

PLANNING & ENVIRONMENT COMMITTEE MEETING

Wednesday 19th January 2011, 7.00PM

ADDENDUM TO REPORT OF THE ASSISTANT DIRECTOR OF PLANNING AND DEVELOPMENT MANAGEMENT

INDEX TO THE REPORT

It should be noted that the recommendations for Agenda Items 1 (Zenith House reference H/04167/10) and 2 (Greenpoint reference H/04595/10) as set out in the Index to the report are both subject to Section 106 agreements.

AGENDA ITEM 1

Reference: H/04167/10

Address: Zenith House, The Hyde, London, NW9 6EW

Section 106 Contributions

The Section 106 package for Zenith House as set out in the report will deliver significant section 106 contributions totalling £1,325,501million.

Additional section 106 contributions towards health and libraries have been sought by the Council for the development. The Council's SPDs on Health Contributions would require a contribution of £200,000 towards health while the SPD on Libraries would require a contribution of £50,000 towards libraries.

The applicants submitted detailed viability assessments for the proposed scheme using the GLA Development Control Toolkits ('Toolkit') and HCA Economic Appraisal Tool ('EAT'). These assessments were independently reviewed by GVA Grimley consultants which demonstrated that based on delivering 48% affordable housing by habitable rooms, the scheme is only viable with grant funding current allocated from the HCA.

The requirement for additional contributions for Libraries and Health needs to be considered in light of the viability of the scheme, the significant section 106 package already agreed and the fact that the development will be delivering 48% affordable housing by habitable rooms.

Having regard for these points, the applicants have agreed to an additional contribution of £74,499 towards health. It is also proposed that the current CAAP Implementation contribution of £25,000 is applied as a Libraries contribution. With the additional contributions the total section 106 package comes to £1.4million. This is the maximum level of contributions that the scheme can sustain based on viability and taking into account the level of affordable housing being delivered in the scheme.

The package of section 106 contributions should also be considered against the total contributions of £136,000 that would have otherwise been secured under the extant

planning permission. The current s106 package (including the Health contribution of £74,499) equates to £4,530 per unit compared to £632 per unit for the approved scheme. The different contributions for each scheme are set out below:

Extant Permission

1. A contribution of £30,000 index linked towards improvements and alterations to the public highway in the vicinity of the site;
2. A contribution of £56,000 index linked towards education provision in the borough;
3. A contribution of £25,000 index linked towards the monitoring of the Travel Plan for the development;
4. The contribution of £25,000 towards the monitoring and management of the S106 planning obligations;

TOTAL contributions: **£136,000**
 (£632 per unit)

Revised Application

- a. 48% Affordable Housing
 (larger units than before. All meeting London Housing Design Guide space standards)
- b. Highways Infrastructure
 - (i) £100,000 towards the upgrade of the A5 / Colindale Avenue junction and A5 / Colindeep Lane junction;
 - (ii) £10,000 towards of CPZs;
- c. Public Transport
 - (i) £100,000 towards step free access and public transport improvements at Colindale Tube Station;
 - (ii) £50,000 towards Public Realm Improvements in the area;
 - (iii) £20,000 towards Bus Stop Improvements;
 - (iv) £135,000 towards Bus Enhancements.
- d. Travel Plan
 - (i) Travel vouchers at cost of £46,350;
 - (ii) Cycle vouchers at cost of £46,350;
 - (iii) Provision of cycle maintenance workshops at a cost of £5,000;
- e. Travel Plan Monitoring
 £10,000 to monitor the Travel Plan;
- f. Education
 £757,801 towards education provision;
- g. Libraries
 £25,000 index linked towards the provision of Health Facilities within the borough;
- h. Health
 £74,499 index linked towards library provision within the borough;

- i. Monitoring of the Section 106 Agreement
£20,000 to monitor and manage the S106 planning obligations.

TOTAL contributions: **£1,400,000**
 (£4,530 per unit)

Amendments to Heads of Terms

Part (i) of point d. of Recommendation 2 on page 3 should be amended as follows to reflect the fact that the junctions are already signalised and to include reference to the A5/Colindeep Lane junction:

“d. Highways Infrastructure

- (iii) Payment of a financial contribution of £100,000 Index Linked to the Council towards the upgrade ~~and signalisation of the junction~~ of the A5 Edgware Road ~~and / Colindale Avenue junction and the A5 Edgware Road / Colindeep Lane junction;~~ junction and the A5 Edgware Road / Colindeep Lane junction;”

As set out in the section above, the Colindale Implementation Strategy Contribution at point i. of Recommendation 2 shall be amended as a Libraries contribution as follows:

“i. ~~Colindale AAP Implementation and Strategy Libraries~~

A contribution of £25,000 Index Linked towards ~~the continued development, implementation and monitoring of the Colindale AAP and strategies for the Colindale area~~ Library provision within the borough.”

As set out in the section above an additional Health contribution shall be added as a new point l. under Recommendation 2 as follows:

“l. Health

A contribution of £74,499 Index Linked towards health provision in Colindale in accordance with the priorities identified in the CAAP.”

Environment Agency - Removal of Objection

Following discussions with the applicant’s consultants, the Environment Agency have confirmed by letter dated 11th January 2011 that their objection can be removed.

The Environment Agency have requested the following additional conditions to be imposed on the development:

Condition

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

- *Limiting the surface water run-off generated by the 1 in 100 year critical storm, taking the effects of climate change into account, to Greenfield rates to minimise the risk of flooding off-site.*

- *Provision of storage on site to attenuate all storm events up to and including the 1 in 100 year event, taking the effects of climate change into account.*
- *Provision of Sustainable Drainage Systems (SUDS) including Rainwater Harvesting and Green Roofs.*

Reason:

To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.

Condition

Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason:

To minimise the risk of flooding, to improve and protect water quality and to improve habitat and amenity.

Additional Conditions

The following conditions have been requested by the Council's Highways Officer.

Condition

"Prior to occupation of the development, a maintenance agreement for the gate system for the basement car park must be submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in full accordance with the details approved."

Reason: To control on site parking in the interest of highway and pedestrian safety in accordance with Policy M11 of the London Borough of Barnet Adopted Unitary Development Plan 2006."

Condition

"Prior to the occupation of the development a waiver of liability and indemnity agreement must be signed by the developer and be submitted to and approved in writing by the Local Planning Authority. This is to indemnify the Council against any claims for consequential damage caused to private roads arising from and/ or in connection with the collection of waste by the Council from the premises.

Reason: To ensure that the access is satisfactory in terms of highway safety development and to protect the amenity of the area and in accordance with Policy M11 of the London Borough of Barnet Adopted Unitary Development Plan 2006."

Amendments to Conditions

Subject to a grant of planning permission, Genesis are seeking to implement the permission by undertaking material operations by early summer 2011. This reflects the HCA's requirements for drawing down the affordable housing grant. Therefore

the timing for the submission of certain conditions is key to ensure an appropriate start date. Given these circumstances certain conditions need to be amended to require submission of details before the 'relevant works' of the development are commenced. These changes do not alter the primary function of the conditions.

Condition 4

To allow for a breakfast service in the A3 café unit to capture morning commuter trade, it is considered that an opening time of 7am is acceptable given the café's location on the Edgware Road. The condition shall be amended as follows:

"The Class A3 restaurant/cafe use hereby permitted shall not be open to customers before ~~9am~~ 7am or after 11pm on weekdays or before 11am or after 11pm on Sundays."

Condition 6

"Notwithstanding the submitted plans, before the development relevant works hereby permitted commences samples of the materials to be used for the external surfaces of the building and hard surfaced areas shall be submitted to and agreed in writing by the Local Planning Authority."

Condition 7

"Notwithstanding the submitted plans, before the development relevant works hereby permitted is commenced, details of the following at an appropriate scale shall be submitted to and agreed in writing by the Local Planning Authority:

- i. Window reveals
- ii. Roof parapet
- iii. Balconies and balustrades
- iv. Entrances to flats

All works shall conform to those approved."

Condition 8

"Before the development hereby permitted is ~~brought into use or occupied~~ commenced the site shall be enclosed except at the permitted points of access in accordance with details previously submitted to and approved in writing by the Local Planning Authority."

Condition 10

"Before occupation of the development hereby permitted ~~commences~~ on site details of all extraction and ventilation equipment shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with agreed details before the use is commenced."

Condition 11

"Before occupation of the development hereby permitted ~~commences~~, details of the measures to be implemented by the developer to address the findings of the Ramboll PPG24 Noise Report dated August 2010 shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation scheme shall be implemented in its entirety before any of the units are occupied."

Condition 14

“Before occupation of the development ~~commences~~, a report shall be carried out by a competent acoustic consultant and submitted to the LPA for approval, that assesses the likely noise impacts from the development of the ventilation/extraction plant. The report shall also clearly outline mitigation measures for the development to reduce these noise impacts to acceptable levels.

It shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the contents and recommendations. The approved measures shall be implemented in their entirety before (any of the units are occupied/ the use commences).”

Condition 16

“Before the ~~development~~ relevant works hereby ~~approved~~ permitted commences, a scheme of hard and soft landscaping including details of:

- i. A Landscape Strategy for the central communal courtyard;
- ii. Location and size of proposed tree planting including details of individual tree species and any tree pits proposed;
- iii. Method statement for planting and on-going maintenance of any proposed tree planting;
- iv. Full planting plans for the Green Roofs detailing species, specification and location for any planting, including on-going maintenance shall be submitted and approved in writing by the Local Planning Authority.

All works so agreed shall be carried out strictly in accordance with the approved details.”

Condition 20

~~“Before the development hereby permitted is occupied the parking spaces shown on plans 10-289 L(00) 099 and 10-289 L(00) 100 shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.”~~

“Notwithstanding the plans submitted, before the development hereby permitted commences a revised car parking layout plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall provide for 39 disabled assessable car parking spaces unless otherwise agreed in writing with the Local Planning Authority. All car parking spaces shall be provided as per the details approved and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.”

Condition 21

“The development hereby permitted shall not be occupied until a Parking Management Plan detailing the allocation of car parking spaces, management of supply and demand for disabled accessible spaces, on site parking controls and charges, and enforcement of unauthorised parking has been submitted to and approved by the local planning authority. The plan shall be implemented before the building hereby permitted is occupied and maintained thereafter.”

Condition 26

“Before the development hereby permitted ~~commences~~ is occupied, details of enclosures and screened facilities for the storage of recycling containers and

wheeled refuse bins and/or other refuse storage containers where applicable, together with a details of a Waste Management Plan which shall include details of a satisfactory point of collection and any collection arrangements shall be submitted to and approved in writing by the Local Planning Authority and shall be provided at the site in accordance with the approved details before the building is occupied.”

Condition 28

“The residential dwellings hereby approved shall achieve Code Level 4 in accordance with the Code for Sustainable Homes Technical Guide (October 2008) (or such national measure of sustainability for house design that replaces that scheme). ~~No dwelling shall be occupied until a Final Code Certificate has been issued certifying that Code Level 4 has been achieved and this certificate has been submitted to and approved by the local planning authority~~ Within six months of practical completion of the development a Final Code Certificate certifying that Code Level 4 has been achieved shall be submitted to the Local Planning Authority.”

Condition 29

“The non-residential floorspace within the development hereby approved is required to meet the BREEAM ~~Excellent~~ Very Good rating. ~~Before the building is first occupied~~ Within six months of first occupation of the non-residential floorspace the developer shall submit certification to demonstrate that BREEAM ~~Excellent~~ Very Good rating has been achieved.”

Condition 30

“Before the commencement of ~~development~~ the relevant works hereby permitted details of the Green Roofs including construction specification shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the details as approved.”

Condition 31

“Before occupation of the development, details of external lighting shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.”

Condition 32

“Before the ~~development~~ relevant works hereby permitted commences, full details of the proposed CHP unit, community heating system and photovoltaic panels, shall be submitted to and approved in writing by the Local Planning Authority. The systems or facilities shall be installed and fully operational prior to the occupation of the building and thereafter permanently maintained in accordance with these details.”

Environment Agency Condition

~~Development shall not begin until~~ *Within 6 months of the development commencing unless otherwise agreed,* a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Additional Informatives

Informative

The applicant is advised that any alteration to the public highway (including pavement) will require prior consent of the local highways authority. The costs of any associated works to the public highway, including reinstatement works, will be borne by the applicants and may require the Applicant to enter into a 278 Agreement under the Highways Act 1980. You may obtain an estimate for this work from the Environment and Operations Directorate, Building 4, North London Business Park (NLBP), Oakleigh Road South, London N11 1NP.

Informative

The applicant is advised that A5 Edgware Road, Colindale Avenue and Colindeep Lane are Traffic Sensitive Roads; deliveries during the construction period should not take place between 8.00 am-9.30 am and 4.30 pm-6.30 pm Monday to Friday. Careful consideration must also be given to the optimum route(s) for construction traffic and Environment and Transport should be consulted in this respect

Errata

Page 2

Correction to the parking figures in the last paragraph to reflect the correct figures outlined on page 55 of the report.

“A total of ~~226~~ 224 residential car parking spaces will be provided within a basement car park and some surface parking on the mews street. ~~355~~ 367 cycle spaces will also be provided within secure basement storage areas.”

Page 38

Paragraph 6.3 (point 6 second sentence) on page 38 should be amended as follows:

“A total of ~~226~~ 224 car parking spaces will be provided including ~~34~~ 33 disabled spaces, 2 car club spaces and 6 spaces for the commercial unit. ~~355~~ 367 secure cycle spaces will also be provided;”

Page 55

First paragraph should be amended as follows:

“~~349~~ 367 cycle spaces are provided on the site. Although this level of parking is considered to be on the high side, TfL have confirmed that they are in favour of this level of Cycle Parking. The cycle parking is provided in secure areas within the basement car park.”

Page 51

The third paragraph should be amended as follows:

“The applicants have provided a detailed assessment of sun lighting to gardens which concludes that there will be no significant effect on the sunlight enjoyed by the gardens of the properties on Colindale Avenue in comparison to the ~~existing~~ previous warehouse building and there may indeed be some improvements during the year.”

Page 59

There is a discrepancy on page 59 with regard to step free access contributions to the Colindale Tube Station. As set out in the Heads of Terms at point e) on page 4 of the report, the contribution is £100,000. The last sentence of the last paragraph on page 59 should therefore be amended as follows:

“A contribution of ~~£150,000~~ £100,000 is therefore required from the Zenith House development towards implementing step free access and other improvements at Colindale Station.”

Page 59

To reflect the corrected Head of Term as set out above the second paragraph under the heading ‘Highways Improvements’ should be amended as follows:

“In light of the Colindale AAP policies and priorities, and having regard for the scale of the development, a contribution of £100,000 is required for the upgrade ~~and signalisation of the junction~~ of the A5 Edgware Road ~~and / Colindale Avenue junction~~ and the A5 Edgware Road / Colindeep Lane junction in order to facilitate the development.

AGENDA ITEM 2

Reference: H/04595/10

Address: Green Point, (Millet House) Edgware Road, London, NW9 5AR

Comments Received

- *Brent Council raises no objection to the proposed development.*
- **1 Objection Letter received 12 January 2011. See summation below:**
Oppose the size and density of the proposed development. The siting of a high-rise development at this location is not appropriate, furthermore local infrastructure and facilities would not be able to support this level of development. A large level of development is taking place locally with a total lack of consideration for local residents. Colindale is crowded and busy and the effect upon traffic is getting worse. The future of all this development will lead to the locality being one big housing estate with a lack of sufficient green spaces and congested roads. Local residents are being treated with disrespect.
Object on grounds of scale, appearance, height, density, and affect on the community and traffic levels.

Errata

P98, Section 5 (Conclusion), 2nd Paragraph

~~“The development proposed in this application for extension has by definition been judged to be acceptable in principle by Members at the original committee in 2007 the Planning Inspectorate in 2008.”~~

AGENDA ITEM 3

Reference: B/04262/10

Address: The Ravenscroft School, Barnet Lane, London, N20 8AZ

Amend **Relevant Planning History** to include:

B/00011/11 – Environmental impact assessment screening opinion.
Environmental Statement Not Required 07/01/2011.

Amend **Condition 12** to read as follows:

No siteworks or works on this development shall be commenced before a method statement detailing precautions to minimise damage to trees and hedgerows, including measures to retain the tree canopies above the proposed pedestrian and vehicular access, in accordance with Section 7 of British Standard BS5837: 2005 *Trees in relation to construction - Recommendations* is submitted to and approved in writing by the LPA and the development shall be carried out in accordance with such approval.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

Amend **Condition 13** to read as follows

No site works or works on this development shall be commenced before temporary tree protection has been erected around existing tree(s) and hedgerow(s) in accordance with the details submitted or as otherwise submitted and approved in writing by the Local Planning Authority. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature.

Add the following condition:

The vehicular access hereby approved shall be used by maintenance and emergency vehicles only, unless previously approved in writing by the Local Planning Authority.

Reason:

To safeguard the character and appearance of the area.

Environment Agency – Additional Comments:

No objection subject to ensuring that sustainable surface water management is achieved as part of the development.

To ensure that surface water management includes good practice advise, ensuring that surface water management is sustainable, **Condition 14** should be amended to read:

Development shall not begin until drainage works incorporating sustainable surface water management have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that the foul and/or surface water discharge from the site shall not be prejudicial to the existing sewerage system, the amenities of the area and to prevent the increased risk of flooding.

Remove Condition 15 as a result of this amendment.

Add the following **informative**:

Prior written consent from the Environment Agency is required for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the Dollis Brook. This is under the terms of the Water Resources Act and the Thames Region Land Drainage Byelaws. For further information on obtaining a Flood Defence Consent please contact our Development and Flood Risk team on 01707 632639.

Additional comments have also been received from 2 **local residents** raising additional comments which may be summarised as follows:

- Concern re land ownership issues, the community use of the proposed playing fields may not occur; the long term maintenance may not be appropriate and could damage the ecological value of the site, works taking place during the bird breeding season, drainage and potential flooding problems.
- Object to the loss of the Oak tree from which bats have been seen flying from in the summer. Bats roost and forage in the field in question.
- The proposed fence would be ugly.
- Use of concrete in the construction of the access should be avoided.
- The new hedge should include hawthorn and sloe to replace those being lost.
- What material will be used to support the raised playing field?
- Why can't the existing school playing field be made usable?
- Proposal may result in additional related development such as changing rooms, car parking, all weather pitches.
- Loss of public open space
- Concern with regard to the capability of the Dollis Brook to deal with additional run-off.

Additional comments on grounds of objections not already addressed in the report:

Agent's comments regarding the material to be used to support the raised playing field:

- It is intended that a cut and fill exercise will take place whereby the existing soil is retained on site and the fields re-modelled. The existing vegetation will be removed and then approximately 200mm topsoil will be excavated across

the site (not in the tree protection zone) this will be stockpiled, the sub soil will be cut and filled in 250mm layers to the desired levels, compacted and then the stockpiled top soil will be evenly spread over the area.

Comments have been received from **Herts and Middlesex Wildlife Trust (HMWT)**:

HMWT does not have access to detailed ecological information for the London Borough of Barnet as this is outside of the Hertfordshire Wildlife Sites Programme, and HMWT only has minimal information regarding SINC's in the Greater London area. Therefore our lack of response to this application should not be taken as a lack of concern for any of the ecological impacts which may occur as a result of permitting this application.

I have read the points raised by the Barnet Group of the London Wildlife Trust and we wish to add our support to the suggested mitigation measures.

Conditions are suggested in respect of restricting the removal of trees, scrub and hedges to avoid the bird nesting season, habitat management plan and no external lighting unless otherwise agreed with the Local Planning Authority.

Following these comments, amend **Condition 6** to read:

No removal of trees, scrub or hedges or any other site clearance works shall be carried out between the 1st March and the 30th September inclusive in any year.

Reason

To ensure birds are not disturbed during the nesting season.

The Barnet Society whilst reiterating their earlier comments have raised the following additional points:-

- Whilst the proposal is consistent with the Green Belt objective “to provide opportunities for outdoor sport and outdoor recreation near urban areas” it is highly detrimental to the three other objectives, namely to provide opportunities for access to the open countryside for the urban population, to retain attractive landscapes, and enhance landscapes near to where people live and to secure nature conservation interest. Have strong concerns regarding the adverse impact of the proposal upon the appearance and the public enjoyment of this part of the Green Belt and believes that the case for over-riding these adverse impacts would need to be very powerful.
- Consider that the fact that the school adjoins undeveloped green belt land should not confer any moral right for them to annex part of it for its own exclusive use. Whilst the proposed playing fields would be closer to the changing rooms than currently exists this is not sufficient justification for the proposal.
- The existing school playing field being ‘swapped’ has no planning permission for use as a sports field. Concern is raised that no legal conveyance or licence has given the school exclusive rights of occupation over this field.
- Drainage is a key issue which should be addressed prior to the grant of permission and concern is raised with regard to the nature and location of the outflow.

- The security fences will represent an unacceptable physical and visual intrusion into the Green Belt.
- The need for the vehicular access is not justified and concern is raised as a result. Conditions should be attached to restrict the use of the access for maintenance and emergency vehicles only.

In response to queries in respect of land ownership, Property Services have commented as follows:

“The council owns both parcels of land, the one currently used as school playing fields and the one which is proposed. The land currently used as playing field was acquired for education purposes (it is fenced off from the site of the school buildings as there is a definitive right of way running across the land). There is, therefore, no lease or licence to the school of the current playing field. The land swap involves releasing the proposed school playing field from King George’s Trust and dedicating the existing playing field to the Trust. There is, therefore, no loss to the Trust land”.

Additional comments have been received from the **London Wildlife Trust Barnet Group (LWT-BG)**:

- Reiterate concerns regarding the quality of the bat surveys, absence of survey information for some protected species as required by law, absence of surveys for the ancient hedges and the failure to acknowledge evidence of antiquity of field boundaries.
- Concern that there is insufficient information to enable the Local Planning Authority to legally determine the application.
- Under the CHaS Regulations (Conservation of Habitats and Species Regulations, 2010), ‘the appropriate authority... must exercise their functions... relating to nature conservation’ to comply with these regulations.
- Gaps for pedestrian and vehicular accesses are excessive – especially when clearing and ‘grubbed out’ area is considered. This may hinder bats from flying the full length of the hedge or flying to connecting hedges, contravening CHaS Regulations.
- There are legal restrictions where bats and their roosts are present.
- Notwithstanding their objections to the proposal the LWT-BG suggest the following mitigation measures:
 - (1) Ecological survey of both fields to identify biological value and conversion to biologically rich meadow
 - (2) Formulation of a Management Plan - an agreed wildlife friendly plan to be implemented and overseen by an appropriate conservation body (eg London Wildlife Trust) with a commitment to ongoing involvement.
 - (3) The creation of several ponds and marshlands alongside the Dollis Brook
 - (4) The scalloping out of parts of the banks along the Brook to create shallow pools
 - (5) The creation of a hedge around the proposed fence. This should be densely planted, about 5 metres in depth and consist of at least 10 species of trees and shrubs of native provenance. There must be safeguards to maintain these plantings for at least 2 years and replace any that die. Species should include: Hawthorn, Blackthorn, Rowan, Elder, Oak, Ash, Wild Cherry, Crab Apple, Pear, Honeysuckle, Ivy etc.

- (6) The remaining meadow to be managed as grassland, to be mown part annually part every other year in October and not in summer.
- (7) Several gaps beneath the fence to allow small mammals through.
- In addition to the suggested mitigation measures, the LWT-BG request that a condition incorporating the following should be added to the permission:
 - That any planning permission be conditional restricting any further developments on this field or in its hedges and include a presumption against the introduction of:
 - (a) floodlighting,
 - (b) artificial turf,
 - (c) artificial surfaces for access, parking
 - (d) buildings
 - (e) access to private cars.
- Concern is raised that drainage of the pitches will increase flooding downstream which may increase the severity and frequency of flooding to neighbouring properties.

Further comments have been received this afternoon from **Natural England**:

Although Natural England has previously comment on this application and indicated that it does not affect any priority interest areas for Natural England, there have been concerns raised locally that there may be bat roosts within the proposed area which have not been fully surveyed. In view of the uncertainty of the potential for bat roost presence in the area, and the potential for delays and licence requirements in the future, it is recommended that further information is sought.

Therefore it is advisable that you request further information from the applicant prior to granting planning permission/conditioned planning permission relating to the potential for the site to support bat roosts. This is in line with paragraph 98 of ODPM Circular 06/2005 which states 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. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted."*

Natural England is prepared in this instance, for the Council to consider supporting the application subject to planning conditions being imposed and enforced.

Should the Council be prepared to support this project, conditions relating to the undertaking of bat roost and emergence surveys during more optimal times (April to September, subject also to clement weather conditions) should be agreed and that subject to these surveys being undertaken no works are undertaken until such time as the surveys are completed and reported back to the Council.

Natural England would also be willing to assist Barnet Council in reviewing and considering the completed surveys, any possible mitigation requirements and consideration of discharge of the condition as appropriate.

Comments

Concern has been raised in respect of the legal issues surrounding the application, particularly in respect of biodiversity.

Following on from reference on page 148 of the report, to PPS9, reference has been made by LWT- Barnet Group to the provisions of the Habitats Directive as implemented by the Conservation [Natural Habitats etc.] Regulations 1994 and the statutory duty of the LPA under Regulations 3 (4). LWT- Barnet Group also refer to the judgement in the R v Cheshire East Borough Council case. This case concerns a development related to a small bat roost in an existing building on a proposed development site. The building was to be demolished and the bat roost destroyed to make way for the new development. This is a different set of circumstances to the application that is currently under consideration. From the survey information submitted as part of the application, whilst bats are present in the area and potential for roosts does exist, none have been found.

The latest comments of Natural England are noted and they have drawn attention to para. 98 of the ODPM Circular 06/2005 which states that in exceptional circumstances surveys can be carried out after planning permission has been granted. Natural England have stated that, bearing in mind that they had previously commented on the application to the extent that they had no objections to it, they are prepared in the circumstances for the council to consider supporting the application subject to the appropriate conditions being imposed and enforced.

It is therefore recommended that the following additional condition be imposed should planning permission be granted:

No development or any other operations whatsoever shall commence on site until further bat surveys, including bat roost and emergence surveys have been undertaken during more optimal times [April to September, subject also to clement weather conditions] together with any mitigation measures that may be necessary, have been submitted to and approved in writing by the Local Planning Authority. The development on site shall be undertaken strictly in accordance with the details as approved.

Reason: To ensure that the development does not harm Bats which are a European Protected Species.