

Michael Briginshaw

From: R Clarke Planning Ltd <rclarkeltd@aol.com>
Sent: 21 January 2022 10:50
To: Michael Briginshaw
Subject: Re: Woodlands, 5, The Cottage, The Drive Ickenham - App Ref: 56190/APP/2021/2737
Attachments: BERS Woodlands UB10 8AQ.pdf; Natural England _ DAS Request- Woodlands.pdf

Dear Michael,

I hope you're keeping well and the start of the new year has gone smoothly. I'm writing to you regarding the above application and specifically the issue of bats.

I have written to Natural England seeking advice under their discretionary advice service (DAS) however as you will see from the attached emails, this is something they are not able to offer. I have set out below the key text from their email:

Dear Mr Clarke,

Thank you for submitting your DAS request form which was received by the Natural England Wildlife Licensing Service (NEWLS) on (9/11/2021).

Unfortunately, NEWLS is unable to fulfil your request. However, we do not wish to leave yourself and the developer unable to obtain planning consent. Under normal circumstances, it is possible to resolve planning permission separately to obtaining a licence, as planning authorities can issue planning consent with a condition to obtain a protected species licence.

This enables the consenting authority to meet their legal duties (i.e. the biodiversity requirement of the Town and Country Planning Act, and the National Planning Policy Framework) without a potential conflict arising between licensing requirements and planning consent.

In your conversations with the planning authority, were you informed of a reason why this process could not be followed in this instance?

Kind regards,
Casework Managers
Natural England Wildlife Licensing Service

Following their response I've emailed Natural England, however I've not been able to gain a reply.

I have spoken to my clients ecologist Nicole Gullan from Arbtech, who advises me that Woodlands has a very low level of bat activity (see attached report). The emergence surveys determine that the property provides a day roost for three common pipistrelle bats. Given the low level of activity the works can be completed under a Natural England Bat Mitigation Class Licence (Low Impact). This is distinct from the court cases which you referenced in your earlier emails, where the impact on bats was far more significant and required a full licence.

My understanding is that the key test the local authority have to apply is whether there is any reasonable likelihood of Natural England not issuing a licence. The advice from my clients

ecologist is that given the low impact a license will be issued by Natural England. Furthermore the email from Natural England (copy attached) recommends as a way forward that condition can be attached in order to require a licence to be obtained from Natural England before commencing any works on site.

My experience on dealing with replacement dwelling proposals, is that I regularly gain planning permission for the demolition of a dwelling and the planning permission is subject to a condition requiring a licence from Natural England. My understanding is that Natural England grant such licences on the basis of the economic benefits associated with replacing a dwelling. I think the truth is that Natural England do not examine the economic benefits in any particular detail for each application, they accept as a matter of principle that it is possible to replace a dwelling with bats. Natural England's focus is directly on the impact the development will have on the bats.

My understanding is that the key test the local authority have to apply is whether there is any reasonable likelihood of Natural England not issuing a licence. The advice from my clients Ecologist and the advice from the Natural England casework manager as well as my own experience is that there is a strong likelihood that a licence will be issued.

The problem we are faced with is that we cannot obtain a licence unless we have planning permission. Unfortunately Natural England will not provide written advice regarding issuing a licence until planning permission has been granted. Given this catch 22 situation I think all I can do at this stage is reference the bat emergence survey (copy attached) which determines a very low level of bats. I can point out that my client Ecologist is of the firm view a licence will be issued and Natural England's view is that the normal procedure would be for the council to apply a planning condition requiring a licence to be obtained.

In light of the above I would ask whether you can determine the application at Woodlands on the basis of including a planning condition requiring the submission of a Natural England bat licence to the Council prior to any works commencing.

I hope the above offers a way forward. My client is keen to start work building their new home. You will appreciate building a new home brings forward very positive benefits in terms of generating economic activity and providing local jobs.

I'm happy to agree a further extension of time to allow the determination of the application if you let me know a suitable date.

Wishing you well.

Rob

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