

Representations by Chris Smith on submissions received at D5 ID56385

I have continued concerns about the robustness of the survey work and consequently the EcIA conclusions.

Key points raised on submissions received at D5

I highlight the following points in response to "Appendix A- Applicants Response to REP4-098" :

1. The applicant now states that there were not three southern transects, but two. This is since two transects were in fact parts of the same transects, although this has never been previously stated in the text. In the results and dependent reports, these are presented as independent transects.

This also appears to reverse their previous statement highlighted in my previous response from Appendix 8.7 Bat Technical Appendix 2.9.5 that the "Due to the length of the transects, one at the existing Cambridge WWTP and one around pRow 85/6... activity surveys fell short of the recommended duration in the Bat Conservation Trust Good Practice Guidelines (Collins 2016).

It is also clear why the applicant then directly contradicts themselves in Appendix A 4.3.5 and again reiterates there were three transects.

If the applicant wishes to alter the number of transects, then the reports should be updated to reflect this and re-presented for examination.

2. The applicant accepts that southern static deployments were not compliant with minimum standards and therefore needs to accept that these transects were also not compliant on this basis alone.

3. The applicant accepts that the northern three transects were not compliant for timings or for static deployments.

4. The applicant has provided no evidence of surveys on structures. Having fully considering all trees within the study area, it is not clear why all structures have been excluded from surveys.

I have highlighted the potential of the A14 bridge previously. The response at 4.8.1 is ambivalent but does not directly dispute the suitability for roosting bats.

On the accompanied site visit I noted multiple buildings and structures with potential for roosting bats, including cavity walls, roof voids, expansion joints. See endnote below.

5. The applicants states that : 4.8.2 "The applicant has already included a commitment to undertake further pre-commencement surveys to identify any habitats or structures suitable for protected species, including bats. Should these pre-commencement surveys identify the presence of protected species, including roosting bats, then the applicant would be legally obligated to secure the relevant protected species licence." This appears to condition surveys and licencing.

6. The applicant accepts that further surveys may be necessary: [4.8.5] "This does not exclude future surveys, based design revisions and/or alterations." This appears to condition surveys.

7. The applicant concludes 4.9.1 that "additional surveys will be carried out" and that this will include "any required additional survey to inform detailed avoidance, mitigation and compensation measures and licencing as appropriate based on the findings of teh DBW, which would be in agreement with Natural England"

This appears to condition surveys and licencing.

8. The applicant also [4.9.2] "disagrees that all surveys were not compliant with BCT guidance (2016)". I am not wholly clear what this statement means; presumably that some surveys were (partly) compliant with the previous guidance.

9. The applicant states that [4.9.2] "has clarified the limitations that arose, and made appropriate precautionary assessments on the impacts of the proposals on bats in light of these limitations, survey findings and maximum design envelope..."

There is no evidence of a "precautionary assessments". Indeed the text repeatedly plays down the significance of the presence of barbastelle and other bats on transect routes and statics identified despite below minimum survey effort. Whilst the applicant states [4.5.2] "inferring status of a possible commuting route would be speculative" the applicant lacks any robust evidence to repudiate such as hypothesis.

Conclusions on submissions

Avoiding a lengthy discourse on the above points, the following questions may be of assistance:

1. Has the applicant adequately identified the relevant potential features of the study area for bats?

Since the applicant has provided no evidence of assessments of structures or potential commuting routes over the A14, but furthermore appears to need to carry out additional walkovers post-permission, the answer would appear to be no.

2. Has the applicant carried out compliant surveys to further characterise bat activity and roosts in the area?

The standard of surveys falls below the minimum expected by best practice and that of normal planning applications. Whilst a lower standard might be acceptable to the relevant authority, accepting lower standard provides an unfortunate precedent for future NSIPs and is of especial concern given the activity of barbastelles and other bats detected already and the potential for commuting routes and roosts, which would normally result in additional survey effort taking place.

Whilst the applicant argues that the surveys are not required since surveys and mitigation can be conditioned, this approach is not acceptable on a planning application for protected species; and such conditions would be unenforceable without evidence of their necessity.

3. Can the relevant authority therefore have confidence in the conclusion of the applicant's reports including the EIA?

If the lack of identification of potential features and compliant surveys are accepted, then the relevant authority cannot have confidence in conclusions. As noted whilst the applicant states there has been "precautionary assessments"; the significance of the presence of barbastelle and other bats on transect routes and statics is repeatedly played down. The "precautionary principle" should mean that the application is either rejected or a request for additional surveys are made.

Whilst the applicant has stated that the works do not include demolition, disturbance will affect structures identically to trees. Abandonment of buildings will remove any heating for maternity colonies. Furthermore unused buildings are not protected against internal stripping nor demolition except by prior notification; vandalism and theft at the site could also lead to unauthorised destruction of roosts. Finally the ending of the site as an operational site will mean dewatering of the constructed wetlands around the site and loss of nearby foraging habitat. These effects cannot be assessed without adequate baseline data.

4. Can the relevant authority comply with the three tests for a derogation licence required for any impacts on bats ?

The three test are discussed on the Small Ecology blog: <https://smallecology.uk/2019/12/31/ta2-reasoned-statements/>.

The difficulty in this case is that the applicant appears to wish unidentified elements of licencing to be conditioned, which case law indicates is not acceptable [viz Wooley versus East Cheshire <https://www.bailii.org/ew/cases/EWHC/Admin/2009/1227.html>].

The difficulty is also not only that the existing sewage treatment works could remain as is; and there is a reasonable alternative; but that impacts on unidentified roosts, commuting routes and foraging areas could be avoided or reduced if a judgement was being made on full survey information.

The relevant authority cannot therefore meet the three tests.

End note : Buildings with bat roost potential as noted on Tuesday 12 March 2024

The following are based on brief external examination, including by binoculars:

#8 Combined Heat and Power Plant [Expansion joints; presumed heated]

#13 Activated sludge Process [Expansion joints]

#18 Innovation centre [Cavity walls; potential roof space; boxed eaves; presumed heated]

#23 Digesters [Expansion joints; external stair features]

#33 Milton House [Cavity walls; potential roof space; expansion joints; presumed heated]

Also Victorian buildings north, south and east of #33 [Boxed eaves; tiled pitched roof; roof space and voids]

Various block built operational buildings and sheds [Cavity walls; potential internal cracks; window frames; some presumed heated where used by operators]

