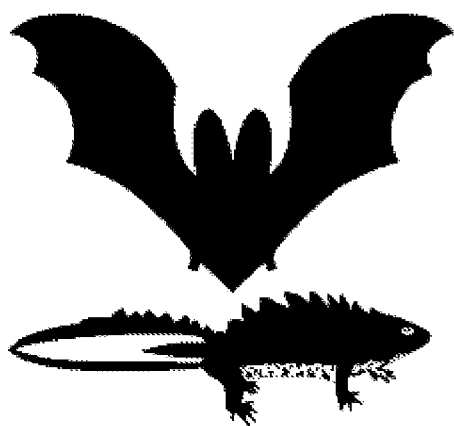




AEWC Ltd

Animal Ecology & Wildlife Consultants

Update Bat Assessment and Walkover Survey

Byfields and Nightingale

**Nyton Lane
Westergate
West Sussex
PO20 3US**

Annika Binet

**20-061
January 2021**

AEWC Ltd Birch Walk, Lower Street, Fittleworth, West Sussex, RH20 1JE



Contents

Summary	2
1. Introduction	3
2. Background	3
3. Methods	8
4. Constraints/Limitations	10
5. Results	11
6. Conclusions & Recommendations	16
Appendix 1 – Survey timetable	19
Appendix 2 – Legal protection	20
References	24
Figure 1: Showing the site location	4
Figure 2: Aerial view of the site showing the site boundaries and buildings subject to survey	4
Figure 3: Existing (top) and proposed (bottom) plans for Byfields	6
Figure 4: Existing (top) and Proposed (bottom) plans for Nightingale.....	7
Figure 5: Extract from the GCN Rapid Risk Assessment from the Natural England GCN Method Statement.	17



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Summary

- AEWCLtd were commissioned by Alice Doyne-Ditmas on behalf of their client to undertake an update bat assessment and walkover survey at Byfields and Nightingale, Nyton Road, Westergate, PO20 3US at grid reference SU937055 to help inform the proposed development of the site.
- This report details the results of the survey, which was carried out on the 5th January 2021 by Annika Binet, Natural England Bat Licenced ecologist, as an update to the original ecological surveys carried out by The Ecology Co-op in 2018.
- High potential for bats was identified to still be present at Byfields house, which was confirmed as an occasional pipistrelle roost in 2018.
- Nightingale Cottage was assessed as holding moderate potential for use by bats which is again in line with the 2018 assessment; no evidence of roosting bats was confirmed following emergence surveys in 2018.
- Nightingale Cottage barn was found to hold negligible potential for roosting bats; this was classified as low potential in 2018 with no emergence recorded during the dusk survey. The condition of the structure has deteriorated since the 2018 survey leading to the negligible assessment.
- Due to the potential identified and the length of time since the previous surveys it is considered that a minimum of two update bat emergence surveys are required for Byfields and one for Nightingale Cottage. Should results of these surveys be consistent with those found in 2018 no additional surveys above the minimum will be required. Should results of the surveys vary significantly from those found in 2018, additional surveys will be required in order to further characterise roosts present to inform the mitigation strategy and any European Protected Species licences which may be required for the proposed works.
- Presence of slow worms was confirmed in 2018, habitats suitable for this species are still present on site, but largely outside of the proposed works area. It is therefore considered that no further surveys for this species are required and that works must be carried out under method statement.
- Great crested newts were confirmed to be present within ponds within 500m of the site during the 2018 surveys. Due to the scale of the development where only around 0.02ha of land is due to be lost, and the closest known breeding pond being over 200m from the site, a rapid risk assessment showed that an offence is unlikely and therefore no further surveys are required for this species and works can be carried out under method statement without the requirement for a licence.
- Habitats on site are suitable for use by nesting birds as well as mammal species. Works must therefore be timed to ensure that vegetation is removed outside of the nesting bird season and good construction practice is followed to ensure faunal species cannot become trapped in ground workings.

This report has been prepared by AEWCLimited, with all reasonable skill, care and diligence within the terms of the Contract with the client. We disclaim any responsibility to the client and others in respect of any matters outside the scope of the above. This report is confidential to the client and we accept no responsibility of whatsoever nature to third parties to whom this report, or any part thereof, is made known. Any such party relies on the report at their own risk.

The information and data which has been prepared and provided is true and has been prepared and provided in accordance with the 'Guidelines for Preliminary Ecological Appraisal' and 'Code of Professional Conduct' issued by the Chartered Institute of Ecology and Environmental Management (CIEEM). We confirm that the opinions expressed are our true and professional bona fide opinions.

1. Introduction

- 1.1 AEWCLtd were commissioned by Alice Doyne-Ditmas on behalf of their client to undertake an update bat assessment and walkover survey at Byfields and Nightingale, Nyton Road, Westergate, PO20 3US at grid reference SU937055 to help inform the proposed development of the site.
- 1.2 This survey comprised an ecological walkover survey for all protected wildlife and species of conservation importance, including habitats, in addition to bat assessment of buildings on site and was carried out by a qualified and bat licensed ecologist Annika Binet on the 5th January 2021.
- 1.3 The purpose of this report is to give an update assessment as to the presence or potential presence of any protected species, ecological issues and impacts that would be generated by the proposed developments and identifies recommendations or further surveys that may be necessary.

Aims and objectives

- 1.4 The objectives of the survey were to:
 - Identify the potential of the buildings on the site to support roosting bats;
 - Identify whether bats are still present using the buildings on site;
 - Estimate the size and status of any existing bat roost within the buildings;
 - Determine the potential impacts on any bat roost from the proposed development schedule; and
 - Provide information for use in the design and development of ecological mitigation and enhancement measures where appropriate.

2. Background

- 2.1 The proposed development site is located at Byfields and Nightingale, Nyton Road, Westergate, PO20 3US at grid reference SU937055. See Figure 1 and 2.

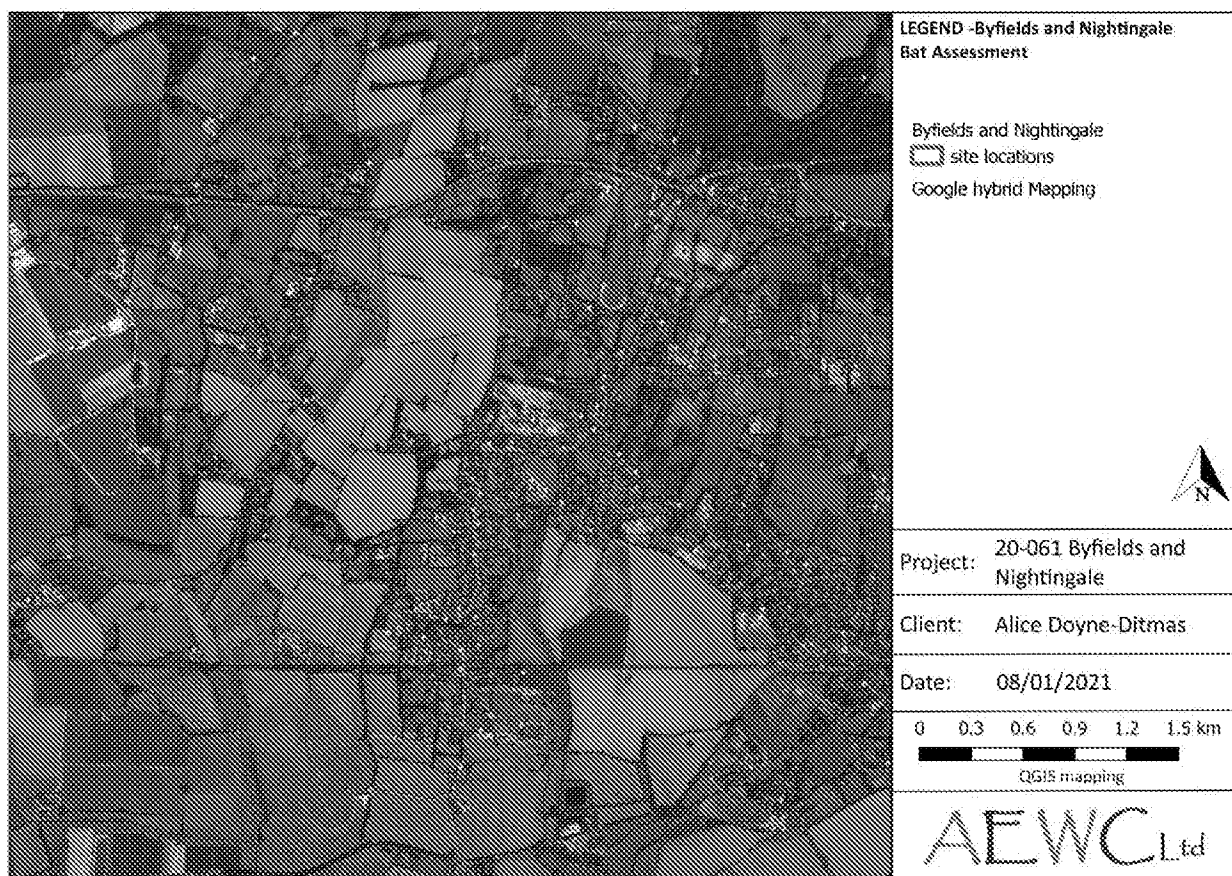


Figure 1: Showing the site location

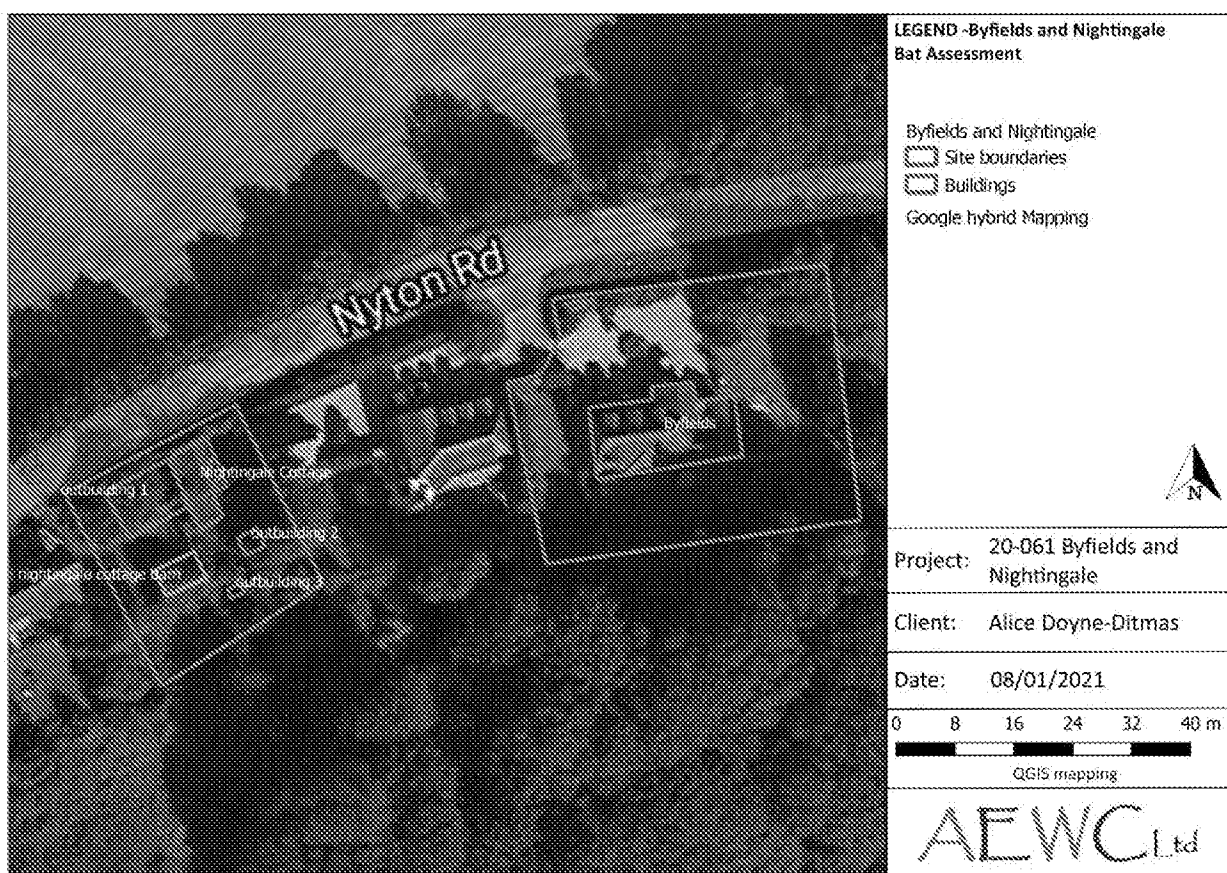


Figure 2: Aerial view of the site showing the site boundaries and buildings subject to survey

2.2 Surveys of the site were carried out by The Ecology Co-op in 2017 and 2018, including a full phase 1 habitat survey, Preliminary Ecological Appraisal in 2017 and subsequent phase 2 surveys for bats, reptiles and great crested newts in 2018.

2.3 The proposed development plan involves work across both the Byfields and Nightingale plots with finalised proposals yet to be determined.

An overview of the current scheme at Byfields is to:

- Renovate Byfields (permitted development extension TBC)
- Addition of one new dwelling

An overview of the current scheme at Nightingale Cottage is to:

- Rebuild the house as existing
- Reconstruct the damaged outbuilding 1 and Nightingale Cottage barn as they previously stood

2.4 The works will involve the removal of an area of amenity grassland within the Byfields plot for the construction of the new dwelling, in addition to the loss of an area of regenerated scrub within the plot of one of the outbuildings to be reconstructed at Nightingale. The majority of the habitat area on site is unlikely to be negatively affected by these proposals.

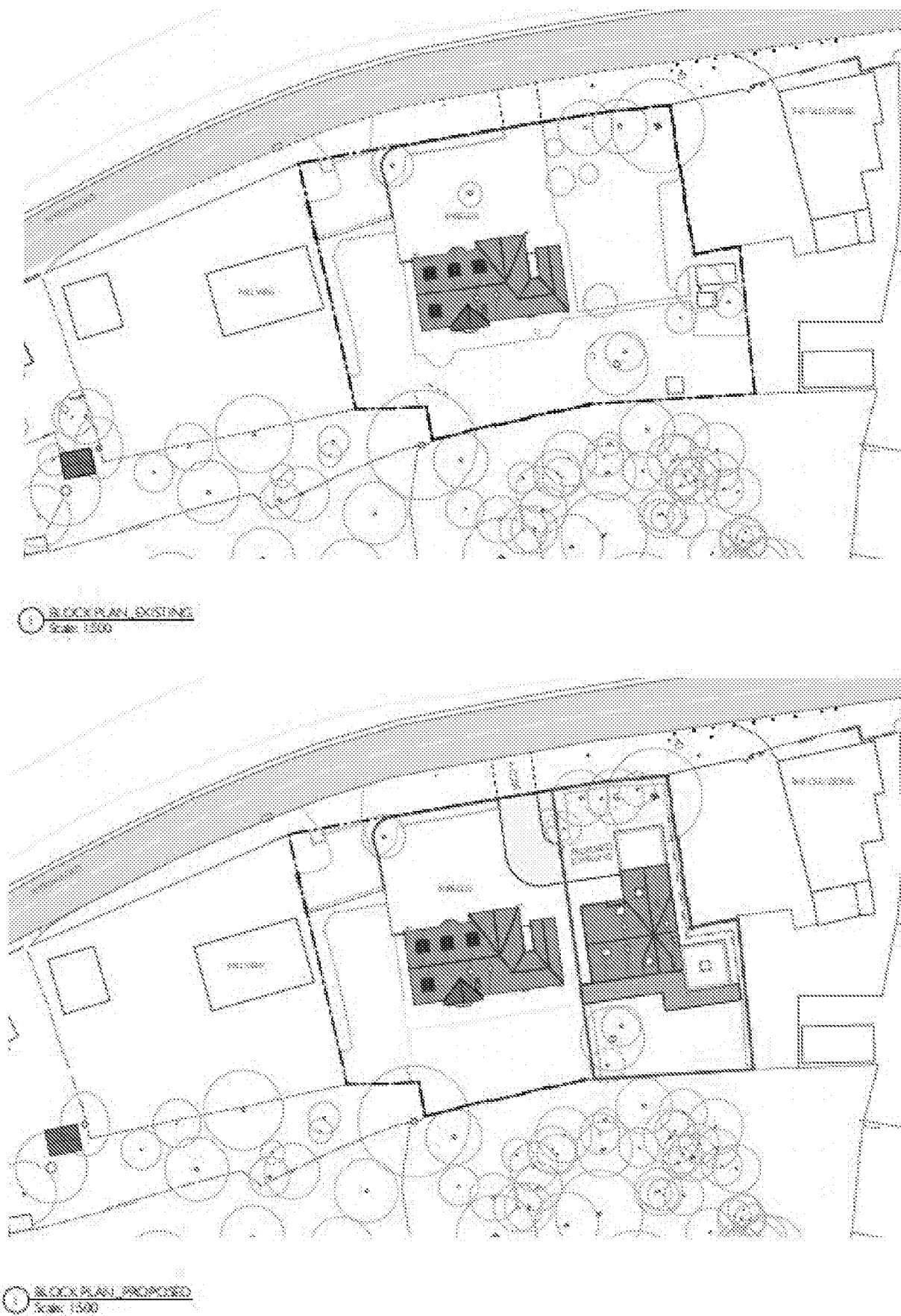


Figure 3: Existing (top) and proposed (bottom) plans for Byfields

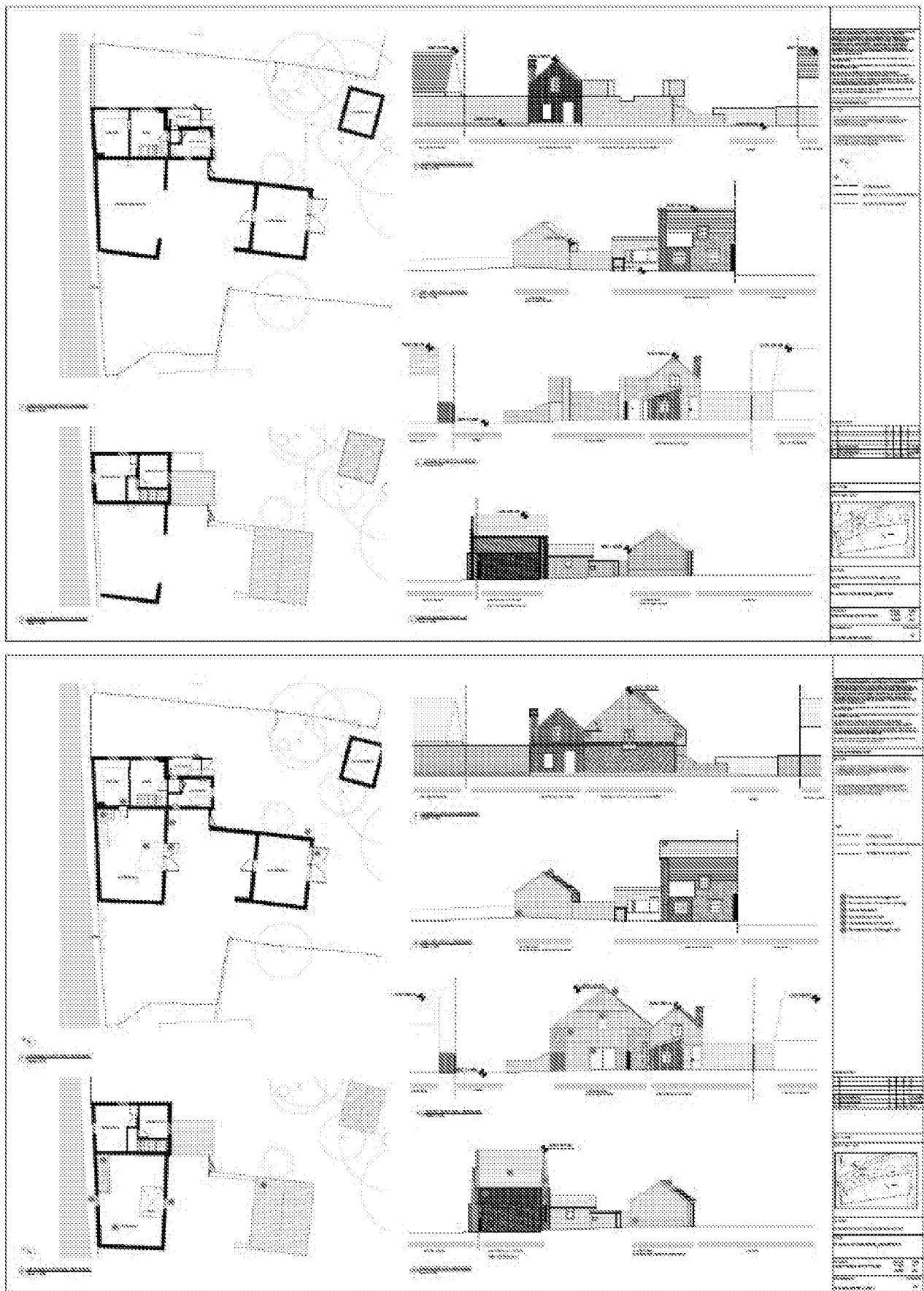


Figure 4: Existing (top) and Proposed (bottom) plans for Nightingale Cottage

3. Methods

Daytime Bat Assessment

- 3.1 A detailed bat building inspection was undertaken on the 5th January 2021 by Annika Binet, a Natural England licensed bat ecologist.
- 3.2 A systematic internal inspection of the buildings was conducted using a high-powered torch to illuminate all areas thought to be suitable for roosting bats. Additionally, an external search around the perimeter of the buildings was conducted and any possible access points i.e. gaps and crevices were noted and surveyed with a high-powered torch and ladder as appropriate.
- 3.3 The buildings' suitability for bat roosting was assessed by examining structural features that may influence the suitability of a building to support roosting bats; these include the presence of a roof void, the presence of access points into the building (including gaps beneath barge boards, weatherboarding, soffits and fascias, gaps under lead flashing, gaps within masonry and under loose tiles, gaps between tenon and mortise joints), the complexity and size of any roof void and daytime light levels in the roof void.
- 3.4 The buildings' suitability for roosting bats was also assessed by examining the surrounding habitat. Important habitat features surrounding the structure which may influence roost potential include whether the structure is in a semi-rural or parkland location, its proximity to a significant linear habitat features such as a watercourse, mature hedgerow, wooded lanes or an area of woodland.
- 3.5 All surfaces were also surveyed for signs of bat presence. Features of potential value to bats were surveyed not only for the presence of bats but also for signs that could indicate use by bats, such as:
 - bat droppings that are dry and do not putrefy, but can crumble away to dust;
 - staining of access points used by bats to enter the structure; and
 - feeding remains such as moth and butterfly wings.
- 3.6 Taking account of these architectural, habitat features and signs of presence, in addition to the results of the bat surveys carried out in 2018 the building(s) were then assigned a level of roost suitability based the criteria given in the Bat Conservation Trust's Bat Surveys: Good Practice Guidelines (Collins, 2016) and professional judgement. The primary objective of this exercise was to identify the need for further detailed bat survey later in the year, or alternatively to obtain sufficient information that would dismiss the need for further assessment.

Walkover Assessment

- 3.7 An update walkover assessment was also carried out on the 5th January 2021 to evaluate the site for its potential to support protected species in addition to other species of conservation importance that could be relevant in respect of planning policies.

- 3.8 An assessment was made of habitat suitability in and around the site for those protected species that occur in the region. Obvious signs and incidental sightings of protected species are noted when encountered, but walkover surveys do not usually confirm species presence or absence.
- 3.9 Taking into consideration the geographical region and habitat type, species that could be encountered are:
- badger;
 - breeding birds;
 - great crested newt;
 - hazel dormice;
 - reptiles;
 - other mammals; and
 - other Species of Principal Importance (SPI) (e.g. hedgehog, stag beetle etc);
- 3.10 In addition, observations of any invasive species, important plant communities, plant species of note, Habitats of Principal Importance (HPI) or other valuable ecological features will be recorded and detailed.
- 3.11 Details of the initial survey method for each species are given below.
- 3.12 **Badger** – an initial assessment was carried out to identify areas that might be used by badgers (*Meles meles*). Signs of badgers including setts, incidental foraging signs, runs, hairs and latrines are recorded if encountered during the survey. Where possible the area within 30m of the site is also searched for badger setts.
- 3.13 **Breeding Birds** - habitats were assessed for their suitability for nesting birds. This would centre on birds that favour hedgerows, areas of longer grassland, scrub, trees as well as buildings.
- 3.14 **Great Crested Newt** - initial surveys centre on identifying suitable habitat within the site. If breeding ponds are present within the locality then great crested newt (*Triturus cristatus*) could potentially be using the terrestrial habitat on the site. Maps are used to identify any ponds (that are not isolated by unsuitable habitat or physical barriers) within 500 metres of the site. A Habitat Suitability Index (HSI) is used to quantifiably assess whether a pond is suitable, this is undertaken for any onsite ponds during the walkover survey.
- 3.15 **Hazel Dormice** – scrub and areas of dense vegetation are assessed for their suitability for foraging and nesting hazel dormice (*Muscardinus avellanarius*). Favoured berry and nut bearing species such as hawthorn, hazel and bramble were looked for in particular. Additionally, the connectivity of this habitat and to suitable habitat beyond the site is also assessed. If hazel nuts are present a brief search for nuts that have been chewed by hazel dormouse (i.e. displaying the characteristic smooth round hole) was conducted.
- 3.16 **Reptiles** - the site was assessed for habitat suitable for reptiles, such as long grassland and areas of scrub, with particular attention paid to those features that provide suitable basking areas (e.g. south-facing slopes and walls), hibernation sites (e.g. banks, log piles and piles of rotting vegetation) and opportunities for foraging (e.g. rough grassland and scrub).

- 3.17 **Other mammals** – any signs of occupancy by other mammals (e.g. Rabbit warrens) are recorded.
- 3.18 **Other Species of Principal Importance (SPI)** – the habitats present on site were assessed for the likelihood of presence for species of regional and national importance.
- 3.19 **Invasive species** - Any invasive plant or animal species identified during the site walkover are recorded.
- 3.20 **Plant species of note** – Any plant species of conservation concern found on the site are recorded.
- 3.21 **Habitats of Principal Importance** - Habitats of Principal Importance within or adjacent to the site (such as arable field margins, traditional orchards, ponds, rivers, **wet woodlands**) are recorded.
- 3.22 **Other valuable ecological features** - Other ecological features e.g. ancient woodland, veteran trees, bird feeding stations etc, habitat enhancements etc. within or adjacent to the site are recorded.

4. Constraints/Limitations

- 4.1 An initial site assessment such as this is only able to act as a snapshot to record any flora or fauna that is present at the time of the survey. It is therefore possible that some species may not have been present during the survey but may be evident at other times of the year. For this reason, habitats are assessed for their potential to support some species, even where no direct evidence (such as droppings) has been found.
- 4.2 Bats are difficult to locate in large structures, with so many potential roosting areas, particularly in inaccessible areas such as large buildings, finding the exact roosting site can be difficult, especially male/single bat roosting sites. It should be noted that it is not always possible to identify bat presence by examining externally around buildings as poor weather conditions may have washed away droppings which were deposited on exposed surfaces.
- 4.3 Bats can have seasonal use of buildings and being so mobile may arrive and start using a site after it has been surveyed, or roost somewhere else during the period it was surveyed. For this reason, bats may potentially be present but remain undetected, particularly during daytime assessment.
- 4.4 The survey was carried out in the winter when signs of use by bats externally would have been less evident, and when plant communities are harder to identify to species with many species dormant underground.

5. Results

Daytime Bat Assessment

Byfields House

- 5.1 Byfields is a brick-built 1.5-storey dwelling with hipped clay tile roof lined with bitumastic roofing felt. Dormer windows have allowed the first floor to be used as additional bedrooms with eave storage space and a small apex roof void, in addition to a larger void above the front entrance. To the west of the property there is an attached garage with large storage loft above which is connected to the void above the front entrance, with both accessed through a hatch in the wall of the adjacent bedroom.
- 5.2 Internally the roof voids were found to be highly cobwebbed and the lining was found to be in largely good condition with very little light ingress. Evidence of use by small mammals was found throughout the eave voids and garage roof void but no evidence of bats was found.
- 5.3 Externally the roof is in largely good condition, with some slipped and missing tiles allowing potential access into the batten space. The cheeks and gable of the dormer windows, in addition to the gables of the house are clad with waney edge wooden weather boarding, which has warped to create potential access points into the batten space.
- 5.4 The pipistrelle bat roost identified between the garage and house in 2018 could not be viewed from ground level but is understood to still be present.
- 5.5 No evidence of use by bats was identified externally.



Photo 1: Byfield House



Photo 2: Wooden weather boarding present on the gable

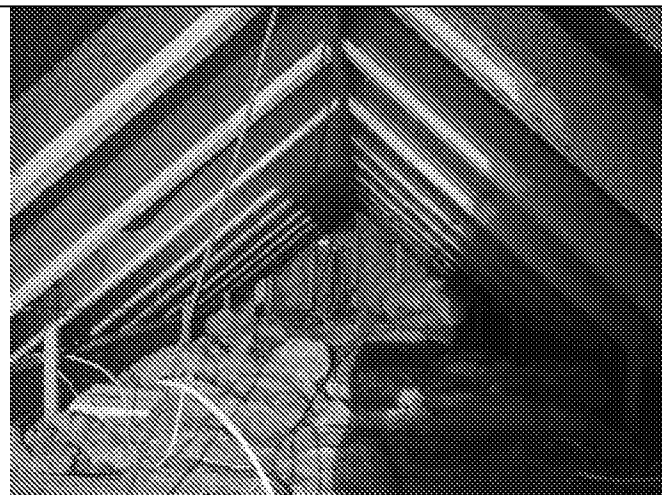


Photo 3: Apex void



Photo 4: storage loft above the garage.

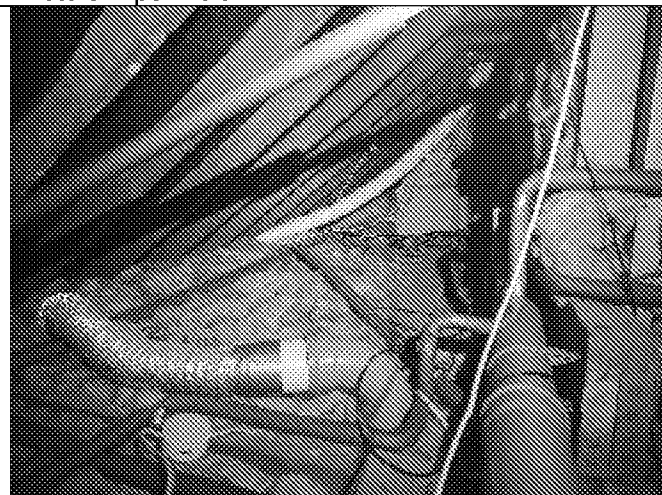


Photo 5: Eave void

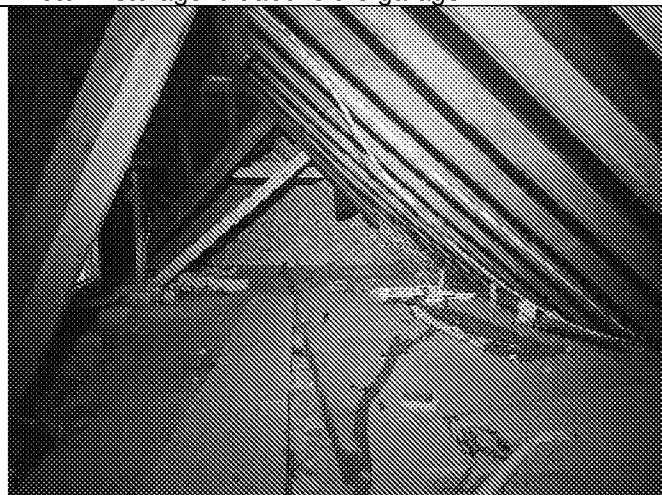


Photo 6: Void above entrance

Nightingale Cottage and Outbuildings

- 5.6 Nightingale Cottage is a brick-built 2-storey dwelling with pitched, clay tile roof lined with bitumastic roofing felt. To the south of the property there is an attached single storey extension with sloped bitumastic felt roof and flat roofed entrance porch. A roof void was present above the main house, and a small void present above the single-storey extension.
- 5.7 Internally the cottage was found to be in very poor condition with extensive damp, the floors of the property were also noted to be no longer level. The roof void of the cottage was lined with bitumastic roofing felt and had floor level fibreglass insulation present, which contained evidence of use by small mammals in the form of latrines and runs. The void was heavily cobwebbed throughout and the rafters were noted to be damp and spongy to the touch.
- 5.8 The small void above the extension was very heavily cobwebbed and again lined with fibreglass insulation. A large hole was present along the western side of the void above the bath, where excessive damp had caused the ceiling to collapse.
- 5.9 Externally the roof of the house was noted to be in very poor condition, with numerous slipped and missing tiles providing access into the batten space. The roof of the extension had been recently repaired with new ply boarding and bitumastic felt in order to prevent further water ingress and damage.

5.10 All areas were examined in and around the building and no bats, or evidence of bats were identified at any location.

5.11 Outbuildings 2 and 3 and Nightingale Cottage barn present within the gardens were brick-built with clay tile roofs. They were noted to be in poor condition, with the roof of Nightingale Cottage barn, which is proposed for reconstruction, having collapsed on the southern pitch.

5.12 Outbuilding 1, situated adjacent to the house, which is proposed for reconstruction, consisted of walls only with no roof present.

5.13 The roofs of the outbuildings were unlined, and all the buildings were extremely overgrown.

5.14 No bats or evidence of use by bats, such as bat droppings, were identified internally or externally at any location around the buildings.

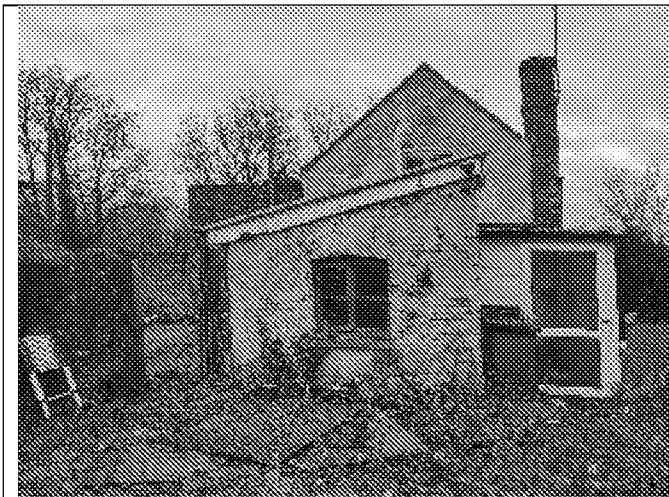


Photo 7: Nightingale Cottage



Photo 8: Walls of Outbuilding 1 adjacent to the cottage



Photo 9: Cottage roof void



Photo 10: Extension roof void



Photo 11: Nightingale Cottage barn

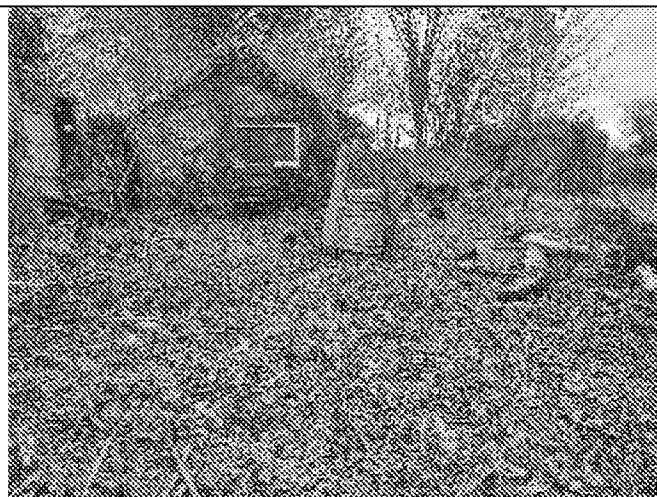


Photo 12: Outbuildings 2 and 3 as viewed from the north of the site

Walkover Assessment

Badger

- 5.15 No badger setts were identified present on site. No evidence of badger activity such as latrines, tracks, guard hairs or snuffle holes were observed on or directly adjacent to the site, which would suggest that the site is otherwise used for foraging. It is considered unlikely that any badger setts are present within 30m of the site boundary as no evidence of badger activity was identified during the survey and the habitats do not seem to be those favoured by badgers.

Breeding birds

- 5.16 There is habitat suitable for breeding birds on the site, the gardens are largely overgrown and bounded by hedge and tree lines and scrub.

Great Crested Newt (GCN)

- 5.17 The site is considered to have some potential to support terrestrial GCN, due to the presence of scrub, grassland, wood piles and other hibernacula features within the site boundary.

- 5.18 Habitats within the proposed development footprint hold some potential for use by terrestrial phase amphibians, the best habitat is located outside the footprint.

Hazel dormice

- 5.19 The site is considered to have negligible potential to support hazel dormice due to the lack of suitable habitat, connectivity and edible plant species.
- 5.20 A plot of land to the south of the proposed development sites, which is under the same ownership, contains potential for dormice along the southern boundary with the neighbouring agricultural land. Should any future proposals impact this plot, dormouse surveys may be required.
- 5.21 It was noted during the survey that dormouse nest and footprint tubes were positioned within this hedgerow as part of the ecological surveys being carried out in relation to a planning proposal for the agricultural land.



Photo 13: Dormouse footprint tunnel within boundary to the south



Photo 14: Dormouse nest tube within boundary to the south

Reptiles

- 5.22 The scrub, grassland and log piles on site provides suitable foraging habitat for common reptiles such as slow-worms, common lizards and grass snakes.
- 5.23 Surveys in 2018 confirmed the presence of slow worms within the plot to the south of site outside the proposed works boundary.
- 5.24 Habitats within the proposed development footprint hold some potential for use by reptiles, the best habitat is located outside the footprint.

Other Mammals

- 5.25 No evidence of other mammals was recorded within the site, however there is potential for the presence of rabbits within the overgrown sections of the site.

Other Species of Principal Importance

- 5.26 There is potential for the site to support SPI such as hedgehog and house sparrow within the gardens and buildings on site. The scrub and hedgerows provide suitable foraging habitat for hedgehogs. The wood piles to the south of the site provide further foraging opportunities and potential refuge areas.
- 5.27 The buildings contain crevice features suitable for use by nesting sparrows.

Invasive species

- 5.28 No invasive species of note were identified.

Plant species of note

- 5.29 No plant species of note were identified.

Habitats of Principal Importance

- 5.30 No HPI were identified within the site.

6. Conclusions & Recommendations

- 6.1 In line with Natural England's Standing Advice, where further survey for protected species is recommended these should be conducted prior to submitting a planning application and appropriate mitigation measures be incorporated into the development design.

Daytime Bat Assessment

- 6.2 Initial observations consider the local area suitable for bats due to the presence of suitable roosting features, foraging and commuting habitat. The site is within an area known to be used by a number of bat species, and previous surveys of the site recorded eight species of bats foraging and commuting within and adjacent to the site.
- 6.3 The daytime assessment identified high potential for bats in Byfields, moderate potential within Nightingale Cottage, which was previously surveyed in 2018 with no roosts recorded. Nightingale Cottage barn was identified as holding negligible potential for bats due to the level of deterioration.
- 6.4 The emergence surveys in 2018 identified a common pipistrelle bat occasional roost in Byfields, with likely absence of bats at the time in Nightingale Cottage and Nightingale Cottage barn.
- 6.5 As the original surveys were carried out in 2018 and bats are a highly mobile species, update surveys will be required in order to confirm the current status of the buildings. It is considered that Byfields requires a minimum of two update dusk surveys and Nightingale Cottage one update survey. Nightingale Cottage barn has no requirement for update surveys.
- 6.6 Should results of these surveys be consistent with those found in 2018, no additional surveys above the minimum stated above will be required. Should results of the surveys vary significantly from those found in 2018, additional surveys will be required in order to further characterise roosts present to inform the mitigation strategy and any European Protected Species licences which may be required for the proposed works.
- 6.7 Further presence / absence survey is generally undertaken between May and September during suitable weather conditions. Where bats are found, licensing and/or the production of a mitigation plan will need to be in place prior to the works proceeding as a lack of any mitigation could result in a negative impact on bats through potential death, disturbance or loss of roost space.
- 6.8 In some cases, if the proposed work will have a detrimental effect on bats or disturb or damage their roost then an EPS licence from Natural England has to be applied for. If the work can be timed or controlled to ensure there is no negative impact on bats, then a licence may not be required.
- 6.9 Lighting can have notable negative impacts on commuting bats, that are known to be present locally. There is potential for lighting during and post-development to cause indirect disturbance in these areas. Lighting of the adjacent plot to the south of the

site, in addition to the roadway to the north, both of which were confirmed as significant commuting routes during previous surveys at and around the site should be avoided or kept to the minimum necessary, and preferably on a motion sensor to reduce lighting time.

Walkover Assessment

Badger

- 6.10 The survey did not identify any evidence of badgers on the site. No further surveys are considered necessary, however precautionary mitigation for badgers is recommended as they are likely to be present within the surrounding area. As badgers could potentially move through the site, good building practice such as covering trenches at night should be followed.

Breeding birds

- 6.11 Vegetation or tree removal must be undertaken outside the breeding bird period from March to August. Should any vegetation clearance be scheduled to take place between the beginning of March and the end of August, this must be immediately preceded by a survey to check for nesting birds. No vegetation can be cleared whilst a nest is occupied, regardless of species.

Great Crested Newt (GCN)

- 6.12 A Habitat Suitability assessment was carried out in 2018 on eight ponds which were identified within 500m of the site. Of these ponds, the presence of GCN was confirmed in one pond situated 210m south-west of the site and a second pond which is situated 365m south-west of the site.
- 6.13 The proposed development will likely result in the loss of terrestrial GCN habitat. The size of the development area and the distance to the nearest breeding pond indicates that an offence is unlikely.

Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability score
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	No effect	0
Land 100-250m from any breeding pond(s)	0.01 - 0.1 ha lost or damaged	0.01
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	No effect	0
	Maximum:	0.01
Rapid risk assessment result:		GREEN: OFFENCE HIGHLY UNLIKELY

Guidance on risk assessment result categories

"Green: offence highly unlikely" indicates that the development activities are of such a type, scale and location that it is highly unlikely any offence would be committed should the development proceed. Therefore, no licence would be required. However, bearing in mind that this is a generic assessment, you should carefully examine your specific plans to ensure this is a sound conclusion, and take precautions (see **Non-licensed avoidance measures tool**) to avoid offences if appropriate. It is likely that any residual offences would have negligible impact on conservation status, and enforcement of such breaches is unlikely to be in the public interest.

Figure 5: Extract from the GCN Rapid Risk Assessment from the Natural England GCN Method Statement.

- 6.14 It is recommended that a precautionary method statement is produced prior to starting any works. This will include that grassland, scrub and woodpile removal must be done sensitively and checked for GCN immediately beforehand by an ecologist. Should any GCN be found at any time, all works must stop, and a suitably qualified ecologist contacted immediately.

Hazel dormice

- 6.15 The site is considered unlikely to be used by hazel dormouse and therefore no further surveys for this species are required.
- 6.16 Should the scope of the proposals be amended to include the plot to the south of the site, further consideration of dormice will be required.

Reptiles

- 6.17 As reptiles were recorded within the wider site during surveys in 2018 a precautionary approach to site clearance must be adopted This must include:
- Vegetation must be cut down prior to site clearance.
 - During the active season (March to September) the site can then be cleared; the top 10cms or so of top-soil should be removed by a toothed excavator under the supervision on an ecologist.
 - Log piles and compost heaps should be dismantled carefully (by hand if possible).
 - Any animals caught should be relocated to a safe area of suitable habitat beyond the development boundary.

Other Mammals

- 6.18 Site clearance work must be undertaken carefully (by hand if necessary) to avoid crushing rabbits within their burrows.

Other Species of Principal Importance

- 6.19 The west European hedgehog is an SPI, therefore it is recommended that any vegetation, such as the scrub and hedgerow, should be cleared sensitively by destructive search with a qualified ecologist present on site. The methodology specified in the method statement for GCN and reptiles will be suitable for the protection of hedgehogs which may be present within vegetation. If close board fencing is to be fitted gaps of a minimum of 13cm*13cm must be created at the base to allow hedgehogs to pass underneath, and some habitat areas left un-landscaped to retain suitable foraging habitat.

Invasive species

- 6.20 No invasive species were recorded and therefore no further action is required.

Appendix 1 – Survey timetable

Species	Survey	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Badger	Bait marking & sett search												
Bats	Roost assessments												
	Ground level tree assess												
	Emergence and activity												
	Hibernation												
	Trapping												
Birds	Wintering												
	Breeding												
Great crested newt	HSI												
	eDNA												
	Presence/absence & popn												
	Refugia												
Hazel dormouse	Tube												
	Nut search												
Otter	Field signs												
Reptiles	Refugia & search												
Water vole	Field signs												
Invertebrates	Presence & communities												
Vegetation	Phase 1 habitat & NVC												
	Optimal												
	Sub-optimal												
	Outside survey season												

Appendix 2 – Legal protection

General

This section briefly describes the legal protection afforded to protected species. It is for information only and is not intended to be comprehensive or to replace specialised legal advice. It is not intended to replace the text of the legislation but summarises the salient points.

Badger

Badgers are protected under the *Protection of Badgers Act 1992*. Under this legislation it is an offence to kill or injure a badger, to damage, destroy or block access to a badger sett, or to disturb badger in its sett. The Act also states the conditions for the protection of badger's licence requirements.

Bats

All species of bats are listed on *Schedule 5* of the *Wildlife and Countryside Act 1981 (as amended)* which affords them protection under *Section 9*, as amended. They are also protected under the *Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019*. In combination, this makes it an offence to:

- intentionally kill, injure or take (capture etc.);
- possess;
- intentionally or recklessly damage, destroy, obstruct access to any structure or place used by a scheduled animal for shelter or protection, or disturb any animal occupying such a structure or place; and
- sell, offer for sale, possess or transport for the purpose of sale (live or dead animal, part or derivative) or advertise for buying or selling such things.

A roost is defined as 'any structure or place which a bat uses for shelter or protection'. As bats tend to reuse the same roosts, legal opinion is that a roost is protected whether or not bats are present.

Furthermore, seven bat species (barbastelle, bechstein's, noctule, soprano pipistrelle, brown long-eared, lesser horseshoe and greater horseshoe) are also Species of Principal Importance in England under *Section 41* of the *Natural Environment and Rural Communities Act 2006*.

Breeding Birds

All species of wild bird are protected under *Section 1* of the *Wildlife and Countryside Act 1981 (as amended)*. Protection was extended by the *Countryside and Rights of Way (CROW) Act 2000*. Under the above legislation, it is an offence to intentionally:

- kill, injure or take any wild bird;
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- take or destroy an egg of any wild bird.

Certain species are listed on *Schedule 1* of the *Wildlife and Countryside Act 1981 (as amended)* and receive protection under *Sections 1(4)* and *1(5)*. There are special penalties where the offences listed above are committed for any *Schedule 1* species and it is also an offence to intentionally or recklessly:

- disturb any such bird when it is building its nest or while it is in or near a nest containing dependant young; or
- disturb the dependant young of any such bird.

Amphibians

Natterjack toad, northern pool frog and great crested newt are listed on *Schedule 5* of the *Wildlife and Countryside Act 1981 (as amended)* which affords them protection under *Section 9*, as amended. They are also protected under the *Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019*. In combination, this makes it an offence to:

- intentionally kill, injure or take (capture etc.);
- possess;
- intentionally or recklessly damage, destroy, obstruct access to any structure or place used by a scheduled animal for shelter or protection, or disturb any animal occupying such a structure or place; and
- sell, offer for sale, possess or transport for the purpose of sale (live or dead animal, part or derivative) or advertise for buying or selling such things.

Palmate newts and smooth newts are also afforded protection against sale only under *Schedule 5* of the *Wildlife and Countryside Act 1981 (as amended)*.

Natterjack toad, common toad, great crested newt and northern pool frog are also Species of Principal Importance in England under *Section 41* of the *Natural Environment and Rural Communities Act 2006*.

Hazel dormouse

Hazel dormouse is listed on *Schedule 5* of the *Wildlife and Countryside Act 1981 (as amended)* which affords them protection under *Section 9*, as amended. They are also protected under the *Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019*. In combination, this makes it an offence to:

- intentionally kill, injure or take (capture etc.);
- possess;
- intentionally or recklessly damage, destroy, obstruct access to any structure or place used by a scheduled animal for shelter or protection, or disturb any animal occupying such a structure or place; and
- sell, offer for sale, possess or transport for the purpose of sale (live or dead animal, part or derivative) or advertise for buying or selling such things.

Hazel dormouse is also a Species of Principal Importance in England under *Section 41* of the *Natural Environment and Rural Communities Act 2006*.

Otter

Otter is listed on *Schedule 5* of the *Wildlife and Countryside Act 1981 (as amended)*, which affords them protection under *Section 9*, as amended. They are also protected under the *Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019*. In combination, this makes it an offence to:

- intentionally kill, injure or take (capture etc.);
- possess;
- intentionally or recklessly damage, destroy, obstruct access to any structure or place used by a scheduled animal for shelter or protection, or disturb any animal occupying such a structure or place; and

- sell, offer for sale, possess or transport for the purpose of sale (live or dead animal, part or derivative) or advertise for buying or selling such things.

Otter is also a Species of Principal Importance in England under *Section 41* of the *Natural Environment and Rural Communities Act 2006*.

Reptiles

Common lizard (*Lacerta vivipara*), grass snake (*Natrix helvetica*), slow-worm (*Anguis fragilis*), and adder (*Vipera berus*) are listed under *Schedule 5* of the *Wildlife and Countryside Act 1981 (as amended)*, in respect of *Section 9(5)* and part of *Section 9(1)*. This protection was extended by the *Countryside and Rights of Way (CROW) Act 2000*. Under the legislation, it is an offence to:

- intentionally or deliberately kill or injure any individual of these species; or
- sell or attempt to sell any part of these species either alive or dead.

Smooth snake (*Coronella austriaca*) and sand lizard (*Lacerta agilis*) are listed on *Schedule 5* of the *Wildlife and Countryside Act 1981 (as amended)*, which affords them protection under *Section 9*, as amended. They are also protected under the *Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019*. In combination, this makes it an offence to:

- intentionally kill, injure or take (capture etc.);
- possess;
- intentionally or recklessly damage, destroy, obstruct access to any structure or place used by a scheduled animal for shelter or protection, or disturb any animal occupying such a structure or place; and
- sell, offer for sale, possess or transport for the purpose of sale (live or dead animal, part or derivative) or advertise for buying or selling such things.

All UK reptile species are Species of Principal Importance in England under *Section 41* of the *Natural Environment and Rural Communities Act 2006*.

Water vole

Water vole (*Arvicola amphibious*) is listed on *Schedule 5* of the *Wildlife and Countryside Act 1981 (as amended)*, which affords them protection under *Section 9*, as amended. This makes it an offence to:

- capture, kill or injure;
- damage, destroy or block access to a place of shelter;
- disturb whilst in a place of shelter or possessing, and
- sell any part of a water vole, dead or alive.

Other Mammals

All mammals receive some protection under the *Wild Mammals (Protection) Act 1996*, which makes it an offence to crush or asphyxiate an animal (e.g. within its burrow).

Species and Habitats of Principal Importance

Section 41 of the *Natural Environment and Rural Communities (NERC) (2006)* requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England. The S41 list has 56 Habitats of Principal Importance and 943 species of principal importance listed and has been drawn up in consultation with Natural England.

The S41 list is used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under *Section 40* of the *Natural Environment and Rural Communities Act 2006*, to have regard to the conservation of biodiversity in England, when carrying out their normal functions.

Invasive species

It is an offence to plant, or otherwise cause to grow in the wild non-native plant species listed under *Schedule 9* of the *Wildlife and Countryside Act 1981 (as amended)*, for which *Section 14* of the Act applies. These include, but are not limited to:

- Himalayan balsam
- Cotoneaster sp.
- Japanese knotweed
- Giant hogweed.

Ancient woodland

The *National Planning Policy Framework (2012)* states that '*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*'. In addition, Natural England's standing advice for ancient woodland states that *an appropriate buffer zone of semi-natural habitat [be in place] between the development and the ancient woodland (depending on the scale and impact of development), a minimum buffer should be at least 15 metres to avoid root damage and at least 50m for pollution or trampling*".

Ancient woodlands, and ancient and veteran trees, may also be protected by Tree Preservation Orders.

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