

Julie Baptista - Trowbridge

To Councillor Toby Sturgis, Cabinet Member for Spatial Planning, Development Management and Property

Question (7)

(a) Reference Schedule of Proposed Changes to the Pre-submission Draft (May 2018) which was presented at the Cabinet Meeting in May.

In this document PC49 – Housing Allocation H2.5 Upper Studley, Trowbridge says: *Approximately (2.33 crossed out) 2.27 of land at **Church Lane** allocated for the development of approximately (20 crossed out) 45 dwellings*

Has this site 3260 – Upper Studley, been confused with site 1012 – Church Lane, which is a much larger site, also in the parish of Upper Studley, and does have an allocation of 45 dwellings?

I look forward to receiving your response and hopefully a correction to the Proposed Changes document.

(b) Re. site 3260 – Upper Studley

Question 1

The Bechstein's bat, native to the UK, is classified as vulnerable on the IUCN Red List, and is identified as a UK Biodiversity Action Plan Species; this means it is a conservation priority on both a local and national scale. It is also listed on Annex II of the EC Habitats Directive, which requires designation of Special Areas of Conservation (SAC's) to promote important populations. The population in Green Lane / Biss Woods is recognised as the second largest population in Britain.

The site 3260 – Upper Studley is known to be frequented by Bechstein's bats, is boarded on 2 sides by mature broad leaf trees and at the bottom of the site is the Lambrok stream. All essential, not just for Bechstein's, but for all the bats from Green Lane / Biss Woods whilst on their nightly forage.

This is a small site – 2.27ha necessary mitigation will further reduce the site by 16m in all directions to ensure protection for the trees, flooding from Lambrok stream and screening for existing residential gardens.

How will Wiltshire Council ensure necessary mitigation measures are implemented appropriately on site 3260 – Upper Studley when the net developable area will be so much reduced?

(c) Question 2

It is unlawful to disturb bats anywhere, roosts, flight lines or foraging areas. Any disturbance to trees on a potential development site is particularly damaging for

Bechstein's bats, identified as one of the rarest mammals in Europe, as they are tree dwelling woodland bats. Any mitigation measures, such as planting new trees will not be effective in protecting these bats as Bechstein's prefer old growth broadleaved woodland.

How will Wiltshire Council ensure safe access and egress to site 3260 – Upper Studley without cutting down mature trees potentially effecting the roosting sites used by Bechstein's bats and risking possible prosecution?

(d) Question 3 and 4

When will the Trowbridge Bat Mitigation Strategy be available?

Why was it not realised several years ago that some kind of mitigation strategy might be required for Trowbridge?

Response

- a) The evidence used to support the proposals in the draft Plan published in 2017 was based upon the delivery of a relatively low density of 30 dwellings per hectare. Officers then applied mitigation measures to address potential environmental issues. This resulted in a conservative proposal at the time to deliver 20 units.

Since the consultation exercise, officers have considered all comments received in respect of the draft allocations. The proposal to recommend that the deliverable housing quantum be raised to 45 is premised upon evidence that technical issues such as drainage, landscaping and bat protection can be fully addressed and still deliver a higher quantum.

In a wider sense, the recommendation to increase the deliverable quantum for the proposed Upper Studley site reflects the advice set out in current and draft revised national planning policy. Paragraph 17 (Core planning principles) of the National Planning Policy Framework stresses that development proposals should use land effectively. Indeed section 11 of the latest consultation draft of the National Planning Policy Framework reinforces the need to maintain this stance on the use of land.

The two sites have not been confused and the proposed capacity of each site is based on an assessment of the constraints on each site, consultation responses and making the most efficient use of land.

- b) The necessary mitigation measures will be secured by virtue of the fact that the development will be considered under the Habitats Regulations 2017 before any application to develop the site is determined. The initial screening will take a precautionary approach in considering whether the application is likely to lead to significant effects, referring to the HRA completed for the HSAP and the mitigation requirements identified in the Trowbridge Bat Mitigation Strategy. If significant effects are likely an appropriate assessment will be undertaken where the development will need to demonstrate, beyond reasonable scientific doubt that there will be no adverse effects on the Bath and Bradford on Avon Bats SAC. Natural England will be consulted if an appropriate assessment is undertaken and regard will be taken of their representations, as required by the Regulations.

It is considered that although the density had been increased it is still considered that the site at 2.27 hectares can provide appropriate mitigation and deliver approximately 45 homes. The mitigation and form of development will be determined through the planning application process which will be guided by the Trowbridge Bat Mitigation Strategy.

- c) It is not unlawful to remove trees, sections of hedgerows etc where planning permission has been granted to do so provided that a derogation licence is obtained where section 43 of the Habitats Regulations 2017 may be infringed. The planning authority has a duty to further the conservation of biodiversity under sections 40 and 41 of the NERC Act 2006 and to determine planning applications in a way that complies with its legal obligations, national policy and government guidance e.g. Government Circular 2006/05. The developer is responsible for ensuring a licence is obtained where required, e.g. a bat roost is affected.

Planning authorities have an added obligation where European Protected Sites are potentially affected by development, as is the case for greenfield applications in the Trowbridge area. In this situation authorities must screen and if necessary carry out an appropriate assessment under section 63 of the Habitats Regulations 2017. Mitigation measures can be taken into consideration in such assessments. The HRA for the draft Plan establishes that where losses of habitat are unavoidable, these will be offset by habitat creation measures according to criteria identified in the Trowbridge Bat Mitigation Strategy. Once this strategy is accepted by Natural England, applications which meet its criteria will be required to demonstrate that they will not adversely affect the Bath and Bradford on Avon Bats SAC, before they may be lawfully approved.

- d) Data indicating the importance of the woodlands in South Trowbridge for breeding Bechstein's bats and linking them to hibernation sites included in the Bath and Bradford on Avon Bats SAC did not come to light until survey data was submitted with the application for the Ashton Park development in 2015. The significance of the findings for Ashton Park became apparent during the appropriate assessment for that development in 2016 and the implications for the draft Plan were identified through its appropriate assessment in June 2017. Since then the Council has worked closely with Natural England and local bat specialists to identify the scope of the strategy and it is now being taken forward by a specialist consultant. It is expected that the Trowbridge Bat Mitigation Strategy will be available at the time of the Examination in Public.