

HERTFORDSHIRE ECOLOGY

Providing ecological advice to Hertfordshire's Local Authorities

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Ask for: Bernie Fleming
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Date: 11 August 2023

Dear Miranda,

5/2022/2443

Outline application (access sought) - Demolition of existing buildings and construction of up to 115 dwellings and creation of new access

Bricket Wood Sports and Country Club, Paintball Site & Bricket Lodge, Lye Lane, Bricket Wood, Hertfordshire AL2 3TF

Overall recommendation

The application should not be determined until the following issues are resolved.

Summary of advice

Shortcomings are apparent in the evidence provided that would make the granting of outline planning permission premature as follows:

- Mitigation: in general terms, further detail is required to show, in principle, that harmful impacts across all groups and features can be avoided or reduced to acceptable levels before permission can be granted
- Great crested newts: a licence will probably not be required but further detail is required to show, in principle, that harmful impacts can be avoided or reduced to acceptable levels before permission can be granted
- Bats: a licence will be required and further detail is required to show, in principle, that harmful impacts can be avoided or reduced to acceptable levels before permission can be granted

- Blackgreen Wood LWS: further detail is required to show, in principle, that harmful impacts can be avoided or reduced to acceptable levels before permission can be granted
- Biodiversity net gain: an assessment supported by a metric and associated documents is required to show that in principle the (claimed) greater than 10% gain can be achieved before permission can be granted

Elsewhere:

- Biodiversity net gain: the delivery of a biodiversity net gain management plan supported by a metric based on the final design can be delivered via a condition or reserved matter or s106 as appropriate
- Lighting: a detailed lighting strategy that follows best practice can be delivered via a condition or reserved matter or s106 as appropriate
- Surveys: in general terms, further surveys will be required to inform any future ecological assessments or reserved matters or licence applications
- SSSIs: advice provided by Natural England should be followed
- The application lies beyond the Chilterns Beechwoods Zone of Influence and so no Habitats Regulations Assessment will be required.

Supporting documents

I have made use of the following documents in providing this advice:

- Ecological Appraisal, Cherryfield Ecology, January 2022 (or EA)
- Emergence and Activity Bat Survey, Cherryfield Ecology, July 2022 (or bat survey)
- Full Common Reptile survey, Cherryfield Ecology, October 2022 (or reptile survey)
- Planning statement, MRP Planning, September 2022
- Supplementary planning statement, MRP Planning, November 2022

Comments

General

Thank you for your letter of 19 April 2023 (which related to a consultation from 17 October 2022) which refers, and for consulting Herts Ecology; I apologise for the delay with this reply.

I acknowledge this is an outline application only (though including access). As such, I acknowledge that it primarily seeks only to establish the principle of development though I add that this does not allow the necessary scrutiny of key issues to be avoided.

The Hertfordshire Environmental Records Centre shows the presence of the adjacent ancient woodland of Blackgreen Wood Local Wildlife Site (LWS), and both a known great crested newt breeding pond and several recorded bat roosts nearby. In addition, though slightly further afield, two SSSIs can be found. All of these features may be at risk of harm from the proposed development and all are offered protection either in policy or law.

This opinion is largely supported by the accompanying PEA and associated surveys which accompany this application although the accompanying reptile survey also confirmed the presence of a population of slow worms within the proposed development site, also protected in law. Elsewhere, though, the reports concluded that the proposed development site only supported a restricted range of features of relatively modest ecological importance.

In general, the reports and associated survey appear to follow best practice, and although dating from 2022 can be considered largely fit for purpose for this application; any future applications for licences or reserved matters are likely to require repeat surveys. However, shortcomings are apparent and are highlighted below.

Outcomes of the reports

Although not explicitly stated, it is taken that together, the ecological reports suggest that with mitigation and/or compensation as necessary, that harmful impacts will not arise. However, this cannot be assumed given omissions from the reports. These points are taken in turn below.

Mitigation

The positive outcome suggested by the reports was dependent on the adoption of a series of avoidance, mitigation and enhancement measures described ostensibly in Table 13 of the EA, Table 7 of the bat report and in both Table 5 and s4.3 of the reptile report.

However, these were only briefly described with no guarantee they would or could be delivered; further these were spread within and across the documents introducing uncertainty regarding what was actually proposed. Accordingly, and despite this being an outline application, further detail is required to show, in principle, that harmful impacts across all groups and features can be avoided or reduced to acceptable levels.

Great crested newts

Whilst I am content, given distance from the breeding pond and the presence of a road in between, that harmful impacts on great crested newts are unlikely, and that a licence should not be necessary, the report does not make clear how this risk will be mitigated. For instance, although mitigation, in the form of a supervised clearance of the site is suggested in s4.2 of the EA, it is not listed in Table 13 ('Recommended

Enhancements and Mitigation’). Given the protection in law, this should be clarified to avoid the risk of an offence being committed.

Government guidance is clear that factors affecting protected species should be known and resolved before any consent is awarded. To grant outline permission without this information would be premature.

Bats

The accompanying bat report identified the presence of two, small possible roosts in Buildings B1 and B3. Accordingly, the report correctly identifies that a licence from Natural England will be required prior to demolition. Whilst I do not doubt (based on the information provided so far) that measures can be delivered that could mitigate/compensate for the loss of the two modest roosts, the package put forward was vague and would not meet the test (described above for great crested newts).

Therefore, I cannot be certain that a licence would be granted and so to grant outline permission without this information would be premature.

In any event, the surveys will need to be repeated to provide the necessary up to date information to inform any application for reserved matters and any subsequent licence application; by then, the current surveys will be out of date.

LWS/ancient woodland

The proposed development site lies immediately adjacent to the ancient woodland of Blackgreen Wood LWS. Ancient woodland is a priority habitat worthy of special consideration yet, I could find no assessment of the impact of recreational pressure on this site despite the application appearing to promote access within it, a factor compounded by the suggested placement of the open space and recreational area along its boundary.

Issues of trampling, litter, fire could all be relevant as would disturbance of bats that are likely to forage and possibly roost within it from human activity or from lighting of properties and roads (see below).

Given its importance and fragility, this should be assessed in more detail and mitigation provided (if assessed as necessary) to show that in principle harmful impacts can be avoided or reduced to acceptable levels before reserved matters are considered. In addition, evidence that the required 15m buffer around ancient woodlands is also lacking. To grant outline permission without this information would be premature.

Sites of Special Scientific Interest

Recreational pressure remains a potential concern regarding the nearby Bricket Wood Common, and Moor Mill Quarry West SSSIs both of which lie within less than 1 km of the site. I have seen Natural England’s letter of 8 November 2022 which addresses these matters in more detail, and I endorse its conclusions that further evidence is required before outline permission can be granted. As Natural England

is the statutory consultee on issues affecting SSSIs I defer to any future advice it may provide.

Lighting

Given the known presence of bats and the adjacent woodland, it is likely that a reasonable population of bats utilise the land within and beyond the red line boundary for foraging, commuting and potentially roosting.

All will be potentially vulnerable to insensitive lighting, especially the woodland, given the indicative layout of houses and roads. It is imperative that increased lighting from the proposed development does not reduce the ability of the adjacent woodland and other boundary features to maintain their ecological function. Similarly, it should ensure the ability of the proposed bat boxes is not restricted.

A sensitive lighting scheme will therefore be necessary but by embedding such requirements into the design of the proposed development as it evolves and by following best practice, there are no reasons this cannot be achieved. Therefore, I would be content for a detailed lighting strategy to be delivered via a condition or reserved matter or s106 as appropriate.

This should accurately identify the features/areas of interest, describe levels of illumination prior to, and post-development, and should be shown on suitable contour plans or similar as appropriate so that it can be clearly demonstrated that newly illuminated areas will not compromise existing or proposed use by bats. Light levels on the edge of the woodland should not exceed 0.5 lux.

The lighting strategy should accord with best practice (Guidance Note 08/10: Bats and artificial lighting in the UK (BCT & ILP, 2018) and be maintained accordingly. These proposals should also be accompanied by a brief statement by an ecologist on how it achieves these goals.

Biodiversity net gain

The accompanying DAS and both planning statements state that a greater than 10% gain can be delivered. Although not yet mandatory the statements suggest to me that considerable weight should be given to this intention. Yet there is no evidence presented to support this and no guarantee this could be delivered.

Therefore, I consider it necessary that the applicant provides a biodiversity metric based on the current proposed layout that establishes the principle that a greater than 10% gain could be achieved either within the footprint of the development or beyond. The net gain assessment should be presented as a full spreadsheet with the necessary supporting documents.

In saying this I appreciate that the design may change as the scheme evolves but at present there appears to be little open space beyond the dwellings, gardens and recreational area. Accordingly, the outcome will have a strong influence on any landscaping scheme.

Whilst the scheme is likely to evolve, I would be content for the necessary Biodiversity Net Gain Management Plan (that shows in full how the final scheme will be achieved and delivered over a minimum 30 year period) to be deferred to a condition or reserved matter or s106 as appropriate.

Surveys

Further to the advice regarding bat surveys above, given the age of the existing survey and assessment reports, new and up to date versions will likely be required for any future full application for all other features.

Chilterns Beechwoods Special Area of Conservation (SAC)

For the avoidance of doubt, the application lies beyond the Chilterns Beechwoods SAC Zone of Influence where new residential development can lead to adverse effects from increased recreational pressure and so no Habitats Regulations Assessment will be required.

Yours sincerely,

Bernie Fleming
Ecology Advisor
Hertfordshire Ecology