

From: Gen Broad - Ecological Consultant <Gen.Broad@essex.gov.uk>
Sent: 05 March 2025 15:38:19 UTC+00:00
To: "Stuart Malcolm" <Stuart.Malcolm@midsussex.gov.uk>
Cc: "Sue Hooton - Principal Ecological Consultant" <Sue.Hooton@essex.gov.uk>
Subject: RE: DM/25/0128 - Playing Fields North Of Headmasters House And Westfield
Hurstpierpoint College College Lane Hurstpierpoint West Sussex

Hello Stuart

Many thanks for your enquiry.

As no ecological information was provided for this application, the LPA does not have certainty of likely impacts on protected species. Therefore they would not be able to make a lawful decision.

Bats are a material consideration in planning as they are designated and protected as European Protected Species under the Conservation of Habitats and Species Regulations 2017 (as amended). This means that it is an offence to deliberately kill, injure, disturb or capture bats and to damage or destroy bat breeding sites and resting places (including access points even when bats are not present). It is also an offence under the Wildlife and Countryside Act 1981 to intentionally or recklessly disturb bats while they occupy a structure or place used for shelter or protection or to obstruct their access.

To fully assess the impacts of the proposal the LPA needs ecological information for the site, particularly for bats, European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should "Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby".

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights 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."

This information is therefore required to provide the LPA with certainty of likely impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 (as amended) and prevent wildlife crime under s17 Crime and Disorder Act 1998.

See Appeal Decisions Ref: APP/D3830/W/23/3320110 Land North of Staplefield Road, Slaugham, Haywards Heath RH17 6AG and APP/W3520/W/17/3174638 Pooles Farm, Thorney Green Road, Stowupland IP14 4AJ, where the appeals were dismissed as one of the main issues was the effect of the proposal on European Protected Species. The Inspector could not be sure that there would be no adverse effect on protected species in the absence of ecological information. We also highlight that this information is also requested by the Inspector even where ecology has not been a reason for refusal.

Furthermore, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage. Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

It is not lawful to secure bat surveys by condition, so the only solution would be to remove the demolition of the existing building from the application.

It is reasonable to condition the wildlife sensitive lighting as requested in the agent's email.

I hope this is helpful, but please let us know if we can help further.

With best wishes
Gen

Genevieve Broad MCIEEM MSc BSc (Hons)
Ecological Consultant
Place Services E4 Zone 3, County Hall, Chelmsford Essex CM1 1QH

email: PlaceServicesecology@essex.gov.uk

web:

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My working days are Mon, Tue, Thu

-----Original Message-----

From: Stuart Malcolm <Stuart.Malcolm@midsussex.gov.uk>

Sent: 05 March 2025 15:19

To: Gen Broad - Ecological Consultant <Gen.Broad@essex.gov.uk>

Subject: RE: DM/25/0128 - Playing Fields North Of Headmasters House And Westfield Hurstpierpoint College
College Lane Hurstpierpoint West Sussex

CAUTION: This is an external email.

Hi Gen

Just checking in to see if you have had a chance to look at the below yet? The decision is due next week.

Many thanks!

Stuart

-----Original Message-----

From: Stuart Malcolm

Sent: 26 February 2025 14:12

To: Gen Broad - Ecological Consultant <Gen.Broad@essex.gov.uk>

Subject: RE: DM/25/0128 - Playing Fields North Of Headmasters House And Westfield Hurstpierpoint College
College Lane Hurstpierpoint West Sussex

Hi Gen

I would appreciate your thoughts on this. In this case the construction of the new building is not dependent on the existing building first being demolished as it is on a different footprint.

Happy to discuss

Thanks

Stuart

-----Original Message-----

From: danny.barker@bsclimited.co.uk <danny.barker@bsclimited.co.uk>

Sent: 18 February 2025 13:41

To: Stuart Malcolm <Stuart.Malcolm@midsussex.gov.uk>

Subject: RE: DM/25/0128 - Playing Fields North Of Headmasters House And Westfield Hurstpierpoint College
College Lane Hurstpierpoint West Sussex

Dear Stuart,

Thank you for your email and for providing the ecology comments.

Would it be possible to apply a condition stating that the building cannot be removed until the bat surveys have been completed? The survey season runs from May to September, and Hurst would like to commence construction of the pavilion in line with the target decision date. This will help ensure the pavilion is completed by the start of the summer holiday period, as required.

Additionally, could a condition regarding external lighting also be included?

Kind regards,
Danny

-----Original Message-----

From: Stuart Malcolm <Stuart.Malcolm@midsussex.gov.uk>

Sent: 17 February 2025 11:13

To: danny.barker@bsclimited.co.uk

Subject: FW: DM/25/0128 - Playing Fields North Of Headmasters House And Westfield Hurstpierpoint College
College Lane Hurstpierpoint West Sussex

Hi Danny

Please see the ecology comments that have come through today and need to be responded to.

Also, on site we discussed Emily Wade's input from a conservation perspective. Having spoken to her, this is one she will provide formal comments on.

Kind regards

Stuart

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