

Memo

To: Sian Hickey

From: Cathy Holwill (RBC Ecology Consultations)

CC:

Date: 11 September 2024

Re: Application ref: 230726

Address: 147 Upper Woodcote Road Reading RG4 7JR

Description: Front, side rear extensions, front porch addition and part first floor extension

The application site comprises a detached dwelling with detached garage in a residential area of Caversham. The site is surrounded by habitat of good suitability for use by foraging and commuting bats (large, connected gardens with trees, and open space associated with Caversham Golf Course to the rear of the property).

The first Ecology report (John Wenman Ecological Consultancy, November 2023) concludes that the house has a number of features potentially suitable for use by roosting bats and further survey was required.

A further bat emergence report has been submitted (John Wenman Ecological Consultancy Ecology, August 2024, ref: R2520_BES_a). A single common pipistrelle bat was seen to emerge from behind cladding on the front elevation during the second survey. The report concludes the building is in use by one common pipistrelle bat and that it is a small day roost of low conservation status.

While the Bat Conservation Trust's Bat Survey Guidelines recommend a further survey during the optimum period of May to August to fully characterise the roost, it is considered that the findings of the report are accurate in this case.

The proposed works will lead to the loss of a common pipistrelle day roost and a licence for development works affecting bats will need to be obtained from Natural England - for derogation from the provisions of the Habitat Regulations - before works which could impact upon the roost can commence.

Section 7 (Mitigation Strategy) of the report provides a mitigation plan to ensure that bats are not harmed and that replacement roosting sites are provided and if it is implemented the favourable conservation status of bats will be maintained.

A planning authority's duty under The Habitat Regulations

Planning Authorities have statutory duties under The Habitat Regulations. It needs to be satisfied that a licence for development works affecting bats is likely to be granted by Natural England.

[The courts have considered the application of a planning authority's duty under the Habitat Regulations e.g. Morge vs Hampshire County Council (2010). In the Morge case the supreme court has ruled that it cannot see why planning permission should not be granted unless the proposed

development would be unlikely to be licensed as a derogation from those provisions.]

Consideration of The Habitat Regulations

In this case it is considered that as long as a mitigation plan such as that given in the bat survey report is provided the proposed works would pass the three tests of The Habitat Regulations, and as such receive from Natural England a licence, because:

1. The development is for an imperative reason of overriding public interest of an economic nature as the development will contribute to a social and economic need of the local community for better housing (this is assuming that it is in compliance with other planning policy) - therefore Regulation 55(2)(e) can be met
2. There is no satisfactory alternative to the development as without carrying out the works the aforementioned need would not be met - therefore Regulation 55(9)(a) can be met
3. Appropriate mitigation can be provided which will ensure that there will not be a detrimental impact to the favourable conservation status of the bat species concerned - therefore Regulation 55(9)(b) can be met

Planning policy

Paragraph 99 of the government Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System (NB this document has not been revoked by the National Planning Policy Framework) 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, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, 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. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below. “

As such, a condition should be set to ensure that a bat licence is obtained if the application is approved – wording is given below:

Condition

Condition: No works hereby permitted shall commence until a licence for development works affecting bats has been obtained from the Statutory Nature Conservation Organisation (Natural England) and a copy has been submitted to and approved in writing by the council. Thereafter mitigations measures approved in the licence shall be maintained in accordance with the approved details. Should conditions at the site for bats change and / or the applicant conclude that a licence for development works affecting bats is not required the applicant is to submit a report to the council detailing the reasons for this assessment and this report is to be approved in writing by the council prior to commencement of works.

Reason: The building hosts a bat roost which will be affected by the proposals. This condition will ensure that bats, a material consideration, are not adversely impacted upon by the proposed development, and that the Council demonstrates that the council has fulfilled its duties under the

