



12<sup>th</sup> September 2024

██████████  
Uttlesford District Council  
London Road  
Saffron Walden  
CB11 4ER

By email only

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*Thank you for requesting advice on this application from Place Services' ecological advice service. This service provides advice to planning officers to inform Uttlesford 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.*

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**Uttlesford Application Ref.: UTT/24/1898/PINS**

**PINS Application Ref.: S62A/2024/0057**

**Location: Former Friends School Field Mount Pleasant Road Saffron Walden**

**Proposal: Consultation on S62A/2024/0057 – Erection of 91 no. dwellings with associated infrastructure and landscaping. Provision of playing field and associated clubhouse**

Dear █████,

Thank you for consulting Place Services on the above application.

**Holding objection due to insufficient ecological information on European Protected Species (bats) and mandatory Biodiversity Net Gain (BNG)**

**Summary**

We have reviewed the documents supplied by the applicant including the Tree Protection Plan, drawing no. 2297-KC-XX-YTREE-TPP01RevD (Kenn Consultants, June 2024), Soft Landscaping Proposals, drawing no. L23110.02.A (DCa Landscape, July 2024) and Ecological Impact Assessment (ACD Environmental, June 2024) as well as Magic Maps ([Magic Map Application \(defra.gov.uk\)](https://defra.gov.uk)) to help identify the likely impacts of development on designated sites, protected & Priority habitats and species and identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application in relation to bats and recommend that further clarification is provided. In addition, we are not satisfied that appropriate information with regard to mandatory biodiversity net gains has been supplied for the application prior to determination. The reasons for this are outlined below:



### **European Protected Species:**

The Ecological Impact Assessment (ACD Environmental, June 2024) states that a ground level tree assessment was undertaken on eight trees that are due to be removed at the site. Referencing the Tree Protection Plan, drawing no. 2297-KC-XX-YTREE-TPP01RevD (Keen Consultants, June 2024), more than eight trees are due to be removed or have recommendations for tree surgery on them and so it is considered there is missing data in relation to impacts upon bats. Information on all trees impacted by the proposed development and their suitability to support roosting bats is required prior to determination to inform the need for mitigation and potential a licence from Natural England.

To fully assess the impacts of the proposal the LPA needs ecological information for the site, particularly for bats, European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should *“Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby”*.

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.”*

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.

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended).

### **Mandatory Biodiversity Net Gains:**

Applications 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.



Where mandatory biodiversity net gain applies, 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](#). As a result, government have recommended that it is not included in the list of conditions imposed in the written notice when granting planning permission. However, it is highlighted that biodiversity gain condition could be implemented via a separate section of the decision notice. The biodiversity gain condition should secure the provision of a Biodiversity Gain Plan, as well as the finalised full Statutory Biodiversity Metric – Calculation Tool.

However, to ensure the biodiversity gain objective is met and the condition can be discharged successfully, it is important biodiversity net gain is considered throughout the planning process. The NPPF emphasises that plans should identify and pursue opportunities for securing measurable net gains for biodiversity, and plans and decisions should minimise impacts and provide net gains for biodiversity. In particular, the Biodiversity Gain Hierarchy must be implemented into proposed designs, to ensure that this is not left to the biodiversity gain condition.

As a result, we have reviewed the Ecological Impact Assessment (ACD Environmental, June 2024) and submitted Metric (June 2024) and are not satisfied that appropriate information has been provided prior to determination. This is because the Condition Assessment sheets have not been submitted. This is important so that we can review justification for the conditions given to each existing habitat. The baseline assessment states the woodland is 'moderate' in condition and the modified grassland is in 'good' condition and so justification for this should be provided. Additionally there are numerous individual trees, the condition sheets need to clarify that if the trees have been assessed as a group, they are all homogenous in condition and size class. We are therefore not satisfied that the pre-development baseline information is sufficient, and this information is required prior to determination.

As for the post-intervention information, we would like to highlight that the document has included the proposed plans, however, we query the proposed habitats, particularly the use of meadow mix grassland as it is not clear what habitat type this corresponds with in UK Habitat classification or what condition is proposed, or if this habitat is feasible. Additionally, individual trees within garden spaces and other areas which cannot be secured by a condition cannot be included within the post-development assessment. As a result, it is highlighted that the post-intervention habitat conclusions will need to be amended as part of the Biodiversity Gain Condition.

It was noted in the Soft Landscaping Proposals, drawing no. L23110.02.A (DCa Landscape, July 2024) that Bluebell (*Hyacinthoides non-scripta*) are being recommended in the bulb planting in an area of open grassland which is not considered a suitable location as they are associated with growing in woodland. It was also noted that Cherry Laurel (*Prunus laurocerasus*) has been included in the 'Native Understorey Shade Mix' even though it is not a native species and also in the 'Specimen Shrubs' mix. Cherry Laurel is a vigorously growing plant and although it is not listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) it is thought of as an invasive species and has little benefit to wildlife. It is therefore recommended this species is removed from the proposed planting list. An amended landscape proposal can be secured by a condition of any consent.

It is noted that the applicant is proposing to purchase off-site biodiversity credits from a registered provider in order to demonstrate a net gain in Habitat Units. Land used for off-site BNG delivery should be



secured for the length of the net gain agreement, either via a Section 106 agreement, or a conservation covenant.

In addition, a [Habitat Management and Monitoring Plan](#) should be secured for all [significant on-site enhancements](#), as well as off-site enhancements. This should be in line with the approved 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.

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 me with any queries.

Yours sincerely

**Ella Gibbs ACIEEM BSc (Hons)**

Senior Ecological Consultant

Place Services at Essex County Council

**Place Services provide ecological advice on behalf of Uttlesford 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.