

25/01346/OUT

Land North Of The Moors Kidlington

Ecology Solutions’ “ECOLOGICAL ASSESSMENT” and bats (a protected species)

Note: underlining is used for emphasis in this document.

1. THE SITE

As shown in Ecology Solutions’ “*Site Location and Ecological Designations*” on page 47 of the Ecological Assessment, The Land North of the Moors (The Site) is within a few kilometres of a number of SSSIs including Blenheim Park, Rushy Meadows and the Shipton-on-Cherwell & Whitehall Farm Quarries. The Site is also located within a few kilometres of seven Local Wildlife Sites and lies very close to St Mary’s Fields Nature Reserve and Thrupp Community Woodland.

All of these, including The Site itself, provide a valuable variety of foraging and roosting habitats for bats, which can travel several kilometres from their roosts each night.

2. BAT SPECIES USING THE SITE

2.1 Bat survey results and significance

Transect surveys and static bat detectors have registered eight bat species making use of The Site:

- Barbastelle
- Brown Long-eared
- Noctule
- Soprano Pipistrelle
- Leisler
- Serotine
- Common Pipistrelle
- Nathusius Pipistrelle

All of these species are on the Mammal Society Red List and the first four are on the Section 41 Natural Environment and Rural Communities (NERC) Act 2006: habitats and species of principal importance in England list.

The bat species using The Site are very similar to those on the proposed stadium site in Kidlington. In the case of the stadium, where one additional species was recorded, the Council’s Senior Ecology Officer, Dr Charlotte Watkins¹ commented on the “regional importance” of finding so many species on one site, including rare species: “*Nine bat species were recorded on site including the rarest annex II species (barbastelles) and rare with restricted*

¹ 24/00539/F OUFU stadium planning documents: ‘Ecology Solutions’ May 2025 response note

distribution (Leislars) putting this at an assemblage of regional importance (UK bat mitigation guidelines dec 2023)”.

Dr Watkins’ comments are a good indication of the importance of the number and species of bats, including Barbastelle and Leisler’s, recorded on the Land North of the Moors which, like the proposed stadium, lies in Kidlington.

The SSSIs, LWS and Nature Reserves in the vicinity all provide habitats of value to bats for roosting, foraging and commuting. Flight paths and foraging areas close to the proposed development are therefore important and should be considered in any ecological assessment.

To summarise, it is clear that the species and range of species of bats recorded on The Land North of the Moors should be considered significant and important, especially the presence of Barbastelle and Leisler’s. Furthermore, because bats travel, any assessment of the impact on bats should include consideration of the flight paths and foraging areas close to the proposed development.

2.2 Barbastelle and Long-eared bats

The Barbastelle is described by The Bat Conservation Trust (BCT) website² as “*very rare*”. The BCT also describes their preferred habitat as very similar to that of The Site: “*It is thought that they prefer pastoral landscapes with deciduous woodland, wet meadows and water bodies, such as woodland streams and rivers.*” The BCT website further states the Barbastelle is also “*a UK Biodiversity Action Plan species, which means that it is a conservation priority on both a local and national scale*”. Its presence on the site and in the wider area is therefore significant and important. Other information from the BCT³ on Barbastelle is:

- *They follow features in the landscape such as vegetated waterways or hedgerows to reach their foraging grounds.*
- *Upon emergence, they often feed within the woodland in which their roost tree is located until light levels fall. At this stage, they fly beyond the woodland to the wider countryside to forage in more open habitats like wood pasture, parklands, wetlands, over herb-rich meadows and alongside hedgerows and tree lines.*
- *Reasons for decline.... Loss or fragmentation (for example through light pollution) of linear commuting routes such as hedgerows are likely to have had an impact.*
- *Landscape connectivity is of importance to Barbastelles; to commute to key foraging sites Barbastelles will make use of sheltered flight lines like shaded tracks, woodland edges, bushy hedgerows, and tree-lined watercourses.*

Furthermore, the Barbastelle (and also Long-eared bats) are known to be averse to light, as documented in the BCT Guidance Note 08/23 ‘*Bats and artificial lighting at night*’ which discusses impacts from artificial lighting:

² <https://www.bats.org.uk/about-bats/what-are-bats/uk-bats/barbastelle>

³ <https://www.bats.org.uk/our-work/landscapes-for-bats/bats-and-woodland/woodland-specialists>; BCT pdf Species Information Guide on *Barbastella barbastellus*

“1.13 The slower-flying, broad winged species [and they include in their list Long-eared, Myotis species and Barbastelle] have been shown to avoid commuting and foraging routes illuminated with a variety of different street luminaires...”

They comment further (1.14) *“Consequently, these bat species are put at a competitive disadvantage and are less able to forage successfully and efficiently. This may have an impact upon fitness and breeding success. It is noticeable that most of Britain’s rarest bats are among those species recorded as avoiding ALAN [Artificial Light At Night], so ALAN has potentially devastating conservation consequences for these species.”*

The above information from the BCT must lead us to recognise:

- the rarity of the Barbastelle
- the conservation priority of the Barbastelle on both a local and national scale
- the importance of landscape connectivity, including features such as hedgerows and treelines, as commuting routes
- the potential impact on species that are known to be less tolerant to light, e.g. Barbastelle and long-eared bats, as they are less able to forage successfully, with this having possible implications for breeding success
- the potentially devastating consequences of artificial light at night for Barbastelle and long-eared species.

2.3 TVERC records of further species and nearby roosts

Ecology Solutions’ desk study, undertaken with TVERC, and noted in Section 4.3.17 of the Ecological Assessment, indicates the presence of further bat species in the area such as Daubenton’s, Lesser Horseshoe, Natterer’s.

Roosts are confirmed (Brown Long-eared) and suspected (Leisler’s). These are nearby (in terms of the distances that bats travel) and therefore their presence is significant.

3. ECOLOGY SOLUTIONS’ CONCLUSIONS

3.1 Ecology Solutions’ conclusions are flawed and unjustified

Ecology Solutions undertook surveys using transect and static detectors in 2022 and 2023, the static detectors allowing *“for a longer-term assessment of the use of the Site by foraging and commuting bats.”* (Section 2.4.5. of the Ecological Assessment)

The conclusions drawn by Ecology Solutions are:

“Foraging/Commuting

4.3.5. The Site overall is assessed as of low value to foraging or commuting bats, being dominated by large areas of arable land which would not be of any significant importance for bats.

4.3.6. The treelines, native shrub planting, and hedgerows provide suitable foraging and navigational resources for this species group, albeit it is noted similar and, indeed, improved opportunities are widespread in the local area.”

(Similar statements are made by Ecology Solutions in 5.3.24. and 5.3.28)

Given the number and species of bats using the site, especially the Barbastelle, these conclusions are unjustified because:

- The hedgerow features are clearly being used by bats, including rare species such as the Barbastelle, that are likely to be using them as commuting routes to foraging grounds, possibly as well as for foraging (refer to the BCT comments in 2.2 above). Other bat species may also be using the hedgerows for foraging. Whilst the arable land may be of little value for foraging the hedgerows and treelines are not. An assessment that the site is of overall low value to foraging or to commuting bats is therefore unjustified.
- The benefit of the arable fields is that they provide a dark setting for the hedgerows and treelines. They are therefore indirectly valuable to species of bats that are less tolerant to light, especially the Barbastelle. Any conclusion that the arable land is not of any significant importance to bats is therefore unjustified.
- The provision of suitable foraging (and particularly for the Barbastelle) navigational resources are important. As noted by the BCT in 2.2 above, one of the reasons for the decline of the Barbastelle could be the “*loss or fragmentation (for example through light pollution) of linear commuting routes such as hedgerows*”. Ecology Solutions suggests that there are similar and even improved opportunities locally. However, this observation is not supported by any evidence and appears to be simply an inference that the bats can just move elsewhere and find something better. The bats will be using the treelines, native shrub planting and hedgerows on The Site for a reason. To suggest vaguely that the bats should simply go elsewhere, is an unorthodox and unacceptable approach and is unjustified.

3.2 The impact on bats including the Barbastelle

Ecology Solutions states, 4.3.14. “*The results of the static detectors are broadly consistent with the findings of the activity surveys, comprising predominantly of Pipistrelle sp. and Noctule bat. The static detectors also show low numbers of Myotis sp., Barbastelle and Brown Long-eared bat.*”

As stated above the Barbastelle is one of the UK’s rarest bats. The low numbers should therefore not be a surprise. Any record at all is significant. The site is clearly of value to the Barbastelle, as also to the other species present. Thus a full understanding of how the site is being used by bats is needed. The ecologist’s inference that a low number of registrations means that there aren’t many of that particular species, therefore they warrant no attention, is deeply flawed. In particular, the presence of the Barbastelle is significant due to its conservation status.

Ecology Solutions further state:

- 4.3.15: “*Regarding the Barbastelle records, it is noted that the majority of these records relate to static detectors located in adjacent to Hedgerow H1 and LoT1.*”
- 4.3.16: “*In summary, bat activity survey work to date has shown that the linear features of the Site are of some value to some rarer species as navigational features for commuting, but unlikely for foraging as the arable land offers little in the form of opportunities. The remainder of the Site appears to be of low value to bats, with the majority of activity pertaining to common and widespread species. As would be*

expected, bat activity was associated with the linear features within and adjacent to the Site, with no activity recorded over arable habitats”.

That is to say Ecology Solutions acknowledge the value of the linear features of the site to some rarer species for commuting, however, the ecologist’s overriding conclusion is that The Site is of low value to bats, and its value pertains mainly to common species of bats. But Ecology Solutions’ findings do not support its conclusions and its position is flawed for the following reasons:

- The conclusion that the majority of activity pertains to common and widespread species appears to be an attempt to understate the significance of the presence of the more widespread species. All bats are protected by law whether widespread/common or not.
- Furthermore, the conclusion that the majority of activity pertains to common and widespread species appears to be based on the numbers of registrations of each species. The lower recorded registrations for the rarer bats should not be used to understate their importance and is only to be expected. The fact that they have been recorded at all is significant.
- The linear features of the site i.e. the hedgerows are providing a foraging habitat as well as commuting features. It is well known that bats forage along hedgerows.
- The value of the hedgerows for commuting, particularly for the rare Barbastelle, will be diminished by development of the site because this species is light intolerant and will therefore be disturbed by the resultant increased light levels.
- The Barbastelle’s use of the hedgerows to access its foraging grounds is significant and the ecologist provides no evidence that alternative foraging routes are available. The development could therefore disadvantage this very rare but important bat.
- The arable land in which the hedgerows are sited is indirectly important because it offers the opportunity of a dark commuting area for less light tolerant species including the Barbastelle and also the long-eared species, both of which are on the Mammal Society Red List and the Section 41 NERC list.

3.3 Ecology Solutions’ mitigation proposals

Mitigation measures proposed by Ecology Solutions include integrated bat roosting features (5.3.27) and retention of features of potential value (5.3.29). 5.3.29 further states that the enhancement of existing opportunities within the site “*would ensure significant qualitative enhancements for foraging bats, whilst maintaining commuting opportunities within and across the Site*”.

This unjustifiably over-optimistic predicted outcome overlooks the negative impact on bats of development, especially light-averse bats such as the rare Barbastelle, which can arise from development⁴ including: physical disturbance e.g. through increased human presence, lighting, modifications of flight paths, severance of flight paths (fragmentation), etc. The increased light levels on account of the development would likely prevent Barbastelle from commuting within and across The Site. Ecology Solutions’ claims of a significant qualitative enhancement for foraging bats is therefore misleading and disingenuous.

Other relevant paragraphs relating to the ecologist’s proposed mitigations include:

⁴ BCT Good Practice Guidelines, page 18, Table 2.1

5.3.30. “The adoption of an *appropriate lighting strategy alongside the retention of the vast majority of these habitats and the provision of a range of new high quality habitats as part of the Development Proposals will ensure opportunities for bats are retained and enhanced in the long-term. In achieving this, the lighting regime for the Site will give due regard to the Bat Conservation Trust’s Guidance Note 08/18 (Bats and artificial lighting in the UK).”*

Despite the lack of detail on the plan, it is obvious from the Illustrative Landscape General Arrangement plan that light levels across the site will inevitably significantly increase as a result of the development (from houses/gardens/street lamps etc). While hedgerows and treelines are being retained they will inevitably be impacted by higher levels of light pollution. The ecologist has touched on this impact in vague terms, proposing “*appropriate lighting*” and “*regard to*” guidance and has concluded (5.3.31.) “*there is no reason to consider the FCS [Favourable Conservation Status] of bats would be adversely impacted by the Proposals*”.

While this conclusion might be justified for bat species which can tolerate higher light levels, it cannot apply to the species which do not. These include the rarer species including the Barbastelle.

4. THE COUNCIL’S RESPONSIBILITIES

4.1 The NPPF and Cherwell Local Plan

As the Council will be aware the NPPF paragraph 193(a) sets out the mitigation hierarchy in respect of habitats and biodiversity, which states:

“if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.

This approach is also supported by the Cherwell Local Plan. Policy ESD10 identifies that:

“If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then development will not be permitted.

...

Relevant habitat and species surveys and associated reports will be required to accompany planning applications which may affect a site, habitat or species of known or potential ecological value”

But to date, before the above policy considerations come into play, the impact/potential harm to bats has not been adequately assessed. Instead Ecology Solutions has sought to underplay the value of The Site to bats, which include rare species, even implying (in 4.3.6, see above) that bats could do better elsewhere in the local area!

4.2 Natural England’s standing advice

As the Council is further aware, a Local Planning Authority (LPA) must have sufficient information to enable it to understand the issue in relation to protected species, and to come to a determination on it. The Natural England and DEFRA guidance on ‘*Protected species and development: advice for local planning authorities*’ gives the following advice to LPAs:

“*You should check the developer has:*

- submitted enough information for you to fully consider the effect on protected species and their habitats
- as far as possible, planned to avoid harm or disturbance to protected species and their habitats with the location, layout, design and timing of the development”

As things stand at present, as has been explained above, the Council does not have enough information to make these judgements. An example is provided by the Barbastelle, a rare bat which the ecologist says is using the site’s hedgerows for commuting. This bat species would be disadvantaged by increased light levels. However, the precise impact of additional lighting, especially on the Barbastelle, has not been assessed. The Council therefore has insufficient evidence relating to the Barbastelle (and other rare species such as the long-eared bats). The following Natural England/DEFRA guidance is therefore relevant:

“If the information is not adequate you should ask for further information, such as further surveys or mitigation measures.

You can refuse planning permission if surveys:

-
- do not provide enough evidence to assess the likely negative effects on protected species”

Natural England’s ‘standing advice’ for bats⁵ is also relevant. It is a material planning consideration for local planning authorities:

“You should take this advice into account when making planning decisions. It forms part of a collection of standing advice for protected species.

What to survey for

To avoid negative impacts on bats as far as possible, surveys must:

- be carried out in the most recent, appropriate season – except if licensing policy 4 is used
- identify the bat species and size of population
- identify the type of roost and its importance, and any access points used by bats to enter the roost
- identify important flight routes and foraging areas used by bats close to proposed developments

Survey work can include:

- roost inspection
- recording site emergence or re-entry
- recording bat activity and back-tracking

⁵ <https://www.gov.uk/guidance/bats-advice-for-making-planning-decisions>

- *trapping, radio tagging and tracking*

Assess the effect of development on bats

Developers should submit information with their planning application on how their development proposal avoids or mitigates harm to bats.

Species vulnerability

The effect of a development proposal on a bat population will need to consider the predicted level of impact based on both the:

- conservation status of the bat species affected
- importance of the development site for bats at a local and national level

4.3 Failure by the ecologist to follow Natural England's advice

Ecology Solutions' work has failed to follow this standing advice. Natural England advises that surveys must "*identify the bat species and size of population*" and "*identify important flight routes and foraging areas used by bats close to proposed developments*". The ecologist has provided no information on either size of population, flight routes, or foraging areas used by bats close to proposed developments. Sizes of population and flight and foraging routes close to proposed developments are key to understanding how bats use the site, and therefore key to how the proposal can avoid or mitigate harm to bats.

5. CONCLUSION

In conclusion:

- The Site is in the vicinity of SSSIs, Local Wildlife Sites and Nature Reserves which all have the potential to provide roosting and foraging habitat for bats which can travel several kilometres.
- Eight species of bat have been recorded as using the site, including rare species which are a conservation priority. The Site is therefore of local, and possibly regional, significance.
- Confirmation of a Brown Long-eared bat roost nearby is important.
- The Ecology Solutions has downplayed the significance of rare bats recorded on the site.
- The presence of the Barbastelle is especially significant and Ecology Solutions' work on this species is inadequate.
- The pastoral landscape of The Site and surrounding area, with deciduous woodland, wet meadows and water bodies, provide a habitat favoured by the Barbastelle bat.
- Natural England's standing advice specifically mentions "*species vulnerability*" in the context of the predicted level of impact. However, Ecology Solutions has failed to address the predicted level of impact on the rare and light-averse Barbastelle which is a UK Biodiversity Action Plan species i.e. a conservation priority on both a local and national scale.

- Ecology Solutions has also overlooked the impact of Artificial Light At Night (ALAN) on less light tolerant species including the Long-eared bats and Barbastelle. Mitigation measures are therefore currently woefully inadequate.
- Further ecology work in line with Natural England's standing advice is required.
- Without further evidence, the Council must be unable to assess the effect of the development on bats and their habitats. The Council is further unable to check that the developer has done enough to avoid harm or disturbance to bats. In the absence of further evidence this planning application cannot be approved.