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Contact: Bernie Fleming
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Date: 7 February 2024

Dear Hannah,

3/23/1447/OUT

Outline planning application (with all matters reserved except for access) for up to 350 dwellings, up to 4,400 sqm of commercial and services floorspace (Use Class E and B8), and up to 500 sqm of retail floorspace (Use Classes E) and other associated works including drainage, access into the site from the A10 and Luynes Rise (but not access within the site), allotments, public open space and landscaping

Land East of the A10 Buntingford Hertfordshire

ECOLOGICAL IMPLICATIONS

Overall Recommendation:

- The application can be determined with no ecological objections (subject to the addition of the recommended conditions/informatives to any consent).

Summary of Advice:

- Prior to any future reserved matters application, the habitat and both bat and reptile surveys should be repeated and the PEA replaced with an Ecological Impact Assessment; all should be secured by condition;
- All avoidance, mitigation, compensation and enhancement measures in the current PEA, bat, breeding bird and reptile reports should be secured by condition;
- Both a LEMP and a CEMP should be secured by condition;

- A Biodiversity Net Gain Plan should be secured by condition and use the latest, contemporary metric.

Supporting documents:

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

- Planning Statement, dlp planning, July 2023;
- Design & Access Statement, Countryside Partnerships & Vistry Homes Ltd., June 2023;
- Preliminary Ecological Statement, James Blake Associates Ltd., March 2020 (or *PEA*);
- Bat Activity Survey Report, James Blake Associates Ltd., Rev-A, June 2022;
- Updated Breeding Bird Survey, James Blake Associates Ltd., June 2023;
- Updated Reptile Survey, James Blake Associates Ltd., January 2022;
- Biodiversity Net Gain Calculation report, James Blake Associates Ltd., June 2023 (or *biodiversity net gain report*); and
- Biodiversity Calculation Tool, James Blake Associates Ltd., 30 June 2023 (or *biodiversity metric*).

Comments:

Thank you for your letter of 1 August 2023 which refers, and for consulting Herts LEADS (Ecology); I apologise for the inordinate delay with this reply.

We commented on a previous, similar application by letter of 9 November 2022. Much of the survey and assessment submitted for that application is carried through to this. Accordingly, our opinions are similar though take account of updated surveys and biodiversity net gain calculations though, disappointingly, the PEA has not been updated.

Ecological assessment

The Hertfordshire Environmental Records Centre (HERC) has no records of notable ecological interest from this site, an opinion largely shared by the ecological reports provided.

This opinion is shared by the PEA which, though becoming increasingly dated, the PEA describes a site of relatively modest ecological value.

The PEA and associated surveys appear to have followed by best practice and they can, therefore, be considered to be fit for purpose. I say this despite the PEA approaching four years in age but take account of the delay in this response.

It concludes:

'... it is considered that the development is able to proceed with minimal impact on the local conservation status of any protected, principally important or rare species within this are It is also considered that with a sensitive landscape scheme, and by including some, or all, of the additional enhancements, the site could be improved for local wildlife post development.'

Although not explicitly stated, it is taken that the same applies to impacts on habitats present be they negative or beneficial.

I have no reason to disagree with this (these) outcome(s).

Despite this, the PEA is now at the very limit where its findings can be relied upon. Whilst I am confident of the current outcomes, and the low risk of meaningful change, it is essential if best practice is to be seen to be followed that these are repeated.

Accordingly, **prior to any future reserved matters application, the habitat and bat and reptile surveys¹ should be repeated and used to inform a revised Ecological Impact Assessment (not a PEA); all should be submitted to the Council for approval. This should be secured by condition** and used to inform the design as it evolves.

Note the requirement for additional surveys required for the biodiversity net gain assessment (see below). The survey effort should be designed to accommodate all requirements set out in this letter.

In contrast I do not believe there is a need to repeat the more recent breeding bird survey given this was completed in 2023.

Avoidance/mitigation/compensation/enhancements

This positive outcome was dependent on the adoption of a range of avoidance, mitigation, compensation and enhancement measures. Whilst the PEA concludes that the implementation of *'some or all'* of these measures would deliver benefits, **I consider all are reasonable, proportionate and necessary and so all should be incorporated with the design and/or construction of the proposed development**

Further, these measures cover various aspects of the proposed development. Some will fall under the scope of the biodiversity net gain plan (BNGP) see below whereas others are best delivered by means of the final layout/design, a LEMP or a CEMP. Although potentially absent from the site, measures are still required for reptiles as a precautionary exercise.

Both the LEMP and the CEMP should be secured by condition and all should be presented in far greater detail than at present. For instance, the location of bird and bat boxes and other features should, at the very least, be shown on suitable plans and/or architectural drawings to show exact locations. Further, to ensure proposed

¹ The bat and reptile surveys will be required because of the age of the existing surveys and as recommended in s5.9 & s4.5 of the bat and reptile reports, respectively. As these surveys would be to confirm previous outcomes these can be secured by condition

measures have the greatest chance of success, **the measures in the LEMP should also be secured for a minimum period of thirty years.**

Relevant content is annotated accordingly below.

- Bat report
 - LEMP: s5.2, 5.3, 5.4² & 5.6;
 - BNGP: 5.7 & 5.8.
- Breeding bird report
 - Layout/Design: Para 7 of the Executive summary, s4.1;
 - LEMP: s4.5, 4.11, 4.15, 4.16 & 4.17;
 - BNGP: s4.4, 4.7, 4.8, 4.9 & 4.12;
 - CEMP: s4.10, 4.13 & 4.14.
- Reptile report
 - BNGP: s5.1
- PEA
 - LEMP: 6.4, 6.5, 6.7,
 - BNGP: s6.3, 6.6,

Where similar measures are put forward in different documents, the most comprehensive description should be required.

Further, the suggestions by the Herts & Middlesex Wildlife Trust and Mr Graham Knight for one swift box per dwelling (350 in total) should also be incorporated within the LEMP and be in addition to the vague proposals in the bird report and bird report.

Where measures are not adopted, these should be accompanied by a statement in the LEMP/CEMP/BNGP that explains why not, what beneficial effects will not result and what will be the residual impact.

Biodiversity net gain

The accompanying metric predicts the delivery of a 20.81%, 32.08% and 58.10% increase in habitat, hedgerow and river units, respectively.

Ultimately, only long-term monitoring would demonstrate how these communities develop and whether the considerable net gain claimed is being achieved. In time, this may require changes in management if not. However, I remain satisfied that a net gain in excess of the Government's proposed legal minimum requirement of 10% could be delivered; local policy does not yet require the delivery of a fixed amount.

² s5.3 & 5.4 should follow the new 'Guidance note GN08/23: Bats and Artificial Lighting at Night' (2023) Bat Conservation Trust and Institute of Lighting Professionals.

Consequently, I have no reason to disagree with the outcomes shown, and, therefore, I am of the opinion that the delivery of a biodiversity net gain should not represent a fundamental constraint on the proposed development or reason for objection. In saying this I note this requires an off-site solution. This will have to be secured by means of a legal agreement.

However, there is no guarantee that the net gain proposals of either application will be delivered or how these will be achieved. Therefore, this should be set out in a **Biodiversity Net Gain Plan (BNGP) the production and delivery of which should be secured by condition.**

I therefore suggest the following wording:

“Prior to the commencement of development, a Biodiversity Net Gain Plan shall be submitted to and approved in writing by the Council. This will describe, in appropriate detail, how the predicted net gain for habitats and hedgerows respectively, will be delivered and sustained for a minimum period of 30 years.”

This should include, but not necessarily be limited to,

- details of the bodies responsible and their roles, functions and legal standing;
- clear, measurable, ecological objectives;
- detailed description of the management and monitoring regimes proposed;
- remedial measures should progress fail to meet the targets; and
- details of how the above will be secured for a minimum of thirty years.

The BNGP should be informed by new habitat surveys.

In addition, it should accommodate the relevant measures in the various ecological reports and summarised in this letter on p3.

Where measures are not adopted, these should be accompanied by a statement in the BNGP that explains why not, what beneficial effects will not result and what will be the residual impact.

From the information provided, I was not able to ascertain what habitats were to be created in the attenuation basins. If other neutral grassland is still proposed, as in the previous application, this will require compelling evidence before it can be accepted. Similar levels of evidence will be required where a net gain is proposed on public open space/play areas.

Yours sincerely,

Bernie Fleming

Ecology Advisor, Hertfordshire LEADS

Hertfordshire LEADS provides Landscape, Ecology, Archaeology, Design and Sustainability support to planning departments in Hertfordshire.