

James Emery
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Date: 10 September 2025

please contact
Heather Twizell
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our ref
E LW/25/0257

your ref
LW/25/0257

Dear Mr Emery

SITING OF 3X TIMBER CABINS FOR OVERNIGHT GUEST USE, EXTERNAL TIMBER DECKING AREAS, PERMEABLE FOOTPATHS AND ASSOCIATED WORKS WITH EXISTING ACCESS, PARKING, TURNING AREA AND RECYCLING/REFUSE STORAGE WILL BE UTILISED

LAND ADJACENT TO FRAGBARROW LANE, DITCHLING, EAST SUSSEX

ECOLOGICAL CONSULTATION

HOLDING RESPONSE - insufficient information	Insufficient information has been provided to assess the potential impacts on biodiversity and to inform appropriate mitigation, compensation and enhancement. Further advice will be provided upon receipt of additional information.	YES
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With respect to your recent consultation, I have now had the opportunity to consider the above application and offer the following advice on ecology.

This advice is provided to the Local Planning Authority by the County's Ecology Officer in line with the Service Level Agreement and is not a statutory consultation response.

Policy context

1. Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, as amended by the Environment Act 2021, states that:

"A public authority...must from time to time consider what action the authority can properly take, consistent with the proper exercise of its functions, to further the conservation of biodiversity."

"After that consideration, the authority must...a) determine such policies and specific objectives as it considers appropriate for taking action to further the general biodiversity objective, and b) take such action as it considers appropriate, in the light of those policies and objectives, to further that objective."

The Duty applies to all public authorities in England and Wales, including all local authorities. Conserving biodiversity includes restoring and enhancing species and populations and habitats, as well as protecting them.

2. The National Planning Policy Framework (NPPF, 2024) states that *“planning policies and decisions should contribute to and enhance the natural and local environment by... protecting and enhancing ... sites of biodiversity or geological value or soils...”*, *“...recognising the wider benefits from natural capital and ecosystem services... including the economic and other benefits of trees and woodland”* and *“minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs ...”* (paragraph 187).
3. The NPPF sets out principles that local planning authorities should seek to apply when determining planning applications to protect and enhance biodiversity; these include refusing planning permission if significant harm to biodiversity 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; refusing development that would result in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees), unless there are wholly exceptional reasons and a suitable compensation strategy exists; and encouraging opportunities to incorporate biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity (paragraph 193).
4. The NPPF states that “decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on... the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should... limit the impact of light pollution from artificial light on... dark landscapes and nature conservation” (paragraph 198).
5. Schedule 14 of The Environment Act (2021) requires that from the 12 February 2024 (for major applications) and 02 April 2024 (for minor applications), all development (apart from those meeting the criteria for exemption) provide a minimum of 10% biodiversity net gain (BNG), although local planning policy may require higher levels. The biodiversity gain objective must be met in relation to development for which planning permission is granted, demonstrated through the completion of the Statutory Metric and Biodiversity Gain Plan (BGP).
6. Core Policy CP10 of the Lewes District Local Plan 2016 states that the natural environment of the district, including landscape assets, biodiversity, geodiversity, priority habitats and species and locally designated sites, will be conserved and enhanced by: ensuring that new development will not harm nature conservation interests, unless the benefits of development at that location clearly outweigh the harm caused (in such cases appropriate mitigation and compensation will be required); maintaining and where possible enhancing local biodiversity resources including through maintaining and improving wildlife corridors, ecological networks and avoiding habitat fragmentation; and working with neighbouring local authorities to contribute to the delivery of biodiversity improvements within the South Downs Way Ahead Nature Improvement Area and the Brighton and Lewes Downs Biosphere Project, as well as other projects and partnerships that are established during the plan period.

Background

7. This is a cross-boundary application between Mid Sussex District Council (MSDC) and Lewes District Council (LDC). The site access and car park fall within Mid Sussex while the two lakes where the three cabins are proposed fall within Lewes District. We note that ecological advice covering the full application area has already been provided to MSDC on 12 June 2025 (Place Services, Essex County Council). We have also provided a full response and leave it to the two Councils as to how they wish to deal with any areas of differing advice.

Potential impacts on biodiversity

Age of survey data

8. The Preliminary Ecological Appraisal (PEA, Phlorum, November 2023, V1) states that the site was surveyed on 11 September 2023. The BNG Report (BNGR, Lepus Consulting, November 2024) was not supported by a site visit and states that it is a desktop assessment only, largely informed by

the PEA. It also refers to '*recent photos*' but it is not clear if these are more recent than those included in the PEA.

9. The data informing the PEA is now two years old. Best practice guidance (CIEEM, 2019. *Advice Note on the Lifespan of Ecological Surveys and Reports*) is that where reports are based on data 18 months to three years old, a professional ecologist will need to undertake a site visit and may also need to update desk study information (effectively updating the PEA) and then review the validity of the report. The likelihood of surveys needing to be updated increases with time and is greater for mobile species or in circumstances where the habitat or its management has changed significantly since the surveys were undertaken. Factors to be considered include (but are not limited to): whether the site supports, or may support, a mobile species which could have moved on to site, or changed its distribution within a site; whether there have been any significant changes to the habitats present (and/or ecological conditions/functions/ecosystem functioning upon which they are dependent) since the surveys were undertaken, including through changes to site management; whether the local distribution of a species in the wider area around a site has changed (or knowledge of it has increased), increasing the likelihood of its presence. Further information should be provided.

Designated sites and habitats

10. The site is not designated for its nature conservation interest. The South Downs National Park lies adjacent to the site's eastern boundary. The nearest statutory designated site is Ditchling Common Site of Special Scientific Interest (SSSI) c. 690m east. The nearest non-statutory site is Brambleside Meadow Local Wildlife Site (LWS) which lies c. 590m east.
11. Habitats on site include two lakes currently used for recreational angling, dry ditches (at the time of survey and forming part of the site's surface water drainage system), modified grassland, trees (with some scrub and ruderal species beneath them) and a small area of introduced shrub. In addition, there are gravel paths around the site, a car park and some wooden bridges over the ditches.
12. The proposal is for three timber cabins with external decking to be located along the southern shores of the two lakes (two west, one east). From the plans, all cabins appear to be set back some distance from the water. The cabins will be located on areas of grassland with no trees proposed for removal and will be linked by permeable footpaths. We note that the intention is to work with the existing topography of the site and not to introduce any retaining structures. The cabins are to be raised above ground level on ground screws to minimise disturbance. Given the proximity of the proposed cabins to the lakes (the biodiversity value of which has not been assessed, although we note they are both stocked with carp and catfish) we recommend that detailed construction working methods are set out in a Construction Environment Management Plan: Biodiversity (CEMP: Biodiversity) which could be secured via condition.
13. Given the nature, scale and location of the proposed development, provided that best practice construction working methods are followed, there are unlikely to be any significant ecological impacts on any designated sites or semi-natural habitats.

Invasive non-native species

14. The PEA states that both rhododendron and giant rhubarb (*Gunnera sp.*) were identified on site although neither could be identified down to species level. *Rhododendron ponticum* is listed on Part II of Schedule 9 (Sch9) of the Wildlife and Countryside Act 1981 (as amended) while *Gunnera tinctoria* is listed as a Species of Special Concern (SoSC) under retained EU Regulation (1143/2014) that was amended through statutory instruments including The Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019. The Invasive Alien Species (Enforcement and Permitting) Order 2019 amends Sch9 by omitting those plants that are SoSC. It is illegal to plant or otherwise cause the spread e.g. by moving plant material or contaminated soil, of any plant listed as a SoSC or on Part II of Sch9.
15. It is not clear whether stands of either plant are located within the red line boundary (RLB) or have the potential to be impacted in any way by the development. Clarification should be provided. The PEA recommends that a member of the Property Care Association Invasive Weed Control Group (PCA IWCG) is contacted to manage these species. Provided these plants are not impacted during works, there is no legal requirement to undertake this, but it would be good construction

practice. If the plants are within the RLB then their safe removal and disposal by a specialist contractor could be secured by condition.

Bats

16. All species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2017, as amended, making them European Protected Species. It is an offence to: deliberately kill, injure, disturb or capture them; damage or destroy their breeding sites and resting places (even when bats are not present); possess, control or transport them (alive or dead). Under the Act it is also an offence to intentionally or recklessly: disturb bats while they occupy a structure or place used for shelter or protection; obstruct access to a place of shelter or protection.
17. There are no structures within the RLB. The PEA identifies six trees with bat roost potential but states that no trees are proposed for removal and on this basis does not recommend further roost surveys. However, it does assess the wider site as offering moderate suitability for foraging and commuting bats and recommends one walked transect survey per season (spring/summer/autumn) supported where possible by the deployment of static detectors for a minimum of five consecutive nights per season. This represented a fairly significant reduction in recommended survey effort based on the guidelines extant at the time, but for the walked transect element is now in line with current best practice guidance (Collins, J. (ed), 2023). The PEA argues for the reduced provision of statics based on the small scale of the development. Particular reference is made to the potential for the ponds to be used by foraging Daubenton's bats which are a more light sensitive species associated with waterbodies. We note that there is a recent Daubenton's record from c. 1km north-east.
18. There is no evidence that the recommended activity surveys have been carried out but a Proposed Lighting Plan (PLP, Glampitect, 28/02/24, Drawing No. 220725-01-07) has been submitted which post-dates the PEA. This indicates that the paths to and around the two lakes will be lit by a total of 18 lighting bollards, with downward facing LED lights and a warm white colour temperature of 2,700Kelvin. These will provide a lighting level below 1Lux and will be motion activated through PIR sensors. Assuming they have not already been completed we recommend that the need for activity surveys is reconsidered as part of the PEA review, given the lighting strategy proposed (as this already accords with a number of the principles set out in relevant guidance [GN08/23](#)). The updated PEA should also assess any lighting proposed in relation to the three cabins themselves (including internal lighting). This does not currently appear to be covered anywhere and from the plans all three cabins appear to have substantial areas of glazing on their lake-facing elevations. An update to the PLP to include any internal and external lighting associated with the cabins may be required.

Great crested newts

19. The great crested newt (GCN) is fully protected under Schedule 5 of the Wildlife and Countryside Act 1981, as amended, and Schedule 2 of The Conservation of Habitats and Species Regulations 2017, as amended, making it a European Protected Species. The site lies within the red zone of the impact risk maps for the district licence scheme (DLS), indicating highly suitable habitat and a high likelihood of presence of GCN.
20. eDNA surveys of the two on-site lakes and two adjacent waterbodies were carried out in spring 2024 and all came back negative. NatureSpace (who administer the DLS on behalf of the Council) responded on 23 July 2025 supporting the use of a precautionary working methods statement (PWMS). Their recommended condition should be attached to any grant of planning permission.

Birds

21. The trees and shrubs on site have the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981, as amended, wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. Ideally any clearance work should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any clearance works by a suitably qualified ecologist (SQE), and if any nesting birds are found, advice should be sought on appropriate mitigation.

Other species

22. The locations proposed for the three cabins have limited potential to support other protected species, being predominantly close mown, modified grassland. The precautionary working methods set out in the PEA to safeguard mobile species during construction are supported and should be secured.
23. The site is unlikely to support any other protected species. Should protected species be encountered during development, all works should cease immediately, and advice should be sought on how to proceed from a SQE.

Enhancements and Biodiversity Net Gain

24. As correctly stated on the Application Form the proposal is subject to mandatory BNG, requiring it to provide a net gain in biodiversity of at least 10%. An Excel copy of the Statutory Biodiversity Metric (Metric, Lepus Consulting, 16/10/24) has been submitted along with a BNGR including condition assessment sheets. These suggest that the proposal would achieve a gain of +0.54 habitat units (+10.67%) all through on-site habitat creation and enhancement. There are no hedgerows present.
25. Firstly, we recommend that the correct extent of the RLB is clarified. In some of the plans, such as the Proposed Layout Plan (Glampitect, 28/02/24, Drawing No. 220725-01-02) the RLB in the south of the site is shown as a narrow strip running around the lakes and including only the extent of land required for the paths, cabins and BNG. However, the Location Plan shows a single red line in the south with a pale blue line around each lake and some of the lake shore, stating '*lake boundary – not included in application.*' Whether or not the area of the lakes themselves is included in the RLB should be established now as it has implications for the site's BNG.
26. Justification should also be provided for not including ditches as a separate habitat within the Metric as these clearly do fall within the RLB in at least three locations, the most notable being a larger outfall at the south-west corner of Heron Lake which appears to connect to another waterbody off-site.
27. The only habitat to be lost is 0.1ha of modified grassland in good condition. The BNGR is clear that it is not based on an updated site visit and is instead relying on the data collected for the PEA. The PEA states in its 'Survey Constraints' section that '*the survey was carried out late in the growing season and therefore many species may not have been visible above ground or readily identifiable.*' For modified grassland to meet good condition there must be 6-8 vascular plant species present per m². For most higher distinctiveness grassland types (medium and above) this rises to a minimum of 10 species/m² and must include forbs characteristic of the habitat type. Given the stated limitations of the PEA, we recommend that further justification is provided for both the habitat classification and condition chosen for the baseline grassland. This should be done prior to determination as establishing the correct, baseline biodiversity value of the site is a national validation requirement.
28. We also have some concern regarding the proposed grassland enhancement (currently from modified grassland but see point above) to other neutral grassland (ONG) in good condition. Achieving and maintaining ONG in good condition can be challenging (with the difficulty varying depending on existing soil nutrient levels and the extent of post-development impacts such as trampling). The BNGR does not provide any information regarding how this habitat would be established and maintained and while this is not required until submission of the BGP the applicant may wish to give some thought to it now in discussion with their ecological consultant. This is likely to be more of an issue if the ONG is considered to be [significant on-site](#) BNG as it would then require managing and monitoring for 30 years. Based on national Government guidance both the ONG and the newly planted trees would qualify but we understand from the Mid Sussex ecology response that MSDC generally do not treat on-site BNG for minor developments as significant. To the best of our knowledge LDC have not yet taken any local approach to refining the national guidance on significance. The approach to the application's BNG will require agreement between both Councils.
29. The application should also seek opportunities for non-habitat-based enhancements. The PEA recommendations for bat and bird boxes are supported. Specifications for all boxes should be provided as part of an Ecological Design Strategy (EDS) which could be secured by condition and

should include information on target species and box/brick number, type, location, installation and maintenance.

Summary

In summary, further information relating to the RLB, the age of survey data, protected species (specifically bats) and BNG is required prior to determination to ensure that appropriate mitigation, compensation and enhancement can be delivered. Further advice will be provided upon receipt of additional information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'H. Twizell', written in a cursive style.

Heather Twizell
Ecology Officer, East Sussex County Council