

9. SECTION 73 APPLICATION – REMOVAL OR VARIATION OF CONDITIONS 2 AND 9 ON NP/DDD/0317/0305 AT GREENFIELDS FARM, ASHFORD LANE, ASHFORD IN THE WATER (NP/DDD/0818/0696, P2902, ALN)

APPLICANT:

Mr Paul Atha

Site and Surroundings

1. Greenfields Farm is situated in open countryside, to the north of Ashford village, on the western side of Ashford Lane. The property is no longer a working farm. Approximately 54m to the north west of the house is a range of outbuildings which sit either side of a narrow, unmade-track known as Little Lane. Little Lane is a Public Right of Way.
2. The subject building is a traditional two storey barn located on the southern side of the group of outbuildings. This barn is in the process of being converted to an open market dwelling following planning permission granted in May 2017 (NP/DDD/0317/0305).

Proposal

3. This is a section 73 application to vary condition no.s 2 and 9 on planning approval ref NP/DDD/0317/0305
4. Condition 3 reads: *'The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted plans ref: 'Proposed Floorplans', 'Proposed Site Layout', and amended plan 'Proposed Elevations Rev C Altered Bats etc' subject to the following conditions or modifications.'*
5. Condition 9 reads: *'Before the dwelling hereby approved is first occupied the bat loft as shown on approved plan 'Proposed Elevations Rev C Altered Access Bats 1' shall be constructed and shall be retained for the life of the development.'*
6. The proposals seek to amend the development such that instead of a bat loft being provided within the main barn, instead it is provided within an adjacent agricultural building on the western side of the outbuilding group.
7. The bat loft in the amended location has already been partially provided.

RECOMMENDATION:

That the application be APPROVED subject to the following conditions:

1. **The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted plans including ref: 'Proposed Floorplans', and 'Proposed Site Layout', subject to the following conditions or modifications.**
2. **Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any order revoking or re-enacting that Order) no alterations to the external appearance of the dwelling shall be carried out and no extensions, porches, ancillary buildings, satellite antenna, gates, fences, walls or other means of boundary enclosure shall be erected on the site without the National Park Authority's prior written consent.**

3. The dwelling shall not be occupied until the parking and manoeuvring space shown on the approved plan has been constructed.
4. Vehicular access to the property hereby approved shall be gained via the existing access through Greenfields Farm only, in perpetuity, and not via Little Lane.
5. The recommendations in Section 4.2 of the Dunelm Ecology June 2018 report shall be followed and fully implemented prior to the first occupation of the dwelling hereby approved. In addition to the measures set out in 4.2, a minimum of 5 hessian sacks (of traditional material) should be secured to the walls of the dedicated bat space in suitable locations, enhancing the roosting provision for brown long eared bats, prior to first occupation of the dwelling hereby approved.
6. Prior to the dwelling hereby approved being first occupied two ridge tile access points shall be provided.
7. The recommendations in 4.4 (*Sensitive Working Methods and New Roost Creation*) of the October 2016 survey by Dunelm Ecology shall be adhered to.
8. The existing barn owl feature shall be retained for the life of the development.
9. Before any works commence on external hard landscaping a detailed scheme for landscaping (walling, fencing or ground surfacing as necessary) shall be submitted to and approved in writing by the National Park Authority. Once approved, the planting or seeding shall be carried out to the reasonable satisfaction of the Authority within the first planting seasons following completion or occupation of the development. Any walling or surfacing shown on the approved plan shall be completed before the building is first occupied.
10. Prior to the erection/provision of any timberwork, including doors and windows, a detailed scheme for the external finish of the timberwork shall be submitted to and approved in writing by the National Park Authority. The development shall thereafter be carried out in accordance with the approved specification and the timberwork shall be permanently so maintained.
11. The rainwater goods shall be either timber or cast metal, painted black. The gutters shall be fixed directly to the stonework with brackets and without the use of fascia boards. There shall be no projecting or exposed rafters.

Key Issues

- Impact of the proposed amendment on bats as a protected species.

History

December 2004 – permission granted for replacement implement shed.

October 2005 – planning application to convert the two storey barn to a dwelling refused (and subsequent appeal dismissed).

March 2017 – planning permission for change of use of barn to a dwelling approved (NP/DDD/0317/0305).

May 2018 – planning permission granted for change of use of single storey barn to ancillary accommodation. (NP/DDD/0518/0396).

June 2018 – Planning permission granted for material changes to walls on roof on storage building.

Consultations

Highway Authority – no objections

District Council – no response

Parish Council – object to the removal or variation of conditions in that the councillors are of the opinion that the condition regarding the retention of the bat loft should remain in place.

Authority's ecologist - *The additional survey work (as set out in the letter from Dunelm Ecology, dated 18th July 2018) supports the June findings and it is unlikely that the building to be developed supports a maternity colony given there is one present in the adjacent building. I am satisfied that the survey work completed now provides a full picture of the situation on site. Recommends that additional mitigation is provided in the form of hessian sacks within the bat loft and 2 ridge tile access points within the main barn.*

Main Policies

Relevant Core Strategy policies: L2

Relevant Local Plan policies: LC17

National Planning Policy Framework

8. The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. A revised NPPF was published on 24 July 2018. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and saved policies in the Peak District National Park Local Plan 2001. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.
9. Para 175 states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
10. Development Plan policies
11. Core Strategy Policy L2 states the development must conserve and enhance any sites, features or species of biodiversity importance and where appropriate their setting. Other than in exceptional circumstances development will not be permitted where it is likely to have an adverse impact on any site, features or species of biodiversity importance or their setting.
12. Saved Local Plan Policy LC17 states that for development affecting species of wildlife importance, likely adverse effects will be treated as if that effect is established.. Development will not be permitted unless adequate information is provided about its likely impacts on the special interests of a site.

13. Assessment

14. When the planning application was submitted to convert the two-storey barn to a dwelling in 2017, it was accompanied by a bat and barn owl survey, which had been carried out in September 2016. For clarity both bats and barn owl (as a breeding bird) are protected under Part 1 of the Wildlife and Countryside Act 1981. Seven native bat species and barn owl are also listed as 'Priority Species' under the UK's Biodiversity Action Plan. The survey carried out at that time involved a daytime inspection of the buildings only. Droppings from brown long-eared bats were recorded throughout the first floor of the barn but the report concluded that there were insufficient droppings to constitute a maternity roost. The Authority's ecologist considered that without emergence/entry surveys this presumption could not be relied upon and requested that either further survey work was carried out to establish a fuller picture of the bat activity or alternatively, in the absence of those surveys, the maximum mitigation should be provided in the form of a bespoke bat loft within the barn. The applicant agreed to provide the bat loft and its construction and retention was required by condition (condition no. 9 on planning approval ref NP/DDD/0317/0305).
15. The property has now changed ownership and the current proposals follow pre-application discussions between the applicant's ecologist and the Authority's ecologist. Over the summer of 2018 a further daytime inspection survey was carried out together with a dawn re-entry survey on 4 June and a dusk emergence survey on 5 July. No bats were recorded either entering or exiting the barn and the results confirm that the barn subject to planning approval is not a brown long-eared maternity roost. However the survey did identify that a small long-eared maternity colony is utilising the adjacent outbuilding to the north. As a result the applicant wishes to omit the bat loft from the main barn (and thus retaining the roof space as part of the first floor accommodation) and instead provide a loft within the outbuilding where the maternity roost was identified.
16. The building in question was constructed as an implement shed following planning permission in 2004. It is constructed in natural limestone under a stone slated pitched roof. The building is open fronted on the south east facing elevation and is divided into 5 bays. The barn includes a mezzanine floor with a floor to apex height of 1.95m. The survey report concludes that this existing loft area together with the southernmost bay would function as bat roosting habitat and in fact these features are already in place. The southernmost bay is currently open but will be fitted with a door containing a 300mm square hole to provide continued access.
17. The bat loft within the adjacent building provides a larger loft space than was approved within the main barn (9m long as opposed to 5m) and as the maternity roost is established within this barn rather than the main barn it is wholly sensible that the mitigation should be provided there instead. The Authority's ecologist is satisfied that the proposals would conserve bat species in accordance with adopted policies subject to conditions to require additional enhancement in the form of two ridge tile access points within the main barn and hessian sacks to be secured to the walls of the bat space in suitable locations.

Conclusion

18. In conclusion it is clear that at the time of the original planning approval, the full extent of bat activity within the subject barn had not been fully established and therefore the bat loft was required as a precautionary approach. In the light of additional surveys it is evident that the provision of a loft within the adjacent building would provide more appropriate mitigation and is therefore acceptable in accordance with the NPPF and policies L2 and LC17. It is therefore recommended that condition 2 is amended to refer to the amended plan and condition 9 is omitted. An additional condition to require the additional mitigation recommended by the ecologist is also considered to be reasonable and necessary.

Other Conditions

19. As this is a section 73 planning application it effectively issues a stand-alone planning permission. Therefore the remaining conditions attached to planning permission ref NP/DDD/0317/0305 must also be re-considered to establish whether they are still necessary. Condition 1 (statutory time limit) can be omitted as work has commenced. Condition 3 (conversion within shell) can be omitted because work is almost complete and is within the original shell. Condition 4, which removes permitted development rights, is still necessary. Condition 5 required the removal of a pole barn to the rear of the barn and as the pole barn has been demolished this condition is no longer necessary. Highway conditions (6 and 7) with regard to parking and vehicular access are still required as is the submission of a landscaping scheme to agree hard landscaping (condition 11). With regard to architectural and design specification (condition 12- 17) these have mainly been carried out in accordance with the conditions and do not need to be repeated other than a condition to agree the final finish of paintwork

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil

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