
From: Andy Marshall <andy.marshall@brackley-investments.co.uk>
Sent: 10 May 2022 14:59
To: Howard Smith
Cc: Victoria Turner; Matthew Parry
Subject: FW: Former Honeylands Children's Centre (APP Ref: 22/0313/FUL) - Response to Natural England/Ecologist Comments

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Dear Howard

As discussed at our site visit on 28th April, we've been monitoring the online planning register and consultation responses received in relation to our applications. We've noted the consultation responses from the Council Ecologist and Natural England and, having taken advice from our consultant ecologist (Ecologic), we'd wish to respond as follows and would be grateful if both you and your ecologist Nikki Taylor could advise as whether you are satisfied with these responses:

River Exe Estuary SPA

Natural England has suggested that the application site lies within 10km of the River Exe Estuary SPA designated European Site and that the proposed development has the potential to adversely affect its nature conservation interest which would require mitigation in order to comply with the Conservation of Habitats and Species Regulations 2017.

We have reviewed the South East Devon European Site Mitigation Strategy (SEDESMS) as published on the Council's website, which explains, in paragraph 2.12, that adverse impacts of new development in the vicinity of the River Exe Estuary SPA primarily relate to disturbance resulting from recreational activities and that cumulative impacts in this regard would be gradual without mitigation. The SEDESMS describes the activities giving rise to disturbance as predominantly consisting of walking/rambling, dog walking, cycling and jogging and establishes a link between new dwellings and an increase in recreational pressure on the SPA that would cumulatively affect its flora and fauna, concluding that each Council should establish a mechanism to secure the necessary mitigation.

The Council has adopted a CIL Charging Schedule and Class C2 Residential institutions are nil-rated for CIL purposes – therefore if any such financial contribution is required towards mitigation of impacts on the River Exe Estuary SPA, it would need to be secured via a planning obligation and as such meet the statutory tests set out in Reg. 122 of the CIL Regulations 2010 (as amended) as follows: *“be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development”*.

The SEDESMS found that recreational pressure created by new housing was the principal cause of likely significant adverse impacts and the Council therefore seeks a contribution per residential unit. However, for the following three reasons, the proposals would not adversely affect the designated European Sites and the Council's mitigation scheme does not apply to this scheme:

- 1) The proposals provide accommodation for the elderly who are confined to the site due to their physical and mental health conditions. As such, they would not be able make recreational trips to any of the European Sites let alone indulge in the walking, cycling and jogging activities that the SEDESMS found to be harmful. As a consequence there is no link, direct or indirect, between the proposed development and the ecological status of the European Sites.

- 2) Notwithstanding that, even if some potential indirect impact could occur, the Council applies rates per residential unit. The care home is a single residential unit and does not contain any dwellings. Each resident simply has an en-suite bedroom with the rest being communal facilities where residents live together and are cared for by staff. The formula for contributions as set by the Council does not therefore apply to this development.
- 3) Other similar developments have been found not to adversely affect European sites and therefore have not needed to have been subject to Appropriate Assessment or require mitigation. This includes the decision to grant planning permission for an 86 bed care home at Land North of Exeter Road, Topsham (Ref: 21/0882/FUL). In the interests of consistency, the same approach should be taken in this case given that circumstances in this respect have not changed.

For the above reasons, the proposed development would not give rise to any impact on the River Exe Estuary SPA and as such there is no need to secure mitigation and to seek to do so via planning obligation would not meet the statutory tests set out in Reg. 122 of the CIL Regulations 2010 (as amended).

Biodiversity Net Gain

The Ecological Appraisal submitted with the planning application sets out the measures incorporated within the scheme to safeguard and, where necessary, mitigate protected/priority species as well as improve the overall ecological habitat on the site - see Appendix 2 & 3 for illustrated plans showing the extent of habitat lost and created.

Adopted development plan policy does not explicitly require the submission of a biodiversity metric to demonstrate this therefore the approach set out in the Ecological Appraisal is normally sufficient at this stage and I would appreciate your acceptance of this.

Bat Roosts

The retained sweet chestnut tree has now been further surveyed for bats and analysis of results are awaited. If this is found to support bats, further mitigation will be proposed including an external lighting scheme or strategy to demonstrate that bats roosting in the tree would not be harmed. If no bat roosts are found, the potential for adverse impacts in this respect can be ruled out. In such circumstances, there is no reason why an external lighting scheme could not be left to condition.

With respect to the bat roosts that would be destroyed within the existing building as part of its demolition, our consultant ecologist has informed us that the compensatory small roosting provisions proposed as part of the scheme are specifically allowed by Natural England for individual or low numbers of brown long-eared bats. We hope that this can be looked at again by your ecologist.

Great Crested Newt

The submitted Ecological Appraisal discounted the likelihood of GCN being present on the site. Whilst there is a small pond within the grounds of Whipton Barton Infant and Nursery School, it is approximately 240m away from the application site and is separated by roads, car parks, houses, fencing and Vranck House School. As such, it is very unlikely for a viable population of great crested newts to be inhabiting the site. A survey is therefore not considered necessary given that the type and location of development is not likely to have a significant impact on GCN having regard to guidance set out in PPG ref ID: 8-018-2019-0721. I would be grateful if you could confirm that this is appropriate.

I would appreciate your thoughts on our above response so that we can hopefully ensure that ecology matters are satisfactorily addressed as part of the proposed development.

Many thanks

Andy

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