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Planning
Ribble Valley Borough Council

Email: ecology@lancashire.gov.uk
Your ref: CONECO/3/2013/0169
Our ref: 03/13/0169/ASM/ASP/SG
Date: 12th September 2013

Dear Stephen Kilmartin,

Ecological comments

Planning Application No: 3/13/0169

Proposals: Proposed demolition of existing buildings on site and erection of a 29 unit housing scheme 30% of which is affordable, made up of 9 apartments, 17 houses and 3 bungalows and all associated car parking, landscaping and highway works

Location: Pendle Garage, Clitheroe Road, Barrow, Clitheroe

District: Ribble Valley

Thank you for your consultation in respect of the above planning application.

The main ecological issues arising from the proposal include potential impacts on:

- Protected species, including bats (European Protected Species), reptiles and nesting birds
- Habitats and Species of Principal Importance (hedgerows)

RECOMMENDATIONS

The following matters will need to be addressed before the application is determined:

- As acknowledged in the ecology report, further bat assessment/survey is required to establish the presence or absence of roosting bats in the building. The report also acknowledges that if any trees with bat roost potential are to be affected by the proposal, further bat assessment is also required. This needs to be completed before any planning approval.
- If further survey reveals the presence of bats that would be affected by the proposed works, then Ribble Valley Borough Council will need to have regard for the requirements of The Conservation of Habitats and Species Regulations 2010 in reaching a planning decision (see the three tests discussed below).

guidance should be followed (e.g. the Bat Conservation Trust and Institution of Lighting Engineers guidance *Bats and Lighting in the UK*, 2009).

The applicant should be made aware of the following matters:

- The applicant should be made aware that the legislative protection afforded to protected species applies even following the issuing of planning consent.
- In order to retain habitat connectivity for Species of Principal Importance, such as hedgehogs, boundary treatments should not be flush to the ground, or suitably sized gaps should be left at strategic points.

JUSTIFICATION FOR RECOMMENDATIONS

1. LEGISLATION AND PLANNING POLICY

In determining this application, the requirements of the following legislation, planning policies and guidance should be addressed:

- The Conservation of Habitats and Species Regulations 2010 (as amended).
- The Wildlife and Countryside Act 1981 (as amended).
- The Natural Environment and Rural Communities Act 2006.
- The Protection of Badgers Act 1992.
- The National Planning Policy Framework, 2012 (NPPF)
- Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within The Planning System (DEFRA 01/2005, ODPM 06/2005).
- Environmental Protection / Nature Conservation policies of the Local Plan.

NPPF:

- Pursuing sustainable development involves seeking positive improvements in the quality of the natural environment, including moving from a net loss of biodiversity to achieving net gains for nature (NPPF Para 6-10).
- Core planning principles listed in the NPPF state that planning decisions should contribute to conserving and enhancing the natural environment (NPPF Para 17).
- The planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including establishing coherent ecological networks (NPPF Para 109).
- If significant harm to biodiversity resulting from a development cannot be avoided or adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused (NPPF Para 118).
- Planning decisions should limit the impact of pollution from artificial light on nature conservation (NPPF Para 125).

- preserving public health or public safety,
 - for other imperative reasons of over-riding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
 - for preventing serious damage to property.
2. There is no satisfactory alternative.
 3. The proposal will not be detrimental to the maintenance of the population of the species at a favourable conservation status.
- (see DEFRA Circular 01/2005).

If bats would be affected by the proposed development, then before the application is determined, information should be provided by the applicant to demonstrate how the above three tests will be addressed. This should include mitigation proposals, informed by adequate survey data in order to address the third test.

As acknowledged in the ecology report, the site provides potential foraging/commuting/roosting habitat for bats (e.g. hedgerows, trees, scrub, rough grassland). Natural England's standing advice indicates that if key habitat linkages such as hedgerows are lost or severed, it may have indirect impacts upon the breeding site or resting place used by bats. It also states that "Although feeding habitats are not specifically protected, major developments may cause significant disturbance to bats in relation to the Conservation of Habitats and Species Regulations 2010". Natural England's standing advice also indicates that artificial light can result in indirect impacts on bats and light spill should therefore be minimised. The ecology report does not appear to have addressed such potential impacts.

It would therefore be appropriate that the hedgerows and trees are retained and enhanced within the design of the development and that any proposed external lighting does not illuminate potential bat habitat.

2.2 Badgers (Protected Species)

A badger survey has been undertaken where no signs of badgers were recorded. On the basis of the ecology report it appears that significant impacts on badgers seem reasonably unlikely.

As badgers are a mobile species, it is possible that they may move into the area between the date of the survey undertaken and the proposed works. It would therefore be appropriate that a precautionary pre-works check for badgers is undertaken immediately prior to works to confirm the continued absence of badgers. This could be dealt with by an appropriately worded planning condition. If badgers are found at that time, proposals for mitigation will need to be approved and works may need to be carried out under licence.

2.3 Reptiles (Protected Species)

On the basis of the ecology report, it appears that the potential for reptiles has not been ruled out from the site. As all native British reptiles are afforded legal protection against killing and injuring under the Wildlife and Countryside Act 1981 (as amended), it would

Planning policy indicates that developments should be designed to avoid and minimise impacts on the natural environment/biodiversity.

Whilst the D&A Statement indicates that ecological features are to be enhanced, it does not appear (from the proposed plan) that semi-natural habitats have been retained within the design of the development or that additional habitat creation has been provided to compensate for the loss of habitat. It is also not clear from the proposed plan whether there is sufficient space within the current layout for such habitat compensation/creation. This should be clarified prior to determination of the application.

If impacts are unavoidable, then there will be a need to adequately compensate for the losses. Although the proposed plan appears to include the retention of some of the trees along the southern boundary, in my opinion, the proposed plan does not adequately compensate for the proposed losses.

Maintaining and enhancing habitat connectivity within the application area and the wider landscape needs to be addressed in the overall design of the development.

There may be opportunities, to retain habitat where possible, to provide compensation for losses and to ensure that habitat connectivity is retained, for example: through the retention and enhancement of the existing hedgerows and trees, provision of further hedgerow creation to provide habitat connectivity, provision of a semi-natural buffer along the edge of the hedgerows, provision of further semi-natural habitat (for example along the southern boundary of the site), provision of bird nesting and bat roosting opportunities within the design of the development (e.g. within the fabric of the buildings, bird/bat boxes).

Retained and replaced habitat should be protected from the operational phase of the development and managed to maintain and enhance their biodiversity for the lifetime of the development

If it can be shown that such habitat could be retained/enhanced and that habitat compensation could be provided within the design of the development, then a detailed plan of habitat creation / landscaping /management could be subject to planning condition.

3. IRREPLACEABLE HABITATS

Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, unless the need for, and benefits of, the development in that location clearly outweigh the loss (NPPF Para 118).

Aged and Veteran Trees

Trees which, because of their great age, size, or condition are of exceptional value for wildlife would be classed as aged or veteran trees.