

South Gloucestershire Council

PO Box 2081, South Gloucestershire BS35 9BP

Memorandum to: Cat Loveday

From: Dave Willis

cc:

Date: 1st April 2020

Your Reference: PT18/6450/O

Our Reference:

Telephone: 01454 863467

Facsimile: 01454 865173

PT18/6450/O – WEST OF PARK FARM, BUTT LANE, THORNBURY

Description of Proposal

The application is for Outline planning permission for:-

- erection of up to 595 dwellings (Class C3); land for a primary school (Class D1);
- up to 700sqm for Retail (Classes A1, A2, A3) and Community Hub (Class D1),
- a network of open spaces including parkland, footpaths, allotments, landscaping and areas for informal recreation;
- new roads, a sustainable travel link (including bus link), parking areas, accesses and paths; and
- installation of services and drainage infrastructure.

All other matters reserved.

Description of Site

The site consists of a series of intensive agricultural land (grazed pasture) and associated hedgerows to the immediate west of the existing Park Farm development on the north-west settlement boundary to the town of Thornbury.

The site itself is not covered by any statutory or non-statutory nature conservation designations. However, Park Mill Covert lies to the immediate west of the application site and is designated as a Site of Nature Conservation Interest (SNCI) for its ancient semi-natural woodland.

Ecological Issues

- Semi-natural habitat
- Great crested newt
- Reptiles
- Birds
- Bats
- Otter
- Badger
- Hedgehog
- Design

Local Plan Policy Context

- Section 15, Para 170-183, National Planning Policy Framework
- Para 116, ODPM Circular 06/05
- Policy PSP19 – emerging Policies, Sites & Places Development Plan Document (PSP DPD)

Analysis

Previous ecological comments dated 12th February 2019 refer.

Further new and revised information has been provided in support of the application, including in regard to ecology:-

- A Planning Statement Addendum;
- Green Infrastructure Parameter Plan (Rev L);
- Illustrative Landscape Masterplan (Rev E);
- Illustrative Masterplan (Rev L);
- Design and Access Statement;
- Revised Environment Statement Chapter 12 (Ecology)

Section 2 of the Planning Statement Addendum dated January 2020 summarises the revisions to the application. In terms of ecology, these relate to enhancement of the green infrastructure, enabling a greater proportion of hedgerows to be retained; and an updated great crested newt (GCN) survey from summer 2019 which recorded a small population associated with a pond in the western side of the site.

Fauna

Great Crest Newts

As previously noted, two ponds were recorded within the site itself, with a further 13 within 250m outside the redline area.

A small breeding population (eggs observed) was recorded in pond P8 some 110m east of the application site (Figure 12.3, GCN Plan). As noted within the Planning Statement Addendum and revised Chapter 12 of the ES, a small population of great crested newts was recorded in pond P15 to the west of the application site near Park Mill Covert during a re-survey of all ponds in 2019. Paragraph 12.4.28 of the revised ES Chapter 12 concludes that a small, meta-population of GCN was present across the wider area.

The only ponds within the application site were P1 and P2. Both scored as 'poor' or 'below average' in a Habitat Suitability Index (HSI) assessment and both were dry during all surveys, although here the revised Chapter 12 is seemingly contradictory in that paragraph 12.4.29 notes the presence of common frog and palmate newts in P1 and P2 so it is assumed that the two water bodies do hold water for some of the breeding months.

Great crested newts are protected under the Wildlife & Countryside Act 1981 (as amended), the CROW Act 2000 and the Habitats Regulations 2017, which implements European Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild (Fauna and Flora ('The Habitats Directive 1992')).

As a European Protected Species (EPS), a licence under Regulations 53/56 of the Habitat Regulations is required for development to be lawful.

Past judicial reviews have directed that, to fully engage with the Habitat Regulations, local authorities should subject planning applications to the same 'tests' under Regulations 53/56 as European Protected Species licences. Satisfying these 'tests' necessitates providing the detail of a mitigation strategy prior to determining the application.

With the small population of great crested newts recorded in pond P15 located west of Park Mill Covert, Chapter 12 of the ES has been revised to reflect the necessity for an EPS GCN Mitigation Licence. Paragraphs 12.7.9 to 12.7.11 have been added to the ES to reflect the fact that development will result in a fragmentation of the meta-population's habitat whilst indicating that sufficient compensation of (aquatic and terrestrial) GCN habitat and connectivity will be provided within the Green Infrastructure (GI) to satisfy both of Natural England's 'new' EPS Licensing Policies (1 and 2). Whilst the level of detail to determine 'Favourable Conservation Status' within planning applications does not have to be as per EPS Licensing applications, there nonetheless needs to be sufficient to satisfy the Second and Third 'Tests' under Regulations 55/56. Paragraph 12.6.1 states that three ponds will provided in compensation to be *'designed to hold water in least one year in three, will be located in areas accessible to the GCN populations recorded in baseline surveys'*; and that accordingly *'there would also be an increase in the density and distribution of ponds within the wider landscape, benefiting the wider population'*. However, it is clear from both the original and revised Illustrative Masterplan, as well as the GI Plan, that the connectivity of semi-natural habitat (GI) between ponds P15 and P8 is circuitous and slender, reliant on a narrow strip/corridor of hedges and grass margins/landscape planting running east-west, then north-south along the eastern site boundary where it interfaces with the existing Park Farm development. It is still unclear from the revised details provided whether it is intended to provide ponds and hibernacula/daytime shelter to provide 'stepping stones' between P8 and the new GI between and surrounding the broadleaved woodland to the south. The SUDS attenuation servicing

the current Park Farm development was moreover not designed as GCN habitat so it is questionable whether this would or could be regarded as providing suitable GCN aquatic habitat unless modified. .

If isolation of pond P8 is accepted under Policy 1, then a greater level of detail by way of the compensation is needed within the application, allowing for the fact that it will still be unclear whether this would ultimately be acceptable to Natural England as the EPS Licensing for the scheme does not seem to have been subject to Natural England's Discretionary Advice Service (DAS). Whilst the fine detail is not necessary, the application needs to provide a general indication of the semi-natural habitat being provided, to include (but not limited to):-

- The mosaic and type of semi-natural habitat being provided within the public open space (POS) to the south and west adjacent to Park Mill Covert (species-rich, tussocky grassland, mixed native scrub, strategically located hibernation features/diurnal shelter);
- Number of ponds and general location within that same POS (for example, pond P1 will be left isolated amid the Illustrative Masterplan along with P8 so three new ponds would seem insufficient as compensation);
- Restoration or management of ponds P12, P13 and P14 (which gave a negative result or were dry at the time of survey).

Given the above issues, there needs to be greater level of detail provided in the application (GCN Addendum) by way of the overall strategic approach to compensating for a loss of intermediate terrestrial habitat and connectivity available to the meta-population to demonstrate how it will maintain the species' Favourable Conservation Status (FCS) under the Habitat Regulations 2017.

The Council is aware of complications with regard to recent EPS licensing applications for GCN within some developments. Accordingly, consideration could be given to utilising District Level Licensing for the scheme, which has recently been launched in South Gloucestershire.

Reptiles

A reptile survey recorded a 'low' population of slowworm (maximum count 2) adjacent to a field margin in the centre of the application site.

Slowworm are protected under the Wildlife & Countryside Act 1981 (as amended) and CROW Act 2000 against reckless or intentional killing or injuring. In addition, grass snake, slowworm and common toad are listed as 'Species of Principal Importance for Biological Diversity' under Section 41 of the NERC Act 2006. Slowworm is furthermore included on the South Gloucestershire BAP as a species which the Council will require developers to take particular steps to conserve and safeguard.

Paragraphs 12.7.12 to 12.7.14 of the revised Chapter 12 provide details of the anticipated approach to the reptile mitigation, anticipating that the preferred option would be habitat manipulation – i.e. rendering the habitat sub-optimal – to encourage the slowworm population into an adjoining section of the hedgerow/grass heads which in turn connects to the proposed allotments, which would offer plentiful habitat for the species.

12.7.13, however, notes that if this is not practicable for reasons of construction phasing or needs, it would be replaced by a translocation exercise, with details of the methodology and receptor site provided as part of the relevant Reserved Matters application. It also suggests that this detail could form part of a CEMP for that particular phase of the development. However, a CEMP is generally produced as a requirement of Outline planning permissions as they relate to development in its entirety. A CEMP for each Phase would be onerous and unnecessarily repetitive and accordingly it is considered that a specific reptile mitigation strategy should be produced for the relevant Reserved Matters under an appropriately worded planning Condition.

Birds

Previous ecological comments dated 12th February 2019 noted that a total of 35 species of birds had been recorded on site of which 25 were considered to be confirmed as breeding or probably or possibly breeding.

As the hedgerows are mostly intensively managed it would seem as if the broadleaved woodland on and off the site constitutes the most important foraging and nesting habitat within the survey area. Comments noted that the management of all existing – hedgerows – and new – hedges, scrub, species-rich grassland and the SUDS attenuation basins (reed beds) – should be addressed within the LEMP for the scheme drawn up under an appropriate planning Condition.

A scheme of house sparrow terraces on the residential dwellings adjacent to areas of public open space could provide new nesting opportunities for the birds. Higher buildings (such as offices) can also incorporate swift nesting niches and indeed Paragraph 12.7.14 proposes a scheme of bird nest boxes for a variety of species including owl boxes within the broadleaved woodland.

This should either form the basis of its own planning Condition or be delivered through the LEMP for the scheme.

Bats

Five trees likely to be removed under the scheme were subject to dusk emergence and dawn re-entry surveys. No bats were recorded.

Eight species were recorded during the bat activity transect surveys - common and soprano pipistrelle; noctule; *Myotis* sp; *Nyctalus* sp; *Eptesicus* or *Nyctalus* sp; barbastelle; and long-eared - and eleven species by the static detectors with very low levels of activity by barbestelle, greater horseshoe and lesser horseshoe bats at various points across the site.

Chapter 12 recognises the need for precautionary follow-up tree roost surveys on trees to be removed, even though they have previously been surveyed and found not be used by bats. It also proposes the installation of (*'a minimum of 100'*) bat roosting niches and nest boxes within the new residential units and it is considered that such a scheme should focus particularly on those RM applications where housing abuts the new green space in the central and western parts of the scheme.

A lighting plan will be required for each phase of development.

Lighting should be excluded from the new semi-natural habitat (Green Infrastructure) in the south and west of the site and where it abuts Park Mill Covert SNCI to maintain a rural 'feel' and to prevent light spill deterring use by nocturnal wildlife. Any scheme of new bat boxes/roosting features will moreover need to be coordinated with the street lighting for these areas to ensure that light spill does not deter bats from using the new roosting niches .

It is considered that a plan/drawing showing the location of the new bat boxes/roosting features in relation to the external street lighting should be produced to form an overall strategic lighting masterplan with which the lighting plan for each phase of development would comply.

The lighting strategy (and the lighting plans for the individual phases) should also comply with the design characteristics detailed in Paragraph 12.741 of Chapter 12 as well the BCT/ILP Guidance Note 08/18: 'Bats and Artificial Lighting in the UK'.

This should form the basis of an appropriately worded planning Condition.

Badgers

Two well-used main setts have been recorded within the application.

One (S1) is located on the margins of the ancient woodland adjacent to the western site boundary and consists of 10 holes with high badger activity.

A second (S2) is located on the north-eastern site boundary close to Butt Lane with six active entrances. Both 'main' setts exhibited other field signs such as bedding material, paw prints and hair.

There are a number of used and disused outliers located close to S1 and S2 and in hedgerows across the application site in-between the two main setts with numerous field signs.

Previous comments have noted that, whereas main sett S1 on the edge of Park Mill Covert SNCI) can easily be protected and incorporated within the scheme, development will be extremely close to S2, with the revised Chapter 12 suggesting that the new, amended layout encroaching even closer. In response to concerns expressed in these earlier comments, the ES proposes to close the sett with a new artificial sett being constructed in a discreet location within the public open space to the immediate north-east of S2. A LAP in that location appears to have been re-located which is welcomed. There is however what appears to be a footpath crossing this space and so the sett should be securely fenced off to protect it from interference and protected by a screen of landscape planting, consisting of mixed native thorny species of shrub, such as blackthorn and bramble, the latter of which would offer a food source during the autumn.

The close proximity of development to the social group associated with S2 runs the risk of fatalities through road traffic incidents. Speed-dampening measures, such as a combination of speed limits and structures such as speed bumps should be provided within the scheme to avoid mortalities where animals cross roads at night. These measures are particularly important within:-

- The RM Phases of development east and west of the main access off Butt Lane;

- The access road itself where it crosses the strip of GI open space immediately south of these phases; and
- The RM Phase to the west of the existing Park Farm development.

Speed limitation within these phases are considered especially important as they would all seem to be located between S2 and potential foraging areas to the south and west and would thus appear to be areas of the development where badgers are most likely to cross roads.

A full badger mitigation strategy including the above measures should form the basis of an appropriately worded planning Condition which should also require that each Phase of development be re-surveyed immediately ahead of development to ensure no further setts have excavated.

Hedgehog

No evidence of hedgehog was noted during the field surveys.

Hedgehog is a Priority Species nationally and as well as a species included on the South Gloucestershire BAP. As development could conceivably lead to the killing or injuring of animals, it is considered that a mitigation strategy for the species should be drawn up and agreed with the Council to involve a destructive search of any suitable habitat immediately ahead of clearance.

This should form the basis of an appropriately worded planning Condition.

The revised Chapter 12 also proposes to provide 13cm x 13cm hedgehog 'passes' in the garden fence panels to enable mammals to permeate the gardens of the new properties. Whilst could form part of the mitigation strategy, it could also form part of the LEMP.

Design & Access Statement (DAS)

Previous comments on the DAS refer.

Conclusions

Further information (as detailed above) is needed in regard to the great crested newt meta-population in order to demonstrate that the application meets the third 'Favourable Conservation Status' (FCS) 'test' under Regulation 55/56 of the Habitat Regulations 2017.

This information needs to be provided prior to determining the application in accordance with past judicial review.

Subject to that being satisfactorily addressed, Conditions should be attached in relation to GCN, reptiles, bird nest boxes, bat roosting features and a lighting plan, badger, hedgehog, a CEMP and a LEMP.

Recommendations

That the above information is provided prior the determining the application.

Dave Willis
Ecologist, Major Sites Team
South Gloucestershire Council