Date: 31 July 2024
Our ref: 470259
Your ref: PL/2023/10772

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Jonathan Maidman
Case Officer
Wiltshire Council

BY EMAIL ONLY

Dear Mr Maidman,

Planning consultation: Standing of an additional two residential caravans (two statics) and the storage of two touring caravans on the land, refurbishment of site through ancillary works.
Location: Land at 2 The Holdings, Ashton Common, Steeple Ashton, Wiltshire

Thank you for your consultation on the above dated 11 March 2024.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Internationally and nationally designated sites

Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC)
The application site lies within an area known to support bats that form part of the populations for which the Bath and Bradford-on-Avon Bats SAC is notified and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations').

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have[1]. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing potential impacts.

On the basis of information provided, Natural England's advice is that this proposed development will require mitigation measures intended to avoid or reduce the likely harmful effects on a European site which cannot be taken into account when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment (following the People Over Wind ruling by the Court of Justice of the European Union). For this reason, the proposed mitigation measures need to be formally checked and confirmed by your Authority, as the competent authority, via an Appropriate Assessment.

[1] Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process.
The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/

Habitats Regulations Assessment – Appropriate Assessment
Natural England notes that a Habitats Regulations Assessment (HRA) has not been produced by your authority. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. Natural England is a statutory consultee at the Appropriate Assessment stage of the Habitats Regulations Assessment process. The following advice is provided to support the conclusions drawn and to assist your authority to undertake an Appropriate Assessment:

The site is located within the red zone of the TBMS, which states that any development in this location is likely to result in increased risk to the local bat population from recreational pressure and/or habitat loss. The SPD further states that there should be no net increase in residential curtilage and whilst we recognise that the proposals are for residential development, it is our view that the existing land use is urban/residential and thus the proposals would not result in an increase in residential curtilage. The site is also located on the urban fringe amongst other dwellings. Given the urban setting of the site and the proposals not increasing the residential curtilage, development may be possible provided suitable mitigation is secured.

Should planning permission be granted, we would expect a suitably worded condition to retain and enhance the boundary hedgerows.

To further enhance the site for the local bat population, we would encourage the applicant to provide on-site mitigation. This may be the planting of fruit trees to provide a food source for bats or creating a wildflower meadow to improve the capacity of the site to provide insects. We note that the proposed site plan includes an area of ‘grass’. More detail regarding the intended planting and use of this part of the site would be useful.

Requirement for mitigation set out in the Trowbridge Bat Mitigation Strategy (TBMS)
Your Authority should be satisfied that the scheme will meet the TBMS mitigation requirements in full, including the requirements for meeting the minimum lighting standards as set out in the strategy and the required contribution towards mitigation for recreational pressure.

Lighting
We advise the applicant to provide a sensitive lighting strategy which keeps lighting at core bat habitats to a minimum. As mentioned above, the minimum lighting standards of the TBMS should be adhered to. The lighting strategy for the scheme should consider the construction and operational phases and be agreed by your Authority prior to the commencement of the scheme.

Due to the sensitivity of this location, we would welcome a condition to ensure that no construction lighting is installed as well as no external lighting during the operational phase.

Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard for Natural England’s advice. Please re-consult Natural England once the Appropriate Assessment has been completed.

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

Should the proposal change, please consult us again.

If you have any queries relating to the above advice please contact me on kyle.conroy@naturalengland.org.uk.

Yours faithfully,

Kyle Conroy
Lead Planning Advisor
Wessex Area Team

Annex A – Additional advice

Natural England offers the following additional advice:

Protected Species

Natural England has produced standing advice[2] to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 181 and 185 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found on Gov.uk.
Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

Biodiversity and wider environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 180(d), 185 and 186. It is required that major development (defined in the NPPF glossary) be required by law to deliver a biodiversity gain of at least 10% from February 2024 and this requirement has been extended to smaller scale development in April 2024. For nationally significant infrastructure projects (NSIPs) it is anticipated that the requirement for biodiversity net gain will be implemented from 2025.

Further information on the timetable for mandatory biodiversity net gain can be found here. Further general information on biodiversity net gain can be found here.

The Government's Biodiversity Metric should be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the Small Sites Metric may be used. This is a simplified version of the Biodiversity Metric and is designed for use where certain criteria are met.

We advise you to follow the mitigation hierarchy as set out in paragraph 186 of the NPPF and firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Development also provides opportunities to secure wider biodiversity enhancements and environmental gains, as outlined in the NPPF (paragraphs 8, 74, 108, 124, 180, 181 and 186). Opportunities for enhancement might include Incorporating features to support specific species within the design of new buildings such as swift or bat boxes or designing lighting to encourage wildlife.

Natural England's Environmental Benefits from Nature tool may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside the Biodiversity Metric and is available as a beta test version.

[2] https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals

Further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain can be found in government Planning Practice Guidance.

Biodiversity duty
Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available here.