



Ecological Impact Assessment

Yarde Lodge, Luppitt

Client: Ross Cotton

Date: October 2023



Version	Date	Prepared by	Checked and approved by
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Survey dates: 12/06/2023, 18/07/2023 and 23/08/2023

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BS 42020:2013 Biodiversity - Code of practice for planning and development states, '*ecological information should be sufficiently up to date (e.g., not normally more than two/three years old, or as stipulated in good practice guidance)*'.

Bat Surveys for Professional Ecologists: Good Practice Guidelines (4th Edt.) states, '*Ideally, (bat) survey data should be from the most recent optimal survey season before a planning or licence application is submitted, although often data older than this can have considerable value*'.

Therefore, this report may not be considered valid more than three years after survey was undertaken, and advice should be taken on validity after one year.

This report has been produced using all reasonable skill and care. Opinions are provided in good faith.

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Contents

Executive summary

Bat and bird checklist

1	Introduction	1
	1.1 <i>Introduction</i>	1
	1.2 <i>Planning considerations</i>	1
2	Methods	2
	2.1 <i>Desk study</i>	2
	2.2 <i>Field survey</i>	2
3	Survey results	4
	3.1 <i>Desk study</i>	4
	3.2 <i>Field survey</i>	5
	3.3 <i>Protected species</i>	6
4	Assessment, recommendations and mitigation	8
	4.1 <i>Bats</i>	8
	4.2 <i>Nesting birds</i>	9
5	Conclusion	9
6	References and bibliography	9
7	Appendices	10
	A <i>Photographs</i>	10
	B <i>Bat emergence survey results</i>	13
	C <i>DNA analysis results</i>	21
	D <i>Bat roost mitigation plan</i>	22
	E <i>Legislation</i>	23

Executive summary

It is proposed to convert the loft space of the house at Yarde Lodge, Luppitt, Honiton, EX14 4TA, ST 15342 05332.

A preliminary ecological appraisal, consisting of a daytime visual inspection for bats and nesting birds, was undertaken on 12 June 2023 by Richard Green Ecology Ltd. Bat emergence surveys of the house were undertaken in July and August 2023.

The house was confirmed as a maternity roost for brown long-eared bats and a day roost for serotine and common pipistrelle bats.

The proposed loft conversion would result in the destruction of a maternity roost for brown long-eared bats and a day roost for serotine bats and could potentially result in bats being disturbed, injured or killed. The common pipistrelle bat day roost would not be affected. The proposal therefore requires a bat mitigation licence from Natural England. A bat mitigation licence can only be applied for once planning permission has been granted.

The proposed works would not affect nesting birds.

Mitigation measures are proposed to provide alternative roosting provision for brown long-eared and serotine bats, minimise any potential disturbance to acceptable levels and maintain the favourable conservation status of brown long-eared and serotine bats. These include timing works outside of the breeding period (May to September), carrying out works under an ecological watching brief and providing alternative bat roosting provision in a replacement loft space in a stand-alone, two storey outbuilding in the garden.

External and internal lighting should comply with specifications in bats and artificial lighting guidance (BCT & ILP, 2023) to ensure minimal impact to light sensitive bats. No external lighting should be installed on site, unless strictly necessary e.g., security lighting. Light spill from internal lighting should be minimised, for example by using recessed ceiling lights.

It is considered that with appropriate mitigation and compensation, the proposal is unlikely to have any significant impacts on brown long-eared or serotine bats.

Bat and bird checklist

1. Impact assessment / survey effort	
Has the impact assessment / survey been done within the last 12 months <u>and</u> does it meet national guidance requirements? If there have been any deviations from national guidance, please select No in the right-hand column.	Yes
2. Ecological impacts	
2a. Proposal impacts on bats / birds and mitigation measures are specified.	Yes
2b. Proposal has other ecological impacts which the LPA needs to consider.	No
2c. Is the proposal likely to result in an offence under the Conservation of Habitats and Species Regulations?	Yes Yes (go to 2.d) / No (go to 2.e)
2d. If YES (an offence IS likely) Could the works be undertaken, under a Low Impact Class Licence i.e.: <ul style="list-style-type: none"> • Three or fewer roosts are impacted by the proposals, and • The proposal will have a low or temporary impact, and • The proposal only effects: <ul style="list-style-type: none"> - Low conservation status roosts for low numbers of: common pipistrelle, soprano pipistrelle, brown long-eared, whiskered, Brandt's, Daubenton's Natterer's and/or - Feeding, day, night and/or transitional roosts for low numbers of serotine and/or - Day and/or transitional roosts for low numbers of lesser horseshoe. 	No
2e. If NO (an offence is NOT likely) Does the roost meet any of the following criteria: <ul style="list-style-type: none"> • Maternity or hibernation roost • Greater horseshoe bat roost • Grey long-eared bat roost • More than three species of bat found in small numbers 	Yes
2f. Does the proposal potentially impact on barn owls?	No
3. Expertise	
Are you, the ecological consultant, registered under either the Level 1 or the Level 2 Bat Survey Class Licence?	Yes
Are you a member of CIEEM or a Registered Consultant under Annex B of the Low Impact Class Licence for bats (or under Annex C or D for a serotine or lesser horseshoe roost where relevant)?	Yes

1 Introduction

1.1 Introduction

It is proposed to convert the loft space of the house at Yarde Lodge, Luppitt, Honiton, EX14 4TA, ST 15342 05332.

A preliminary ecological appraisal, consisting of a daytime visual inspection for bats and nesting birds, was undertaken on 12 June 2023 by Richard Green Ecology Ltd. Bat emergence surveys of the house were undertaken in July and August 2023.

This report includes the findings of the surveys and makes recommendations for ecological mitigation and enhancement, in accordance with national and local planning policy and BS 42020:2013 Biodiversity - Code of practice for planning and development.

1.2 Planning considerations

1.2.1 National Planning Policy Framework (NPPF), July 2021

The National Planning Policy Framework outlines the Government's commitment to protect and enhance sites of biodiversity value, and minimise impacts on and provide net gains for biodiversity, including the principle of refusing planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for.

1.2.2 East Devon District Local Plan

The East Devon District Local Plan 2013 to 2031 (adopted in 2016) contains the following relevant strategy and policies:

Strategy 47 – Nature Conservation and Geology

All development proposals will need to:

1. Conserve the biodiversity and geodiversity value of land and buildings and minimise fragmentation of habitats.
2. Maximise opportunities for restoration, enhancement and connection of natural habitats.
3. Incorporate beneficial biodiversity conservation features.

Development proposals that would cause a direct or indirect adverse effect upon internationally and nationally designated sites will not be permitted unless:

- a) They cannot be located on alternative sites that would cause less or no harm.
- b) The public benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats.
- c) Prevention, mitigation and compensation measures are provided.
- d) In respect of Internationally designated sites, the integrity of the site will be maintained.

EN5 – Wildlife Habitats and Features

Wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process.

Where development is permitted on such sites, mitigation will be required to reduce the negative impacts and where this is not possible adequate compensatory habitat enhancement or creation schemes will be required and/or measures required to be taken to ensure that the impacts of the development on valued natural features and wildlife have been mitigated to their fullest practical extent.

2 Methods

2.1 Desk study

2.1.1 Sites of importance for nature conservation

A search for sites designated for nature conservation and any notable habitats was undertaken on the DEFRA Magic website (<http://magic.defra.gov.uk>). This resource includes statutory designated sites (e.g. Sites of Special Scientific Interest, SSSIs) and Biodiversity Action Plan (BAP) habitats. As impacts outside of the site are limited, only sites within 500 m of the site are noted. *Protected species*

A search for European Protected Species Licences within 2 km of the site was undertaken on the DEFRA Magic website (<http://magic.defra.gov.uk>).

Given the small extent and limited effects of the proposal, it is considered that any protected species outside the site would be unaffected. As a detailed survey has been undertaken and any protected species present or potentially present on the site would have been identified, it was not considered necessary to obtain any species records from a local records centre.

2.2 Field survey

2.2.1 Bat and bird survey - visual inspection

The survey involved a thorough visual inspection of the house for any signs of protected species. A search for characteristic signs of bats was made, such as droppings, feeding remains, staining, and any bats present. A search was also made for any signs of bird nesting activity.

Equipment used and at hand included: Nikon 10x close-focusing binoculars, Lightway BMFL1265 720 lumen torch, Lightway 160 lumen torch, Ridgid Micro CA-300 inspection camera and a 3.8 m extendable ladder.

2.2.2 *Timings and weather conditions*

The survey was undertaken by Emily Phillips on 12 June 2023, during the daytime. The weather was dry, with cloud and light wind. The temperature was approximately 14°C.

2.2.3 *Bat emergence surveys*

Bat emergence surveys were undertaken from 15 minutes before sunset and continued for 90 minutes after sunset. Two surveyors and two night vision aids were used to provide adequate coverage of the buildings.

Refer to Appendix B for survey dates, details of weather conditions, equipment used, surveyors and surveyor locations, and still shots taken at the darkest point of the surveys to show the field of view and that appropriate illumination has been used.

2.2.4 *DNA analysis of bat droppings*

Bat droppings from the loft space in the house were submitted for laboratory DNA analysis to confirm species.

2.2.5 *Personnel*

Emily Phillips has over 2 years' experience undertaking ecological surveys. She holds a licence to disturb great crested newts [2022-10659-CL08-GCN] and is an accredited agent under Natural England bat survey licence [2020-47531-CLS-CLS] and hazel dormouse survey licence [2016-20007-CLS-CLS]. She is a qualifying member of the Chartered Institute of Ecology and Environmental Management (CIEEM).

Sophie Duncan has over six years' experience in conducting ecological surveys and holds Natural England licences to disturb bats [2021-52085-CLS-CLS & 2021 52086 CLS-CLS] and great crested newts [2018-33607-CLS-CLS].

Other surveyors are experienced in undertaking bat surveys.

2.2.6 *Survey limitations*

Access to undertake a pre-emergence survey inspection of the loft space could not be provided for the first emergence survey in July. However, surveyors and night vision aids were positioned to provide adequate coverage of all elevations of the house.

3 Survey results

3.1 Desk study

3.1.1 Designated sites

The site is within the Blackdown Hills Area of Outstanding Natural Beauty.

3.1.2 Protected and notable species

Three European Protected Species Licences (EPSLs) for bats have been issued within 2 km of the site. See Table 1 below for a summary of the EPSL's.

Table 1 - Summary of EPSL's within 2 km of the site

Licence number	Distance from site (km)	Start and finish date	Species	Actions / roost type
EPSM2013-5612	0.90 km to the southeast	15/07/2013 and 31/08/2015	Common pipistrelle bat <i>Pipistrellus pipistrellus</i> , brown long-eared bat <i>Plecotus auritus</i> , Natterer's bat <i>Myotis nattereri</i> , whiskered bat <i>Myotis mystacinus</i> , Daubenton's bat <i>Myotis daubentonii</i> and lesser horseshoe bat <i>Rhinolophus hipposideros</i> .	Destruction of a resting place
2018-38595-EPS-MIT	1.47 km to the southwest	25/01/2019 and 31/01/2029	Brown long-eared bat, greater horseshoe bat <i>Rhinolophus ferrumequinum</i> , lesser horseshoe bat and Natterer's bat.	Destruction of a resting place
2015-8886-EPS-MIT	1.95 km to the northeast	29/04/2015 and 31/12/2020	Brown long-eared bat, common	Destruction of a resting place

			pipistrelle bat and lesser horseshoe bat.	
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3.2 *Field survey*

3.2.1 *Habitats*

The site was situated in a rural location approximately 5 km north of Honiton and comprised a two-storey, detached house with a single-storey extension on the north elevation, garden, tarmac driveway and hedgerow. The wider landscape comprised another residential property to the south, agricultural fields bordered by hedgerows interspersed with trees, and pockets of deciduous woodland.

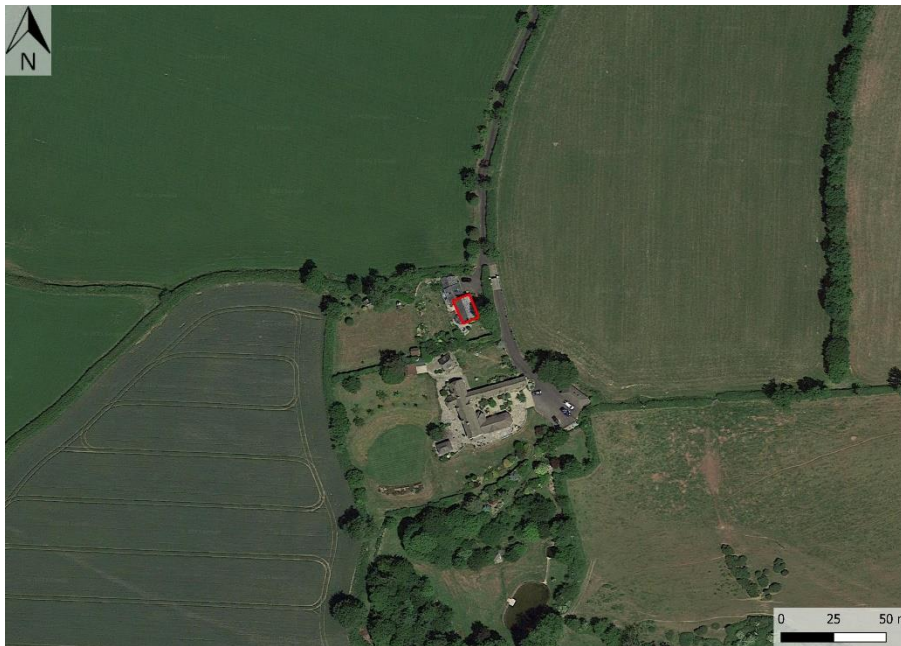


Plate 1 - Aerial photograph showing the site and the surrounding landscape



Plate 2 - Close-up aerial photograph showing the site and the building surveyed

3.2.2 House



The house was constructed from brick and stone on the eastern and western elevation and rendered concrete on the gable ends. The roof was pitched, slate tiled and lined with a bituminous roofing membrane. Extending from the northern elevation was a single-storey, vaulted ceiling extension. Extending from the western elevation was a glass conservatory.

On the roof exterior there were gaps at the wall tops and uplifted ridge and roof tiles providing potential ingress points for bats into the loft space. Uplifted lead flashing at the base of the chimney on the southern elevation and uplifted ridge and roof tiles also provided potential crevices for bats to roost unseen.

3.3 Protected species

3.3.1 Bats

(a) Visual inspection

Four brown long-eared bats were clustered together at the ridge of the loft space in the house. Thousands of bat droppings were seen concentrated under the ridge and scattered around the loft space.

(b) Bat emergence surveys

July 2023 – No bats were seen or recorded emerging from the house.

August 2023 – At least fifteen brown long-eared bats, comprising a combination of juvenile and adult bats were seen in the loft space during the pre-emergence survey inspection.

Three common pipistrelle bats were recorded emerging from under the uplifted lead flashing and slate roof tiles at the base of the chimney on the southern elevation of the house.

Fourteen brown long-eared bats were recorded emerging from under the eaves on the eastern elevation of the house; one brown long-eared bat was seen to emerge from under a roof tile on the eastern elevation; and twenty-one brown long-eared bats were recorded emerging from under the eaves on the western elevation.

(c) DNA analysis

DNA analysis confirmed the bat droppings to be brown long-eared and serotine bat (refer to Plate 3 below and Appendix C).



Plate 3 - Location of bat dropping DNA sample analysis

(d) Evaluation

The house is a maternity roost for brown long-eared bats and a day roost for serotine and common pipistrelle bats.

3.3.2 Nesting birds

No evidence of nesting birds was found.

4 Assessment, recommendations and mitigation

4.1 Bats

4.1.1 Overview of legislation protecting bats

British bat species are protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This makes it an offence to kill or injure bats or damage or destroy a place of shelter or protection (see Appendix D for more details).

4.1.2 Impact

The loft conversion would result in the loss of a brown long-eared bat maternity roost and a serotine bat day roost. The works could also potentially result in bats being disturbed, injured or killed during works. The proposed works would therefore require a bat mitigation licence from Natural England. A bat mitigation licence can only be applied for once planning permission has been granted.

The common pipistrelle bat day roost would not be affected by the proposed works, as it is low down on the chimney and away from the loft space (refer to Plate 14).

4.1.3 Mitigation

It is considered that mitigation measures could be employed to provide alternative roosting provision for brown long-eared and serotine bats, minimise any potential disturbance to acceptable levels and maintain the favourable conservation status of brown long-eared and serotine bats. Recommended mitigation measures include:

- Timing the work outside of the breeding period, which is considered to be May-September, inclusive.
- Bats should be excluded from the loft space prior to works commencing.
- Carrying out works (e.g., exclusion of bats) under an ecological watching brief to ensure no bats are trapped, killed or injured.
- Alternative roosting provision for brown long-eared and serotine bats would be provided in a replacement loft space in a stand-alone outbuilding (referred to as the garden room). The loft space would measure 2.9 m (H) x 5 m (W) x 5 m (L) and the roof would be lined with Type 1F felt. The outbuilding would be situated in the garden, with the ridge running east to west to maximise solar thermal gain on the south elevation. The loft space would be constructed to provide an uncluttered void for bats, i.e, using a cut and pitch roof with a rough sawn timber ridge board rather than trussed rafters. Bat access into the loft space would be provided through a 25 mm gap behind the bargeboards and over gable walls. Crevice roosts for serotines would be provided by installing two raised ridge tiles, with bat access. Where possible, old roof timbers and insulation would be re-used to construct (or positioned in) the garden room roof to provide a familiar odour in the replacement loft space.
- External and internal lighting should comply with specifications in bats and artificial lighting guidance (BCT & ILP, 2023) to ensure minimal impact to bats.

No external lighting should be installed on the garden room. No external lighting should be installed on the house unless strictly necessary, e.g., security lighting. There should be no light spill from the garden room. Light spill from the loft conversion internal lighting should be minimised, for example, by using recessed ceiling lights.

4.2 Nesting birds

4.2.1 Overview of legislation regarding birds

The Wildlife and Countryside Act 1981 (as amended) states that it is illegal to take, damage or destroy the nests of wild birds whilst being built or in use. However, it is not an offence to carry out work in areas that they use, outside of the nesting period (see Appendix D for more details).

4.2.2 Impacts

The loft conversion would not impact nesting birds.

5 Conclusion

The proposed loft conversion would result in the destruction of a maternity roost for brown long-eared bats and a day roost for serotine bats and could potentially result in bats being disturbed, injured or killed. The common pipistrelle bat day roost would not be affected. Therefore, the proposal requires a bat mitigation licence from Natural England.

The proposed works would not affect nesting birds.

Mitigation measures are proposed to provide alternative roosting provision for brown long-eared and serotine bats, minimise any potential disturbance to acceptable levels and maintain the favourable conservation status of brown long-eared and serotine bats. These include timing works outside of the breeding period (May to September), excluding the bats from the loft space, carrying out works under an ecological watching brief and providing alternative bat roosting provision in a replacement loft space in a stand-alone outbuilding in the garden.

6 References and bibliography

Bat Conservation Trust and Institute of Lighting Professionals (2023). Guidance Note 08/23 Bats and artificial lighting at night.

Collins, J. (ed.) (2023). Bat Surveys for Professional Ecologists: Good Practice Guidelines (4th Edt.). The Bat Conservation Trust, London.

Mitchell-Jones, A.J. & McLeish, A.P. (2004). Bat Workers' Manual – Third Edition. Joint Nature Conservation Committee.

Reason, P.F. and Wray, S. (2023). UK Bat Mitigation Guidelines: a guide to impact assessment, mitigation and compensation for developments affecting bats. Chartered Institute of Ecology and Environmental Management, Ampfield.

7 Appendices

A Photographs



Plate 4 - Wall top access into the loft space on the western elevation of the house



Plate 5 - Uplifted lead flashing/roof tile at the base of the chimney on the southern elevation



Plate 6 - Wall top access into to the loft space on the eastern elevation



Plate 7 - Long-eared droppings in the loft space under the ridge



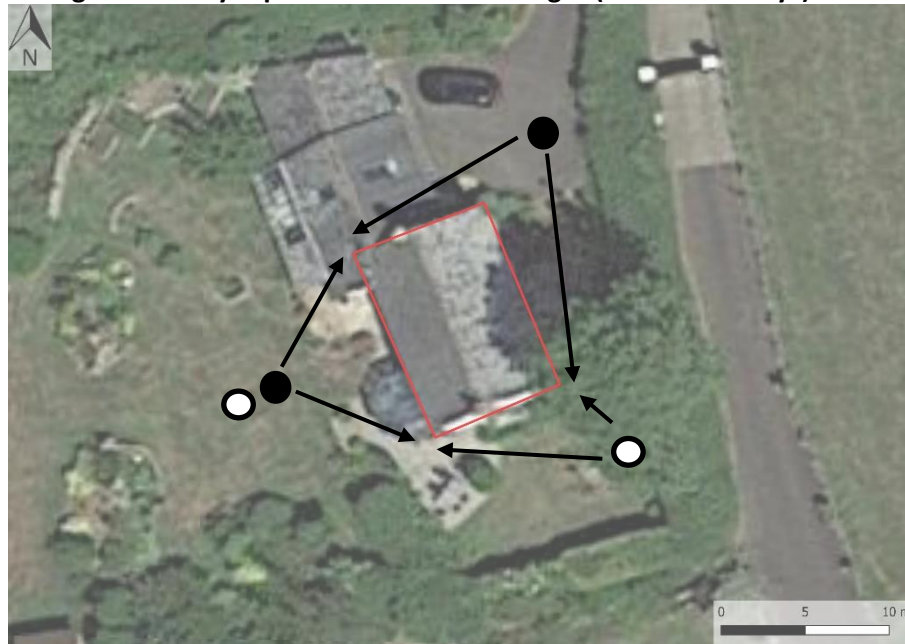
Plate 8 - Long-eared droppings in the loft space both under the ridge and scattered on the insulation



Plate 9 - Four brown long-eared bats clustered together in the house loft

B Bat emergence survey results

Emergence surveyor positions and lines of sight (for both surveys)



Key	
Surveyor position	○
Camera position	●
Lines of sight	→

Survey 1

Date	Survey timings	Structure reference	Equipment used	Weather (start and end)
18/07/2023	Start: 21:02h End: 22:47h Sunset: 21:17h	Yarde Lodge	Elekon Batlogger X1 PeerSonic Bat Recorder X3 Canon XA10 X1 Canon XA20 X1	Cloud cover: 8/8 – 6/8 oktas Temp: 17°C - 13°C Wind start: Light Wind end: Light Precipitation: Dry throughout
Surveyors (including Class Licence registration number if applicable) Emily Phillips and Kate Wallace				
Results:				
No bats were seen to emerge from the house				

Survey 2

Date	Survey timings	Structure reference	Equipment used	Weather (start and end)
23/08/2023	Start: 20:02h End: 21:47h Sunset: 20:17h	Yarde Lodge	PeerSonic Bat Recorder X4 Canon XA11 X2	Cloud cover: 6/8 – 6/8 oktas Temp: 17°C - 15°C Wind: Calm throughout Precipitation: Dry throughout
Surveyors (including Class Licence registration number if applicable)				
Sophie Duncan (2021-52085-CLS-CLS & 2021-52086-CLS-CLS) and Emily Phillips				
Results:				
<p>Three common pipistrelle bats were seen to emerge from under the uplifted lead flashing and slate roof tiles at the base of the chimney on the southern elevation of the house at 20:40 h.</p> <p>Fourteen brown long-eared bats were seen to emerge from under the eaves on the eastern elevation of the house at 20:49h, 21:01h, 21:04h, 21:05h, 21:07h, 21:08h, 21:09h, 21:10h, 21:11h, 21:12h, 21:13h, 21:14h, 21:15h and 21:25h. One brown long-eared bat was seen to emerge from under a roof tile on the eastern elevation at 20:49 h. One brown long-eared bat was seen to re-enter under the eaves on the western elevation at 21:25h.</p> <p>Twenty-one brown long-eared bats were seen to emerge from under the eaves on the western elevation of the house at 20:38h, 20:42h, 20:45h, 20:50h, 20:51h, 20:52h, 21:03h, 21:04h, 21:05h, 21:06h, 21:07h, 21:08h, 21:09h, 21:10h, 21:12h, 21:14h, 21:18h and 21:28h. One brown long-eared bat was seen to re-enter under the eaves on the western elevation of the house at 21:16h.</p>				

Photographs for survey 2

Key	
○	Emergence location
→	Flight line
○	Common pipistrelle <i>Pipistrellus pipistrellus</i>
○	Long-eared species <i>Plecotus sp.</i>



Plate 10 - At least ten brown long-eared bats in the loft space during the pre-emergence survey inspection.



Plate 11 - Two brown long-eared bats seen in the loft space during the pre-emergence survey inspection



Plate 12 - Emergence/re-entry locations of brown long-eared bats on the western elevation of the house



Plate 13 - Emergence/re-entry locations of brown long-eared bats on the eastern elevation of the house



Plate 14 - Emergence location of three common pipistrelle bats on the southern elevation

Summary of peak counts for each roost present

Building ref	Roost location	Species	Peak count	Roost type
House	Loft space	Brown long-eared bat	35	Maternity
House	Under lead flashing/roof tile	Common pipistrelle bat	3	Day
House	Loft space	Serotine	0 (at least 1 bat has been present from DNA analysis)	Day

Still shots taken at the darkest point of the survey to show the field of view and that appropriate illumination has been used



Plate 15 - Western elevation - survey 1



Plate 16 - Eastern elevation - survey 1



Plate 17 - Western elevation - survey 2



Plate 18 - Eastern elevation - survey 2

C DNA analysis results



Results

Sample ID: EG-1061-1

Sample information:

Sample type: Faecal	Species group: Bats
Suspected species: BLE	Site Location: Cotton, Yarde Lodge ST 15345 05324
Comments:	

Laboratory information:

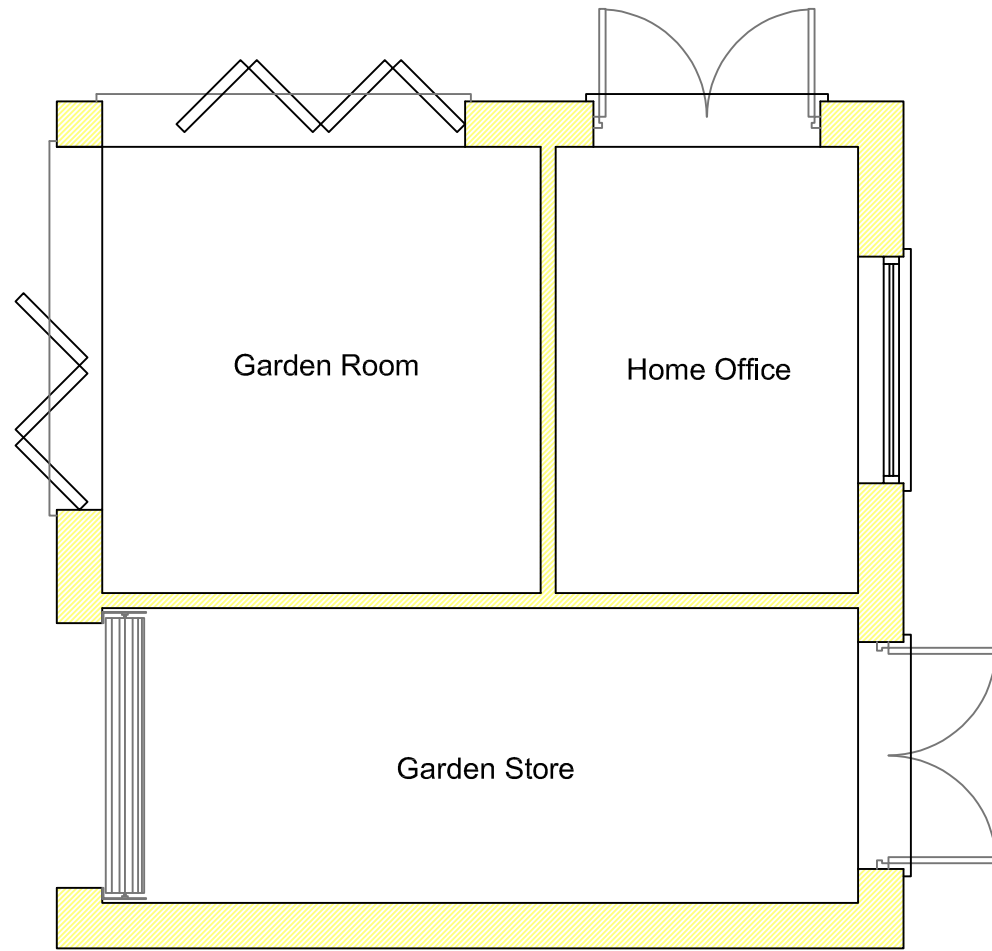
DNA Extraction Code: EG-2023-0680	Identification method: qPCR
Analysis Procedure Notes:	
Laboratory Comments:	
None	

Species Identified:

Species 1: Plecotus auritus (Brown long-eared bat)	qPCR Ct Value: 19
Species 2: Eptesicus serotinus (Serotine bat)	qPCR Ct Value: 25

D Bat roost mitigation plan

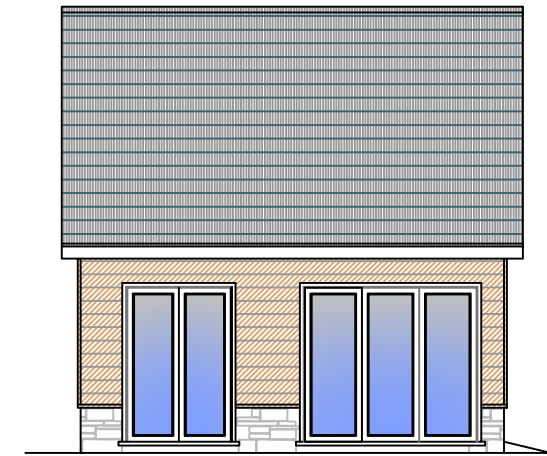
DRAWING FOR PLANNING PURPOSES ONLY



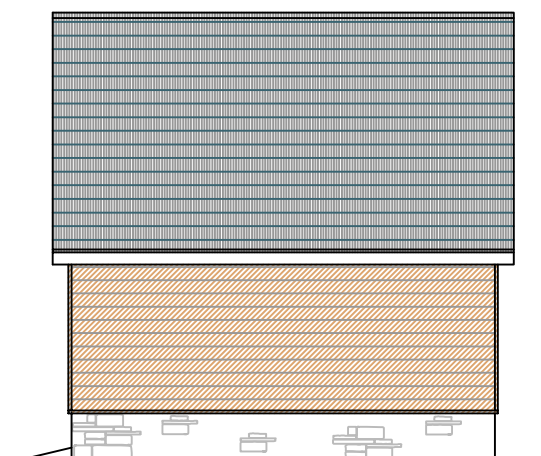
Outbuilding - 1:50



West Facing Elevation - 1:100



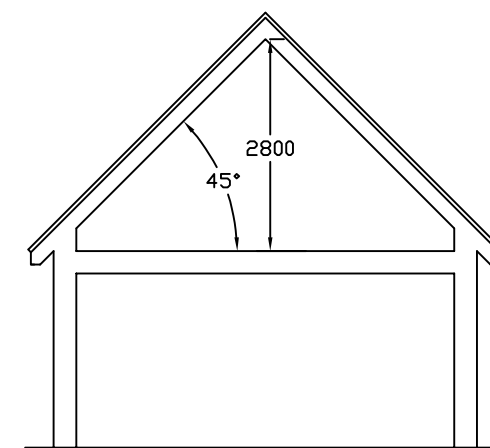
North Facing Elevation - 1:100



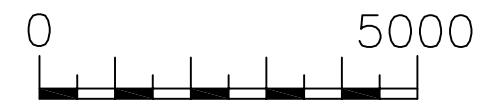
South Facing Elevation - 1:100



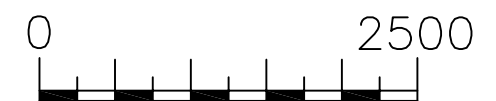
East Facing Elevation - 1:100



Typical Section - 1:100



SCALE BAR 1:100



SCALE BAR 1:50

Proposed Outbuilding
Yarde Lodge
Luppitt
Nr Honiton
EX14 4TA

Outbuilding GA
As Proposed

Drg. No.: 096 / 006A
Date : Oct 2023
Scale : As Shown @ A3

General Notes.

The garden outbuilding has been included on this application to provide an alternative roost for Bats following the implementation of the loft conversion of the main dwelling. This also gives the occupants a much needed home office and garden room.

The size of the outbuilding has been based on the required need for Bats - 5m x 5m clear with a 2.9m ridge height at loft level.

Construction notes :-

- * Existing timbers within the main dwellings loft to be re-used where possible in the outbuilding roof construction. If the timbers are not structurally sound, the most heavily stained timbers from bat usage will be attached to new structural timbers at the ridge to encourage bats to roost on them.
- * The garden room will be provided with 2 No. ridge tile roosts.
- * The roof covering is to be natural slate and lined with 1f slaters felt, not a breathable membrane (BRM).
- * Cladding to be Waney Edge board, which will warp and provide crevices for bats behind the cladding.
- * Bat access to be provided behind barge boards, set off 25mm and then over wall tops in to the loft space.
- * Roof construction to be a cut roof with a rough sawn timber ridge board - not trussed rafters.
- * 2.8m height to be clear air space above the first floor insulation.

E Legislation

This is a summary of relevant legislation, however it is recommended that proper legal advice be sought as necessary.

E.1 *Bats*

All bat species and their roosts are protected in the UK under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, which implement the EC Directive 92/43/EEC, also known as the Habitats Regulations.

They are also protected under the Wildlife and Countryside Act 1981 (as amended), through inclusion in Schedule 5, and under the Countryside and Rights of Way Act 2000.

Taken together, these acts and regulations make it illegal to:

- intentionally or deliberately kill, injure or capture bats;
- deliberately or recklessly disturb bats *;
- damage, destroy or obstruct access to places of shelter, breeding sites or resting places used by bats;
- have in one's possession or control, any live or dead bat; and
- sell, barter or exchange bats, or parts of bats.

*Under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 it is illegal to deliberately disturb bats. In particular, any disturbance which is likely (a) to impair their ability to survive, to breed or reproduce, to rear or nurture their young, or to hibernate or migrate, or (b) to affect significantly the local distribution or abundance of the species to which they belong.

*Under the Wildlife and Countryside Act 1981 (as amended) (Section 9(4)(b)) it is illegal to intentionally or recklessly disturb bats whilst in a place of shelter, although there is a defence under Sections 10(2), 10(3)(c) and 10(5) that allows this otherwise prohibited act. In summary, there is a defence if the disturbance was an incidental result of a lawful operation and could not have reasonably been avoided. The defence applies provided that the appropriate Statutory Nature Conservation Organisation (Natural England) has been notified and allowed a reasonable time to advise on whether the proposed action should be carried out and, if so, the method to be used.

Developments that compromise the protection afforded to bats under the provisions of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 will almost invariably require a licence to do so lawfully from Natural England. Three tests must be satisfied before Natural England can issue a licence to permit otherwise prohibited acts:

1. Regulation 55(2)(e) states that licences may be granted to “preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.”
2. Regulation 55(9)(a) states that a licence may not be granted unless “there is no satisfactory alternative”.
3. Regulation 55(9)(b) states that a licence cannot be issued unless the action proposed “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”.

E.2 Nesting birds

All birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 (as amended) and it is thus an offence, with certain exceptions, intentionally to:

- Kill, injure or take any wild bird.
- Take, damage or destroy the nest of any wild bird while it is in use or being built.
- Take or destroy the egg of any wild bird.
- Have in one's possession or control any wild bird (dead or alive) or any part of a wild bird which has been taken in contravention of the Act or the Protection of Birds Act 1954.
- Have in one's possession or control any egg or part of an egg which has been taken in contravention to the Act. This includes items taken or killed before the passing of the Act.
- Have in one's possession or control any bird of a species occurring on Schedule 4 of the Act unless registered (and in some cases ringed) in accordance with the Secretary of State's regulations.
- Disturb any wild bird listed on Schedule 1, which includes the barn owl, while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.