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08/11/2018

Dear Mr Mead,

Application Reference: P18/1373

Site Address: Land at Saltwells wood, Brierley Hill, Quarry Bank, DY5 1AX

Proposal: Demolition of existing buildings and erection of 9 No. dwellings.

The Wildlife Trust for Birmingham and the Black Country were disappointed not to be consulted on this full planning application as this affects a site statutorily designated for its nature conservation value. However, we were informed of the proposed development and will comment on this full planning application.

We would like to bring the following significant issues and concerns in particular to your attention;

Designated Sites

The proposed development lies within Saltwell's Local Nature Reserve (LNR) and Saltwell's Wood Potential Site of Importance (PSI).

As such the proposed development will result in the direct loss of semi-natural ancient woodland and semi-improved grassland and total site area of the LNR and PSI. Therefore, the Wildlife Trust will in principle oppose this development. In addition, it should be noted that this development is in contravention of Policy ENV1 of the Black Country Core Strategy.

However, we recognise that the Black Country Core Strategy states that in exceptional circumstances the strategic benefits of the development can be seen to outweigh the importance of the ecological features to be affected. In these circumstances Policy ENV 1 states that such a development may be permitted if impacts and harm are fully mitigated, i.e. kept to a minimum and compensated for in line with the National Planning Policy Framework (NPPF).

The Wildlife Trust is not aware of any compensation/mitigation being undertaken for the direct loss of grassland and semi-natural ancient woodland within the Local Nature Reserve.

Therefore, the Wildlife Trust believes that the Local Planning Authority would be required to refuse the current planning application on contravention of Policy ENV 1.

Proposed Black Country UNESCO Global Geopark

Saltwells is listed as Geosite 4 as part of the proposed Black Country UNESCO Global Geopark bid which describes Saltwells as "*a superb scientific and educational geosite*".

The Geopark bid would grant Saltwells international recognition for its geological features. As such the Wildlife Trust would seek for the Black Country UNESCO Global Geopark bid to be a material consideration as part of the planning application.

Ancient Woodland

The proposed development is located adjacent to and within one area of designated ancient woodland. Ancient woodlands in England are woodlands that have existed since at least 1600 AD and as such are by definition irreplaceable. Ancient woodland is protected from development under para 175 in the National Planning Policy Framework (NPPF) stating:

“When determining planning applications, local planning authorities should apply the following principles:

c) Development resulting in the loss or deterioration of irreplaceable habitat (such as ancient woodland and ancient or veteran trees) should be refused; unless there are wholly exceptional reasons and a suitable compensation strategy exists,”

The NPPF cites the following as examples of exceptional reasons *“... infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat”*.

The Wildlife Trust for Birmingham and Black Country objects in principle to any development which would result in the loss or deterioration of irreplaceable habitat and does not believe that the proposed development meets the definition of exceptional circumstances described in the NPPF. Furthermore, para 175 of the NPPF states that *“if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”*.

As above, the Wildlife Trust is not aware of any compensation/mitigation being undertaken with the proposed development for the direct loss and indirect impacts of ancient woodland.

Therefore, the Wildlife Trust believes that the Local Planning Authority would be required to refuse the current planning application on contravention of para 175 of the NPPF.

Any proposed developmental design would need to consider Natural England guidance on ancient woodland which includes mitigation measures to reduce and or avoid direct and indirect impact to the retained and adjacent ancient woodland. This includes:

- Improving the condition of the woodland based within the surrounding area of the proposed development, which should be prescribed within a Landscape and Ecological Management Plan and agreed by the Wildlife Trust / Local Authority ecologist. The management plan will be based on ecological survey findings and be in accordance with Countryside Service advice and LNR citation; and
- Incorporation of buffer zones from the adjacent ancient woodland. The site and type of buffer zone should vary depending on the scale and the assessed impact of the development. As standard ancient woodland, should have a buffer zone of at least 15 metres. Where assessment shows other impacts are likely to extend past this distance, you're likely to need a larger buffer zone.

To reduce potential impacts direct or indirect to the ancient woodland the Wildlife Trust would seek for the boundary woodland to be retained outside the residential curtilages, where management practices and lighting cannot be controlled.

In addition, the proposed development would need to provide evidence that adjacent ancient woodland and retained habitat present on site were protected from any direct / indirect impacts during construction. This would be undertaken through the production of a Construction and Ecological Management Plan (CEMP). Due to the ecological importance of the retained habitat the Wildlife Trust would seek for the CEMP to be undertaken prior to

determination of planning application. The CEMP would detail the precautionary working methods for the protection of retained habitats and protected and priority species, present.

To ensure that indirect impacts through the operational phase of the proposed development is mitigated for and any ecological mitigation is managed to promote its ecological diversity a Landscape and Ecological Management Plan should be undertaken detailing management practices, for a minimum of 10 years, to be undertaken on the retained, newly created and enhanced areas of habitat within the site. Again due to the ecological importance of the retain habitat the wildlife trust would seek for the LEMP to be undertaken prior to determination of the planning application.

Ecological Assessment and Arboricultural Report

Due to the lack of an Ecological assessment and Arboricultural report being undertaken as part of the planning application, the potential direct and indirect impacts of the proposed development to the LNR priority habitat and protected and priority species within and adjacent to the site, have not been taken in to account. Therefore, at this stage, the Wildlife Trust would in principle oppose this development until further information and appropriate consideration is given to the biodiversity within the site and surrounding area.

For the Wildlife Trust to further consider the application, we would seek the production of an Ecological Assessment and Arboricultural report. The Ecological Assessment would set out the potential and identified impacts upon existing wildlife and habitats within and adjacent to the site, using desk study and survey information, and set out proposals for avoidance, reduction, mitigation and compensation to be incorporated within the application.

The findings of the Ecological Assessment should be reviewed and agreed by the Local Planning Authority ecologist / Wildlife Trust prior to the determination of the planning application.

The Arboricultural report would identify the root protection area of the retained and adjacent tree and calculate the root protection area, which would be used to inform development of working practices and buffer zones to avoid / minimise impacts to mature trees.

The findings of the Arboricultural report should be reviewed and agreed by the Local Planning Authority Ecologist / Tree officer prior to the determination of the planning application.

Protected / Priority Species

Due to the lack of an ecological report, the Wildlife Trust are not aware of any surveys being undertaken to determine the impact of the proposed development on protected / priority species present within the proposed development site and surrounding area.

Upon review of species records held by Ecorecord and correspondence with Alan Preece, Senior Warden of Saltwells Nature Reserve, who holds first-hand knowledge of the wildlife present with the local nature reserve, the Wildlife Trust would seek for the undertaking of:

- Reptile presence/absence surveys;
- Badger Surveys (with monitoring surveys undertaken on any badger sett found within 30m of the proposed development to determine whether the set is active;

- Bat activity surveys in conjunction with automated / static bat detector surveys. The number of surveys undertaken should be based on a high suitability habitat for bats; and
- Ground-based tree assessment (this should include further dusk emergence/dawn re-entry surveys should the surveys identify any tree to be direct / indirectly affected by the development and found to hold roost features for bats).

Common reptile species are listed under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) making it an offense to intentionally or deliberately kill or injure any individual of such a species.

Eurasian badgers are protected by The Protection of Badgers Act 1992. The legislation aims to protect badgers from intentional or reckless destruction, damage or obstruction of a badger sett.

Bats are a European Protected species and the Local Planning Authority (LPA) has a legal duty under the Conservation (Natural Habitats) Regulations 1994 to determine the impact on them prior to issuing permission for the development, as clarified by case law relating to Woolley vs Cheshire East Borough Council 2009.

The results of these surveys should be incorporated within the design of the site and fully mitigated where necessary, prior to the determination of a planning application.

Lighting Strategy

Upon review of the documentation provided within the planning application no details could be found on the lighting location and design. The Saltwell's Local Nature Reserve holds numerous records of different bat species, therefore, the proposed development site is likely to be used by the local bat populace for foraging, commuting and potentially roosting, due to the ancient mature trees adjacent to the proposed development site. As such the Wildlife Trust would seek for the production of a lighting strategy prior to the determination of the planning application to ensure the planning application did not impact local bat species foraging and commuting routes.

The lighting strategy should detail the design and location of lighting to be used within the proposed development and also describe the methodology to minimise light spill along the retained woodland boundary.

A key concern of the Wildlife Trust is the potential for residents of the proposed development to place security lighting outside their houses. This security lighting cannot be controlled and will highly likely fall on to the ancient woodland boundary potentially impacting roosting and commuting bats.

Therefore, the Wildlife Trust would seek for the proposed development to be refused unless actions can be put in place to ensure security lighting will not impact the adjacent ancient woodland boundary.

Access Road

It is noted that the access road to the proposed development has not been included within the planning application. However, the design access statement states:

“Access to the site will be via the existing access road, which will be improved with passing places and constructed to a standard of construction for a 20 year life and will remain in the ownership of Dudley MBC.”

By reviewing aerial imagery and the extent of the LNR and ancient woodland boundary it is understood that any improvement and the incorporation of passing places will result in:

- Direct/indirect impacts to ancient woodland and to the LNR;
- Any lighting situated along the road will result in disturbance to a likely foraging and commuting route for bat species; and
- Impact adjacent ancient broadleaved trees as works will be undertaken within the root protection area.

As such the Wildlife Trust believes that the potential impacts of the access road should be reviewed alongside the proposed development. In addition, there is a high potential for accumulative ecological impacts from both works that need to be reviewed in conjunction, especially as the proposed development will rely on improvement works to be undertaken on the access road. Therefore, the Wildlife Trust would seek further information on the access road improvement and inclusion of the access road within the red line development boundary prior to consideration of the planning application.

Should you require further clarification or detail regarding the issues raised above please do not hesitate to contact me.

Yours faithfully,

Samantha Pritchard

Senior Biodiversity and Planner Officer