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On behalf of the Forest Folk Allotment Society.

MATTER 5 – SITE SPECIFIC ISSUES

27. A further issue raised is in regard to biodiversity. The allotments are in a prime location for bat habitats and there have been many sightings of them. All UK bats and their roosts, are protected from harm and it is an offence to intentionally, recklessly or deliberately disturb a bat (in relation to the Wildlife and Countryside Act 1981 the offence applies whilst the species is occupying a structure or place which is used for shelter or protection; in relation to the Conservation of Habitats and Species Regulations 2010 it applies everywhere). The report makes no mention of bats nor requirements for survey and if a planning consent was granted an offence could be committed. The 2010 Regulations outline that mitigation of harm to bats needs to be incorporated into the planning consent and a Natural England license application may be required.

A recent case which involved the granting of planning consent affecting bats without mitigation in place resulted in Cheshire Borough Council being taken to Judicial Review. A local resident challenged the planning consent and the High Court Judgment quashed the planning consent. The House of Lords' decision in *Berkeley v SSE* [2001] 2 AC 603, dealing with obligations under EC law, if permission is found to have been unlawful in any way, then it should be quashed provided that the outcome, if there had been no unlawfulness, may or might have been different.

Making planning decisions without due consideration of priority to species is contrary to the Natural Environment & Rural Communities (NERC) Act 2006 which applies to all public organisations, including local authorities.

Thank you

Blidworth Forest Folk Allotment Society