

Ecology matters

KCC Biodiversity comments (summarised)

Bats

The survey has assessed the building as having high potential to be used by crevice dwelling bats and low numbers of bat droppings were recorded within the loft (likely to be Brown Long Eared Bats). To fully understand the impact the proposed development will have on roosting bats the report has detailed that there is a need for emergence surveys to be carried out.

Due to the high potential for roosting bats to be present within the site we recommend that the recommended emergence surveys are carried out prior to determination of the planning application.

From discussions with the planning officer we understand that there is a need for the application to be determined prior to the completion of the emergence surveys. We advise that paragraph 99 of the Government Circular (ODPM 06/2005) does continue on and states the following:

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.

We highlight that if MBC are considering granting planning permission the exceptional circumstances are usually for non-ecology reasons.

To assist MBC in considering if the likely impact can be mitigated for we have reviewed the proposed mitigation strategy. The submitted information has detailed that the following mitigation will implemented if planning permission is granted:

- Bat loft within the garage
- Integrated Bat Boxes
- Raised Roof/Ridge Tiles

As the application is proposing to recreate a bat loft within the garage and incorporate bat roosting features in to the main building. As the proposed mitigation has been designed to be like for like we advise that it is likely that the recommendations will be sufficient to retain the bat interest within the proposed development site.

However as the emergence surveys have not been carried out yet we highlight that there is a risk that the mitigation will not be sufficient and additional mitigation measures will have to be incorporated in to the proposed development (if planning permission is granted). One of the reasons we recommend surveys are carried out prior to determination is to ensure it is clear what mitigation is required and enable the applicant to demonstrate that the mitigation can be incorporated in to the proposed development.

If considering granted planning permission we recommend an appropriate condition.

Other Species

The ecological survey has detailed that the majority of the site within the construction area is bare ground/hard standing. The scoping survey was carried out in June 2016 so while the habitat on site may have re-established we advise it's unlikely that the any vegetation on site has increased to such an extent that it has changed the conclusions of the submitted ecological report.

The report has detailed the following is present within the site:

- Evidence of Badger setts and foraging badgers
- Suitable habitat for breeding birds
- Suitable reptile habitat

The report has made recommendations for precautionary mitigation to be implemented prior to and during construction works and we are satisfied that the implementation of those recommendations will minimise the potential for protected /notable species to be negatively impacted during construction works. These details could be conditioned.

Enhancements

The application provides opportunities to enhance biodiversity within the proposed development site. The report has made a number of recommendations to enhance the site for biodiversity and in addition to those we recommend that a simple management plan is produced to ensure that whole of the site can be managed to benefit biodiversity.

Officers comments

The agent has advised, in consultation with the applicant's ecologist that providing an emergence survey would not be achievable for at least a 6 week period, as the surveys would need to be carried out with at least 2weeks between each survey.

It is acknowledged that the emergence survey would ideally be carried out prior to granting planning permission however KCC comments do identify that the mitigation measures proposed are likely to be sufficient.

In circumstances where surveys identify the presence of bat roosts on the development site, the developer would be required to secure a separate licence from Natural England. As part of the assessment of the licence application Natural England would apply 'three tests' that are set out in legislation. These three tests would assess whether the activity is imperative for reasons of overriding public interest; whether there is no satisfactory alternative and whether favourable conservation status would be maintained.

A Judicial Review judgement on the 5 June 2009 (Woolley v Cheshire East Borough Council) found that Local Planning Authorities in exercising their responsibilities under the Habitats Regulations 2010 must also consider these three tests when considering planning applications where bats roosts have been identified and a Natural England Licence would be required.

In the event that the further surveys of the application site find bat roosts these three tests have been assessed below in relation to the current planning application.

1. Overriding Public Interest.

The overriding public interest in the current development is that the site is currently subject to vandalism and anti-social behaviour. It has been noted by local Councillors and the Environmental Protection Team that the existing building is being broken into and the poor state of repair of the building causes a hazard. Attempts have been made to secure the site, however its size and extent of boundaries, together with the siting of the PROW make it difficult to fully secure the site. The continuing state of disrepair and the opening up of the

building through broken windows and other means of access over time would make the building less suitable for a bat roosts as bats require shelter and constant temperatures.

2. No satisfactory alternative.

Although not statutorily protected the current application involves the replacement of an existing dwelling that is currently in a poor state of disrepair. If the site is not redeveloped it is possible that the site will fall into further disrepair, be a target for vandalism, and, as bats require shelter and constant temperatures, this will make the building less suitable for a bat roost. Mitigation measures have been proposed which would be incorporated into a bat loft within the garage, integrated Bat Boxes and raised Roof/Ridge Tiles, with the likelihood that these measures would provide suitable mitigation.

3. Favourable conservation status must be maintained.

There has been a survey carried out of the application site by two a qualified ecologists in line with published guidance. This survey found evidence of a bat roost on the application site and a high potential for roosts. A mitigation strategy has been submitted which is likely to mitigate for the potential loss by the demolition of the existing dwelling in the event that further survey work finds evidence of a bat roost on the site. A planning condition is recommended to ensure that the survey work is completed and the implementation of the mitigation strategy.

It is considered that the development has had proper regard to the protection of protected species with a clear plan for enhancements to the development to provide adequate habitat for bats and protection for bat roosts should further surveys discover bats on the application site and other protected species.

It is considered on this occasion the matters relating to ecology and biodiversity can be satisfactorily dealt with by planning condition.

Additional representation

One further letter of representation has been received from a neighbour whom has previously commented on the application, this in summary outlines the following :

- At this stage, we would ask that referring para 8.32, that once the new access is built that this is reviewed to ensure that it is not impacting on our property and that the drawings submitted regarding headlight path are accurate. Should they be found to be inaccurate we would seek to treat this as a material inaccuracy. Notwithstanding that, in your report there is no mention that any access along the existing access already impacts the side of our property, particularly the bedrooms so while headlights may not "directly" shine on the side, the indirect is still an impact as referenced in my prior correspondence.
- We would also ask that pre construction the hedges alongside our property are surveyed by the council to ensure that it is also not damaged during the construction / post construction phase, even though they are not within the TPO area, they are relevant to the area and for our purposes replacing these with, say, a panel fence would benefit us personally but not help the local environment. In the winter, the hedge significantly dies back leaving us exposed to egress and ingress.
- The question regarding whether the access should be lit as far as I can tell has been completely ignored in the recommendations, as you know from the site, there is no mitigation between the access and our bedrooms.

- We would also ask to have sight and be able to comment on the plans referred in condition 6 once they are prepared as they will potentially impact directly our amenity.
- Also, for the planning history, 11/1237 has been omitted, this would seem to be very pertinent to the above as it relates to access through the existing housing line into the area around the SLA. The boundary of 166 which was included in 11/1237 adjoins the above application site and should also be considered for context.

Officer's comments

Paragraph 8.32 should be amended to read as follows, as reference has been made to 162a rather than 166a in the final sentence (change highlighted in bold):

8.32 Concern is raised by the occupiers of 166a that the headlights of vehicles entering and leaving 162a would face directly towards their property. Information has been provided to demonstrate vehicle tracking for an estate car travelling from the parking area proposed to number 162a. This modelling shows that it is more likely that the car headlights would be orientated beyond the front wall of 166a rather than pointing directly towards the property.

The tracking details referred to are shown on dwg T-03 rev P5 (Proposed Access Design). It would not be possible to draft a condition to review the access and its impact after construction as the application seeks a permanent consent. It is not considered that a temporary consent for the access to test the impact would be reasonable. A judgement therefore needs to be taken whether the harm would be significant enough to warrant refusal. It is Officer's opinion that any harm by headlight glare would be fleeting when occupiers of number 162a exit the site only (no potential issue on arrival) and due to topographical changes headlights would be orientated downwards and would be sharply turning towards Ashford Road.

The proposed works do not involve any new dwellings. The amalgamation of two existing accesses (which are currently in close proximity to each other) is considered acceptable for the reasons set out in the Committee Report. The existing access to number 164 would be moved away from the neighbouring boundary by approximately 2m and although it would serve 2 additional dwellings, this net increase in potential traffic movements is not considered of the scale to warrant refusal.

An additional condition to secure a lighting scheme could be conditioned and the wording of this is set out below.

Application 11/1237 related to the *Demolition of No. 170 Ashford Road and erection of six detached dwellings with associated access, hardstanding and garaging*. This site partially adjoins the application site to the north-eastern boundary. The application was refused by the Council and dismissed at appeal.

The representation has asked that Member's attention is drawn to this application. It should be noted by Members that this scheme differs significantly from the application currently for consideration.

It has been asked that neighbours be notified of any submitted details to discharge any landscaping condition. Condition detail applications do not require neighbour consultation and there are no long-term procedures in place to ensure that this would take place. There are however methods in place for any neighbours who wish to make comments to do so. For example condition applications are available on the weekly list to which members of the public can subscribe to.

The tree protection and landscaping conditions proposed at Conditions 5 -7 of the Committee Report are considered acceptable and no further conditions are considered necessary in this respect.

OTHER MATTERS

Please find attached the site location plan for this application.

Recommendation remains unchanged subject to the following additional/replacement conditions:

Replacement condition 9

Prior to the occupation of the development hereby approved, details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes, the provision of native planting and a simple site wide management plan. The approved details will be implemented and thereafter retained.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

New conditions

- (13) Prior to any works commencing on site (including vegetation clearance and building demolition) a detailed bat mitigation strategy must be submitted for written approval by the LPA. The mitigation strategy must include the following:
- Bat emergence survey – incorporating 3 bat emergence/dawn visits.
 - Mitigation to be incorporated in to the site – it must be based on the information within the letter from Greenspace Ecological Solutions 10th April 2017.
 - Annotate site plan
 - Detailed methodology to implement the mitigation strategy.
 - Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - Map showing area not to be impacted by artificial lighting.
 - Details of long term monitoring

The works must be implemented as detailed within the approved mitigation strategy.

Reason: To protect and enhance the ecology and biodiversity on the site in the future. The details are required prior to commencement to ensure that no protected species are impacted upon.

- (14) The precautionary mitigation for breeding birds, reptiles and badgers detailed within Extended Phase 1 Habitat and Bat Scoping Survey; Greenspace Ecology; June 2016 must be implemented prior to and during the construction works.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

- (15) No external lighting shall be erected on site without the details of a lighting scheme being submitted to and approved in writing by the Local Planning Authority. The submitted details shall include measure to shield and direct light from light sources so as to prevent light pollution, impact on neighbouring amenity and in order to minimise

any impact upon ecology. The development shall be carried out in accordance with the approved details and thereafter maintained.

Reason: To protect the appearance of the area, the environment and wildlife and local residents from light pollution.