

PJ



Sent: 02 February 2012 16:23  
To: Planning; Peter Jefcoate  
Subject: comments for application S6/2011/2825/MA (Coopers Field Stables; Coopers Lane Road, Potters Bar)

03 FEB 2012  
09:11:11

FAO Mr P Jefcoate

Dear Mr Jefcoate

Re: Demolition of dilapidated shed and erection of 2 loose boxes and hay store

Address: Coopers Field Stables, Coopers Lane Road, Potters Bar

Ref: S6/2011/2825/MA

The proposed development area lies within a Local Wildlife Site ref 79/002 – *Northaw Brook Pastures*. The Wildlife Site comprises species-rich, marshy, neutral to acidic grassland, adjacent to Northaw Brook. The proposed new buildings are sited in the eastern corner of the Wildlife Site, in a fenced off section used for horse grazing.

A Biodiversity Report has been submitted – Jones & Sons Environmental Sciences Ltd, June 2011. The report is based on an Extended Phase 1 Habitats Survey and protected species scoping assessment carried out in May 2011.

Findings:

Habitats to the west of the site demonstrate the greatest ecological value, with the western sections of the pasture still reaching Wildlife Site standard;

Habitat at the eastern end (where development proposed) is generally of low ecological quality, with the exception of boundary habitats including the mature tree line and Northaw Brook;

No evidence to suggest presence of great crested newts, badgers or water voles;

Records of grass snake along the brook;

Four species of bats recorded flying along tree lines on/near the site.

The consultant concludes that due to its position and small size relative to the Wildlife Site, the proposal will not compromise the ecological integrity of the Local Wildlife Site and any negative impacts on the habitat will be negligible.

The ecologist makes a number of appropriate recommendations on pages 21-22 of the report, to prevent negative impacts on the integrity of the Local Wildlife Site and prevent harm to protected species.

## RECOMMENDATION

**Based on the report findings above, I am satisfied that the proposed development will not risk the ecological integrity of the Wildlife Site 79/002 or cause harm to protected species, providing some precautionary mitigation measures are implemented as part of the development. These should be secured as Conditions to any permission granted.**

Please consider including the following, or similar, **Conditions** to any permission:

A restricted area for development works should be established to protect the rest of the Local Wildlife Site (Ref 79/002) and prevent any harm to protected species that may be present in habitat features around the site. A distance of at least 8 metres must separate the development area from Northaw Brook. A one metre buffer zone is to be instated around all hedgerows, trees and mature vegetation in proximity of the development area. All materials and building works associated with this development are to be kept within the designated area. Outside of the restricted development area, no materials, debris, pollutants, vehicles or machinery associated with this development are to be stored or used within, leached into, access the development site through, or in any other way enter into, the Wildlife Site (Ref 79/002 ) or any identified buffer zones.

*Reason: to prevent harm to protected species that may be present, and to prevent any potential immediate or future degradation of the Wildlife Site, including as a result of damage to hedgerows, trees or tree roots, and to comply with Policy R11 - Biodiversity and Development and Policy R15 - Wildlife Sites, of The Welwyn Hatfield District Plan, adopted 2005; Planning Policy Statement 9; and the NERC Biodiversity Duty.*

**TREES and HEDGES.** Features of ecological value, including trees and hedgerows, should be retained as far as is practicable, to preserve and enhance biodiversity on the site. All trees and hedges within the site to be retained shall be protected by 1m high fences for the duration of the building works at a distance equivalent to not less than the crown spread from the trunk, or such other distance/means as may be agreed in writing by the Local Planning Authority. No materials or plant shall be stored, rubbish dumped, fires lit or buildings erected within this fence and no changes in ground level may be made within the spread of the tree or hedge without the prior agreement in writing of the Local Planning Authority

*Reason: to protect the existing trees and hedges in accordance with Policy R11 - Biodiversity and Development and Policy R17 - Trees Woodlands and Hedgerows of The Welwyn Hatfield District Plan, adopted 2005.*

**BIRDS:** No demolition of buildings, or removal of trees, scrub or hedges, shall be carried out on site between the 1<sup>st</sup> March and 31<sup>st</sup> August inclusive in any year, unless searched beforehand by a suitably qualified ecologist. In the event that nests or nesting birds are found, work affecting that area must be postponed until the young have fledged.

*Reason: nesting birds are protected from disturbance under the Wildlife & Countryside Act 1981 (as amended).*

**LIGHTING:** No external lighting shall be installed or affixed to the building unless the LPA has first approved in writing details of position, height, design and intensity. Any that needs to be installed should be downward facing and directed away from any sensitive areas, including mature tree lines, watercourses, bat flight paths, potential or known bat access points and any installed artificial roosts. Any temporary lighting used during construction should be minimized, directional and prevent light spillage onto sensitive areas. *The design of the lighting scheme should follow the recommendations given in the Bat Conservation Trust's advice note on bats and lighting in the UK (BCT, 2008)*

*Reason: to ensure the site and surrounding habitats continue to be suitable for use by bats. All Bats and their roosts are legally protected by the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. If bats are present it is illegal to intentionally kill, injure, capture or disturb individuals, or damage, destroy or obstruct their roosts. It is also an offence accidentally damage or destroy a roost. Bat roosts are legally protected whether or not bats are permanently present.*

#### **Informatives:**

**ECOLOGICAL BRIEFING:** A site meeting with an ecologist and contractors prior to commencement is recommended to ensure all parties are conscious of the ecological value of the Local Wildlife Site and nearby habitats; and are aware of the potential for protected species on the site, the relevant legislation, associated responsibilities/obligations and best construction practices to minimise risk of harm or disturbance of protected species.

*Reason: to prevent harm to protected species that may be present and to comply with Policy R16 of the Welwyn Hatfield District Plan, adopted 2005; Planning Policy Statement 9 and the NERC Biodiversity Duty.*

**REPTILES:** Please make developers aware of the potential for reptiles, including grass snakes, on site. Should any such species-usage become apparent, a suitably licensed ecologist should be consulted, and mitigation measures proposed and followed. Vegetation and grass within the defined restricted development area should remain mown short (sward height no more than 5cm) until and throughout the construction period, to ensure the area remains unsuitable for grass snakes.

*Reason: Reptiles are protected under the Wildlife and Countryside act (1981) as amended which makes it an offence to intentionally kill or injure these species. Also to comply with Policy R11 - Biodiversity and Development and Policy R16 - Protection of Species, of The Welwyn Hatfield District Plan, adopted 2005.*

The applicant may also wish to consider enhancing the site, through incorporating bird and bat boxes onto the new buildings. You may like to include the following as an **Informative**:

**BAT BOXES:** Erect bat boxes, bricks or tubes (eg Schwegler 1FQ, N27 or 1FR) onto or into the new buildings. These maintenance free roosts need to be installed at least 3m off the ground, protected from the elements and facing in a southerly/westerly direction. Alternatively, bat boxes (Schwegler 2F, 2FDFP, 1FD, 2FN, 1FS, 1FW, as per local species) can be affixed to mature trees. The boxes should be sited near a source of food; bats feed over gardens, fields, water and in woodlands. Choose a tall mature tree and fix the box at a height of 4 metres above the ground with the access facing south west or south east. The box should not be not too exposed so it will not experience extremes of heat and cold.

*Reason: to increase opportunities for wildlife in new developments, in compliance with guidance in paragraphs 5.32 to 5.3 6 of PPS9, the NERC Biodiversity Duty, and PPS1.*

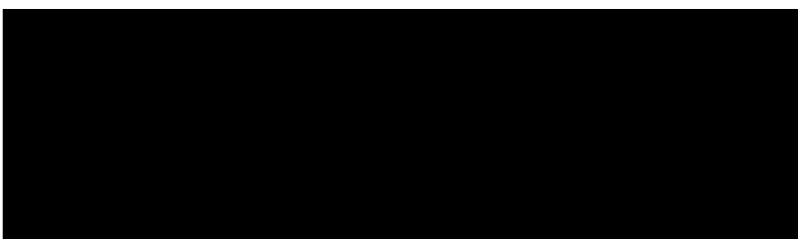
Please don't hesitate to contact me should you wish to discuss this matter further.

Yours sincerely,

**Odette Carter**

**Planning and Policy Officer**

Herts and Middlesex Wildlife Trust



## PLANNING AND BIODIVERSITY POLICY

### The NERC Act (2006) Biodiversity Duty

Section 40(1) of the Natural Environment and Rural Communities Act (*NERC Act*) places a direct statutory duty to conserve biodiversity on all public authorities:

*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.*

Section 40(3): conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat. **Local Authorities have a duty therefore to work to increase populations of BAP priority species and create and enhance BAP habitats.**

Section 41(3): the Secretary of State must take such steps as appear to him to be reasonably practicable to further the conservation of the living organisms and types of habitats included in the list of species of principal importance (the UK BAP list). He is further required to promote the taking by others (such as public bodies) of such steps to further the conservation of the statutory priority species.

### Biodiversity Action Plan priority habitats

Rivers, hedgerows, and lowland meadows are **UK Biodiversity Action Plan (BAP) priority habitats**, as listed in Section 74 of the *Countryside and Rights of Way Act 2000* (CROW Act), Section 41 of the *Natural Environment and Rural Communities Act 2006* (NERC Act), and the BAP list revision of June 2007. National and Local BAP habitats require due consideration as outlined in Paragraphs 84 and 85 of ODPM Circular 06/2005 to PPS9, the CROW Act (2000) (section 74) and the NERC Biodiversity Duty.

### Planning Policy Statement 9

Planning Policy Statement 9 (PPS9) (August 2005) contains important protections for biodiversity in general and for UK BAP habitats and species in particular:

Key Principle ii) states, "Plan policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests."

The alternative sites principle favours the locating of any development which stands to compromise biodiversity at alternative sites resulting in no or less harm

Planning authorities are furthermore obliged to *refuse* permission where significant harm to biodiversity conservation interests cannot be prevented, adequately mitigated against, or compensated for.

Local authorities should conserve habitats of principle importance as identified in section 74 of the CROW Act 2000 (ie. BAP habitats) and identify opportunities to enhance them.

Local planning authorities should maximise opportunities to 'build in' beneficial biodiversity features in and around developments.

PPS9 also states, "Local Nature Reserves and Local Sites have a fundamental role to play in meeting overall national biodiversity targets; contributing to the quality of life and the well-being of the community; and in supporting research and education."

### **ODPM circular 06/2005 to PPS9 (Part III)**

**Paragraph 84** of ODPM Circular 06/2005 to PPS9 states, "The potential effects of a development, on habitats or species listed as priorities in the UK Biodiversity Action Plan (BAP) and by Local Biodiversity Partnerships, together with policies in the England Biodiversity Strategy are capable of being a material consideration in the preparation of regional spatial strategies and local development documents and the making of planning decisions."

**Paragraph 85** highlights the duties to conserve biodiversity conferred by Section 74 of the Countryside and Rights of Way Act 2000 and PPS9, for local authorities "to promote the taking of steps by others to further the conservation of the habitat types and species of principle importance for biodiversity" (ie. BAP habitats and species), including through their planning function.

### **PROTECTED SPECIES LEGISLATION**

Under Section 1 of the *Wildlife and Countryside Act 1981 (as amended)*, it is illegal to kill, injure or capture any wild **bird**, and illegal to damage, destroy or take their nests and eggs. Bird species listed in Schedule 1 are also protected against disturbance whilst nesting and while they have dependent young.

All **bats** and their roosts are legally protected by the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. If bats are present it is illegal to deliberately kill, injure, capture or disturb them, or to damage, destroy or obstruct their roosts. Bat roosts are legally protected whether or not bats are permanently present. Since amendments to the Habitat Regulations (1994) entering into force in 2007, it is also an offence to accidentally damage or destroy a breeding site or resting place.

Where development activities affect a **European protected species** (great crested newts, bats, dormice, otters), or their places used for shelter or protection, work may need to be conducted under a European Protected Species licence issued by Natural England under Regulation 53(2)(e) of the *Conservation of Habitats and Species Regulations 2010*. In order for a licence to be issued the following three tests must be met:

- The consented operation must be for “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”;
- The must be “no satisfactory alternative”; and
- The action authorised “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”.

**Reptiles.** The adder, common lizard, grass snake and slow worm are protected against intentional killing or injuring under Schedule 5 of the *Wildlife and Countryside Act 1981 (as amended)*. The sand lizard and smooth snake are fully protected under Schedule 5 of the *Wildlife and Countryside Act 1981 (as amended)* and Schedule 2 of the *Conservation of Habitats and Species Regulations 2010* making them European Protected Species.

**Badgers** are protected under the *Wildlife and Countryside Act 1981 (as amended)* and the *Protection of Badgers Act 1992*, which makes it an offence to:

Wilfully kill, injure or take a badger, or to attempt to do so;

Cruelly ill-treat a badger; or

Intentionally or recklessly interfere with a badger sett by

(a) damaging a sett or any part of one;

(b) destroying a sett;

(c) obstructing access to or any entrance of a sett;

(d) causing a dog to enter a sett; or

(e) disturbing a badger when it is occupying a sett.

**Odette Carter**

**Planning and Policy Officer**

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