

DELEGATED FILE NOTE

CASE OFFICER: ...Andrew Hunter.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
24/01349/S73	Removal of condition 17 of planning permission 21/03437/FP granted 28.09.2022	15 Lime Avenue Blackmore End St Albans Hertfordshire AL4 8LQ

Submitted Plan Nos

1639_220 1639_221

1.0 Policies

D1	Sustainable design
NE2	Landscape
NE4	Biodiversity and geological sites
SECN12	Achieving well-designed places
SECN15	Conserve + enhance natural environment
SP9	Design and Sustainability
SP12	Green infrastructure, landscape and biod

2.0 **Relevant Site History**

- 2.1 24/00508/DOC - Details reserved by condition 12 (Landscape and Ecological Management Plan) of planning permission reference no. 21/03437/FP granted 28.09.2022 – Agreed 18/04/24.
- 2.2 23/02556/DOC - Details reserved by condition 17 (Bats) of planning permission reference no 21/03437/FP granted 28.09.2022) – Not Agreed 21/11/23.
- 2.3 21/03437/FP - Erection of two detached 6-bed dwellings with garages and associated landscaping, following the demolition of existing dwelling and garage – Approved 28/09/22.

3.0 **Representations**

- 3.1 **Neighbours** – The following objections were received:
 - ☐ Should be refused.
 - ☐ Developer hasn't intended to comply with the requirement.
 - ☐ No adequate bat survey carried out to begin with.

- ☐ Failure to carry out surveys shouldn't exonerate the responsibility to mitigate ecological impacts.
- ☐ Removal of the condition would set a damaging precedent.
- ☐ The reasoning is financial.
- ☐ The previous house had holes in the back of the roof, allowing bats to fly away, and impairing the survey.

3.2 **Parish Council** - At the council meeting held on 17th July, Kimpton Parish Council considered this planning application and supports the views of neighbours.

Kimpton Parish Council objects to the removal of Condition 17 of planning permission 21/03437/FP as there were bats on this site.

It is an offence under the Wildlife and Countryside Act 1981 to intentionally or recklessly:

- i) disturb bats while they occupy a structure or place used for shelter or protection
- ii) obstruct access to a place of shelter or protection

The developer must comply with the legal protection of bats.

3.3 **Herts Fire and Rescue** – No comments.

3.4 **Highways Officer** – Does not wish to restrict the grant of permission.

This is not in anyway applicable to the local highway, therefore the Highway Authority would not wish to comment.

3.5 **NHC Environmental Health** – No objections.

3.6 **Archaeology** – No comment to make.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The site is being developed to build two 2 storey dwellings and garages.

4.2 **Proposal**

4.2.1 This application seeks to remove Condition 17 (bat surveys) of previous permission 21/03437/FP.

Condition 17 states:

Prior to commencement of the development, three dusk emergence / dawn re-entry surveys should be undertaken between May and September (inclusive), to determine whether bats will be affected by the proposal; and should this be the case, compensation, enhancement and mitigation (Ref Preliminary Roost Assessment, May 2021) shall be proposed as appropriate based on the results and then be submitted to the Local Planning Authority for written approval.

Thereafter the development shall be carried out in accordance with these approved details.

Reason: To ensure the continued ecological functionality of bats and their roosts is maintained in accordance with European and national legislation.

4.3 **Key Issues**

- 4.3.1 The key material considerations relating to the proposed removal of the condition is whether it is acceptable regarding ecology.

Ecology

- 4.3.2 The application to remove the Condition follows the decision to not approve 23/02556/DOC, as bat surveys undertaken and submitted for that application were not considered sufficient and acceptable by Hertfordshire Ecology (HE).
- 4.3.3 The requirements of the Condition are in two parts – 1) To carry out three surveys, and 2) Compensation, enhancement and mitigation as appropriate based on the results of the surveys. HE have not responded to consultation requests on the S73 application.
- 4.3.4 When 23/02556/DOC was submitted, it included a Bat Activity Survey (date July 2023) that stated that part of the dwelling had been demolished as of 9 June 2023, and as of 23 June 2023 the conservatory of the dwelling and the separate detached garage had been demolished.
- 4.3.5 The S73 application to remove Condition 17 was received on 19 June 2024. At the time of a site visit on 4 July 2024, the approved new dwellings appeared largely complete externally, and the original dwelling and detached garage were demolished (it's not known when the rest of the original house was demolished).
- 4.3.6 Taking this timeline of events into account, the first part of Condition 17 requiring three surveys is no longer achievable, as the development (which includes demolition) has commenced and is well-advanced, potentially even complete. As no bat surveys can be carried out, it is also not possible to establish whether compensation, enhancement and mitigation are required.
- 4.3.7 Regarding compensation, enhancement and mitigation, approved application 24/00508/DOC approved the installation of bat boxes in each of the new dwellings, which would be integrated into their building fabrics. This DOC was approved taking into consideration comments from the Council's Ecologist, who did not raise concerns.
- 4.3.8 On the basis of 24/00508/DOC, sufficient bat compensation, enhancement and mitigation measures are considered to have been approved, and are required to be implemented prior to the occupation of the development and then to remain.
- 4.3.9 As set out in para. 56 of the NPPF, planning conditions "*should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*".

- 4.3.10 Assessing the proposal against para. 56, and taking into consideration the events that have taken place at the site and previously approved compensation etc. measures, Condition 17 is no longer considered necessary, relevant to the development, enforceable, or reasonable. It is considered that the proposal to remove Condition 17 is acceptable, and will not adversely affect ecology. The proposal complies with Policy NE4 of the Local Plan and Section 15 of the NPPF.

4.4 **Conclusion**

- 4.4.1 In the absence of material planning reasons to the contrary it is my view that planning permission is **GRANTED**.

5.0 **Recommendation**

- 5.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the grant of planning application 21/03437/FP.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. The external materials of the approved development shall be in accordance with those specified in 2.14 of the Design and Access Statement (date December 2021) submitted with 21/03437/FP, unless otherwise agreed in writing.

Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area and to comply with Policy D1 of the North Hertfordshire Local Plan 2011 to 2031.

4. Landscaping shall be in accordance with the details approved by 24/00507/DOC.

The development shall then be completed in accordance with the approved details.

Reason: To ensure the submitted details are sufficiently comprehensive to enable proper consideration to be given to the appearance of the completed development and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

5. The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

6. Prior to occupation, each of the proposed dwellings shall incorporate an Electric Vehicle (EV) ready domestic charging point.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help off-set the adverse impact of the operational phase of the development on local air quality. To comply with Policy D4 of the Local Plan.

7. The first floor east elevation windows in the main east side wall, and the east side window of the easternmost first floor front elevation bay window, of the Plot 1 dwelling, shall be obscure glazed.

Reason: In the interests of privacy and amenity. To comply with Policy D3 of the Local Plan.

8. The first and second floor east elevation windows in the main side wall of the Plot 2 dwelling shall be obscure glazed.

Reason: In the interests of privacy and amenity. To comply with Policy D3 of the Local Plan.

9. Prior to the first occupation hereby permitted the vehicular accesses indicated on drawing number 208 Revision A shall be provided to a minimum width of 3.0 metres wide to the satisfaction of the local planning authority.

Reason: To ensure construction of a satisfactory access and in the interests of highway safety, traffic movement and amenity in accordance with Policy 5 of Hertfordshire's Local Transport Plan. To comply with Policy T1 of the Local Plan.

10. The development shall be completed in accordance with the Construction Management Plan approved under 23/02505/DOC.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of

Hertfordshire's Local Transport Plan (adopted 2018). To comply with Policy T1 of the Local Plan.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Class B of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area. To comply with Policy D1 of the Local Plan.

12. The development shall be completed in accordance with the Landscape and Ecological Management Plan approved under 24/00508/DOC.

Reason: In the interests of ecology. To comply with Policy NE4 of the Local Plan.

13. Any contamination, other than that reported by virtue of Condition 13 (a) and (b) of planning permission 21/03437/FP, encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site.

Reason: To ensure that any contamination affecting the site is dealt with in a manner that safeguards human health, the built and natural environment and controlled waters. To comply with Policy NE11 of the Local Plan.

14. The development shall be completed in accordance with the measures set out in the Arboricultural Report (dated February 2022) submitted with 21/03437/FP.

Reason: To provide appropriate protection for trees. To comply with Policy NE2 of the Local Plan.

15. The garages shall be used only for the accommodation of private motor vehicles or for purposes incidental to the dwellings to which they relate and they shall not be used for or in connection with any form of trade, business or commercial activity.

Reason: To safeguard the residential character of the locality and the amenities of nearby residents, both of which would be prejudiced by the activities and visual intrusion likely to be associated with a commercial activity; and to control parking provision within the site. To comply with Policies D1, D3 and T2 of the Local Plan.

16. The development shall be completed in accordance with the measures set out in 2.25 of the Design and Access Statement (date December 2021) submitted with 21/03437/FP.

Reason: To ensure that the development would minimise carbon emissions in the interests of climate change. To comply with Policy D1 of the Local Plan.

17. Prior to the occupation of the approved development, a minimum of four bird nest boxes/tubes shall be provided within both the fabric of the buildings and trees within the site.

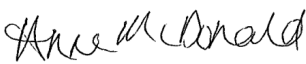
Reason: To provide habitats for protected species and to provide ecological benefits. To comply with Policy NE4 of the Local Plan.

Biodiversity Net Gain

This development is not subject to the statutory Biodiversity Gain Plan condition because it is considered exempt under the statutory exemptions (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>) or transitional arrangements in respect of the biodiversity gain condition.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed  Anne McDonald	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 5 November 2024	