

Batbox Ltd

Unit 2A Chanctonfold

Horsham Road

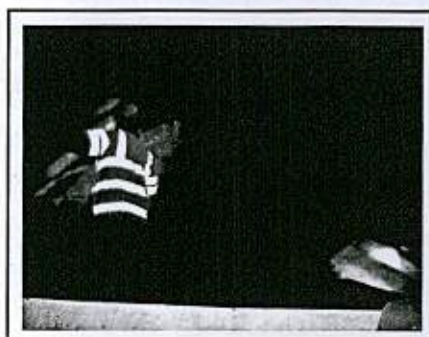
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BAT SURVEY REPORT

Site	Church House Felpham Road Felpham West Sussex
Client	Mr G Harries Four Elms Ham Manor Way Ham Manor Estate Angmering W Sussex BN16 4JQ
Surveyors	David King (NE Sc. Lic. No.20120130) Sheila Wright (NE Sc. Lic No. 201220131)
Date	18 th July 2012

Executive Summary

Two experienced bat surveyors from Batbox Ltd undertook a daytime bat survey and an evening bat emergence check of Church House, Felpham, West Sussex on 18th July 2012.

Church House occupies a typical position for a manor house close to the parish church. It is a large three-storey building dating from the 18th century and is constructed of brick and stone with a tiled roof. In the late 1800s it was used as a farmhouse. The building was saved from demolition in 1966 and was remodelled internally for office use in 1988. It is understood that the owner now wishes to return the building to residential use.

Attached to the south end of the house is a more recently constructed annexe and there are single storey extensions to the rear (east) of the house. The nearby church is surrounded by mature trees and there are allotments, mature gardens and farmland close by. The Sussex Bat Group has records for bats of most British species from this part of West Sussex and the habitat is considered to be very suitable for bat use.

There are three dormer windows on the front and three on the back of the main building. Above the top floor is a roof void extending across the length of the house. The roof is lined internally with roofing felt and the void has an apex height of approximately two metres. Two small side lofts were also checked. No bats or evidence of bat was seen in the roof voids. No bats emerged from the building during the evening, although one or two bats were active in the area.

During this survey no evidence was found that bats are roosting in Church House at the present time, and no further bat surveys should be required prior to any change of use, should this take place within the next year. However, there is some potential for bats to roost under tiles and bats might move in at any time. If bats or evidence of bats is found during the conversion, work should stop and immediate advice should be sought from Batbox Ltd, The Bat Conservation Trust or from Natural England. If bats are found and significant disturbance cannot be avoided, a licence from Natural England may be required before works can continue.

1. Introduction

- 1.1 On 18th July 2012, two experienced bat surveyors from Batbox Ltd undertook a daytime bat survey and an evening emergence check/bat detector survey of Church House, Felpham Road, Felpham, West Sussex. Both surveyors hold Natural England Scientific Bat Licences.
- 1.2 By mid-July, most female bats are in their summer maternity roosts and the young have been born. Males are roosting singly or in small groups. All bats, apart from dependent young, will emerge to feed in suitable weather. Although a little breezy, the weather was ideal for bat activity during this survey; it took place on a dry evening after a prolonged spell of cool and wet weather lasting from early April.
- 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 and planning issues, relating to bats, is appended to this report.

2. Background

- 2.1 The bat survey was undertaken on behalf of the owner of Church House who is proposing to return the building, currently used as offices, to residential use. The aim of the survey was to establish whether bats are roosting in the building prior to any alterations.
- 2.2 Church House occupies a typical position for a manor house of this period, close to the parish church. It is a large, three-storey building dating from the 18th century and is constructed of brick and stone with a tiled roof. In the late 1800s it was used as a farmhouse. Church House was apparently saved from demolition in 1966 and was remodelled internally for office use in 1988.
- 2.3 Attached to the south end of the house is a more recently constructed annexe and there are single storey extensions to the rear (east) of the house. The nearby church is surrounded by mature trees and there are allotments, mature gardens and farmland close by. The Sussex Bat Group has records for bats of most British species from this part of West Sussex and the habitat is considered to be very suitable for bat use.

3. Daytime Survey – Methodology

3.1 Exterior

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 bat droppings may have been washed away by rain during this very wet season. Binoculars were used to check features at higher levels. Potential bat roosting places and access points were noted. The surveyors also made an appraisal of the surrounding habitat for its potential for bat use.

3.2 Interior

The surveyors accessed the roof void above the top floor of the building via a hatch from an upstairs kitchen and used torches to check for bats, evidence of bat use and the potential for bat use. Two small 'side' lofts at the front and rear of the building, accessed via hatches from one of the offices, were checked from the openings. Where accessible, the surveyors examined the office windows for any bat droppings stuck to the exterior of windows or on sills.

- 3.3 Photographs were taken of all potentially relevant features and positions were chosen for the evening emergence check/bat detector survey.

4. Daytime Survey – Results

4.1 Church House - Exterior

There are three tile-hung dormer windows on the front and three on the back of the main building. Crevice-dwelling bats, such as pipistrelles (*Pipistrellus* sp.) are frequently found roosting under tiles, flashing etc., where dormers meet the main roof, and they also often roost behind timber soffits, under raised roof tiles or ridge tiles, where there is a gap large enough for them to gain entry. As well as single bats or small groups of bats which might be found at

any time during the year, these spaces may also be used by maternity colonies of crevice-dwelling bats in the summer months. A number of raised or slipped roof tiles were noted on the roof of Church House. No evidence of bats was seen around the exterior of the building, although bat droppings on the roof area of the building would not be visible from ground level, and may also have been washed away by heavy rain and wind.

4.2 Church House - Interior

Above the top floor is a roof void extending across the length of the house. The roof is lined with roofing felt and has an apex height of approximately two metres. Two small side lofts run along the east and west sides of the roof at 2nd floor level. No bats or evidence of bat was seen in the roof voids. The main roof void appears to be very suitable for bat use, and might have been used by bats in the past, but no obvious access points were noted and it is likely that bats have been unable to access the building, at least since the refurbishment in 1988. The interior of the side loft on the east side could not be entered or viewed from the hatch as the access point was blocked by a number of stored boxes. The potential of the side lofts for bat use is considered to be low. No bat droppings were seen on those windows or sills which could be checked during this survey.

4.3 Surrounding Habitat

Church House is immediately opposite St Mary's Parish Church which is surrounded by mature trees and there are allotments, mature gardens and farmland close by, offering foraging and commuting habitat for bats. There are also a number of buildings, of mixed ages, which may offer bat roosting opportunities. The Sussex Bat Group has many records for bats, including most British species, from this part of West Sussex.

5. Evening Emergence Check/Bat Detector Survey – Methodology

- 5.1 At dusk, when bats emerge from their roosting sites to feed, the surveyors were positioned so as to get the best possible view of potential access points.

Surveyor 1: To the front (west side) of Church House

Surveyor 2: To the rear (east side) of Church House, (in the parking area of flats to the east).

- 5.2 The surveyors used a Batbox Griffin (time expansion recorder) and a Batbox Duet (frequency division bat detector) to listen for bats' echolocation calls and to identify any bats heard to species level, where possible. Recording equipment was used for later computer analysis with BatScan software, where this was considered necessary. Prior to bats' emergence time, the surveyors used bat detectors to listen for pre-emergence 'chatter', sometimes heard from bat colonies before they emerge.
- 5.3 This survey was undertaken on a mild and dry but rather breezy evening during a cool wet spell which has continued since early April this year. The temperature was 15°C at the start of the survey period. The evening emergence check/bat detector survey started at 20:40. Sunset was at 21:08.

6. Evening Emergence Check and Bat Detector Survey – Results

- 6.1 No 'roost chatter' was heard. No bats were seen emerging from the roof of Church House during this survey. Bats heard were as follows:

Time	Species	Activity
21:39 - 40	45kHz pipistrelle (<i>Pipistrellus pipistrellus</i>)	Distant pass heard then bat flew from east past Church House and back
21:42	as above	From east past house to west
21:50	as above	Heard not seen to east of house
21:55	as above	Brief pass near to shops to rear of house

7. Conclusions and Recommendations

- 7.1 During this bat survey no evidence was found that bats are roosting in Church House at the present time and no further bat surveys should be required prior to the proposed change of use, should works take place within the next year. However, bats are active in the area and there is some potential for bats to roost under tiles and bats might move into crevices around the building at any time.
- 7.2 If bats or evidence of bats is found during the conversion, work should stop and immediate advice should be sought, from Batbox Ltd, The Bat Conservation Trust or from Natural England. If bats are found and significant disturbance cannot be avoided, a Natural England Mitigation Licence, in respect of bats, may be required before works can continue.
- 7.3 It is recommended that consideration is given to the fitting of appropriate bat boxes (such as Schwegler woodcrete 1FF 'flat' boxes) to the exterior of the building to provide roosting opportunities for bats in the future. These should be fitted at a high level on a sheltered part of the building, not directly above or adjacent to doors or windows. This building is also of the type often favoured by nesting swifts, which might have used the building in the past when soffits, etc., were not so tight-fitting. As an aid to biodiversity, as swift numbers have declined dramatically in the UK in recent years, consideration could also be given to fitting swift nest boxes under the eaves, whilst any scaffolding is in place.

- * Bat Conservation Trust (2012) Bat Surveys – Good Practice Guidelines – Edition 2
BCT, London ISBN -1: 9781872745985

Church House, Felpham



South of Church House, showing annexe



View from window over extension to east



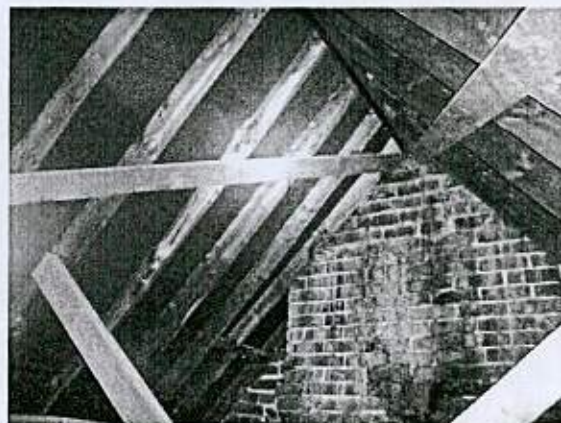
View from windows at front of Church House to St Mary's Church



Side loft, west (front) side



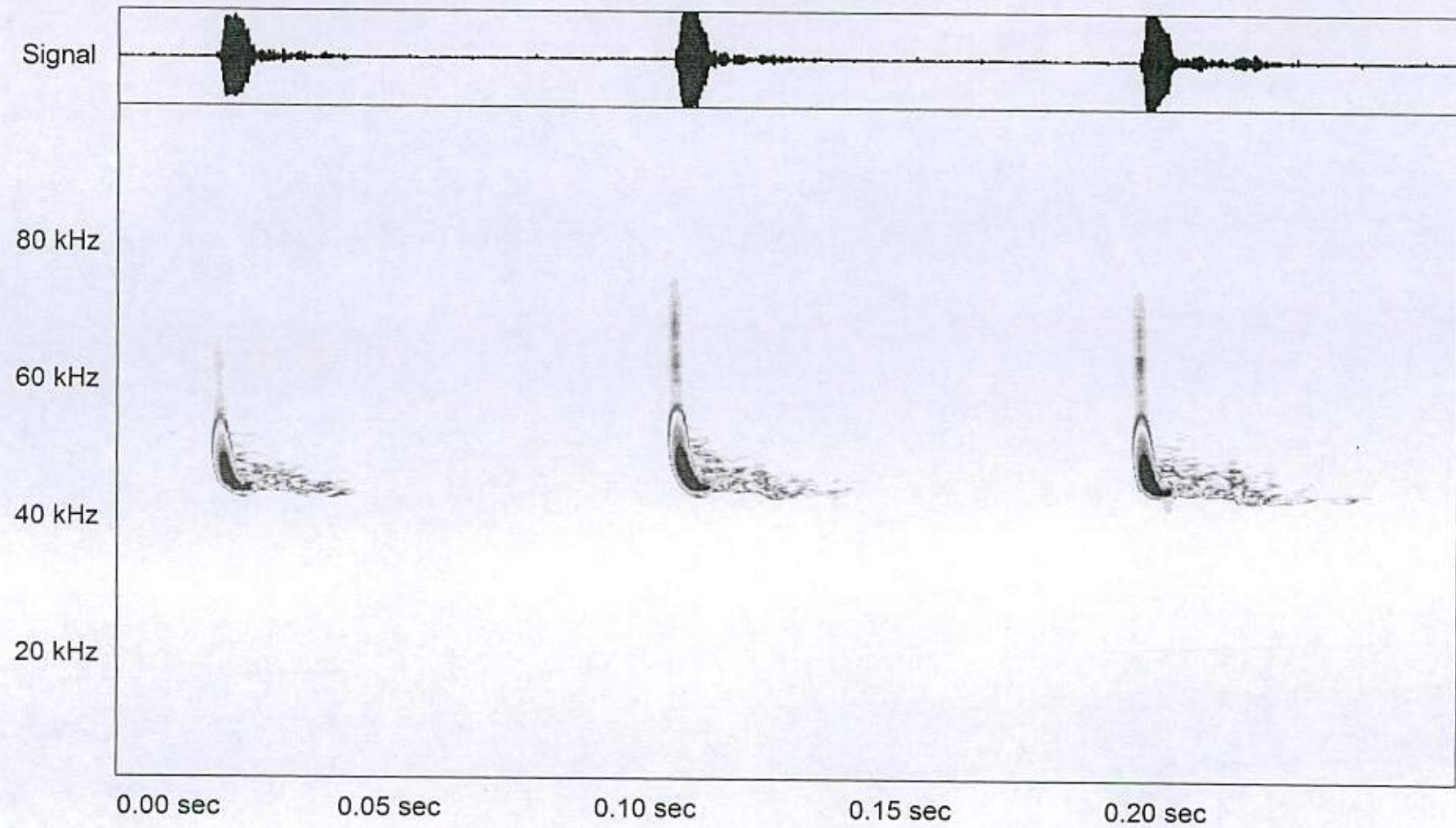
Front of Church House



Main roof void, Church House

Church House, Felpham – bat sonogram

45kHz pipistrelle (*Pipistrellus pipistrellus*)



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 Statement 1: Delivering Sustainable Development (PPS1) establishes Government's commitment to protecting and enhancing the quality of the natural environment (para. 17) and requires planning policies to take account of the conservation and enhancement of wildlife species and habitats and the promotion of biodiversity (para.20). PPS1 sets out that planning decisions should be based on up-to-date information on local environmental characteristics; the potential impacts of the development proposal on the development (positive as well as negative, whether direct, indirect, cumulative, long-term or short-term); and a recognition of the limits of the environment to accept further development without irreversible damage (para.19).

Planning Policy Statement 3: Housing (PPS3) sets out the national planning policy framework for delivering the Government's housing objectives. It establishes matters to consider when assessing design quality, including '*the retention or re-establishment of the biodiversity within residential environments*'.

Planning Policy Statement 9: Biodiversity and Geological Conservation² (PPS9) states that '*Plan policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests*'. PPS9 promotes networks of natural habitats that link sites of biodiversity importance and provide stepping stones for species' and encourages local authorities to avoid habitat fragmentation. PPS9 also recognises that development proposals provide many opportunities for building-in features beneficial to biodiversity, as part of good design.

Government Circular 06/2005³ 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.*' It encourages local authorities to consult Natural England before granting planning permission and promotes the use of planning conditions

or obligations to secure the long-term protection of species, where appropriate. 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.

Planning Policy Guidance 17: Planning for open space, sport and recreation (PPG17) affords protection of high quality open and recreational space, in particular those that benefit wildlife and biodiversity. The Guidance recognises that the recreational quality of open spaces can be eroded by insensitive development or incremental loss of a site, and requires that local authorities consider the impact of any development within open spaces on biodiversity and nature conservation. PPG17 also requires local authorities to avoid any significant loss of biodiversity in identifying where to local new areas or open space, sports or recreational facilities.

Local Policy – Chichester District

Saved policies in the **Chichester District Local Plan**⁴ require that development proposals include a design and layout which minimises impact on nature conservation; include appropriate landscaping using native species' and take advantage of opportunities for habitat enhancement and recreation (policy BE14). The Local Plan also reiterates protection for designated nature conservation sites (policy RE7), and seeks to protect other, undesignated areas, corridors or features important to nature conservation (policy RE8). Forming the emerging Core Strategy, the **Focus on Strategic Growth Options**⁵ document does not yet contain policies, but does summarise the environmental challenges and opportunities within the District, and recognises several spatial implications for the LDF, including identifying opportunities for habitat creation and expansion' responding to environmental constraints; and ensuring that major development avoids the most sensitive areas in terms of biodiversity.

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

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

¹ *Planning Policy Statement 1: Delivering Sustainable Development* (CLG, 2005).

² *Planning Policy Statement 9: Biodiversity and Geological Conservation* (CLG, 2005).

³ *Government Circular: Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system* (ODPM [now CLG], 2005).

⁴ *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).

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

Tel: 0845 601 4523 Fax: 0845 601 3438