



Liz Hobden
Head of Development Control
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Date: 25 October 2019

please contact
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Environment Team
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our ref
BH2019/02690

your ref
BH2019/02690

For the attention of: Emily Stanbridge

Dear Ms Hobden

ERECTION OF 4NO DETACHED FOUR BEDROOM HOUSES (C3). IDENTICAL ALTERATIONS TO EXISTING 3NO TERRACED HOUSES PROVIDING EACH DWELLING WITH A SINGLE STOREY REAR EXTENSION, REAR ROOF DORMER AND REVISED FENESTRATION. ASSOCIATED LANDSCAPING AND 7NO PARKING SPACES.

120 - 124 VALE AVENUE, BRIGHTON BN1 8YF

ECOLOGICAL CONSULTATION

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| Recommend for approval in principle subject to the imposition of conditions | The information provided is satisfactory and enables the LPA to determine that whilst the proposed development is likely to have an impact on biodiversity, those impacts can be mitigated through the application of planning conditions which are outlined in this response. | YES |
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With reference to your email of 22 October 2019, I have now had the opportunity to consider the above application and offer the following comments on ecological issues.

This advice is provided to the Local Planning Authority by the County Ecologist in line with the Service Level Agreement and is not a statutory consultation response.

Policy Context

1. Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 states that:



“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.”

The Duty applies to all public authorities in England and Wales, including all local authorities. Conserving biodiversity includes restoring and enhancing species and populations and habitats, as well as protecting them.

2. The National Planning Policy Framework (NPPF, 2018) states that *“the planning system should contribute to and enhance the natural and local environment by... protecting and enhancing ... sites of biodiversity or geological value...”* and *“minimising impacts on and providing net gains for biodiversity ...”* (paragraph 170).
3. The NPPF sets out principles that local planning authorities should seek to apply when determining planning applications to protect and enhance biodiversity; these include refusing planning permission if significant harm to biodiversity from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for; refusing development that would result in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees), unless there are wholly exceptional reasons and a suitable compensation strategy exists; and encouraging opportunities to incorporate biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity (paragraph 175).

Potential impacts on biodiversity

4. Surveys were carried out broadly in accordance with best practice and are sufficient to inform appropriate mitigation, compensation and enhancement.
5. The South Downs National Park lies c. 277m to the north and west of the site at its nearest point. Given the nature, scale and location of the proposed development, there are unlikely to be any impacts on the wildlife interests of the National Park or any sites designated for their nature conservation interests.
6. The site comprises areas of garden which have recently been cleared and therefore support disturbed ground, bare soil, small patches of ruderals and piles of rubbish. There are also buildings, ornamental shrubs and scattered trees. The habitats themselves are of relatively low ecological value although they do have the potential to support protected species. Trees along the rear boundary should be retained if possible and protected.

Bats

7. All species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2010, making them European Protected Species. The terraced dwellings on site were assessed as having moderate bat roost potential although surveys found no evidence of roosting bats. Bats were recorded commuting through the site. Any external lighting should therefore take account of best practice guidance to minimise impacts on bats.

Breeding Birds

8. The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any demolition of buildings or removal of scrub/trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation.

Reptiles

9. Slow worms, grass snakes, common lizards and adders are protected against intentional killing or injuring under Schedule 5 of the Wildlife and Countryside Act 1981, as amended. No reptile surveys were carried out but suitable habitat is present on site and three juvenile slow worms were recorded on site during the site assessment. Given that there is relatively little suitable habitat on site, and that the animals present are likely to have colonised from the adjacent

allotments, I concur with the assessment that the site is likely to support a low population. The proposed mitigation strategy is broadly suitable, subject to confirmation that the allotments can be used as a receptor site with enhancements provided.

Other species

10. The adjacent allotments are suitable for hedgehogs. The hedgehog is listed as a Species of Principal Importance under Section 41 of the NERC Act, populations having suffered significant declines in recent years. Any boundary fences should therefore include gaps to allow connectivity for hedgehogs.
11. The site is unlikely to support any other protected species. If protected species are encountered during development, work should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.

Mitigation Measures/Enhancement Opportunities

12. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF. The recommendations made in the Ecological Assessment are appropriate and should be implemented, specifically the provision of two bat boxes, two sparrow terraces and two swift boxes, the retention of trees along the rear boundary, the provision of gaps in fences, planting 50m of native hedgerow and planting at least six trees. Although it is noted from the planning statement that the applicant is happy to implement those recommendations, the sustainability checklist only notes the provision of two bat boxes, two bird boxes and six trees. As such, it is recommended that an Ecological Design Strategy is required by condition to provide clarity of the mitigation, compensation and enhancement measures that will be provided.
13. In light of the above, and in line with BS42020:2013, if the Council is minded to approve the application, the following conditions and informatives should be applied.

Compliance with existing detailed biodiversity method statement

All ecological measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment document, Peach Ecology and Environmental Services dated 30/08/19 as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified.

Ecological Design Strategy

No development shall take place until an ecological design strategy (EDS) addressing compensation for the loss of invertebrate habitat and potential bat roost features, and enhancement of the site for biodiversity has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) purpose and conservation objectives for the proposed works;*
- b) review of site potential and constraints;*
- c) detailed design(s) and/or working method(s) to achieve stated objectives;*
- d) extent and location /area of proposed works on appropriate scale maps and plans;*
- e) type and source of materials to be used where appropriate, e.g. native species of local provenance;*
- f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;*
- g) persons responsible for implementing the works;*
- h) details of initial aftercare and long-term maintenance;*
- i) details for monitoring and remedial measures;*
- j) details for disposal of any wastes arising from works.*

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this.

Informative – breeding birds

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Summary

In summary, provided the recommended mitigation measures are implemented, the proposed development can be supported from an ecological perspective. The provision of bird and bat boxes, wildlife friendly fencing and the use of species of known value to wildlife in the landscape scheme will provide a net gain for biodiversity.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K Cole', with a long horizontal flourish extending to the right.

Dr Kate Cole MCIEEM
County Ecologist, East Sussex County Council