

26th October 2022

Maria Tomalova
Arun District Council
Maltravers Road
Littlehampton
West Sussex BN17 5LF

By email only

Thank you for requesting advice on this discharge of condition from Place Services' ecological advice service. This service provides advice to planning officers to inform Arun District Council planning decisions with regard to potential ecological impacts from development. Any additional information, queries or comments on this advice that the applicant or other interested parties may have, must be directed to the Planning Officer who will seek further advice from us where appropriate and necessary.

Application: P/60/22/PL
Location: Grey Barn Church Lane Pagham PO21 4NX
Proposal: Replace existing conservatory with front porch, single storey rear extension and dormer windows. Extension of existing garage and part conversion to tourist accommodation. This application may affect the setting of a Listed Building.

Dear Maria,

Thank you for consulting Place Services on the above application.

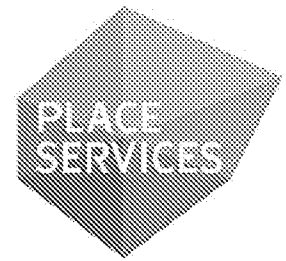
Refusal due to insufficient ecological information on designated sites (SPA) and European Protected Species (bats)

Summary

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on protected & Priority habitats and species and identification of proportionate mitigation.

A desktop study of the site has concluded that the site lies under 100m away from Pagham Harbour Special Protection Area (SPA) and Ramsar site. Due to the proximity, development is predicted to result in impacts risks to the designated site, and these have not been assessed in any documents submitted to the LPA. Also, the development will affect a building, therefore, the LPA requires a bat roost assessment which has also not been completed.

Therefore, we are not satisfied that there is sufficient ecological information available for determination of this application as a Preliminary Roost Assessment conducted by a suitably qualified ecologist, following standardised methodologies (Guidelines for Preliminary Roost Assessment within Preliminary Ecological Appraisal Guidelines (2nd edition), CIEEM 2017) is required.



To fully assess the impacts of the proposal the LPA needs ecological information for the site, particularly for bats (European Protected Species), and confirmation of a financial contribution towards SAMM mitigation for Pagham Harbour SPA and Ramsar site.

Bat surveys are required prior to determination because Government Standing Advice for bats indicates that *“Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby”*.

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: *“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”*

This information has therefore not been provided the LPA to allow certainty of impacts on legally Protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Please be aware, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage. (Based on the judgement in the Hack Green Group (Appellant) v Cheshire East Council [2006] - APP/R0660/W/15/3131662). Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Additionally, due to the proximity to Pagham harbour, the LPA require the applicant to pay a financial contribution toward the SAMM scheme to mitigate for the recreational impacts upon the harbour due to the proposed “tourist accommodation” nature of the development. We note Natural England’s comments ref 406349 dates 20 Sept 2022 which states no objection subject to securing appropriate mitigation.

We highlight that the applicant has not provided sufficient ecological information on designated sites and European Protected Species required to support a lawful decision and we therefore recommend refusal.

Please contact me with any queries.

Yours sincerely

Hayley Dean MSc BSc (Hons)

A current Qualifying member of CIEEM
Ecological Consultant

Place Services provide ecological advice on behalf of Arun District Council

Please note: This letter is advisory and should only be considered as the opinion formed by specialist staff in relation to this particular matter.