

Subject:

P/18/1118/OA - Land at Newgate Lane (North) Fareham

From: Miri, Maral <Maral.Miri@hants.gov.uk>

Sent: 28 February 2019 11:18

To: Chambers, Jean <JChambers@Fareham.Gov.UK>

Subject: P/18/1118/OA - Land at Newgate Lane (North) Fareham

Dear Jean,

P/18/1118/OA - Land at Newgate Lane (North) Fareham - Outline Planning Permission For The Demolition Of Existing Buildings And Development Of Up To 75 Dwellings, Open Space, Vehicular Access Point From Newgate Lane And Associated And Ancillary Infrastructure, With All Matters Except Access To Be Reserved.

Further to my previous consultation response and a site meeting with the applicant's ecologists in February 2019, I have received further information in relation to the queries/concerns raised.

A document has now been submitted by Ethos Environmental Planning (February 2019) which calculates the Biodiversity Net Gain of the application site and confirms that there will be a net gain of 5.62 biodiversity units mainly gained through the creation of areas of marshy grassland and open water (SUDS) and the enhancement and creation of hedgerows. Whilst I do not agree with some of the habitat condition assessments or including private gardens in the assessment as they are likely to be intensively managed and therefore of limited value, I agree that there will be a net gain in biodiversity and therefore raise no concerns.

The revised Ecological Assessment report by Ethos Environmental Planning (February 2019) now includes a section detailing the survey limitations and any additional surveys or precautionary measures adopted to overcome the constraints. Further information has been submitted in relation to Nathusius' pipistrelles, along with a Biodiversity Mitigation Plan which shows the areas along the River Alver and the southern and north-western boundaries which will form part of a dark corridor. Further information has been submitted in relation to the skylark which was recorded on site and how this development would not have an adverse impact on farmland birds, alone. I still consider that there will be a cumulative adverse impact on farmland birds as a result of the proposals in this area and loss of arable fields and therefore there is a requirement for this impact to be addressed at strategic level.

This development will affect bats which receive protection under UK law via the Wildlife and Countryside Act 1981 (as amended) and under EU law by the Habitats Directive, which is transposed into UK law by the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitats Regulations). Where developments affect European protected species (EPS), permission can be granted unless:

- the development is likely to result in a breach of the EU Directive underpinning the Habitats Regulations, and
- is unlikely to be granted an EPS licence from Natural England to allow the development to proceed under a derogation from the law.

Licences will not normally be granted in the absence of planning permission.

- Is the development likely to result in a breach of the EU Directive?

The Ecological Assessment report accompanying the application confirms that one of the buildings on site is an occasional night roost used by a single common pipistrelle bat. The development will therefore result in the loss of this roost. If avoidance measures are not used, then the work has the potential to kill / injure individual bats. The development will therefore result in a breach of the EU Directive.

- Is the development unlikely to be licensed?

An EPS licence can only be granted if the development proposal is able to meet three tests:

1. *the consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e))*
2. *there must be 'no satisfactory alternative' (Regulation 53(9)(a)); and*
3. *the action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9)(b)).*

It is for you as the case officer to assess the proposals against the first two tests. In order to assess the development against the third test, sufficient details must be available to show how killing / injury of bats will be avoided and how the loss of the roost will be compensated. In this case, it has been confirmed that due to the low conservation status of the roost, it will be registered under a bat 'low impact' licence (CL21) mitigation class licence from Natural England, which is likely to include removing suitable roosting features by hand, overseen by a licenced bat worker, and the installation of suitable units such as bat boxes. On this basis and if you are satisfied that the first two tests can be met, I am confident that the development is not unlikely to be licensed.

Given that the current application is outline with all matters reserved I would recommend that the following condition is attached to any permission:

- Full details of all necessary ecological mitigation, compensation, enhancement and management measures (to be informed as necessary by up-to-date survey and assessment) shall be submitted for approval to the Local Planning Authority in the form of a mitigation and enhancement method statement with each reserved matters application. Such details shall be in accordance with the outline ecological mitigation, compensation and enhancement measures detailed within the submitted Ecological Assessment report by Ethos Environmental Planning (February 2019). Any such approved measures shall thereafter be implemented in strict accordance with the agreed details and with all measures maintained in perpetuity, unless otherwise agreed in writing by the Local Planning Authority. **Reason:** to provide ecological protection, compensation and enhancement in accordance with Conservation Regulations 2017, Wildlife & Countryside Act 1981 (as amended), NERC Act 2006, NPPF and Policy DSP13 of the Fareham Local Plan Part 2.
- A scheme of lighting (during the operational life of the development), designed to minimise impacts on bats, approved by the applicant's ecologist, shall be submitted to and approved in writing by the LPA. Thereafter the approved scheme shall be implemented. **Reason:** in

order to minimise impacts of lighting on the ecological interest of the site in accordance with Policy DSP13: Nature Conservation of the Fareham Local Plan.

Please do not hesitate to contact me if you require any further information.

Kind regards,
Maral

Please note that this advice is given in accordance with the Service Level Agreement that has been signed between Hampshire County Council and your Council. These comments are expressed as a professional view provided to Fareham Borough Council and should not, therefore, be interpreted as those of Hampshire County Council.

Maral Miri (MSc, CEnv, MCIEEM)

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