



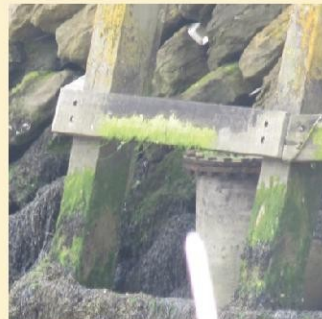
Princes Parade, Hythe

Planning Application Y17/1042/SH

Additional Information and Clarification - February 2018

Appendix 04

Ecology KCC / EA



FAO: Robert Allen,
Shepway District Council

17th January 2018

**Ecologist's letter of response to comments received from key consultees, with regards to:
PRINCES PARADE, HYTHE (APPLICATION REF: Y17/1042/SH):**

Dear Robert,

I am writing to respond to comments received from Kent County Council's Ecological Advice Service (KCC EAS) and the Environment Agency (EA) - with regards to hybrid planning application Y17/1042/SH, and the ecological documentation submitted with the planning application.

I have provided a response to comments received from Helen Forster of KCC EAS, in her letter dated 31st October 2017, and from Jennifer Wilson of the EA, in her letter dated 16th November 2017.

KCC EAS provide Shepway District Council (SDC) (the decision maker) with advice regarding the ecological implications of proposed developments and advice on planning applications, including the suitability of ecological documentation submitted with planning applications. The EA are a statutory environmental permitting authority. KCC EAS and the EA are therefore considered the key ecological stakeholders for this application, and their comments have been addressed in detail below.

I have provided a separate, high-level letter of response to comments received from the Kent Wildlife Trust (KWT) and the Campaign to Protect Rural England (CPRE).

Response to KCC EAS comments:

For the purposes of clarity, I have addressed comments using the same sub-headings provided in the KCC EAS letter wherever possible.

NVC survey

The desk study, botanical survey work and additional ecological survey work that were undertaken to inform the outline planning application indicate that there is unlikely to be any 'fixed sand dune' habitat present within the works footprint of the proposed development.

Lloydbore ecologists conducted a suite of ecological survey work across the application site in 2017. In addition, as stated in Technical Appendix 7.1 of the Environmental Statement (ES) (Botany Report) (report ref: 3609-LLB-ZZ-XX-RP-EC-0008), the National Vegetation Classification (NVC) survey included an initial walkover of the entire application site. No fixed sand dune habitat was recorded on the application site during this ecological survey work.

The EA's online Historic Landfill map, in combination with the findings of site investigation work reported in Chapter 9 of the ES, was used to assess the extent of historic landfill on the application site.

The EA's online map clearly shows that the works footprint of the proposed development falls within a historic landfill site. The site investigation work reported in Chapter 9 of the ES provides additional detail of the extent and depth of landfill capping.

It is considered that there is no need to provide an additional map indicating the extent of historic landfill. The evidence provided with the outline application is considered sufficient, and the EA's online Historic Landfill map can be readily accessed to confirm the extent of historic landfill.

Paragraphs 5.9 to 5.15 (inclusive) of Technical Appendix 7.1 of the ES provide additional detail of the reasons why it is considered highly unlikely that fixed sand dune habitat is present within the works footprint of the proposed development.

Wintering birds

When assessing the potential effects of the proposed development upon wintering birds, we considered whether the application site and adjacent habitats are likely to be of *importance* for wintering birds.

The fundamental consideration in this assessment was whether the application site, or the adjacent canal or beach, are likely to provide habitat that could be used by the bird species associated with the Special Protection Areas (SPAs) at Dungeness and Sandwich.

These SPAs are important sites for wintering waterbirds. The potential impacts of development upon the bird species and assemblages for which these SPAs were designated were therefore considered early in the assessment.

As per Paragraphs 2.5 and 2.6 of Technical Appendix 7.5 of the ES (Breeding Bird Report) (report ref: 3609-LLB-RP-EC-0007-S4-P01):

'The on-site habitats are not suitable for use by passage or wintering species associated with the Special Protection Areas (SPAs) at Dungeness and Sandwich;' and

'Whilst individual birds may occasionally use the beach habitat close to the site, historical bird sightings and the suitability of the site indicate that the off-site area of beach habitat is not likely to be of importance or used regularly by a significant number of breeding, passage or wintering bird species associated with the above SPAs. Any birds passing by off-shore, will not be impacted by the development proposals.'

In addition to the above, it should be noted that the adjacent section of the Royal Military Canal (RMC) is well used by walkers and dog walkers. In addition, this canal section is not of a sufficient size, and does not provide suitable refuges for substantial aggregations of wintering waterfowl.

For these reasons, it is highly unlikely the adjacent section of the RMC supports any important assemblages of wintering waterbirds.

In summary, the habitats present on and adjacent to the application site are unlikely to support important assemblages of wintering waterbirds, and are unlikely to be of importance for the bird species for which the SPAs were designated. Therefore, the application site and adjacent habitats are unlikely to be of *importance* for wintering birds. For this reason, wintering birds were scoped out of the assessment, and no further survey, assessment or mitigation is required with regards to wintering birds.

If required to satisfy the decision maker, a wintering bird survey of the application site and the adjacent canal and beach sections, comprising a single survey visit in February 2018, can be undertaken as per the KCC EAS suggestion. However, for the reasons cited above, this is not considered necessary.

With regards to migrating birds, the habitats present on the application site and within the adjacent section of the RMC are highly unlikely to represent key sites (e.g. important feeding sites along a migration route) for migrating birds, and are not located within any known important 'flyway' for migrating birds. Therefore, these habitats are unlikely to be of *importance* for migrating birds.

In addition, the proposed development is highly unlikely to impair the ability of birds to migrate.

For these reasons, migrating birds were scoped out of the assessment, and no further survey, assessment or mitigation is required with regards to migrating birds.

Ecological Mitigation

Technical Appendix 7.8 of the ES (Ecological Mitigation and Enhancement Plan) (report ref: 3609-LLB-ZZ-XX-RP-EC-0002) sets out the ecological avoidance, mitigation, compensation and enhancement measures that will be delivered by the project.

The level of detail provided with the measures set out in Technical Appendix 7.8 is considered sufficient to inform the assessment of Residual Effects upon important ecological features within the Ecology Chapter (Chapter 7) of the ES, and is considered sufficient to determine the application.

Furthermore, given that most of the site is currently the subject of an outline planning application, this level of detail is considered appropriate.

In addition, based on the strategy set out in Technical Appendix 7.8, there is no reason to consider that the favourable conservation status of the local bat population, and the long-term viability of the local reptile population (which have both been identified as important ecological features), cannot be maintained.

Based on the above, it is considered that the decision maker has sufficient information regarding the ecological avoidance, mitigation, compensation and enhancement measures that will be implanted to address potential adverse effects upon important ecological features.

Lloydbore have been instructed by the applicant to produce a detailed Ecological Mitigation Strategy (EMS) for the entire hybrid application site, which will provide additional detail of the measures already set out in technical Appendix 7.8. This document will include working methods for ecological mitigation works, detail of compensatory plantings and (wherever it is possible to do so) timings for the implementation of ecological measures. There is no reason why the delivery of this document cannot be secured through the use of a suitably worded pre-commencement planning condition.

Reptiles / Amphibians

It has now been confirmed through discussions between Lloydbore and SDC that compensatory reptile habitat, and the reptile receptor area, will be located on the northern side of the RMC (within the canal corridor between the application site and Twiss Road).

A substantial programme of reptile habitat creation and enhancement will be undertaken to deliver the compensatory habitat. This will be achieved through clearance of dense scrub habitat and the creation of a tall grass / low scrub mosaic within these areas – to provide new reptile habitat capable of accommodating the translocated animals in the long-term.

The area of new reptile habitat that will be created north of the canal will be at least equal in area to the reptile habitat that will be lost from the application site. Preliminary area calculations undertaken by Lloydbore confirm that this is a deliverable measure.

Log piles and purpose-built reptile hibernacula will be carefully installed within an area of existing habitat that is suitable for reptiles and is located adjacent to the compensatory habitat - to provide immediate refuge for translocated animals.

These habitat creation and enhancement works will be undertaken prior to the commencement of reptile translocation.

Reptiles will then be translocated to areas of existing reptile habitat located within the receptor area, after this area has been carefully enhanced through the addition of log piles and hibernacula. These animals will then be able to spread out into the compensatory habitats as these habitats establish.

As per paragraph 4.77 of Technical Appendix 7.8 of the ES, a reptile presence / likely absence survey of the off-site receptor area will be undertaken prior to translocation – to inform the mitigation approach.

Effective implementation of these measures will ensure that the receptor area and compensatory habitat are able to support the translocated reptiles and any reptiles already present within the receptor site. Thereby, the reptile 'carrying capacity' of the receptor area should not be exceeded.

Additional detail of the reptile mitigation and compensation measures will be provided in the EMS.

Detailed habitat management prescriptions for the reptile receptor area, and the compensatory reptile habitat that will be delivered north of the RMC, will be included within the Landscape and Ecological Management Plan (LEMP) that will be delivered at the Reserved Matters stage. Effective implementation of the measures set out in the LEMP will ensure provision of sufficient reptile habitat in the long-term.

Response to EA comments:

Buffer zone

In their letter, the EA state that they have 'no objection to the proposal, subject to the following conditions being included in any permission granted.'

The recommended conditions include the delivery of a 25m-wide 'buffer zone' between the built development / formal landscaping and the RMC.

The project team will confirm the feasibility of this buffer width. Based on a preliminary assessment of scaled aerial imagery (undertaken by Lloydbore), it is likely that a buffer width of c.20m could be delivered in many locations. (Note that this preliminary measurement is not definitive, and scaled topographical survey plans should be used to measure the width of land available for this buffer zone between the built development / formal landscaping and the southern bank top of the RMC).

However, it is important to note that, in ecological terms, the width of the buffer is not the key consideration. The purpose of this buffer should be to achieve core ecological functions (including, but not limited to, the provision and maintenance of habitats suitable for foraging bats, reptiles, nesting birds, common toads and other wildlife in the long-term).

Where a 25m-wide buffer zone cannot be delivered, a narrower buffer could achieve the above ecological functions, provided that appropriate habitat creation and management works are undertaken in accordance with the measures set out in EMS and LEMP.

Construction Environmental Management Plan

It is agreed that the production and implementation of a Construction Environmental Management Plan (CEMP) can be secured through use of an appropriately worded planning condition. The suggested detail to be included in the CEMP is considered broadly appropriate and acceptable.

However, it is important to note some key points that must be reflected in the wording of any planning condition that requires the delivery and implementation of a CEMP. These key points are as follows:

- 'Aftercare and maintenance' of habitats will be detailed in the LEMP, *not* the CEMP;
- Only detail of ecological mitigation measures relevant to the construction stage will be included in the CEMP. Full detail of ecological mitigation measures will be provided in the EMS; and
- The CEMP will not include detail of ecological enhancement measures. Ecological enhancement measures will be detailed in the EMS.

Landscape and Ecological Management Plan

In their letter, the EA suggest the conditioning of a '*Landscape management plan.*' This requirement can be addressed through the production and implementation of the LEMP, which can be secured through use of an appropriately worded planning condition.

The detail that the EA suggest should be included in the LEMP is considered broadly appropriate and acceptable. However, it is strongly recommended that the decision maker refers to *BS42020: 2013 Biodiversity – Code of Practice for Planning and Development* when formulating this planning condition. Section D.4.5 of Annex D of BS42020 is of particular relevance.

I trust that the above provides a sufficient level of information to address the comments provided by these two consultees, and to inform the decision making process.

However, should you require any additional clarification on the matters addressed, I would of course be more than happy to provide additional information or to liaise directly with SDC and/or the consultees.

Kind regards,



Samuel Durham BSc (Hons) ACIEEM
Senior Ecologist



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33 St. George's Place, Canterbury, Kent CT1 1UT | T: 01227 464 340

59 Lambeth Walk, London, SE11 6DX | T: 02075 822 363

www.lloydbore.co.uk | E: samuel.durham@lloydbore.co.uk | M: 07471 036 663