

**NORTHERN AREA PLANNING COMMITTEE ADDITIONAL INFORMATION**  
**23rd April 2014**

This is information that has been received since the committee report was written. This could include additional comments or representation, new information relating to the site, changes to plans etc.

**The text in bold is additional/amended information to that circulated to Members on Tuesday 22<sup>nd</sup> April 2014**

Item 6a – N/12/03594/FUL - Octavian, Eastlays, Gastard, Wiltshire, SN13 9PP

OFFICER COMMENTS:

Final comments have now been received from the Council Ecologist in relation to the revised plans (set out in full below). The comments also contain the necessary statutory considerations which need to be separately discharged in relation to European Protected Species (bats and newts) and appropriate assessment (Bath and Bradford SAC). In accordance with the advice provided by the Ecologist, condition 09 has been amended to include specific reference to the specific compensation and mitigation measures in relation bats and newts. Condition has also been altered to include specific reference to the landscaping proposals.

Condition 02 has also been reproduced below, now including plans references.

2. The development hereby permitted shall be carried out strictly in accordance with the approved plans and documents subject to such minor amendments to the development as may be approved in writing under this condition by the local planning authority.

Landscape and Biodiversity Proposals (10 pages)  
Landscape Management Areas Plan (drawing number: 0447.1.3A)  
Landscape Framework Plan (drawing number: 0447.1.1E)  
Octavian Warehouse Views (4 pages)  
Ecological Assessment, September 2012 (received 07/11/12)  
Elevations and sections 1911 L21 (received 07/11/12)  
Plan and section 1911 L20 (received 07/11/12)  
Site plan 1911 L18a (received 07/11/12)  
Location plan 1911 L17 (received 07/11/12)

All received 09/12/13, unless otherwise stated

Reason: To ensure that the development is implemented in accordance with this decision in the interests of public amenity, but also to allow for the approval of minor variations which do not materially affect the permission.

9. Based upon the Landscape and Biodiversity Proposals and Landscape Framework Plan (drawing number :0447.1.1E) already submitted and prior to commencement of development, a Landscape, Ecology and Arboricultural Management and Monitoring Plan (LEAMMP) shall be submitted to and approved in writing by the local planning authority. The LEAMMP shall include:
  - a. details of any relevant up to date ecological surveys;
  - b. full and complete details of the timing of implementation of the Landscape and Biodiversity Proposals and Landscape Framework Plan (drawing number 0447.1.1E) and its integration into all parts of the land to be managed under the LEAMMP to be agreed as part of this condition;
  - c. any capital works such as habitat creation, tree / shrub planting, bat / bird boxes etc as informed by the submitted Ecological Impact Assessment;
  - d. full and complete details of all bat and newt habitat compensation and mitigation measures, including timing of implementation as well as measures for future management and maintenance;

**NORTHERN AREA PLANNING COMMITTEE ADDITIONAL INFORMATION**  
**23rd April 2014**

- e. ongoing management prescriptions for semi-natural habitats and maintenance schedules for all landscaped areas clearly setting out timescales and responsibilities
- f. approach to management of all mature trees based on their ecological interest and an arboricultural protocol for carrying out tree works; and
- g. a schedule of ecological monitoring work and plan review.

Upon commencement of development all capital works shall be carried out to the agreed timescales and all areas identified in the LEAMMP shall be managed in full accordance with the agreed prescriptions in perpetuity. All monitoring reports shall also be made available to the local planning authority.

REASON: In the interests of securing a form of development that does not unnecessarily impact upon protected species and their habitat and so as to reach an optimal balance between visual screening and habitat compensation.

COUNCIL ECOLOGIST:

"I've finally got round for formally reviewing the revised documentation for this scheme. You'll be aware that following my previous formal comments (dated 07/12/12) we have been in extended negotiations with the agent and their consultations and have reviewed several revisions made to us, which I'm now satisfied meets the concerns initially raised in relation to ecology as follows.

BAP priority habitat

The development will result in the loss of BAP priority habitat types including Calcareous Grassland and Mixed Deciduous Woodland, however the applicant has agreed to create and enhance similar habitats elsewhere within the wider site as compensation for the unavoidable habitat loss. We have used the DEFRA offsetting metric tool to ensure that the proposals would provide proportionate compensation for the habitat loss and I am satisfied that the proposals would meet the requirements of policy NE10 and NE11, subject to securing the agreed measures through a suitably worded condition requiring approval and implementation of a Landscape and Ecological Management Plan (LEMP).

Bat roosts

The proposals would involve the loss of two out of five lesser horseshoe bat roosts within the site, which appear to be of non-breeding status. Given that all British bats and their habitats are protected under the provisions of the Habitats Directive, loss of these roosts would result in a breach of Article 12, therefore the Council has a responsibility to consider whether the proposals would meet the necessary 'three tests' of a derogation licence; I have provided a written justification of how these tests would be met below:

**NORTHERN AREA PLANNING COMMITTEE ADDITIONAL INFORMATION**  
**23rd April 2014**

<b>Reg.53(9)(a) There is No Satisfactory Alternative</b>		
Location	x	Given the bonded nature of the required storage, alternative suitable sites are significantly limited and there is a recognised logistical benefits of retaining operations on a single consolidated site. Given the required size of the storage building, the topography and ground conditions of the site and the need to retain functional proximity to the existing operations, alternative layouts which might avoid the loss of the roosts are not possible. Doing nothing would fail to allow continued expansion of the business and the generation of further local jobs.
Layout	x	
Use		
Timing		
Do nothing	X	
Is the consideration of alternatives proportionate to the scale of the potential impact?		Yes
<b>Reg. 52(3)(e) Overriding Public Interest<sup>[1]</sup></b>		
Health and safety		The proposals will 24 new jobs for the local community and allow the continued expansion of the business.
Environmental		
Complying with planning policy		
Economic development	x	
Social development (inc. housing)		
Heritage		
Is the OPI proportionate to the scale of the potential impact?		Yes
<b>Reg.53(9)(b) Maintenance of the Population of the Species Concerned at a Favourable Conservation Status</b>		
Outline of mitigation measures proposed	Two non-breeding transitional lesser horseshoe roost would be destroyed as part of the proposals. A replacement roost is proposed to the north of the proposed building, would be of a suitable design to provide compensation for a roost of this size, species and status.	
Are these measures proportionate to the scale of potential impacts? <sup>[2]</sup>		Yes
Can the proposed mitigation measures be delivered in line with all other aspects of the development?		Yes
Will delivery of mitigation be secured under the provisions of a derogation licence?		Yes

I am therefore satisfied that permission may be legally granted in accordance with the Council's own legal responsibilities under the Habitats Regulations, subject to a suitably worded condition to secure the bat mitigation / compensation measures, which could be incorporated into the proposed LEMP.

I have previously confirmed that the loss of these roosts would not have any likely significant effects upon the nearby Bath and Bradford Bats SAC, and therefore an appropriate assessment would not be required under Regulation 61.

**Bat foraging / commuting**

Loss of bat foraging / commuting habitat features would be relatively small and compensated for over time by the proposed habitat creation / enhancement and the long-term effects of the LEMP. However, a further condition would also be required to minimise impacts from external lighting at the site. As with the loss of bat roosts, I am satisfied that the damage of foraging / commuting habitats would not have any likely significant effects upon the nearby Bath and Bradford Bats SAC, and therefore an appropriate assessment would not be required under Regulation 61.

**Great crested newt**

The proposals would result in the loss of the loss of great crested newt terrestrial habitat from the building footprint. Given that all great crested newt and its habitats are protected under the provisions of the Habitats Directive, loss of these habitats would result in a breach of Article 12. As for the loss of bat roosts the Council has a responsibility to consider whether the proposals would meet the necessary 'three tests' of a derogation licence; I have provided a written justification of how these tests would be met below:

<sup>[1]</sup> The reason(s) of overriding public interest should be of greater or equal importance to the roost(s) affected by the proposals

<sup>[2]</sup> In accordance with the Bat Mitigation Guidelines (English Nature, 2004)

**NORTHERN AREA PLANNING COMMITTEE ADDITIONAL INFORMATION**  
**23rd April 2014**

<b>Reg.53(9)(a) There is No Satisfactory Alternative</b>		
Location	x	Given the bonded nature of the required storage, alternative suitable sites are significantly limited and there is a recognised benefit of retaining operations on a single consolidated site. Given that most of the site comprises potentially suitable great crested newt terrestrial habitat, alternative layouts would not avoid the habitat loss. Doing nothing would fail to allow continued expansion of the business and the generation of further local jobs.
Layout	x	
Use		
Timing		
Do nothing	X	
Is the consideration of alternatives proportionate to the scale of the potential impact?		Yes
<b>Reg. 52(3)(e) Overriding Public Interest<sup>[1]</sup></b>		
Health and safety		The proposals will 24 new jobs for the local community and allow the continued expansion of the business.
Environmental		
Complying with planning policy		
Economic development	x	
Social development (inc. housing)		
Heritage		
Is the OPI proportionate to the scale of the potential impact?		Yes
<b>Reg.53(9)(b) Maintenance of the Population of the Species Concerned at a Favourable Conservation Status</b>		
Outline of mitigation measures proposed	The proposals would involve the loss of a small area of great crested newt terrestrial habitats including woodland, grassland and rubble piles. Mitigation includes exclusion of newts from the area followed by a destructive search prior to commencement of construction, while the loss of terrestrial habitats would be compensated through the creation and enhancement of other terrestrial habitats across the wider site.	
Are these measures proportionate to the scale of potential impacts? <sup>[2]</sup>		Yes
Can the proposed mitigation measures be delivered in line with all other aspects of the development?		Yes
Will delivery of mitigation be secured under the provisions of a derogation licence?		Yes

I am therefore satisfied that permission may be legally granted in accordance with the Council's own legal responsibilities under the Habitats Regulations, subject to a suitably worded condition to secure the newt mitigation / compensation measures, which could be incorporated into the proposed LEMP.

Invertebrates

The proposals include habitat loss which could impact upon populations of nationally notable invertebrates. Under the revised proposals habitat loss for invertebrates would be reduced and in the longer term the proposed habitat creation / enhancement secured will compensate for this habitat loss.

Breeding birds

The proposals would result in the loss of breeding territories for priority species, however habitat creation would provide effective compensation for most species within approximately five years. There would be some permanent habitat loss of breeding habitat for skylark.

Reptiles

Predicted impacts upon reptiles would be negligible."

<sup>[1]</sup> The reason(s) of overriding public interest should be of greater or equal importance to the roost(s) affected by the proposals

<sup>[2]</sup> In accordance with the Bat Mitigation Guidelines (English Nature, 2004)

**NORTHERN AREA PLANNING COMMITTEE ADDITIONAL INFORMATION**  
**23rd April 2014**

**Item 6e – 9 Gaston Lane, Sherston, Wiltshire, SN16 0LY (13/07226/FUL)**

**Following the publication of the report, an amended plan (ref: 3909/53 Rev C) has been submitted indicating the swept path analysis. Condition 13 has been amended to reflect this, shown below for completeness:**

**'The development hereby permitted shall be carried out in accordance with the following approved plans:**

**3909/53 Rev C (Proposed site plan)  
3909/51 Rev B (Proposed floor plans & elevations)  
3909/54 (Proposed floor plan & elevations of garage)  
3909/02 (Site location)'**

**The application remains recommended for approval.**

---