



ECOLOGICAL ADVICE SERVICE

TO: Lisa Fisher
FROM: Elizabeth Fagg
DATE: 18 December 2024
SUBJECT: 20240772 Bluebells, Willow Walk

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.

We have reviewed the documents provided and we are satisfied that sufficient ecological surveys have been completed.

The site has an ancient woodland to the rear and the required 15m ancient woodland buffer is within the residential garden and goes up to the building boundary. This will require precautionary measures during clearance and construction, for the protection of ancient woodland and associated buffer.

This site qualifies for biodiversity net gain (BNG) and a metric has been provided. The current proposals will not achieve 10% net gain and off-site units will be required.

Ancient Woodland

Ancient woodland covers 2.4% of England's land mass and is a rare and irreplaceable habitat¹.

The proposed development is adjacent to an area of designated ancient woodland. As such, we highlight paragraph 193 of the NPPF which states that "*development resulting in*

¹ [Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions)

the loss or deterioration² of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists”.

This site has an existing structure on the site which will be converted into two dwellings. The 15m ancient woodland buffer zone is located within the rear garden of the existing property and has been illustrated on the submitted plans. This buffer zone is shown to be adjacent to existing structure and hardstanding.

The Natural England/Forestry Commission standing advice states that there should be a minimum 15m buffer zone between development and ancient woodland. A larger buffer zone may be needed to account for any direct or indirect adverse effects associated with proposals, as well as to preserve the root protection area of trees within the woodland. Larger buffer zones are more likely to be needed if the surrounding area is less densely wooded, close to residential areas and steeply sloped.

The buffer zone needs to include buffering the development from gardens (so the woodland should be at least 15m away from gardens). The guidance also requires consideration of the potential for additional impacts from proposals even when there is existing development within this minimum buffer.

Further, the existing condition of the affected ancient woodland is not relevant. Standing advice states:

“Where a proposal involves the loss or deterioration of ancient woodland or ancient or veteran trees you should not take account of the existing condition of the ancient woodland or ancient or veteran tree when you assess the merits of the development proposal. Its existing condition is not a reason to give permission for development. A woodland or tree in poor condition can be improved with good management.”

Standing advice states that the following mitigation measures should be considered in any application in or adjacent to ancient woodland:

- putting up screening barriers to protect ancient woodland or ancient and veteran trees from dust and pollution;
- measures to reduce noise or light;
- designing open space to protect ancient or veteran trees; and
- creating buffer zones (typically 15 metres from the boundary of the woodland).

We highlight that it is not best practice to have an ancient woodland buffer zone within a garden, but as this is an existing garden we accept that there could be no change in this case, if measures are in place for the protection of the ancient woodland and associated buffer zone, including the soils. No construction or storage of construction materials should be conducted in this zone, and we require a precautionary mitigation strategy for the ancient woodland and buffer zone to be included within the CEMP, to protect it from impacts from the proposed development.

Protected Species

A preliminary ecological appraisal and preliminary roost assessment for bats has been completed. The follow up survey for bats has found this site is negligible for the presence of bats within the building, but as the site backs onto ancient woodland a sensitive lighting strategy will be required as bats will likely be foraging and commuting within the area.

Vegetation within the site has been identified as suitable breeding bird habitat and some may be impacted. We recommend that any works to vegetation are conducted outside the breeding bird season (1st March to 31st Aug) to avoid risk of impacts or if within the breeding bird season, a survey by a suitably qualified person needs to be conducted to confirm absence, prior to commencing works. This should be included in the construction environmental management plan (CEMP) outlined further below.

Other protected species, such as badgers, dormice, reptiles and amphibians have been considered for this site and their presence has been considered unlikely. Hedgehogs may be sheltering or commuting within the area and precautionary mitigation is suggested. This can be included in the CEMP. We are satisfied that sufficient ecological surveys have been completed and no further surveys are required.

Lighting

Nocturnal animals (including bats) are likely to be using the site and surrounding area for foraging and commuting and any lighting associated with the proposal may have a negative impact, especially any light spill to hedgerow boundaries and trees on the site. We advise that a **condition** will be required for the external lighting and will require the following requirements:

- *Plan showing location of lighting, light fittings and light spill*
- *Downward facing*
- *On a motion sensor (where possible)*
- *Follow the recommendations within Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night'*

<https://www.bats.org.uk/news/2023/08/bats-and-artificial-lighting-at-night-ilp-guidance-note-update-released>

Construction Environmental Management Plan

We suggest that the below wording is included as a condition for a Construction Environmental Management Plan (CEMP – biodiversity) if planning permission is granted. This will mitigate for impacts to biodiversity, protect the ancient woodland and associated buffer zone and help ensure compliance with relevant legislation. The plan will include mitigation as outlined in the Preliminary Ecological Appraisal, Calumma Ecological Services, Oct 24.

Prior to commencement of works (including site clearance), a construction environmental management plan (CEMP) will be submitted to and approved in writing by the local planning authority. The CEMP will be based on the recommendations in Preliminary Ecological Appraisal, Calumma Ecological Services, Oct 24 and include the following:

- a) *Purpose and objectives for proposed mitigation works during construction:*

- b) *The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs;*
- c) *Detailed method statement to protect the ancient woodland (AW), 15m AW buffer zone and retained trees from pollution and adverse impacts*
- d) *Extent and location of proposed mitigation works shown on appropriate scale maps and plans, with reference to: pollution avoidance measures (noise, dust, lighting and run-off), protection of retained trees and hedgerow*
- e) *Practical mitigation measures (both physical measures and sensitive working practises) to avoid or reduce impacts during clearance and construction for bats, hedgehogs and breeding birds (may be provided as a set of species or habitat-specific method statements);*
- f) *The location and timing of sensitive works to avoid harm to biodiversity features;*
- g) *The times during construction when specialist ecologists need to be present on site to oversee works;*
- h) *Responsible persons and lines of communication*

The approved CEMP will be adhered to and implemented throughout the construction period in accordance with the approved details.

BNG

A small sites metric and photographs have been provided but without a baseline habitat map. However, we can see from the various plans and photographs that the baseline habitats of grassland, developed land and urban trees is broadly representative but highlight that as it is a residential garden the modified grassland should be recorded as vegetated garden habitat. This slightly lowers the baseline habitat value of the site.

The post development habitat has included urban trees and this resulted in 13.01% net gains. Although these are worthwhile additions, they cannot be counted as they are within a vegetated garden, within residential curtilage. With this change to the post development habitats recorded, the site is will result in a net loss and off-site units will be required.

Updated guidance on the use of habitats for private garden BNG calculations has been published by government in the BNG User Guide dated 23/7/24³. This provides clarification on how BNG is calculated for gardens which is relevant for this application. This details that;

The post-development private garden has no public access, and biodiversity net gains cannot be legally secured. As these gains cannot be secured you should only record created private gardens as either:

- *‘urban – vegetated garden’; or*
- *‘urban - unvegetated garden’*

You should not:

- *record the creation of any other new habitats within private gardens*
- *record enhancement of any habitat within private gardens habitats*

³ <https://www.gov.uk/government/publications/statutory-biodiversity-metric-tools-and-guides>
https://assets.publishing.service.gov.uk/media/65c60e0514b83c000ca715f3/The_Statutory_Biodiversity_Metric_-_User_Guide_.pdf

The changes required to the BNG information will result in the site not achieving 10% biodiversity net gain. A revised metric with the changes noted above can be provided when biodiversity gain plan is provided, if planning permission is granted, and purchase of off-site units will be required to meet the 10% net gain requirement.

Where off-site habitat creation is required, we direct the applicant towards the Kent Biodiversity Net Gain Site Register⁴ available on the Making Space for Nature in Kent and Medway website. Biodiversity Net Gain Guidance for Kent is also available on this website.

Off-site gains/the purchase of biodiversity units will need to be subject to a deed of conservation covenants or Section 106 (as appropriate). Off-site gains must be registered⁵ after determination. Section 106 agreement templates are available on the Planning Advisory Service website⁶.

If planning permission is granted, local planning authorities are encouraged to use suggested paragraphs for Biodiversity Gain Information on the written decision notice which are available to download here: https://assets.publishing.service.gov.uk/media/663251d969098ded31fca800/BNG_Decision_Notice_Text.odt. The applicant should submit a biodiversity gain plan form⁷ along with supporting information (e.g., legal agreement and habitat management and monitoring plan) once planning permission has been granted to demonstrate in more detail how the proposed biodiversity net gain will be delivered.

Ecological Enhancements

Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 187 and 193 of the National Planning Policy Framework (NPPF) 2024, biodiversity should be maintained and enhanced through the planning system. As such, if planning permission is granted, we advise that a condition is included requiring an ecological enhancement plan to be submitted. We note that some enhancements have been outlined in the PEA and detailed on the proposed site block plan. A condition wording is suggested below.

Condition

Within three months of works commencement, a detailed plan(s) showing how the development will enhance biodiversity, will be submitted to, and approved in writing by, the local planning authority. This will include a detailed landscaping plan using native species, planting plan with management measures, hedgehog highways and integrated wildlife features, including durable bat and bird boxes aimed at species of conservation concern. The approved measures will be implemented and retained thereafter.

⁴ [Kent Biodiversity Net Gain Site Register | Making Space For Nature Kent](#)
[Kent Biodiversity Net Gain Site Register | Making Space For Nature Kent](#)

⁵ [Register a biodiversity gain site - GOV.UK \(www.gov.uk\)](#)

⁶ [PAS Biodiversity Net Gain \(BNG\) Legal Agreement and Planning Condition Templates | Local Government Association](#)

⁷ <https://www.gov.uk/government/publications/biodiversity-gain-plan>

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

Elizabeth Fagg
Biodiversity Officer

This response was submitted following consideration of the following documents:

- Preliminary ecological appraisal, Calluma, Oct 24
- Potential bat roost assessment, Calluma, Oct 24
- Existing site block plan, Steve Baker Architect
- Proposed site block plan, Steve Baker Architect
- Location plan, Steve Baker Architect
- BNG small site metric completed, 14/8/24