

17 June 2024

**Addendum to Bat Activity Surveys: The Range, Red Lodge And The Lawns, Sonning (A1144.001, 24 August 2020)**

This is an addendum to the extended bat surveys carried out by Crossman Associates during 2020, which were commissioned by Arlington Lifestyle Lifestyles.

It is understood that the applicant is submitting a s73 (minor variation application) to amend the description of the outline planning consent from the x57 age restricted apartments to an unrestricted scheme. It is also understood that only design change is some additional parking spaces from 64 to 80 spaces.

Bat activity surveys were carried out on three adjacent dwelling as outlined below:

- The Range
- Red Lodge
- The Lawns.

An earlier scoping survey carried out by Lizard Landscape Design and Ecology (February 2020) identified evidence of long-eared bat activity in each of the dwellings roof voids.

Subsequently, each dwelling was subject to three number activity surveys (2 dusk & 1 dawn). This work was carried out by Crossman Associates and all surveys followed best practice guidelines (BCT, 2016).

The surveys identified that the roof void of each dwelling is hosting a non-breeding brown long-eared day roost (identified by DNA analysis, Warwick University).

To date the 3 surveys carried out on the 3 number dwellings are considered to be adequate to inform planning consent

Crossman Associates have provided a comprehensive mitigation and compensation strategy that will include and be guided by a Natural England Licence and will provide proportional and suitable roosts for this species on site with the intention of maintaining the species on site at a favourable conservation status. Natural England is the primary enforcer of wildlife protection legislation through its licensing role, which is applicable here since a bat mitigation licence will be needed to deliver the proposed development (following receipt of the planning permission), in accordance with the Conservation of Habitats and Species Regulations.

Natural England's European Protected Species "Policy 4"<sup>1</sup>, which is applicable at the bat licensing stage, does not require full bat emergence survey data if a suitable assessment of use of the site by bats is otherwise made. We note that this is not a case which will need to seek reliance on Policy 4, as the Applicant has already provided a comprehensive suite of appropriate survey data. Nevertheless, it is important for local planning authorities ("**LPA**") to recognise the significance of Policy 4 and the context against which licensing decisions are now made by Natural England. Put simply, if Natural England, as the primary enforcer of the legislation protecting bats, can accommodate ecological consultancy judgment and accept flexibility in the survey effort required for a bat licence (as is clear from Policy 4), then a LPA (who is not the primary enforcer of wildlife legislation) is certainly not entitled to adopt a stricter approach.

The approach set out in Natural England's Policy 4 is also replicated in a High Court judgement in the case of *Cheshire East v Rowland Homes*<sup>2</sup> [2014] EWHC 3536 (Admin). In this case, the Court confirmed as acceptable the provision of Phase 1 survey data only for a large development site containing two EPS (i.e. bats and GCN), on the basis that there was clearly scope for mitigation for those two species within the development site. Therefore, the complaint in that case, that the LPA should have had, before it, full bat and GCN survey data, was not upheld by the Court.

During the 2022 bat activity season there will be a requirement from Natural England for each of the dwellings to be subject to 1 number activity survey, this work will also include an additional internal check of the roof void prior to the commencement of the activity surveys. The subsequent survey results will provide up to date data which

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<sup>1</sup> The outcome report setting out the Natural England's licensing policies can be accessed here [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/575709/eps-consultation-outcome.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/575709/eps-consultation-outcome.pdf)

<sup>2</sup> *Cheshire East Council v Secretary of State for Communities and Local Government and Rowland Homes Ltd* [2014] EWHC 3536 (Admin)

will along with the earlier survey data will inform the Natural England Low Impact Licence or a European Protected Species Mitigation Licence.

**In conclusion, the changes to the age restriction and number of car parking spaces, will not materially change the requirements and recommendations detailed above.**

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