient information to allow the Competent Authority to carry out a Habitats Regulations Assessment.

The correct document for submission with a planning application is an Ecological Impact Assessment (EclA)¹ that addresses all potential impacts within the zone of influence of the site. We therefore request that prior to determination, an EclA be submitted.

The EclA should be based on final designs, and include the following:

- Details of the impacts of development proposals on the ecological baseline established via Preliminary Ecological Appraisal (PEA) and any additional surveys undertaken;
- Details of any appropriate and achievable ecological mitigation and/or compensation measures;
- Details of ecological enhancement measures; and
- Provision of sufficient information to determine whether the project accords with relevant nature conservation policies and legislation.

The above is in alignment with paragraph 99 of 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”*.

An EclA prior to determination also helps ensure alignment with the National Planning Policy Framework (NPPF 2023) and the Natural Environment and Rural Communities Act (NERC) Act 2006. Under section 40 of the NERC Act (2006) and paragraphs 180 and 186 of the NPPF 2023, biodiversity should be maintained and enhanced through the planning system. As such, we advise that information is submitted within the EclA to demonstrate that the development can achieve a biodiversity net gain. This can be via a qualitative or quantitative assessment carried out by suitably qualified ecologist.

North Kent Sites

The development includes proposals for holiday accommodation within the zone of influence (ZOI) (6km) of the Thames Estuary and Marshes Special Protection Area, and Wetland of International Importance under the Ramsar Convention (Ramsar Site). 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 National Planning Policy Framework (NPPF) 2023.

Gravesham Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS). This is to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full Appropriate Assessment is needed under the Habitats Directive.

¹ CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.2. Chartered Institute of Ecology and Environmental Management, Winchester.

Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS, there is still a need for an appropriate assessment to be carried out as part of this application. The responsibility for carrying out a Habitats Regulations Assessment (HRA) Screening and Appropriate Assessment lies with the Competent Authority.

Consultation

The Natural England Impact Risk Zone for the site indicates that all planning applications (except householder) at this location will require consultation with Natural England.

The Conservation of Habitats and Species Regulations 2017 Regulation 63 (3) also indicates that for Special Areas of Conservation (SACs) and Special Protection Areas (SPAs): *"The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies."* The local planning authority (the "Competent Authority") must therefore consult with and take into consideration Natural England's advice in determining the application. The local planning authority also needs to be confident that proposals will not adversely affect these sites in line with the NPPF 2023².

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:

Arbtech (April 2023) Preliminary Roost Assessment. Abbey Farm Barn, Higham, Gravesham, ME3 7LS.

² "When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; and

"The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site."