



24 July 2024

Joseph Swift
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.

Dear Joseph

Application: DM/23/2610
Location: Land South Of Hanlye Lane Longacre Crescent Cuckfield West Sussex
Proposal: Residential development of 55 dwellings with vehicular and pedestrian access, car parking, open space, play space, landscaping and all other associated works

Thank you for re-consulting Place Services on the above application.

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

Summary

We have reviewed the Preliminary Ecological Appraisal Report Revision 4 (Urban Edge Environmental Consulting, June 2024) Preliminary Ecological Appraisal Report (Urban Edge Environmental Consulting, October 2023) supplied by the applicant, relating to the likely impacts of development on protected species & Priority species and habitats, with identification of proportionate mitigation and mandatory Biodiversity Net Gain.



We are still not satisfied that there is sufficient ecological information available for determination of this application as we note that the Preliminary Ecological Appraisal Report Revision 4 (Urban Edge Environmental Consulting, June 2024) recommends that further bat surveys should be undertaken on tree TN1 (Black Pine) which is due to be removed and has high potential to support roosting bats.

Therefore, as the tree is to be removed further assessment must be undertaken in accordance with 4th Ed. Bat Survey Guidelines Collins ed. (Bat Conservation Trust, 2023) to establish whether potential roost features (PRFs) for individual (PRF-Is) or multiple (PRF-Ms) bats are present. If only PRF-Is are present, then no surveys are needed. However, appropriate compensation will be required in advance of works which will need to be undertaken under a Precautionary Working Method Statement for bats which means that any feature is inspected immediately before felling. If PRFs for multiple bats are present then further survey effort will be required prior to determination.

In addition, the Preliminary Ecological Appraisal Report Revision 4 (Urban Edge Environmental Consulting, June 2024) recommends Hazel Dormouse presence / likely absence surveys should be undertaken between April and November. This is because there will be a permanent loss of suitable Hazel Dormouse habitat for the development and there are 40 records for this species within the nearby area (Preliminary Ecological Appraisal Report Revision 4 (Urban Edge Environmental Consulting, June 2024)).

The results of the surveys for bats and Hazel Dormouse, including any mitigation and enhancement measures required to make this proposal acceptable and support a lawful decision, need to be submitted to the LPA, according to [Government Standing Advice \(bats\)](#) and [Government Standing Advice \(Hazel Dormouse\)](#).

In addition, the Preliminary Ecological Appraisal Report Revision 4 (Urban Edge Environmental Consulting, June 2024) recommends that a Badger survey should be undertaken as there is dense scrub in the survey area. Badgers and their setts are protected by the Protection of Badgers Act 1992 ([see Government Standing Advice](#)).

In addition, the Preliminary Ecological Appraisal Report Revision 4 (Urban Edge Environmental Consulting, June 2024) recommends that a reptile presence/absence survey should be undertaken. This is because Slow Worm, Grass Snake, Adder and Common Lizard have all been recorded in the nearby area and the site contains suitable reptile habitat. Reptiles are protected from killing and injury (schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and as Priority species under Section 41 of the Natural Environment and Rural Communities Act 2006 (as amended) (see [Government Standing Advice for reptiles](#)).

The Preliminary Ecological Appraisal Report Revision 4 (Urban Edge Environmental Consulting, June 2024) also recommends that a scoping survey for invertebrates should be undertaken between May and early September. This is because there are suitable habitats for invertebrates on site and records nearby for species such as Stag Beetle, which is protected from killing and injury (schedule 5 of the Wildlife and Countryside Act 1981 (as amended)), and Purple Emperor butterfly, a Priority species under Section 41 of the Natural Environment and Rural Communities Act 2006 (as amended).



Therefore, we recommend a suitability qualified ecologist should submit an updated ecology report or an addendum following a site visit with any further mitigation measures or surveys which are required.

This information is required to provide the LPA with certainty of impacts on legally protected species and to 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.

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."*

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 [2006] - 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.

We note that ancient woodland (irreplaceable habitat) lies adjacent to the south and the east of the site (Horsgate West and Horsgate East respectively). Therefore a 15 m buffer will be required between any works and the woodlands in line with [Government Standing Advice](#).

Mandatory Biodiversity Net Gain

As of 12th February 2024, all major developments, 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.

However, mandatory Biodiversity Net Gain is not relevant to this application as it was validated on 16th October 2023.

We welcome the ecological enhancement recommendations in Section 5.5 of the Preliminary Ecological Appraisal Report Revision 4 (Urban Edge Environmental Consulting, June 2024) and understand that these will be reviewed and updated following the completion of the recommended protected species surveys.



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

We look forward to working with the LPA and the applicant to receive the additional information required to 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.