

Preliminary Bat Roost Assessment

Former Ambulance and Fire Station, Huyton Lane, Huyton, Liverpool, Merseyside

A Report To: McCarthy & Stone
Report Number: RT-MME-158942-02 Rev A
Date: October 2022
Revised: January 2023



Quality Assurance

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Declaration of Compliance

This study has been undertaken in accordance with British Standard 42020:2013 “Biodiversity, Code of Practice for Planning and Development”. The information which we have prepared is true, and has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management’s Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

Disclaimer

The contents of this report are the responsibility of Middlemarch Environmental Ltd. It should be noted that, whilst every effort is made to meet the client’s brief, no site investigation can ensure complete assessment or prediction of the natural environment. Middlemarch Environmental Ltd accepts no responsibility or liability for any use that is made of this document other than by the client for the purposes for which it was originally commissioned and prepared.

Validity of Data

The findings of this study are valid for a period of 12 months from the date of survey. If works have not commenced by this date, it may be necessary to undertake an updated survey to allow any changes in the status of bats on site to be assessed, and to inform a review of the conclusions and recommendations made.

Non-Technical Summary

Project Background

In September 2022, McCarthy & Stone commissioned Middlemarch to undertake a Preliminary Bat Roost Assessment at the site of a proposed development at Former Ambulance and Fire Station, Huyton Lane, Huyton, Liverpool, Merseyside. This assessment is required to inform a planning application associated with the development of a four-storey apartment block on site with associated hard and soft landscaping.

Scope of Survey

Middlemarch was commissioned to undertake a Preliminary Bat Roost Assessment of the buildings on site. The survey comprised an external and internal inspection [where access allowed] and any features considered suitable for bats were inspected where possible via the use of binoculars and/or an endoscope.

Summary of Key Bat Features

Buildings B1 and B2 have been identified as having moderate and low bat roost potential, respectively. The potential bat roost features identified around Building B1 comprised brickwork gaps where mortar was missing and weep holes on the south-west elevation. The potential bat roost features identified around Building B2 comprised a gap around a uPVC fire extinguisher unit and a gap behind a fascia board to the north-west. With regards to foraging and commuting bats, the trees/scrubs present along the south-western boundary of the site serve as a linear corridor which provides potential connectivity to other suitable habitat within the immediately surrounding landscape.

Potential Impacts on Bats

The loss of the two buildings on site (i.e. B1 and B2) could result in the destruction of bat roost[s] if present within the buildings. The works could also result in the killing/injuring of any bats occupying the buildings at the time of demolition. It is understood that the tree line and some of the scattered trees in the south-west of the site are to be retained and incorporated into the proposals. However, any new lighting installed along the site boundaries has the potential to impact disrupt bat foraging/commuting lines.

Recommendations

- R1 Building B1 (Ambulance Station):** Building B1 has been identified as having moderate potential to support roosting bats. As such, at least two separate survey visits (consisting of one dusk emergence and a separate dawn re-entry survey) will be required.
- R2 Building B2:** Building B2 has been identified as having low potential to support roosting bats. As such, at least one dusk/dawn bat survey will be required.
- R3 Scheme Design:** The proposed development should be designed to minimise effects on bats in accordance with ecological mitigation hierarchy. See Chapter 6 for further details.
- R4 Lighting:** Any new lighting should be carefully designed to minimise potential disturbance and fragmentation impacts on sensitive receptors, such as bat species. Examples of good practice are provided in Chapter 6.

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1. Introduction

1.1 Project Background

In September 2022, McCarthy & Stone commissioned Middlemarch to undertake a Preliminary Bat Roost Assessment at the site of a proposed development at Former Ambulance and Fire Station, Huyton Lane, Huyton, Liverpool, Merseyside. This assessment is required to inform a planning application associated with the development of a four-storey apartment block on site with associated hard and soft landscaping.

In addition, Middlemarch has been commissioned to undertake a Preliminary Ecological Appraisal at this site, details of which can be found in Report: RT-MME-158942-01.

To fulfil the above brief to assess the potential for the existing buildings on site to support roosting bats, a Preliminary Bat Roost Assessment was undertaken on 15th September 2022.

All UK bat species are legally protected species and they are capable of being material considerations in the planning process. A summary of the legislation protecting bats is included within Appendix 1.

1.2 Site Description and Context

Table 1.1 provides a brief summary of the site and its surroundings.

Attribute	Description
Site Location	The site was located within the town of Huyton, situated within the Metropolitan Borough of Knowsley, Merseyside.
National Grid Reference	SJ 44401 91122
Site Area (ha)	Approx. 0.4 ha
Topography	The site topography was largely flat, with a slight slope to south-east where poor, semi-improved grassland was present.
Land Cover (on site)	The land cover on site comprised predominantly of hardstanding with buildings to the north-east (i.e. an active Ambulance Station) and scrub/trees to the south-west. Scattered buddleia was also noted throughout the site.
Land Cover (site surrounds)	The wider landscape is dominated by commercial units to the south, and residential properties with associated gardens to the remaining sides. Pockets of greenspace are dispersed throughout the wider landscape, including areas of grassland, wetland (Huyton Lane Wetland) and woodland/scattered trees. The River Alt is located approximately 230 m north-east.

Table 1.1: Summary of Site and Surroundings

1.3 Documentation Provided

The conclusions and recommendations made in this report are based on information provided by the client regarding the scope of the project. Documentation made available by the client is listed in Table 1.2.

Document / Drawing Number	Author
Huyton Lane, Huyton – Proposed Site Plan (Drawing No: 22053_1002 Rev C)	Brightspace Architects
Proposed Residential Development Huyton Lane, Huyton – Landscape Masterplan (Drawing No: R/2671/1).	FDA Landscape

Table 1.2: Documentation Provided by Client

2. Methods

2.1 Desk study

As part of the Preliminary Ecological Appraisal (Report RT-MME-158942-01) an ecological desk study was undertaken. The consultee for the desk study was BioBank Merseyside.

Middlemarch then assimilated and reviewed the desk study data provided by this organisation. Relevant bat data are discussed in Chapter 3. In compliance with the terms and conditions relating to its commercial use, the full desk study data are not provided within this report.

The desk study included a search for statutory nature conservation sites designated for bats within a 10 km radius of the site.

2.2. Field Survey

A Preliminary Bat Roost Assessment of the buildings was carried out on site in line with the specifications detailed in Bat Mitigation Guidelines (English Nature, 2004)¹ and Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016)². The assessment was conducted on 15th September 2022 by Charlotte Richardson MSc, ACIEEM (Senior Ecological Consultant and Licenced Bat Surveyor (under Class Licence CL17)). Weather conditions were recorded and are presented in Table 2.1.

Parameter	Condition
Temperature (°C)	10°C
Cloud (%)	100%
Wind (Beaufort)	F2
Precipitation	Nil

Table 2.1: Weather Conditions During Field Survey

A visual assessment was conducted during daylight hours of the buildings to determine the presence of any Potential Roost Features (PRFs), together with a general appraisal of the suitability of the site for foraging and commuting bats. Please refer to Appendix 2 for a list of example PRFs. Any accessible PRFs were inspected using binoculars, a torch and endoscope for evidence of possible bat presence. Building B1 was surveyed externally and internally, but no internal access was available to Building B2.

For reasons of health and safety, the survey was only undertaken in areas accessible from 3.5 m ladders.

Based on the PRF's present, the survey area was assessed using the suitability classes detailed within Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016)², as detailed in Table 2.2.

¹ English Nature (2004). *Bat Mitigation Guidelines*. English Nature, Peterborough.

² Collins, J. (ed). (2016). *Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd Ed.)*. The Bat Conservation Trust, London.

Suitability	Description
High	A structure with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat.
Moderate	A structure with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat but unlikely to support a roost of high conservation status (with respect to roost type only – the assessments in this table are made irrespective of species conservation status, which is established after presence is confirmed).
Low	A structure with one or more potential roost sites that could be used by individual bats opportunistically. However, these potential roost sites do not provide enough space, shelter, protection, appropriate conditions and/or suitable surrounding habitat to be used on a regular basis or by larger numbers of bats (i.e. unlikely to be suitable for maternity or hibernation).
Negligible	Negligible habitat features on site likely to be used by roosting bats.

Table 2.2: Classification of Structures with Bat Potential (Adapted from Collins, 2016)²

2.3 Constraints

No internal access was available to Building B2, but due to its size and construction, an assessment of its suitability for roosting bats was able to be undertaken using external data.

3. Desk Study

3.1 Statutory Nature Conservation Sites

The site is not located within 10 km of any statutory nature conservation sites designated for the presence of bats.

3.2 Species Records

The data search was carried out in September 2022 by BioBank Merseyside. Records of bat species within a 1 km radius of the survey area provided by the consultee are summarised in Table 3.1. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Survey Area	Species of Principal Importance?	Legislation / Conservation Status
Common pipistrelle <i>Pipistrellus pipistrellus</i>	18	2021	290 m south	-	ECH 4, WCA 5, WCA 6
Unidentified bat <i>Chiroptera</i> sp.	3	2014	290 m south	#	#
Noctule <i>Nyctalus noctula</i>	3	2019	310 m south-west	✓	ECH 4, WCA 5, WCA 6
Soprano pipistrelle <i>Pipistrellus pygmaeus</i>	18	2016	730 m north-west	✓	ECH 4, WCA 5, WCA 6
Brown long-eared bat <i>Plecotus auritus</i>	2	2016	*	✓	ECH 4, WCA 5, WCA 6
Daubenton's bat <i>Myotis daubentonii</i>	2	2014	**	-	ECH 4, WCA 5, WCA 6
Whiskered bat <i>Myotis mystacinus</i>	2	2014	**	-	ECH 4, WCA 5, WCA 6
Pipistrelle <i>Pipistrellus</i> sp.	4	2014	**	#	ECH 4, WCA 5, WCA 6
Nathusius's Pipistrelle <i>Pipistrellus nathusii</i>	2	2014	**	-	ECH 4, WCA 5, WCA 6
Unidentified myotis <i>Myotis</i> sp.	2	2014	**	-	ECH 4, WCA 5, WCA 6
Unidentified nyctalus <i>Nyctalus</i> sp.	1	2014	**	#	#

Table 3.1: Bat Species Records Within 1 km of Survey Area (Continues)

Key:

#: Dependent on species.

*: Potentially within a 1 km radius (grid reference provided was four figures only)

**: Potentially within a 1 km radius (grid reference provided was two figures only)

ECH 4: Annex IV of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest in need of strict protection.

WCA 5: Schedule 5 of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds).

WCA 6: Schedule 6 of Wildlife and Countryside Act 1981 (as amended). Animals which may not be killed or taken by certain methods.

Table 3.1: Bat Species Records Within 1 km of Survey Area (Continued)

3.3 Granted European Protected Species Licence Applications

Two granted European Protected Species Licence Applications were identified within a 2 km radius of the study site. These comprised the following:

- A licence for the damage/destruction of resting places in use by brown long-eared and common pipistrelle bats. This licence was granted in August 2017 (Licence Ref: 2017-28690-EPS-MIT-1) and was located 1.6 km north-east of the study site.
- A licence for the destruction of a resting place in use by common pipistrelle bats. This licence was granted in January 2019 (Licence Ref: 2018-38343-EPS-MIT) and was located 1.6 km north of the study site.

4. Survey Results

4.1 Building/Structures

The buildings surveyed and the potential bat roost features identified during the survey are illustrated on Plate 4.1, below.

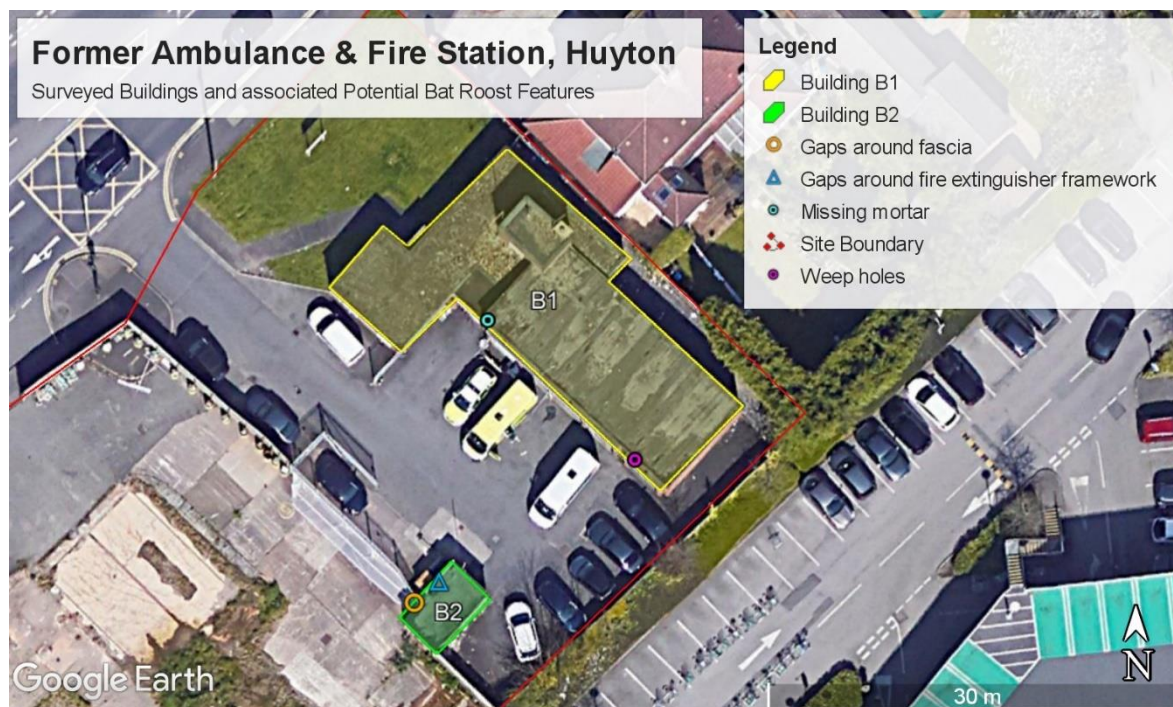


Figure 4.1: Buildings Surveyed and Potential Bat Roost Features Identified.

Building B1

External Assessment

Building B1 was a flat-roofed Ambulance Station which was in use at the time of survey (Plate 4.1). It was largely single storey, but a tower-like structure (i.e. the boiler room) was present in the north of the building, which protruded above the single-storey roof. The flat roof appeared to comprise concrete with a bitumen felt overlay. This was largely in good condition, but towards one of the southern corners, a small amount of missing felt was noted around the concrete edging. However, this did not appear to form any significant potential bat roost features.

The building had cavity brick walls with wooden doors and uPVC windows which were all in good condition. Some of the windows also had metal security bars over them. The brickwork was generally in good condition, but missing mortar was noted between some of the bricks in a small number of locations. Most of the brickwork gaps noted appeared to be superficial (i.e. towards the western-corner and on the west edge of the tower structure), but a cobwebbed gap on the southern elevation was inspected and found to extend into the wall (Plate 4.2).

Several metal roller doors were present towards the southern end of the south-west elevation, which is where the ambulance vehicles were kept. At the south-east end, the brickwork type changed from brown to red brick, with the red brick area appearing to be of newer construction than the remainder of the building. A concrete porch was present on the south-west elevation of this area, and approximately 10 - 30 cm above this, a small number of weep holes were staggered

within the brickwork (Plate 4.3). A security light was also present towards the centre of this area. Due to their aspect, these features could not be fully inspected.



Plate 4.1: Building B1 from North-west Viewpoint.

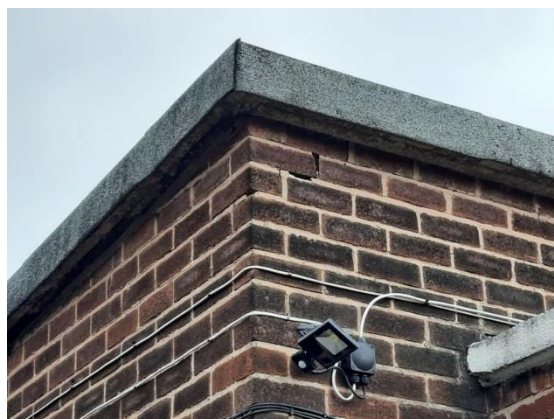


Plate 4.2: Cobwebbed Brickwork Gap on the Southern Elevation of Building B1, which Extended into the Wall.



Plate 4.3: Weep Holes and Security Light Above Concrete Porch at South End of South-west Elevation of Building B1.

Internal Assessment

The building was a flat-roofed structure and as such, did not have any loft spaces. The tower-like structure in the north of the building was higher than the remainder of the building, but was still flat-roofed and open to the roof internally.

Approximately half of the building (to the north-west) was in use at the time of survey as office space and waiting/mess rooms with a kitchen also present. This section of the building had suspended ceiling tiles with light fittings present which were in good condition (Plate 4.4). The building was also well-lit internally as a result of its regular use.

The remaining half of the building (to the south-east) comprised a garage area with windows to the north and roller shutter doors to the south (Plate 4.5). A breezeblock wall was noted to the west of this area, but the remaining elevations comprised brick. This section had a smooth boarded roof with steel beam supports and strip lights were installed.

No evidence of bats or suitable bat roost features were identified during the internal inspection.



Plate 4.4: North-west Section of Building B1.



Plate 4.5: South-east Section of Building B1.

Roosting Potential

Building B1 has been assessed as having moderate bat roosting potential due to the presence of small amounts of missing mortar around brickwork and the presence of several weep holes immediately above the porch feature in the east of the building on the south side. It was not possible to fully inspect all of these features due to being inaccessible or extending too far for full inspection.

Building B2

External Assessment

Building B2 was a small, single-storey structure located approximately 10 m south-west of Building B1 (Plate 4.6). This building had rendered walls which were part smooth and part pebbledash. A fire extinguisher unit with uPVC framework was installed into the north-west wall at low level. The framework had come away from the wall in some places, providing a potential roosting crevice for bats (Plate 4.7), although two commercial bins were stored immediately adjacent to this feature, meaning that it was partially obstructed.

An intact wooden door was present on the north-west elevation and a crack in the wall was also noted at 1.5 m high in this area. However, the wall crack was superficial and was not considered to form any suitable roosting crevices for bats.

The building had a concrete roof which overhung the eaves to the north-west. The concrete was degraded here, exposing some of the metal supports within (Plate 4.8). A metal fascia board was present to the north-west, which was positioned in front of the concrete overhang. This was slightly lifted from the concrete frontage, providing a reasonably wide gap which extended up for approximately 7 cm. This feature did not, however, appear to extend the entire length of the fascia board or into the building itself. The remaining elevations had a lead-flashing overhang over the concrete roof, which did not form any suitable bat roost features.

On the south-east elevation, peeling wall render and a rotten window frame were noted (Plate 4.9). However, no suitable bat roost opportunities associated with these features were identified.



Plate 4.6: North-west Elevation of Building B2.

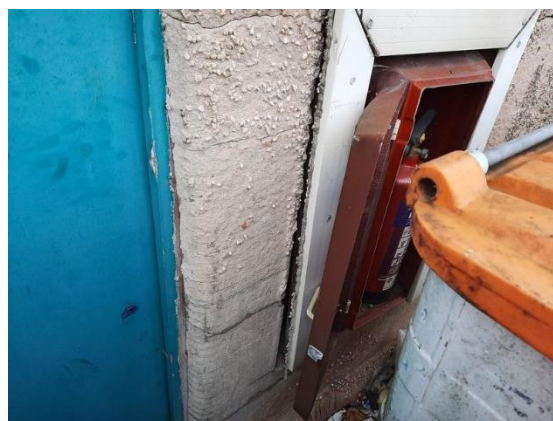


Plate 4.7: Lifted uPVC Framework Around Fire Extinguisher to North-west of Building B2.



Plate 4.8: Degraded Concrete and Gap Around Fascia to North-west of Building B2.



Plate 4.9: Peeling Render and Rotten Window Frame to South-east of Building B2.

Internal Assessment

No internal inspection was able to be undertaken, as the building was locked at the time of survey.

Roosting Potential

Building B2 has been assessed as having low bat roosting potential due to the presence of a gap around an area of uPVC framework and a gap around the fascia boarding on the north-west elevation. The gap around the uPVC framework was partially obscured by two large bins.

4.2 Site and Surrounding Habitats

The two buildings on site provided potential suitable roosting habitat for bats, but the remainder of the site was largely of limited value, being dominated by hardstanding. This said, the scrub and trees present on site along the south-western boundary are considered to form a potentially suitable foraging/commuting corridor for local bat populations. In addition, the scrub lines present within the offsite residential gardens and ASDA grounds to the north-east and south-east, respectively, may also function as foraging/commuting corridors. The small pockets of poor semi-improved and amenity grassland on site are also considered to have suitability for invertebrates, which in turn, could provide a potential prey resource for bats.

Habitats within 1 km of the site suitable for roosting, commuting and foraging include:

- Residential houses and associated gardens;
- Running water (River Alt) and standing waterbodies;
- Pockets of woodland;
- A wetland area (Huyton Wetlands);
- Churches, schools and associated grounds; and,
- Railway lines with vegetated banks.

5. Impact Assessment

5.1 Summary of Proposals

This assessment is required to inform a planning application associated with the development of a four-storey apartment block on site with associated hard and soft landscaping. It is understood that the existing trees to the south-west will be retained and incorporated into the works. The soft landscaping will comprise new hedgerows, turf areas and tree planting.

5.2 Summary of Key Bat Features

Buildings B1 and B2 have been identified as having moderate and low bat roost potential, respectively. The potential bat roost features identified around Building B1 comprised brickwork gaps where mortar was missing and weep holes on the south-west elevation. The main brickwork gap identified was cobwebbed, indicating that it had not likely been in recent use by fauna. The weep holes appeared clear of debris, but were located immediately above a porch feature, meaning that free-flight access was restricted.

The potential bat roost features identified around Building B2 comprised a gap around a uPVC fire extinguisher unit and a gap behind a fascia board to the north-west. The gap around the fire extinguisher framework was partially obscured by two commercial bins, whilst the fascia board gap did not extend sufficiently to support significant numbers of bats. Given the low level of features and urban nature of the site, in combination with the presence of higher value roosting habitat in the immediately surrounding landscape (such as St Michael's Church located 60 m south-west), this building was deemed to have low suitability for roosting bats.

A line of *leylandii* conifers was present to the south-west of the survey area, alongside a number of additional scattered trees and shrubs. Although these trees were deemed to have negligible potential in terms of bat roost value, they had the potential to function as a foraging/commuting corridor for local bat populations. This tree line also provided some connectivity to the immediately surrounding landscape.

5.3 Potential Impacts on Bats

The loss of the two buildings on site (i.e. B1 and B2) could result in the destruction of bat roost[s] and/or killing/injuring of bats, if present within the buildings. As such, roosting bats are a material consideration, and a recommendation regarding further survey work has been made in Chapter 6.

It is understood that the tree line and some of the scattered trees in the south-west of the site are to be retained and incorporated into the proposed works. This will mean that a suitable foraging/commuting corridor will remain on site for bats post-works. However, any additional lighting installed along this boundary, or along the boundaries where suitable offsite habitat is present (i.e. to the north-east and south-east), has the potential to disrupt bat foraging/commuting lines. Therefore, any additional lighting on the site should be designed in such a way to avoid adverse impacts upon foraging and commuting bats and a recommendation in relation to this has been made in Chapter 6.

6. Recommendations

All recommendations provided in this section are based on Middlemarch's current understanding of the site proposals (Drawing SK100 Rev A by Bright Space Architects), correct at the time the report was compiled. Should the proposals alter, the conclusions and recommendations made in the report should be reviewed to ensure that they remain appropriate.

- R1 Building B1 (Ambulance Station):** Building B1 has been identified as having moderate potential to support roosting bats. Bat Surveys: Good Practice Guidelines published by the Bat Conservation Trust (Collins, 2016)² recommends that for structures with moderate bat roosting potential two separate survey visits (consisting of one dusk emergence and a separate dawn re-entry survey) be undertaken during the bat emergence/re-entry survey season to determine the presence/absence of roosting bats within the structure. The bat emergence/re-entry survey season extends from May to September. At least one of the surveys should be undertaken during the peak season for emergence/re-entry surveys between May and August. Should this survey confirm the presence of roosting bats, it will be necessary to undertake additional surveys in order to inform a Natural England licence application. In addition, should the survey identify the presence of significant levels of bat activity at the site, it may be necessary to undertake further survey visits to comprehensively assess the value of the site to bats.
- R2 Building B2:** Building B2 has been identified as having low potential to support roosting bats. Bat Surveys: Good Practice Guidelines, published by the Bat Conservation Trust (Collins, 2016)², recommends for structures with low bat roosting potential that at least one survey (consisting of either a dusk emergence survey or a dawn re-entry survey) be undertaken during the peak season for emergence/re-entry surveys (May to August) to determine the presence/absence of roosting bats within the structure. Should this survey confirm the presence of roosting bats, it will be necessary to undertake additional surveys in order to inform a Natural England licence application. In addition, should the survey identify the presence of significant levels of bat activity at the site, it may be necessary to undertake further survey visits to comprehensively assess the value of the site to bats.
- R3 Scheme Design:** The proposed development should be designed to minimise effects on bats in accordance with ecological mitigation hierarchy as set out in the National Planning Policy Framework (NPPF), and the National Planning Practice Guidance (NPPG): The ecological mitigation hierarchy requires all development schemes to apply to following principles:
- *Avoidance* – the proposed development should seek to avoid/minimise losses of features with bat potential, in the first instance and incorporate these features in the landscaping layout of the scheme accordingly. Similarly, protection measures for retained features and surrounding habitats should be considered to prevent incidental damage or disturbance during the construction phases. These measures will help to reduce the likelihood of impacting bats and minimise losses of suitable bat roosts and habitat.
 - *Mitigation* – where significant harm cannot be wholly or partially avoided, adverse should be minimised by design or through the use of effective mitigation measures such as minimising light spill (see recommendation R4 below).
 - *Compensation* – where unavoidable losses occur and mitigation cannot be provided, compensation for significant residual harm will be required as a last

resort or planning permission could be refused. Where there is a significant effect on a bat roost, a compensation strategy sufficient to obtain a development licence from Natural England may also be required.

R4 Lighting: In accordance with best practice guidance relating to lighting and biodiversity (Miles *et al*, 2018³; Gunnell *et al*, 2012⁴), any new lighting should be carefully designed to minimise potential disturbance and fragmentation impacts on sensitive receptors, such as bat species. Examples of good practice include:

- Avoiding the installation of new lighting in proximity to key ecological features, such as the onsite tree line to be retained and adjacent scrub vegetation to the north-east and south-east.
- Using modern LED fittings rather than metal halide or sodium fittings, as modern LEDs emit negligible UV radiation.
- The use of directional lighting to reduce light spill, e.g. by installing bespoke fittings or using hoods or shields. For example, downlighting can be used to illuminate features such as footpaths whilst reducing the horizontal and vertical spill of light.
- Where the use of bollard lighting is proposed, columns should be designed to reduce horizontal light spill.
- Implementing controls to ensure lighting is only active when needed, e.g. the use of timers or motion sensors.
- Use of floor surface materials with low reflective quality. This will ensure that bats using the site and surrounding area are not affected by reflected illumination.
- For internal lights, recessed light fittings cause significantly less glare than pendant type fittings. The use of low-glare glass may also be appropriate where internal lighting has the potential to influence sensitive ecological receptors.

³ Miles, J., Ferguson, J., Smith, N. and Fox, H. (2018) *Bats and artificial lighting in the UK. Bats and the Built Environment Series*. Bat Conservation Trust and Institution of Lighting Professionals.

⁴ Gunnell, K., Grant, G. and Williams, C. (2012) *Landscape and urban design for bats and biodiversity*. Bat Conservation Trust.

Appendix 1

Relevant Legislation

Bats and the places they use for shelter or protection (i.e. roosts) receive legal protection under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017) and the Conservation of Habitats and Species Regulations (Amendment) (EU Exit) Regulations 2019 (Habitats Regulations 2019). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that bats, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2017, states that a person commits an offence if they:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats; or
- damage or destroy a bat roost (breeding site or resting place).

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2017 for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead bats, part of a bat or anything derived from bats, which has been unlawfully taken from the wild.

Changes have been made to parts of the Habitats Regulations 2017 so that they operate effectively from 1st January 2021. The changes are made by the Habitats Regulations 2019, which transfer functions from the European Commission to the appropriate authorities in England and Wales.

All other processes or terms in the 2017 Regulations remain unchanged and existing guidance is still relevant.

The obligations of a competent authority in the 2017 Regulations for the protection of species do not change. A competent authority is a public body, statutory undertaker, minister or department of government, or anyone holding public office.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to *intentionally* kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to *intentionally or recklessly** damage or destroy, or *obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to *intentionally or recklessly** disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

*Reckless offences were added by the Countryside and Rights of Way (CROW) Act 2000.

As bats re-use the same roosts (breeding site or resting place) after periods of vacancy, legal opinion is that roosts are protected whether or not bats are present.

The reader should refer to the original legislation for the definitive interpretation.

The following bat species are Species of Principal Importance for Nature Conservation in England: barbastelle bat *Barbastella barbastellus*, Bechstein's bat *Myotis bechsteinii*, noctule *Nyctalus noctula*, soprano pipistrelle *Pipistrellus pygmaeus*, brown long-eared bat *Plecotus auritus*, greater horseshoe bat *Rhinolophus ferrumequinum* and lesser horseshoe bat *Rhinolophus hipposideros*. Species of Principal Importance for Nature Conservation in England are material considerations in the planning process. The list of species is derived from Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006.

Appendix 2

Examples of Potential Roost Features

External Features

- access through window panes, doors and walls;
- behind peeling paintwork or lifted rendering;
- behind hanging tiles;
- weatherboarding;
- eaves;
- soffit boxes;
- fascias;
- lead flashing;
- gaps under felt (even including those of flat roofs);
- under tiles/slates;
- existing bat and bird boxes; and
- any gaps in brickwork or stonework permitting access into access to cavity- or rubble-filled walls.

Internal Features

- behind wooden panelling;
- in lintels above doors and windows;
- behind window shutters and curtains;
- behind pictures, posters, furniture, peeling paintwork;
- peeling wallpaper, lifted plaster and boarded-up windows;
- inside cupboards and in chimneys accessible from fireplaces.
- within attic voids:
- the top of gable end or dividing walls;
- the top of chimney breasts;
- ridge and hip beams and other roof beams;
- mortise and tenon joints;
- all beams (free-hanging bats);
- the junction of roof timbers, especially where ridge and hip beams meet;
- behind purlins;
- between tiles and the roof lining; and
- under flat felt roofs.

Potential Roost Features (Adapted from Collins, 2016²)