



Ecology Response to Planning Consultation

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Application Ref: LCC/2023/0038

Proposal: Demolition of existing (not original) flat roof dormers on the north and west existing elevations and replace with pitched slate roof to match existing

Location: County Hall, Pitt Street, Preston

District: Preston

Applicant: Lancashire County Council

Planning Officer: Helen Ashworth

Thank you for your consultation in respect of the above planning application. I have reviewed the application documents with particular reference to ecological matters. The comments below have also been informed by a review of records accessible to Lancashire County Council.

The comments below are intended to inform Lancashire County Council's decision-making, with regard to the requirements of relevant biodiversity legislation, planning policy and guidance. These comments represent the professional opinion of an ecologist and do not constitute professional legal advice. You may wish to seek professional legal interpretation of the relevant wildlife legislation cited.

The main ecological issues arising from the proposals relate to the potential for impacts on protected species, primarily roosting and hibernating bats and potential impacts on nesting birds.

RECOMMENDATIONS

Prior to determination of the application the following matters will need to be addressed:

- The roof features affected by proposed works will need to be assessed in terms of their potential to support roosting bats.
- If the proposed works would affect any feature that may support roosting bats then the presence or absence of roosting bats will need to be established through appropriate surveys.
- If roosting bats would be adversely affected then the requirements of the Habitats Regulations will need to be addressed. This will require the planning authority to have regard to the licencing tests. (see below for further information)

When all of the above matters have been adequately addressed, and if Lancashire County Council is minded to approve the above application (or any amended proposals), then planning conditions will be necessary to address the following matters:

- Works for which a Natural England licence is expected to be required shall not commence unless or until the planning authority is provided with either
 - a copy of the licence issued by Natural England, or
 - a copy of a written statement from Natural England, confirming that a licence is not required.
- If, at any point, before or during development work, the presence of a protected species that could be adversely affected by the development works is detected or suspected, then works must stop and advice must be sought on the need for a licence from Natural England and necessary species protection measures.

- No works to or demolition of structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.
- If the approved development does not commence within 3 years from the date of the planning consent, the approved ecological mitigation measures shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys.

The applicant should be made aware of the following matters:

- Licences from Natural England are likely to be required if protected species or their habitat would be affected.

JUSTIFICATION FOR RECOMMENDATIONS

LEGISLATION AND PLANNING POLICY

In determining this application, the requirements of the following legislation, planning policies and guidance should be addressed:

- The Conservation of Habitats and Species Regulations 2017 (as amended);
- The Wildlife and Countryside Act 1981 (as amended);
- The Natural Environment and Rural Communities Act 2006;
- Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within The Planning System (DEFRA 01/2005, ODPM 06/2005).
- The National Planning Policy Framework (NPPF)
- Preston Local Plan policies.
- Recognised survey and mitigation guidelines, including (but not limited to) current Natural England standing advice, guidelines and Technical Information Notes.

Further information is required in order to demonstrate that the proposed development would comply with the above legislation, policies and guidance.

PROTECTED SPECIES

DEFRA Circular 01/2005 (ODPM Circular 06/2005), referenced in Footnote 61 of NPPF 2021, 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*” and that “*the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted*” (Paragraph 99).

DEFRA Circular 01/2005 states that if protected species are reasonably likely to be present and affected by the proposed development, then a survey/assessment to establish the presence or absence of protected species and the extent that they may be affected by the proposed development needs to be undertaken before planning permission is granted (para 99).

Bats

In line with Section 1.4.17 of the Bat Conservation Trust Good Practice Guidelines¹ a Wildlife Assessment Check (WAC) has been undertaken for the site which highlighted bats (and birds) as species requiring input from a consultant ecologist. A copy of this report is appended to this response.

In addition to the WAC, data accessible to Lancashire County Council returned records of bats within 1km of the proposed development. The proposed works may therefore have the potential to result in killing or injury of bats or in the destruction of (or damaging levels of disturbance to) a breeding site or resting place.

The planning application needs to include habitat assessments and, if necessary, survey data for bats which could be affected by the proposals (pending the results of the habitat assessment). The survey and assessment methods used should be detailed in the planning submission. These should comply with recognised guidelines.

The planning application should demonstrate that relevant species protection legislation will be adhered to and should include mitigation/compensation proposals for unavoidable impacts on such species and their habitats.

If any bats are present, then the planning application should include measures to avoid any breach of The Habitats Regulations. If such a breach would be unavoidable, then a Natural England Licence would be required before development work could commence.

The Conservation of Habitats and Species Regulations 2017 (as amended) state that Local Authorities, in the exercise of their functions, must have regard to the requirements of the Habitats Directive. This means that the planning authority will need to have regard to the requirements of the Directive in reaching a planning decision. Therefore, if a Natural England Licence would be required for a development, then the planning authority will not be able to approve the application if there is reason to believe that the necessary licence would not be issued. This means that the planning authority will need to consider the licensing tests prior to determination of the planning application. In summary, these tests are that:

1. The development is required for the purpose of
 - preserving public health or public safety,
 - for other imperative reasons of over-riding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
 - for preventing serious damage to property.

¹ Collins, J (ed.) (2023) Bat Surveys for Professional Ecologists: Good Practice

2. There is no satisfactory alternative.
3. The proposal will not be detrimental to the maintenance of the population of the species at a favourable conservation status.

If there is to be any licensable impacts on bats, the planning application will need to demonstrate how the above 3 tests will be addressed. This should include mitigation proposals to address the third test. The mitigation proposals should be informed by adequate survey data, collected in accordance with recognised guidelines.

I hope these comments are helpful.

Ian Holland
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Lancashire County Council

Background information

The following results will indicate whether your project is likely to require professional ecological advice before making a planning application, based on the information you have provided. It provides a summary of the potential protected and priority wildlife species and statutory designated sites that may need to be considered by a consultant ecologist.

This report can be given to a consultant ecologist for their background information and if they wish they can submit it as part of a planning application, together with any additional ecological information the consultant ecologist produces.

NOTE: It is important for users to note that the Wildlife Assessment Check output is based on the information provided by the user; if this is not accurate (e.g. if the user did not tick that trees were present on site when they actually were) then the output will not be correct. Local Planning Authorities and consultant ecologists should check on the 'habitats' and 'types of work' selected using Section 1 of this output sheet. The Wildlife Assessment Check is for guidance only. It is not designed to replace the judgement of a qualified professional ecologist about the potential wildlife impact of a development project. Applicants should consult a qualified professional ecologist and / or their local authority ecologist where they are present, to ensure that requirements are fulfilled.

Wildlife Assessment Check - Summary Report

Site location:

- Postcode (nearest): PR1 8XB
- Grid reference: SD533293

Type of development project:

- Development proposals that are not householder building projects and do not require an Environmental Impact Assessment (EIA)

The Local Environmental Records Centre (LERC) is:
Lancashire Environmental Records Network

The Local Planning Authority is:
Preston Borough Council

Output from the Wildlife Assessment Check, including whether input from a consultant ecologist is required and the species or species group surveys that may be necessary:

Based on the information provided, this development proposal requires input from a consultant ecologist. The following species or species group surveys may be necessary:

- Bats, Birds

Survey reports should include biodiversity information from your Local Environmental Records Centre (LERC).

Section 1: Protected and Priority Species results

Habitats nearby (options selected):

- Trees or woodland (including woodland plantations, coniferous woodlands and parkland) within 200m of proposed works (on or off site)
- Hedgerows, lines of trees and/or scrub (including recently felled or recently planted woodland) within 200m of proposed works (on or off site)

Types of works being proposed (options selected):

- Works to buildings or structures
 - The proposed works involve the modification, conversion or demolition of buildings and structures with any cavities (such as roof spaces, cavity walls, soffit boxes, cellars) and crevices (such as behind weatherboarding, hanging tiles, fascias and cracks in bricks and stone work)

The applicant is aware of Protected and/or Priority species being present within or adjacent to the development site:

- Yes

Section 2: Statutory Designated Sites results

International/European sites

- This proposed development project does not lie within any international/European designated sites.
- The proposed development project is within 10km of these Special Protection Areas (the proximity to the site(s) is shown in brackets): *Ribble & Alt Estuaries (7km)*

National sites

- This proposed development project does not lie within any nationally designated sites.
- The proposed development project is within 10km of these National Nature Reserves (the proximity to the site(s) is shown in brackets): *Ribble Estuary (9.1km)*
- The proposed development project is within 10km of these Site(s) of Special Scientific Interest (the proximity to the site(s) is shown in brackets): *Red Scar And Tun Brook Woods (4.8km)*; *Beeston Brook Pasture (6.2km)*; *Ribble Estuary (7km)*; *Darwen River Section (7.4km)*; *Newton Marsh (7.7km)*

Local Nature Reserves

- This proposed development project does not lie within any Local Nature Reserves.
- The proposed development project is within 5km of these Local Nature Reserves (the proximity to the site(s) is shown in brackets): *Preston Junction (0.9km)*; *Fishwick Bottoms (1.8km)*; *Haslam Park, Preston (2.3km)*; *Hills and Hollows (3.6km)*; *Grange Valley (4km)*; *Pope Land Open Space (4.8km)*

Section 3: Local Wildlife Sites (locally designated sites of importance for biodiversity and nature conservation)

There may be non-statutory Local Wildlife Sites (also known as Sites of Importance for Nature Conservation, County Wildlife Sites etc) that should be considered as part of this proposed development project as they receive protection through the planning system. This tool does not hold information on Local Wildlife Sites so separate advice should be sought.

If your development proposal is within or adjacent to a Local Wildlife Site, the Local Planning Authority may require an ecological assessment to be undertaken by a professional ecologist.

The section below needs to be completed by the local planning authority

1. Has Section 1 of the Wildlife Assessment Check Summary Report indicated input from a consultant ecologist is required for this development project?

Yes
Go to question 2

No
Go to question 5

2. Has an ecological report been submitted with the planning application?
(An ecological report should accompany the planning application if the output from Section 1 of the Wildlife Assessment Check indicates that input from a consultant ecologist is required).

Yes
Go to question 3

No
Request further information from the applicant to clarify why no report has been submitted.

Go to question 5

3. Does the ecological report include the necessary species or species group surveys, as indicated in Section 1 of the Wildlife Assessment Check Summary Report?

Yes
Go to question 5

No
Go to question 4

4. Has justification been provided as to why the species or species group surveys have not been undertaken?

Yes
Go to question 5

No
Request further information from the applicant to clarify why no surveys have been undertaken.

Go to question 5

5. Does the development proposal fall within or close to any statutory designated sites, as indicated in Section 2 of the Wildlife Assessment Check Summary Report?

Yes
Go to question 6

No
Go to question 7

6. Are the statutory designated sites covered within the ecological report?

Yes
Go to question 7

No
Request further information from the applicant and go to question 7

7. The Wildlife Assessment Check does not hold information on Local Wildlife Sites. Have Local Wildlife Sites been covered within the ecological report?

Yes

No
Request further information from the applicant

Not applicable since there are no Local Wildlife Sites nearby