

Date: 3rd September 2018

REF: 18/04656/FUL

Dear Mr Perks,

The planning application at Courtfield House must, in its current form, be rejected according to the National Planning Policy Framework. Just a few of the relevant policies therein are listed in the appendix. A number of other relevant acts are also included in the appendix below.

The site contains a Priority Habitat traditional orchard. As the People's Trust for Endangered Species' representative for such habitats I strongly object to the destruction of this important site and draw attention to the paucity of evidence presented in the Ecology Statement. Due to the distribution of the fruit trees, the entire site (excluding constructions) is considered a traditional orchard Priority Habitat. It is on the Natural England inventory of priority habitats as WILT0587. The ecology statement does not mention priority habitats. As this site has been recently brought to our attention, it is not currently present as traditional orchard on the Natural England online habitat map, MAGIC, but is recorded as deciduous woodland Priority Habitat. It is important to note that inclusion of a habitat on an official inventory is not a prerequisite for definition as such any more than a road must be mapped to exist as a road.

Context and resolution of conflict

The value of this site is historical, environmental and social. The site is registered on the MAGIC map as deciduous woodland Priority Habitat with a 'low' identification confidence. This classification is not mentioned anywhere in the Design and Access or Ecology Statements. Although this classification would be somewhat erroneous for the traditional orchard area, there are many significant trees on the site. Many of the fruit trees may be considered veteran. The NPPF (175[c]) states that removal of veteran trees is only acceptable in 'wholly exceptional' cases, which a small residential development is clearly not. Access must be granted to a representative of the Ancient Tree Inventory to determine if any of the trees are ancient or veteran – this cannot be left to the developer or their ecologist to determine.

To level the gardens and orchard and replace them with new housing is entirely incompatible with the goals of sustainable development and would amount to cultural and environmental vandalism. The strong feelings of the residents of Trowbridge and beyond speak loudly to a desire for this site to be treated sympathetically and for as much as possible of its historical and environmental context to be retained.

The gardens and orchard are a ready-made parkland situated in a position hardly likely to be surpassed in convenience being, as it is, directly adjacent to the existing Trowbridge Park. The annexing of the orchard and gardens to Trowbridge Park is an obvious and satisfactory resolution.

Access to the orchard could easily be gained and controlled if necessary through the northwest boundary of Courtfield House gardens. Additionally, many of the most significant non-fruit trees are also along this boundary. The site would make a fine community orchard and excellent public greenspace. Donation of a substantial proportion of the gardens to Council ownership would probably be an acceptable compromise position and alleviate concerns of the Trowbridge public. High levels of public and third-sector engagement would likely be forthcoming and be used to form a friends group to look after the orchard and grounds. There are many trusts and funding streams that could be accessed for community projects. Indeed, grants for new trees are available from PTES.

Ecological survey

The Phase 1 survey by Stark Ecology amounts to little more than a walk-over. The badger, reptile and bat surveys were cursory at best and conducted in sub-optimal seasons.

Badgers:

Although no active badger setts were found, there is a badger latrine on site and much of the grounds were not searched. The surrounding area offers little other habitat suitable for badgers to forage so destruction of the site will have a major impact on the ability of the group to survive.

Bats:

The bat roost surveys were limited to some parts of Courtfield House and some unspecified trees. The ecologist states that only one further emergence/re-entry survey will be conducted at a more suitable time of year (May/June 2018) but there is no evidence of this having been done.

There does not appear to be any serious bat survey work conducted on the wider site. The lead ecologist at Stark Ecology, Georgie Starkie BSc (Hons) MSc MCIEEM, reports that:

“[n]one of the trees within the site boundaries were found to have features such as cracks, splits or fissures which could be used by bats as a roost”.

Without wishing to put too fine a point on it, this is either an oversight so great as to prove the ecologist highly incompetent, or it is a blatant lie. It certainly brings the integrity of the survey into question. Comparison of this conclusion to the arboriculturist's report is stark indeed:

T801 Numerous cavities main branch structure. Minor deadwood in canopy

T805 Prolific ivy throughout canopy [N.B. this means cavities would not be visible and the same goes for the many other ivy-covered trees].

T814 Major deadwood in canopy [N.B. where there's deadwood, there's cavities and woodpecker holes]

T819 Major decay throughout main stem

T830 Stem completely hollow, decayed [N.B. prime bat habitat]

T845 Stem hollow, decayed

T846 Stem hollow, decayed, cracked

In addition to the above, all old fruit trees have cavities. The arb survey records sixteen.

The proposed bat mitigation, even based on the insufficient data presented, is thin gruel:

4x Schwegler 1FR bat tubes

2x Schwegler 1FD bat boxes

1x Schwegler 2FN bat box

This does not adequately compensate for the loss of the entire roofspace of the buildings, outbuildings, dozens of tree crevices and cavities, and foraging area. It also does not specify that the boxes should be in place before existing roosting sites are destroyed to give bats time to locate and start to use them. The suggestion is that any bats disturbed during works are translocated to the boxes, which is unlikely to result in the bats taking up residence.

Reptiles:

Other than a reptile survey, there are no other species surveys.

Mitigation:

Beyond a spattering of bat boxes, no other mitigation is proposed.

N.B. Additional planting in retained areas of habitat does not mitigate or compensate for habitat loss elsewhere on the site, but instead serves to damage the remaining habitat through overcrowding with more trees invariably grown on inappropriate rootstocks. Moreover, maturation, longevity and retention cannot be guaranteed, even with TPOs in place.

Viability

The viability appraisal has been kept confidential. Even without knowing the details of the financial considerations of this project, it is still evident that many other historically important buildings across the country are converted into residential dwellings without the need to build 16 additional properties to subsidise the project.

Please confirm that this document has been submitted for consideration with regards to the application.

Kind regards,

Steve Oram | Orchard Biodiversity Officer | 020 7062 8618

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Appendix - Statutory Instruments

European Landscape Convention 2000 (Legally Binding):

*"Signatories are expected to recognise landscapes in law as an essential component of people's surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity."
(Article 5a)*

The Natural Environment and Rural Communities Act (NERC Act) 2006 contains a statutory duty (Section 40):

"Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity".

Traditional orchards are listed as a Habitat of Principal Importance in Section 41 of the NERC Act. Habitats and species are listed by the Secretary of State to provide guidance for local and regional authorities for the implementation of their statutory duty under Section 40.

EU Habitats Directive

Article 10

Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora. Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.

This translates to the UK as follows:

The Conservation of Habitats and Species Regulations 2010 (The Habitats Regulations)

Regulation 39: Nature conservation policy in planning contexts

"...policies in respect of the conservation of the natural beauty and amenity of the land shall be taken to include policies encouraging the management of features of the landscape which are of major importance for wild flora and fauna.

The features of the landscape (referred to above) are those which by virtue of their linear and continuous structure (such as rivers with their banks or traditional systems of marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild fauna and flora."

National Planning Policy Framework 2012

Achieving sustainable development

8.(c). an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Conserving and enhancing the natural environment

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:
a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

Habitats and biodiversity

174. To protect and enhance biodiversity and geodiversity, plans should:
a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

175. When determining planning applications, local planning authorities should apply the following principles:
a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

[b) SSSI etc.]

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;

International Treaty on Plant Genetic Resources for Food and Agriculture 2001

The genetic diversity of fruit varieties in the remaining traditional orchards of England and Wales is of great value from both a heritage and commercial perspective. Preservation of this genetic diversity can provide food

security and resilience to threats from pests, disease and climate change, and is required under Articles 4-6 of the International Treaty on Plant Genetic Resources for Food and Agriculture, to which the United Kingdom is a signatory.

Biodiversity 2020

The 2020 Mission is *“to halt overall biodiversity loss, support healthy well-functioning ecosystems and establish coherent ecological networks, with more and better places for nature for the benefit of wildlife and people.”*

Targets relevant to traditional orchards’ Priority Habitat status:

- 90% of priority habitats in favourable or recovering condition
- No net loss of priority habitat and an increase in the overall extent of priority habitats by at least 200,000ha.