



24th September 2024

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

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 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.

Uttlesford Application Ref: UTT/24/1958/PINS
PINS Reference: S62A/2024/0058
Location: Land Adj. To Village Hall, East Of Cambridge Road Ugley
Proposal: Consultation on S62A/2024/0058 - Construction of 16 dwellings including 40% affordable housing and associated infrastructure

Dear ████████,

Thank you for consulting Place Services on the above application.

Holding objection due to insufficient ecological information on European Protected Species (bats)

Summary

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application. The reasons for this are outlined below:

Bats:

The trees on site, particularly along the eastern boundary, were found to have moderate potential to support roosting bats according to the Chiropteran Report (A. R. Arbon, March 2024). The report stated that further bat surveys on these trees were not required as none of these trees were due to be removed to facilitate the development. However, some trees are due to be located in the gardens of proposed dwellings, and so considerations should be given to prevent future residents removing the trees and impacting upon potential bat roosts.



In order to lift our holding objection the LPA either needs evidence that the trees do not support roosting bats which can be achieved by undertaking further ground level assessment of the trees in line with best practice guidance (Collins, 2023 and Reason & Wray, 2023) or confirmation that a covenant which will prevent future residents removing trees.

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 gains 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 Biodiversity Net Gain Assessment (Arbtech, July 2024) and are satisfied that submitted information provides sufficient information at application stage. It is noted that off-site habitat creation will be required to make up the deficit of Habitat Units at the site. The applicant will need to register their site on the biodiversity gain site register in order for it to provide offsite Biodiversity Net Gains. The LPA should also confirm they are satisfied with the lines of trees and individual trees being given the strategic significance of being 'location ecologically desirable but not in local strategy'.

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.