FULFORD PARISH COUNCIL

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Mrs Hannah Blackburn
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19th March 2015

Dear Hannah,

Re: AOD/14/00417 | Details required by Condition 9 (Bat mitigation) (12/00384/REMM) | Germany Beck Site East Of Fordlands Road York.

Fulford Parish Council maintains its strong objections to the mitigation proposals as set out in our letter of 20th Jan 2015. We reiterate our concerns and where appropriate, we also make comment on the Consultation Response from ERAP dated 19th Feb 2015.

1. **Bat Surveys – Baseline Activity Surveys 2014**
   We maintain our view that the activity surveys should have been carried out before the mitigation was designed but whatever the reason for the surveys, if they are inadequate, they will serve no useful purpose.

   We set out again some of the reasons why we consider the surveys to be fundamentally flawed and non-compliant with accepted standards and published guidelines:
   - Two limited transect surveys carried out outside the optimum period of June to August, do not provide sufficient survey information of activity throughout the year. The MAB Reports and the parish council both stressed the absolute requirement for at least year-long surveys for a *"major infrastructure development*" in order to identify the species, numbers and flight paths associated with the known bat usage of the site throughout the year. This is clearly set out in the guidance of the Bat Conservation Trust and Natural England.
   - On both occasions, the transect surveys commenced at least 45 minutes after sunset, in contravention of all accepted guidelines, which state that they should begin 15 minutes before sunset. This is to ensure that bats emerging from roosts will be detected. Therefore the results of the surveys will underestimate the numbers wherever bats are roosting nearby and any subsequent monitoring results will be worthless.
   - The transect surveys fail to identify flight paths of bats exiting the maternity roost at the care home and even failed to identify whether the roost remained active over the summer months. This failure is surprising because the hop-overs are proposed in order to provide a crossing point for these bats and to mitigate harm caused by severance of flyways due to the access road.

   Nevertheless, even these limited surveys demonstrate a very high level of bat activity (including social behaviour) in areas not previously surveyed, for example within Transects 1 and 2, 'constant' activity is recorded on both Sept 4th and 5th, thus reinforcing the arguments that full year-long surveys over the whole site should have been undertaken.

We understand of course that these surveys were conducted to monitor the effectiveness of the mitigation, most especially in relation to the maternity roost identified in June 2012. Although the developer has not made any effort since that time to ascertain the status of the roost it is now suggested by ERAP that due to lack of heating in the building *"it may no longer be used as a maternity roost for Common Pipistrelle….."*. They go on to state: "*the mitigation has been designed on the assumption that the maternity roost…..remains present".* It remains an astonishing omission not to have undertaken any summer activity surveys to establish either the current status of the roost, the flyway routes used or the number of bats present (which may have decreased or increased in the intervening years). Without this information, future monitoring will be incapable of assessing the effectiveness of the hop-overs in relation to the maternity roost. It is also noted that ERAP recommend that future monitoring be carried out between May and August whilst they have never themselves undertaken any activity surveys at or around the care home during these optimum months for maternity colonies.

Moreover, in August 2012, subsequent surveys of the Care Home site were carried out by Access Ecology, which actually suggests that six roosts were present within the site, which is a material consideration that ERAP has either overlooked or chosen to disregard.
Access Ecology Bat Survey August 2012 Summary Report:
D1 Presence/Absence
36. "The combined results of both these latest surveys and the Applied Survey and Design survey (ASDY, 2012) would suggest the presence of at least 6 separate roost locations present on site".

The relevant page is appended at the end of this letter and the full Report will accompany the letter.

2. Mitigation –

Hop-overs**.**

The position of the hop-overs was pre-determined despite no information being available regarding the flight paths of the bats roosting at the care home or indeed anywhere on the site. There is no evidence provided to justify the chosen location or why no hop-over is proposed directly to the south of the care home which is the most direct route to the beck and therefore where a hop-over would be more likely to be effective. The Council's ecologist confirmed that the suggested hop-overs *"would require bats from the known bat roost at Fordlands to follow a new alignment opposite to the likely route".* [Committee Report para 3.21] He then went on to recommend *'a temporary hop-over close to Fordlands to provide a more direct link across to the Germany Beck corridor".* This recommendation has not been followed despite the fact that it would be a shorter and more direct link to Germany Beck.

Lighting.

We note that led lighting is proposed for lighting columns and that some dark areas will be retained, but it is relevant that the new road will pass through what is currently an intrinsically dark area and the roadside lighting must therefore be adequate to ensure the safety of pedestrians and cyclists during hours of darkness.

In addition, no consideration has been given to the impact of vehicle headlights that will shine on dark areas from an elevated level during times when bats will be active.

The ERAP Mitigation Strategy states: *"No lighting is proposed at the internal footpaths within the site. There will therefore be no impact from lighting upon wildlife in these areas, further enhancing their suitability for use by foraging and commuting bats".* (Page 13, *Lighting at Internal Footpaths* 3.3.12)

This is not borne out by the facts however, as demonstrated by the already approved Drawing no. 11644/5007-16 Revision A, which shows seven lighting columns along Germany Lane starting at the entrance to the Lane and continuing as far as the proposed hop-over where the access road cuts cross the pathway. It would be deemed unsafe to remove these lights at the main pedestrian entrance to the development, where several of the trees have potential for roosting bats, yet ERAP still maintains that there will be no impact.

Willow barriers: Our previous response stated that 5 metre barriers were to be used as confirmed in Figure 4c of the Bat Mitigation Strategy. The developer has now clarified that they will in fact be *"1.5 raising to 2.5 metres"* although this is not reflected in the updated Strategy Report of Feb 2015 which still contains Figure 4c and a height of 5 metres as before.

More importantly, the Strategy Report fails to mention that the section of road within the South West Meadow will be raised on embankment to bring it above flood levels, meaning that the road surface at hop-over 1 will be around 2 metres above current ground levels at its southern edge and around 1 metre above at the northern edge (this is confirmed in the section drawings supplied with the application to approve the details of Condition 25 - AOD/14/00419). Consequently, it will be impossible to plant the proposed *"larger standard trees"* between the pedestrian walkway and road in advance of its construction as suggested (Figure 4b) and this hop-over will provide no benefit in the short term.

ERAP now assert that the new access road *"is a minor access road"* but this is strongly refuted. Apart from the fact that the road will be raised along its length (by 3 metres in places) it will carry all traffic to and from a development of 655 houses as well as 300 houses in the Fordlands Road neighbourhood. It will carry buses running at 15-minute intervals, all delivery and refuse vehicles as well as all construction traffic over the ten years or more required to complete the scheme. It is simply misleading to imply that this road is in any way 'minor' or that the mitigation should therefore be watered down.

The applicant refers to the 'Highways Agency *(2011) A Review of Bat Mitigation in Relation to Highway Severance'* which notes the requirement for adequate baseline surveys:

> ***7.2 Preconstruction Surveys***
> *Knowledge of the bat species present in the area, their use of the landscape, locations for foraging and roosting throughout the year is fundamental to predicting the potential effects of a road development on bats. Sufficient baseline information should be gathered to enable a robust assessment of impacts that can be tested by undertaking monitoring during and post-construction to compare predictions with what actually happens and determine the success of mitigation employed.*

It also advises:

> ***7.4*** *Mitigation should be developed and capable of functioning before the barrier effect occurs including mature vegetation structures when the new route is first used.*

The applicant has failed to comply with these fundamental requisites and it cannot therefore be established that the mitigation or monitoring will be effective.

[Further extracts from the above advice are appended to this letter, in order to highlight both the likely impact on the maternity roost due to severance of long established flyways and the need for adequate baseline survey evidence to determine the usage of the site by bat populations in the area as a whole].

3. TREE SURVEY - West of A19 Selby Road.

The trees on the west side of the A19 and along Landing Lane were not surveyed at any time during the outline or reserved matters applications, despite their proximity to the new junction. The Parish Council highlighted this omission in its objection letter of 12 November 2012 where the following comment was made on the 'defective' Popplewell Tree Survey dated February 2012:

> *"Trees along the west side of the A19 are not surveyed at all, despite their proximity to the new junction where ground levels will be significantly raised and where flood defence walling will be constructed".*

The new tree surveys identify many trees that are tall and mature, and which are a critically important feature to allow bats to cross the A19 safely. It is noted that whilst several trees are assessed as requiring surgery, none has been assessed for the presence of roosts.

The trees surveyed along Landing Lane lie outside the red-line plan of the development but similarly, several mature trees with extremely high bat potential are proposed for felling or major surgery.

ARBORICULTURAL IMPACT ASSESSMENT- West of A19 Selby Road

This assessment significantly understates the likely impact of the development works on the trees and hedging, since most are located directly adjacent to the highway where ground levels are to be raised by at least a metre and where protective fencing will not be a viable proposition. In addition, the substantial flood-walls, proposed directly behind the roadside footpath will undoubtedly affect both trees and hedging but the implications have simply not been transparently assessed.

4. **EIA Regulations 2011:**

We maintain our view that the environmental information should have been submitted as an update to the 2012 ES with a Non-Technical Summary. The submission of new survey data (for trees and bats) and details of the main mitigation measures proposed is defined as Schedule 4 (Part 2) information, without which the ES would be inadequate. Regulation 2(1) confirms that this information must (at the least) be included in the ES: *(b) that includes at least the information referred to in Part 2 of Schedule 4;"*

New environmental data such as baseline activity surveys carried out on parts of the site never previously surveyed, needs to be integrated with previous data and assessments within the ES in accordance with the iterative EIA process. It is irrelevant in this case that the surveys were only undertaken for monitoring purposes.

The need for a non-technical summary is also obvious so that the information is presented in an understandable form.

It remains our opinion that, as an EIA application, site notices should have been erected in order to inform residents of its existence.

5. **Request for a meeting:**
   Fulford Parish Council considers that the mitigation strategy is unworkable and fatally flawed, and requests an opportunity to discuss the application with relevant Ecology and Landscape Officers before it is determined.

We trust you will take account of these serious objections.

Yours sincerely

Jeanne Fletcher
Clerk to Fulford Parish Council

Highways Agency *A Review of Bat Mitigation in Relation to Highway Severance* - relevant extracts:-

4.3 **Effects of severance on bats**
Existing literature indicates that in the UK and Europe severance of flight/commuting routes by roads is considered to be a key concern for the conservation of bat populations (Bach et al 2004, Schorcht et al 2008; and Kerth and Melber 2009) and that severance of flight paths can additionally lead to a decline in bat populations (Bach et al, 2004).

The severance or loss of existing landscape features, or sudden dramatic change in such features, can introduce a range of issues for bats (Limpens 2005), including fundamental effects on their livelihood (Altringham, 2008). Linear features provide a network for bats which supports foraging activity and access to roosts, throughout the year.

The literature indicates that both pipistrelles (Downs & Racey, 2006) and lesser horseshoes (Wells, et al., 2004) cross gaps in excess of 200m, where conditions in particular levels of darkness are suitable. These species are active earlier in dark areas than they are in the open (Downs & Racey, 2006; Schofield, 1996; Schofield, 2008; Stone et al., 2009). The severance of a linear feature, can introduce changes in factors such as light levels and wind exposure (Limpens 2005), leading to increased reticent to cross, leading to a combination of one or more of the following effects:

- severance between foraging and roosting location resulting in the use of suboptimal foraging and roosting locations leading to increased energy costs for the bat;
- increased risk of road mortality when crossing the road;
- localised population decline; and
- increased risk of interbreeding and localised extinction.

The severance of linear features can result in bat/vehicle collision mortalities when bats continue to be faithful to traditional flight commuting routes once the road is operational (Lesiński, 2007; Limpens 2005). Altringham (2008) indicates that there are difficulties in any analysis of bat road kills as finding and monitoring bat road kills is influenced by animal scavenging and deflection of bats by vehicles at speed. Work in Poland

(Lesiński, 2007) provides an indication of the complex effects of severance on bat ecology and populations, including that:

- there were regional differences in the composition of species found in road kills reflecting the local bat species of that area;
- that young individuals were more likely to be killed than adults;
- that there were seasonal trends in road mortalities, with the highest mortality occurring when there was dispersal of young bats;
- that the highest rate of mortality was where roads approached tree stands or severed forest (linear features), and lowest within built up areas; and
- The severance of linear features can result in bat/vehicle collision mortalities when bats continue to be faithful to traditional flight commuting routes once the road is operational (Lesiński, 2007; Limpens 2005).

7. Recommendations

The following recommendations from pre to post construction are based upon the most up to date understanding of bat ecology from the literature……..

7.1 Habitat Assessment

Desk studies and habitat suitability assessments should be undertaken at an early stage to inform route selection and design using GIS and aerial photographs to predict likely patterns of bat distribution. These should be backed up by activity surveys and searches of structures that may be used as roosts.

7.2 Preconstruction Surveys

Knowledge of the bat species present in the area, their use of the landscape, locations for foraging and roosting throughout the year is fundamental to predicting the potential effects of a road development on bats. Sufficient baseline information should be gathered to enable a robust assessment of impacts that can be tested by undertaking monitoring during and post-construction to compare predictions with what actually happens and determine the success of mitigation employed.

7.3 Approach to Reducing Severance

It is essential that an integrated approach to road design between engineers and bat ecologists is undertaken. Luell (2003), Brinkmann (2003, 2008) and Limpens (2005) make the following relevant recommendations, collated below for consideration when designing mitigating structures:

7.4 Appropriate advance planning Mitigation

Mitigation should be along existing flight routes, since many bat species exhibit conservative behaviour in choosing and using foraging habitats, roosts and flight routes. Mitigation should be developed and capable of functioning before the barrier effect occurs including mature vegetation structures when the new route is first used. Mitigation should be linked into the landscape by suitable guiding structures.

D INTERPRETATION?EVALUATION OF SURVEY RESULTS

D.1 Presence / Absence

36 The combined results of both these latest surveys and the Applied Survey and Design survey (ASDY, 2012) would suggest the presence of at least 6 separate roost locations present on site.

Table 6. Locations of roosts identified

Location	Species	Number	Identified
Main building Lift shaft west face	Common pipistrelle	26	June 2012 (ASDY,2012)
Main Building Lift shaft east face	Unidentified	(20+ droppings)	25/07/2012
Main building shaft south face	Unidentified	(20+ droppings)	25/07/2012
Main building Courtyard North wall	Common pipistrelle	1	26/07/2012
Building 2 east gable	Common pipistrelle	1	25/07/2012
Oak Tree east boundaru	Probable brown long eared	1	26/07/2012

D.2 Population Size Assessment

37 The numbers of bats recorded in association with the west face of the lift shaft would suggest the presence of a maternity roost. It is likely that the locations identified within the east and south faces of the lift shaft are used by the same colony in response to changing conditions.

38 The two single bat roosts identified in the northern face of the main building courtyard and the east gable of building 2 are also likely to be used in close association with the main maternity colony due to their close proximity.

39 The single probable brown long eared roost identified within the oak tree in the eastern boundary is likely to be transitory in nature and support low numbers of bats.

40 When judged against the criteria for conservation significance (Table 7), the site would be of moderate conservation significance for bat species due to the presence of a common pipistrelle maternity colony.