



13th January 2025

Caroline Grist
Mid Sussex District Council
Oaklands Road
Haywards Heath
RH16 1SS

By email only

Thank you for requesting advice on this application from Place Services' ecological advice service. This service provides advice to planning officers to inform Mid Sussex District Council planning decisions with regard to potential ecological impacts from development. Any additional information, queries or comments on this advice that the applicant or other interested parties may have, must be directed to the Planning Officer who will seek further advice from us where appropriate and necessary.

Application: DM/24/3054|
Location: Pollards Farm Ditchling Road Ditchling Common Ditchling Burgess Hill East Sussex RH15 0SE
Proposal: Prior approval is sought for a change of use of the barn to a 4-bedroom house (C3).

Dear Caroline

Thank you for consulting Place Services on the above Prior Approval application.

Holding Objection pending further information on European Protected Species (bats) and protected species and habitats	Yes
No ecological objections	
Recommended Approval subject to attached conditions	
Recommended Discharge of condition	

Summary

We have reviewed the Bat Survey (Urban Edge Environmental Consulting, March 2019), Preliminary Ecological Appraisal Report (Urban Edge Environmental Consulting, March 2019) and Preliminary Ecological Appraisal Report (Urban Edge Environmental Consulting, June 2018) relating to the likely impacts of development on designated sites, protected and Priority species & habitats, and identification of appropriate mitigation measures and mandatory Biodiversity Net Gain.

We are not satisfied that there is sufficient ecological information available for determination. This is because the above ecological assessments are out of date to support this application, in line with CIEEM



Guidance¹ and paragraph 6.2.1 of British Standard (BS) BS42020 'Biodiversity – Code of practice for planning and development 2013'. This is because the latest site walkover was undertaken in April 2018.

Prior approval applications are required to be determined with regard to the requirements of the National Planning Policy Framework (Dec 2024). Biodiversity Advice Note Permitted Development Rights and Biodiversity (CIEEM and Association of Local Government Ecologists, 2017) advises that where protected species are at risk of harm from the development, LPAs should require an application for prior approval to be accompanied by an assessment of the potential impact upon protected species and, where necessary, supported with proposals for appropriate mitigation. This means that ecological surveys may reasonably be requested and that pre-commencement conditions to secure necessary protection measures may be attached to a notice of prior approval under Class Q.

See Appeal Decision Ref: APP/X1118/W/20/3260797 Barn at Down Hill EX16 8QF, where the appeal was dismissed as one of the main issues was the effect of the proposal on protected species. The Inspector could not be sure that there would be no adverse effect on protected species in the absence of ecological information.

We are not satisfied that there is sufficient ecological information available for determination of this application and recommend that the details of survey results and mitigation measures for bats and protected and Priority species & habitats required to make this proposal acceptable should be provided prior to determination (see [Government Standing Advice for bats](#)).

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: *"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."*

This information is therefore required to provide the LPA with certainty of impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 (as amended) and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Furthermore, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage (based on the judgement in the Hack Green Group (Appellant) v Cheshire East Council - APP/R0660/W/15/3131662). Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

¹ CIEEM (2019) Advice note on the Lifespan of Ecological Reports and Surveys - <https://cieem.net/wp-content/uploads/2019/04/Advice-Note.pdf>



It is highlighted that permitted development (Development granted planning permission by a development order under section 59) are exempt from mandatory biodiversity net gains, as set out under [paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990](#).

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended).

Additional comments

Please note that we have no comments on Great Crested Newt as we have been instructed to leave comments on this European Protected Species to the [NatureSpace Partnership](#).

With regard to mandatory biodiversity net gains, it is highlighted that applications are required to deliver a mandatory 10% measurable biodiversity net gain, unless exempt under [paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990](#) and the [Biodiversity Gain Requirements \(Exemptions\) Regulations 2024](#). As a result, we are satisfied that this application is exempt from mandatory biodiversity net gains, as the development meets the permitted development exemption.

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

Please contact us with any queries.

Yours sincerely

Genevieve Broad MCIEEM MSc BSc (Hons)

Ecological Consultant

Place Services at Essex County Council

placeservicesecology@essex.gov.uk

Place Services provide ecological advice on behalf of Mid Sussex District Council

Please note: This letter is advisory and should only be considered as the opinion formed by specialist staff in relation to this particular matter.