

AGENDA ITEM 10: SCHEDULE OF APPLICATIONS

Item. 10 c DEREHAM

Ref: 3PL/2022/0670/D

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

Proposal: Development of new roundabout junction and associated works on Shipdham Road (A1075)

Applicant: Glavenhill Strategic Land (Number 1) Limited

Author: Chris Hobson

Consultations:

Ecologist:

“We are not satisfied that there is sufficient ecological information available for determination and recommend that adequate information on any potential roost features for bats in the additional trees 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 trees to facilitate the development consented under 3PL/2015/1490/O.

This reserved matters application relates to Phase 1 of the development only. Phase 1 comprises access, link road and necessary infrastructure. The landscape plans include some tree removal within Phase 1. The Arboricultural Impact assessment (Ravencroft Arboricultural Services, May 2022) indicates that the main stem on several of the trees scheduled to be removed are covered by dense ivy. These trees could possess a concealed potential roost feature suitable for use by roosting bats.

To fully assess the impacts of the amended proposal, the LPA needs ecological information for the 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.

Ivy clad trees which are to be removed should therefore be inspected by a suitably qualified ecologist to identify any potential roost features to inform the need for bat surveys. The amended mitigation measures will need to be detailed within a Construction Environmental Management Plan (CEMP): Biodiversity. These details will be required to meet Condition 16 of 3PL/2015/1490/O.”

Officer Note: The applicants are undertaking relevant surveys 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, no objections being raised by the Highway Authority 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.