The Pingle School Boilerhouse
Preliminary Bat Survey

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Contents

1 Introduction .................................................................................................................................................. 2
2 Methods ....................................................................................................................................................... 3
3 Results and Interpretation .......................................................................................................................... 4
4 Potential Impacts and Recommendations ............................................................................................... 5
5 References .................................................................................................................................................. 6
6 Photographs ............................................................................................................................................... 7
7 Appendices .................................................................................................................................................. 9
Appendix 1: Boilerhouse Location Plan (provided by DCC) ........................................................................ 10
Appendix 2: Summaries of Legislation and Policy Guidance ....................................................................... 11
1 Introduction

1.1 BSG Ecology was commissioned by Derbyshire County Council (DCC) in May 2016 to undertake a preliminary bat roost assessment of the Boilerhouse at The Pingle School and its link to the adjacent building, in order to inform proposals for the demolition of these structures. The aim of the survey was to establish the potential for a bat roost to be present in the areas affected by the works.

1.2 The Pingle School is located on Coronation Street, Swadlincote, Derbyshire DE11 0QA. The Boilerhouse is located to the northwest of the school complex at Ordnance Survey grid reference SK 2933 2014 (see Location Plan in Appendix 1). It is a single storey, flat-roofed building, clad with timber tongue and groove.

1.3 It is understood that DCC intend to replace the Boilerhouse with a temporary heating plant with the intention of installing a permanent heating plant in the near future (Mark Lowe, DCC Corporate Property, 17/06/16, Pers. Comm.).
2 Methods

Desk Study

2.1 A data trawl has not been undertaken at this stage.

2.2 Internet-based sources of information have been used to inform the study. Aerial photographs and maps of the site and its surroundings ('Where’s the Path', June 2016) were examined to further assist in understanding the local context of the site.

Field Survey

2.3 A preliminary bat roost assessment was undertaken on 02 June 2016 by Senior Ecologist David Stiles, who holds a Natural England scientific survey licence for bats (Level 2 Class Licence No. 2015-14751-CLS-CLS). Weather during the survey was dry and overcast with a temperature of 12°C.

2.4 The exterior of the building was inspected from ground level and from a ladder for evidence of bats or potential bat access points with reference to the Bat Conservation Trust guidance (Collins, 2016; in particular Chapter 7). An internal inspection for evidence of bats was also undertaken. There is no loft void.

2.5 As the proposed works will be restricted to the Boilerhouse and link to the adjacent building, the survey focussed on this area. It was not considered necessary to include any other areas of the school complex (which is extensive) in the survey.

Limitations to Methods

2.6 There are not considered to be any limitations to the survey
3 Results and Interpretation

3.1 Photographs referred to in the text can be found in Section 6.

Desk Study

3.2 The Pingle School is bordered by dense residential development to the north and east and these adjacent areas are unlikely to offer optimal bat foraging habitat or habitat linkages. Bordering the school to the west, within 20m of the Boilerhouse, is an area of semi-improved, rank neutral grassland with areas of scrub and broadleaved trees and further beyond (see Photograph 1). This may offer local foraging opportunities for bats, perhaps increasing the likelihood of bats roosting in buildings that border this habitat, if suitable roosting opportunities are present.

Field Survey

3.3 No evidence of bats was found to be associated with the Boilerhouse or its link to the adjacent building at The Pingle School.

3.4 Every surface inside the Boilerhouse is covered with a layer of soot due to the three large coal-fired boilers. This is considered likely to deter bats from roosting inside the building. There is no roof void; the ceiling comprising the undersides of the solid concrete slabs of the flat-roof deck. The walls are bare concrete block. Photographs 2-4 show the interior of the Boilerhouse.

3.5 The exterior of the Boilerhouse (Photographs 5-7) is clad with timber tongue and groove on all four elevations. This is old and worn, but tightly fitting and offers no bat roosting opportunities.

3.6 The bargeboards are also constructed from timber tongue and groove. There are several gaps underneath these bargeboards on the north, east and west elevations, where the boards have warped and/or lifted slightly (Photograph 8). From ground level these gaps appear to provide access to roosting opportunities behind the bargeboards. However, closer inspection from a ladder found that all of these crevices are filled with soot. It is therefore considered unlikely that bats use these features for roosting.

3.7 There is a section of missing tongue and groove beneath the bargeboard on the west elevation, above pipework that passes through the exterior wall (see Photograph 9). The missing section of board provides access to a cavity. However, this cavity is again covered with soot and is therefore considered unlikely to be suitable for roosting bats. An old bird’s nest was found on a supporting timber inside the cavity, indicating that it has been used by nesting birds, although nesting is not taking place currently.

3.8 The flat-roofed structure that links the Boilerhouse to the adjacent building is clad tightly with a type of fibreboard with a glossy finish and offers no bat rooting opportunities (see Photograph 10).

3.9 The Boilerhouse chimney is constructed of sectional steel rings and offers no features suitable for roosting bats (see Photographs 6 and 7).
4  Potential Impacts and Recommendations

Bats

4.1  Species Regulations 2010 (as amended) and several are Species of Principal Importance under the provisions of the Natural Environment and Rural Communities (NERC) Act 2006. Bats are protected against disturbance, killing or injuring and their roosts are protected against obstruction, damage or destruction. A bat roost may be any structure a bat uses for breeding, resting, shelter or protection. It is important to note that since bats tend to re-use the same roost sites, a bat roost is typically considered to be protected from damage or destruction whether or not the bats are present at the time. Appendix 2 provides further details of the relevant legislation, including guidance on important aspects of planning policy such as the National Planning Policy Framework and Government Circular 06/2005.

4.2  No evidence of bats was associated with the Boilerhouse or its link to the adjacent building at The Pingle School. All features that could provide bats with opportunities for roosting were found to be filled with soot from the coal-fired boilers and, as a result, are considered unlikely to be suitable.

4.3  It is considered unlikely that the proposed demolition of the Boilerhouse and link will have any impact on bats and therefore no further survey or mitigation is recommended with respect to bats.

Birds

Nesting Birds

4.4  All nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs. Appendix 2 provides further details of the relevant legislation.

4.5  The Boilerhouse has potential to support nesting birds. An old nest was found in a cavity on the west elevation. Nesting birds are not currently present, but may return to use this location in future breeding seasons. Destruction of an active nest is possible if demolition is carried out during the bird nesting season. As a guide, the bird nesting season is between February and August inclusive; dates vary by species and can be affected by prevailing weather conditions. The majority of species do not start nesting until March and April.

4.6  Given that no active nests were present at the time of the survey, at the beginning of June, it is considered unlikely that birds will nest in the building this year. However, if demolition is to take place before the end of the current bird nesting season (i.e. before the end of August 2016) or during subsequent nesting seasons then, as a precaution, it is recommended that the cavity above the pipework on the west elevation is checked to ensure an active nest is not present. If an active nest is present then demolition should be delayed until the young birds have fledged.
5 References


Where’s the Path http://wtp2.appspot.com/wheresthepath.htm (16/06/16)
6  Photographs

Photograph 1: Habitat west of the Boilerhouse

Photograph 2: Interior of the Boilerhouse

Photograph 3: Interior of the Boilerhouse

Photograph 4: The layer of soot present on all internal surfaces in the boiler house

Photograph 5: Southeast corner of the Boilerhouse

Photograph 6: Northeast corner of the Boilerhouse
Photograph 7: West elevation of the Boilerhouse

Photograph 8: A gap behind bargeboards on the northeast corner of the Boilerhouse

Photograph 9: Missing section of tongue and groove on the west elevation

Photograph 10: The link between the Boilerhouse and adjacent building
7 Appendices
Appendix 1: Boilerhouse Location Plan (provided by DCC)
The Pingle School - Plan

Scale 1: 2500
Appendix 2: Summaries of Legislation and Policy Guidance

7.1 This section briefly summarises the legislation, policy and related issues that are relevant to the main text of the report. The following text does not constitute legal or planning advice.

**European Protected Species (Animals)**

7.2 The Conservation of Habitats and Species Regulations 2010 (as amended) consolidates the various amendments that have been made to the original (1994) Regulations which transposed the EC Habitats Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (Council Directive 92/43/EEC) into national law.

7.3 “European protected species” (EPS) of animal are those which are present on Schedule 2 of the Conservation of Habitats and Species Regulations 2010 (as amended). They are subject to the provisions of Regulation 41 of those Regulations. All EPS are also protected under the Wildlife and Countryside Act 1981 (as amended). Taken together, these pieces of legislation make it an offence to:

a. Intentionally or deliberately capture, injure or kill any wild animal included amongst these species

b. Possess or control any live or dead specimens or any part of, or anything derived from a these species

c. deliberately disturb wild animals of any such species

d. deliberately take or destroy the eggs of such an animal, or

e. intentionally, deliberately or recklessly damage or destroy a breeding site or resting place of such an animal, or obstruct access to such a place

7.4 For the purposes of paragraph (c), disturbance of animals includes in particular any disturbance which is likely—

a. to impair their ability—
   i. to survive, to breed or reproduce, or to rear or nurture their young, or
   ii. in the case of animals of a hibernating or migratory species, to hibernate or migrate; or

b. to affect significantly the local distribution or abundance of the species to which they belong.

7.5 Although the law provides strict protection to these species, it also allows this protection to be set aside (derogated) through the issuing of licences. The licences in England are currently determined by Natural England (NE) for development works and by Natural Resources Wales in Wales. In accordance with the requirements of the Regulations (2010), a licence can only be issued where the following requirements are satisfied:

a. The proposal is necessary ‘to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment’

b. ‘There is no satisfactory alternative’

c. The proposals ‘will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

**Definition of breeding sites and resting places**

7.6 Guidance for all European Protected Species of animal, including bats and great crested newt, regarding the definition of breeding and of breeding and resting places is provided by The European Council (EC) which has prepared specific guidance in respect of the interpretation of
various Articles of the EC Habitats Directive.\(^1\) Section II.3.4.b) provides definitions and examples of both breeding and resting places at paragraphs 57 and 59 respectively. This guidance states that ‘The provision in Article 12(1)(d) [of the EC Habitats Directive] should therefore be understood as aiming to safeguard the ecological functionality of breeding sites and resting places.’ Further the guidance states: ‘It thus follows from Article 12(1)(d) that such breeding sites and resting places also need to be protected when they are not being used, but where there is a reasonably high probability that the species concerned will return to these sites and places. If for example a certain cave is used every year by a number of bats for hibernation (because the species has the habit of returning to the same winter roost every year), the functionality of this cave as a hibernating site should be protected in summer as well so that the bats can re-use it in winter. On the other hand, if a certain cave is used only occasionally for breeding or resting purposes, it is very likely that the site does not qualify as a breeding site or resting place.’

**Birds**

7.7 All nesting birds are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) which makes it an offence to intentionally kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs. In addition to this, for some rarer species (listed on Schedule 1 of the Act), it is an offence to disturb them whilst they are nest building or at or near a nest with eggs or young, or to disturb the dependent young of such a bird.

7.8 The Conservation of Habitats and Species (Amendment) Regulations 2012 has placed new duties on competent authorities (including Local Authorities and National Park Authorities) in relation to wild bird habitat. These provisions relate back to Articles 1, 2 and 3 of the EC Directive on the conservation of wild birds (2009/147/EC, ‘Birds Directive’\(^2\) (Regulation 9A(2) & (3) require that ‘in the exercise of their functions as they consider appropriate’ these authorities must take steps to contribute to the ‘preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom, including by means of upkeep, management and creation of such habitat…’

7.9 In relation to the duties placed on competent authorities under the 2012 amendment Regulation 9A (8) states: ‘So far as lies within their powers, a competent authority in exercising any function [including in relation to town and country planning] in or in relation to the United Kingdom must use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds (except habitats beyond the outer limits of the area to which the new Wild Birds Directive applies).’

**National Planning Policy Framework (England)**

7.10 The Government published the National Planning Policy Framework (NPPF) on 27th March 2012. Text excerpts from the NPPF are shown where they may be relevant to planning applications and biodiversity including protected sites, habitats and species.

7.11 In conserving and enhancing the natural environment, the NPPF (Paragraph 109) states that ‘the planning system should contribute to and enhance the natural and local environment’ by:

a. Recognising the wider benefits of ecosystem services;

b. Minimising impacts on biodiversity and providing net gains in biodiversity, where possible contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

c. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

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\(^1\) Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC. (February 2007), EC.

In paragraph 111, the NPPF refers to brownfield land as follows: ‘planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.’

Paragraph 117 refers to how planning policies should aim to minimise impacts on biodiversity, to: ‘identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them and areas identified by local partnerships for habitat restoration or creation;’ and to ‘promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan.’

Paragraph 118 of the National Planning Policy Framework advises how, when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the mitigation hierarchy. The mitigation hierarchy advises that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Where proposals or activities require planning permission, the NPPF states that ‘...local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

d. Proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site’s notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;

e. Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;

f. Opportunities to incorporate biodiversity in and around developments should be encouraged;

g. Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss; and

h. The following wildlife sites should be given the same protection as European sites:

i. potential Special Protection Areas and possible Special Areas of Conservation

ii. listed or proposed Ramsar sites; and

iii. sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.’

In respect of protected sites, the NPPF requires local planning authorities to make ‘distinctions...between the hierarchy of international, national and locally designated sites so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.’

In paragraph 125 the NPPF states that ‘by encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.’ This applies to protected species that are a material consideration in the planning process including bats and may also apply to other light sensitive species.
7.18 Paragraph 98 of Government Circular 06/2005 advises that "the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult Natural England before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of the species. They should also advise developers that they must comply with any statutory species' protection provisions affecting the site concerned."

7.19 Paragraph 99 of Government Circular 06/2005 advises 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".

Standing Advice (GOV.UK - England only)

7.20 The GOV.UK website provides information regarding protected species and sites in relation to development proposals: 'Local planning authorities should take advice from Natural England or the Environment Agency about planning applications for developments that may affect protected species.' GOV.UK advises that 'some species have standing advice which you can use to help with planning decisions. For others you should contact Natural England or the Environment Agency for an individual response.'

7.21 The standing advice (originally from Natural England and now held and updated on GOV.UK) provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides advice on survey and mitigation requirements.

7.22 When determining an application for development that is covered by standing advice, in accordance with guidance in Government Circular 06/2005, Local planning authorities are required to take the standing advice into account. In paragraph 82 of the aforementioned Circular, it is stated that: ‘The standing advice will be a material consideration in the determination of the planning application in the same way as any advice received from a statutory consultee...it is up to the planning authority to decide the weight to be attached to the standing advice, in the same way as it would decide the weight to be attached to a response from a statutory consultee.'

Natural Environment and Rural Communities (NERC) Act 2006 – Habitats and species of principal importance (England and Wales)

7.23 The Natural Environment and Rural Communities (NERC) Act came into force on 1st October 2006. Sections 41 and 42 (S41 and S42) of the Act require the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England and Wales respectively. The list has been drawn up in consultation with Natural England and Countryside Council for Wales (now NRW), as required by the Act. In accordance with the Act the Secretary of State keeps this list under review and will publish a revised list if necessary, in consultation with Natural England and NRW.

7.24 The S41 and S42 lists are used to guide decision-makers such as public bodies, including local authorities and utilities companies, in implementing their duty under Section 40 of the NERC Act 2006, to have regard to the conservation of biodiversity in England and Wales, when carrying out...
their normal functions, including development control and planning. This is commonly referred to as the ‘Biodiversity Duty.’

7.25 Guidance for public authorities on implementing the Biodiversity Duty\(^5\) has been jointly published by Defra and the Welsh Assembly Government. One of the key messages in this document is that ‘conserving biodiversity includes restoring and enhancing species populations and habitats, as well as protecting them.’ In England and Wales, the administration of the planning system and licensing schemes are highlighted as having a ‘profound influence on biodiversity conservation.’ Local authorities are required to take measures to ‘promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species. The guidance states that ‘the duty aims to raise the profile and visibility of biodiversity, clarify existing commitments with regard to biodiversity, and to make it a natural and integral part of policy and decision making.’

7.26 In 2007, the UK Biodiversity Action Plan (BAP) Partnership published an updated list of priority UK species and habitats covering terrestrial, freshwater and marine biodiversity to focus conservation action for rarer species and habitats in the UK. The UK Post-2010 Biodiversity Framework\(^6\), which covers the period from 2011 to 2020, now succeeds the UK BAP. The UK priority list contained 1150 species and 65 habitats requiring special protection and has been used as a reference to draw up the lists of species and habitats of principal importance in England and Wales.

7.27 In England, there are 56 habitats of principal importance and 943 species of principal importance on the S41 list. These are all the habitats and species found in England that were identified as requiring action in the UK BAP and which continue to be regarded as conservation priorities in the subsequent UK Post-2010 Biodiversity Framework.

7.28 In Wales, there are 54 habitats of principal importance and 557 species of principal importance on the S42 list. This includes three marine habitats and 53 species which were not on the list of UK BAP priorities, but which are recognised as of principal importance for Wales.
