

AGENDA ITEM 10: SCHEDULE OF APPLICATIONS

Item. 10 b DEREHAM

Ref: 3PL/2022/0669/VAR

Location: Land off Shipdham Road, Westfield Road, Westfield Lane, Dereham

Proposal: Variation of Condition(s) 3 (plans list), 5 (Travel Plan), 6 (Transport Assessment Addendum) and 20 (Off-site highway improvement works) on application reference 3PL/2015/1490/O

Applicant: Glavenhill Strategic Land (Number 1) Limited

Author: Chris Hobson

Consultations:

Ecologist:

“In relation to the new roundabout alignment, the submitted plans indicate that a line of trees and hedgerows will be removed. The arboriculture reports list the trees to be removed in this section as semi-mature, with no significant defects. Except for T39, an English Oak which the document states “mechanical impact damage to lowest western branch – torn and hanging. No significant visible defects”. It is considered possible that a torn limb on a tree could create a bat roost feature.

We are not satisfied that there is sufficient ecological information available for determination and recommend that adequate information on the potential roost features for bats in T39 to be removed is provided prior to determination. This is necessary to inform the need for further bat surveys and a European Protected Species mitigation licence from Natural England to manage the risk of anyone connected with the project from committing an offence of disturbing or injuring bats or destroying a bat roost by felling a tree to facilitate the development consented under 3PL/2015/1490/O.

To fully assess the impacts of the amended proposal, the LPA needs ecological information for the amended site, particularly for bats, European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should “Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby”.

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 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

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. The amended mitigation measures should be detailed within a Construction Environmental Management Plan (CEMP): Biodiversity, which has been secured by condition 16 already and Condition 17 (Updated Ecological Management Plan).”

Officer Note: The applicants are undertaking relevant surveys of T39 with information to be submitted to the Council for consideration. Delegated authority is therefore sought that should features be identified within the surveys to allow officers agree to a scheme of mitigation measures to ensure bat population is maintained.

RECOMMENDATION

That planning permission be granted subject to the conditions set out and delegated authority being given to officers to agree mitigation measures with respect to bats if surveys indicate these are necessary, and to subsequently amend conditions accordingly.