

APP/20/00441 | Outline planning application with all matters reserved except access for the development of up to 120 dwellings and associated improved site access, landscaping, footpaths, SuDS and other associated works on land to the west of Hulbert Road, Havant. | Land west of, Hulbert Road, Havant 20.1474

Thank you for consulting me on this application. Please accept my apologies for the delay in responding to you.

The application is accompanied by a Dormouse Survey (WYG, January 2020) and a Bat Activity Survey report (WYG, December 2019). Dormouse surveys carried out in 2020 recorded six dormouse nests and several live dormice within nest tubes placed at the site's boundaries. It is therefore confirmed that hazel dormice are present at the site and is breeding. This development will affect hazel dormice, which receive strict legal protection under UK law by the Wildlife and Countryside Act 1981 (as amended) and under EU law by the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitats Regulations). Where developments affect EPS, permission can be granted unless the development is likely to result in a breach of the EU Directive underpinning the Habitats Regulations and is unlikely to be granted an EPS 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, unmitigated, the development has potential to result in harm to individual hazel dormice and result in impacts to the favourable conservation status of dormice locally.

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 and you may wish to ask for further information from the applicant. In order to assess the development against the third test, there must be sufficient confidence that the investigations to date have enabled a robust assessment of dormouse presence upon which to base informed mitigation proposals. I am content that sufficient survey effort has been expended and that the status of dormouse at the site is understood.

The dormouse report does not quantify the extent of habitat to be affected, directly or indirectly. The assessment of impacts should place impacts in context, detailing how much habitat is being affected and the extent to which this will affect hazel dormice. Impacts can occur from construction due to habitat loss (direct or functional), noise, visual disturbance and lighting. Once operational, dormice may be susceptible to ongoing disturbance and predation. I would like to see further discussion of these issues within the report.

Mitigation, compensation and enhancement measures include outline recommendations rather than firm proposals. Some measures include off-site works. I consider that further detail is required on dormouse mitigation, compensation and enhancement measures. These should be clear, specific measures that can be secured through planning, covering habitat loss (direct and functional), lighting, construction impacts and operational impacts. On this basis I do not consider that there is yet sufficient information to conclude that the third habitats Regulations test is met.

The Bat Activity Survey report details the results of manual transects, automated monitoring and a series of trapping sessions (note: the dates of these surveys are given as both 2018 and 2019). These surveys covered the period August-October 2019 and April-May 2020. No bat surveys were conducted in June or July in either year: no definitive explanation is provided for this gap within the peak summer survey season. A total of eight bat species were recorded on site: Brown long-eared, Common pipistrelle, Soprano pipistrelle, Western barbastelle, Noctule, serotine and a Mouse-eared species considered to be either whiskered or Brandt's. This is a reasonable bat assemblage and places the site at regional value.

As with the dormouse report, there is little information on the potential impacts of the proposed development. The impacts section does not include details of the actual proposals but is rather a series of recommendations. I would welcome further exploration of the potential impacts to bats based on the submitted development details. Development should seek to avoid impacts to bats wherever possible and only then include measures to mitigate or compensate those impacts. Discussion of the site-specific impacts is required and then mitigation, compensation and enhancement measures tailored to address those specific impacts.

NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, require that planning decisions are based on full, up-to-date ecological information and it is essential that all necessary survey, assessment and mitigation information is available to the LPA prior to determination, particularly in the case of protected species, which are a material planning consideration. This will enable the LPA to determine the application on the basis of full knowledge about the ecological impacts of the proposal and to ensure that any impacts can and will be mitigated, and are acceptable.

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

Kind regards,

Tristan

Tristan Norton

**Senior Ecologist
Ecology Team**