

## Wignall, Peter

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**From:** David Smith [david.smith@lloydbore.co.uk]  
**Sent:** 04 March 2016 10:44  
**To:** lucy.vidler@shepway.gov.uk  
**Cc:** John Young; Katy Tennant  
**Subject:** Ecology Quotation Princes Parade  
**Attachments:** 3609\_FP\_003-Princes Parade Surveys Fee Proposal.pdf

REFERENCE EML-OUT/3609/20160304-104007-285

Lucy,

Sorry for the delay in my reply. It's pretty busy here at the moment.

I was just about to set up a new fee proposal, when I realised we have already sent a fee proposal for the works.

I have attached this again.

Best wishes

Dave

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**David Smith** BSc (Hons) PhD MCIEEM  
Head Of Ecology

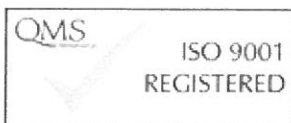
**lloydbore** landscape  
ecology  
arboriculture

Lloyd Bore Ltd. | 33 St. Georges Place, Canterbury, Kent CT1 1UT

[www.lloydbore.co.uk](http://www.lloydbore.co.uk) | T: 01227 464 340 | M: 07471 036 655 | E: [david.smith@lloydbore.co.uk](mailto:david.smith@lloydbore.co.uk)

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**From:** [lucy.vidler@shepway.gov.uk](mailto:lucy.vidler@shepway.gov.uk) [<mailto:lucy.vidler@shepway.gov.uk>]  
**Sent:** 02 March 2016 11:13  
**To:** David Smith  
**Subject:** Quotation Princes Parade

Dear David,

Thank you for taking time to speak with me on the phone this morning.

Last year, you carried out a preliminary ecological survey for us at Princes Parade in Hythe. (ref 3609\_RP\_001). We are now looking at moving this project forward to Planning, and would like a quotation to complete the additional work required to enable us to do this.

I understand that there are a number of wildlife surveys that optimum time to carry these out is April to September. Is it possible that you could provide a quotation to incorporate these, and give a timescale for when we need to be on site to do them.

We have not yet had the EIA report/Scoping report carried out, and I will get the screening request submitted ASAP.

I have attached a drawing of our proposal, this is not in the public domain and should be kept confidential please. It is also not set in stone, but gives an indication of the sort of scheme we expect on the site, spacing/house mix etc. We are also looking at the option of including a Leisure Centre on the site, as plans for this to be sited on Hythe Green have unfortunately fallen through. We are in talks with a couple of sports clubs about moving their facilities to be incorporated on the site, and also we would like to include a central area for retail/commercial units, perhaps a cafe/restaurant or 2 etc. So the design will change I am sure, but I think this is the best 'idea' we have got at present prior to any formal master planning exercise. (i've just looked at the drawing and this commercial area appears to be included in the centre around the yellow shaded area.

Any questions, please do not hesitate to let me know.  
Regards,  
Lucy

Lucy Vidler  
Project Officer, Strategic Developments Team

T: (01303) 853443  
Shepway District Council, Civic Centre,  
Castle Hill Avenue, Folkestone, Kent CT20 2QY  
E: [lucy.vidler@shepway.gov.uk](mailto:lucy.vidler@shepway.gov.uk)  
[www.shepway.gov.uk](http://www.shepway.gov.uk)  
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## SCHEDULE OF SERVICES AND FEES

Ecology Consultancy Services

Client: Shepway District Council

Princes Parade, Hythe

Kent, CT21 5QT

Ref: 3609\_FP\_003

10th November 2015

Originator: John Young

LLOYD BORE LTD  
33 ST GEORGE'S PLACE  
CANTERBURY  
KENT  
CT1 1UT

Tel: 01227 464340

Fax: 01227 464341

[mail@lloydbore.co.uk](mailto:mail@lloydbore.co.uk)

[www.lloydbore.co.uk](http://www.lloydbore.co.uk)

1. PROJECT NAME: PRINCES PARADE

- 1.1 This document represents our scope of services and fee proposal for ecology consultancy services in relation to the above project. Our services are provided in accordance with the terms and conditions set out in this document and its attachments.

2. SCOPE OF SERVICES

- 2.1 The overall scope of services included in this fee proposal is detailed below.

3. BOTANICAL SURVEY

**Scope of Work**

- 3.1 A suitably experienced botanist to perform a detailed botanical survey of the site in June or July. They will focus on the semi-improved maritime grassland between the site and Princes Parade, but other areas of the site will be sampled.

**Outputs**

- The botanical survey work would be incorporated into a detailed Ecology report that includes all the survey work conducted.

**Meetings/Site Visits**

- One site visit.

4. INVERTEBRATE HABITAT ASSESSMENT

**Scope of Work**

- 4.1 An invertebrate specialist will undertake a site visit to conduct a site assessment in the period mid-April to the end of May.
- 4.2 The visit will cover the main site, the semi-improved maritime grassland and the interface with the adjacent canal.
- 4.3 The survey will not include species specific surveys. If there is a risk protected or priority species are present then the report will include recommendations for further surveys if required. The need for invertebrate surveys will partially be informed by the need for an Environmental Impact Assessment.

**Outputs**

- The invertebrate walkover would be incorporated into a detailed Ecology report that includes all the survey work conducted.

**Meetings/Site Visits**

- One site visit.

5. COMMON TOAD

**Scope of Work**

- 5.1 We will undertake a minimum of four dusk site visits (ARG UK, 2011) in suitable weather conditions during February to late April to establish the presence (or otherwise) of common toad and determine the ecological value of the adjacent canal for breeding toad.
- 5.2 As common toad is a Species of Principal Importance, these surveys are most likely to be required if an Environmental Impact Assessment is required.

**Outputs**

- The toad survey work would be incorporated into a detailed Ecology report that includes all the survey work conducted.



### **Meetings/Site Visits**

- A minimum of four site visits.

## **6. REPTILE SURVEY AND REPORT**

### **Scope of Work**

- 6.1 A reptile survey will be conducted in the period April to September (inclusive) to establish whether reptiles are present (or likely absent) on site. Ideally the surveys should be conducted in April, May or September (the optimum months for reptile surveys). The survey will also examine which reptile species are present and their associated population size. The survey will include the placement and collection of artificial cover objects (ACOs).
- 6.2 This information will help to inform a formal Environmental Impact Assessment (if required).

### **Outputs**

- The reptile survey work would be incorporated into a detailed Ecology report that includes all the survey work conducted.

### **Meetings/Site Visits**

- Eight site visits.

## **7. BREEDING BIRD SURVEY**

### **Scope of Work**

- 7.1 We will undertake breeding bird surveys using a territory mapping technique in accordance with guidelines set out by Gilbert *et al.*, (1998).
- 7.2 Five survey visits will be conducted by one surveyor between April and the end of June. Survey visits will be at least 10 to 14 days apart when possible and conducted during suitable weather conditions.
- 7.3 The surveys will also determine whether kingfisher (a Schedule 1 species) is breeding adjacent to the site on the Royal Military Canal.
- 7.4 The time includes that required to analyse the territory mapping results from each visit, so that the number of territories of breeding birds can be estimated.

### **Outputs**

- The breeding bird survey work would be incorporated into a detailed Ecology report that includes all the survey work conducted.

## **8. BATS**

### **Scope of Work**

- 8.1 Bat activity surveys of the Royal Military Canal have been recommended in order to assess its value for foraging and commuting bats. This may comprise bat transects and / or the use of static recorders between May and September. This will be an important component of any Environmental Impact Assessment.
- 8.2 The initial scope of works is likely to require monthly surveys between May and September.

### **Outputs**

- The bat bird survey work would be incorporated into a detailed Ecology report that includes all the survey work conducted.

### **Meetings/Site Visits**

- Five survey visits.

9. WATER VOLES

**Scope of Work**

- 9.1 We will conduct a water vole survey to establish whether they are present within the marginal habitat associated with the Royal Military Canal. Two site visits will be conducted by two surveyors. The first visit will be between April and June and the second between July and September.

**Outputs**

- The water vole survey work would be incorporated into a detailed Ecology report that includes all the survey work conducted.

**Meetings/Site Visits**

- Two survey visits.

10. MAMMAL WALKOVER

**Scope of Work**

- 10.1 We will conduct one site visit between December and February (inclusive) to look for signs of burrowing mammals at a time when vegetation has died back. The visits will determine whether any burrowing mammals are on site or adjacent (where access allows) to the development site.

**Outputs**

- The results would be incorporated into a detailed Ecology report that includes all the survey work conducted.

**Meetings/Site Visits**

- One site visit.

11. ADDITIONAL INFORMATION - ECOLOGY

- 11.1 Dependent upon the survey results and/or responses from consultees, further work may be required.
- 11.2 The costs for any further detailed survey or necessary mitigation procedures, such as fencing and other costs are not included within this scope of services.
- 11.3 Works and fees associated with the preparation and application for protected species licences have not been included with this proposal.

12. SCHEDULE OF FEES

12.1 Our fee for the provision of the Services specified above shall be:

Ref. No.	Item	Fee (excl. VAT )
1	Detailed botanical survey by specialist and another ecologist. Price also includes associated report writing time. 1 x daytime visit (June or July). Price includes mileage and travel time.	£1,600.00
2	Invertebrate habitat site assessment by specialist ecologist. Price also includes associated report writing time. 1 x daytime visit (mid-April to the end of May). Price includes mileage and travel time.	£1,100.00
3	Common toad survey. Price also includes associated report writing time. 4 x (February to late April) dusk visits. Price includes mileage and travel time.	£1,200.00
4	Reptile survey. Price also includes associated report writing time. 8 x (April to September) daytime visits. Price includes mileage and travel time.	£2,800.00
5	Breeding bird survey. Price includes time to analyse territory maps and associated report writing time. 5 x daytime visits by 1 surveyor (April to the end of June). Price includes mileage and travel time.	£3,600.00
6	Bat activity surveys, using up to three surveyors. Price includes sound analysis of results and associated report writing time. 5 x activity surveys (May to September). Price includes mileage and travel time.	£7,000.00
7	Water vole survey, using two surveyors. Price includes associated report writing time. 2 x daytime visits with two surveyors (April and June and July and September). Price includes mileage and travel time.	£1,600.00
8	Walkover survey for burrowing mammals. Price includes associated report writing time. 1 x daytime visit (December to February). Price includes mileage and travel time.	£400.00
9	Ecology chapter to support Environmental Impact Assessment	4,500.00
<b>Total</b>		<b>£23,800.00</b>
<b>Total (with 5% reduction off each item if all the items are commissioned together)</b>		<b>£22,600.00</b>

**Additional Fee Information**

- 12.2 Invoices shall be submitted at monthly intervals/on completion of key work stages, or another period/date agreed in advance with the client. Fees quoted are exclusive of VAT which will be added to our invoices at the prevailing rate.
- 12.3 This fee quotation is valid for **8 weeks from the date of this Proposal**, after which we reserve the right to amend our fee.

- 12.4 The above fee has been based upon being appointed for all elements quoted for. If you wish to confirm an appointment for a selection of the items listed above we reserve the right to adjust our fees for each component accordingly.

***Time Charges***

- 12.5 Any additional services requested by the client, including any meetings over and above those quoted for in the fee schedule, shall be charged using our standard hourly charge out rates, or on the basis of a lump sum, agreed in advance with the client. Details of our standard time charges are available upon request.
- 12.6 We would not undertake any work for which additional fees would be payable without the client's written agreement in advance.

***Expenses and Disbursements***

- 12.7 We have included in our fee for car mileage and/or public transport for a single site visit / survey visit. Should additional site visits/inspections or meetings be requested by the client, mileage will be charged at a rate of 55p per mile (plus VAT), calculated from our office to the destination and return. Similarly, any additional public transport expenses would be passed on at cost.
- 12.8 Consistent with our environmental policy, all documents and reports will be issued via email as PDF files to save on paper and client expense. Paper copies (if required) will only be issued on client instruction and will be charged in line with our standard printing charges, details of which are available upon request.

***Insurance***

- 12.9 We shall maintain adequate levels of insurance cover for the period during which we are providing the services, save that in the case of the Professional Indemnity Insurance which we will maintain for a period of 6 years from practical completion of the services.
- 12.10 Details of our Professional Insurances will be provided.

***Collateral Warranties, Novation Agreements, Letters of Reliance***

- 12.11 Please note that the above fee does not allow for any costs associated with agreeing to or entering into any third party Collateral Warranties or Novation Agreements or providing Letters of Reliance, that may become required as part of the on-going development of this project.
- 12.12 Where we are requested to enter into such agreements, this will be at our sole discretion, and will be in accordance with clause 24, 47 and 48 of the Terms and Conditions which accompany this fee proposal.
- 12.13 All direct or indirect costs incurred by us in entering into such agreements, including the value of any time spent, would be passed on to the client and invoiced as an expense.

## MEMORANDUM OF AGREEMENT

THIS SECTION IS TO BE COMPLETED BY THE OWNER/DIRECTOR/PARTNER OF THE COMPANY (OR INDIVIDUAL PERSON) AUTHORISED AND RESPONSIBLE FOR SETTLING ALL FEE INVOICES RAISED BY LLOYD BORE LTD. IN CONNECTION WITH THE PROJECT QUOTED FOR IN THIS AGREEMENT.

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By signing and dating this I/we accept the fees quoted in the Schedule of Works (Ref: **3386\_FP\_003**) for Lloyd Bore Ltd. to undertake the specified work and agree to the terms listed below.

*(Please complete, sign and return 1 copy of this agreement.)*

### ***This Agreement***

Is made on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

### ***Between (Client)***

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Position: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_


Telephone No: \_\_\_\_\_ Email: \_\_\_\_\_

And (Consultant)

Company Name: **Lloyd Bore Ltd.**

Name: **Julian Bore**

Signature: \_\_\_\_\_



Position: **Managing Director**

### ***NOW IT IS HEREBY AGREED***

That upon the terms and conditions listed below, save as excepted or varied by the parties hereto in the Schedule of Services and Fees, hereinafter called the 'Schedule', and subject to any special conditions set out in the Schedule:

1. The Consultant will perform for the Client the services listed in the Schedule in respect of

Project: Princes Parade

At: Hythe, Kent CT21 5QT

2. The Client will pay the Consultant on demand for the services, fees and expenses indicated in the schedule.

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### ***BILLING INFORMATION:***

Purchase Order No (if applicable): \_\_\_\_\_

Billing Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone No: \_\_\_\_\_ Email: \_\_\_\_\_

## TERMS & CONDITIONS

### GENERAL

1. Defined terms used in these terms and conditions shall have the same meanings ascribed to them in the proposal letter to which they are attached (Proposal). **We** means Lloyd Bore and **You** means the Client to whom the Proposal is addressed.
2. The Proposal and its attachments (including these terms and conditions shall together form the Agreement made between us (this Agreement).
3. This Agreement sets out the entire agreement between us in relation to its subject matter.
4. In the event of a conflict between these terms and conditions and the Proposal, these terms and conditions shall prevail.
5. This Agreement shall commence on the date of the Proposal or the date of commencement of the Services, whichever is the earlier.
6. The application of these conditions shall be governed by the laws of England and Wales and the parties shall submit to the exclusive jurisdiction of the courts of England and Wales.
7. The Services shall include any Additional Services that are agreed in accordance with clause 14.

### OBLIGATIONS

8. We will use reasonable skill, care and diligence, ordinarily exercised by qualified professionals of a similar size undertaking work under similar circumstances when performing the Services or Additional Services.
9. You are required to provide us with such information and make such decisions as are necessary for proper performance of the agreed Service.
10. Notwithstanding any contrary provision in this Agreement, the standard of care set out in clause 8 shall apply to the whole of the Services and we shall not be under any fitness for purpose obligation in relation to the Services.
11. Our obligation to maintain the insurances set out in the Proposal is subject to its availability at commercially reasonable rates and on commercially reasonable terms.
12. Nothing in this agreement shall be deemed to limit our right to bring a claim for contributory negligence or an indemnity against you or any third party.

### VARIATIONS / MODIFICATIONS

13. The Fee is based on the programme, scope of work and information made available at time of tendering. You acknowledge that the Fee is based upon the assumptions and exclusions set out in this Agreement.
14. We will use reasonable endeavours to comply with a request to carry out any Additional Services and, on acceptance of an instruction to carry out any Additional Service we will submit a revised Proposal, including any additional fees, for approval.
15. We retain the right to revise the conditions of our appointment (including the fee) due to changing circumstances resulting from unforeseen factors or matters beyond our control at the date of appointment. Including changes to the scope of services requested or changes to the design proposals following prior approval by you.

### EXCLUSIONS

16. Unless otherwise expressly stated within the Proposal, no allowance has been made for:
  - a. preparation of material for, attendance at meetings, or time spent liaising with, any third party consultees;
  - b. re-design work arising from consultation with third parties prior to submission of planning applications;
  - c. preparation of material or attendance at meetings for marketing purposes;
  - d. preparation, review or submission of, tenders/tender materials, applications for planning permission and associated fees;
  - e. co-ordination or management of other members of the Project team;
  - f. any services required as a result of value engineering;
  - g. work in relation to an Ecohomes, Code for Sustainable Homes and/or BREEAM assessment;
  - h. preparation, review or submission of an Environmental Statement;
  - i. preparation of Temporary works or treatment Drawings, As Built/Record Drawings, Maintenance and Management Plans;
  - j. input into and review of operation and maintenance manuals;
  - k. co-ordination of below ground service covers with paving design;
  - l. production of physical and computer models;
  - m. liaison with artists and input/formulation of public art strategy;
  - n. the detailed/technical design in respect of above and below ground drainage, earth modelling and structural design including, roof slabs, sub-bases, footings, haunchings, road and paths, retaining elements, walls and fixings and foundation design;
  - o. providing setting out information relating to highways or buildings;
  - p. the detailed/technical design of all external lighting and associated mechanical and electrical systems, water features, irrigation systems, waterproofing and related engineering works;
  - q. providing advice or services in connection with the presence/risk of contamination/pollution by harmful substances and/or notifiable flora and fauna under the Wildlife and Countryside Act 1981;
  - r. performing site inspection, monitoring or checking duties;
  - s. the detailed design of, and/or for inspecting/supervising work carried out on, sports pitches and play equipment;
  - t. providing and checking bills of quantity or cost estimates in relation to our design;
  - u. assuming CDM Co-ordinator responsibilities; and/or
  - v. topographical survey and detailed/structural arboricultural inspections.

### CONSULTANTS / THIRD PARTY INFORMATION

17. Consultants may be appointed by either party subject to acceptance by each party

18. We will not sub-contract any part of the commission without your consent and formal agreement on the division of responsibility.
19. We will not be held liable for the work of other Consultant's appointed under clause 17.
20. We will not be held liable for the execution and performance of work undertaken by a specialist contractor, sub-contractor or supplier employed by the Client
21. When supplied with digital information (including survey drawings) on which we are to base our work, we assume that all permissions have been sought by you and granted by the originator for us to use the information, prior to receiving it. Unless specified otherwise within the Proposal, such information should be provided in Auto-CAD format or in such other format which we reasonably request.
22. The Fee is based on us receiving accurate and useable base plan information to work on from other consultants. The Fee does not include for time cleaning up and formatting base plans for use, before we can commence work. In these instances we will use reasonable endeavours to either return the base plan to the supplier to have it properly formatted, or charge an additional fee (on a time spent basis) to format it ourselves. We will advise you in writing should this situation arise.
23. You (or others on your behalf) will provide us (at your cost) with the following information if reasonably requested:
  - a. Existing site information/plans including a detailed site topographical survey(s), detailing:
    - I. the location, layout and levels, of all existing buildings/structures and areas of hard standings,
    - II. the location of underground services
  - b. Land ownership details;
  - c. Tree survey(s) and method statements (including works in root protection zones);
  - d. Site investigation, Contamination, Archaeological, Soil Analysis, Water and drainage survey(s)/ report(s)
  - e. Historic ecological survey(s);
  - f. Footfall report(s); and
  - g. Proposed site information/plans including a detailed layout showing:
    - I. the location, layout and levels, of all proposed buildings/structures and areas of hard standings,
    - II. the location of proposed underground services

#### **NOVATION**

24. We shall not be obliged to enter into a novation agreement in relation to the provision of the Services unless we have specifically agreed to do so in the Proposal. Any novation agreement which we may at our sole discretion agree to provide shall be in a form acceptable to us and shall be subject to payment of a reasonable fee.

#### **COPYRIGHT / CONFIDENTIALITY**

25. The following clause is considered on to apply once all fees due have been submitted or paid.  
*The copyright in all plans, drawings, specifications, calculations, schedules, reports, software (whether or not computer generated) and other work prepared by or on behalf of the Consultant in relation to the Project and all amendments and additions to the same whether now or hereafter at any time in existence and any works, designs or inventions of the Consultant incorporated or referred to in them (together referred to as "Copyright Material") shall remain vested in the Consultant.*  
*The Consultant hereby grants to the Client and the Beneficiary an royalty-free nonexclusive licence to use in perpetuity and reproduce any Copyright Material for all purposes relating to the Project including, without limitation, the construction, completion, reconstruction, modification, extension, alteration, refurbishment, repair, maintenance, letting, promotion, advertisement or use of the Project, but such licence shall not include a licence to reproduce the designs contained in any Copyright Material for any extension of the Project.*  
*The Consultant shall not be liable for the consequences of any use by the Beneficiary or any other party of any Copyright Material for any purpose other than that for which it was prepared or provided'.*
26. Each party agrees to keep confidential any confidential information disclosed to it by the other in the course of providing the Services (save for information which may be (i) disclosed to a party's professional advisers, (ii) in the public domain or (iii) required by law to be disclosed)

#### **FEE & APPLICATIONS FOR PAYMENTS**

27. You shall pay us the fees and expenses detailed in the Proposal (Fee) in accordance with the provisions set out below:
  - a. The Fee shall be exclusive of VAT, unless otherwise stated.
  - b. Invoices shall be submitted in line with the payment schedule as detailed in the Proposal.
  - c. The date on which an invoice is submitted by us pursuant to 27.b shall be the Due Date
  - d. Not more than 5 days after Due Date, you shall issue us with a Payment Notice, setting out the sum considered by you, together with the basis of the calculation of those sums, to be due to us and this sum shall be the Notified Sum.
  - e. If you fail to issue a Payment Notice within the period specified in 27.d above, we may issue you will a Default Payment Notice and this sum shall be deemed the Notified Sum (in Default)
  - f. The Final Date for Payment of the Notified Sum shall be 30 days from the Due Date unless a Pay Less Notice, containing the amount to be deducted together with the basis on which that calculation is made, is issued by you at least 10 days prior to the Final Date for Payment.
  - g. If you issue a Pay Less Notice relating to part of the Notified Sums or Notified Sums (in Default), you must pay any remaining sums by the Final Date for Payment.
  - h. Where we have issued a Default Payment Notice pursuant to clause 27.e, the Final Date for Payment of the Notified Sum (in Default) shall be extended from the date established under clause 27.f by the number of days that elapsed between the final date by which you should have issued a Payment Notice and the date on which we issued a Default Payment Notice.
  - i. Our fees and expenses incurred in relation to variations/changes or additional services (clause 14) shall be paid, in accordance with the payment schedule as detailed in the Proposal.

- j. Invoices remaining unpaid after the Final Date for Payment shall bear interest at the applicable statutory rate of 8% above the Bank of England base rate from the date the debt becomes overdue, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
  - k. In the event of non-payment by you of any amount due and payable under this Agreement 7 (seven) calendar days after written reminder from us or 7 days after the Final Date for Payment, we may forthwith terminate this Agreement (or at our option, the appointment under it only) or suspend the provision of the Services, in which case clause 31 will apply.
  - l. VAT tax reconciliation invoice will be issued on receipt of payment.
  - m. When paying by electronic transfer (BACS) please ensure we receive a remittance advice.
28. We will assume, unless advised otherwise, that our invoice(s) will be made out to the person/company who has signed the Memorandum of Appointment
29. Any hourly rates quoted within the Proposal are subject to periodic review. We reserve the right to amend these rates subject to providing 14 days' notice of our intention to do so.

#### ***SUSPENSION / TERMINATION***

30. We shall be entitled to suspend performance of the Services, in whole or in part, in the event that you fail to make payment in accordance with clause 27.
31. We shall have no liability for any failure to provide the Services in accordance with this Agreement (including the Programme) as a result of any delay or default by you or a third party.
32. We shall give notice in writing to you of any situation arising from force majeure which makes it impractical to carry out any of the Services and agree with you a suitable course of action.
33. If the Programme is delayed by more than 3 months, either party will have the right to suspend their performance of the Services or their obligations under this Agreement by providing not less than 7 days written notice to this effect on the other party.
34. Following the notice in accordance with clause 30, if no additional instruction to proceed has been received within 3 months this Agreement shall be treated as terminated.
35. In the event of the failure by either party to comply with any material obligations under this Agreement, the non-breaching party may upon not less than 21 days' notice in writing to the breaching party terminate the Appointment and/or this Agreement.
36. Any termination of the Appointment and/or this Agreement shall not prejudice or affect the accrued rights or claims of either party to this Agreement.
37. Upon termination of this Agreement (or, the appointment under it only) or the suspension of the provision of the Services, you will pay our fees and other costs and expenses accrued in providing the Services up until the date of termination or suspension, plus any reasonable termination charges which shall include, without limitation, costs of personnel or equipment, rescheduling or reassignment, interest, costs of collection and reasonable legal fees and all other costs related to the termination or suspension.
38. The parties' right to bring a claim for unpaid fees, loss, damage or any other claim arising out of or in connection with this Agreement shall not be diminished by termination or suspension pursuant to clauses 30 and 34.

#### ***DISPUTES***

39. Any dispute or difference arising out of this Agreement may be referred to adjudication by a person to be agreed upon between us or, failing agreement, a person nominated by the President for the time being of the Landscape Institute upon application by either party.

#### ***LIABILITY***

40. Notwithstanding any other provision in this Agreement, our total liability under or in connection with this Agreement (and any other agreements entered into pursuant to it or in connection with it, other than for death, personal injury or fraud), whether in contract, tort, breach of statutory duty or otherwise shall not exceed the aggregate sum of £1m.
41. Subject to any other limitation herein but notwithstanding anything to the contrary contained in this Agreement, such liability of the Consultant for any claim or claims shall be further limited to such sum as it would be just and equitable for the Consultant to pay having regard to the extent of his responsibility for the loss or damage suffered as a result of the occurrence or series of occurrences in question.
42. Any and all claims against us under or in connection with this Agreement must be made before the expiry of the 6 year period immediately following substantial completion of the Services or such shorter period as may be prescribed by law.
43. Without prejudice to any other exclusion or limitation of liability, damages, loss, expense or costs our liability for any claim or claims under this Agreement shall be further limited to such sum as it would be just and equitable for us to pay having regard to the extent of our responsibility for the loss or damage giving rise to such claim or claims.
44. Unless expressly stated to the contrary no provision of this Agreement is intended to or creates any right or benefit enforceable against the parties to the Agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
45. The Client's entire rights and benefits under this Agreement may only be assigned with the consent of the Consultant and on two occasions only (references to the Client include its permitted assignees).
46. We will have no liability for any unforeseen root impact, tree removal, settlement or heave as a result of the provision of the Services.

#### ***COLLATERAL WARRANTIES***

47. Unless we have specifically agreed to provide collateral warranties to third parties in connection with the Project in the Proposal, we will not be under any obligation to do so. Any collateral warranties which we may at our sole discretion agree to provide shall be in a form acceptable to us, to beneficiaries approved by us and shall be subject to payment of a reasonable fee.
48. Any collateral warranty that we provide for the benefit of a Purchaser or Tenant will be limited to the First Purchaser and/or the First Tenant and the form any warranty will be subject to prior agreement.



#### **ECOLOGY DATA**

49. For any Ecology related services we provide, it is the policy of Lloyd Bore Ltd to submit any records resulting from survey work to the appropriate County Biological Records Centre, unless specifically requested by the Client not to do so.

#### **SITE SAFETY**

50. We will assume, unless advised otherwise, that there are **no** exceptional health & safety issues requiring specific appropriate precautions, such as presence of asbestos, ground contamination requiring specific protective measures, structures which are not safe to enter, unprotected sides, wall openings, and floor holes and similar. Our fee proposal does not include for the cost of provisions necessary to address specific appropriate precautions and we shall incur no liability for any loss, damage or otherwise arising out of or in connection with any health and safety issues of which we were not expressly made aware.
51. You are required to provide us with all health and safety information relating to the site to prior to the commencement of the Services and also, as soon as practicable after receipt of any new information related to health and safety issues. We shall have regard for health and safety issues that arise however we shall incur no liability for any loss or damage arising out of or in connection with any issues that may arise except where such loss or damage arises out of any act or omission to comply with an absolute statutory duty.

#### **CDM REGULATIONS 2007**

52. Design services provided to you under the terms of our appointment will be subject to compliance with the CDM Regulations, 2007.
53. We are required to make you aware that you will have duties as the 'Client' in regard to the regulations. Details of your duties can be obtained from the HSE (Health and Safety Executive) and from the CDM Regulations 2007.
54. If your Project is notifiable under the regulations you will be required to appoint, and advise us of the, CDM Coordinator for the Project before design work progresses beyond feasibility.

#### **PLANNING PERMISSION**

55. Please note that we shall exercise reasonable skill and care to address successfully the relevant Landscape/Ecology Conditions attached to a planning permission however no liability is accepted for, the decision to approve or reject a scheme, which resides with the local planning authority.



## Wignall, Peter

---

**From:** Vidler, Lucy  
**Sent:** 04 March 2016 11:16  
**To:** David Smith  
**Subject:** RE: Ecology Quotation Princes Parade

**932ec229b38443ebb008dbc9fc118ed4-mailsafe-archived:**

04/03/2016 11:16:10

**MailSafe:** -1

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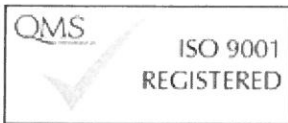


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**Attachments:** image006.jpg; image008.jpg; image003.jpg; image001.jpg

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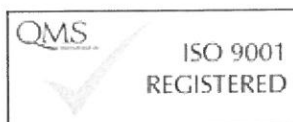
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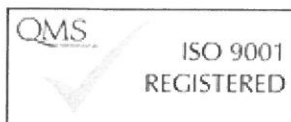


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932ec229b38443ebb008dbc9fc118ed4-mailsafe-archived:

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I have attached a drawing of our proposal, this is not in the public domain and should be kept confidential please. It is also not set in stone, but gives an indication of the sort of scheme we expect on the site, spacing/house mix etc. We are also looking at the option of including a Leisure Centre on the site, as plans for this to be sited on Hythe Green have unfortunately fallen through. We are in talks with a couple of sports clubs about moving their facilities to be incorporated on the site, and also we would like to include a central area for retail/commercial units, perhaps a cafe/restaurant or 2 etc. So the design will change I am sure, but I think this is the best 'idea' we have got at present prior to any formal master planning exercise. (i've just looked at the drawing and this commercial area appears to be included in the centre around the yellow shaded area.

Any questions, please do not hesitate to let me know.

Regards,

Lucy

Lucy Vidler  
Project Officer, Strategic Developments Team

T: (01303) 853443

Shepway District Council, Civic Centre,  
Castle Hill Avenue, Folkestone, Kent CT20 2QY  
E: [lucy.vidler@shepway.gov.uk](mailto:lucy.vidler@shepway.gov.uk)  
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## Wignall, Peter

---

**From:** Vidler, Lucy [lucy.vidler@shepway.gov.uk]  
**Sent:** 11 March 2016 11:36  
**To:** David Smith  
**Subject:** RE: Ecology Quotation Princes Parade  
**Attachments:** image002.jpg; image003.jpg; image004.jpg

Dear Dave,

Apologies for the delay in getting back to you. Due to our procurement guidelines I have had to get approval to go ahead with the works as the value meant that I was required to go out to 3 companies for quotations. As you have carried out the preliminary works, and the urgent nature of starting the survey work, I have now managed to get your quotation approved and we are now able to appoint you for the report.

I am just about to request the purchase order for the works and as soon as I get that approved I will send you over a copy. I am obviously keen to ensure that all the surveys get carried out within the required timescales as not to delay the project. Please let me know if there is anything else you require from me in order to progress the work?

This project is very much in the public eye, and although local residents know we have work planned here, I am unsure as to the public awareness of our intention to submit a planning application in the near future. As such, I would appreciate it, if whoever is carrying out the survey's on site, could try and be inconspicuous (obviously without detriment to doing what they need to do to provide the report/carry out the survey) and if they get any queries from members of the public, they can pass on my email address and I can deal with any queries direct.

Will be in touch again shortly once the order has been approved,  
Regards,  
Lucy

Lucy Vidler  
Project Officer, Strategic Developments Team

T: (01303) 853443  
E: lucy.vidler@shepway.gov.uk

---

**From:** David Smith [mailto:david.smith@lloydbore.co.uk]  
**Sent:** 04 March 2016 10:44  
**To:** Vidler, Lucy  
**Cc:** John Young; Katy Tennant  
**Subject:** Ecology Quotation Princes Parade

REFERENCE EML-OUT/3609/20160304-104007-285

Lucy,

Sorry for the delay in my reply. It's pretty busy here at the moment.

I was just about to set up a new fee proposal, when I realised we have already sent a fee proposal for the works.

I have attached this again.

Best wishes

Dave

--

**David Smith** BSc (Hons) PhD MCIEEM  
Head Of Ecology

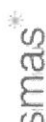
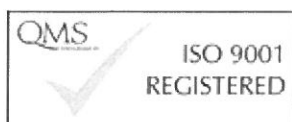


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**From:** [lucy.vidler@shepway.gov.uk](mailto:lucy.vidler@shepway.gov.uk) [<mailto:lucy.vidler@shepway.gov.uk>]

**Sent:** 02 March 2016 11:13

**To:** David Smith

**Subject:** Quotation Princes Parade

Dear David,

Thank you for taking time to speak with me on the phone this morning.

Last year, you carried out a preliminary ecological survey for us at Princes Parade in Hythe. (ref 3609\_RP\_001). We are now looking at moving this project forward to Planning, and would like a quotation to complete the additional work required to enable us to do this.

I understand that there are a number of wildlife surveys that optimum time to carry these out is April to September. Is it possible that you could provide a quotation to incorporate these, and give a timescale for when we need to be on site to do them.

We have not yet had the EIA report/Scoping report carried out, and I will get the screening request submitted ASAP.

I have attached a drawing of our proposal, this is not in the public domain and should be kept confidential please. It is also not set in stone, but gives an indication of the sort of scheme we expect on the site, spacing/house mix etc. We are also looking at the option of including a Leisure Centre on the site, as plans for this to be sited on Hythe Green have unfortunately fallen through. We are in talks with a couple of sports clubs about moving their facilities to be incorporated on the site, and also we would like to include a central area for retail/commercial units, perhaps a cafe/restaurant or 2 etc. So the design will change I am sure, but I think this is the best 'idea' we have got at present prior to any formal master planning exercise. (i've just looked at the drawing and this commercial area appears to be included in the centre around the yellow shaded area.

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Regards,  
Lucy

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## Wignall, Peter

---

**From:** Pam Beckett [pam.beckett@lloydbore.co.uk]  
**Sent:** 30 March 2016 10:25  
**To:** lucy.vidler@shepway.gov.uk  
**Cc:** invoices@shepway.gov.uk; David Smith  
**Subject:** INVOICE 8285 - Princes Parade, Hythe  
**Attachments:** 3609\_INV\_8285.pdf

**Importance:** High

REFERENCE EML-OUT/3609/20160330-102259-277

Dear Lucy

Please find attached invoice for ecological services provided in relation to Princes Parade, Hythe, as detailed on the enclosed invoice and as per your purchase order no. SD00060.

I trust you will find our account in order and, if so, should be grateful if you would arrange for settlement to be made within our usual payment terms.

Thank you.

--

### Pam Beckett

Finance Manager

**lloydbore** | landscape  
ecology  
arboriculture

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CANTERBURY  
KENT CT1 1UT

t: 01227 464 340  
e: mail@lloyd bore.co.uk  
w: www.lloyd bore.co.uk

Our ref: 3609/DS/pb  
Your ref: Purchase Order no. SD00060

30<sup>th</sup> March 2016

**INVOICE NO. 8285**

## INTERIM INVOICE

### PROJECT NAME: PRINCES PARADE, HYTHE

To: Ecological services as per our Schedule of Services & Fees (doc. ref. 3609/FP003) dated 10<sup>th</sup> November 2015.

#### **Ecological Services:**

3.	Toad Survey Work March – 50% interim payment, including 5% discount.	£ 570.00
4.	Placement of reptile ACO (March) – interim payment, including 5% discount.	£ 330.00
8.	Mammal walkover – complete, including 5% discount.	£ 380.00

Sub Total: £1,280.00

VAT @ 20%: £ 256.00

AMOUNT DUE: **£1,536.00**

Payment should be made within **30 days** of invoice date. Any queries must be raised within **10 days** of invoice date.  
Cheques should be made payable to **LLOYD BORE Ltd.** Quoting our invoice number on the reverse.  
BACS Payments to: Royal Bank of Scotland, Sort Code: 16-15-20, A/c No: 101 071 34. Quoting our Invoice Number.

Lloyd Bore Limited. Registered Office: 30 St Georges Place, Canterbury, CT1 1UT, England. Reg No.5393155 VAT Reg No. 662 0145 66.  
director: julian bore BA (Hons) M Phil CMLI | associate director: paul whatley BA (Hons) CMLI | head of ecology, canterbury: David Smith BSc (Hons) PhD MCIEEM  
head of ecology, cumbria: lucy monhemius gibson MSc MIEEM | office 4, maudlands, maude street, kendal, cumbria, LA9 4QD | t: 01539 738411 | e: lucy@lloyd bore.co.uk



**Wignall, Peter**

---

**From:** Vidler, Lucy  
**Sent:** 30 March 2016 10:38  
**To:** Pam Beckett  
**Cc:** Invoices; David Smith  
**Subject:** RE: INVOICE 8285 - Princes Parade, Hythe

**932ec229b38443ebb008dbc9fc118ed4-mailsafe-archived:**  
30/03/2016 10:37:40  
**MailSafe:** -1

Thanks Pam,

I have approved the Interim Invoice and this will be paid to you hopefully tomorrow (with your bank early next week). If it has missed tomorrows pay run, it will be processed next Thursday, with you the following week.

Thanks,  
Lucy

Lucy Vidler  
Project Officer, Strategic Developments Team

T: (01303) 853443  
E: [lucy.vidler@shepway.gov.uk](mailto:lucy.vidler@shepway.gov.uk)

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I trust you will find our account in order and, if so, should be grateful if you would arrange for settlement to be made within our usual payment terms.

Thank you.

--

**Pam Beckett**  
Finance Manager

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## Wignall, Peter

---

**From:** Pam Beckett [pam.beckett@lloydbore.co.uk]  
**Sent:** 30 March 2016 13:15  
**To:** lucy.vidler@shepway.gov.uk  
**Subject:** RE: INVOICE 8285 - Princes Parade, Hythe  
**Attachments:** ~WRD000.jpg; image003.jpg; image002.jpg

REFERENCE EML-OUT/3609/20160330-131416-629

Dear Lucy

Thank you for your acknowledgement and advice of payment which is greatly appreciated.

Regards.

--

### Pam Beckett

Finance Manager

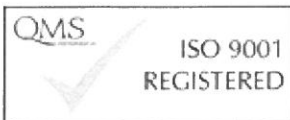


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**Sent:** 30 March 2016 10:38  
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**Cc:** Invoices; David Smith  
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**Importance:** High

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Thank you.

--

**Pam Beckett**

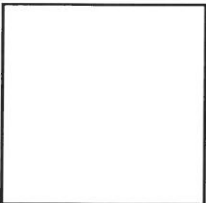
Finance Manager

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## Wignall, Peter

---

**From:** Vidler, Lucy  
**Sent:** 31 March 2016 14:22  
**To:** David Smith  
**Subject:** Survey - Princes Parade

932ec229b38443ebb008dbc9fc118ed4-mailsafe-archived:

31/03/2016 14:21:31

MailSafe: -1

Hi Dave,

I have spoken to Andy with regards to the finding of a Badger sett and Toads at Princes Parade. He would just like to have the information regarding these, i.e. location, numbers etc, and options for mitigation. Andy will then have a look at the data before we pass it on to our Planning Consultant.

If you could let me have that and the programme for the other surveys at your convenience that would be appreciated. (info can just be in an email rather than a full written report at this stage)

Thanks,  
Lucy

Lucy Vidler  
Project Officer, Strategic Developments Team

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## Wignall, Peter

---

**From:** David Smith [david.smith@lloydbore.co.uk]  
**Sent:** 05 April 2016 10:23  
**To:** lucy.vidler@shepway.gov.uk  
**Cc:** John Young  
**Subject:** Ecology surveys - Princes Parade  
**Attachments:** image003.jpg; image004.jpg; image001.jpg

REFERENCE EML-OUT/3609/20160405-94750-132

Lucy,

I have tried to call to discuss this project. I am in the office until c 13:30 today (but I will be in a couple of internal meetings during that time). Otherwise, Thursday morning will be the next opportunity.

In the meantime, we need to collect more information regarding the badgers before we can properly advise on avoidance, mitigation and compensation options. The next step is to establish whether the badger sett is being used for breeding and we will be conducting this work over the next couple of months (and combining it with the other work) so that we don't add extra costs to the project.

The appropriate ecological avoidance, mitigation and compensation options will also be dependent on the other survey work. Therefore, I would like to collect more information if possible before providing further advice.

**However**, if the project is starting to draft development options – then it will be in the project's best interests to engage with us so that we can feed into the master planning process. This will lead to better, more cost effective options that will raise less concerns at planning. As a consequence, are you able to provide me a timeline when you will start the master planning process. Also – do you know yet whether the project will need to conduct extensive cut and fill work, or will the project be able to leave some parts of the site as it is at the moment?

Have you confirmed yet whether a formal EIA will be required?

At the moment an indicative timetable is:-

Botanical survey – June  
Invertebrate walkover – mid to late May  
Reptile survey – April and May  
Bird survey – April to late May  
Bat transect work – May to September  
Water vole survey – June and August

Report will follow once all survey work has been conducted – but I will start to sketch ecological constraints much sooner than this so that you have the key design related information sooner.

Please do call me to discuss the above.

Best wishes

Dave

--

**David Smith** BSc (Hons) PhD MCIEEM  
Head Of Ecology

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ecology  
arboriculture

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**From:** [lucy.vidler@shepway.gov.uk](mailto:lucy.vidler@shepway.gov.uk) [<mailto:lucy.vidler@shepway.gov.uk>]

**Sent:** 31 March 2016 14:22

**To:** David Smith

**Subject:** Survey - Princes Parade

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If you could let me have that and the programme for the other surveys at your convenience that would be appreciated. (info can just be in an email rather than a full written report at this stage)

Thanks,  
Lucy

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Project Officer, Strategic Developments Team

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## Wignall, Peter

---

**From:** Vidler, Lucy  
**Sent:** 05 April 2016 12:41  
**To:** David Smith  
**Subject:** RE: Ecology surveys - Princes Parade

932ec229b38443ebb008dbc9fc118ed4-mailsafe-archived:

05/04/2016 12:41:09

**MailSafe:** -1

Hi Dave,

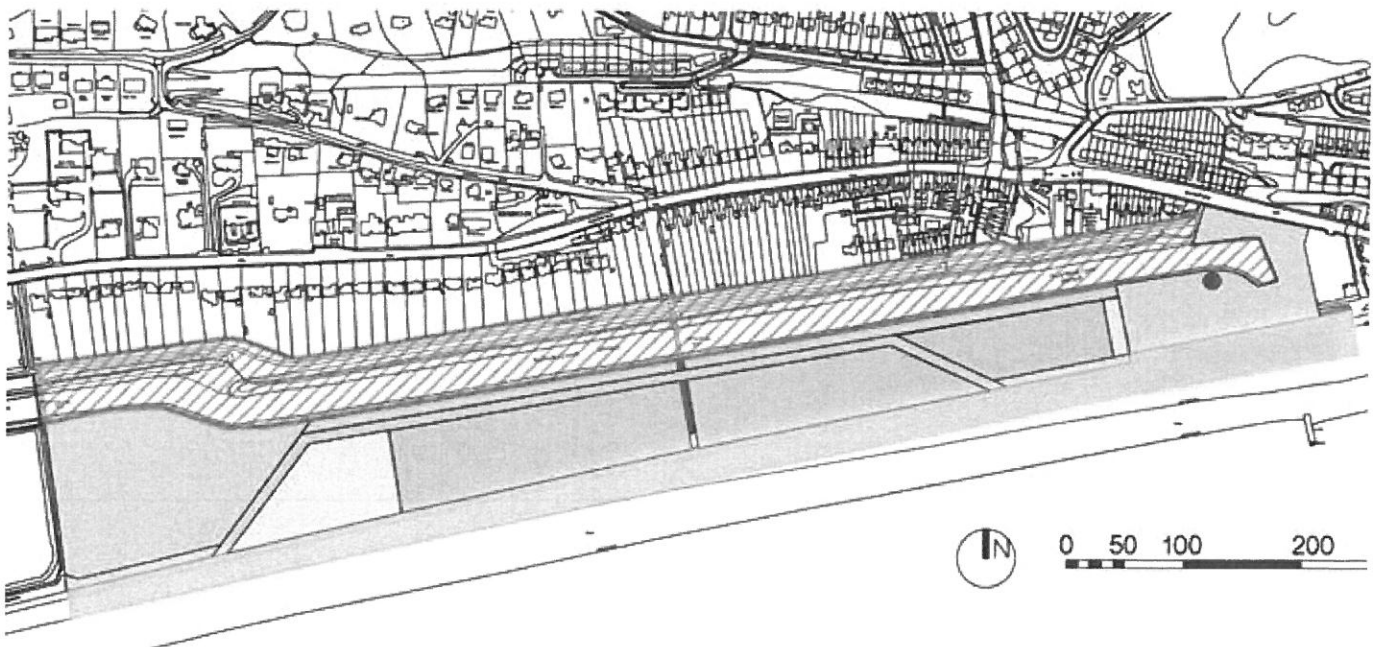
Thanks for the update.

I will forward onto Andy so that he is aware of the situation. I believe the Masterplanning has started, although I haven't had any contact with the Architects so am unsure at what stage they are at/when they are hoping to be complete. I understand we are hoping to submit the planning application towards the end of the year so we have some time yet.

Thank you for sending through the programme.

I believe an EIA will be required, i think we are seeking advice from our Planning Department currently on this and can let you know once agreed.

There is the possibility of an area of land being lowered at the western end of the site. (potentially the green area in part or in whole). The diagram below has been approved by our cabinet as the potential land use mix last week. The red is the area of housing and yellow Leisure Centre. Blue is the relocation of the road (Princes Parade) and the purple works to the promenade. Green open space and the red hatched area the canal. The blue rectangle orientated North South at the Eastern end will be for leisure provision also, and the red dot the proposed canoe club. (Planning already sought for this).



I am not sure if the report that this diagram has come from has been made public or not, so please treat as confidential.

I will forward your email to Andy and if he has any further comments I will get back to you.

Thanks,  
Lucy

Lucy Vidler  
Project Officer, Strategic Developments Team

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**Sent:** 05 April 2016 10:23  
**To:** Vidler, Lucy  
**Cc:** John Young  
**Subject:** Ecology surveys - Princes Parade

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Best wishes

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**David Smith** BSc (Hons) PhD MCIEEM  
Head Of Ecology



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**Subject:** Survey - Princes Parade

Hi Dave,

I have spoken to Andy with regards to the finding of a Badger sett and Toads at Princes Parade. He would just like to have the information regarding these, i.e. location, numbers etc, and options for mitigation. Andy will then have a look at the data before we pass it on to our Planning Consultant.

If you could let me have that and the programme for the other surveys at your convenience that would be appreciated. (info can just be in an email rather than a full written report at this stage)

Thanks,  
Lucy

Lucy Vidler  
Project Officer, Strategic Developments Team

T: (01303) 853443  
Shepway District Council, Civic Centre,  
Castle Hill Avenue, Folkestone, Kent CT20 2QY  
E: [lucy.vidler@shepway.gov.uk](mailto:lucy.vidler@shepway.gov.uk)  
[www.shepway.gov.uk](http://www.shepway.gov.uk)  
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## Wignall, Peter

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**From:** David Smith [david.smith@lloydbore.co.uk]  
**Sent:** 05 April 2016 13:46  
**To:** lucy.vidler@shepway.gov.uk  
**Cc:** John Young  
**Subject:** RE: Ecology surveys - Princes Parade  
**Attachments:** image007.jpg; image008.jpg; image009.jpg; image010.jpg; image002.jpg; image001.jpg

REFERENCE EML-OUT/3609/20160405-133804-874

Lucy,

Thank you for this – some initial thoughts below.

Based on the land allocation plan you sent, the badger setts will be impacted. Whilst they are legally protected they are of low ecological value because they are a common and widespread species. For legal reasons, the project may well need to put land aside to create a compensatory badger sett – should the sett be used for breeding.

I would strongly advise that the green areas - especially on the west of the site – are set aside as an ecology area. The buffer between the canal and the development will be a key material consideration in the planning application. The project will need to ensure the canal remains a dark corridor for bats for example.

Other work may highlight additional ecological constraints.

If the land in the west of the site can be left – as it is – without level changes – that would probably reduce planning risks.

In haste – but I will call either later on in the week or early next week to discuss the above and my other e-mails.

Best wishes

Dave

--

**David Smith** BSc (Hons) PhD MCIEEM  
Head Of Ecology

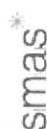
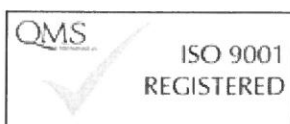


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[www.lloydbore.co.uk](http://www.lloydbore.co.uk) | T: 01227 464 340 | M: 07471 036 655 | E: [david.smith@lloydbore.co.uk](mailto:david.smith@lloydbore.co.uk)

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**From:** lucy.vidler@shepway.gov.uk [mailto:lucy.vidler@shepway.gov.uk]  
**Sent:** 05 April 2016 12:41  
**To:** David Smith  
**Subject:** RE: Ecology surveys - Princes Parade



Hi Dave,

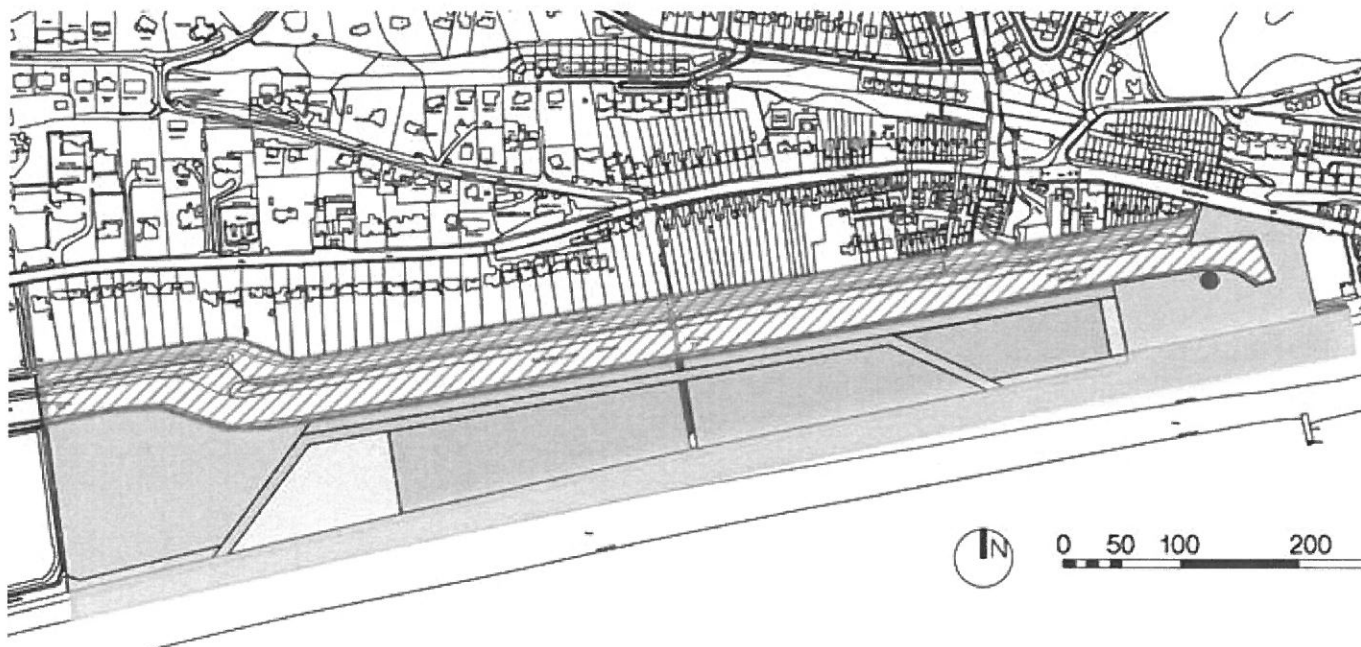
Thanks for the update.

I will forward onto Andy so that he is aware of the situation. I believe the Masterplanning has started, although I haven't had any contact with the Architects so am unsure at what stage they are at/when they are hoping to be complete. I understand we are hoping to submit the planning application towards the end of the year so we have some time yet.

Thank you for sending through the programme.

I believe an EIA will be required, i think we are seeking advice from our Planning Department currently on this and can let you know once agreed.

There is the possibility of an area of land being lowered at the western end of the site. (potentially the green area in part or in whole). The diagram below has been approved by our cabinet as the potential land use mix last week. The red is the area of housing and yellow Leisure Centre. Blue is the relocation of the road (Princes Parade) and the purple works to the promenade. Green open space and the red hatched area the canal. The blue rectangle orientated North South at the Eastern end will be for leisure provision also, and the red dot the proposed canoe club. (Planning already sought for this).



I am not sure if the report that this diagram has come from has been made public or not, so please treat as confidential.

I will forward your email to Andy and if he has any further comments I will get back to you.

Thanks,  
Lucy

Lucy Vidler  
Project Officer, Strategic Developments Team



T: (01303) 853443  
E: [lucy.vidler@shepway.gov.uk](mailto:lucy.vidler@shepway.gov.uk)

---

**From:** David Smith [<mailto:david.smith@lloydbore.co.uk>]  
**Sent:** 05 April 2016 10:23  
**To:** Vidler, Lucy  
**Cc:** John Young  
**Subject:** Ecology surveys - Princes Parade

REFERENCE EML-OUT/3609/20160405-94750-132

Lucy,

I have tried to call to discuss this project. I am in the office until c 13:30 today (but I will be in a couple of internal meetings during that time). Otherwise, Thursday morning will be the next opportunity.

In the meantime, we need to collect more information regarding the badgers before we can properly advise on avoidance, mitigation and compensation options. The next step is to establish whether the badger sett is being used for breeding and we will be conducting this work over the next couple of months (and combining it with the other work) so that we don't add extra costs to the project.

The appropriate ecological avoidance, mitigation and compensation options will also be dependent on the other survey work. Therefore, I would like to collect more information if possible before providing further advice.

**However**, if the project is starting to draft development options – then it will be in the project's best interests to engage with us so that we can feed into the master planning process. This will lead to better, more cost effective options that will raise less concerns at planning. As a consequence, are you able to provide me a timeline when you will start the master planning process. Also – do you know yet whether the project will need to conduct extensive cut and fill work, or will the project be able to leave some parts of the site as it is at the moment?

Have you confirmed yet whether a formal EIA will be required?

At the moment an indicative timetable is:-

Botanical survey– June  
Invertebrate walkover – mid to late May  
Reptile survey – April and May  
Bird survey – April to late May  
Bat transect work – May to September  
Water vole survey – June and August

Report will follow once all survey work has been conducted – but I will start to sketch ecological constraints much sooner than this so that you have the key design related information sooner.

Please do call me to discuss the above.

Best wishes

Dave

--

**David Smith** BSc (Hons) PhD MCIEEM  
Head Of Ecology

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**From:** [lucy.vidler@shepway.gov.uk](mailto:lucy.vidler@shepway.gov.uk) [<mailto:lucy.vidler@shepway.gov.uk>]

**Sent:** 31 March 2016 14:22

**To:** David Smith

**Subject:** Survey - Princes Parade

Hi Dave,

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Thanks,  
Lucy

Lucy Vidler  
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