
Appeal Decision

Site visit made on 13 November 2025

by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 02 December 2025

Appeal Ref: APP/K0425/W/25/3371713

12 Roman Way, Bourne End, Buckinghamshire SL8 5LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Z Martin against Buckinghamshire Council.
 - The application Ref is 25/05063/FUL.
 - The development proposed is erection of 3 bedroom end terrace dwelling including 4 no on-site parking spaces and 2 no vehicular crossovers.
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Decision

1. The appeal is dismissed and planning permission for erection of 3 bedroom end terrace dwelling including 4 no on-site parking spaces and 2 no vehicular crossovers is refused.

Background and Main Issue

2. The appeal results from the Council's failure to determine the application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, I note the assessment and conclusions submitted by the Council during the appeal process, which set out the main areas of dispute. These are the adequacies of the internal layout of the proposed dwelling, with reference to the Nationally Described Space Standard (NDSS), and whether there is sufficient information to assess the impacts of the proposal on bats.
3. At appeal the appellant submitted an amended plan that showed that a revised layout for the first floor could provide three bedrooms that meet the NDSS. If the appeal is allowed this plan could be secured as an approved plan or a condition could be imposed to require compliance with the NDSS to be demonstrated. On this basis this does not need to be a main issue of the appeal.
4. Accordingly, the main issue for the appeal is the effect of the proposal on protected species, and specifically whether a bat emergence survey is necessary before a decision can be issued or whether a survey can be the subject of a condition.

Reasons

5. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) (The Regulations) requires a competent authority to have regard to the requirements of the associated Directive so far as it may be affected by the exercise of its functions. This includes any proposal that might lead to the

deterioration or destruction of the breeding sites and resting places of European Protected Species (EPS) under Article 12(1). This includes bats and the places that they roost, irrespective of whether or not they are present at the time the development is carried out.

6. The Preliminary Bat Roost Assessment¹ (PBRA) identified external bat roosting potential at the existing building under tiles that cover the roof and are fixed vertically to a front bay. The proposal is to extend to the side to form the new dwelling. As such, the front bay would be undisturbed. However, the hipped roof would be significantly altered by the proposal, which would see the existing hip removed and the roof extended to the full depth to the side, for the full width of the proposed dwelling. This would result in the removal of a large area of the existing building that has roosting potential. Consequently, the PBRA recommends a follow up bat emergence survey. This survey has not been carried out.
7. Paragraph 99 of the 2005 Circular² states 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. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.*
8. There are no exceptional circumstances in this case. The PBRA identifies an area of the building that has the potential for roosting. The PBRA also identified that Pipistrelle and Soprano Pipistrelle bats have been noted in nearby surveys, which are both crevice roosting so will roost under lifted roof tiles and hanging tiles. With further reference to the 2005 Circular, there is therefore a reasonable likelihood of the species being present and impacted by the development.
9. The appellant refers to an appeal³ where the Inspector imposed a condition to require the submission of a preliminary roost assessment before work commenced. There is no reasoning in this appeal decision to explain why the Inspector took this approach. In contrast, the Council has provided details of three appeal decisions where detailed reasoning is given where the information regarding protected species impacts was lacking. All three refer to the 2005 Circular and one specifically addresses the appropriateness of securing extra information via a condition, which was considered to be an unacceptable solution.
10. Taking this into account, along with the findings of the PBRA and its recommendations, I find that securing the follow up bat emergence survey by condition would not be appropriate.
11. On this basis, the information before me relating to the potential for the proposal to impact upon EPS is insufficient, and I cannot be confident that the proposal would satisfy the requirements of Policy DM34 of the Wycombe District Local Plan 2019, Policy DM13 of the Adopted Delivery and Site Allocation Plan 2013, the 2005 Circular and The Regulations which together seek to ensure that development proposals do not harm biodiversity.

¹ Report Number ASW/ZM/153/28/2025 January 2025 by ASW Ecology Ltd

² Office of the Deputy Prime Minister 06/2005: Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within The Planning System

³ Appeal Ref: APP/J0405/D/25/3364338

Other Matters and Planning Balance

12. The proposal would deliver a dwelling. In the context of the Government's objective to significantly boost the supply of homes this is a matter that weighs in favour of the proposal. There would also be a modest economic benefit from the construction work and as future occupants make use of existing services and facilities.
13. I have however found that the proposal does not provide the necessary clarity with regard to protected species. The benefit of the provision of a new dwelling does not outweigh this important matter.
14. The Council is unable to demonstrate a five year supply of deliverable housing sites (5YHLS). Paragraph 11 d) of the National Planning Policy Framework (Framework) states that where the policies which are most important for determining the application are out-of-date (which footnote 8 clarifies includes for applications involving the provision of housing in situations where the Council cannot demonstrate a 5YHLS) the presumption in favour of sustainable development should be applied; unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
15. Paragraph 11 d) ii. of the Framework goes on to say that particular regard should be had to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes. The site is well located, to the extent that future occupiers would have easy access to a range of local services and facilities without the need to rely on a private car, and the proposal would make efficient use of a developed site. Additionally, the proposal would be well-designed, to provide comfortable accommodation for a household. These are objectives that are set out in the Framework.
16. However, with regard to Paragraphs 187 d) and 193 a) of the Framework the impacts on biodiversity cannot be understood, and it is therefore not possible to ensure that impacts have been minimised or adequately mitigated. This is an important matter. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the Policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development.
17. The proposal is put forward as self-build, which means it would be exempt from statutory biodiversity net gain. The Council and appellant suggest that the self-build nature of the development could be secured by a condition. This is not however a matter that I need to consider further as I am dismissing the appeal for other reasons.

Conclusion

18. The proposal would be contrary to the development plan and there are no material considerations, including the provisions of the Framework, that outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed and the application refused.

A Tucker

INSPECTOR