

Consultee Comments for Planning Application APP/24/00987

Application Summary

Application Number: APP/24/00987

Address: Oklahoma, 4 Long Copse Lane, Emsworth, PO10 7UL

Proposal: Demolition of existing dwelling and the construction of 5 new dwellings with associated external works and landscaping.

Case Officer: Arleta Miszewska

Consultee Details

Name: Consultee Principal Ecologist

Address: Public Service Plaza, Civic Centre Road, Havant PO9 2AX

Email: Not Available

On Behalf Of: Ecologist

Comments

Dear Arleta,

APP/24/00987 | Demolition of existing dwelling and the construction of 5 new dwellings with associated external works and landscaping. | Oklahoma, 4 Long Copse Lane, Emsworth, PO10 7UL

Thank you for consulting me on this application.

The application is accompanied by an Ecological Impact Assessment (South Downs Ecology, November 2024) as well as a Biodiversity Net Gain Assessment (South Downs Ecology, November 2024) and a completed Biodiversity Net Gain Statutory Metric (South Downs Ecology, November 2024). The application site comprises a detached dwelling incorporating garage spaces. The grounds contain areas of typical garden lawn with areas of planted flowerbeds, trees and shrubs. I am content that the site is of limited ecological value overall. The suitability for a range of protected and notable species has been assessed and I am content with the conclusions made. The site is not likely to be of particular value for most species and there is no evidence to suggest that e.g. Great Crested Newt occurs or will be affected.

Detailed bat surveys at the site have revealed small roosts of Soprano Pipistrelle and Brown Long-eared Bats within the dwelling. It is considered that these consist of small, non-breeding roosts. This development will nevertheless affect bats, which receive strict legal protection under UK law by the Wildlife and Countryside Act 1981 (as amended) and by the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitats Regulations). Where development affects a European protected species (EPS), permission can be granted unless the development is likely to result in a breach of the Habitats Regulations and is unlikely to be granted

a licence from Natural England to allow the development to proceed under a derogation from the law.

Will the development result in a breach of the EU Directive? Yes, the proposed roof replacement works would result in the disturbance of bat roosts.

Is the development unlikely to be licensed?

An EPS licence can only be granted if the development proposal is able to meet three tests:

1) the consented operation must be for 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))

2) there must be no satisfactory alternative (Regulation 53(9)(a)); and

3) the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range (Regulation 53(9)(b)).

It is for you as the case officer to assess the proposals against the first two tests you may wish to ask for further information from the applicant but if the proposed development is acceptable in planning terms then it is assumed that these tests are met. In order to assess the development against the third test, sufficient details must be available to show how killing / injury of bats will be avoided and how the loss or damage to bat roosts will be compensated. A mitigation strategy has been provided, detailing specific measures to avoid harm to bats during the construction works and to provide compensatory roosts and enhancement features within the development. I would support these measures and, on the basis of the information currently available, and if you are satisfied that the first two tests can be met, I am confident that the development is not unlikely to be licensed. I would recommend that LPAs engagement with the Habitats Regulations is detailed in your report. The proposed works will require a European Protected Species mitigation licence from Natural England. It is the responsibility of the applicant and their appointed agents to ensure that this licence is obtained and its conditions implemented.

Provided that the agreed mitigation proposals are implemented, I would have no concerns over these proposals in respect to bats. If you were minded to grant permission, I would suggest that the measures are secured through condition.

Development shall proceed in strict accordance with the ecological avoidance, mitigation, compensation and enhancement measures as detailed in the Ecological Impact Assessment (South Downs Ecology, November 2024) unless otherwise agreed in writing by the Local Planning Authority. Reason: to provide ecological protection in accordance with the Environment Act 2021, Conservation Regulations 2017, Wildlife & Countryside Act 1981, NPPF, NERC Act 2006 and

In terms of Biodiversity Net Gain (BNG), the proposed development will result in a net loss of 8.58% in habitat units alongside a gain of 49.77% in hedgerow units. There is clearly a deficit of habitat units arising from the proposed development. The applicant cannot obtain the required habitat units within the application site and must therefore pursue off-site measures, either through a habitat bank or an alternative off-site location over which the applicant has control. No details of any off-site option are provided, although information is provided on the type of potential gain that could be sought to meet the deficit. All off-site BNG measures must be secured through a legal agreement. BNG measures must be secured for a minimum of 30 years. Details of how the proposed BMNG measures are to be managed, maintained and secured for the required 30 year period can be provided within a completed Biodiversity Gain Plan this is a mandatory part of BNG, to be provided post-permission.

If you are minded to grant permission, can I suggest that BNG measures are secured by condition. The deemed condition states that a Biodiversity Gain Plan be submitted to and approved by the local planning authority prior to the commencement of development.

Suggested wording is as follows:

A Biodiversity Gain Plan shall be submitted to, and approved in writing by the Local Planning Authority. The Plan shall be prepared in accordance with the Biodiversity Net Gain Assessment (South Downs Ecology, November 2024) and Biodiversity Net Gain Statutory Metric (South Downs Ecology, November 2024) and must include:

- i. information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the on-site habitat and any other habitat;
- ii. the pre-development biodiversity value of the on-site habitat;
- iii. the post-development biodiversity value of the on-site habitat;
- iv. any registered off-site biodiversity gain allocated to the development and the value of that gain in relation to the development;
- v. any biodiversity credits purchased for the development; and
- vi. any such other matters as the Secretary of State may by regulations specify.

The development shall not commence until a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved Biodiversity Gain Plan, has been submitted to, and approved in writing by, the local planning authority. The HMMP shall include:

- vii. a non-technical summary;
- viii. the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- ix. the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;

- x. the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- xi. the monitoring methodology and frequency in respect of the created or enhanced habitat.

Notice in writing shall be given to the Council when the:

- xii. HMMP has been implemented; and
- xiii. habitat creation and enhancement works as set out in the HMMP have been completed.

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.

If you have any queries, please don't hesitate to contact me.

Kind regards,

Tristan

Tristan Norton

Principal Ecologist | E: tristan.norton@havant.gov.uk

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