



ECOLOGICAL ADVICE SERVICE

TO: *Marion Geary*

FROM: *Emma England*

DATE: *09 April 2024*

SUBJECT: *23/504471/OUT / Land At Moat Road, Headcorn*

The following is provided by Kent County Council's Ecological Advice Service (KCC EAS) for Local Planning Authorities. It is independent, professional advice and is not a comment/position on the application from the county council. It is intended to advise the relevant planning officer(s) on the potential ecological impacts of the planning application and if sufficient/appropriate ecological information has been provided.

Any additional information, queries or comments on this advice that the applicant or other interested parties may have must be directed in every instance to the planning officer, who will seek input from the EAS where appropriate and necessary.

SUMMARY – ADDITIONAL INFORMATION REQUIRED

We have reviewed the ecological information submitted in support of this application and advise that additional information is sought from the applicant prior to determination of the planning application. This includes:

- A countersigned DLL impact assessment and conservation payment certificate (IACPC)

We maintain that further survey information should be provided for roosting bats prior to determination as the quality of bat survey data available is low. However, the project ecologists are confident that the risk of a roost of high conservation significance being present is low. As a result, we have provided two options for roosting bats in our detailed comments, below.

Great Crested Newt

The letter by email from Aspect Ecology, dated 15th December 2023 acknowledges the requirement for a countersigned District Level Licensing (DLL) impact assessment and conservation payment certificate (IACPC) to be submitted to the local planning authority

prior to determination of the application¹. However, this information appears to be outstanding.

Bats

We have reviewed the submitted outline bat mitigation strategy for building 4. This document produced 14th March 2024 states that: *“The site supports roosting activity by Common Pipistrelle, which is a common and widespread species within England...The survey work recorded the presence of a single common pipistrelle roost, considered to represent a summer day roost used by individual bats or low numbers of males and/or non-breeding females and is therefore categorised as being of low conservation significance. A single emerging bat was recorded on a single occasion”*. The strategy also states: *“Further emergence surveys at Building B4 will be undertaken as required to inform the application for a bat mitigation from Natural England”*.

Previous submitted documents are summarised below:

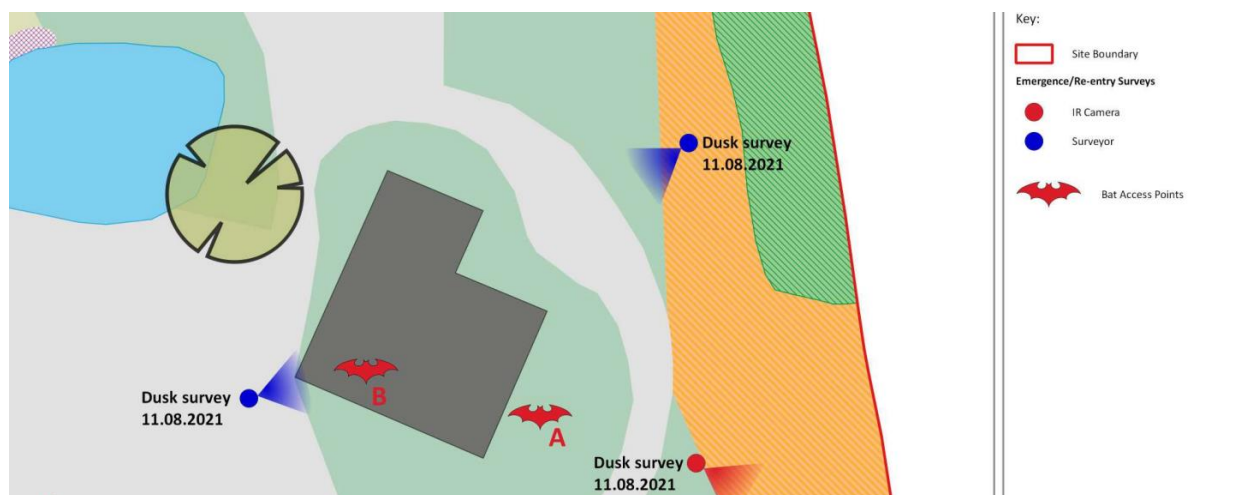
- A preliminary roost assessment of building 4 was carried out in April 2021 and was classified as having low suitability for roosting bats. The potential roosting habitat in the building is described as *“Splits within the larger wooden beams and gaps between beams”*. The 2016 survey guidance² which would have been used to classify the building states that low suitability buildings have *“one or more potential roost sites that could be used by individual bats opportunistically”*. However, these potential roost sites would be ‘unlikely’ to be suitable for maternity or hibernation. The 2016 guidance goes on to say *“The early assessment of suitability for bats, however, should not be confused with the later assessment of the conservation value of a site, which relates to the species, numbers and roost types **actually present**”*.
- An emergence survey of Building B4 carried out 11th August 2021 recorded *“Single Common Pipistrelle emergences... from the open barn entrance on the eastern elevation ...at 20:49, 20:57 and 21:22. When leaving the barn, these bats each spent up to a minute leaving/re-entering the barn. These bats may have been light sampling after leaving their roosting locating within the building, or may have been foraging.”* *“Three separate sightings were made of Common Pipistrelle emerging from the open barn entrance on the eastern elevation of building B4 during the dusk survey, while during the dawn survey, a single Common Pipistrelle was seen briefly entering a doorway on the southern elevation of this building before leaving again. It is possible that those bats seen leaving the barn entrance had been roosting within this building, particularly given that two of these sightings were relatively soon after sunset (24 minutes and 32 minutes respectively) and therefore during the typical emergence period for this species. However, given that bats use more than one entrance of this building, it is also possible that these bats had simply passed through this building. Based on this, and taking a precautionary approach, Building B4 is considered to be likely to provide a day roost or feeding roost for a small number of Common Pipistrelle.”*

¹ [Great crested newts: district level licensing for local planning authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/great-crested-newts-district-level-licensing-for-local-planning-authorities)

² [Bat Survey Guidelines 2015](#)

The March 2024 outline mitigation strategy states confidently that there is a single roosting common pipistrelle bat within Building B4. However, the submitted ecological appraisal report indicates that between zero and three bats could be roosting within the building according to the 11th August 2021 data. As shown above, the report also does not commit to a roost type (“likely to provide a day roost or feeding roost for a small number of Common Pipistrelle”).

The lack of clarity during the 11th August 2021 survey may indicate that there was insufficient surveyor coverage of Building B4. Survey coverage is shown below.



Paragraph 99 of the Office of the Deputy Prime Minister (ODPM) Circular 06/2005³ states “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”. We would like to highlight that this paragraph states that not only must the presence or otherwise of protected species be identified, but also the extent to which they may be affected by the proposed development.

The statements made in the submitted ecological appraisal report indicate that although one survey was carried out of B4 in August 2021, insufficient information was obtained to clarify the presence/likely absence of bats in B4.

A recent letter by email from Aspect Ecology indicates that “updated bat surveys will need to be undertaken for the purpose of determining the numbers of bats that the licence would need to cover. This may require up to three survey visits during spring/summer 2024. In the eventuality that these surveys do not find any bats or evidence of them, we will not be able to apply for (nor would we need) a licence as we can then confirm that the building is no longer (or never was) used as a bat roost.” Whilst this letter indicates that a maternity/hibernation roost is unlikely, it also indicates that the number of bats potentially using the building needs to be clarified.

The 2016 professional survey guidelines for bats indicate that when roosting “presence is established, this should trigger roost characterisation surveys unless sufficient information

³ [odpm-circ-0605.qxd \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/odpm-circ-0605.qxd)

has already been collected to inform the impact assessment and design of mitigation measures. Roost characterisation surveys include emergence/re-entry surveys. They also include the collection of information about the physical characteristics of the roost and surrounding area". The 2023 professional survey guidelines for bats have been expanded upon, but essentially still recommend roost characterisation surveys unless sufficient information has already been obtained.

Due to the uncertainty outlined above, we suggest that further roost characterisation surveys should have been triggered, and that in their absence, insufficient information is available in line with paragraph 99 of the ODPM Circular 06/2005 prior to determination of the planning application to clarify whether a bat roost is indeed present, and if so, supporting how many bats.

Further, the current application was validated 16th October 2023, just over two years after the bat emergence survey on B4 was carried out. At just over two years old, survey data for mobile species such as roosting bats is on the limit of what is acceptable to support a planning application. The 2023 survey season would have provided time to obtain additional information about the roost and clarify its status prior to submitting the application. The Chartered Institute of Ecology and Environmental Management (CIEEM) states that for ecological data between 18 months and three years old, *"some or all of the ...ecological surveys may need to be updated...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"*⁴.

The local planning authority must have enough information prior to determination to be assured that a Natural England mitigation licence will be issued and in so doing must address the three tests when deciding whether to grant planning permission for the proposed development⁵. Any proposed mitigation and compensation measures must not conflict with the requirements of a Natural England mitigation licence. Government standing advice indicates that information pertaining to mitigation and compensation measures should be available prior to determination⁶.

Taking into consideration all available information, we currently consider there is a lack of information relating to the presence or likely absence of a bat roost in B4 and numbers of bats roosting. Further survey data for bats, obtained between May and August and carried out in line with the latest bat survey guidelines, would provide clarity regarding the necessary mitigation/ compensation measures required for roosting bats at the site. This should normally be provided prior to determination in alignment with paragraph 99 of the

⁴ [Advice-Note.pdf \(cieem.net\)](#)

⁵ The three tests are:

1. Regulation 55(2)(e) states: a licence can be granted for the purposes of *"preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment"*.
2. Regulation 55(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied *"that there is no satisfactory alternative"*.
3. Regulation 55(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied *"that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."*

⁶ [Protected species and development: advice for local planning authorities - GOV.UK \(www.gov.uk\)](#)

ODPM 06/2005, which states “*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*”.

However, if we were to accept that only a common and widespread bat species would be roosting in the building, and that the number of bats roosting is likely to be low, then the mitigation measures put forward in the Outline Bat Mitigation Strategy would likely be acceptable to Natural England. In this instance, we would recommend updated and sufficient bat surveys for roost characterisation, along with a mitigation strategy would need to be secured by condition as part of any granted planning permission.

Paragraph 99 of the ODPM Circular also states: “*The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence ...*”

The project ecologists are confident that the risk of a roost of high conservation significance being present on site is low and indicate that appropriate mitigations and compensations for bats can be included within proposals without plans needing to be altered through the planning process. The risk of Natural England not being able to issue a licence with plans in their current form is therefore likely to be fairly low.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Emma England
Biodiversity Officer

This response was submitted following consideration of the following documents:

Aspect Ecology (November 2022) Ecological Appraisal. Land North of Moat Road, Headcorn.

Aspect Ecology (September 2023) Ecological Appraisal. Land North of Moat Road, Headcorn.

Aspect Ecology (September 2023) Biodiversity Net Gain Assessment. Land at Moat Road, Headcorn.

Aspect Ecology (December 2023) Letter Sent By Email Only. Land at Moat Road, Headcorn.

RSK (September 2023) Lighting Impact Assessment. Land at Moat Road, Headcorn.

Thrive Architects (August 2023) Sketch Layout Master Plan – 01. Moat Road, Headcorn.

Thrive Architects (October 2023) Framework Plan – 01. Moat Road, Headcorn.