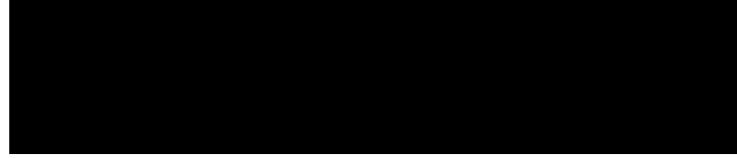


Batscan Ltd
5 Penlands Vale
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West Sussex BN44 3PL
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BAT SURVEY REPORT

Site: The Old Cottage & Bridge Cottage
Lidsey Road, Lidsey
Bognor Regis
West Sussex PO22 9PQ

Client: Mr C Harris
The Old Cottage
Lidsey Road, Lidsey
West Sussex PO22 9PQ

Surveyors: D P King MEECW (NE Sc. Bat Lic. No. 2015-16001-CLS-CLS)
NE Registered Bat Consultant RC 182
S L Wright (NE Sc. Bat Lic. No. 2016-24340-CLS-CLS)
S King (trainee)

Survey Date: 10th May 2019

Report Date: 15th May 2019

Bat Survey of The Old Cottage & Bridge Cottage, Lidsey Road, Lidsey, Bognor Regis, West Sussex
OS Grid Ref: SU 93930 03167

Executive Summary

On 10th May 2019, three surveyors from Batscan Ltd carried out a combined Phase 1 (daytime search) & Phase 2 (dusk emergence check/bat activity) survey of the properties known as The Old Cottage and Bridge Cottage, in Lidsey Road, Lidsey, near Bognor Regis, West Sussex.

The survey was undertaken on behalf of the owner of The Old Cottage. It is understood that a proposal to redevelop the site may involve the demolition and replacement of the existing buildings. Because bats and their roosts are protected by law, appropriate surveys are required, prior to any development, to establish whether any bats are roosting on the site.

A Preliminary Ecological Appraisal Survey, including a Preliminary Bat Roost Assessment of the site was carried out by Lizard Landscape Design and Ecology in December 2017 and January 2018*. During that survey, a small accumulation of droppings from common pipistrelle bats (*Pipistrellus pipistrellus*) was found within the roof void of The Old Cottage (Building B1) and a small number of potential bat access points were noted in the roofs of Buildings B2 (detached garage adjacent to B1) and Bridge Cottage (B6). Two trees were considered to offer some potential for bat roosting. Lizard ecologists advised that the findings were highly suggestive of B1 supporting a small number of bats of a common species, which would categorise the roosts as being of 'low conservation status'. They recommended that Phase 2 bat surveys should be undertaken, at the optimal time of year (May -September) in order to establish the status of any roosts in the buildings. Should these surveys confirm that bats are roosting in any of the buildings, Lizard ecologists advised that a Natural England Bat Mitigation Licence would be required, to allow the demolition of a roost building. They also advised on mitigation, compensation or enhancement measures that were likely to be appropriate.

The buildings surveyed comprise two neighbouring dwelling houses and a range of outbuildings, set in large mature gardens. The site is largely surrounded by large, open, arable fields but there is some connectivity, via hedgerows and tree-lines to water bodies and small areas of woodland.

During the latest survey, no fresh evidence of bat use was discovered in the buildings and we would concur with the assessments of habitat value and level of bat use, made by Lizard ecologists, in early 2018. During the dusk emergence check, no bats were seen to emerge from any of the buildings. However, one or two pipistrelles were active around the site during the survey period and individuals may return to the roost identified in Building 1, or to suitable crevices in other buildings, in the coming weeks.

For this reason and because the redevelopment proposals may involve the loss of the known roost in Building 1, as well as the demolition of Buildings 2 – 6, it is advised that a further inspection of the roof voids of B1 should be made later in bats' active season and that a repeat emergence check/bat activity survey should be undertaken, at that time.

It is considered very unlikely that the repeat survey will reveal anything other than a low level of use by bats. The mitigation strategy proposed by Lizard Ecology* is, provisionally, considered to be appropriate for this site. It is likely that a NE Bat Mitigation Class Licence would be required if Building 1 is to be demolished. See details in this report.

1. Introduction & Background

- 1.1 Three surveyors from Batscan Ltd (formerly Batbox Bat Surveys) carried out a combined Phase 1 (daytime search) & Phase 2 (dusk emergence check/bat activity) survey of the neighbouring residential properties known as The Old Cottage and Bridge Cottage, in Lidsey Road, Lidsey, near Bognor Regis, West Sussex, on the evening of 10th May 2019. Two surveyors hold Natural England Scientific Bat Licences and one is a registered bat consultant. The third surveyor was a trainee. For details of licences and affiliations, please see report cover.
- 1.2 The survey was undertaken on behalf of the owner of The Old Cottage. It is understood that a proposal to redevelop the site may involve the demolition and replacement of the existing buildings.
- 1.3 Because bats and their roosts are protected by British and European law, appropriate surveys are required, prior to any development, to establish whether bats are found on the site. The latest bat survey included a repeat daytime inspection of all of the structures on the site, followed by a dusk emergence/bat detector survey, which concentrated on those buildings considered to have a reasonable potential for bat use.
- 1.4 At this time of the year, British bats are returning to their summer roosts after the winter hibernation period. Maternity colonies are gathering and all bats will emerge to feed, on their insect prey, during nights when weather conditions are suitable.
- 1.5 A Preliminary Ecological Appraisal Survey, which included a Preliminary Bat Roost Assessment of the site, was carried out by Lizard Landscape Design and Ecology in December 2017 and January 2018*. During that survey, a small accumulation of droppings from common pipistrelle bats (*Pipistrellus pipistrellus*) was found within the roof void of The Old Cottage (Building B1) and a small number of potential bat access points were noted in the roofs of Buildings B2 (detached garage adjacent to B1) and Bridge Cottage (B6). Apart from B2, the other outbuildings were considered to offer a negligible potential for bat use. Additionally, two trees in the grounds of The Old Cottage (T01 and T02) were considered to offer some potential for bat roosting.
- 1.6 Lizard ecologists advised that these findings were highly suggestive of B1 supporting a small number of bats of a common species, which would categorise the roosts as being of 'low conservation status'. They recommended that Phase 2 bat surveys – up to three surveys, including a dawn survey, if considered necessary - should be undertaken during the optimal time of year (May -September) in order to establish the status of any roosts in the buildings. Should these surveys confirm that bats are roosting in any of the buildings, Lizard ecologists advised that a Natural England Bat Mitigation Licence would be required, to allow the demolition of a roost building. The ecologists also recommended mitigation and compensation or enhancement measures, with regard to bats, that were likely to be appropriate for this site.
- 1.7 The buildings surveyed comprise two neighbouring dwelling houses and a range of outbuildings, set in large mature gardens. The site is largely surrounded by large, open, arable fields but there is some connectivity, via hedgerows and tree-lines, to water bodies and small areas of woodland.

- 1.8 Recommendations from the Bat Conservation Trust's 'Bat Surveys for Professional Ecologists: Good Practice Guidelines' (3rd edn)** were followed for the course of this survey.

2. Repeat Daytime Survey – 10th May 2019 - Methodology

- 2.1 Prior to visiting the site, the previous bat roost assessment for the site was reviewed and aerial maps of the site were assessed, to establish the likelihood of bats using the site.
- 2.2 Prior to the dusk emergence check/bat activity survey the surveyors inspected the exteriors of the buildings, searched the roof voids of the cottages and the interiors of the outbuildings. The trees were assessed from ground level. Consideration was given to the findings of the Lizard ecologists, for each building. The surrounding habitat was assessed.
- 2.3 Photographs were taken and detailed notes were made and positions were chosen for the dusk emergence check.

3. Repeat Daytime Survey – 10th May 2019 – Results

3.1 Building B1 - The Old Cottage

- 3.1.1 Information from Lizard Landscape Design & Ecology report* - *The Old Cottage is a two-storey cottage of flint and brick construction with clay tile roof, complete with eyebrow dormers to the north-eastern aspect. The oldest section of the cottage is believed to date from the 15th century, with a small Victorian addition to the northern gable end and a more recent extension (approximately 15 years) to the north east. 2 no. chimneys are present, one to the centre of the building and one to the north-western gable end. The existing property was re-roofed 4 years ago.*
- 3.1.2 *Internally, 2 no. roof voids exist within the property. The roof void to the older cottage section is fully boarded and used for the storage of boxes. A central chimney stack and water tank effectively divide the space into 2 no. compartments. A very light scattering of bat droppings of a size and shape indicative of brown long-eared bats (Plecotus auritus) and pipistrelle sp. bats were recorded to the south-eastern section of the building while an accumulation of bat droppings was recorded to the southern aspect of the northern chimney (confirmed through DNA analysis as being common pipistrelle (Pipistrellus pipistrellus).*
- 3.1.3 *Further scatterings of small numbers of bat droppings were recorded within the roof void of the more recent extension. These droppings were also of a size and shape indicative of pipistrelle bats. Building 1 was confirmed as a bat roost.*
- 3.1.4 During the latest survey it was noted that there are numerous opportunities for crevice-dwelling bats, such as pipistrelles to roost beneath roof tiles on the cottage, where there are gaps large enough for a small bat to gain entry. Possibly the most opportunities were noted on the east elevation, where the undulating shape of the roof has resulted in less tightly fitting tiles. The eaves appear to be well sealed. No fresh droppings were noted and it seems likely that bats are making significantly less use of the internal roof spaces of this building, since the re-roofing. The larger accumulation of droppings, previously noted around the northern chimney, may date from before the roof works and the fitting of new insulation material elsewhere in the roof. The roof is now lined, internally, with a tight-fitting, modern breathable membrane.

3.2 Building B2 - Single-Storey Double Garage

3.2.1 Information from Lizard Landscape Design & Ecology report* - *Building B2 is a single-storey garage of brick construction with clay tile roof. Tiles are backed by roofing membrane while the void is open to the room below. The garage is used for storage and as such not all areas were accessible. No evidence of bats was recorded internally, however, a number of slipped/lifted roof tiles were noted which could allow access into the fabric of the building. The building was classified as having a 'low' potential for bat use.*

3.2.2 During the latest survey no bats or evidence of bats was seen inside the double garage. There are numerous gaps beneath the roof tiles on this structure, more particularly on the north side. Although a north facing roof slope, shaded by trees, does not offer the optimum roosting conditions for bats, it was considered possible that a bat or bats might roost, opportunistically, beneath a roof tile, at some times of the year.

3.3 Building B3 – L-Shaped Garage

3.3.1 Information from Lizard Landscape Design & Ecology report* - *a large L-shaped single-storey garage is located approximately 20.0m north-west of Building 1. This building is of recent construction with a zinc roof complete with skylights. No evidence of bats or any potential access points were recorded anywhere within this building. The building was assessed as having a 'negligible' potential for bat use.*

3.3.2 Batscan Ltd surveyors concur with the conclusions reached by the Lizard ecologists regarding the potential of this building, for bat use.

3.4 Building B4 – Disused Stable (to NE of The Old Cottage)

3.4.1 Information from Lizard Landscape Design & Ecology report* - *Building B4 is a disused stable block of typical wooden construction with felt roof. The building is in poor condition and is considered to be too wet and thermally unstable to support a bat roost. This structure was considered to have a 'negligible' potential for bat use, by Lizard ecologists.*

3.4.2 Batscan Ltd surveyors agree that there is a very low potential for bats to this structure, but consider it possible that a bat might find temporary shelter within the building, at some time during the year, or use it as a 'feeding perch'.

3.5 Building B5 – Disused Stable (to SW of The Old Cottage)

3.5.1 Information from Lizard Landscape Design & Ecology report* - *Building B5 is a wooden stable building with corrugated roof which is currently used as a wood store. The building is considered to be too light internally and thermally unstable to support a bat roost. This structure was considered to have a 'negligible' potential for bat use, by Lizard ecologists.*

3.5.2 As B4 - Batscan Ltd surveyors agree that there is a very low potential for bats to this structure, but consider it possible that a bat might find temporary shelter within the building, at some time during the year, or use it as a 'feeding perch'.

3.6 Building B6 – Bridge Cottage

3.6.1 Information from Lizard Landscape Design & Ecology report* - *Bridge Cottage is a two-storey painted brick building with thatched roof. Windows and brick work appeared to be in good condition. 2 no. recent extensions exist to the northern and north western sections of the site,*

these are of brick construction with tile roof in good condition. Small gaps recorded between wooden panels at the eaves of the main house. No evidence of bats was recorded within the roof voids of the building. Bridge Cottage was described as having a 'low' potential for bat use by Lizard ecologists.

- 3.6.2 Batscan Ltd surveyors found no bats or evidence of bat use around the exterior or in the roof void of this cottage and concur with the conclusions reached by the Lizard ecologists regarding the potential of this building, for bat use.

3.7 Building B7 – Bridge Cottage Outbuilding

- 3.7.1 Information from Lizard Landscape Design & Ecology report* - *Building B7 is a detached double garage with small lean-to constructed to the north east. The building is of block construction with a flat felt roof.* The building was considered to have a 'negligible' potential for bat use.
- 3.7.2 Batscan Ltd surveyors concur with the conclusions reached by the Lizard ecologists regarding the potential of this building, for bat use.

3.8 Trees

Trees T01 & T02 were not located during this survey. However, the very large dead tree stump, considered likely to have been a poplar, situated to the south west of Building 1, has a disused woodpecker hole which might be used by bats. This tree stump is considered to have a moderate potential for bat use. (T03)

3.9 Surrounding Habitat

- 3.9.1 The site is mostly surrounded by arable fields, with a caravan park to the west. There is a fairly large, tree-lined pond on the corner of Shripney Road and Sack Lane, just to the south of the site and the Brooks Local Nature Reserve lies approximately 1.5km to the south west. Connectivity, for commuting bats, appears to be rather poor, although there are some links, via tree-lines and small waterways, to small pockets of woodland and to the Brooks.

4. Dusk Emergence Check/Bat Detector Survey -10th May 2019 - Methodology

- 4.1 At dusk, when bats emerge from their roost sites to feed, the surveyors were positioned so as to get the best possible view of any bats emerging from Buildings B1, B2 & B3 and for bats foraging/commuting in the area. Following bats' emergence time, the surveyors moved around the site, recording any bat activity.

Surveyor 1: To the south east of B1 – David King

Surveyor 2: To the north east of B1, east of B2 – Sheila Wright

Surveyor 3: To the south of B6, west of B7 – Sophie King

4.2 Equipment

The surveyors used Batbox Griffin time-expansion recorders to record bats' echolocation calls and to identify any bats heard to species level, where possible. Recordings were made

for later computer analysis with BatScan software. Prior to bats' emergence time, the surveyors used bat detectors to listen for pre-emergence 'chatter', sometimes heard from bat colonies before leaving their roost. The surveyors carried high powered torches and communicated via 3-way radio comms.

4.3 Weather Conditions

The survey was undertaken on a clear, calm and dry evening, although temperatures dropped as night fell, under the clear sky. The temperature was 13°C at sunset. Conditions were considered to be very suitable for bat activity.

4.4 Timing

The evening emergence check/bat detector survey started at 20:15. Sunset was at 20:37.

5. Dusk Emergence Check and Bat Detector Survey – 10th May 2019 - Results

5.1 No bats were seen emerging from the buildings or from T03 during this survey. No roost chatter was heard.

5.2 Bats seen and heard were as follows:

Time	Species	Activity
20:53	Common pipistrelle (<i>Pipistrellus pipistrellus</i>)	Distant pass to south
21:00	As above	Distant pass to south
21:00 -21:14	Common pipistrelle	Foraging in garden to east of B6
21:02	Common pipistrelle	Flying near B2
21:04 21:08	Common pipistrelle	5 x passes, bats passing through gardens of the Old Cottage
21:11	Common pipistrelle	Pass through garden, close to B1 & B2
21:14	Nathusius' pipistrelle (<i>Pipistrellus nathusii</i>)	Distant pass to SW
21:18	Soprano pipistrelle (<i>Pipistrellus pygmaeus</i>)	Pass through gardens of The Old Cottage – final bat recorded

6. Survey Constraints

6.1 This survey was undertaken early in bats' active season, although bats had been recorded, fairly extensively during other surveys carried out in previous weeks and conditions were suitable for bat activity.

6.2 The buildings are spaced quite widely around this large and well vegetated site. The surveyors positioned themselves where they could get the best view of any bats emerging from those buildings considered to have any significant potential for roosting.

7. Conclusions and Recommendations

7.1 Bats Recorded during the latest survey:

- 45kHz (or common) pipistrelle (*Pipistrellus pipistrellus*) is considered to be common and widespread in the UK.
- 55kHz (or soprano) pipistrelle (*Pipistrellus pygmaeus*) is also considered to be common and widespread in the UK. Pipistrelles sometimes roost in trees, but maternity roosts are mostly found in buildings.
- Nathusius' pipistrelle (*Pipistrellus nathusii*) was considered to be a rarely recorded, vagrant species in the UK until recent years, when it was confirmed as a regular migrant and occasional resident.

7.2 During the latest survey, no fresh evidence of bat use was discovered in the buildings on this large site and we would concur, in the most part, with the assessments of the habitat value and level of bat use, made by Lizard ecologists, during their Preliminary Roost Assessment* undertaken in early 2018.

7.3 During the dusk emergence check/bat activity survey, no bats were seen emerging from any of the buildings under observation. Overall, bat activity was considered to be low. However, one or two pipistrelles were active around the site during the survey period and individuals may return to the roost identified in Building 1, or to suitable crevices in other buildings, in the coming weeks.

7.4 For this reason and because the redevelopment proposals may involve the loss of the known roost in Building 1, as well as the demolition of Buildings 2 – 6, it is advised that a further inspection of the roof voids of B1 should be made later in bats' active season and that a repeat emergence check/bat activity survey should be undertaken at that time. Surveyors should focus on those buildings around which some limited bat activity was recorded and specifically the west side of B1, the Old Cottage, the north side of the garage, B2 and the east side Bridge Cottage, B6.

7.5 It is considered very unlikely that the repeat survey will reveal anything other than a very low level of use by bats, but this must be confirmed by a repeat survey. It is likely that a NE Bat Mitigation Class Licence would be required if Building 1 (or any other building that is found to be used by bats) is to be demolished.

7.6 The mitigation strategy proposed by Lizard ecology* is, *provisionally*, considered to be appropriate for this site:-

7.7.1 *DNA analysis has confirmed the likely presence of a small roost of common pipistrelle bats to the southern aspect of the north-western chimney. The evidence found on site is highly suggestive of the roost being of 'low conservation status' (small numbers of a common species).*

Should an active roost be found within the building during the emergence surveys the data obtained will be used to apply for an EPSM licence from Natural England post planning approval, should this be required.

Should a licence be required, temporary bat boxes (such as double crevice bat box) will be installed to a mature tree in the vicinity for the site. Following granting of the mitigation licence, features

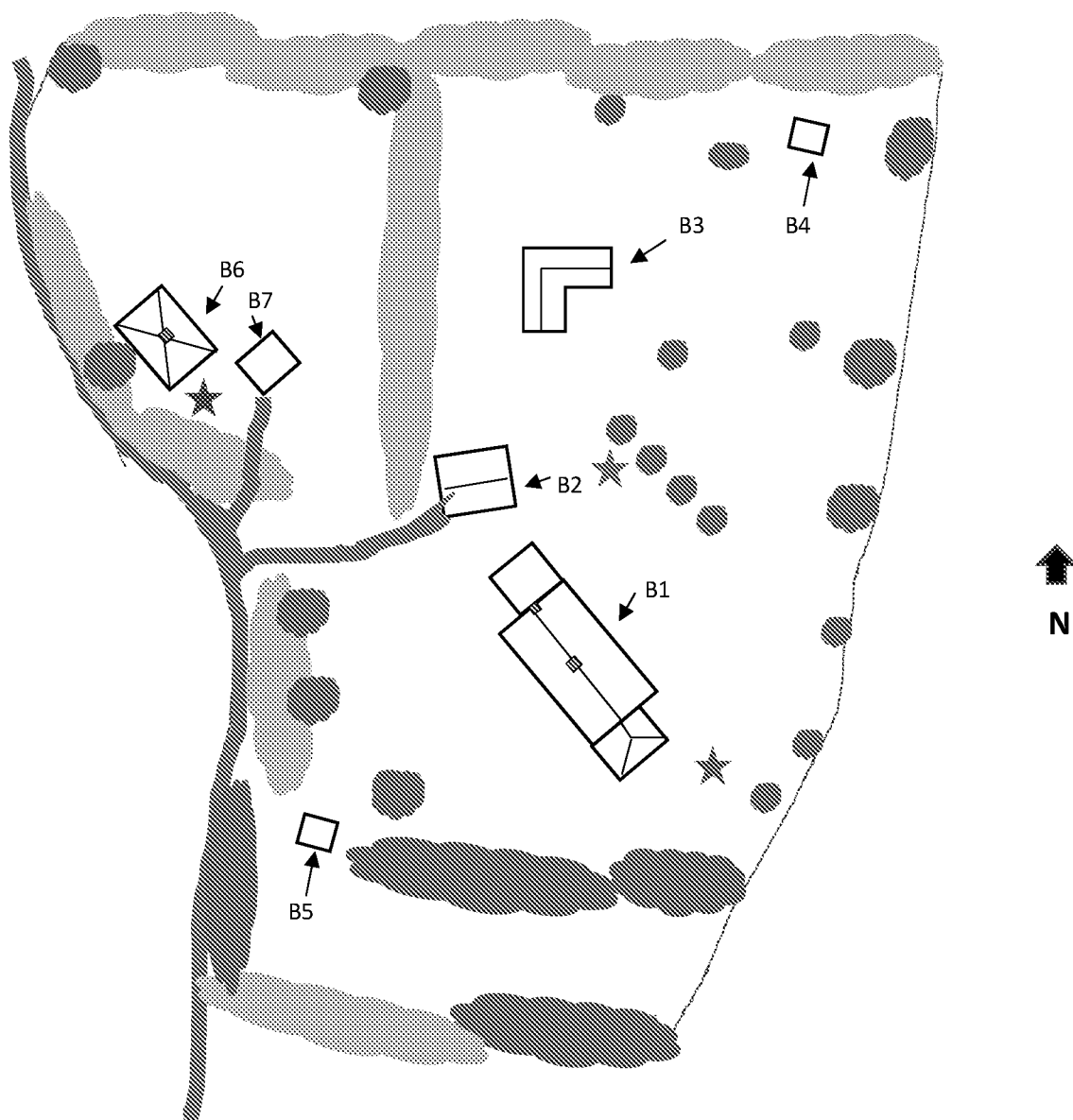
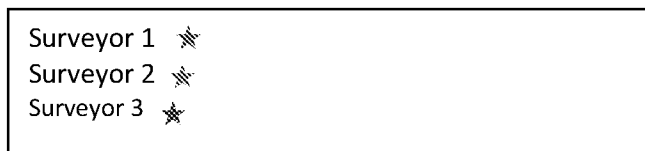
of the building surround bat access points will be soft-stripped by hand, under ecological supervision. Once the building has been declared free of bat, it will be demolished to make way for the development. Based on the assumption that the roost is of 'low conservation status', there are minimal timing constraints relating to the demolition of the roost.

- 7.8 NOTE: If it is decided that the existing cottages are to be retained, a Bat Mitigation Licence will be not required and further bat surveys may be unnecessary.
- 7.9 As an aid to local biodiversity, Batscan Ltd would also suggest that provisions for roosting bats are incorporated into new buildings on the site. This could be achieved by fitting purpose made bat roosting units (such as the Schwegler 'bat tube', into the walls of new buildings, at a high level but not immediately above or adjacent to doors or windows.
- 7.10 It is also advised that all more mature trees should be retained, where possible, as well as hedgerows and tree-lines, as they provide much needed connectivity and sheltered bat foraging areas, as well as roosting opportunities. T03, the large dead pollarded tree, also provides roosting opportunities, as well being a source of their invertebrate prey.

*Lizard landscape Design and Ecology – The Old Bank, 34 South Street, Tarring, Worthing, West Sussex, BN14 7LH – Tel: 01903 216033 – email lizard.landscape@btconnect.com – website: lizardlandscapeecology.com
The Old Cottage & Bridge Cottage, Lidsey – Preliminary Ecological Appraisal Survey – Preliminary Bat Roost Assessment – HSI Assessment – Report Date 22/01/2018

** Collins, J. (ed.) (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn). The Bat Conservation Trust, London. ISBN-13 978-1-872745-96-1

The Old Cottage & Bridge Cottage, Lidsey – Site Plan (not to scale)



The Old Cottage & Bridge Cottage, Lidsey, West Sussex



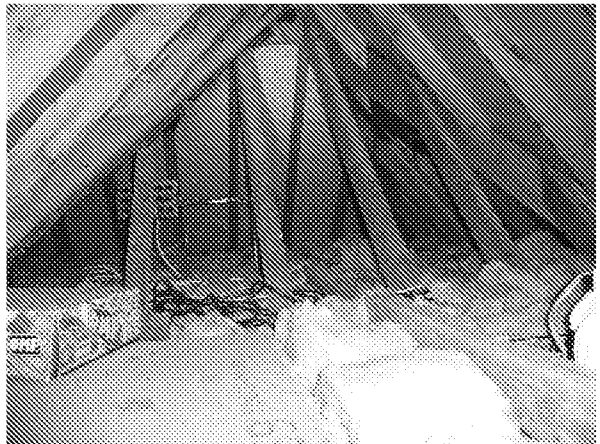
Aerial view of site



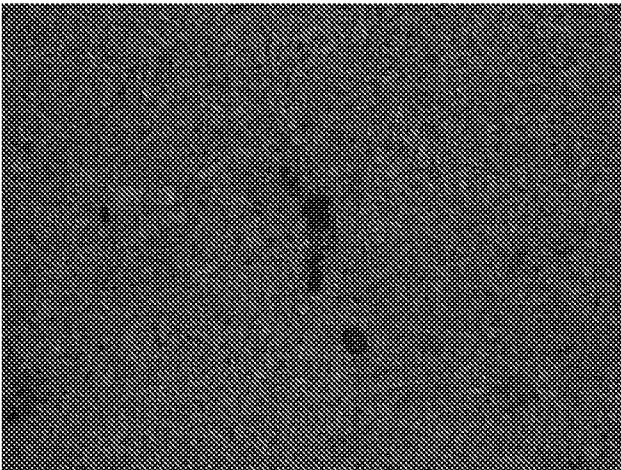
B2 and B1, The Old Cottage, from the west



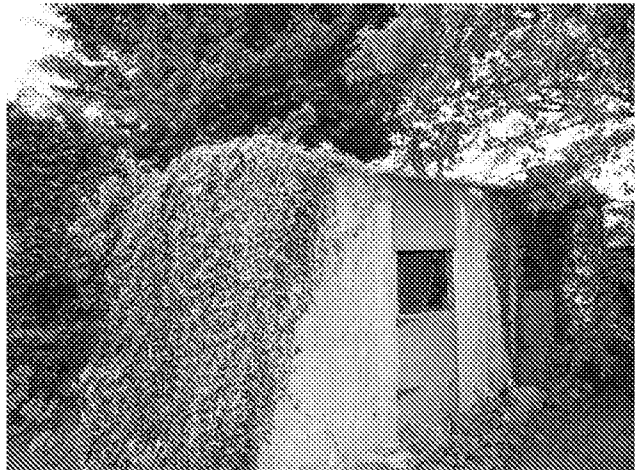
Gaps under roof tile on 'eyebrow' roof, E side, B1



Refurbished roof of B1, The Old Cottage

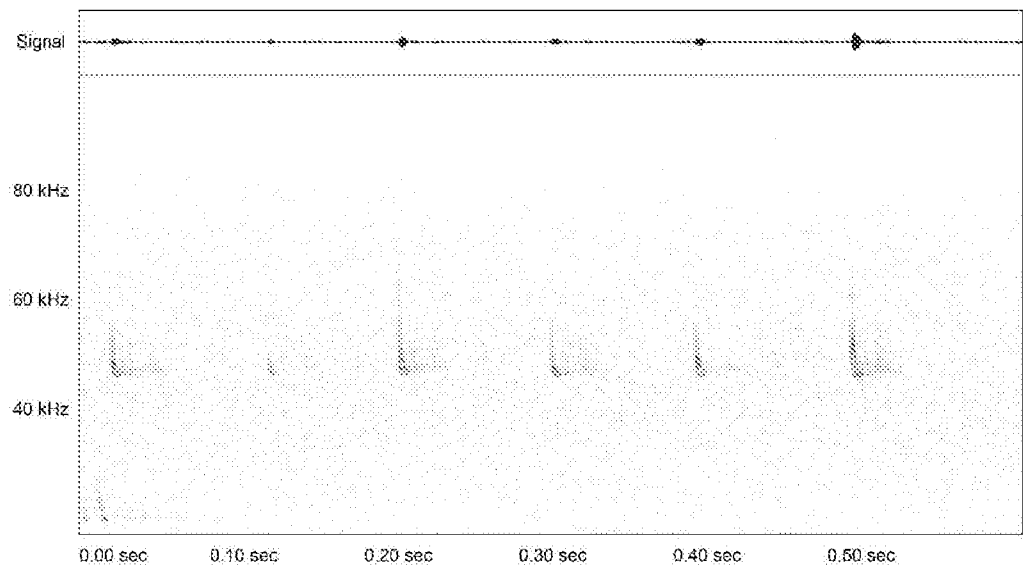


Crumbled bat dropping in roof void, B1

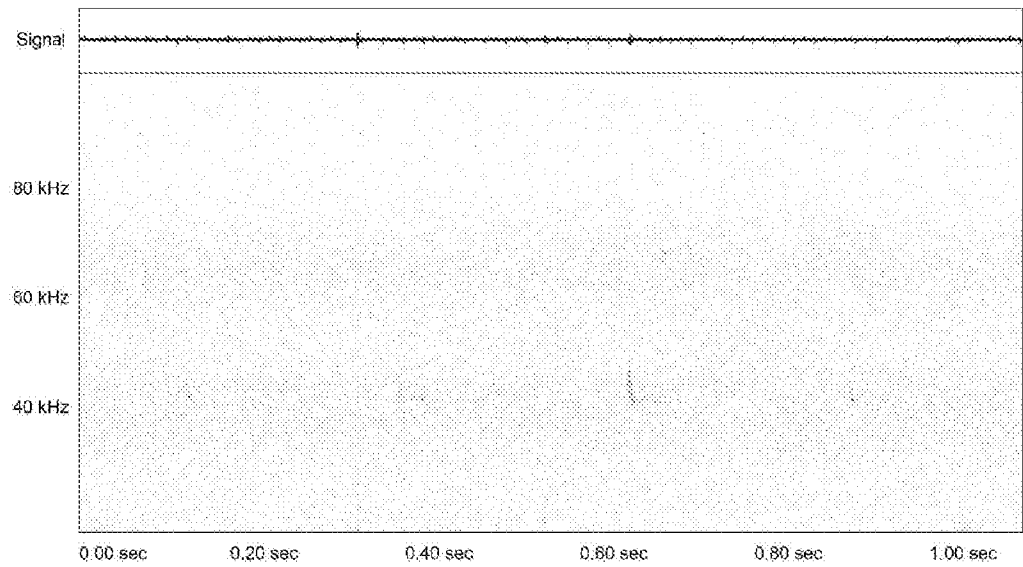


Old Stable, B5

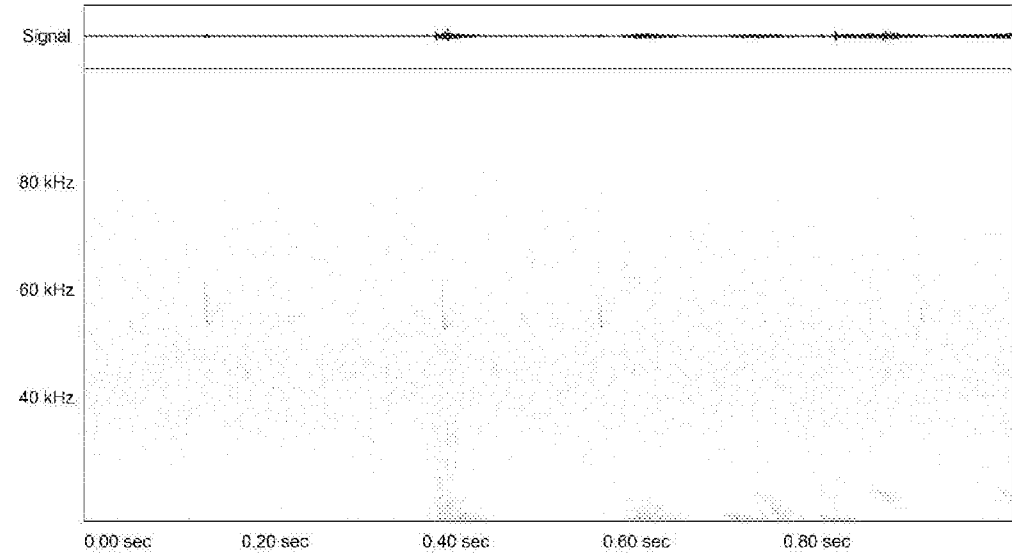
The Old Cottage & Bridge Cottage, Lidsey – May 2019 – Bat Sonagrams



Common pipistrelle (*Pipistrellus pipistrellus*)



Nathusius' pipistrelle (*Pipistrellus nathusii*)



Soprano pipistrelle (*Pipistrellus pygmaeus*)

The following is our interpretation of the law relating to bats, but should not be relied on in place of professional legal advice.

LEGAL PROTECTION

All bat species and their roosts in Britain are protected under Section 9 of the **Wildlife and Countryside Act 1981 (as amended)** through inclusion on Schedule 5. This Act was significantly strengthened by the **Countryside and Rights of Way Act 2000 (the CRow Act)** which introduced a statutory duty for the government to promote steps to further the conservation of priority habitats and species listed on the UK Biodiversity Action Plan (UKBAP). The Countryside and Rights of Way Act has made a number of important changes to the Wildlife and Countryside Act 1981 in England and Wales. These include making Section 9 offences 'arrestable offences', and increasing fines for these offences to £5000 per bat and/or a period of imprisonment of up to 6 months.

Bats are also included on Annex IV of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive). As a result of the UK ratifying this directive, all British bats were protected under The Conservation (Natural Habitats etc.) Regulations 1994 (the Habitat Regulations), now consolidated as the **Conservation of Habitats and Species Regulations 2010**. These make it illegal to kill, injure, capture or disturb or obstruct access to, damage or destroy bat roosts. Under the law, a roost is any structure or place used for shelter or protection. Since bats tend to use the same roosts, the roost is protected whether the bats are present or not. Four bat species (greater horseshoe, lesser horseshoe, Bechstein's and barbastelle) are also on Annex II of the Regulations, which requires the designation of Special Areas of Conservation (SAC) to ensure that the species is maintained at a favourable conservation status. In the UK, this is being done through the designation of certain selected SSSIs. The Habitat Regulations impose a duty on public bodies, in the exercise of any of their functions, to have regard to the European Habitats Directive (EC Directive 92/43/EEC) on the conservation of natural habitats and wild fauna and flora.

Changes made to the Habitats Regulations increase the legal protection given to bats and their roosts. Previously, if damage was 'an incidental result of a lawful operation' and reasonable precautions had been taken to avoid it, there would have been no offence. This defence has been removed, as has the so-called 'dwelling house' defence. Therefore, there is now a significant risk of operators committing an offence if they do not take necessary checks and seek licences where required. However, the threshold level for disturbance of bats has been raised. New guidance was given in early 2009 on recent changes to the Habitat Regulations, but basic principles remain the same, in that the destruction of a bat roost is illegal, but that some low-level disturbance of bat roosts, considered to be below an agreed threshold of significance, would not constitute an offence. Expert advice, from a suitably qualified ecological consultant, should be sought on what constitutes significant disturbance to protected species or their habitat. Guidance now states that it is an offence to: 'intentionally or recklessly disturb a group of bats where the disturbance is likely to either (a) impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or to hibernate or migrate, or (b) to affect significantly the local distribution or abundance of the species, in either case whether in a roost or not.'

UK signatory to the Agreement on the Conservation of Bats in Europe was set up under the **Bonn Convention**. The Fundamental Obligations of Article III of this agreement, require the protection of all bats and their habitats, including the identification and protection from damage or disturbance of important feeding areas for bats.

Section 40 of the **Natural Environment and Rural Communities Act 2006 (the NERC Act)** states that (1) 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.'

Six species are listed on the UKBAP. These are the greater horseshoe bat (*Rhinolophus ferrumequinum*), the lesser horseshoe bat (*Rhinolophus hipposideros*), barbastelle (*Barbastella barbastellus*), Bechstein's bat (*Myotis bechsteinii*), brown long-eared bat (*Plecotus auritus*) and soprano (55 kHz) pipistrelle (*Pipistrellus pygmaeus*).

Planning Policy Context *

Government policy guidance for biodiversity and nature conservation throughout the UK is provided in the following planning guidance and statements, which are current at the time of writing:

England:

- National Planning Policy Framework 2012 (DCLG, 2012)
- Government Circular 06/2005: Biodiversity and geological conservation – Statutory obligations and their impact within the planning system (DCLG, 2005)
- Circular 02/99: Environmental impact assessment 1999 (DCLG, 1999)

In addition to the national policy guidance outlined above, regional and local planning policies should be consulted and other country-specific guidance, such as NE's standing advice to Local Planning Authorities (LPAs) may also be relevant.

Government planning policy guidance throughout the UK requires LPAs to take account of the conservation of protected species when considering and determining planning applications. This biodiversity duty is imposed in England Wales through the Natural Environment and Rural Communities (NERC) Act 2006, which states that 'every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'.

Planners are required to consider protected species as a material consideration when assessing a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. This requirement has important implications for bat surveys as it means that, where there is a reasonable likelihood of bats being present and being affected by the development, surveys must be carried out before planning permission is considered.

Adequate surveys are therefore required to establish the presence or absence of bats, to enable a prediction of the likely impact of the proposed development on them and their breeding sites or resting places and, if necessary, to design mitigation, enhancement and monitoring measures.

The term 'development' used in these guidelines includes activities and proposals that could impact bats. In planning terms, this includes activities requiring outline and full planning permission but also those that meet the criteria for permitted development, require listed consent and require prior approval to demolish.

Further details on the standard of information required to assess a planning application is detailed in Clauses 6 & 8 of BS42020. (BSI 2013) and additionally in Clause 7.3. The Code of Practice set out within British Standard for Biodiversity – BS42020:2013 provides recommendations and guidance for those in the planning, development and land use sectors who work might affect or have implications for the conservation or enhancement of biodiversity.

The planning system should also deliver overall net gains for biodiversity (enhancements) as laid out in the National Planning Policy framework and other planning policy documents.

*Collins, J. (ed.) (2016) Bat Conservation Trust 'Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd Edition) The Bat Conservation Trust, London. ISBN-13 978-1-872745-96-1

As a result of the Judicial Review Judgement 5th June 2009: **Woolley v Cheshire E Borough Council & Millennium Estates Limited** the role and responsibilities of planning authorities has been clarified. In the course of its consideration of a planning application, where the presence of a European protected species is a material consideration, the LPA must satisfy itself that the proposed development meets three tests as set out in the Directive. The proposed development must meet a purpose of *'preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequence of primary importance for the environment'*. In addition the authority must be satisfied that, (a) *'that there is no satisfactory alternative'* and (b) *'that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.'* The recent ruling states that *'if it is clear or perhaps very likely that the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable "other imperative reasons of over-riding public interest" then the authority should act on that and refuse permission.'*

Surveys and mitigation strategies for bats should generally not be made a requirement of a planning condition or be undertaken after permission has been granted. The Woolley Judgement clarified this. Local planning authorities are unable to fulfil their duty under Regulation 3(4) of the Habitats Regulations and cannot properly weigh protected species issues (see above) without complete information. However, in a small number of circumstances, conditioning strategies may be the most appropriate course of action. The local Natural England Species Officer should be consulted, where this might be the case.

Following the judgement in the recent case of *Morge (FC) v Hampshire County Council* (2011) UKSC 2 considered the application of local authority duty with in relation to European protected species. It came to the conclusion that, if the Planning Authority

concludes that the carrying out of the development for which permission has been applied for, even if it were to be conditioned, would be likely to offend Article 12(1) by say causing the disturbance of a species with which that Article is concerned, then it must consider the likelihood of a (Natural England) licence being granted. Further detailed standing advice on European Protected species was subsequently produced and is now available at: www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx

Should works be proposed that are likely to result in the disturbance of bats or a bat roost, English Nature (now Natural England) can advise regarding the legal protection. However, the developer should consult with their ecologist on whether a licence is required as this decision is based on whether it is reasonably likely that an offence may occur. The licence application is made to the Natural England Wildlife Management and Licensing Service. This licence was formerly known as a DEFRA Licence.

Planning authorities should be aware that developments which compromise the protection afforded to European protected species, including all British bats, will normally require a NE EPS licence under the law. Planning issues relating to bats need to be resolved prior to the application for a licence.

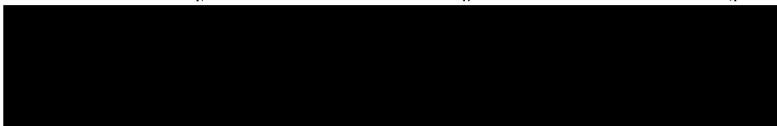
The three tests detailed above must be satisfied before NE can issue a licence under Regulation 44(2)(e) to permit otherwise prohibited acts.

Further guidance on the three tests can be found in the Natural England publication entitled 'European Protected Species: Mitigation Licensing – How to get a licence'^{1a}

Ultimately it is for the developer to ensure compliance with the law during the actual implementation of the development, not the planning authority. It is for the planning authority to monitor whether planning conditions are being properly discharged.

Further advice on Bats and the Law can be obtained from:

Wildlife Management and Licensing Service, Natural England, 2 The Square, Bristol, BS1 6EB



^{1a} Available to download http://www.naturalengland.org.uk/images/WML-G12_tcm6-4116.pdf

Also see: *Local Plan* (Chichester District Council, adopted April 1999; policies saved Sep 2007).

⁵ *Focus on Strategic Growth Options: A consultation on the options for major development in Chichester District 2011-2026* (Jan 2010).