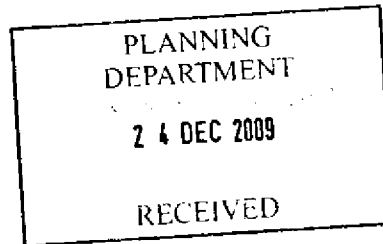


ACM

22nd December 2009

Mrs L Hughes
Welwyn Hatfield Council
Council Offices
Campus East
Welwyn Garden City
Hertfordshire
AL8 6AE



CH.

Herts & Middlesex

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

Email: info@hmwt.org
www.wildlifetrust.org.uk/herts

Dear Ms Hughes

Re: Erection of new dwelling, three bay garage block, garden store together with rentension and alteration of the existing stables, landscaping and all other ancillary works, following demolition of partially constructed dwelling, adjoining stables and garage blocks.

Address: Land at Hornbeam Lane (Spike Island), Brookmans Park, Hatfield, AL9 6JF

Ref: S6/2009/2574/FP

Bats Present

A bat survey carried out as part of the Biodiversity Report (August 2009) found evidence of two species of bat (pipistrelle and brown long-eared) roosting on the upper floor of the northern stable block. Furthermore, several other locations within the site showed potential for roosting bats but were inaccessible, including the main building. The Biodiversity Report recommended that emergent surveys be carried out on all areas showing potential for bat roosts, as well as those confirmed bat roosts in order to determine the status of bats on the site.

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. Due to significant population reductions, some bat species have been identified as priority Biodiversity Action Plan species, including soprano and common pipistrelle (UK BAP) and natterer's bat (Herts BAP).

Next Steps

1. Emergence surveys

A site inspection has confirmed the presence of bats and recommended evening emergent surveys are carried out on site to record flying bats. These surveys can only be carried out from mid-April to the end of September.



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

President
Sir Simon A Bowes Lyon, KCVO

2. Obtaining a licence:

Where the presence of bats is confirmed, a Habitat Regulations Licence will need to be obtained from Natural England before any works affecting the roost can start. The licence application will be made by the bat consultant and the application will need to include the **results of the surveys, a Method Statement, a Mitigation Strategy and Works Schedule** stating how it is proposed to accommodate each species of bat within the development.

The following Condition should therefore be attached to any permission granted:

- No works of demolition of the existing buildings is to take place until bat emergent surveys have been carried out on site and a report submitted to the LPA for approval. Surveys should follow the Bat Conservation Trust Survey Guidelines (2007). A mitigation scheme should also be submitted to the LPA. This is to include 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.

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.

- **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

Also please add the following Informative:

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

The following should also be attached as Conditions:

- **BIRDS:** No demolition of buildings, or removal of trees, scrub or hedges, shall be carried out on site between the 1st March and 31st August inclusive in any year, unless searched beforehand by a suitably qualified ornithologist.

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

- **LANDSCAPING:** No works of site clearance or demolition to begin until a detailed landscaping plan has been submitted to the LPA for approval in writing, which shall be implemented in full and permanently maintained unless otherwise agreed by the LPA. This is to include details of the species of local provenance to be planted/sown and a structurally diverse habitat plan (including dead wood habitats. The plan should incorporate the large pond which should be retained and protected with fencing during the construction phase to avoid damage. The landscaping plan should also consist of a list and map of species to go in the tree plantings, scrub areas and hedgerow and a sample programme of management.

Reason: to increase opportunities for wildlife in new developments, in compliance with guidance in paragraphs 5.32 to 5.36 of PPS9, and the NERC Biodiversity Duty, and in compliance with policies ENV1 (Green Infrastructure), ENV3 (Biodiversity and Earth Heritage), and ENV5 (Woodlands) of the East of England Plan (May 2008).

We recommend that hedgerow planting comprise a good variety, with plentiful berry-bearing native species, appropriate to the local area. Hedgerow management: should ideally promote dense hedgerow growth, with trees at intervals. Cutting should be undertaken in cycles, such as: half or one third annually -October to February to avoid bird-nesting season -, preferably in Jan/Feb to allow berries to be consumed before cutting.

Biodiversity can be incorporated into small-scale developments through wildlife-friendly landscaping, installation of sustainable drainage schemes, and features such as green walls, balconies and roofs. We recommend therefore that consideration be given to attaching the following Conditions to permission for this development proposal, for the following:

- **BAT BOXES:** Erect bat boxes (Schwegler 1FQ) or bricks (Schwegler N27 or 1FR) onto/into the new buildings. These maintenance free roosts need to be installed at least 3m off the ground and facing in a southerly direction, and shaded from any direct outdoor lighting source.

Reason: to increase roosting opportunities for bats in the area in compliance with guidance in paragraphs 5.32 to 5.36 of PPS9, and the NERC Biodiversity Duty.

- **BIRD BOXES (SWALLOWS):** Erect Schwegler swallow nest boxes (10) - which should be placed inside outbuildings (sheds, barns or stables) and ensure there is always access for the birds through an open window or sky-light. Swallows are sociable birds but multiple nests should not be placed at less than 1m intervals. . For further advice see http://www.nhbs.com/schwegler_swallow_nest_10_tefno_158625.html

Reason: to compensate for lost opportunities for nesting swallows in the old building, in compliance with guidance in paragraphs 5.32 to 5.36 of PPS9, and the NERC Biodiversity Duty.

- **WATER SAVING MEASURES:** Consider including grey-water recycling, external water butts etc in new building design (<http://www.environment-agency.gov.uk/subjects/waterres/286587/286599/286911/548861/862159/?version=1&lang=e> and <http://www.greenbuildingstore.co.uk/water-reedbeds.php>).

Reason: to aim towards sustainable water usage in new developments, in compliance with sustainability guidance in PPS1.

- **Code for Sustainable Homes:** Maximising energy efficiency and conservation through use of renewable energy sources, solar panels, wind turbines (where efficient), ground-source heat-pump, insulation creating buffer zones, weather-breaking planting, localised temperature controls, and use of condensing boilers.

Reason: to aim towards sustainable energy usage in new developments

Relevant legislation:

Please 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



Alison Hauser
Conservation Officer (Planning)

