

| Application Details | |
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| Application Reference Number: | 3/05/22/006 |
| Application Type: | Variation of conditions |
| Earliest decision date: | 09 June 2022 |
| Expiry Date | 20 June 2022 |
| Decision Level | Planning Committee |
| Description: | Variation of Condition No. 02 (approved plans) of permission 3/05/20/004 to change the final height of the building as updated on drawings |
| Site Address: | The Paddock, Carhampton Road, Blue Anchor, TA24 6LB |
| Parish: | 05 |
| Conservation Area: | |
| Somerset Levels and Moors RAMSAR Catchment Area: | |
| AONB: | N/A |
| Case Officer: | Ben Gilpin |
| Agent: | Mr Bar, |
| Applicant: | Mr and Ms Mark and Anne Wilson |
| Committee Date: | |
| Reason for reporting application to Committee | Recommendation is contrary to representations of Parish Council and over 4 individuals |

1. Recommendation

1.1 That permission be GRANTED subject to conditions

2. Executive Summary of key reasons for recommendation

2.1 The revision (as commenced on site) is marginally higher than that previously approved. The effect of the increase in height of 450mm of the ground floor (from 22.6m eaves of the ground floor (above sea level (ASL)) to 23.05m ASL) and 550mm of the first floor (from eaves at 25.3m ASL to 25.85m ASL) is not considered so injurious to neighbouring amenity as to support a recommendation of refusal.

2.2 The overall design in terms of layout, scale and external design remains the same as previously approved and complies with the Design Guide. The increase in height is not considered to detract from the design.

3. Planning Obligations and conditions and informatives

3.1 Conditions (bullet point only full text in appendix 1)

1. Standard Time Limits

2. Plans
3. Materials (as previously approved)
4. Lighting for Bats (as previously approved)
5. Vegetation Clearance
6. Removal of Trees; Hedgerows; Shrubs
7. Windows (as previously approved)
8. Tree Protection (as previously approved (in part) and sections ii and iii)
9. Notwithstanding detailed finish, the scheme needs to extend the first-floor timber cladding to the full height of the building, so removing the visually conspicuous white trim at the top, in the manner that has already been partially built, as opposed to what is shown in the submitted elevations.

3.2 Informatives (bullet point only)

3.2.1 Proactive Statement

3.2.2 Works to be in accordance with the Conservation and Habitat Regulations 2017.

3.3 Obligations

4. Proposed development, site and surroundings

4.1 Details of proposal

Variation of Condition No. 02 (approved plans) of permission 3/05/20/004 to change the final height of the building as updated on drawings. The elevations to the North East and South West introduce no new fenestration or other apertures to that approved in the original planning application - they are as approved, albeit 550mm higher (as are the South East and North West elevations).

4.2 Sites and surroundings

Detached part completed 'cubist' style two storey dwelling, on a plot that forms part of the linear development along the adopted highway to Blue Anchor (to the north), with existing highways access setback from the road and mature hedgerow and trees to front boundary.

The site is visually well enclosed when seen from the highway.

The direction of foul water flow, and requisite degrees (angle) have necessitated the slight increase in height of the building (0.55m) to accommodate such infrastructure.

The site has no statutory designation constraints.

5. Planning (and enforcement) history

| Reference | Description | Decision | Date |
|---------------|---|------------------------|------------|
| NMA/05/22/002 | Application for a non-material amendment to application | Withdrawn by Applicant | 07.04.2022 |

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| | 3/05/20/004 for adjustments to the set-out datum | | |
| 3/05/20/004 | Replacement of bungalow and garage outbuildings with 1 No. dwelling | Approved | 17.12.2020 |

6. Environmental Impact Assessment

N/A

7. Habitats Regulations Assessment

N/A - principal planning permission has been implemented and site is beyond the Phosphate Catchment Area.

8. Consultation and Representations

Statutory consultees (the submitted comments are available in full on the Council's website).

8.1 Date of consultation: 27 April 2022

8.2 Date of revised consultation (if applicable):

8.3 Press Date: 29.04.2022

8.4 Site Notice Date: 19.05.2022

8.5 Statutory Consultees the following were consulted:

| Consultee | Comment | Officer Comment |
|-------------------------------------|-----------------------------|---|
| <u>Highways Development Control</u> | <i>No Observations</i> | <i>With no further comments it is considered the proposal is acceptable from a highway safety perspective</i> |
| <u>Conservation Officer</u> | <i>No comments received</i> | <i>With no further comments it is considered the proposal is acceptable from a heritage perspective</i> |
| <u>SCC - Ecologist</u> | <i>No comments received</i> | <i>With no further comments it is considered appropriate to apply previous planning conditions (where they have not yet been discharged (and reference works needed where they have been discharged))</i> |
| <u>Tree Officer</u> | <i>No comments received</i> | <i>With no further comments it is</i> |

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| | | <i>considered appropriate to apply previous planning conditions (where they have not yet been discharged (and reference works needed where they have been discharged))</i> |
| Consultee | Comment | Officer Comment |
| <u>Landscape</u> | <p><i>No objection, subject to conditions as set out below. Increasing the height of the approved building will draw attention to its inconsistency with the form and appearance of neighbouring development. However, the increase in height is small, and although the development will be more visible from the coast path, there is scope to reduce the visual prominence of the building by requiring minor changes to the finishes of the elevations and the introduction of screen planting. Subject to conditions that set out the requirement to:</i></p> <ul style="list-style-type: none"> <i>o extend the first-floor timber cladding to the full height of the building, so removing the visually conspicuous white trim at the top, in the manner that has already been partially built, as opposed to what is shown in the submitted elevations; and</i> <i>o provide landscape proposals, that require tree and shrub planting so as to partially screen the building and to break up the roofline when seen from the wider landscape to the northwest and southwest;</i> <p><i>it is considered that the landscape harm will be negligible, and that the proposed development will not conflict with local plan policies NH5 and NH13.</i></p> <p>JUSTIFICATION</p> | <i>No objection subject to the inclusion of planning conditions</i> |

The application is to increase the height of a two-storey approved building by 0.55 m.

The approved dwelling has a "modern" form and appearance: having a horizontal emphasis, flat roof, large window openings, and timber cladding to the upper elevations. Its overall character is in contrast to the early 20th century Arts and Craft style houses with pitched roofs that form the immediate context.

Increasing the height of the building will increase its presence and expose its inconsistency with the context, especially when viewed from the coast path public right of way that lies over 300m away to the northwest and Grove Road to the southwest. It is noted that, a path that runs from the field access between the properties of Ker Moor and Hazel Lea on the B3191 and the coast path, is understood to be used by local walkers and provides a close vantage point from which to see the site, however, the route is not a public right of way or permissive path.

The changes that would arise from the proposed development risks conflicting with local plan policies NH5 and NH13 which set out that development should:

*o be located and designed in such a way as to minimise adverse impact on the quality and integrity of that local landscape character area;
and
o meet the highest standards of design, respond positively to its neighbours and the local context...*

However:

o the increase in height is small, such that the height of the proposed development would remain only marginally higher than the eaves height of the neighbouring property;

o the elevations of the proposed development would appear as bold blocks of largely recessive materials (includes timber that will fade) that would help to visually break up and, in time, help camouflage the building;

o the development is set within an existing garden which includes trees and shrubs which screen and assimilate the building from the highway to the southeast; and

o when viewed from the northwest and southwest, the site is seen against a treed backdrop;

o although the site lies in an attractive part of the West Somerset landscape, it lies in a part that is at a low elevation, on relatively flat land, and so is less susceptible to the increase in presence of built development, than other more elevated sloping parts of the landscape; and

o there is scope to minimise the visual presence of the development by making changes to the details of the elevational finishes and planting vegetation on the western side to screen, soften and breakup the building's roofline.

With the above considerations in mind, it is judged that, subject to the conditions set out below, that the landscape harm will be negligible, and that the proposed development will

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| | <p><i>not conflict with local plan policies NH5 and NH13.</i></p> <p><i>Recommended conditions:</i></p> <ul style="list-style-type: none"> <i>o extend the first-floor timber cladding to the full height of the building, so removing the visually conspicuous white trim at the top, in the manner that has already been partially built, as opposed to what is shown in the submitted elevations; and</i> <i>o provide landscape proposals, that require tree and shrub planting so as to partially screen the building and to break up the roofline when seen from the wider landscape to the northwest and southwest.</i> <p><i>Suitable planting would take the form of a mixed evergreen hedge along the western boundary with the addition of tree planting, including species such as: holly, Arbutus unedo, small flowering cherries (such as Prunus x subjrtella), Pinus pinea, and Prunus domestica</i></p> | |
| Consultee | Comment | Officer Comment |
| <u>Wessex Water Authority</u> | No comments received | <i>With no further comments it is considered appropriate to apply previous planning conditions (where they have not yet been discharged (and reference works needed where they have been discharged))</i> |
| Consultee | Comment | Officer Comment |
| <u>Carhampton Parish Council</u> | <p><i>The Parish Council wish to object to this application for the following reasons:</i></p> <p><i>1. We understand from the amended Planning Statement dated 25.04.2022 the height of the building had to be changed because of the -“change in set-out datum of the building due to the</i></p> | <i>With regards Point 1 from the PC, the reason why the applicant's private survey did or did not identify the issue in 2020, that has resulted in the apparent subsequent need to raise the height of the building 550mm, is a matter for the applicant, Wessex Water and Building Control.</i> |

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| | <p>requirement of the building to be connected to the existing mains sewer line with the invert level on site being higher”.</p> <p>However we note that in Wessex Water’s correspondence dated 3rd November 2020 they state “Your contractor must undertake private survey to determine the precise location of the existing 225mm public foul sewer which crosses the site” Therefore we would very much like to know why was this issue not dealt with in 2020 by their contractor prior to commencement of the build?</p> <p>2. The plans submitted do not show clearly the increased height in relation to the neighbouring dwellings, only a side view [drawing 2003-404]. The visual impact study photos [2003-500] do not show the “viewing gallery” or its impact on neighbours.</p> <p>We would refer you to Mr A.C. Potter’s letter page 9 - photograph Figure 4 which clearly shows the impact. We would be grateful if you could further consider the impact on privacy and overlooking.</p> <p>3. Further we cannot see any reference to the siting of a soakaway. Again we would refer you to Wessex Water’s correspondence date 3rd November 2020 which clearly states:</p> <p>“One of our main priorities in considering a surface water strategy is to ensure that surface water flows, generated by new impermeable areas, are not connected to the foul water network which will increase</p> | <p>The result of what may or may not have been deciphered in 2020 appears to have resulted in the construction of the building in the same location as that approved, but 550mm higher.</p> <p>The implications and effect of that increase in height (of 0.55m) is a material matter for consideration in this instance.</p> <p>In relation to Point 2 from the PC, they appear to have referenced a visual impact study area submitted with the 2020 application. They also appear to have identified a 'viewing platform' that has not been detailed on the plans submitted with the 2022 planning application. What is evident is the building lines of that previously approved have remained in position, with the identifiable change to the development being the increase in height of the building by 550mm. Irrespective, amenity (including overlooking and privacy) will be a material consideration in deliberations.</p> <p>With just an increase in height for consideration, and all other elements remain as permitted, soakaways remain as previously approved.</p> |
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the risk of sewer flooding and pollution. You have indicated that surface water will be disposed of via soakaway and the main sewer. The planning authority will need to be satisfied that soakaways will work here. Soakaways will be subject to Building Regulations”

Building Regulations make it clear where the sewers should be situated, i.e.,

- A soakaway must be 2.5 meters from the boundary.*

The soakaway must not be in an area of unstable ground or where the lowest point of the soakaway meets the water table at any point of the year.

The soakaway must not be near any other soakaway or drainage field, as this would compromise the absorption of the ground.

- A soakaway should be at least 5 metres from a house, but this depends on the calculated size of the soakaway.*

2 The parish council cannot see the proposed siting of a soakaway on any plan submitted.

The Parish Council’s held its planning meeting on 19th May having been given an extension of time due to the Unitary elections. At this meeting residents raised a concern about the Site Notice as it was only put up that day. It is our understanding that when a planning application is received by the local authority the site notice must remain in place for at least 5 weeks from the date of receipt of the planning application which was 6th April 2022. As the Site Notice is dated 19th May we assume this planning application will

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| | <i>need to be held over for a further 21 days to allow objections. Yours sincerely</i> | |
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8.6 Internal Consultees the following were consulted:

| Consultee | Comment | Officer comment |
|-----------|---------|-----------------|
| N/A | | |
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8.7 Local representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

12 number of letters have been received making the following comments (summarised):

| Material Planning Considerations | |
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| Objections | Officer Comment |
| Privacy (loss of from increased height) | The position on site of the dwelling does not change from that previously permitted, only the height. With no new fenestration to the dwelling from that approved previously it is considered levels of amenity would not be harmed to such an extent as to support a recommendation of refusal (there would be no loss of privacy over or above that which could be currently experienced). |
| Visual Impact | Comments received from the SWaT Landscape Officer have found that the increase in the height of the building above ground level is not harmful to the landscape, character or appearance of the area, subject to planning conditions |
| Out of Character | With regards the concerns that the scheme is out of character, it needs to be understood that the design of the scheme has been established by virtue of the sites planning history, and the appearance of the building (which has not changed in this application – only its height above ground has changed) is |

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| | subsequently not considered out of character |
| Support | Officer comment |
| N/A | |

8.7.1 Summary of objections - non planning matters

1. Why issues between contractors and applicant were not 'dealt with' in 2020: this is a matter that is beyond the control of planning

8.7.2 Summary of support - non planning matters

N/A

9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former West Somerset area. The Development Plan comprises the Adopted West Somerset Local Plan to 2032, Somerset Mineral Local Plan (2015), and Somerset Waste Core Strategy (2013).

Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District. Since then, the Government has agreed proposals for local government reorganisation and a Structural Change Order agreed with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset authority to prepare a local plan within 5 years of vesting day.

Relevant policies of the development plan in the assessment of this application are listed below (West Somerset Local Plan to 2032 (adopted 2016)):

- SC1 Hierarchy of settlements
- NH13 Securing high standards of design
- OC1 Open Countryside development
- NH5 Landscape character protection
- NH6 Nature conservation & biodiversity protection & enhancement

Other relevant policy documents:

Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (February 2021)

9.1 National Planning Policy Framework

10. Material Planning Considerations

The main planning issues relevant in the assessment of this application are as follows:

10.2.1 The principle of development

The principle of development has been established at the site, as evidenced by the sites' planning history.

10.2.2 Design of the proposal

The design of the proposal, including dimensions, windows, doors and external finishes do not change as a result of the proposed variation of condition 2 of 3/05/20/004.

A number of the objections have stated that the proposal is, from a design perspective, an 'eyesore' and 'carbuncle'.

The comments detailed in the objections are noted, but it needs to be understood that the design 'as is' has been determined as acceptable in this location by virtue of that approved in 3/05/20/004 (this permission having been implemented so is extant).

The proposed increase to the height of the building would not alter the overall design to a degree that causes harm to the character and appearance of the area.

10.2.3 Quality of Accommodation

The quality of accommodation is considered acceptable.

10.2.4 Access, Highway Safety and Parking Provision

The amended scheme does not seek revision to access to the site. The Statutory Consultee has not objected to the proposal. Access, Highway Safety and Parking Provision are considered acceptable.

10.2.5 The impact on the character and appearance of the locality

A number of the objections received have cited the design of the building, and its increased height have had a detrimental impact on the character and appearance of the locality.

In this instance, consideration of the areas character has been undertaken by the Landscape Officer who has stated that, subject to a planning condition re: extension of cladding, the scheme would have no significant effect on the character or appearance of the locality.

Knowing the above, subject to the inclusion of the planning condition, the scheme is not one that would be detrimental to the character of the area.

10.2.6 The impact on neighbouring residential amenity

A number of objections have stated that the increase in height of the dwelling, by 550mm, would have a negative impact on neighbouring amenity.

In this instance, the design (and positioning of windows principally on the SW or NE facing elevations (those that are parallel to neighbouring properties)) would not change from that previously approved.

In this respect there could be no greater loss of amenity (through overlooking) than that which could result from the scheme previously approved.

Any effect on overlooking of the land to the east, between the site boundary and agricultural land further to the east, would be minimal and as this area of land is not considered to be 'private outdoor amenity space' any perceived loss is not considered sufficient to warrant a recommendation of refusal in this instance.

10.2.7 The impact on trees and landscaping

There would be no impact to trees over or above that which could be carried out under the extant permission.

Comments received from the Landscape Officer have stated that they have no objections to the revised scheme, subject to an additional planning condition (increasing the height of cladding to remove white element at the top of the building).

Subject to the inclusion of the above planning condition, the proposal is considered one that would have a benign effect on the character of the wider area.

10.2.8 The impact on ecology and biodiversity and the Somerset Levels and Moors Ramsar Site.

The scheme is outside the Phosphates Catchment Area so would have a benign effect on the Somerset Levels and Moors Ramsar site.

The scheme would have no greater effect on ecology / biodiversity than that previously approved.

10.2.9 Waste/Recycling facilities

The plans submitted identify an area for bins / recycling receptacles on site.

Provision for waste / recycling facilities is considered acceptable.

10.2.10 Flood risk and energy efficiency

The proposal seeks no changes to that previously approved. The scheme would have no greater impact on flood risk than that already permitted in the extant permission.

With no changes to the permitted design (bar its slight increase in overall height by 550mm) the scheme would not deliver any additional energy efficiency elements over or above that previously permitted (the previously approved scheme, through its design was considered to have good energy conservation features and use a modern heating system so would promote sustainability).

10.2.11 Any other matters

N/A

11 Local Finance Considerations

11.1 Community Infrastructure Levy

West Somerset DC does not have an adopted CIL schedule so CIL is not applicable in this instance.

12 Planning balance and conclusion

12.1 The application is just for the increase in final height (0.55m) and the principle of the development, together with its design and position on site have previously been approved. The proposed changes comply with adopted policies of the Local Plan as well as the Design Guide and are therefore considered to be acceptable. No harm to the character and appearance of the area, or living conditions is identified that would justify refusal and here the application.

12.2 For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is granted subject to conditions.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998 and the Equality Act 2010.

Appendix 1 – Planning conditions and Informatives

Recommended Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of the original permission 3/05/20/004 dated 17.12.2020.

Reason: As required by Section 51 of the Planning and Compulsory Purchase Act 2004 and to avoid the accumulation of unimplemented planning permissions and having regard to the Planning Practice Guidance advice that an application under Section 73 of the Town and Country Planning Act 1990 cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

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

(A3) DrNo 2003_101 Location Plan
(A3) DrNo 2003_102 Proposed Site Plan
(A3) DrNo 2003_103 Proposed Block Plan
(A3) DrNo 2003_401_A Proposed Elevation SE
(A3) DrNo 2003_402 Proposed Elevation NW
(A3) DrNo 2003_403 Proposed Elevation SW
(A3) DrNo 2003_404 Proposed Elevation NE

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The development hereby permitted shall be completed in accordance with those details submitted for Condition 3 of 3/05/20/004 on 02 December 2021, as approved in writing by the Local Planning Authority on the 8th December 2021.

The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: To safeguard the character and appearance of the building/area.

- 4 The development hereby approved shall be implemented and completed in accordance with the previously approved "lighting design for bats", as detailed in the submissions to the Local Planning Authority on the 2nd December 2021 for Condition 4 of 3/05/20/004 (approved in writing on the 7th April 2022 by the LPA). West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

- 5 Any vegetation in the construction area should initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10°C or above) before clearing to minimise the risk of harming/killing hedgehogs and or any reptiles and or

amphibians that may be present and to encourage their movement onto adjoining land. This work may only be undertaken during the period between March and October under the supervision of competent ecologist. Once cut vegetation should be maintained at a height of less than 10cm for the duration of the construction period. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the ecologist responsible.

Reason: In the interests of UK protected and priority species and in accordance with policy NH6 of the West Somerset Local Plan

- 6 No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist. In no circumstances should netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with policy NH6 of the West Somerset Local Plan

- 7 The development hereby permitted shall be completed in accordance with those details submitted for Condition 7 of 3/05/20/004 on 02 December 2021, as approved in writing by the Local Planning Authority on the 1st February 2022.

The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: In the interests of priority bird species listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with policy NH6 of the West Somerset Local Plan

- 8 i) The development hereby permitted shall be completed in accordance with those details submitted for Condition 8 (i) of 3/05/20/004 on 15th February 2021, as approved in writing by the Local Planning Authority on the 16th February 2021.

ii) Such fencing shall be erected prior to commencement of any other site operations and at least two working days' notice shall be given to the Local Planning Authority that it has been erected.

iii) It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase.

- 9 Notwithstanding the plans as approved, the first-floor timber cladding shall be extended to the full height of the building, so removing the visually conspicuous

white trim at the top of the first floor walls.

Such a material finish shall be completed prior to occupation, and thereafter retained in perpetuity.

Reason: In the interests of minimising effects on the character of the wider area.

- 1 In accordance with the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.
- 2 The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.

