



Sent: 03 July 2009 14:13
To: Planning
Subject: FAO: Mrs A WARD REF: 2009/1053/MA & 2009/1054/LB Former Roche Buildings, Welwyn Garden City

Attachments: 4189a land at Broadwater Road, Welwyn Garden City.doc

Dear Mrs Ward

NE advice attached.

<<4189a land at Broadwater Road, Welwyn Garden City.doc>>

Kind Regards

Andrew

Andrew Robinson

Planning and Biodiversity Adviser

Four Counties Government Team (Beds.Cambs.Herts & Essex)



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Welwyn Hatfield Borough Council
The Campus
Welwyn Garden City
Herts, AL8 6AE

For the attention of Mrs A Ward

Our reference: APR/EE4342/4189a/Welwyn Hatfield
Your reference: N6/2009/1053/MA & 2009/1054/LB

3 July 2009

Dear Madam

**Proposal: N6/2009/1053/MA & 2009/1054/LB
Erection of 207 dwellings and the retention and alteration of the
existing listed building for community uses.
Location: Former Roche Buildings, Broadwater Road, Welwyn
Garden City AL7 3AY**

Thank you for consulting Natural England on the above proposal. Your email was received by this office on 29 June 2009.

The information supplied relating to potential bat roosts and bat activity around the Roche Garden site indicates that there is no obvious reason to expect adverse impacts on bat populations from the development. Accordingly, **Natural England has no objection to the applications** on the grounds of adverse impacts to legally protected species, as we are not currently aware of any such populations which may be so affected.

We also recommend that the local planning authority considers all the points made in the attached annex. This provides guidance on survey requirements and information on how the authority should fulfil its **duty** on biodiversity issues under Section 40(1) of the *Natural Environment & Rural Communities Act 2006*, Regulation 3(4) of *The Conservation (Natural Habitats &c.) Regulations 1994* and Section 74 of the *Countryside & Rights of Way Act 2000* to ensure that the potential impact of development on species and habitats of principal importance is addressed.

Please note that if planning permission is granted, the applicants should be informed that this does not absolve them from complying with the relevant law protecting species, including obtaining and complying with the terms and conditions of any licences required, as described in Part IV B of Circular 06/2005.

If the application is amended with additional information, Natural England should be re-consulted for a further 21 days.

Please forward a copy of the decision notice to us at the above address.

WELWYN HATFIELD



B O R O U G H C O U N C I L
If you have any queries relating to the content of this letter, please contact me at the above address.

Yours sincerely



Andrew Robinson
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1. Local Planning Authorities and their biodiversity duty

We would urge the Council to note that local authorities have many and varied responsibilities and duties on biodiversity matters, including as owners of land designated as Sites of Special Scientific Interest (SSSI) (i.e. as section 28G bodies), and in respect of European protected species and habitats. Under section 40(1) of the *Natural Environment & Rural Communities Act 2006* a **duty** is placed on public authorities, including local planning authorities, to have regard to biodiversity in exercising their functions. Further, the potential impact of development on certain species and habitats of principal importance is addressed in detail under regulation 3(4) of *The Conservation (Natural Habitats &c.) Regulations 1994* and section 74 of the *Countryside & Rights of Way Act 2000*.

These duties and others are set out in detail in the legal *Circular 06/2005 to PPS9 'Biodiversity and Geological Conservation'* and we would urge the Council to bear this in mind in the execution of its nature conservation related functions.

2. Protected species

Paragraph 98 of *Circular 06/2005* accompanying *PPS9* states that “*the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat.*” Natural England therefore advises local planning authorities to direct developers to commission an ecological survey of the proposal site ‘prior’ to determination of an application so this material consideration is fully addressed in making a decision. The survey should be carried out by suitably experienced persons holding any relevant licenses and aim to identify the following information:

- **Description of the proposal** – details of the type, scale, location, timing and methodology of the proposed works, including relevant plans, diagrams and schedules;
- **Survey for protected species** – thorough and robust survey of the development site and any other areas likely to be affected by the proposals for protected species;
- **Impact assessment** – clear assessment of the likely impacts of the proposal upon protected species;
- **Mitigation strategy** – to clarify how the likely impact will be addressed in order to ensure no detriment to the maintenance of the population at a favourable conservation status of the protected species. This should be proportionate to perceived impacts and must include clear site-specific prescriptions rather than vague, general or indicative possibilities; and
- **Delivery mechanisms** – to include additional information as appropriate to the mitigation strategy that will be required to ensure that the proposed mitigation works are feasible and deliverable e.g. architects plans, licenses, planning agreements, contractors’ precautionary method statements.



It is the responsibility of the developer to provide this information to enable Natural England to make a substantive response and for the local planning authority to fully assess the proposal. *Circular 08/2005* states that the 21 day consultation period for statutory consultees will not start until receipt of adequate information to make a substantive response.

3. Designing biodiversity into site layouts

We would further recommend that opportunities for enhancement of nature conservation interests should be considered in the preparation of detailed site layouts or landscape schemes. The *Town and Country Planning Association's (TCPA) 'Biodiversity By Design' Guide 2004* produced in conjunction with Natural England provides further information on this issue and can be accessed via our website.