

Batbox Ltd

Unit 2A Chanctonfold

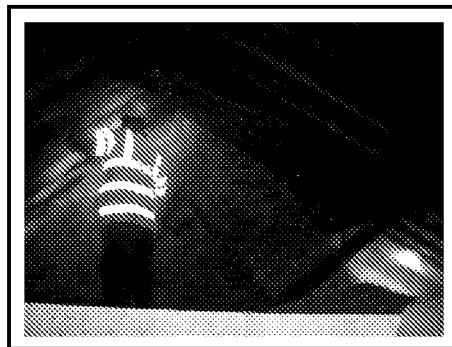
Horsham Road

Steyning

West Sussex BN44 3AA



email: www.batbox.com



BAT SURVEY REPORT

Site	Barn/store Avenals Farm Angmering West Sussex
Client	Chapman Group Ltd Avenals Farm Water Lane Angmering West Sussex BN16 4EP
Surveyors	S L Wright (NE Sc. Bat Licence No. 20110010) K Suppel (NE Roost Visitor Licence trainee)
Date	9 th March 2011

Daytime Bat Survey of barn/store, Avenals Farm, Angmering, West Sussex
Grid Ref: TQ 074 046

Executive Summary

Two bat surveyors from Batbox Ltd undertook a daytime bat survey of the single storey barn/store, at Avenals Farm, Water Lane, Angmering, West Sussex, on 9th March 2011. The owners propose to convert the building to residential use. Because bats and their roosts are protected by law, Batbox Ltd bat surveyors were asked to carry out a survey to check for bats, evidence of bat use and the potential for bat use. No bat emergence check could be undertaken owing to the time of year. (Most UK bats are in hibernation from approximately November to the end of March).

During the daytime survey, no bats or evidence of bats was found in the barn. One or two crevices were noted where bats might be able to gain entry, but over-all the potential of the barn, for bat use, was considered to be low.

The small barn/store is constructed of flint and brick with a hipped slate roof. The building probably dates from the Victorian era, and was originally a 'through' barn, but has been refurbished in recent years, with windows and sections of timber cladding added. Tops of walls have been replaced with breeze blocks. The roof is lined internally with roofing felt, and there is netting below this, at eaves height, which was apparently fitted by previous owners when they kept chickens in the barn. The barn is situated in good bat habitat, with large old buildings, open countryside, tree-lines and water bodies nearby.

The interior of the building is well-sealed, but crevices were noted around the exterior – in a crack in the flint wall, in the board soffits and under one or two missing slates. However, no evidence of bat use was found around these and none of these areas has a high potential for bat use.

Because the potential for bat use is low, no evening bat emergence check should be necessary for this building. However, as a precaution, those undertaking the building work should be asked to take care when removing soffits or roofing materials, and when repairing any crevices, in case bats are present. If bats are found, work on that part of the building must stop whilst prompt advice is sought, from Batbox Ltd, Natural England – Sussex and Surrey office, or from the Bat Conservation Trust. A Natural England EPS Mitigation Licence, in respect of bats may be required if significance evidence of bats is found.

It is recommended that provisions for bats to roost, in the future, are incorporated into the refurbished building. Ideally this should be by building bat 'tubes' into any new wall sections. If this is not feasible, access into the roof ridge could be provided, or bat boxes could be fixed to the exterior of the building, at as high a level as possible.

1. Introduction

- 1.1 On 9th March 2011, two experienced bat surveyors from Batbox Ltd undertook a daytime bat survey of the barn/store at Avenals Farm, Water Lane, Angmering, West Sussex. One surveyor holds a Natural England Scientific Bat Licence; the other is a Natural England Bat Conservation Licence trainee.

- 1.2 At this time of the year, early spring, most British bats remain in their hibernation sites. However, some bats will emerge, to forage on their insect prey, during any spells of milder weather. The weather was dry during this daylight survey, and the temperature was approximately 9°C. Because of the time of year, a bat detector survey would not give any significant results and therefore only a daylight survey was undertaken.
- 1.3 Recommendations from the Bat Conservation Trust 'Bat Surveys – Good Practice Guidelines'* have been followed for the course of this bat survey. All bats and their roosts are protected by law. A brief account of the law relating to bats is appended to this report.

2. Background

- 2.1 The survey was undertaken on behalf of Kestrel Design, Contract Interiors, acting for the owners of the property, who propose to convert the barn to residential use. The building is close to the owners' home, on the edge of Angmering village. At the present time the single storey building is used by the owners for the storage of household goods.
- 2.2 The aim of the survey was to establish whether bats are roosting in the barn. Although an evening emergence survey cannot be undertaken at this time of the year, it is possible to check for bat use and the potential for bat use, by searching for hibernating bats, corpses, bat droppings, staining from urine or from the oil on bats' fur around well-used roosting and access points, and for insect remains dropped below feeding 'perches'.

3. Daylight Survey Methodology

- 3.1 The survey comprised a search of the interior and exterior of the barn. The surveyors also made an appraisal of the surrounding habitat for its potential for bat use.
- 3.2 Externally, an inspection was made of features that might be used by bats for access and roosting. The surveyors searched for evidence of bat use, such as bat droppings on walls and on the ground below possible roost entrances, although droppings left from summer roosting may have been washed away by wind and rain by this time of the year. Potential bat roosting places and access points were noted.
- 3.3 The surveyors used torches to search the interior of the building for bats and signs of bat use, as described in Para. 2.2, above.
- 3.4 Photographs were taken of all potentially relevant features.

4. Daylight Survey – Results

- 4.1 No bats or evidence of bats was found in the barn/store during this survey. The interior of the building is well-sealed, although a number of mouse droppings were found on the floor and sills. Windows have been tightly boarded, internally. The roofing felt appears to be tight, with little opportunity for bats to roost under the slate roof, which is in a good condition apart from a small number of missing slates. A fairly deep crack was noted in one of the exterior walls (south east corner), and several gaps were noted in the board soffit on the west side of the

building. The timber cladding appears to be tight fitting with no obvious gaps where bats could gain entry.

- 4.5 Over all, the potential of the barn/store for bat use is considered to be low. Although there are one or two roosting opportunities, no evidence of bat use was found during this survey. The building is surrounded by open countryside, with tree-lines, water bodies and old buildings, suitable for roosting bats, close by.

5. Conclusions and Recommendations

- 5.1 Because no bats or evidence of bat use was found, and because the potential for bat use is considered to be low, no evening bat emergence check should be necessary for this building. However, it is recommended that, as a precaution, those undertaking the building work should be asked to take care when removing soffits, timber cladding or roofing materials, and when repairing any crevices, in case bats are present. If bats are found, work on that part of the building must stop whilst prompt advice is sought from Batbox Ltd, Natural England – Sussex and Surrey office, or from the Bat Conservation Trust. If significant evidence of bats is found, a Natural England EPS Mitigation Licence, in respect of bats, may be required before work can proceed.
- 5.2 It is recommended that provisions for bats to roost, in the future, are incorporated into the refurbished building. The preferred way of achieving this would be to incorporate bat ‘tubes’ into new sections of wall. If this is not feasible, access into the roof ridge could be provided. This can be achieved by slightly raising one or two ridge tiles, as shown on the attached photograph, and by leaving out mortar below these and between some of the other ridge tiles, so that bats can land on the roof and crawl into the ‘tunnel’ created below the tiles. Alternatively, access into the ridge can be provided by fitting ridge ventilators, with any mouldings or fly-screens removed. Another, although less satisfactory option (owing to the ease with which these can be removed or damaged) is to fit bat boxes to the exterior of the building, at as high a level as possible, but not directly adjacent to, or directly above, doors, windows or exterior lights. The Schwegler 1FF ‘flat’ bat box is suitable for this purpose. The Schwegler bat ‘tube’ would be ideal for incorporation into walls. Both models have downward facing entrance slots, so should not need regular maintenance, as any bat droppings fall to the ground below.

- * Bat Conservation Trust (2007) Bat Surveys – Good Practice Guidelines
BCT, London ISBN 978-1-872745-99-2

Avenals Farm



Exterior of barn/store from south east



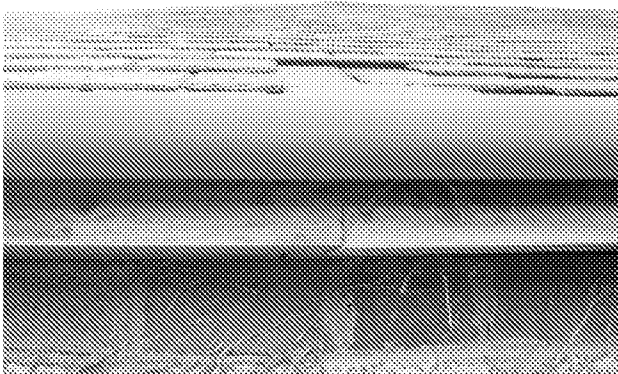
Exterior of barn/store from north east



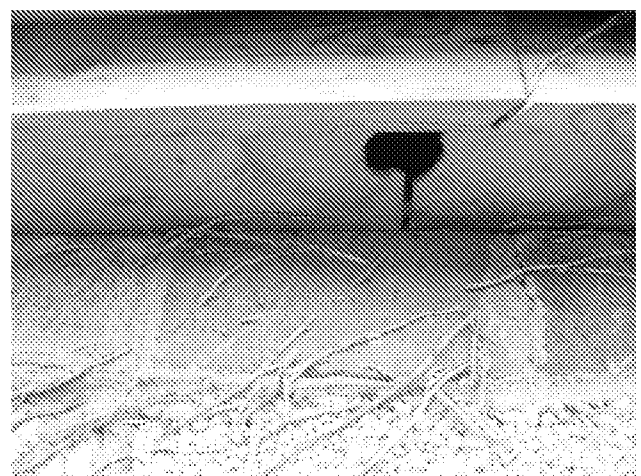
Crack in wall, south east corner



Interior of building



Missing roof slates



Gap in soffit, west side



Example of access point under ridge tile

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 through inclusion on Schedule 5. They are also included on Annexe 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), recently 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.

A number of changes have now been made to the Habitats Regulations that 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. New guidance 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.

The Countryside and Rights of Way Act 2000 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.

Local Authorities are advised by the ODPM Planning Policy Statement 9 on Species Protection (Paras 15 & 16), on Biodiversity within Development (Para 14) and on Previously Developed Land (Para 13).

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.'

Paragraph 98 of ODPM Circular 06/2005¹ states 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.' Paragraph 99 also states 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.'

For a planning authority to be able to properly determine a planning application that may have an impact on bats, the planning application must be accompanied by a bat survey report, an assessment of the proposed development's impact on bats, and a mitigation strategy.

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'¹.

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
First Floor, Temple Quay House
2 The Square
BRISTOL
BS1 6EB
Tel: 0845 601 4523
Fax: 0845 601 3438

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