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Our reference: 234578/4253-1/CB

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Name James Amos

Client Reigate and Banstead Borough Council

By email James.Amos@reigate-banstead.gov.uk

Dear Mr Amos,

Planning reference: 21/00135/F

Proposals: Demolition of existing building and redevelopment to provide a total of 23 homes with associated amenity space, landscaping, car and cycle parking.

Site Address: Chave Croft, Broad Walk, Epsom Downs, Surrey KT18 5TT

Thank you for consulting with Surrey Wildlife Trust with regards to the above planning application. Our advice is restricted to ecological issues, and does not prejudice further representation Surrey Wildlife Trust may make as a non-statutory organisation on related, or other, issues.

We have reviewed the relevant application documents submitted on the planning portal, and other relevant publically available information, and assessed these against published best practice guidance to determine whether submitted information was sufficient in order for the Local Authority to assess the planning application. Following this, we assessed the proposals against relevant legislation and planning policy and recommended appropriate course of action to ensure the Local Authority is fulfilling its duty to conserve biodiversity.

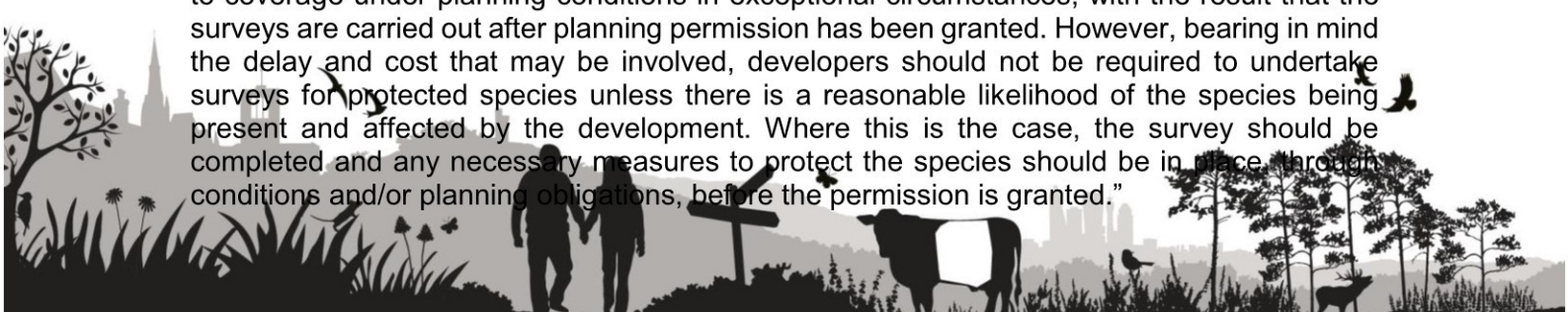
Our advice and recommendations are detailed below.

Protected Species-Bats

All species of bat and their roost sites are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended). All bats are therefore Protected species.

Offences under this legislation include any activities that may kill, injure or disturb an individual or damages or destroys a breeding site or resting place of that individual. Destruction of a bat roost is therefore an offence, even if the bat is not present at the time of roost removal.

Government Circular: Biodiversity and Geological Conservation –Statutory obligations and their Impact within the Planning System (ODPM 06/2005, Defra 01/2005) states “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.”



Furthermore, in its role as a local planning authority, the Council should be aware of its legal duty under Regulation 9(3) of the Habitats and Species Regulations which states that “a competent authority must, in exercising any of their functions, have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”. Also, under Regulation 55 of the above Regulations, the Council must apply the following three tests when deciding whether to grant planning permission where a European Protected Species (bats) may be harmed as follows:

- the activity must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative;
- favourable conservation status of the species must be maintained.

A Preliminary Ecological Appraisal Survey (PEA) has been submitted with the current planning application, in which the site was surveyed in January 2020. Two buildings were identified on site, which were subject to internal and external inspection. B1 was considered to have low roost suitability and B2 negligible roost suitability. Further survey effort was therefore recommended. A further Bat Emergence and Re-entry Surveys document has been submitted. Surveys were undertaken in May and June 2020. On 15 May, one further emergence survey was undertaken and a single common pipistrelle was recorded emerging from the eastern end of B1. Further surveys were then undertaken to characterise the roost, one at dawn, one at dusk. No further Bats were recorded to emerge or re-enter the building. Therefore, the ecologist concludes that B1 is a day roost for a common pipistrelle and advises that a European Protected Species Licence will be required to enable the proposed works to be lawfully undertaken.

We would therefore advise the Council, that should they be minded to grant this planning application for this site, the applicant should be required to:

- **Either - obtain a Protected Species (EPS) licence from Natural England following the receipt of planning permission and prior to any works which may affect bats commencing and to;**
- **Undertake all the actions which will be detailed in the Method Statement which will be required to accompany the licence application, based on the mitigation, compensation and enhancement actions presented within table 5 of the Bat Emergence and Re-entry Surveys report.**
- **Or – under take works under the brief of a Registered Consultant who holds a Low Impact Class Licence for bats.**

This will help ensure that the proposed development is in compliance with the statutory provisions of the above referenced legislation.

The Arboricultural report identifies a number of trees and tree groups to be felled as part of the planning proposals. No information appears to be provided as to the trees suitability for use by roosting bats. We advise that any trees with low roost suitability that are to be felled are subject to a climbed tree inspection on the day that felling is planned by a suitably qualified professional. This should be carried out in suitable weather conditions at an appropriate time of year. If any evidence of Bats is found, the applicant should discuss with their ecologist the need for further emergence/re-entry surveys and the requirement to obtain a European Protected Species Licence. If no evidence of Bats is found, we advise a soft-felling approach under the watching brief of a licenced Bat ecologist undertaken at a suitable time of year, which involves removing the top branches first and working down the tree. Cutting through cavities should be avoided. Moderate or high roost suitability trees would need to be subject to further emergence/re-entry survey prior to felling.

This will assist in avoiding contravention of European Protected Species legislation. In the event that any Bats or evidence of a roost are found during tree felling, works will cease immediately and the advice of a suitably qualified professional sought.

Sensitive lighting

As nocturnal animals, bats are sensitive to any increase in artificial lighting of their roosting and foraging places and commuting routes.

Paragraph 180 of the National Planning Policy Framework states that planning policies and decisions should “limit the impact of light pollution from artificial light on ... dark landscapes and nature conservation”.

The applicant should ensure that the proposed development will result in no net increase in external artificial lighting. In order to comply with above referenced legislation, any external lighting installed on this development should comply with the recommendations of the Bat Conservation Trusts’ document entitled “Bats and Lighting in the UK – Bats and The Built Environment Series”.

Protected Species- Great Crested Newt (GCN)

Great Crested Newts (GCN) are protected under Schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended). Great Crested Newts are therefore European Protected species. Offences under this legislation include any activities that may kill, injure or disturb an individual or damages or destroys a breeding site or resting place of that individual.

Local records held by the Surrey Amphibian and Reptile Group (SARG) indicates probable presence of Great Crested Newt, with confirmed sightings within 525m of the site and probable presence of Common Frog, with confirmed sightings within 800 m of the site. A number of ponds are located within 500m of the site.

The PEA sets out that no terrestrial or aquatic habitat exists on site that would be suitable for protected Amphibians. We would, however, recommend a precautionary approach to working.

Precautionary working methods should follow best ecological practice and should include in this instance:

- **Any trenches left overnight will be covered or provided with ramps to prevent common reptiles from becoming trapped.**
- **Any building materials such a bricks, stone etc. will be stored on pallets to discourage reptiles/amphibians from using them as shelter.**
- **Any demolition materials will be stored in skips or similar containers rather than in piles on ground.**

Should any Great Crested Newts be discovered during construction, which are likely to be affected by the development, works will cease immediately. The applicant will then seek the advice of a suitably qualified and experienced ecologist and works will only proceed in accordance with the advice they provide.

Protected Species- Hedgehog

Hedgehogs are listed as a Priority Species for conservation action under the UK Biodiversity Action Plan, and protected from harm in the UK under Schedule 6 of the Wildlife and Countryside Act 1981. Hedgehogs are also listed as a species of Principal Importance within

the Natural Environment and Rural Communities (NERC) Act 2006. The NERC Act also places a duty on Local Planning Authorities to have regard to the purpose of conserving biodiversity within the planning function, where 'conserving biodiversity' is clarified as including 'restoring or enhancing' a population or habitat.

A desktop search of local records indicates a number of Hedgehog sightings within 1km of the site. The PEA considers the site provides low value Hedgehog habitat and makes recommendations for precautionary working.

We advise that if the Council is minded to grant planning permission, the applicant should ensure that construction activities on site have regard to the potential presence of Badgers, Hedgehog and other mammals to ensure that they do not become trapped in trenches, culverts or pipes. In accordance with table 7 of the PEA, all trenches left open overnight should include a means of escape for any animals that may fall in. Suitable gaps should be provided in any new close-board fencing to allow species such as Badger and Hedgehog to move through the site post-development.

Protected Species- Breeding Birds

Government guidance is clear that local planning authorities have a duty to take steps to preserve, maintain and re-establish wild bird habitat, such that bird populations maintain their numbers in areas where they live naturally. The Council needs to ensure that the population of wild birds and their habitat is appropriately preserved and maintained as a result of the proposed development.

The applicant should be made aware that Part I of the Wildlife and Countryside Act 1981 makes it an offence to intentionally kill, injure or take any wild bird, or intentionally to damage, take or destroy its nest whilst it is being built or in use. The applicant should take action to ensure that development activities such as vegetation or site clearance are timed to avoid the bird nest season of early March to August inclusive.

If this is not possible and only small areas of dense vegetation are affected, the site could be inspected for active nests by an ecologist immediately prior to clearance works. If any active nests are found they should be left undisturbed with a buffer zone around them, until it can be confirmed by an ecologist that the nest is no longer in use.

Biodiversity enhancements

The National Planning Policy Framework (NPPF) makes it clear (para 170) that "Planning policies and decisions should contribute to and enhance the natural and local environment by; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

Paragraph 174 requires the promotion of "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 measureable net gains for biodiversity".

Paragraph 175 also requires that "opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity".

This development offers opportunities to restore or enhance biodiversity and such measures will assist the Local Authority in meeting the above obligation and also help offset any localised harm to biodiversity caused by the development process. The development should progress in line with Table 7 of the PEA and Table 5 of Bat Emergence and Re-entry Surveys.

In addition, the Arboricultural report sets out that a number of trees and tree groups of varying arboricultural quality will be removed as part of the planning proposals. It would appear from the proposed site plan that a number of trees will be planted, although it is unknown whether replacement planting not only compensates for the loss of the existing trees, but also provides a biodiversity net gain on site. It is noted that some of the trees will be located in private residential gardens, which once in private ownership, cannot be controlled. There is also noted to be public residential amenity space. **We advise that the applicant clarifies prior to determination of the application that there will be a measureable biodiversity net gain at the site, preferably in public areas, secured as a result of the proposed development. The applicant may wish to use an appropriate metric such as the DEFRA Biodiversity Metric 2.0 to demonstrate how the site will provide biodiversity net gain.**

I hope this information is helpful in assisting your consideration of the application. Please contact planning@surreywt.org.uk if you require any further clarifications with regards to the above.

Kind regards,

Cheryl Brunton MA (MRTPI) Ecology Planning Advice Officer