

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 19/02328/PP
Planning Hierarchy: Local Application
Applicant: Helco Developments Limited
Proposal: Erection of 24 dwellinghouses
Site Address: Land North East Of Braeside, Station Road, Garelochhead, Argyll And Bute

SUPPLEMENTARY REPORT NO. 2

1.0 INTRODUCTION

Since the publication of the officer's report, and Supplementary report No.1' additional late objection letters have been received. A full updated list has been produced and attached as Appendix C to this report. This list incorporates the original list of objectors, those in Supplementary Report 1, and also those presented verbally at PPSL on 19.01.22, as well as the additional objections received and not yet referenced.

2.0 OFFICER COMMENT

These late objections, in general, do not raise any new planning issues which are not already addressed in the main Officer Report. However objections relating to both the approach to the ecological studies carried out and their robustness, and the legislative framework around Protected Species and their interaction with the Planning system has been raised in these additional objections.

It is considered to be beneficial in ensuring that Members are made aware of these matters in more detail to assist their consideration of the application and ensure that the concerns expressed by objectors are properly addressed and considered as set out below:

1. Legislative Biodiversity Duty has not been taken into consideration by the Council

Officer Comment:

Officers consider that in promoting enhanced habitat creation in accordance with the details set out in drawing LS-01 and through the imposition of conditions 9 and 10, the promotion of biodiversity interests and the "Biodiversity Duty" placed upon all public bodies in Scotland by the Nature Conservation (Scotland) Act 2004 has been addressed adequately. Members will also be aware that the Council has its own approved Argyll and Bute Council Biodiversity Duty Action Plan 2017. The proposals are considered to be in accordance with this.

Significantly, and having regard to the above, the Councils Biodiversity Officer who is responsible for ensuring development proposals are in compliance with “Biodiversity Duties” raises no objection to the proposals.

2. Ecological Surveys carried out are not in accordance with best practice

The Ecological surveys that have been previously submitted are considered acceptable and do not seek to be detailed technical studies as would be required if evidence had been found that protected species were present on the site, or would be harmfully impacted by the development. An updated survey (Feb 22) has been provided by the applicant in response to the concerns raised by objectors. The updated report confirms that:

Executive Summary

Bat roost potential and Otter surveys were completed in October 2020 on land at Station Road Garelochhead (NS 24257 91224) as supporting baseline information requested by the Planning Officer. The surveys found no evidence of otter presence but that bat roost potential was abundant and that further survey effort was required during the summer of 2021 to be conclusive on the presence or absence of roosting bats. This further survey work for bats was commissioned in 2020 in advance in preparation for these surveys.

Whilst completing the earlier surveys referred to, the surveyor looked for evidence of any other protected species that could be considered a potential ecological constraint which might indicate any need for other species-specific surveys for species such as Badger, Water Vole, Red Squirrel, breeding birds, or reptiles. The client was informed that there were no field signs evident or any sightings of Badger, Water Vole, Red Squirrel, or reptiles. As no other definite ecological constraints were identified whilst completing the bat and otter surveys no other ecological survey work or reporting was commissioned at that time, as the client preferred to wait until planning approval was imminent so that such surveys would still be valid post planning approval for use in the site developmental process.

The original Bat roost potential and Otter surveys were, as noted, completed in October 2020. The client requested that these previously completed surveys be updated following the submission of late observations by third parties to the application and to ensure a broad range of valid in-date ecological survey information was available to assist with the final planning decision making process and will remain valid for post-approval use. The survey update therefore included not only bat roost potential and otter surveys but also a walkover extended Phase I habitat survey that included a protected species walkover survey that considered the potential presence of Badgers, Water Voles, Red Squirrel, reptiles, and breeding birds, with particular reference to those species with enhanced statutory protection.

3. The relationship between Protected Species/Habitat legislation and the determination of a planning application

Allegations of protected species being present on a site by objectors does not in itself inhibit the determination of a planning application. The recommended approach to such matters is set out by NatureScot on their website as follows:

The presence of protected species rarely means that no development can take place. But measures often need to be taken, which may affect working methods and the timing of works.

*If there is ***reasonable evidence** that a protected species is present on site or may be affected by a proposal, its presence must be assessed and measures proposed where necessary to avoid impacts.... (*Officer Emphasis)*

Therefore, only where there is “*reasonable evidence*” that protected species are to be found on the site, would officers consider that they could not recommend the grant of planning permission as in this instance.

The recently submitted updated Ecology Survey update (Feb 22) when read together with the October 2020 and June/July 2021 surveys in the opinion of Officers provides sufficiently robust information and reassurance on such matters to allow the current application to be determined by Members fully in accordance with the legal framework associated with the interaction between the planning regime and the habitat and other related regulations.

As an additional check Officers have also looked at the National Biodiversity Network online data resource and can find no evidence on this of protected species being identified on the site or nearby. A link to this national data base is provided below.

[Explore Your Area | NBN Atlas Scotland](#)

This in itself is not a matter of significant weighting, but does reinforce the views of Officers and the submissions of the applicants that there is not “*reasonable evidence*” before the Planning Authority that protected species exist on the site, and would be harmed by the development proposal.

It is therefore Officers’ opinion that should Members wish to do so, it would be competent to grant planning permission in this instance notwithstanding the objections which have been raised in respect of Protected Species and habitat legislation compliance matters by objectors.

3.0 RECOMMENDATION

Members are requested to consider the matters set out in this report in reaching any decision. The objections made in these late submissions do not alter the recommendation contained in the main Report of Handling.

Author of Report: David Moore

Date: 24.02.2022

Reviewing Officer: Howard Young

Date: 25.02.2022

Fergus Murray
Head of Development and Economic Growth