



ECOLOGICAL ADVICE SERVICE

TO: *Amanda Grout*

FROM: *Emma England*

DATE: *17 November 2022*

SUBJECT: *20221179 / Land at St Columba's Close, Gravesend*

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.

SUMMARY - SUFFICIENT INFORMATION PROVIDED

We have reviewed the ecological information submitted by the applicant and advise that sufficient ecological information has been provided. However, it should be noted that the correct ecological document to submit with the planning application is an Ecological Impact Assessment (EcIA). Appendix 1 provides further detail regarding this, and the applicant is strongly recommended to supply this information for future applications.

If planning permission is granted, we advise that the condition/informative below are included.

Breeding Birds – suggested informative wording

The applicant is reminded that, under the Wildlife and Countryside Act 1981 (as amended), 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.

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 main bird breeding season¹ (1st March to 31st August inclusive) 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. This includes examination by a suitably qualified and experienced ecologist immediately prior to starting work and if any nesting birds are found, works must cease until after the birds have finished nesting.

Ecological Enhancements

Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraph 174 of the National Planning Policy Framework (NPPF) 2021, biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF (2021), the implementation of measurable net gains for biodiversity (integrated as part of design) should be encouraged.

The inclusion of native species planting along with habitat features such as log piles, reptile/amphibian hibernacula, hedgehog highways, bird and bat boxes can help mitigate for biodiversity losses on-site, and where sufficient habitats and features are included within designs, can be used to demonstrate biodiversity net gains.

Ecological Enhancements – Suggested condition wording:

“Prior to the completion of the development hereby approved, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with provision of generous native species planting. The approved details will be implemented and thereafter retained.”

NORTH KENT SITES

The development includes proposals for new dwellings within the zone of influence (6km) of The Thames Estuary and Marshes Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). 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. 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.

¹ It should be noted that some birds are capable of nesting outside of these times, especially where weather conditions are favourable. Birds such as feral pigeon, wood pigeon and barn owl have been recorded nesting in every month of the year. Care when removing bird nesting habitat may therefore be required at all times of year, with attention paid to the nesting habits of the species that could make use of the site and weather conditions at the time of clearance.

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:

BPTW (October 2022) St Columba's Close, Gravesend. Planning Statement.

Greenlink Ecology Ltd (April 2022) Land off St Columba's Close, Gravesend. Preliminary Ecological Appraisal.

Greenlink Ecology Ltd (June 2022) Land off St Columba's Close, Gravesend. Bat Survey Report.

ME Landscape Studio (October 2022) St Columba's Close, Landscape DAS.

Appendix 1 - Ecological Impact Assessment

The PEA report (PEAR), along with the submitted bat report has been reviewed to inform this response. However, it should be noted that the industry standard report for submission with a planning application is an Ecological Impact Assessment (EcIA)². A PEAR is *“normally produced to inform a developer (or other client), and their design team, about the key ecological constraints and opportunities associated with a project, possible mitigation requirements and any detailed further surveys required to inform an Ecological Impact Assessment (EcIA). Under normal circumstances it is not appropriate to submit a PEAR in support of a planning application because the scope of a PEAR is unlikely to fully meet planning authority requirements in respect of biodiversity policy and implications for protected species.”*³ Therefore, the results of all the surveys conducted, as well as a summary of the mitigations and compensations required for all elements of the project should be submitted as an EcIA prior to determination of the planning application.

Review of an EcIA, rather than a number of different ecology reports makes it much easier to understand all the individual impacts of a project on the various habitats and species concerned and ensures there is a cohesive approach to the avoidance, mitigation and compensation of ecological impacts. The EcIA should 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 measures;
- Identification of any residual ecological effects after avoidance and mitigation measures have been considered, and any compensation measures required to offset residual effects;
- 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 line 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 EcIA prior to determination also helps ensure alignment with the National Planning Policy Framework (NPPF 2021) and the Natural Environment and Rural Communities Act (NERC) Act 2006. Under section 40 of the NERC Act (2006) and paragraph 174 of the NPPF (2021), biodiversity should be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of measurable net gains for biodiversity (integrated as part of design) should be encouraged. As such, we advise that information is submitted within the EcIA to demonstrate that the development can achieve a measurable biodiversity net gain.

² 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.

³ CIEEM (2017) Guidelines for Preliminary Ecological Appraisal, 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.