

Dusk Emergence & Dawn Re-entry Bat Surveys

Land off Archway Road, Huyton

A Report To: Genr8 Developments

Report Number: RT-MME-161270

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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.

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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 August 2023, Genr8 Developments commissioned Middlemarch to undertake dusk emergence and dawn re-entry bat surveys at Knowsley Council Offices at Archway Road, Huyton, Merseyside. These surveys are required to inform a planning application associated with a mixed-use development at the site.

Scope of Survey

Building B4 was classed as having high potential to support roosting bats during the Preliminary Bat Roost Assessment (Report: RT-MME-161140-02) completed in July 2023. As such, three bat surveys were carried out consisting of two dusk emergence bat surveys and one dawn re-entry bat survey. The aim of these surveys was to detect whether bats are roosting within the building, and to enable a profile of site utilisation by bats to be compiled. Two trees T1 and T2 were also classified as having moderate bat roost potential during the Preliminary Roost Assessment, but as no works to these trees are anticipated to take place within the next 12 months, trees were not included within these further bat surveys.

Summary of Key Bat Features

No bats emerged from or re-entered Building B4 during the bat activity surveys, so roosting bats are not considered to be present within this building. The scattered trees/tree lines, ornamental shrub and hedgerow habitats on site present suitable foraging and commuting opportunities for local bat populations.

Potential Impacts on Bats

Building B4 (which was classified as having high bat roost potential) has been subject to a full suite of bat surveys and no roosting bats were identified. The remaining buildings on site (Buildings B1, B2 and B3) were all considered to have negligible value for roosting bats during the Preliminary Bat Roost Assessment (Report: RT-MME-161140-02), so adverse impacts to roosting bats are considered highly unlikely as a result of the proposed building demolition works. Two of the trees in the west of the site (T1 and T2) were considered to have moderate bat roost potential during the Preliminary Bat Roost Assessment (Report: RT-MME-161140-02), but no works to these are likely within the next 12 months. In order to confirm the presence/absence of bats within these trees, further survey work will be required.

Recommendations

- R1 Building B4:** Building B4 has been subject to a full suite of activity surveys, and no bat roosts were identified. The survey data obtained for the site is valid for 12 months from the survey date.
- R2 Survey Validity and further survey requirements:** The results of this survey are valid for 12 months. The recommendations made within the Preliminary Bat Roost Assessment (Report: RT-MME-161140-02) particularly with respect to the trees on site should be followed.
- R3 Scheme Design:** The proposed development should be designed to minimise effects on bats in accordance with the ecological mitigation hierarchy.
- R4 Lighting:** Any new lighting should be carefully designed to minimise potential disturbance and fragmentation impacts on bat species. Examples of good practice are provided in Chapter 6.

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1. Introduction

1.1 Project Background

In August 2023, Genr8 Developments commissioned Middlemarch to undertake dusk emergence and dawn re-entry bat surveys at Land off Archway Road, Huyton, Merseyside. These surveys are required to inform a planning application associated with a mixed-use development at the site.

Middlemarch has previously carried out a Preliminary Ecological Appraisal, Preliminary Bat Roost Assessment and Preliminary Arboricultural Assessment for Genr8 Developments at this site. The findings of these surveys are detailed in Reports RT-MME-161140-01, -02 and -03, respectively.

During the Preliminary Bat Roost Assessment completed in July 2023 (Report: RT-MME-161140-02), Buildings B1, B2 and B3 were all considered to have negligible value for roosting bats, due to a lack of suitable bat roost features. Building B4 was considered to have high bat roost potential, as it contained a number of potential bat roost features which could not be fully inspected. Such features included pipework holes, damaged soffit boarding, gaps behind concrete panelling, gaps around brickwork and weep holes. Trees T1 and T2 were deemed to have moderate potential for roosting bats due to the presence of features such as twisted branches, knot holes and split limbs. Therefore, dusk emergence and dawn re-entry bat surveys were recommended for Building B4 and Trees T1 and T2. As works to the trees are not due to be undertaken until a later date, only the building was surveyed at this time. This report details the bat surveys undertaken on Building B4 between 9th August 2023 and 7th September 2023.

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
Location	The site is set in an urban location to the south-east of Archway Road in Huyton, Merseyside.
National Grid Reference	SJ 44159 90826
Site Area (ha)	2.9 ha
Topography	Flat
Land Cover (on site)	The site is dominated by hardstanding car parking areas and associated buildings, with pockets of introduced shrub, amenity grassland and scattered trees.
Land Cover (site surrounds)	The wider landscape is dominated by the built environment. To the north and west, residential properties and associated gardens dominated. To the south-west commercial units and a retirement village with associated car parking was present. To the east, Huyton Village Shopping Centre is present. A railway line is located approximately 70 m south of the survey boundary and beyond this, residential properties and gardens once again continue to dominate the surrounding landscape.

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 Town Centre / The Village - Commercial District Illustrative Masterplan (December 2021)	Optimised Environments (OPEN)

Table 1.2: Documentation Provided by Client

2. Methods

2.1 Desk study

As part of the Preliminary Ecological Appraisal (Report: RT-MME-161140-01), an ecological desk study was undertaken. The consultee for the desk study was Merseyside BioBank.

Middlemarch then assimilated and reviewed the desk study data provided by these organisations. 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

Overview

Building B4 was classed as having high potential to support roosting bats. As such, three bat surveys were carried out consisting of two dusk emergence bat surveys and one dawn re-entry bat survey. The aim of these surveys was to detect whether bats are roosting within the building, and to enable a profile of site utilisation by bats to be compiled.

The surveys of the building were carried out in line with Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016)¹.

The surveys were undertaken by the following personnel:

- Ellie Rickman MSc, MCIEEM (Principal Ecological Consultant and Class 17 Licenced Bat Surveyor);
- Charlotte Richardson MSc, ACIEEM (Senior Ecological Consultant and Class 17 Licenced Bat Surveyor);
- Anna Evans MSc (Ecological Consultant);
- Shona Sutherland BSc (Hons) (Ecological Consultant);
- Amy Carter MSc (Ecological Project Officer); and,
- Sarah Simpson (Ecological Project Officer).

The weather conditions were recorded on each survey and are presented in Table 2.1.

¹ Collins, J. (ed). (2016). *Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd Ed.)*. The Bat Conservation Trust, London.

Type of Survey	Date	Time	Parameter			
			Temperature °C	Cloud %	Precipitation	Wind (Beaufort Scale)
Dusk	09-09-23	Start	22	70	Nil	F1
		End	21	90	Nil	F1
Dawn	24-08-23	Start	16	100	Nil	F1
		End	16	100	Nil	F1
Dusk	07-09-23	Start	24	30	Nil	F1
		End	23	50	Nil	F1-2

Table 2.1: Weather Conditions During Field Surveys

Dusk Emergence Bat Surveys

In line with the specifications detailed in Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016)¹, the dusk surveys commenced 20 minutes prior to sunset and continued until 90-120 minutes after sunset.

Dawn Re-Entry Bat Survey

Bats swarm at their roost site 10-90 minutes prior to entering the roost at dawn (Mitchell-Jones & McLeish, 2004)². Surveying for dawn swarming by bats is an efficient way of detecting bat roosts. In line with the specifications detailed by Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016)¹, the dawn survey commenced 90-120 minutes prior to sunrise and continued until 15 minutes after sunrise.

Equipment and Analysis

The dusk emergence and dawn re-entry surveys were conducted using electronic bat detectors (Echometer Touch 2) and night vision aids (Cannon XA 40 with associated infrared illuminators) to facilitate the detection of bats and to aid in the determination of species of bat using the site.

Subsequent computer analysis of sound recordings was used to facilitate the identification of bat species/families present during the surveys. Some species of bats echolocate at similar frequencies and the characteristics of their calls can overlap, i.e. *Myotis* species, and calls can vary dependant on the environment that the bats are in. It is widely accepted that if there is any doubt identifying a bat to species level then identification to family level is satisfactory (Russ, 1999)³. If echolocation calls more closely resemble one species than another, then they will be assigned to species level based on the parameters set out in Russ (2012)⁴ for guidance. Identification of overlapping species should, however, be interpreted with caution.

² Mitchell-Jones, A.J. & McLeish, A.P. (2004). *The Bat Workers' Manual* (3rd Ed.). JNCC, Peterborough.

³ Russ, J. (1999). *The Bats of Britain and Ireland. Echolocation calls, sound analysis, and species identification* (1st Ed.). Alana Ecology Ltd, London.

⁴ Russ, J. (2012) *British Bat Calls: A Guide to Species Identification*. Pelagic Publishing, Exeter.

Grey long-eared bats *Plecotus austriacus* are very rare and found only in a few places in southern England (Mathews, et al. 2018)⁵. It can be very difficult to distinguish this species from the more common brown long-eared bat *Plecotus auritus*. Therefore, based on the location of the site, it is presumed that any calls by *Plecotus* species are brown long-eared bat.

2.3 Constraints

Access to the roof was only possible on the final dusk emergence survey. Therefore the other surveys were all undertaken from ground level.

⁵ Matthews, F., Kubasiewicz, L.M., Gurnell, J., Harrower, C.A., McDonald, R.A., Shore, R.F. (2018) *A Review of the Population and Conservation Status of British Mammals: Technical Summary*. A report by the Mammal Society under contract to Natural England, Natural Resources Wales and Scottish Natural Heritage. Natural England, Peterborough.

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 July 2023 by Merseyside BioBank. 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>	21	2022	30 m north-west	-	ECH 4, WCA 5, WCA 6
Noctule <i>Nyctalus noctula</i>	2	2019	30 m north-west	✓	ECH 4, WCA 5, WCA 6
Unidentified bat <i>Vespertilionidae</i> sp.	6	2020	160 m west	#	ECH 2 #, ECH 4, WCA 5, WCA 6
Pipistrelle <i>Pipistrellus</i> sp.	1	2020	690 m south	#	ECH 4, WCA 5, WCA 6
Soprano pipistrelle <i>Pipistrellus pygmaeus</i>	3	2019	730 m south	✓	ECH 4, WCA 5, WCA 6
Brown long-eared bat <i>Plecotus auritus</i>	1	2002	*	✓	ECH 4, WCA 5, WCA 6

Key:

ECH 2: Annex II of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest whose conservation requires the designation of Special Areas of Conservation.

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.

Species of Principal Importance: Species of Principal Importance for Nature Conservation in England.

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

4. Survey Results

4.1 First Dusk Emergence Survey

The first dusk emergence survey commenced 15 minutes prior to sunset and continued until 120 minutes after sunset. Sunset was at 20:52 hrs (BBC Weather Centre Data for Huyton). Two bat species were recorded during the survey: common pipistrelle *Pipistrellus pipistrellus* and noctule *Nyctalus noctula*. Survey results are plotted on Drawing C161270-01 in Chapter 7.

Common pipistrelle

The first common pipistrelle bat was detected at 21:28 hrs (36 minutes after sunset), and this bat foraged from the north-west. Between 21:29 hrs and 21:42 hrs, intermittent foraging activity was recorded onsite, the majority of which was detected around the trees to the east of Building B4 and towards the south east corner of the building. At 21:49 hrs, two common pipistrelles were observed foraging simultaneously to the east of Building B4, between the third and fourth floor. No common pipistrelle bats emerged from the building during the first nocturnal survey.

Noctule

At 21:33 hrs, a noctule bat was heard, but no visual contact was made. Further noctule detections were made at 21:37 hrs, 21:46 hrs and 21:49 hrs and were considered likely to be flying over at height. No noctule bats emerged from the building during the first nocturnal survey.

No other species of bat were detected or observed during this survey. Analysis of the sound recordings did not identify any further species of bat.

4.2 Dawn Re-entry Survey

The dawn re-entry survey commenced 120 minutes prior to sunrise and continued until 15 minutes after sunrise. Sunrise was at 06:06hrs (BBC Weather Centre Data for Huyton). One species of bat was recorded during the survey: common pipistrelle *Pipistrellus pipistrellus*. Survey results are plotted on Drawing C161270-02 in Chapter 7.

Common pipistrelle

At 04:43 hrs (83 minutes before sunrise), a common pipistrelle was detected but no visual contact was made. Two further detections were made at 04:44 hrs and 05:14 hrs. At 05:44 hrs, a common pipistrelle bat observed passing over the pitched section of Building B4 from the west, but this bat commuted offsite to the east. No common pipistrelle bats re-entered the building during the dawn re-entry survey.

No other species of bat were detected or observed during this survey. Analysis of the sound recordings did not detect any further species of bat.

4.3 Second Dusk Emergence Survey

The second dusk emergence survey commenced 15 minutes prior to sunset and continued until 120 minutes after sunset. Sunset was at 19:48 hrs (BBC Weather Centre Data for Huyton). Two species of bat were recorded during the survey: common pipistrelle and noctule. Survey results are plotted on Drawing C161270-03 in Chapter 7.

Noctule

A single noctule was detected at 20:27 hrs (39 minutes after sunset), and this bat passed over the high-rise section of Building B4 from south to north. No noctule bats emerged from the building during the second dusk emergence survey.

Common pipistrelle

The first common pipistrelle bat was detected at 20:35 hrs (49 minutes after sunset), and this bat was observed commuting along the vegetated boundary to the north-west of Building B4. One minute later, at 20:37 hrs, another common pipistrelle was seen foraging around the trees to the east of Building B4, before leaving site to the north-east. No common pipistrelle bats emerged from the building during the second dusk emergence survey.

No other species of bat were detected or observed during this survey. Analysis of the sound recordings did not detect any further species of bat.

5. Impact Assessment

5.1 Summary of Proposals

Under the current proposals, the site will be subject to a mixed-use development. This will involve the potential demolition of Buildings B2, B3 and B4, the removal of some of the trees and existing vegetation and the development of new structures comprising several office blocks, a hotel and residential units. Soft landscaping will also be incorporated into the scheme.

5.2 Summary of Key Bat Features

Roosting Bats

No bats emerged from or re-entered Building B4 during the bat activity surveys, so roosting bats are not considered to be present within this building.

Two of the trees in the west of the site (T1 and T2) were considered to have moderate bat roost potential during the Preliminary Bat Roost Assessment (Report: RT-MME-161140-02). Further nocturnal emergence/dawn re-entry surveys will be required on these trees at a later date if they are to be removed.

Commuting/Foraging Bats

The scattered trees/tree lines, ornamental shrub and hedgerow habitats on site present suitable foraging and commuting opportunities for local bat populations. The trees to the east of Building B4 in particular, were found to be used by foraging and commuting common pipistrelle bats during both dusk emergence surveys. Some of the boundary features on site also have linkages to other suitable foraging/commuting habitats within the immediately surrounding landscape.

5.3 Potential Impacts on Bats

Building B4 (which was classified as having high bat roost potential) has been subject to a full suite of bat surveys in line with Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016)¹, and no roosting bats were identified. The remaining buildings on site (Buildings B1, B2 and B3) were all considered to have negligible value for roosting bats during the Preliminary Bat Roost Assessment (Report: RT-MME-161140-02), so adverse impacts to roosting bats are considered highly unlikely as a result of the proposed building demolition works.

Two of the trees in the west of the site (T1 and T2) were considered to have moderate bat roost potential during the Preliminary Bat Roost Assessment (Report: RT-MME-161140-02), but no nocturnal emergence/dawn re-entry surveys have been undertaken on these trees at this time. In order to confirm the presence/absence of bats within these trees, further survey work will be required, and a recommendation regarding this has been made in Chapter 6. An additional six individual trees (T3 – T8) and two tree groups (G1 and G2) were deemed to have low bat roost potential, but as no further survey work is required on trees with low potential, no adverse impacts are anticipated to roosting bats, should these trees require removal. A precautionary recommendation with regards to the validity of the survey data for the buildings/trees on site 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, 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 B4:** Building B4 has been subject to a full suite of activity surveys in line with Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016)¹, and no bat roosts were identified. The survey data obtained for the site is valid for 12 months from the survey date. If development works to the surveyed building have not commenced within this timeframe it will be essential to update the survey effort to establish if bats have colonised the building in the interim. Updated Preliminary Bat Roost Assessments can be undertaken at any time of year. Updated surveys requiring nocturnal or dawn assessment will need to adhere to the Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016)¹, with the surveys undertaken between April and September inclusive. In the unlikely event that a bat is found during site works all works in that area must immediately cease and a suitably qualified ecologist should be contacted.
- R2 Survey Validity and further survey requirements:** The results of this survey are valid for 12 months. The recommendations made within the Preliminary Bat Roost Assessment (Report: RT-MME-161140-02) particularly with respect to the trees on site should be followed. Should the works be delayed beyond 12 months from the survey date, an updated Preliminary Bat Roost Assessment may be required, in order to ensure that there has been no change to the bat roost potential of the buildings/trees in the interim period.
- R3 Scheme Design:** The proposed development should be designed to minimise effects on bats in accordance with the ecological mitigation hierarchy as set out in the National Planning Policy Framework (NPPF), and the National Planning Practice Guidance (NPPG). The mitigation hierarchy requires all development schemes to apply the following principles:
- *Avoidance and Mitigation* – 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. Where significant harm cannot be wholly or partially avoided, adverse impacts should be minimised by design or through the use of effective mitigation measures such as minimising light spill (see 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 (Bat Conservation Trust and Institute of Lighting Professionals, 2023⁶; Gunnell et al, 2012⁷), 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 mature trees, hedgerows and tree lines.
- 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.

⁶ Bat Conservation Trust and Institute of Lighting Professionals (2023) *Guidance Note 08/23: Bats and artificial lighting at night*. ILP, Rugby

⁷ Gunnell, K., Grant, G. and Williams, C. (2012) *Landscape and urban design for bats and biodiversity*. Bat Conservation Trust.

7. Drawings

Drawing C161270-01 – First Dusk Emergence Survey

Drawing C161270-02 – Dawn Re-entry Survey

Drawing C161270-03 – Second Dusk Emergence Survey



C161270-01

- Legend**
- Site boundary
 - Tree with moderate bat roosting potential
 - Tree with low bat roosting potential
 - Tree group with low bat roosting potential
 - Building with high bat roosting potential
 - Building with negligible bat roosting potential
 - Brick roof structure
 - Surveyor location
- Bat activity**
- Common pipistrelle activity

Project	
Land off Archway Road, Huyton	
Drawing	
First Dusk Emergence Survey (09/08/2023)	
Client	
Genr8 Developments	
Drawing Number	Revision
C161270-01	00
Scale @ A3	Date
1:1,000	September 2023
Approved By	Drawn By
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C161270-02

- Legend**
- Site boundary
 - Tree with moderate bat roosting potential
 - Tree with low bat roosting potential
 - Tree group with low bat roosting potential
 - Building with high bat roosting potential
 - Building with negligible bat roosting potential
 - Brick roof structure
 - Surveyor location
- Bat activity**
- Common pipistrelle activity

Project	
Land off Archway Road, Huyton	
Drawing	
Dawn Re-entry Survey (24/08/2023)	
Client	
Genr8 Developments	
Drawing Number	Revision
C161270-02	00
Scale @ A3	Date
1:1,000	September 2023
Approved By	Drawn By
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C161270-03

Legend

- Site boundary
- Tree with moderate bat roosting potential
- Tree with low bat roosting potential
- Tree group with low bat roosting potential
- Building with high bat roosting potential
- Building with negligible bat roosting potential
- Brick roof structure
- Surveyor location
- Bat activity
 - Common pipistrelle activity
 - Noctule activity

Project		Land off Archway Road, Huyton	
Drawing		Second Dusk Emergence Survey (07/09/2023)	
Client		Genr8 Developments	
Drawing Number	Revision		
C161270-03	00		
Scale @ A3	Date		
1:1,000	September 2023		
Approved By	Drawn By		
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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.