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For the attention of Rachael Simpkin

Your Ref: HPK/2020/0301

Our ref: DWTHPK569b

9th March 2022

Dear Rachael

Appeal by Treville Properties against the refusal of planning permission for 7 dwellings at Taxal Edge, Whaley Bridge. Application Ref No: HPK/2020/0301

Appeal ref APP/H1033/W/21/3272745

Re: Baker Consultants Hearing Statement and Statement of Common Ground

With reference to the above application, I am responding as the Biodiversity Planning Officer responsible for work relating to the Service Level Agreement, which the High Peak Borough Council and the Trust have signed. The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development.

Comments

I am responding with regard to the Hearing Statement on Ecology submitted by Baker Consultants on behalf of Treville Properties for the above appeal. The statement focuses on the issue raised by the Planning Inspectorate relating to the age of the bat survey information. The Inspectorate has stated in a letter directed to the appellant "*it is noted that the validity of the findings of a bat survey provided in evidence is about to expire. You may therefore wish to consider updating this*

survey or ensure arrangements for appropriate representation at the hearing are made to address that relevant matter."

Bats and the building on site

Baker Consultants have reviewed the Bat Survey Report prepared by NLG Ecology Ltd in 2020 and re-visited the site to assess the building for any significant changes. A full bat emergence re-survey of the building is not possible at this time of the year, so the assessment relies on a visual check of the external features of the building and surroundings.

With respect to the age of bat survey data I agree with the interpretation set out by Baker Consultants in their statement. The CIEEM guidance note on the lifespan of ecological reports and surveys (<https://cieem.net/wp-content/uploads/2019/04/Advice-Note.pdf>) advises that for surveys which are between 18 month and 3 years old a professional ecologist will need to undertake a site visit to assess whether there have been significant changes to the habitats present.

I am in agreement with Baker Consultants that it is unlikely that the roost characteristics will have changed significantly since 2020 and I agree with their conclusion that it is very likely that Natural England will issue a licence to allow the development to proceed. Natural England are likely to require an updated survey to inform the final details of the licence, but this can be completed as part of the licence application and does not need to be completed prior to determination in this case.

Trees and potential bat roosts

With regard to the roost suitability of trees within the site we note that a recommendation was made in the Extended Phase I survey (NLG Ecology, 2020) section 4.1.8 for further assessment of trees on site in relation to bats. I have now received confirmation from Baker Consultants that they have completed a further assessment of trees on site and subsequently emailed me a summary of their assessment as follows:

Group 22 comprised sub mature trees mainly beech which have no fissures of any features which could support bat roosts. T21 is a mature ash which has a few rot holes but they do not go far into the tree or are too small to be used by bats, less than a centimetre diameter. T14 is a mature sycamore but there are no features which could possibly support bats.

I am satisfied that this now addresses the need for a further assessment of trees on site and that further surveys are not required at this time.

Regulation 55 of the Conservation of Habitats and Species Regulations 2017

As the works will need to be undertaken under a Natural England licence to derogate from the offence of destruction of a bat roost, we advise the Council that in reaching a decision the Council should demonstrate how the three tests set out at Regulation 55 of the Conservation of Habitats and Species Regulations 2017 have been considered, and state the evidence for conclusions drawn on each test as to whether the test can be met. The three tests set out within Regulation 55 are as follows:

In reaching a decision, it is important that the local planning authority demonstrates how they have fully considered the three tests set out at Regulation 53 of the Conservation of Habitats and Species Regulations 2010 and state the evidence for conclusions drawn on each test as to whether the test can be met. The three tests set out within Regulation 53 are as follows:

- (i) The action will be undertaken for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment (Regulation 53(2)(e))*
- (ii) That there is no satisfactory alternative (Regulation 53(9)(a)); and*
- (iii) That the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range (Regulation 53(9)(b))*

While we are unable to advise on the first two “non-ecology” tests, we would advise that on the basis of the proposed mitigation measures recommended in section 4 of the Bat Survey Report prepared by NLG Ecology and the Hearing Statement prepared by Baker Consultants March 2022 it is likely that the favourable conservation status of the local bat population will be maintained and, as such, test (iii) will be met.

Recommended conditions

We advise that in relation to bats if the application is granted planning permission the following condition is attached:

Bat Licence and Mitigation

The demolition of the main building shall not take place until either a Bat Low Impact Class Licence or a European Protected Species licence has been obtained from Natural England. Upon receipt of a licence from Natural England, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the Bat Survey Report (NLG Ecology LTD, 2020). Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the licence will be submitted to the LPA once granted. Confirmation will also be submitted to the LPA once all mitigation is installed, along with a copy of the results of any monitoring works.

Other conditions

We also advise that the following conditions (as previously advised in our letter of 16th March 2021 DWTHPK569a) relating to ecology and biodiversity should also be attached:

Construction Environmental Method Statement (CEMP: Biodiversity)

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be based on recommendations in the Ecological Appraisal (NLG Ecology Ltd, 2020) and the Bat Survey Report (NLG Ecology Ltd, 2020) and include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Woodland Management Plan

The following condition is recommended with regard to woodland management.

“Prior to the completion of the development, a Woodland Management Plan shall be submitted to the LPA for approval, in accordance with details in paragraph 4.1.19 of the Ecological Appraisal (NLG Ecology Ltd, 2020). The plan shall include provisions for the future management and maintenance of features within the red and blue edges on approved drawing reference 10 P4”.

We advise the Council to agree a minimum length of time for the management of the woodland. Ideally, this would be in perpetuity, but 30-year periods are now widely used for many biodiversity enhancement schemes.

It is hoped that the information provided is helpful to the Council. If you require any further information or wish to discuss any of the comments made, please do not hesitate to contact me.

Yours sincerely,

Kieron Huston

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Endnote:

Please see our planning pages <https://www.derbyshirewildlifetrust.org.uk/planning> for ecological advice on submitting a planning application, finding an ecological consultant and information on mitigation and enhancement.