



## ECOLOGICAL ADVICE SERVICE

**TO:** *Claire Shearing*

**FROM:** *Luke Wallace*

**DATE:** *28 November 2019*

**SUBJECT:** *SE/19/05000/HYB / Fort Halstead, Halstead*

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*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.*

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This hybrid application consists of a detailed application to demolish/partially demolish five buildings on-site and an outline application for the provision of commercial and residential buildings (up to 750) over the rest of the site.

We have reviewed the ecological information submitted in respect of this application and we advise that additional information is sought prior to determination of the planning application. Specifically, this information relates to:

- Badgers;
- Bats;
- Invasive Species;
- External Lighting;
- Ancient Woodland;
- Landscape and Ecological Management Plans (LEMP).

We advise that our comments are valid for both the full and outline aspects of the proposed development.

### **Badgers**

The survey work undertaken on site has identified one main sett (sett 1), one annex sett (sett 2), three subsidiary setts (setts 4, 5 and 6) and six outlier setts (setts 3, 7, 8, 9, 10 and 11), as

labelled within the badger survey report. All setts are located within, or on, the main development site boundary, demonstrating the site's high value for badgers locally.

Sett monitoring over a two-week period indicated that three setts (setts 1, 5 and 6) were in current use by badgers and, therefore, as Badgers are a protected species, they must be considered in the planning application process.

The general mitigation strategy states that sett 1 will be "*fenced off for QinetiQ Group*" and will be retained. **We highlight that more detail should be provided regarding this area of the development site (prior to determination), including a map showing the delineation of this 'fenced off area' in relation to the rest of the development.** This is to ensure badger foraging/commuting will not be impacted by the fencing of this area. If the fence will restrict badger movement, the location of 'badger gates' must be provided.

Sett 6 is located at least 30m (the recommended distance that development works should be from an active badger sett) from the proposed development footprint and, therefore, we are satisfied that a detailed mitigation strategy regarding this sett is not required. However, we would expect any construction management plan to clearly demonstrate that it will not be impacted during construction.

Sett 5 is located within an area due for development works and, as such, will need to be subject to mitigation measures (outlined below).

The general mitigation strategy states that a Natural England licence will be obtained prior to the commencement of works. This will be informed by an updated survey and monitoring of the setts.

To ensure enough time is available to identify any newly excavated setts and, if necessary, monitor and close them, an updated survey will be completed approximately 13 weeks prior to any works starting on the site (although consideration would also need to be given to the fact that badger setts can only be closed between July and November inclusive).

General mitigation measures for badgers across the whole site include:

- Covering of excavations or means of escape for mammals;
- No night working (which could disturb foraging/commuting badgers);
- Measures to be implemented through the use of a CEMP for each development phase;
- Suitable tunnels will be provided underneath the proposed fencing for QinetiQ Group.

We are satisfied with these (non sett-related) mitigation measures for the construction phase of the development.

Proposed habitat management/enhancement and retained connectivity of the surrounding habitat should ensure badgers are able to utilise the site post-development. Lighting (which could potentially impact badger activity) is discussed further on. Post-monitoring may be required and will be secured via the necessary Natural England licence and will be needed to inform and update the Landscape and Ecological Management Plan (LEMP), as necessary.

Once the recommended further information (above) is provided, we advise that the mitigation measures for badgers are included within condition wording for a site-wide mitigation

strategy. We will be able provide to condition wording once the requested information has been submitted.

### **Bats**

Between 2007 and 2013, surveys found that bats were roosting in 13 buildings. In 2018, bat emergence and re-entry surveys on the 235 buildings (considered to have roosting potential) confirmed roosting bats were present in six buildings; A3, F11, N2, Q4, Q7 and R64 (as labelled within the bat survey report). Buildings that contained bats in 2007 to 2013, but did not contain bats during the 2018 surveys, are still considered to have potential roosting spaces as bats move between roost areas.

Of the trees within and around the development footprint (which could be affected by development works), nine were considered to have high potential for roosting bats. However, no bat emergence/re-entry surveys have been undertaken on these trees.

As all bats and their roosts are protected, mitigation during development works (under the necessary Natural England licence) and for the operational phase must be implemented. **As such, we advise bat emergence/re-entry surveys are undertaken on these trees and submitted, with any necessary mitigation measures, prior to determination of the application.** As these surveys have not been undertaken, no mitigation measures have been proposed and, therefore, we are unable to provide the necessary advice for Sevenoaks District Council regarding bat mitigation proposals.

The general mitigation strategy has recommended that a suite of updated bat surveys will be undertaken to inform the specific mitigation strategy for the construction phase and to inform the application for the Natural England licence.

**We highlight that this does not demonstrate that mitigation can be achieved within the proposed development and design plans, which is what is required prior to determination of the application. As such, we advise that information is submitted to demonstrate that mitigation for bats can be implemented.**

Once the recommended further information (above) is provided, we advise that the mitigation measures for bats are included within condition wording for a site-wide mitigation strategy. We will be able provide to condition wording once the requested information has been submitted.

A European protected species mitigation (EPSM) licence will be required to carry out the proposed development due to the impacts upon roosting bats. The Conservation of Habitats and Species Regulations 2018 requires Sevenoaks District Council, the competent authority, to have regard to the requirements of the Habitats Directive in the exercise of their functions. As such, Sevenoaks District Council must consider whether it is likely that an EPSM Licence from Natural England will be granted, and in so doing must address the three tests when deciding whether to grant planning permission for the proposed development. The three tests can be found at the end of this advice note.

As tests 1 and 2 are planning considerations, we are only able to comment on test 3 (the favourable conservation status). As detailed above, we advise that insufficient information has

been submitted to enable us to be satisfied that the favourable conservation status of bats will be maintained.

### **Lighting**

There is a need to ensure that a sensitive external lighting plan is implemented within the development site (if granted). Lighting can be detrimental to biodiversity including commuting and foraging bats and badgers. Therefore, we advise that there is a need for the external lighting of the development to be designed in a way that negates a negative impact on biodiversity.

As this is an outline application, we understand that a detailed lighting plan cannot be submitted at this stage. **Instead, we advise that an outline lighting strategy is submitted prior to determination.** It must include the following:

- Principles that the lighting plan will meet;
- A plan depicting the areas that are to be dark/have minimal lighting.

The detailed lighting plan (submitted as part of the reserve matters application) must then demonstrate that they are meeting the requirements set out in the lighting strategy.

### **Invasive Species**

A small amount of *Rhododendron ponticum* was recorded growing within the Old Fort area, which is located in the centre of the site. In addition, an unidentified cotoneaster species was recorded within the area of mixed plantation woodland located to the north of Armstrong Close and west of Fort Road. As this cotoneaster could not be identified to species level, the possibility of it being an invasive species could not be ruled out.

As both *Rhododendron ponticum* and *Cotoneaster horizontalis* are listed as schedule 9 species under the Wildlife and Countryside Act 1981, there is a requirement not to allow a spread of these species and so, ideally, both species should be eradicated on-site. If allowed to spread, schedule 9 species have the capacity to degrade the area's biodiversity value.

To mitigate against the spread of these species, the following mitigation measures for the construction phase of the development have been proposed:

- Use of plant machinery and vehicles within the whole site will be limited until areas polluted with rhododendron have been identified and cleared;
- Only essential vehicles and plant machinery will be present in areas polluted with rhododendron;
- The use of wheeled rather than tracked vehicles is recommended as they are easier to clean if contaminated with rhododendron material;
- On leaving areas of the site known to contain rhododendron, any machinery that has been used will be thoroughly cleaned within a designated area. All hand tools and footwear will be cleaned off in a similar manner.

However, we highlight concern that the following information has not been disclosed:

- Maps displaying the location of schedule 9 invasive species;
- No confirmation on whether an eradication or a control plan will be implemented;

As such, we advise insufficient information has been provided that demonstrates that adequate measures will be implemented to either prevent the spread of invasive species or

eradicate invasive species. **Therefore, we advise that further information is sought prior to determination to ensure the spread of invasive species is mitigation against.**

### **Ancient Woodland**

Paragraph 175 of the National Policy Planning Framework states that “*development resulting in the loss or deterioration 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*”.

Ancient woodland surrounds the majority of the development site, entailing a requirement to implement mitigation measures for both the construction and operational phase of the development. Proposed mitigation measures during the construction phase include:

- A 15 buffer-zone between the development footprint and the ancient woodland (as recommended by Natural England’s and the Forestry Commission’s Standing Advice), which is reflected in the site plans.
- Use of protective fencing;
- Implementation of pollution control measures;
- Control of lighting, noise and vibration.

Once operational, primary impacts would be from human, pets and invasive species encroachment, as well as from external lighting. The general mitigation strategy proposes the following as mitigation measures for the operational phase:

- Production of a LEMP for each phase to detail how all retained and created habitats will be managed in the long-term;
- Access management programme (including signage and paths away from the most valuable habitats);
- An appropriate external lighting strategy.

We highlight that, with up to 750 residential dwellings, human-based disturbance (especially from cat predation) will likely result in a degradation of the ancient woodland’s biodiversity. Increasing the amount of quality green space within the development, planting spikey-based native species (such as hawthorn and blackthorn) and appropriate management of the buffer-zone (via a LEMP) are additional measures which can limit impacts to the surrounding woodland. At present, we do not consider the proposed measures sufficient to ensure the safeguarding of woodland.

**As such, we advise further information is provided to ensure sufficient measures will be implemented to limit negative impacts to the woodland.** We recommend that this information is primarily addressed within an outline LEMP (detailed further on) and includes details of ‘buffer-zone’ management and specific details regarding signage and provision of quality recreation space within the development site.

### **Dormice**

A 2018 survey found one dormouse in boundary vegetation to the south of the site, indicating the presence of an extant population of this protected species on-site. The site supports suitable nesting, hibernation, sheltering and foraging opportunities for dormouse and it is stated that the vast majority of suitable dormouse habitat on site is to be retained and/or enhanced as part of the development proposals. Areas of vegetation will be subject to

reduction/removal so there is the potential for dormouse to be negatively impacted in the absence of mitigation measures.

The proposed mitigation measures for dormouse (for both the construction and operational phase) includes:

- Production of method statement agreed with Natural England when applying for the licence;
- Protective fencing around retained habitat (the majority of vegetation on-site);
- The provision of dormouse nest boxes in periphery vegetation (determined by a suitably qualified ecologist);
- A nest box monitoring scheme (monitored pre, during and post development);
- Habitat replacement, enhancement and retained/created habitat connectivity.
- Appropriate ongoing management of dormouse habitat (included with a Landscape and Ecological Management Plan (LEMP)).

A European protected species mitigation (EPSM) licence will be required to carry out the proposed development due to the impacts upon dormice. The Conservation of Habitats and Species Regulations 2018 requires Sevenoaks District Council, the competent authority, to have regard to the requirements of the Habitats Directive in the exercise of their functions. As such, Sevenoaks District Council must consider whether it is likely that an EPSM Licence from Natural England will be granted, and in so doing must address the three tests when deciding whether to grant planning permission for the proposed development. The three tests can be found at the end of this advice note.

As tests 1 and 2 are planning considerations, we are only able to comment on test 3 (the favourable conservation status).

We advise that the measures detailed in the mitigation strategy are appropriate to maintain the favourable conservation status of dormice on-site. Therefore, we advise that these measures are secured through site-wide mitigation strategy condition wording. We will be able to provide condition wording once the requested information has been submitted.

### **Breeding and Wintering Birds**

During the 2018 breeding bird survey, the following 'Species of Principle Importance' (NERC Act 2006) and/or 'Birds of Conservation Concern' were noted; linnet, marsh tit, skylark, song thrush, spotted flycatcher, yellowhammer, mistle thrush and nightingale. Notable wintering birds included meadow pipit, brambling, peregrine falcon and starling. As such, the mitigation strategy concludes that *"The site is considered to be of high value to several woodland and generalist species and supports a range of bird species of conservation concern"*.

The majority of breeding/wintering bird habitat (including the fields to the south where species such as skylark and meadow pipit were found) will be retained as part of the application proposal. However, as breeding birds are protected and some vegetation will be removed, there is the potential for a breach of wildlife legislation to occur in the absence of mitigation.

Mitigation proposals for birds include:

- Protective fencing around retained habitat (the majority of vegetation on-site);
- Works to vegetation/buildings outside of the breeding bird season;

- A pre-works checks if works cannot be undertaken outside of the breeding season (e.g. conflicts with bat mitigation measures) and the implementation of an exclusion zone;
- Habitat replacement and enhancement (including integrated nest opportunities into the builds).

We are satisfied with the mitigation proposals for birds in principle, however, as highlighted within the report, the most significant impact to breeding birds is likely to occur from increased cat predation once the development is operational. There are currently no practical mitigation methods to limit cat predation of birds (and small mammals), therefore, Sevenoaks District Council will have to accept a loss biodiversity in this regard. We would strongly encourage the provision of integrated swift nest brick within the design of the development (which are less prone to disturbance from people and pets).

We advise that mitigation measures for birds are secured through a site-wide mitigation strategy. We will be able to provide condition wording once the requested information has been submitted.

## **Reptiles**

Populations of slow worms (from low to exceptional) and common lizards (from low to good) have been identified within areas of the development site.

The mitigation strategy states that unbroken reptile habitat will be retained around the site, entailing no loss of connectivity. However, some areas of grassland will be lost to facilitate the new builds. Although a reptile mitigation has been proposed, the general mitigation strategy states *“The level of risk posed by each phase of the development will be assessed as detailed designs are brought forward”*.

The following mitigation measures have been proposed for the detailed application:

- Habitat manipulation exercises during the active reptile season;
- A destructive search (by suitably qualified ecologist) and supervised topsoil removal;
- Any reptiles found will be moved (by suitably qualified ecologist) to the southern grassland area (which is suitable reptile habitat);
- Maintenance of the development footprint so as not to allow colonisation of reptiles post demolition.

For future phases of the development, fencing and trapping exercises have been proposed within the general mitigation strategy which will be followed in principle. The measures include:

- Erection of reptile-proof fencing under supervision of an ecologist;
- Habitat manipulation exercise, leaving ‘islands of vegetation’ for reptiles;
- The provision of refugia (felt) along the fencing boundary;
- Conducting trapping exercises during ideal weather conditions;
- An appropriate period of time for the trapping exercise;
- Compensation and enhancement of habitat (notably in the designated SuDS area);
- Post-development management and monitoring.

We advise that the mitigation measures proposed for reptiles are appropriate and should be secured via an attached condition with any planning application (if granted). Therefore, we

advise that these measures are secured through a site-wide mitigation strategy. We will be able to provide condition wording once the requested information has been submitted.

### **Habitats**

Following the botanical surveys at Fort Halstead, the grassland and woodland on site appears in a similar condition as when previously surveyed by Waterman Group between 2006 and 2013. Deterioration in the condition of the habitats on-site was recorded during the previous surveys, and this trend has continued with further deterioration particularly noted within the unimproved calcareous grassland in the south of the site, through lack of suitable management. However, overall the site continues to support unimproved and semi-improved calcareous grassland, and ancient broad-leaved semi-natural woodland considered of district value. No protected plant species were observed during the suite of survey work but numerous indicator species for calcareous grassland and ancient woodland were observed, contributing to the overall diversity and value of the habitats on site.

We highlight that, under the NERC Act 2006, the local planning authority has a duty to maintain and enhance biodiversity.

Some grassland will be lost/impacted from this development but the general mitigation strategy states that the unimproved calcareous grassland will not be impact, as reflected in the submitted parameter plans. However, the general mitigation strategy states that other areas, such as the south-west of the development site, will become “...a species-rich wildflower grassland...” and existing calcareous grassland will be improved. The ongoing management of retained/created habitats will be implemented via a LEMP (discussed below).

As such, we are satisfied with these proposals and advise measures for grassland are secured through a site-wide mitigation strategy. We will be able to provide condition wording once the requested information has been submitted.

### **Invertebrates**

All of the analysis shows that the open habitats are the most significant and that within these, the short sward calcareous grassland (where several notable invertebrates were found) is the most important. This habitat is being retained as part of the development and as such the most notable invertebrate species will not be displaced from the site as a result of the proposed development. Furthermore, as there are proposals to enhance habitats elsewhere on-site (grassland and woodland), it is considered that a separate invertebrate mitigation strategy is not required. We concur with this conclusion and advise the specific habitat enhancement proposals are stated within a LEMP (discussed below).

### **Amphibians**

The nearest waterbodies are located c.470m away from the proposed works area and, therefore, it was considered unlikely that any amphibians will be encountered during the development works. As such, we are satisfied that specific mitigation measures for amphibians (most notably great crested newts) are not needed.

### **Management/Enhancements**

The submitted information has detailed that the on-going management/enhancement of the retained/created habitats (and their associated monitoring) will be implemented via a Landscape Ecological Management Plan (LEMP).



The general mitigation strategy notes a LEMP will be produced at each stage. Whilst we advise this is required, we also advise that an outline LEMP for the whole site is submitted to allow us to assess the suitability of proposals and so as the LEMP produced at each phase can accord with the overall agreed measures in the outline LEMP. **We advise this is provided prior to determination of the application.**

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

**Luke Wallace**  
**Biodiversity Officer**

This response was submitted following consideration of the following documents:

- *Framework Ecological Mitigation Strategy. Middlemarch Environmental. September 2019.*
  - *Badger Survey. Middlemarch Environmental. September 2019.*
  - *Breeding Bird Survey. Middlemarch Environmental. September 2019.*
  - *Dormouse Survey. Middlemarch Environmental. September 2019.*
  - *Terrestrial Invertebrate Survey. Middlemarch Environmental. September 2019.*
  - *Reptile Survey. Middlemarch Environmental. September 2019.*
  - *Winter Bird Survey. Middlemarch Environmental. September 2019.*
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The three Natural England tests:

1. Regulation 55(2)(e) states: a licence can be granted for the purposes of “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”.
2. Regulation 55(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied “that there is no satisfactory alternative”.
3. Regulation 55(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied “that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.”