05th January 2024

Steve Astles
Horsham District Council

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 Horsham 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.

Dear Steve,

Application: **DC/23/2108**
Location: **Whitebreads Farm Stane Street Slinfold West Sussex RH13 0RE**
Proposal: **Change of use of Unit 1 from Use Class E (formerly Class B1) to caravan and motorhome showroom and office (Use Class Sui Generis); Change of use of Unit 2 from Use Class B8 to caravan and motorhome repairs (Use Class B2); and use of adjacent hardstanding for the display and storage of caravans and motorhomes and erection of fencing to enclose the site (Part Retrospective)**

Thank you for consulting Place Services on the above application.

a) No ecological harm/No objection	
b) Requires further information on European Protected Species (Bats)	Yes
c) Recommend grant permission subject to conditions	
d) Recommend refusal	
e) Subject to Natural England's formal comments on the conclusion of the Water Neutrality Appropriate Assessment	Yes
f) Subject to Natural England's formal comments on the conclusion of the Bat Appropriate Assessement	Yes
g) Discharge of condition	

Please note that following receipt of Natural England's position statement on developments in the Sussex North Water Supply Zone, decisions on planning applications should await the completion of a Sussex North water neutrality strategy. As the initial application contains a Water Neutrality Statement, the LPA as competent authority may accept the conclusion of this assessment and provide a Habitats Regulations Assessment - Appropriate Assessment to be approved by Natural England.

Summary

We have reviewed the Ecological Impact Assessment and Enhancement Plan (AEWC Ltd, May 2023) supplied by the applicant, relating to the likely impacts of development on protected & Priority species and habitats, and identification of proportionate mitigation.

We are not satisfied that sufficient ecological information is available for determination of this application. This is because we note that the Ecological Impact Assessment and Enhancement Plan (AEWC Ltd, May 2023) does not cover the entire red line boundary and the proposals will result the change of the use of buildings which could contain suitable roosting opportunities for bats. As a result, the Ecological Impact Assessment will need to be updated to cover the entire red line boundary prior to determination.

This is required prior to determination because the Local Planning Authority must consider the guidance under paragraph 99 of the ODPM Circular 06/2005. This advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. Therefore, if there is a reasonable likelihood of protected species being present and affected by the development, the surveys should be completed and any necessary measures to protect the species should be in place before the permission is granted.

Furthermore, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage. (Based on the judgement in the Hack Green Group (Appellant) v Cheshire East Council [2006] - APP/R0660/W/15/3131662). Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

It is also highlighted that the site lies approximately 8km to the northeast of The Mens Special Area of Conservation (SAC) for which the qualifying feature is Barbastelle bats and approximately 12.3km to the east of Ebernoe Common SAC for which the qualifying features are Barbastelle and Bechstein's bat. Therefore, the site lies within the 12km Wider Conservation Area for The Mens SAC and outside the 12km Wider Conservation Area for the Ebernoe Common SAC (Sussex Bat Special Area of Conservation Planning and Landscape Scale Enhancement Protocol). The LPA will need to prepare a project level HRA to assess the likely effects from this development on the bats of the Sussex bat SAC.

Only one European Protected Species Mitigation Licence (EPSML) has been granted for bats within 2km of the development, in regard to a Brown long-eared bat roost. No Barbastelle or Bechstein's bats have been recorded within 2km of the site ((MAGIC maps https://magic.defra.gov.uk/MagicMap.aspx and Sussex Biodiversity Record Centre – accessed under licence).The proposals as it stands will not result in the removal of any features which would cause any further severance to the flight lines of foraging or commuting bats from the SACs.

However, we note that the development did originally contain a mosaic of hedgerows, mixed scrub and neutral grassland in 2020, which has been cleared without consent between 2020 – 2022. This habitat could have provided suitable foraging and commuting habitat for Barbastelle, associated with The Mens SAC. Nevertheless, we consider that the proposed native hedgerow creation proposed as part of the Ecological Impact Assessment and Enhancement Plan (AEWC Ltd, May 2023) to be sufficient to reinstate the lost flight lines. As a result, subject to this hedgerow creation being embedded, sufficient measures will be provided to avoid impacts upon functionally linked land within the 12km Wider Conservation Area for The Mens SAC. In addition, a wildlife sensitive lighting design scheme will need to be embedded if the proposed change of use

applications will result in new external lighting. This development has therefore been screened in and will need to be considered at Stage 2 Appropriate Assessment of the LPA's project level Habitats Regulations Assessment (HRA).

We also welcome the proposed other neutral grassland enhancement and the bespoke enhancements (reptile hibernacula, bird and bat boxes). These enhancement measures may not be sufficient to comply with the forthcoming requirements of the Environment Act 2021 or the fundamental rules and principles that govern how measurable biodiversity net gains should be secured. However, given that the secondary legislation has not come into force, we are satisfied that the proposals are sufficient to demonstrate biodiversity enhancements will be delivered, as part of this retrospective application. As a result, the enhancement plan contained within the Ecological Impact Assessment and Enhancement Plan (AEWC Ltd, May 2023) must be secured and implemented in full by the applicant.

Therefore, this further information is required to provide the LPA with certainty of likely impacts on protected and Priority species and enable it to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006.

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 us with any queries.

Yours sincerely

Hamish Jackson ACIEEM BSc (Hons)
Senior Ecological Consultant
Place Services at Essex County Council
placeservicesecology@essex.gov.uk

Place Services provide ecological advice on behalf of Horsham 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.