3rd December 2024

Stephanie Bryant
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Horsham,
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RH12 1RL

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.

Application: **DC/24/0070**
Location: **Land at Gate Cottage The Street Thakeham West Sussex**
Proposal: **Erection of two dwellings together with associated works.**

Dear Stephanie

Thank you for re-consulting Place Services on the above application.

a) No ecological harm/No objection	
b) Requires further information on European Protected Species (Hazel Dormouse) and protected species (reptiles)	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 Assessment	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

Summary

We have reviewed the Technical Response (The Ecology Partnership July 2024) and Further Surveys (The Ecology Partnership, July 2022), supplied by the applicant, relating to the likely impacts of development on designated sites, protected and Priority species & habitats, and identification of appropriate mitigation measures. Please note that comments on mandatory Biodiversity Net Gain are provided by Horsham District Council in-house.

We highlight that the submitted The Biodiversity Enhancement Strategy (provided for consented application DC/20/1788) (PWJ Architects, undated)) is not relevant to this application.

We are still not satisfied that there is sufficient ecological information available for determination of this application for the reasons give below:

European Protected Species (Hazel Dormouse)

As the original Preliminary Ecological Appraisal relating to surveys undertaken in 2020 has not been submitted for this application, we are unable to review the information provided in the Technical Response (The Ecology Partnership July 2024). This states that the site has not materially altered since these surveys and that protected species such as Hazel Dormouse are not likely to be present. Therefore, further information is required regarding the presence or likely absence of Hazel Dormouse as advised in Government Standing Advice.

Protected species (reptiles)

We also note from the Site Review in the Further Surveys (The Ecology Partnership, July 2022) that sensitive clearing of the grassland and tall ruderal habitat should be undertaken due to the potential presence of reptiles, although the conclusions state that reptiles are not considered likely to be present. Therefore, we request that the presence or likely absence of reptiles on the site should be clarified as advised in Government Standing Advice.

Mitigation and enhancement measures

In addition, the mitigation and enhancement measures in the original Preliminary Ecological Appraisal referred to in the Technical Response (The Ecology Partnership July 2024) are not available for review. We therefore request that either the original Preliminary Ecological Appraisal relating to surveys undertaken in 2020 is submitted for this application or that new surveys are undertaken and the results submitted to the LPA prior to determination.

As a competent authority, the Local Planning 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.

This information is therefore required to provide the LPA with certainty of 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.

Therefore, we recommend that a suitability qualified ecologist should submit an updated report on protected and Priority species & habitats following a site visit with any further mitigation measures or surveys which are required.

This information is necessary, prior to determination, as 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*."

Without this information we are currently unable to provide full comments on this planning application.

Compensatory planting
In addition, we note from the Technical Response (The Ecology Partnership July 20240) that several Ash and Sycamore trees along the bank identified as having low bat roost potential had been removed since the surveys in July 2022. Therefore, compensatory planting of an appropriate number of trees will be required in accordance with UK Bat MItigation Guidelines. CIEEM (Reason and Wray, 2023). The details should be secured through a condition of any consent.

Bespoke species enhancements
We also recommend that reasonable biodiversity enhancements should be identified and implemented to secure net gains for biodiversity, as outlined under Paragraph 180d and 186d of the National Planning Policy Framework (December 2023). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

Additional information
We note from the Technical Response (The Ecology Partnership July 2024) that the mature Beech tree and two Ash trees are to be retained. The Ash tree which underwent emergence surveys in 2022 has been identified as having low bat roost potential (Potential Roost Features for individual bats – PRFs-I) and is outside the red line boundary. Therefore no further surveys for bats are required for these trees.

The site lies approximately 9.6km from The Mens Special Area of Conservation (SAC) for which one of the the qualifying features is Barbastelle bats. Therefore, the site lies within the 12km Wider Conservation Area for the SAC (Sussex Bat Special Area of Conservation Planning and Landscape Scale Enhancement Protocol) and therefore may be within the range of foraging areas required by the bats. 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 SACs.

Please note that we have no comments on Great Crested Newt as we have been instructed to leave comments on this European Protected Species to the NatureSpace Partnership.

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 temporary holding objection.

Please contact us with any queries.

Yours sincerely

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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.