

Gallacher, Hayley

From: Plant, Faye
Sent: 02 March 2015 13:29
To: Planning (HPBC)
Subject: FW: Planning Application HPK/2014/0665 Samas roneo outline residential
Attachments: PlanCon167 outline application for demolition and res dev, land adj 68 Glossopp Road, Gamesley.doc

DWT comments

From: Teresa Hughes [mailto:THughes@derbyshirewt.co.uk]
Sent: 02 March 2015 13:23
To: Plant, Faye
Cc: Gillespie, Monica
Subject: RE: Planning Application HPK/2014/0665 Samas roneo outline residential

Faye

Further to our recent email correspondence (20.2.15 & 2.3.15), I apologise for the delay in my response. I have now had an opportunity to consider the application and provide the following comments under the terms of the SLA we have with the authority.

Derbyshire Wildlife Trust commented on a previous application on this site HPK/2011/0452 (20th October 2011). I have attached a copy of our response for your information.

I have considered the proposal and the submitted reports;

- Extended Phase 1 Habitat Survey & Bat Surveys (SLR December 2014)
- Design & Access Statement (BNP Paribas December 2011)

I have the following comments to make on the current application;

Bat Survey Habitats Regulations 2010

- The previous application (2011) was supported by an adequate bat survey, which recorded no evidence of bats.
- A repeat survey was undertaken in October 2014, which found evidence of bat activity in the north eastern corner of the structure. We advise that **this activity constitutes a bat roost** and as such the provisions of the Habitats Regulations should be considered in the determination of the application – please see details below.
- We would advise that sufficient and adequate surveys have been undertaken using reasonable effort to assess the structure for its suitability to support roosting bats and to make a roost characterisation from the evidence that has been observed/recorded;
 - External inspection of structure identifying suitable entrance points
 - Internal inspection identifying location of bat droppings
 - External emergence surveys – although over a short period of time
 - Internal remote sensing equipment for 14 day period targeted at roost site
 - Other internal methodologies to assess usage of roost over the 14 day period
- The bat survey concluded that since the last bat assessment (2011) part of the site has become utilised by brown long-eared bats as a feeding roost for a single/very small numbers of bats.
- DWT have no known additional information which would invalidate this conclusion, given the intensity of survey effort, techniques used and the structure of the building (ie limited free hanging points within the room where evidence found).
- The Report recommends a demolition protocol is utilised, which we would recommend is implemented via a **condition** attached to any permission and that in addition, it is supervised by an Ecological Clerk of Works following a precommencement survey prior to demolition to search for current signs of usage and assess for change. This condition should be applied as a separate item on any permission to ensure that the demolition –

should it proceed prior to the Reserved Matters application – is undertaken in an adequate and legally compliant manner.

- The Report indicates that suitable mitigation can be achieved by the creation of bat ‘loft spaces’ within the new buildings, potentially located within garages. We would strongly advise the Local Planning Authority to consider if this is acceptable in planning terms. If it is acceptable we would recommend that any Reserved Matters application is supported by details to show how this can be implemented. We would recommend that this is **conditioned** on any permission if granted.
- The Report states that a European Protected Species Licence (EPSL) would not be required to undertake the demolition of the building. We would recommend that this situation should be **verified** with Natural England prior to demolition should the proposal receive permission. However, as indicated below part of the obligation on the Local Planning Authority when determining a planning application where roosting bats are found to be present, is to make a judgement on the likelihood of an EPSL being issued. We would advise that in this case it is probable that such a licence would be issued as;
 - The survey has used reasonable effort and is adequate
 - Roost characterisation appears accurate and valid
 - The presence of a feeding roost of this size is considered a lower significant conservation issue which would be unlikely to affect the favourable conservation status of the species.
 - Suitable mitigation has been proposed and can be implemented within a Reserved Matters scheme and can be adequately conditioned.
- The Report assessed the trees on site for their suitability to support bat roosts. Two trees (T10 & T18 from drawing 1 TG2 and T3 respectively in the Arboricultural Report) have been identified with low potential to support roosting bats and a pre-felling survey is recommended. This should be implemented via a **condition** attached to any permission if granted.
- In addition to the details of the Report DWT would recommend that a suitable landscape & lighting scheme is implemented and **conditioned** on any permission, to ensure that ‘dark corridors’ for commuting and feeding bats along the railway corridor and other external vegetated boundaries – such as the hedgerows.

Extended Phase I Habitat Survey

- The report has updated the previous Phase I survey, although appears not to have corrected the misidentification of mare’s tail (*Hipuris vulgaris*), which could not occur in this location.
- However, DWT have no other known reasons to doubt the validity of the findings of this Report and put the error down to transpositional error by non-qualified personnel.
- The Report concludes that there is limited scope for other protected species and/or no evidence of current usage was observed; amphibians, reptiles, badger, otter and water vole to be present on the site.
- We would broadly concur with this assessment with a precautionary note that if protected species are found or suspected then work should cease and appropriate advice sought and implemented from a suitably qualified person. This is particularly relevant to reptiles and badgers as suitable habitat is located extremely close to the site’s boundary and the status of these species may change if the condition of the site alters over time. We would recommend that a pre-construction commencement survey is required of the railway embankment – which is less than 30m from the site’s boundary. This **condition** should be applied to the current proposal but implemented should a Reserved Matters application be approved.
- The Report found evidence of nesting birds in the built structure and we would recommend a **condition** is implemented to ensure that no demolition or vegetation clearance is undertaken during the bird breeding season (March – August inclusive) unless it can be demonstrated that no breeding birds are present.
- Derbyshire Wildlife Trust note that the indicative plan shows the retention of the existing hedgerows and this is welcomed. We would recommend that any Reserved Matters application shows these features and trees to be retained and suitably protected during construction. We would recommend that this is implemented via a **condition** attached to any permission.
- The Report identifies and maps a stand of Japanese knotweed (Environmental Protection Act 1990) near to the proposed access to the site. The Environment Agency indicates that all ground within 7m of the growing edge of the plant should be considered when earth moving and/or treating spoils. We would recommend a **condition** be applied to any permission to ensure that a suitable Construction Method Statement and Treatment programme is produced and implemented. We would strongly recommend that the Treatment program commences as soon as possible and prior to the submission of any Reserved Matters application.

- DWT note that a Tree Survey has been submitted, but aside from the comments related to bat roost potential, we do not have any further comments. We would advise that the Authority consults internally to receive adequate advice on the wider tree issues.

Habitats Regulations - 3 Tests for derogation

As the site supports a confirmed bat roost the Local Planning Authority has to demonstrate consideration of the 3 Habitat Regulation (2010) Tests in their determination of the application;

- Imperative Reasons of Over-riding Public Importance (IROPI), this can include Health & Safety reasons
- No satisfactory alternative solution
- Maintenance of the favourable conservation status of the species
- These tests should be considered in parallel as they are not sequential tests. The first two tests are essentially planning tests and the LPA may wish to refer to various policy documents in terms of housing supply, suitability of the site and other alternatives that may be available. In order to help the LPA understand the obligations of these tests it may wish to refer to the attached Natural England guidance at page 9 (Annex Examples), along with the guidance provided by the NPPF.
- With respect to the third test – favourable conservation status – DWT would advise that the site is not of primary importance to the local bat population as it does not appear to support for example a large maternity colony. However, the site contributes to the overall habitat resource for a number of species of bats (feeding & foraging) and in particular a feeding perch for brown long-eared bat.
- It is generally accepted that it is not possible to identify when the quantum of habitat has been reduced to such a level that impacts on the well being and/or survival of the local bat population will occur. However, the LPA must be confident that any future proposal can mitigate for identified feeding perch and habitat losses to maintain and/or recreate strong flight lines around the periphery of the site (as discussed above).
- It is noted that suitable mitigation has been proposed and we would advise the Authority to assess whether this is acceptable in planning terms should a Reserved Matters application be forthcoming.
- In addition to the three tests to derogate from the provisions of the legislation, the LPA must demonstrate that they have considered the likelihood that an European Protected Species Licence would be issued.
- There is some question raised in Report as to whether an EPSL licence might be required. However, DWT would advise that it is likely that a licence will be necessary and that in any event the LPA should proceed on this basis when determining the application.
- However, DWT would advise that should a licence be required it is probable that suitable conditions and mitigation can be incorporated into any planning approval, which would increase the likelihood that an EPS licence would be issued.
- Whether or not a licence is required bats are still also protected by domestic legislation (Wildlife & Countryside Act 1981) and we would recommend that a number of suitably worded **conditions** would still be required in order to ensure that any proposals are implemented to avoid infringement of the legislation and to prevent net loss of biodiversity. We have detailed these above.

In summary and conclusion Derbyshire Wildlife Trust recommend that;

- Sufficient and adequate surveys have been submitted in order that the current application can proceed to determination.
- A confirmed bat roost of a feeding roost of brown long-eared bats has been identified and characterised.
- A number of conditions have been recommended to deal with the bat matter which should be applied separately to the application to ensure that;
 - the demolition of the building is undertaken in an adequate and legally compliant manner
 - that suitable mitigation in the form of a bat 'loft' can be achieved and implemented within a Reserved Matters design. If it is acceptable in planning terms
 - that suitable mitigation is retained/created to allow continued foraging & commuting around the site by bats (lighting & landscaping) within a Reserved Matters application
- Sufficient and adequate surveys have been submitted to consider other biodiversity matters that might be present on the site. A number of conditions have been recommended to ensure that;
 - Clearance of the buildings and vegetation outside the bird breeding season
 - Pre-construction commencement survey of the railway embankment for badger setts
 - Retention and protection of hedgerows in design Reserved Matters application
 - Treatment and Construction Method Statement to initiate eradication of Japanese knotweed

I hope you find these comments helpful. If you have any queries, please do not hesitate to contact me.

Regards Teresa

Teresa Hughes
Wildlife Sites Officer
Derbyshire Wildlife Trust, East Mill, Bridge Foot, Belper, Derbyshire, DE56 1XH
Switchboard: 01773 881188
www.derbyshirewildlifetrust.org.uk



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From: Plant, Faye [<mailto:Faye.Plant@highpeak.gov.uk>]
Sent: 02 March 2015 10:37
To: Teresa Hughes
Subject: RE: 2014.0665 Samas roneo outline residential

that's fine teresa,

Thanks,

faye!

From: Teresa Hughes [<mailto:THughes@derbyshirewt.co.uk>]
Sent: 02 March 2015 10:30
To: Plant, Faye
Subject: RE: 2014.0665 Samas roneo outline residential

Faye it is on my list for today – if that is ok? Along with South head Drive.
I have one task to do relating to police investigation into newts and then I am on it.

Sorry for the delays

Teresa

Teresa Hughes
Wildlife Sites Officer
Derbyshire Wildlife Trust, East Mill, Bridge Foot, Belper, Derbyshire, DE56 1XH
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From: Plant, Faye [<mailto:Faye.Plant@highpeak.gov.uk>]

Sent: 02 March 2015 10:29

To: Teresa Hughes

Subject: 2014.0665 Samas roneo outline residential

Hi Teresa,

Did you manage to have a look at the site at Samas Roneo (HPK/2014/0665)?

Any comments would be appreciated,

Kind regards,

Faye Plant

Planning Officer

High Peak Borough Council

(tel: 01298 28400 ext 3656)

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