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Our ref: 9432 / SMM/ AVU

Sue Hooton CEnv MCIEEM BSc (Hons)
Principal Ecological Consultant
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BY EMAIL

8th October 2024

Dear Sue

Land Off Scamps Hill Road Lindfield, West Sussex: Request for Clarification on Ecology Regarding Planning Application Ref: DM/24/0446 for the erection of up to 90 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access.

I refer to your response (Place Services 30th August 2024 to Stuart Malcolm Mid Sussex District Council).

I understand that you have reviewed the Ecological Impact Assessment (EclA) (FPCR Environment and Design Ltd., July 2024) and its appendices, supplied by the applicant relating to the likely impacts of development on designated sites, protected & Priority species and habitats, with identification of proportionate mitigation and mandatory Biodiversity Net Gains. You have also indicated that you wish further clarification on the additional information required to be able to determine this application. Please see below for our response.

As you might be aware, Gladman Developments Ltd, has submitted an Appeal (Appeal reference APP/D3830/W/24/3350075) for non-determination.

Mid Sussex DC have prepared a Statement of Case (3rd October 2024). It is the opinion of Mid Sussex DC that the appellant during the application had failed to provide sufficient ecological evidence to provide the LPA with the necessary certainty about the likely impacts from the proposed development on protected species, and so the local planning authority has identified a conflict with Policy DP38 and the NPPF.

RfR3 refers to the lack of sufficient ecological information available on protected species for determination of this application. This related specifically to outstanding survey work on hazel dormice, otters, water voles and great crested newts (with no information either regarding the district licence on the great crested newts) meaning there is no certainty in the Councils opinion

on the likely impacts from the development on these protected species representing a conflict with Policy DP38 of the District Plan and the NPPF.

We wish to agree that sufficient information has now been provided with our response to your comments (below) and are seeking to agree common ground for the preparation of a topic specific SoCG with yourself as the LPA's ecologist, the aim being to address ecology matters ahead of the appeal.

The Appellant has indicated to the case officer (email to Stuart Malcolm on the 17 September 2024) that we wish to contact you directly. Once you have considered our response could we please set up a Teams meeting to discuss common ground with you.

Formal Response to Place Services

European protected species - Hazel dormouse and Otter:

Hazel Dormouse - The final dormouse survey was completed on 2nd October 2024 and a nest with an adult has been confirmed, found on the northeastern boundary. The presence of dormouse on site has been considered throughout design of the scheme, particularly within the suitable habitats such as hedgerows. Measures have been taken to mitigate dormouse through the retention and buffering of most of the hedgerow network. Although a small section of the southern boundary hedgerow will be lost for access onto Scamps Hill and within the central hedgerow for access between plots the losses have been compensated through the creation of native species-rich hedgerows on site and the enhancement of existing, maintaining connectivity around the site and with the wider landscape. Buffering of the ancient woodland to the northeast has been achieved through native shrub planting set within the POS. Considering the extensive landscaping provision within the GI, it is considered that an EPSL license will be possible, especially with the retention of the existing habitat network on site and within the wider landscape. Therefore, a validation refusal is not deemed appropriate due to missing survey data, as the scheme has been designed to accommodate the presence of hazel dormice and provide mitigation measures beyond what is required.

Otter - No evidence of otter was observed during the initial survey undertaken on 30th April, followed by a second survey undertaken on 7th August 2024 which also found no evidence. The section of Scrase Stream within the site is considered to be sub optimal habitat due to the presence of engineered bank sides and shallow water levels. A significant buffer has been provided between the built development and Scrase Stream. Whilst there will be an outfall from the proposed SUDs, this will be sensitively placed, with further surveys of the specific areas recommended at Reserved Matters.

Therefore, whilst the results of the further surveys for Hazel Dormouse and Otter are required by the Local Planning Authority (LPA) before determination under paragraphs 99 of the ODPM Circular 06/2005, it is considered that the mitigation and compensation measures provided within the scheme have highlighted that should the presence of these species be confirmed, the scheme has provided over and above what might be necessary to satisfy an EPSL licence.

European protected species - Great Crested Newts (GCN):

The ponds within 250m of the site boundary were subject to eDNA surveys in 2021, and no GCN were found. Although historical records of GCN within 500m of the site exist, these records date back to 1987 and 2007 and are from sites north of the site, separated by the Scrase Stream. Ponds to the south of the site were surveyed in 2015 for the outline application for residential development south of Scamps Hill (Ref: DM/15/4457) and in 2019 for the subsequent reserved

matters. The presence / absence surveys conducted in 2015 by Aspect Ecology and eDNA surveys in 2019 by Greengage found no GCN, with some of the wider landscape ponds being dry.

Scientific literature (*Franklin, P. M. (1993); Oldham, R. S & Nicholson, M (1986); Cresswell, W & Whitworth, R (2004)*) suggests that GCN have maximum routine migratory ranges of approximately 250m from breeding ponds, with shorter distances observed in good quality adjacent habitats. The literature also indicates that GCN are typically found at greater distances (150-200m) only where continuous linear features are present. After the breeding season, 64% of newts have been observed to be within 20m of the pond edge. Based on this literature, it is suggested that GCN rarely move further than 200-250m from ponds and would require continuous linear features to do so.

Given the evidence of the absence of GCN in the local area and within 250m, it is considered very unlikely that GCN have migrated into the ponds near the site since 2021, especially considering their absence in the wider landscape. In the unlikely event they had colonised any of these waterbodies, there are no waterbodies within the proposed redline boundary to encourage dispersal and the flowing Northlands Brook is considered to act as, at least, a partial barrier between some of the ponds and the site. As such, the likelihood of any GCN utilising the terrestrial on-site habitats is considered negligible. It is our opinion based on this information that a DLL will not be necessary.

GCN have also not been raised as a concern by NatureSpace (the commercial body responsible for implementing DLL in the area) in consultation. It has been considered necessary to clarify this matter.

The DLL route offers an alternative option for developers to secure any necessary license and to ensure the development meets the Favourable Conservation Status test through the provision of conservation payments. There is no legal requirement for developers to use the DLL route and, where considered necessary, a developer has the option to either use Natural England standard licensing routes once planning permission has been obtained or use DLL (if available in the area). If DLL was used for the appeal Site, the first stage payment would be a £10,000.00 non-refundable deposit. The level of the second stage payment would be determined by NatureSpace (NS) following the submission of the relevant application forms. Given the planning situation and the betterment that the extensive area of green infrastructure can provide for GCN in the extremely unlikely event that GCN were on site, Natural England's standard licensing route is the considered preferred option, and a development license would be sought, potentially using Natural England's Licensing Policy 4 route.

Under the Policy 4 NE accept a lower than standard survey effort where all the following apply:

- costs or delays associated with carrying out standard survey requirements would be disproportionate to the additional certainty that it would bring. We believe this would be the case here.
- Ecological impacts of development can be predicted with sufficient certainty. It has been concluded that impacts to GCN are unlikely for the reasons outlined above.
- mitigation or compensation will ensure that the licensed activity does not detrimentally affect the conservation status of the local population of any EPS. Proposed GI is generous and will be capable of accommodating mitigation and compensation should any GCN be found. In general, under licensing situations, proposals normally only provide approximately 20% of appropriate site areas in mitigation. When compared with the overall provision at this site the proposals can significantly over-mitigate and as such a Policy 4 application is appropriate.

Natural England Licensing Policy 4 states: *"You can use this policy to reduce the need for survey data. Instead, you'll need to use other sources of information to provide confidence for your approach. You can use alternative sources of evidence and your expert judgement to not meet*

standard survey requirements. You'll need to show all the following: the cost or delay of a standard survey is disproportionate to the benefit or certainty it would provide. you can confidently predict the impact of development on the species, mitigation or compensation measures will maintain or improve the species' conservation status"

Additionally, our experience is that Natural England development licenses have been obtained using Policy 4 and without submitting draft mitigation strategies through the NE DAS or PSS systems.

This license would satisfy Regulation 55 (9)(b) 'Favourable Conservation Test' of the Conservation of Habitats & Species Regulations 2017 (as amended) (referred to as the Habitat Regulations).

Additional Information;

Bats - A lighting scheme with lux contour plan will be part of the RM package and the scheme has been designed to adequately buffer the retained hedgerows and ancient woodland.

Reptiles and breeding birds – Mitigation for the passive displacement methods and timing outside the bird breeding season (March – August) would be outlined within the CEMP.

BNG Biodiversity metric Excel spreadsheet– This was submitted with the application but please see reattached.

All protective and mitigation measures would be outlined within a CEMP, conditioned for Reserved Matters.

Regarding the above additional information clarifying ecology on the appeal site, it is therefore considered that sufficient information has now been provided to enable the LPA to determine the likely ecological impacts and should allow the removal of the holding objection in relating to ecology. This should also enable the preparation of a topic specific SoCG.

We would appreciate your earliest possible response. And your earliest available date to discuss the SoCG.

Yours sincerely



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