



PLANNING
DEPARTMENT
17 DEC 2009
RECEIVED

Sent: 16 December 2009 14:51
To: Peter Jefcoate
Subject: RE: Vine Cottage - HBRC comments
Attachments: Vine Cottage, Well Road, Northaw, Potters Bar, EN6 4BL.doc

Hi Peter

Thanks again – my response attached, which is total agreement with HBRC's response and the Jones & Son report. Hopefully my suggested Conditions are helpful but I think they might be a bit too wordy.

Best wishes
Carol

Carol Lodge (AIEEM)
Wildlife Sites Programme Manager
Herts & Middlesex Wildlife Trust
Grebe House, St Michael's Street
St Albans, Hertfordshire
AL3 4SN



From: [Redacted]
Sent: 16 December 2009 10:09
To: Carol Lodge
Subject: Re: Vine Cottage - HBRC comments

Carol,

Please find attached a copy of HBRC comments as promised for this site.

<<20091216095719279.pdf>>

I have already drafted some planning conditions related to bats for the application which I have copied below.

I look forward to receiving your comments on the application.

Kind regards

Peter

4. No works of site clearance, demolition or construction shall take place in pursuance of this permission until:

- A Habitats Regulations (EPS) licence has been obtained from DEFRA

Subsequently the approved mitigation strategy submitted with this planning application (Jones & Sons Report dated 28th October 2009) and the required Habitats Regulations (EPS) licence, must be instigated, in full, under the supervision required by the Habitats Regulations licence unless otherwise agreed in writing by the local planning authority.

REASON: To comply with the requirements of the Wildlife and Countryside Act and Habitats Regulations and to protect species of conservation concern in accordance with PPS9 Biodiversity and Geological Conservation.

5. No construction works (including demolition) to the existing roof of the dwellinghouse shall be carried out on site between the 1st May and the end of August inclusive and between the 1st November and the end of February in any year. In addition, works can only be carried out if temperatures are above 8 degrees Celsius in the Spring (March/April) period. Any other times and temperatures are to be approved in writing by the local planning authority. A suitable replacement roosting site must be constructed before any works to the roof of the existing house commence.

REASON: To protect the breeding season of bats and the winter hibernation period as both brown long-eared and pipistrelle bats have been found in the existing roof space of the dwelling in accordance with the Wildlife and Countryside Act 1981 (As amended) and PPS9 Biodiversity and Geological Conservation.

6. Details of any proposed external lighting to be fixed to the external surface of the buildings hereby approved are to be submitted to the Local Planning Authority for approval in writing. The lighting shall be installed in accordance with the approved details. No further lighting shall be added unless without prior approval from the Council.

REASON: To ensure that no lighting directly impacts on bat roosting areas and, in particular, there is no light spillage to bat access points and to comply with PPS9 and Policy R20 of the Welwyn Hatfield District Plan 2005

INFORMATIVES:

1. Please note the requirements in Condition 4 above **imposes a restriction on when certain development works can be carried out** as part of this planning approval in order to protect the bats present on this site. For clarification, this planning condition requires that **a suitable replacement roosting site must be constructed before any works to the roof of the existing house commence.**

2. Due to the impact of the approved works on the existing bat habitat a licence to derogate from the protection of the Habitat and Species Directive in the Conservation (Natural Habitats & c.) Regulations 1994 will need to be granted by Natural England before works start. The licence application will need to include a Method Statement with the results of the surveys (species of bats and roost type). In addition, Natural England will require a copy of the planning consent and a Reasoned Statement providing justification as to why the proposed works meet the requirements of the Conservation (Natural Habitats & c.) Regulations 1994. The mitigation strategy, including the licence application, must be instigated under the personal supervision of the bats consultants.

3. When designing external lighting as part of Condition 5 above, it is necessary to ensure there will be no direct lighting on the bat roosting area, particularly roost access and exit points. Any

proposed exterior lighting should ensure dark dispersal flight routes, from the roost sites out into the surrounding woodland.

4. Existing mature trees and hedges should be retained to reduce the potential impact on bats which may be harmful to their habitat.

Peter Jefcoate

Senior Planning Officer

Welwyn Hatfield Borough Council

The Council Offices

Welwyn Garden City Herts AL8 6AE

The information in this email is intended for the named recipients only. It may be subject to public disclosure under the Freedom of Information Act 2000. Unless the information is legally exempt from disclosure, the confidentiality of this email and your reply cannot be guaranteed.

If you are not the intended recipient, you must not copy, distribute, take any action or place reliance on any of the contents. Instead please delete this email from your system and notify the sender immediately.

The full Welwyn Hatfield Borough Council email disclaimer can be viewed at www.welhat.gov.uk/emaildisclaimer.

Click [here](#) to report this email as spam.

16th December 2009

Mr P Jefcoate
Welwyn Hatfield Council
Council Offices
Campus East
Welwyn Garden City
Hertfordshire
AL8 6AE

Dear Mr Jefcoate

Re: Erection of 2 storey side extension, rear extension and new front dormer and replacement front porch and new outbuilding following demolition of existing outbuildings
Address: Vine Cottage, Well Road, Northaw, Potters Bar, EN6 4BL
Ref: s6/2009/2273/FP

The location of this proposed development is on an identified Wildlife Site (Chorleywood College, Ref W/S 82/025, 8.619999999999992ha, Grid Ref TQ037963), however, this proposal involves works to an existing building. The main ecological issue on this site concerns a European Protected Species.

Bats

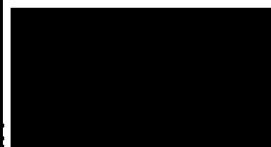
Jones & Son's Environmental report (July 2009) states that this site is of medium/medium-high conservation significance for common pipistrelle, brown long-eared, and natterer's bats. The report outlines the requirement for a Natural England license to be issued before any development works can take place, to ensure that the population of these species of bats on the site is safeguarded. HBRC's recommendations regarding bats reflect the mitigation strategy outlined in pages 19-23 of the report.

The habitat surrounding the barn should also continue to be managed sympathetically to ensure important bat dispersal and foraging routes are maintained. Any lighting required on the site will need to be designed to minimise any impacts on the bats. There should be no lighting that could directly impact on a bat roosting area. Brown long eared bats are particularly disturbed by light. Bat access joints should therefore remain dark with no light spillage affecting access and dispersal routes. A monitoring strategy, for a period of two years, will also be required to assess the bat loft and record the uptake of the replacement roosting sites by bats.



Herts & Middlesex

Grebe House
St Michael's Street
St Albans
Hertfordshire
AL3 4SN



INVESTOR IN PEOPLE

Hertfordshire & Middlesex Wildlife Trust Limited is registered in England No 816710 at the above address and is registered as a charity under Registration No 239863. VAT No 366 9276 06

The following Conditions should therefore be attached to any permission:

- No works of demolition of the existing house or its roof-space, to take place until a Method Statement, a Mitigation Strategy (to include details of roost replacement provision) and Works Schedule stating how it is proposed to accommodate each species of bat within the new development. The mitigation strategy, including the licence application, must be instigated in full under the supervision of the bat consultants. This will include a replacement roost site, and bat-entry-points, being constructed in the roofspace of the proposed double garage, prior to the dismantling of the existing roost sites. The proposed new larger roof space of the house with new extension, will create a new roost sites for bats, with bat-entry-points. A monitoring strategy, for a period of two years, will also be required to assess the bat loft and record the uptake of the replacement roosting sites by bats.

Reason: all Bats and their roosts are legally protected by the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitats & c.) Regulations 1994. If bats are present it is illegal to intentionally kill, injure or catch them, damage, destroy or obstruct their roosts, or to disturb bats. Bat roosts are also legally protected, even when bats are not present all of the time.

Also please add the following Informative:

A Habitat Regulations Licence (from Natural England) will be required, before any works affecting the roost can start, to make this permission lawful

- **LIGHTING:** No external lighting shall be installed or affixed to any buildings on the site unless the LPA has first approved in writing details of position, height, design and intensity.

Reason: to ensure the site continues to be suitable for use by bats. Certain buildings and habitats around the site may be important for bats, which may be adversely affected by light pollution in sensitive areas

- **BAT BOXES ON TREES:** Existing mature trees and hedges should be retained. Four Woodcrete Schwegler bat boxes type 1FF and 2F on mature trees in the garden of the house. Site the box 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: as part of the bat mitigation strategy in compliance with the Habitat Regulations, and also to increase opportunities for wildlife in new developments, in compliance with guidance in paragraphs 5.32 to 5.3 6 of PPS9, and the NERC Biodiversity Duty.

Further Legislative Context

Please also note that amendments to the Habitats Regulations 1994, which came into force on 21st August 2007, state that those carrying out activities that may affect European Protected Species will have to give even greater consideration to their presence and also their breeding sites and resting places. The majority of the defences in the original Regulations will be removed, including the 'incidental result defence' which applies to acts which could constitute an offence but were the incidental result of an otherwise

lawful activity and could not reasonably have been avoided. The offence prohibiting disturbance of European Protected Species will be amended to better reflect the terms of the Directive whereby trivial acts of disturbance will constitute an offence and therefore require a licence. **The amendment means that it is also an offence if you accidentally damage or destroy a breeding site or resting place (which was previously exempt).**

PPS9 - Habitats and species in UK and Local Biodiversity Action Plans: habitats and species of principal importance in England

Paragraph 84. 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. Section 74 of the Countryside and Rights of Way Act 2000 places new duties on Government Ministers and Departments in respect of the conservation of biodiversity. In exercising his duty, the First Secretary of State may include local authorities to promote the taking of steps by others to further the conservation of the habitat types and species of principal importance for biodiversity. In PPS9, the Government has indicated that local authorities should take steps to further the conservation of habitats and species of principal importance through their planning function (see PPS9 paragraphs 11 and 14). The lists of the habitat types and species subject to this duty were published by Defra in 2002 and comprise the list of species and habitats identified as priorities under the UK Biodiversity Action Plan.

Policy ENV3 (*Biodiversity and Earth Heritage*) of the East of England Plan (May 2008)

Planning authorities and other agencies should ensure that the region's wider biodiversity, earth heritage and natural resources are protected and enriched through the conservation, restoration and re-establishment of key resources by:

- ensuring new development minimises damage to biodiversity and earth heritage resources by avoiding harm to local wildlife sites and, wherever possible, achieving net environmental gains in development sites through the retention of existing assets, enhancement measures, and new habitat creation;
- promoting the conservation, enhancement, restoration, re-establishment and good management of habitats and species populations in accordance with Regional and Local BAP targets;
- ensuring the appropriate management and further expansion of wildlife corridors important for the migration and dispersal of wildlife;
- having regard to the need for habitats and species to adapt to climate change; and
- establishing networks of green infrastructure, maximising their biodiversity value, as provided for under Policy ENV1.

PPS1 – Delivering Sustainable Development:

Objective 5 of the above states that “Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by protecting and enhancing the natural and historic environment, the quality and character of the countryside, and existing communities”.

Paragraph 17 states that “the Government is committed to protecting and enhancing the quality of the natural and historic environment, in both rural and urban areas. Planning policies should seek to enhance the quality, character and amenity value of the countryside and urban areas as a whole. A high level of protection should be given to most valued townscapes and landscapes, wildlife habitats and natural resources. Those with national and international designations should receive the highest level of protection.”

Paragraph 19 (*Protection and enhancement of the Environment*) states that “planning decisions should be based on recognition of the limits of the environment to accept further development **without irreversible damage.**”

Paragraph 20 (*Protection and enhancement of the Environment*) states that “Development plan policies should take account of environmental issues such as: - mitigation of the effects of, and adaption, climate change through the reduction of greenhouse gas emissions and the use of renewable energy; air quality and pollution; land contamination; the protection of groundwater from contamination; and noise and light pollution”.

PPS 1 also states that “The policies set out in this PPS....may also be material to decisions on individual planning applications”.

PPS7 – Sustainable Development in Rural Areas

Paragraph 15 states that “Planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced. They should have particular regard to any areas that have been statutorily designated for their landscape, wildlife or historic qualities where greater priority should be given to restraint of potentially damaging development”.

The Natural Environment and Rural Communities Act (2006) Biodiversity Duty

Section 40(1) of the 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 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 UKBAP 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. 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.**

If you wish to discuss this matter further then please contact me.

Yours sincerely

Carol Lodge
Conservation Officer (Planning)

