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Client: Mr N. Guscott



Ecology Report



East Hayne

Disclosure

The information, opinion, and advice which I have prepared and provided is true and has been prepared and provided in accordance with the CIEEM's Code of Professional Conduct and the British Standard for Biodiversity – Code of Practice for Planning and Development (2013). I confirm that the opinions expressed are my true and professional bona fide opinions.

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CONTENTS

1.0	INTRODUCTION.....	4
1.1	Background.....	4
1.2	Report Purpose.....	4
1.3	Report Lifespan	5
1.4	Author.....	5
2.0	RELEVANT LEGISLATION AND PLANNING POLICY	6
2.1	Relevant Legislation	6
2.2	Relevant Planning Policy	7
2.3	Conservation of Habitats and Species Regulations 2017	9
2.4	Wildlife & Countryside Act 1981	9
2.5	Natural Environment & Rural Communities (NERC) Act 2006	10
3.0	METHODOLOGY.....	11
3.1	Limitations	11
4.0	RESULTS	12
5.0	ASSESSMENT	13
5.1	Bats.....	13
5.2	Nesting birds.....	13
5.3	Biodiversity Enhancement Measures.....	13
6.0	CLOSURE.....	15

1.0 INTRODUCTION

1.1 Background

SWE Limited was commissioned to undertake a protected species assessment of a detached dwelling at East Hayne, Cheriton Fitzpaine, Devon, EX17 4HR (Ordnance Survey grid reference SS889072 – see Figure 1). The survey was required to support a planning application for an extension to the north elevation of the dwelling.

Figure 1. Location of the property.



1.2 Report Purpose

The purpose of this report is to:

- provide an ecological assessment through consideration of a Preliminary Roost Appraisal (PRA);
- identify the ecological constraints in relation to the proposed works;
- identify, where required, the need for additional protected species surveys;
- identify the mitigation measures which may be required, where necessary, to ensure compliance with nature conservation; and

- identify appropriate enhancement and compensation measures which may be incorporated into the design, in line with local and national planning policy.

This report has been written in accordance with the guidance produced by the Chartered Institute of Ecology and Environmental Management (CIEEM) 2017¹.

1.3 Report Lifespan

In accordance with CIEEM guidance² this report, and the results of the ecological survey contained within, remains valid for 12 months.

1.4 Author

The author of this report, Dr S. Holloway, has over twenty-five years' professional experience of ecology, environmental management, and nature conservation in the private, public, and voluntary sectors. He has worked extensively throughout the UK on projects relating to bats, including wind farms, quarries, and residential/industrial development. Dr Holloway is a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM) and is a Chartered Environmentalist (CEnv).

All work was undertaken in accordance with the CIEEM recommendations, the most up-to-date and relevant survey guidance available at the time (Bat Conservation Trust 2016), and in compliance with BS:42020:2013 Biodiversity. Code of Practice for Planning and Development.

¹ CIEEM (2017) *Guidelines on Ecological Report Writing*. Chartered Institute of Ecology and Environmental Management, Winchester.

² CIEEM. 2019. On the Lifespan of Ecological Reports and Surveys. Advice Note. April 2019.

2.0 RELEVANT LEGISLATION³ AND PLANNING POLICY

This ecological assessment has been completed with due regard to the requirements of and/or advice given by the following key documents.

2.1 Relevant Legislation⁴

2.1.1 Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) transpose Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) into English law, making it an offence to deliberately capture, kill or disturb⁵ wild animals listed under Schedule 2 of the Regulations. It is also an offence to damage or destroy a breeding site or resting place of such an animal (even if the animal is not present at the time). Species include all bats and hazel dormouse *Muscardinus avellanarius*.

The Habitats Regulations 2017 will continue to implement the Habitats Directive and certain elements of the Birds Directives in England. The Habitats Regulations 2010 have been amended ten times since they were last consolidated (in 2010) and are likely to remain in place for some time after the UK exits the EU.

2.1.2 Natural Environment & Rural Communities (NERC) Act 2006

The Natural Environment and Rural Communities Act 2006 (the “NERC Act” 4) came into force in October 2006. Section 40 of this Act places a duty on public bodies to have due regard for the conservation of biodiversity when exercising their functions (meaning the conservation of biodiversity is a material consideration in the planning process). Section 41 requires the Secretary of State to publish and maintain a list of habitats and species of principal importance for the conservation of biodiversity in England (sometimes referred to as the Section 41 list or S41 list). The Secretary of State must also take steps to further the conservation of these habitats and species and encourage others to do the same. The S41 list has been drawn up

³ Please note that the summary of relevant legislation provided here is intended for general guidance only. The original legislation should be consulted for definitive information.

⁴ Please note that the summary of relevant legislation provided here is intended for general guidance only. The original legislation should be consulted for definitive information.

⁵ Disturbance, as defined by the Conservation of Habitats and Species Regulations 2010, includes in particular any action which impairs the ability of animals to survive, breed, rear their young, hibernate or migrate (where relevant); or which affects significantly the local distribution or abundance of the species.

in consultation with Natural England and is largely based on the list of priority habitats and species derived from the UK Biodiversity Action Plan.

Example species on the S41 list relevant to this assessment include noctule *Nyctalus noctula*, lesser horseshoe *Rhinolophus hipposideros*, soprano pipistrelle *Pipistrellus pygmaeus*, brown long-eared *Plecotus auritus* bats, adder *Vipera berus*, common lizard *Zootoca vivipara* and common toad *Bufo bufo*.

2.1.3 Wildlife & Countryside Act 1981

The Wildlife and Countryside Act 1981, as amended (WCA6), implements the Convention of the Conservation of European Wildlife and Natural Habitats (The Bern Convention) and the Birds Directive in Great Britain. The WCA provides legal protection to all wild bird species (with certain exceptions) and to other species of wild animals (e.g. bat and reptile species) and plants as listed on various schedules of the Act.

The Countryside and Rights of Way Act 2000 (the “CRoW Act”) primarily provides for public access on foot to areas of open land. However, it also strengthens the legal protection for species under the WCA and introduces a new offence relating to reckless disturbance of these species. The CRoW Act also provides increased powers for the protection and management of Sites of Special Scientific Interest (SSSIs).

2.2 Relevant Planning Policy

2.2.1 National Planning Policy

The NPPF (2021) includes the Government’s national planning policy guidance on the protection of biodiversity. The NPPF sets out the role that the planning system must play in the protection of biodiversity in relation to the natural environment. The following section details the most relevant biodiversity guidance to the proposed Development.

Paragraph 174 states that “The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, sites for biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

- recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services; and
- minimising impacts on and providing net gains for biodiversity.

Paragraph 180 states that when determining planning applications, local planning authorities should apply the following principles:

- A) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- B) development on land within or outside a site of special scientific interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of sites of special scientific interest;
- C) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁶³ and a suitable compensation strategy exists; and
- D) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

2.2.2 Government Circular 06/20059

The Government Circular 06/20059 remains valid despite the cancellation of the former Planning Policy Statement 9 (PPS9) which it accompanied, and which was replaced by the NPPF. Of relevance to this site, the circular advises that potential effects of a development on priority habitats or species (i.e. Habitats and Species of Principal Importance – see below) are capable of being a material consideration in the preparation of regional spatial strategies and local development documents and the making of planning decisions.

2.2.3 Species and Habitats of Principal Importance

Priority habitats and species are formally defined in the NPPF as species and habitats of principal importance included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Planning authorities have a duty under Section 40 of the NERC Act to have regard to priority species and habitats in exercising their functions including development control and planning.

2.3 Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) transpose Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) into English law, making it an offence to deliberately capture, kill or disturb⁶ wild animals listed under Schedule 2 of the Regulations. It is also an offence to damage or destroy a breeding site or resting place of such an animal (even if the animal is not present at the time). Species include all bats.

The Habitats Regulations 2017 will continue to implement the Habitats Directive and certain elements of the Birds Directives in England. The Habitats Regulations 2010 have been amended ten times since they were last consolidated (in 2010) and are likely to remain in place for some time now that the UK has exited the EU.

2.4 Wildlife & Countryside Act 1981

The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act (CRoW) 2000 and the Natural Environment and Rural Communities Act (NERC) 2006, consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the Conservation of Wild Birds (Birds Directive), making it an offence to:

⁶ Disturbance, as defined by the Conservation of Habitats and Species Regulations 2010, includes in particular any action which impairs the ability of animals to survive, breed, rear their young, hibernate or migrate (where relevant); or which affects significantly the local distribution or abundance of the species.

- Intentionally kill, injure or take *any* wild bird or their eggs or nests (with certain exceptions) and disturb any bird species listed under Schedule 1 to the Act, or its dependent young while it is nesting;
- Intentionally kill, injure or take any wild animal listed under Schedule 5 to the Act e.g. all bat species;
- Intentionally or recklessly damage, destroy or obstruct any place used for shelter or protection by any wild animal listed under Schedule 5 to the Act; or
- Intentionally or recklessly disturb certain Schedule 5 animal species while they occupy a place used for shelter or protection.

2.5 Natural Environment & Rural Communities (NERC) Act 2006

The NERC Act 2006 places a duty on authorities to have due regard for biodiversity and nature conservation during the course of their operations.

Section 41 of the Act requires the publication of a list of species which are of principal importance for the purpose of conserving biodiversity. The Section 41 list is used to guide authorities in implementing their duty to have regard to the conservation of biodiversity. The following bat species are listed in Section 41: soprano pipistrelle *Pipistrellus pygmaeus*, brown long-eared *Plecotus auritus*, lesser horseshoe *Rhinolophus hipposideros*, greater horseshoe *Rhinolophus ferrumequinum*, noctule *Nyctalus noctula*, barbastelle *Barbastella barbastellus* and Bechstein's *Myotis bechsteinii*.

3.0 METHODOLOGY

A Preliminary Roost Assessment (PRA) of the building was undertaken on the 4th October 2022 in line with Bat Conservation Trust (BCT, 2016)⁷ guidance. The PRA involved a detailed external and internal inspection to compile information on the potential and actual bat entry/exit points; potential and actual bat roost locations; and evidence of bats such as droppings. The weather at the time of survey was overcast with F1 winds, and 16^oC.

The exterior of the building was visually assessed for potential bat access points and evidence of bat activity, using binoculars where necessary. Features, such as small gaps/ crevices beneath eaves, along the ridges or within the stonework; lifted or missing tiles; or gaps around doorways which had potential as bat access points into the building were sought. Evidence that these potential access points were actively used by bats typically would include staining within gaps and/ or bat droppings or urine staining under gaps and/ or on walls. These signs were recorded wherever they were present. The presence of cobwebs and general detritus within the features were also recorded as these indicate that potential access points were likely to be inactive.

There were no internal roof spaces or other features which roosting bats or nesting birds could use.

A search for historic evidence of nesting birds was conducted during the PRA.

3.1 Limitations

This report is based on the evidence recorded at the site at the time of the survey.

Bats and birds are highly mobile species groups and therefore the findings and assessments provided should be regarded as a 'snapshot' of activity during part of the season.

⁷ Collins 2016. Bat Surveys for Professional Ecologists. Good Practice Guidance. 3rd Edition.

4.0 RESULTS

The dwelling consisted of a detached converted milking parlour (converted 4 years previously). It was located within a yard area with outbuildings to the north and west. The wider landscape consisted of grassland fields bounded by hedgerows with trees, ponds, and small broadleaf woodlands. The landscape had moderate to high potential value for commuting / foraging bats.

The details of the PRA are provided in Table 1.

Table 1. Building description and protected species evidence	
Photos	Description
<p>The north elevation with patio area.</p> 	<p>A converted milking parlour with no attic space. The timber framed roof was overlaid with metal sheeting. The walls were rendered with the upper section of the north facing wall (the wall of the extension) timber clad. The timber cladding had small gaps underneath which could be used by crevice dwelling bats for roosting. The gaps could be fully seen – there was no evidence of roosting bats.</p>
<p>The north and west elevations.</p> 	<p>The soffits were sealed against the wall and roof. There were 4 glazed windows to the north elevation. There were no ingress points that could be used by roosting bats or nesting birds.</p> <p>No evidence of roosting bats or nesting birds was found. The dwelling was considered to have negligible potential for roosting bats or nesting birds.</p> <p>The extension footprint consists of an area of paved patio with negligible ecological interest.</p>

5.0 ASSESSMENT

The results of the survey were assessed in accordance with current legislation.

5.1 Bats

The results of the survey were assessed in accordance with current legislation and policy.

The evidence gathered during the PRA survey concluded that the dwelling had negligible potential for roosting bats. No evidence of roosting bats was found. The timber cladding to the north elevation, which will be removed and replaced onto the extension wall, had low potential for roosting bats. In this instance further survey or compensation measures are not deemed necessary, however precautionary mitigation will be required.

The removal of the cladding should be pre-empted by a check for roosting bats using an appropriate torch by a qualified ecologist. Where no bats are found the cladding should be immediately removed. If bats are found a check for bats should be made 24 hrs later and if absent the cladding removed. If bats are still present consultation with the ecologist will be required and if necessary, a low impact class mitigation licence applied for prior to the cladding removal.

5.2 Nesting birds

No evidence of nesting birds was found. No mitigation or compensation is required regarding nesting birds.

5.3 Biodiversity Enhancement Measures

In line with national and local policy a degree of biodiversity enhancement should be included within all planning applications. In this instance such measures would include nesting boxes for birds and a bat box. These should be built into the structure of the extension where materials allow, and an ecological consultant should be consulted to select the most appropriate types and location. If this is not possible suitable external boxes should be mounted on the house as follows:

2 no. nest box fixed to the external wall of the house, for example 2 no. Vivara Pro Woodstone House Sparrow Nest Boxes (double chamber), or equivalent. The boxes should be erected under the eaves to the east elevation.

1 no. bat box should be located on a nearby mature tree, for example the oak tree to the northeast. A suitable box would be the Beaumaris Woodstone Bat Box or equivalent.

6.0 CLOSURE

This report has been prepared by SWE Limited with all reasonable skill, care, and diligence, and taking account of the manpower and resources devoted to it by agreement with the client. Information reported herein is based on the interpretation of data collected and has been accepted in good faith as being accurate and valid.

The information presented in this report provides guidance to reduce the risk of offences under UK law. However, SWE is not a legal practice and disclaims any responsibility to the client and others for actions that lead to offences being caused, whether or not the guidance contained in this report is followed. Interpretation of UK legislation is presented in good faith; however, for the avoidance of doubt, we recommend that specialist legal advice is sought.

This report is for the exclusive use of Mr N. Guscott; no warranties or guarantees are expressed or should be inferred by any third parties. This report may not be relied upon by other parties without written consent from SWE.

SWE disclaims any responsibility to the client and others in respect of any matters outside the agreed scope of the work.

