



30th January 2025

Joanne Fisher
Mid Sussex District Council
Oaklands Road
Haywards Heath
RH16 1SS

By email only

Contains sensitive information

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/24/3051
Location: Highfields West Hill East Grinstead West Sussex RH19 4DL
Proposal: Demolition of existing dwelling and the erection of a care home (Class C2) and a separate building with additional care units (Class C2).

Dear Joanne

Thank you for consulting Place Services on the above application.

Holding Objection pending further information on protected and Priority species & habitats	Yes
No ecological objections	
Recommended Approval subject to attached conditions	
Recommended Discharge of condition	

Summary

We have reviewed the Ground Level Tree Assessment Addendum Report (Leigh Ecology Ltd., December 2024), Badger Report (Leigh Ecology Ltd., October 2024) and Preliminary Ecological Appraisal (Phlorum Limited, December 2022) relating to the likely impacts of development on designated sites, protected and Priority species & habitats, and identification of appropriate mitigation measures.

We have also reviewed the information submitted to demonstrate that Biodiversity Net Gain can be delivered within the timescale promised and to meet any mandatory BNG requirements required. This includes the Statutory Biodiversity Metric (December 2024) and Biodiversity Net Gain Plan (Leigh Ecology Ltd., December 2024).



We are not satisfied that sufficient information on protected species has been submitted to support determination. The reasons for this are outlined below:

Protected species

We note from the Ground Level Tree Assessment Addendum Report (Leigh Ecology Ltd., December 2024) that aerial inspections by a qualified bat surveyor and licensed tree climber are required for the following trees which are due to be removed. This is because the trees have been identified as having potential bat roost features which cannot be assessed from ground level:

- T1814 Scot's pine
- T1841 Sycamore
- T1931 Sycamore

The surveys should be undertaken using standard methodology and the results submitted to the LPA prior to determination.

We also note that the Badger Report (Leigh Ecology Ltd., October 2024) recommends that further assessment should be undertaken between February and May as the proposed development falls within the 30m buffer zone of a main Badger sett. The surveys should be undertaken in accordance with standard methodology and the results submitted to the LPA prior to determination.

In addition, the Preliminary Ecological Appraisal (Phlorum Limited, December 2022) is out of date to support this application, under 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 initial site walkover was undertaken in June 2022. Therefore we recommend that the applicant's ecologist provides an ecological addendum or an updated ecological report to support this application, which should require an additional site visit and may require updated desk study information. In particular, the following species should be assessed in accordance with Government Standing Advice and NPPF (Dec 2024):

- [Bats in buildings](#) (European Protected Species)
- [Hazel Dormouse](#) (European Protected Species)
- [Reptiles](#) (protected species)
- Mobile Priority and threatened species, including Hedgehog

The additional information for bats, Hazel Dormouse, Badger and reptiles is 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 likely 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.

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



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. 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.

Mandatory Biodiversity Net Gain (BNG):

As of 2nd April 2024, all minor development, as defined under [Article 2 Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#), 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](#).

Biodiversity net gains is a statutory requirement set out under [Schedule 7A \(Biodiversity Gain in England\) of the Town and Country Planning Act 1990](#). This legislation was inserted into the 1990 Act by Schedule 14 of the Environment Act 2021, and was amended by the Levelling Up and Regeneration Act 2023. The Biodiversity Gain (Town and Country Planning) (Consequential Amendments) Regulations 2024 made consequential amendments to other parts of the 1990 Act.

The [Biodiversity Net Gain Planning Practice Guidance \(PPG\)](#) sets out how mandatory biodiversity net gains should be applied through the planning process and Paragraph: 011 Reference ID: 74-011-20240214 sets out what information should be submitted as part of a planning application if the statutory biodiversity gain condition applies. It is highlighted that we support the Statutory Biodiversity Metric (December 2024) and Biodiversity Net Gain Plan (Leigh Ecology Ltd., December 2024) and that we are satisfied that the submitted documents provide sufficient information at application stage.

As mandatory biodiversity net gains apply, the planning authority will be required to secure a biodiversity gain condition as a pre-commencement requirement. The biodiversity gain condition has its own separate statutory basis, as a planning condition under [paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990](#) and should be included as an informative within the decision notice. The biodiversity gain condition should secure the provision of a Biodiversity Gain Plan, as well as the following information:

- a) The completed metric calculation tool showing the calculations of the pre-development and post-intervention biodiversity values.
- b) Pre and post development habitat plans.
- c) Legal agreement(s)
- d) Biodiversity Gain Site Register reference numbers (if using off-site units).
- e) Proof of purchase (if buying statutory biodiversity credits at a last resort).

In addition, a [Habitat Management and Monitoring Plan](#) (HMMP) should be secured for all [significant on-site enhancements](#). Based on the submitted post-intervention values, it is suggested that this includes the following habitats: Other neutral grassland, Urban tree. The HMMP should be completed alongside the provision of details relating to the Biodiversity Gain Plan, with the maintenance and monitoring secured via legal obligation or a condition of any consent for a period of up to 30 years. The monitoring of the post-development habitat creation / enhancement will need be provided to the LPA at years 2, 5, 10, 15, 20, 25, 30 any remedial action or adaptive management will then be agreed with the LPA to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.

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



We also recommend that reasonable biodiversity enhancements for protected, Priority and threatened species should be identified and implemented to secure net gains for biodiversity, as outlined under Paragraph 187d and 193d of the National Planning Policy Framework (December 2024). The reasonable biodiversity enhancement measures should be outlined within a separate Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

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)

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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.