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From: Mark Peacock
Sent: 21 November 2013 10:41
To: Planning
Subject: FW: Planning application S6/2013/2225/FP at The Warren, 8 Carbone Hill
Attachments: The Warren, 8 Carbone Hill.doc

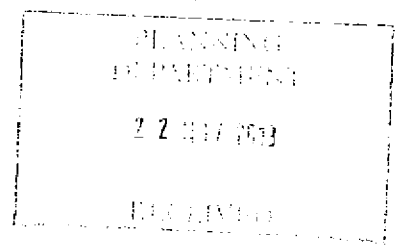
Please record attached comments

Kind regards

Mark Peacock
Senior Planning Officer (South Area Team)

Welwyn Hatfield Borough Council
The Campus
Welwyn Garden City
Herts AL8 6AE
www.welhat.gov.uk

Telephone: 01707 357 249
Email: m.peacock@welhat.gov.uk



From: Barry Tranter [<mailto:Barry.Tranter@hertfordshire.gov.uk>]
Sent: 21 November 2013 10:29
To: Mark Peacock
Subject: Planning application S6/2013/2225/FP at The Warren, 8 Carbone Hill

Dear Mark,

Please find attached my response to planning application S6/2013/2225/FP at The Warren, 8 Carbone Hill.

Yours sincerely,

Barry Tranter PhD MCIEEM
Ecology Advisor, Hertfordshire Ecology
Natural, Historic & Built Environment Advisory Team,
Environmental Resource Planning
Hertfordshire County Council, County Hall, Pegs Lane, Hertford, SG13 8DN

Tel: 01992 555220
Internal ext: 25220
Postal Node: CHN 109

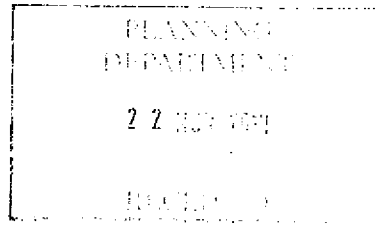
[Please note that HBRC has now transferred to the Herts & Middlesex Wildlife Trust. The advisory service is still hosted by HCC and our email address is changing from hbrcc.planning@hertscc.gov.uk to ecology@hertfordshire.gov.uk.]

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Mr M Peacock
Case Officer
Welwyn Hatfield Borough Council
The Campus
Welwyn Garden City
AL8 6A

Ask for: B. Tranter
Our Ref:
Your Ref: S6/2013/2225/FP
Tel: 01992 555220
Date: 21/11/2013



Dear Mr Peacock,

Planning Application: S6/2013/2225/FP. The Warren, 8 Carbone Hill. Extensions and alterations to existing dwelling to include front and rear two storey extensions, and first floor balcony.

Thank you for inviting us to comment on the above application. We have the following comments to make:

Database and evaluation

We do not hold any ecological data for the property at The Warren, 8 Carbone Hill or records for bats within the immediate surrounding area. However, the LRC does have a number of bat records for the Cuffley and Ridgeway area.

The proposals will have an extensive impact on the existing roof and loft space and the dwelling is very close to woodland, with good connectivity to open grassland and streams further away; all favoured foraging habitats for bats.

There are several pieces of recent guidance that provide advice on where bats are most likely to be present. Key documents are:

- Natural England's Standing Advice to Local Planning Authorities published in September 2012.
- The Bat Conservation's Trust's Bat Surveys Good Practice Guidelines 2nd Edition published in 2012.

These organisations have produced a "Trigger list of where bats are likely to be present and where developers can be reasonably expected to submit a bat survey".

- Proposals for the conversion, modification, demolition or removal of buildings, including hotels, schools, hospitals, churches, commercial premises and derelict buildings.
- All agricultural buildings (farmhouses, barns and outbuildings) particularly of traditional brick or stone construction with exposed wooden beams.
- Buildings with weather boarding and/or hanging tiles that are within 200m of woodland and/or water.
- Pre-1960 detached buildings and structures within 200m of woodland and/or water.
- Pre-1914 buildings within 400m of woodland and/or water and those with gable ends or slate roofs, regardless of location.
- All listed buildings.

Page 1

- Proposals in a rural setting with mature woodland, hedges, trees, grassland, rivers, lakes and ponds; all favoured habitats of bats for feeding, commuting and potentially roosting.

We consider that, due to the structure of the building and the good connectivity to adjacent areas of suitable bat foraging habitat the property may support a bat roost. The proposed works will also have a major impact on the on the existing roof.

For these reasons it is considered there is a reasonably likelihood that bats may be present in the dwelling and if present, its conversion would be likely to result in a breach of Article 12 of the EU Habitats Directive (92/43/EEC). We therefore recommend that a bat survey should be undertaken by a suitably experienced bat ecologist to establish if bats are present. If bats are found to be present, the report should: identify the species, the type of bat roost(s) located, make an assessment of the impact the development will have on bats and provide details of mitigation measures required to ensure that the favourable conservation status of the species would be maintained.

Bats, the law and planning process

Bats are protected under both European and national legislation and are a material consideration in the determination of a planning application, that if implemented would be likely to result in harm to the species.

In summary it is an offence to deliberately capture, injure or kill a bat, intentionally or recklessly disturb a bat in a roost or deliberately disturb a bat in a way that would impair its ability to survive, breed or rear young, hibernate or migrate, or significantly affect its local distribution or abundance; damage or destroy a bat roost; possess or advertise/sell/exchange a bat; an intentionally or recklessly obstruct access to a bat roost.

Under regulation 9 (5) of the Conservation of Habitats and Species Regulations 2010, all local planning authorities have a statutory duty to engage with the regulations and discharge their duty under them.

National Planning Policy Framework (NPPF). Section 11. Conserving and enhancing the natural environment: Paragraph 109: *'The planning system should contribute to and enhance the natural and local environment by:*

'minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures';

In order to discharge this duty the LPA need to ask the applicant for appropriate information (via an ecological survey report or other documentation) and, in the event of a bat roost being identified, apply the 'three stage test' as set out in The Conservation of Habitats and Species Regulations 2010. If the LPA does not apply these tests prior to making a decision on the planning application there is a risk that any planning permission granted could be legally challenged by a third party and subsequently quashed.

The three test are as follows:

- The activity must be for imperative reasons of overriding public interest (OPI) or for public health and safety;
- There must be no satisfactory alternative; and
- The favourable conservation status of the species in their natural range must be maintained.

This statutory duty has been clarified by recent case law¹. This includes confirming that the LPA's duty cannot be discharged by the LPA imposing a condition on the consent that requires the developer to obtain a licence from Natural England.

Recommendations

Since it is considered that there is a reasonable likelihood that bats could be present in one or more of the buildings, it is recommended that planning permission should not be granted until sufficient information has been provided that confirms if bats are present or not:

1. An initial bat inspection survey should be undertaken by a licensed bat ecologist to establish whether bats are present and whether they are likely to be affected by the proposed development works.
2. If the search and assessment finds no evidence of bats, then the application will not need to be determined on ecological grounds.
3. If the initial search and assessment finds evidence of a bat roost, then further emergence surveys will be required to inform the LPA **before** a planning decision can be taken.
4. If bats are present, appropriate mitigation or compensation measures must be provided to ensure the favourable conservation status of the species in their natural range will be maintained.

Whilst initial bat inspection surveys can be undertaken at any time of year, if further bat activity survey work is required, this can only be undertaken in the active season for bats (May to September) with the optimum period being May to August.

A list of bat consultants can be obtained from us on 01992 555220 or the Chartered Institute of Ecology and Environmental Management's website www.cieem.net.

Once this information has been provided we will be in a position to consider the application further.

We trust these comments are of assistance and should you require any further information or advice, please do not hesitate to contact us.

Yours sincerely,

Barry Tranter PhD MCIEEM
Ecology Advisor, Hertfordshire Ecology
Natural, Historic & Built Environment Advisory Team,

¹ Morge vs Hampshire County Council 2011 UKSC2 and Woolley vs East Borough Council 2009 EWHC1227

Environmental Resource Planning
Hertfordshire County Council, County Hall, Pegs Lane, Hertford, SG13 8DN

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