

NORTHERN PLANNING COMMITTEE – 26SEPTEMBER 2012

UPDATE TO AGENDA

APPLICATION NO: 12/2566M

**LOCATION: THE MOSS , 4/6 CONGLETON ROAD
MACCLESFIELD**

UPDATE PREPARED 21 September 2012

CONSULTATIONS

The additional surveys recommended by the Bat survey submitted with the application has been completed and the results have been considered by the Councils ecologist.

The Ecologist concludes that the usage of the building by bats is likely to be limited to small numbers of animals using the buildings for relatively short periods of time during the year and there is no evidence to suggest a significant maternity roost is present. The loss of the roost at this site in the absence of mitigation is likely to have a low impact upon bats at the local level and a low impact upon the conservation status of the species as a whole.

However, regard must be had to the European Community Habitats Directive. The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment

and provided that there is

- no satisfactory alternative and
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection

- a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and
- a licensing system administered by Natural England.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

Although PPS9 has been replaced by the National Planning Policy Framework (NPPF) , the guidance attached to PPS9 remains. This advises LPAs to ensure that appropriate weight is attached to protected species "Where granting planning permission would result in significant harm [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to "refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

In terms of the 3 tests, it is considered that:

- There are no satisfactory alternatives as the proposal would assist in meeting the Council's five year housing supply and the need for affordable housing
- In the absence of any impact from the proposed development it is likely that any contact will be low and will relate mainly to the risk of bats being in situ during the construction phase and the potential disturbance of their roost. Mitigation measures have been included with the bat report. The Council's Ecologist has advised that these are proportionate to the scale of the potential impacts and the proposed development is unlikely to affect the favourable conservation status of the species.
- There are imperative social reasons of overriding public interest, as the development would bring a vacant brownfield site into efficient use in a sustainable local area and the development of this site would assist in meeting a known housing need and the Council's five year housing supply.

The bat mitigation measures will be secured through the use of a planning condition.

No further comments have been received at the time of writing this update

ADDITIONAL CONDITION SUGGESTED

The proposed development to proceed in accordance with the recommendation made by the submitted Bat activity and mitigation report dated August 2012 (updated September 2012) unless varied by a European Protected Species license subsequently issued by Natural England.

Reason: To safeguard protected species in accordance with the NPPF.

RECOMMENDATION

Subject to the additional condition , the recommendation remains unchanged.

NORTHERN PLANNING COMMITTEE – 26 September 2012

UPDATE TO AGENDA

APPLICATION NO: 12/0190M

**LOCATION PINFOLD STABLES, PINFOLD LANE,
MARTHALL**

UPDATE PREPARED 24 SEPTEMBER 2012

REPRESENTATIONS

Response from agent regarding contents of committee report which makes the following points:-

- Wish to withdraw general purpose storage building from proposals
- Considers that this is an appropriate form of development in the context of the wider operations at the site - the equestrian activities associated with this facility comprise both outdoor and indoor facilities. However the predominant activity is one of outdoor recreation.
- Horses need to be exercised every single day and when the weather conditions are poor, for example when there is ice or snow on the ground it is simply not safe for both horses and riders to be undertaking that exercise out of doors
- Makes reference to application 09/4311M which was considered inappropriate development. However, the reasons for approving this application was because very special circumstances exist that outweigh the harm to the Green Belt and the visual impact of the proposal on the character and appearance of the area is considered to be acceptable.
- Considers application should be deferred to enable submission of very special circumstances
- Considers business would be unviable without indoor ménage
- With the introduction of a very special circumstances argument in accordance with case law the actual harm to the green belt must be reviewed in the balancing exercise.

OFFICER APPRAISAL

The agent has indicated that the applicant wishes to withdraw the general purpose storage building from the proposals. Revised plans have been submitted deleting the storage building from the scheme. Members are

therefore requested to give no weight to the storage building in the balancing exercise when considering the impact on the Green Belt.

The proposal, as amended, solely consists of the erection of a new indoor riding arena.

The additional information submitted by the applicant in support of the proposal is duly noted. However, there has been no evidence submitted to support the argument that horses need to be exercised everyday or to demonstrate that the activities that are to take place would need an indoor manege to the extent that this would represent very special circumstances. There are many equestrian facilities in the Borough that function without an indoor riding arena and without detriment to the welfare of the horses.

There has been no evidence submitted to demonstrate that a livery yard with 22 stables would require an indoor manege to be financially viable. Moreover there are number livery yards across the borough that function without an indoor manege. It may well be the case that the business prospects improve with an indoor riding arena. If it could be demonstrated, this economic argument could carry some weight in favour of the proposal.

Members should be reminded that inappropriate development is, by definition, harmful to the Green Belt and should only be allowed in very special circumstances. **Substantial weight should be given to any harm to the Green Belt.** Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is **clearly outweighed** by other considerations.

This proposal must be assessed on its own merits. Undertaking the relevant balancing exercise, it is concluded that the considerations put forward with the application do not carry sufficient weight to clearly outweigh the substantial harm to the Green Belt. As such, very special circumstances do not exist to override the presumption against inappropriate development.

The recommendation remains to REFUSE the application as the proposals represent an inappropriate form of development in the Green Belt.