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Ecological Mitigation Compliance Note

Herne Bay Court, Kent

Site	<i>Herne Bay Court, Canterbury Road, Herne Bay, CT6 5TD</i>
Project number	<i>144123</i>
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Declaration of compliance



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1. INTRODUCTION

1.1. Aims and scope of this document

In February 2023, Canterbury City Council issued a Decision Notice granting full planning permission for the proposed development at Herne Bay Court, Canterbury (ref: CA/22/01763), subject to a number of conditions. In particular, Condition 16 of the planning permission required works to be undertaken within the Site to follow the approved Ecological Mitigation Strategy (Bakerwell, 2022a). For clarity, Condition 16 is set out below:

Condition 16:

'The ecological mitigation shall be implemented as detailed within the Ecological Mitigation Strategy (Bakerwell; July 2022). On completion of the mitigation works, a letter must be submitted to the Local Planning Authority demonstrating that the mitigation has been completed as agreed. If the works have not commenced within two years of the date of the planning permission a review and update of the ecological mitigation strategy shall be carried out prior to works commencing on site.

REASON: In the interests of biodiversity, in accordance with policy LB9 of the Local Plan 2017.'

This Ecological Mitigation Compliance Note has been prepared in order to outline the ecological works undertaken to date relating to roosting bats and reptiles, and to provide details of mitigation measures which will be implemented during the forthcoming works, as well as highlighting any deviations from the approved Ecological Mitigation Strategy (Bakerwell, 2022a) and their justification.

2. APPROVED MITIGATION STRATEGY

2.1. Bat Mitigation

The approved Ecological Mitigation Strategy (Bakerwell, 2022a), notes the presence of a common pipistrelle *Pipistrellus pipistrellus* bat roost within Building B1 (Figure 1, Appendix 1) during the 2021 survey work (Bakerwell, 2022b), a Natural England European Protected Species Mitigation Licence (EPSML) or low impact Bat Mitigation Class Licence (BMCL) must be obtained for bats prior to commencement of the works impacting the bat roost on Site.

A summary of the bat related mitigation measures proposed within the approved Ecological Mitigation Strategy are set out below.

- As surveys were completed in 2021 and as Natural England require surveys to be undertaken from the most recent season in order to adequately inform a licence application, an updated Site visit and emergence/re-entry surveys must be undertaken of building B1 prior to the submission of the licence application;
- The works must be timed to avoid the most sensitive period for bats where possible, when bats are breeding and hibernating and at their most vulnerable. Erection of bat boxes on nearby retained trees prior to commencement of works will ensure that bats continue to have roosting opportunities during construction. This will also provide a safe place to relocate any bats in the event any are found during the EPSML works;
- Checks of potential roosting features within building B1 prior to and during the EPSML will provide the opportunity to relocate any bats from the development to a safe place and avoid killing or injury of bats. Further precautionary measures during the works will provide escape routes for bats during the works;
- No evidence of roosting bats was recorded within buildings B2 and B3 during the 2021 survey work. As such, buildings B2 and B3 will be demolished under a Non-Licensed Method Statement (NLMS);
- The NLMS methodology for the demolition of buildings B2 & B3 will also follow a process of pre-demolition/construction work checks. In the unlikely event that a bat or evidence of a roosting bat is found works will cease until a licence can be obtained in respect of these buildings;
- No bats were found to be roosting bats within the trees present during the 2021 surveys, however, it has been recommended that trees identified with potential for roosting bats requiring removal should be soft felled under ecological supervision. The soft fell will be carried out following a check by a suitably qualified and licensed ecologist. Works will take place during daylight hours only;

- Due to the current use of the Site by roosting, foraging and commuting bats, a sensitive lighting scheme should be implemented within the Site post development; and
- Incorporation of further bat boxes or bricks into the design of the development will ensure that bats have enhanced roosting opportunities within the site when the development has been completed.

The measures detailed will ensure that that killing and injuring bats is avoided as far as is reasonably possible, roosting opportunities remain and therefore the conservation status of the species at site is maintained.

2.2. Reptile Mitigation

The approved Ecological Mitigation Strategy (Bakerwell, 2022a), outlined the presence of a low population of slow-worm *Anguis fragilis* and common lizard *Zootoca vivipara* recorded during the 2021 survey work (Bakerwell, 2022b) such that there is a possibility of isolating, killing or injury of reptile during Site preparation and construction activities. Therefore, for the development to proceed, reasonable effort must be made to avoid contravening the legal protection afforded to reptiles and any killing of individuals.

A summary of the reptile related mitigation measures proposed within the approved Ecological Mitigation Strategy are set out below.

To avoid impacts to the conservation status of the reptile present a two-stage reptile translocation was outlined to align with the proposed development phases are brought forward:

- A reptile receptor will be provided formed of retained habitat to the southeast, northeast and boundaries of Site. This includes two temporary receptor areas within Phase 2 to be used until works are complete in Phase 1 and habitat creation is established in Phase 1;
- The second stage will comprise removal of the exclusion fencing in Phase 1 to allow reptiles to colonise the established habitat creation. The reptiles within the temporary receptor areas within Phase 2 will then be displaced into the retained habitats so the temporary receptor areas can be released for construction.

These measures and the translocation programme have been designed to avoid long term impacts to the conservation status of the species present in response to the construction works programme order. Measures for common lizard and slow-worm will be split into three distinct phases:

1. Initial works;
2. Construction period; and
3. Post-construction.

3. MITIGATION WORKS UNDERTAKEN

3.1. Bat Mitigation

As per the requirements set out within the approved Ecological Mitigation Strategy (Bakerwell, 2022a), an updated Site visit and emergence/re-entry surveys were undertaken by MKA Ecology Ltd in July 2023 in order to inform the forthcoming Natural England EPSML application. The dates, times and weather conditions are given for each Site visit, are given in Table 1, along with the buildings surveyed and the equipment used.

Table 1: Survey dates, times, weather conditions and equipment used

Date of each survey visit	Start and end times, sunset/sunrise times	Building/ tree reference	Equipment used	Weather*
05/07/2023	N/A	B1, B2, B3, T1,T2 and T3	Binoculars Digital Camera High powered torch	Start temp: 19°C End temp: 20°C Precipitation: None Wind: 2 Cloud cover: 1/8
Comments: Two surveyors.				
19/07/2023 (dusk emergence)	Start: 20:47 End: 23:02 Sunset: 21:02	B1	Bat detectors: Elekon BatloggerM BatBox Duet Pettersson D420x Digital recorders: Edirol R09HR Infrared video recorder: Sony FDR AX53 with Nightfox infrared torches	Start temp: 18°C End temp: 16°C Precipitation: None Wind: 2 Cloud cover: 4/8
Comments: Two surveyors, six cameras, six bat detectors.				
20/07/2023 (dusk emergence)	Start: 20:26 End: 22:19 Sunset: 21:01	B2, B3 and T1	Bat detectors: Elekon BatloggerM BatBox Duet Pettersson D420x Digital recorders: Edirol R09HR Infrared video recorder: Sony FDR AX53 with Nightfox infrared torches	Start temp: 18°C End temp: 15°C Precipitation: Heavy rain at end of survey Wind: 2 Cloud cover: 6/8

Date of each survey visit	Start and end times, sunset/sunrise times	Building/ tree reference	Equipment used	Weather*
Comments: Two surveyors, nine cameras, seven bat detectors. Survey ended 10 minutes early due to torrential rain.				
03/08/2023 (dusk emergence)	Start: 20:25 End: 22:40 Sunset: 20:40	B1 and B3	Bat detectors: Elekon BatloggerM BatBox Duet Pettersson D420x Anabat SD1 Digital recorders: Edirol R09HR Infrared video recorder: Sony FDR AX53 with Nightfox infrared torches	Start temp: 21°C End temp: 16°C Precipitation: None Wind: 1 Cloud cover: 3/8
Comments: Two surveyors, twelve cameras, twelve bat detectors.				
17/08/2023 (dusk emergence)	Start: 19:59 End: 22:14 Sunset: 20:14	B1, B3, T1,T2 and T3	Bat detectors: Elekon BatloggerM BatBox Duet Pettersson D420x Anabat SD1 Digital recorders: Edirol R09HR Infrared video recorder: Sony FDR AX53 with Nightfox infrared torches	Start temp: 18°C End temp: 13°C Precipitation: None Wind: 4 Cloud cover: 8/8
Comments: Three surveyors, seventeen cameras, thirteen detectors				
30/08/2023 (dusk emergence)	Start: 19:32 End: 21:47 Sunset: 19:47	T1, T2 and T3	Bat detectors: Elekon BatloggerM BatBox Duet Pettersson D420x Anabat SD1 Digital recorders: Edirol R09HR Infrared video recorder: Sony FDR AX53 with Nightfox infrared torches	Start temp: 16°C End temp: 15°C Precipitation: Some light rain Wind: 2 Cloud cover: 8/8
Comments: Two surveyors, three cameras, four detectors.				

*Wind as per Beaufort Scale / Cloud cover given in Oktas.

During the update Preliminary Roost Assessment, buildings B1 and B3 were confirmed as having high roost potential, whilst building B2 was confirmed as having low roost potential. One tree (tree T1) was identified as having high bat roost potential while two other trees (trees T2 and T3) were identified as having moderate bat roost potential. Three dusk emergence surveys were carried out on tree T1 and buildings B1 and B3, two dusk emergence survey carried out on trees T2 and T3, and one dusk emergence survey carried out on building B2, as per the requirements set out in the Best Practice Guidelines (Collins, 2016) and the Bat Conservation Trust (BCT) Interim Guidance Note (BCT, 2022). Table 2 summarises the results of the update PRA at Herne Bay Court and the Nocturnal Bat Roost Survey for each building and tree.

Table 2: Summary of bat roost potential of buildings and trees at Herne Bay Court, Kent *

Structure	Bat roost potential	Number of nocturnal surveys undertaken
B1	High	3
B2	Low	1
B3	High	3
T1	High	3
T2	Moderate	2
T3	Moderate	2

* also see Figure 1, Appendix

Six-day roosts, each supporting one or two common pipistrelle bats, were identified across the survey effort, comprising four within building B1 and two within building B3 (Figure 2, Appendix 1). Five roosts were associated with broken/gaps under soffit boxes, roof felting or fascia boards, one roost was associated with a dormer window and one roost was associated with gaps under roof tiles. The precise nature and location of potential internal roosts is currently unknown due to health and safety constraints preventing internal access. No emergences were observed from building B2 or from the surveyed trees (trees T1, T2 and T3).

The surveys identified high levels of common pipistrelle activity across the Site and lower levels of activity from soprano pipistrelle, brown long-eared bat, serotine, *Nyctalus/Eptesicus sp.* and *Myotis sp.* Common pipistrelles, soprano pipistrelles and brown long-eared bats are common and widespread bat species in the UK, while serotine, *Nyctalus/Eptesicus sp.* and *Myotis sp.* are rarer within the UK.

A summary of the roosts recorded during the Nocturnal Bat Roost Surveys is provided in Table 3.

Table 3: Roost types and locations at Herne Bay Court, Kent

Date	Species	Roost type*	Structure reference	Roost location	Access points
Dusk emergence					
19/07/23	Common pipistrelle	Day	B1 (Roost 3, Figure 2)	Under hanging tiles on dormer window on south east of building B1	Dormer window hanging tiles
Notes: Single bat emergence at 21:54.					
19/07/23	Common pipistrelle	Day	B1 (Roost 2, Figure 2)	Soffit box on west of building B1	Gaps under soffit boxes
Notes: Single bat emergence at 22:28.					
19/07/23	Common pipistrelle	Day	B1 (Roost 4, Figure 2)	Gaps under soffit and roofing felt on east of building B1	Gaps under soffit and roofing felt
Notes: Single bat emergence at 22:57.					
20/07/23	Common pipistrelle	Day	B3 (Roost 5, Figure 2)	Gaps under soffit on north of building B1	Gap under soffit
Notes: Two bat emergences at 21:28 and 21:33.					
03/08/23	Common pipistrelle	Day	B3 (Roost 6, Figure 2)	Gaps under soffit and fascia boards on south of building B3	Gaps under soffit and fascia boards
Notes: Single bat emergence at 21:09.					
03/08/23	Common pipistrelle	Day	B1 (Roost 4, Figure 2)	Gaps under soffit and roofing felt on	Gaps under soffit and roofing felt

				east of building B1	
Notes: Single bat emergence at 21:52.					
03/08/23	Common pipistrelle	Day	B1 (Roost 1, Figure 2)	Broken soffit on north of building B1	Broken soffit
Notes: Single bat emergence at 22:31.					
17/08/23	Common pipistrelle	Day	B1 (Roost 2, Figure 2)	Gaps under soffit boxes on west of building B1	Gaps under soffit boxes and roof tiles
Notes: Two emergences at 20:42 and 20:50.					
17/08/23	Common pipistrelle	Day	B3 (Roost 5, Figure 2)	Gaps under roof tile on north of building B3	Gaps under roof tile
Notes: Single bat emergence at 20:43.					
17/08/23	Common pipistrelle	Day	B3 (Roost 6, Figure 2)	Gaps under soffit on south of building B3	Gaps under soffit
Notes: Single bat emergence at 20:51.					

The permitted plans will involve the demolition of buildings B1 and B3. This will lead to the loss of the roosts in their current condition. Furthermore, in the absence of sufficient mitigatory measures, there is also a risk of disturbance, injuring and/or killing of roosting bats during the works. As such, a EPSML was submitted on 03 November 2023.

Mitigation measures as part of the licence require sensitive timing of works, briefing of onsite contractors, a pre-works inspection and the implementation of a soft demolition methodology. Bat boxes will be erected on retained trees within the Site prior to the commencement of the above mitigation measures. Additional integrated bat boxes and bat tiles will be provided within the newly created buildings post development, along with a dedicated bat barn, to provide enhanced roosting opportunities within the site.

Whilst no evidence of roosting bats within trees T1, T2 or T3 was recorded during the survey work undertaken, precautionary soft felling measures will be implemented when working on or around these trees. Planned asbestos removal works to be undertaken within buildings B1 and B3 prior to the receipt

of the EPSML are not anticipated to impact any existing bat roosts, however it is recommended that precautionary measures be employed to ensure no disturbance of these roosts occurs. This involves the production of a specific NLMS for the works and the provision of a licenced bat ecologist to supervise the works.

3.2. Reptile Translocation

Following revisions to the proposed development phasing of the Site, an amended translocation exercise was devised and implemented . A formal reptile translocation report is currently in production and will detail the results of the translocation methodology and results, however a summary is outlined below.

Temporary reptile exclusion fencing was utilised in order to compartmentalise the Site and restrict reptile movement. Two receptor areas were designated within the Site (Figure 3, Appendix 1), both of which comprised a mosaic of grassland and scrub suitable for supporting reptile populations. The installation of this fencing was undertaken by a specialist contractor under the direct supervision of MKA Ecology staff. Following the installation of the exclusion fencing, artificial cover objects (comprising 0.5m x 0.5m squares of roofing felt) were deployed across the Site. These translocation preparatory works were carried out between 1 August 2023 and 8 August 2023. Upon completion of fencing works , the site was divided into 18 distinct compartment to minimise movement of reptiles and maximise capture potential of individuals

The translocation itself included two surveyors visiting the Site daily, checking all artificial refugia, capturing any reptiles encountered and moving them to the receptor sites. The ecologists undertook between three and eight checks per day (with checks increasing on active compartments as the number of compartments present diminished), the timings of which were dictated by the daily weather conditions and time of year so as to maximise capture rates. Captive animals were then temporarily placed into cloth bags, prior to release at within receptor areas. Daily checks continued within each trapping compartment until five consecutive suitable trapping days with no reptiles encountered was achieved.

Surveyors were on Site seven days a week from the commencement of works in order to ensure that all reptiles were captured in good time, with each surveyor working a five-day rota. It became immediately apparent that the population present was not as stated a low population but a high population that required an intense capture process in order to ensure that all reptiles were safely removed from the development footprint.

This translocation exercise was undertaken over 70 days (between 11 August 2023 and 19 October 2023), with between three and eight checks undertaken per day. Refugia were deployed at a density of approximately 128 refugia per hectare, which is far greater than the 50 per hectare and checking once a day outlined by the Herpetofauna Groups of Britain and Ireland (HGBI) advisory note (1998).

Every day was utilised for survey apart from the period between 7th to 11th September when exceptionally hot weather rendered translocation work futile. Compartments were closed only after a minimum of 5 days (15 checks) where refugia had produced no capture or sighting of reptiles. By the 15th September the number of active compartments was reduced to 14 and from this point only one surveyor was required to complete a minimum of three checks a day of each active area. Checks were increased in densely populated areas, balancing the viability of extra checks against the time taken for reptiles to utilise the refugia. The final compartment was closed in accordance with all other areas, once five days on non-capture or sighting had been completed, on the 19th October 2023.

A total of 1154 slow-worm and 548 common lizard were captured and translocated to the two receptor areas highlighted in Figure 3, Appendix 1.

4. CONCLUSIONS

This Ecological Mitigation Compliance note has been prepared in order to provide a contemporaneous account of the ecological works undertaken within the Site to date relating to roosting bats and reptiles, and to outline mitigation measures which will be implemented during the forthcoming works

In accordance with the methodology set out within the approved Ecological Mitigation Strategy (Bakerwell, 2022a), bat and reptile mitigation measures have been employed within Herne Bay Court, Kent, prior to the commencement of the permitted development works, to ensure that protected species present within the Site have been suitably safeguarded.

The approved Ecological Mitigation Strategy was informed by previous surveys completed in 2021 and, as Natural England require surveys to be undertaken from the most recent season in order to adequately inform a licence application, an updated Site visit and emergence/re-entry surveys were undertaken between July 2023 and August 2023. Following the discovery of six common pipistrelle day roosts across building B1 and B3, an EPSML was submitted on 03 November 2023. Mitigation measures as part of the licence require sensitive timing of works, briefing of onsite contractors, a pre-works inspection and the implementation of a soft demolition methodology. Alternative roosting provisions will be required and these should be integrated into the new buildings and retained trees.

Additional precautionary measures are also proposed for works impacting the trees within the Site with bat roosting potential. Similarly, the proposed asbestos removal works will be undertaken in line with a NLMS and under ecological supervision to avoid impacts to known bat roosts.

A reptile translocation exercise was undertaken within the Site to ensure that the population of slow-worm and common lizard present were safely relocated from the permitted development footprint into areas of suitable habitat which can accommodate the reptile population without any detrimental effect on their conservation status. This translocation exercise was undertaken in line with the approved Ecological Mitigation Strategy, with modifications made in accordance with the updated phasing schedule of the development. Following a 70-day, intense translocation effort, a total of 1154 slow-worm and 548 common lizard were captured and translocated to the two receptor areas.

A formal translocation report is currently in preparation, which will detail the methodology and results of the exercise and will be provided to the LPA as evidence of completion of the required translocation exercise.

5. REFERENCES

Bakerwell Ltd. (2022a) *Ecological Mitigation Strategy. Herne Bay Court, Herne Bay, Kent.* Bakerwell Ltd; Sussex

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6. APPENDIX

6.1. Appendix 1: Figures

Figure 1: Site Location Plan and Update Preliminary Roost Assessment Results

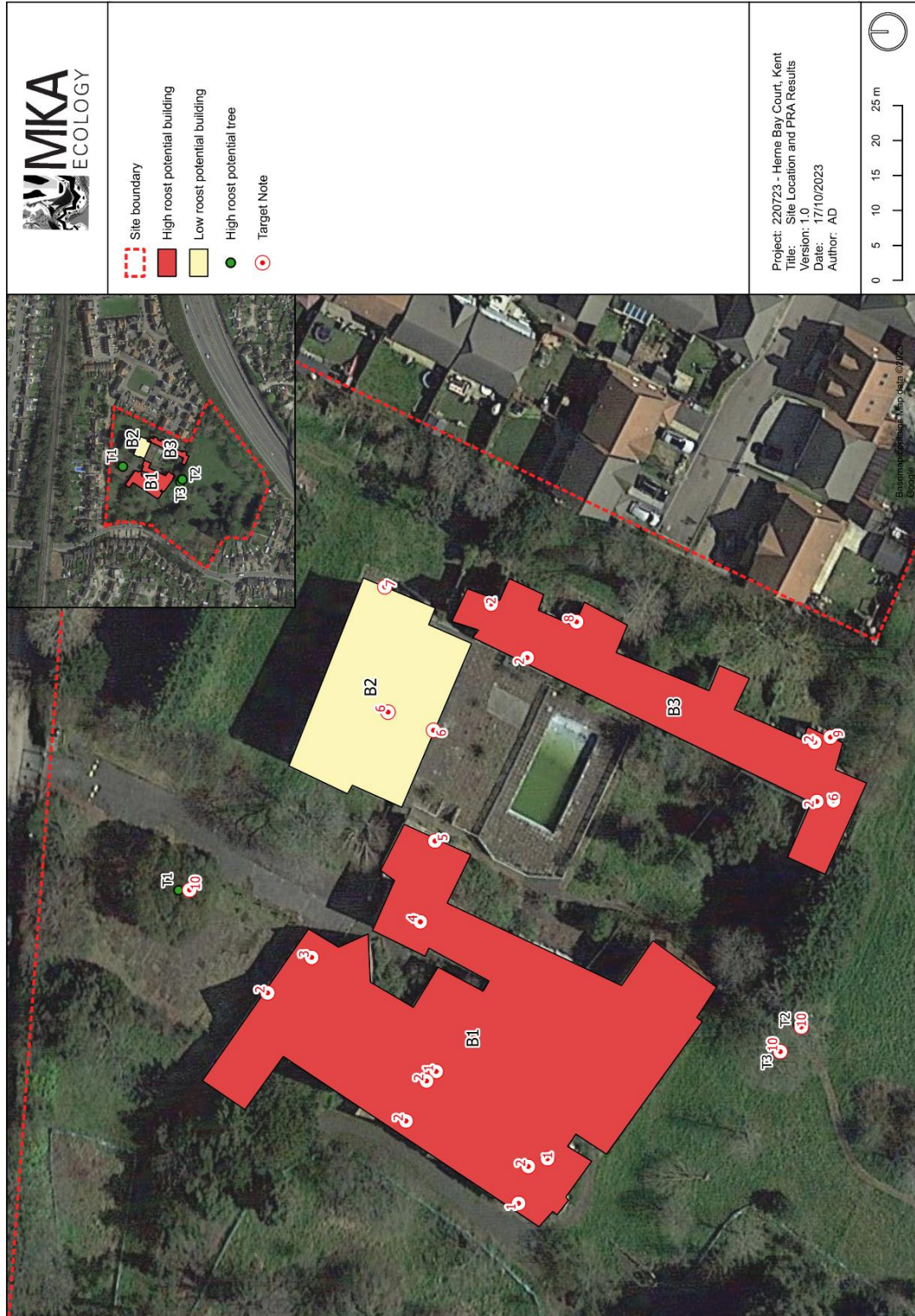


Figure 2: Summary of Emergence Locations During Nocturnal Bat Roost Surveys

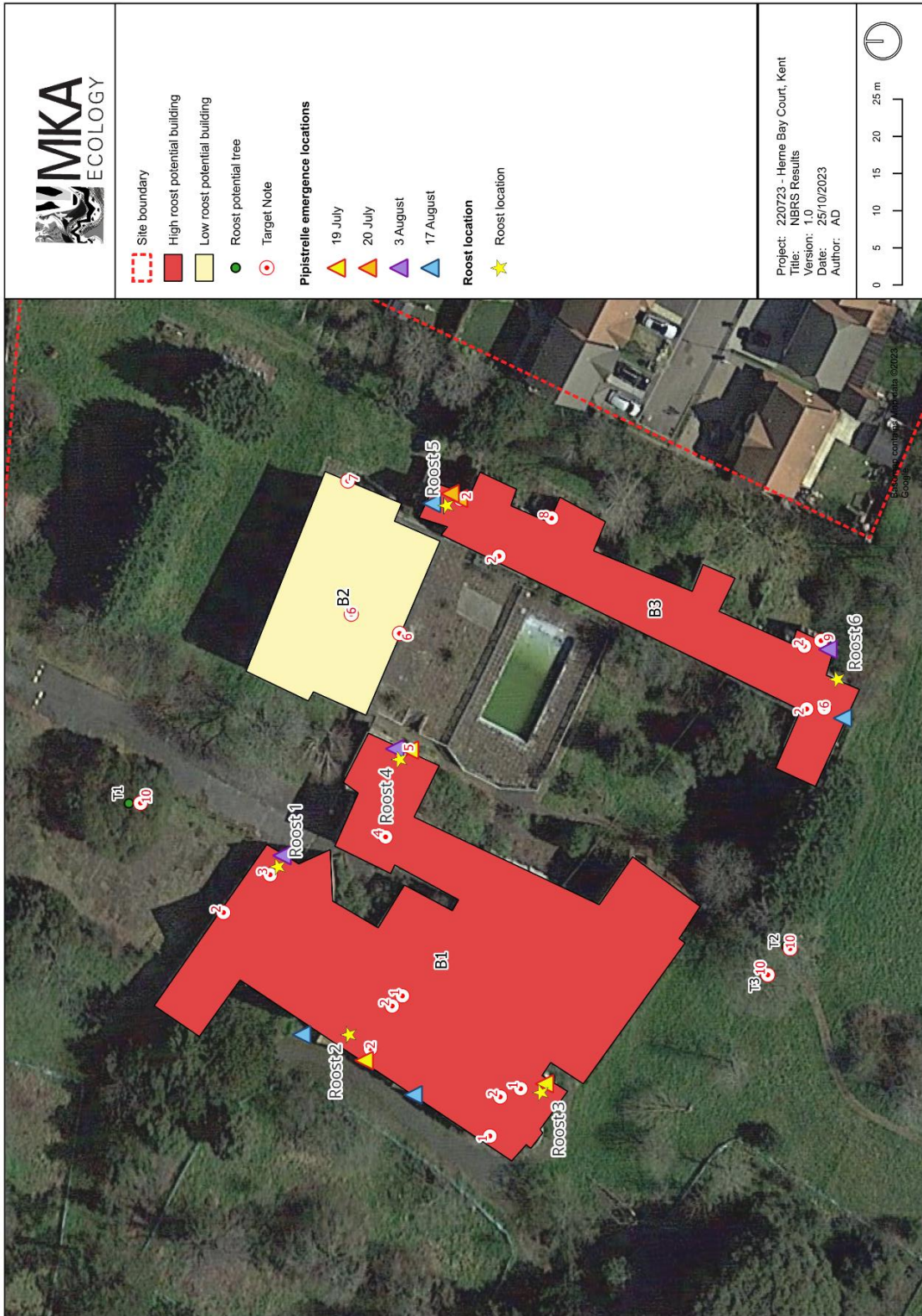
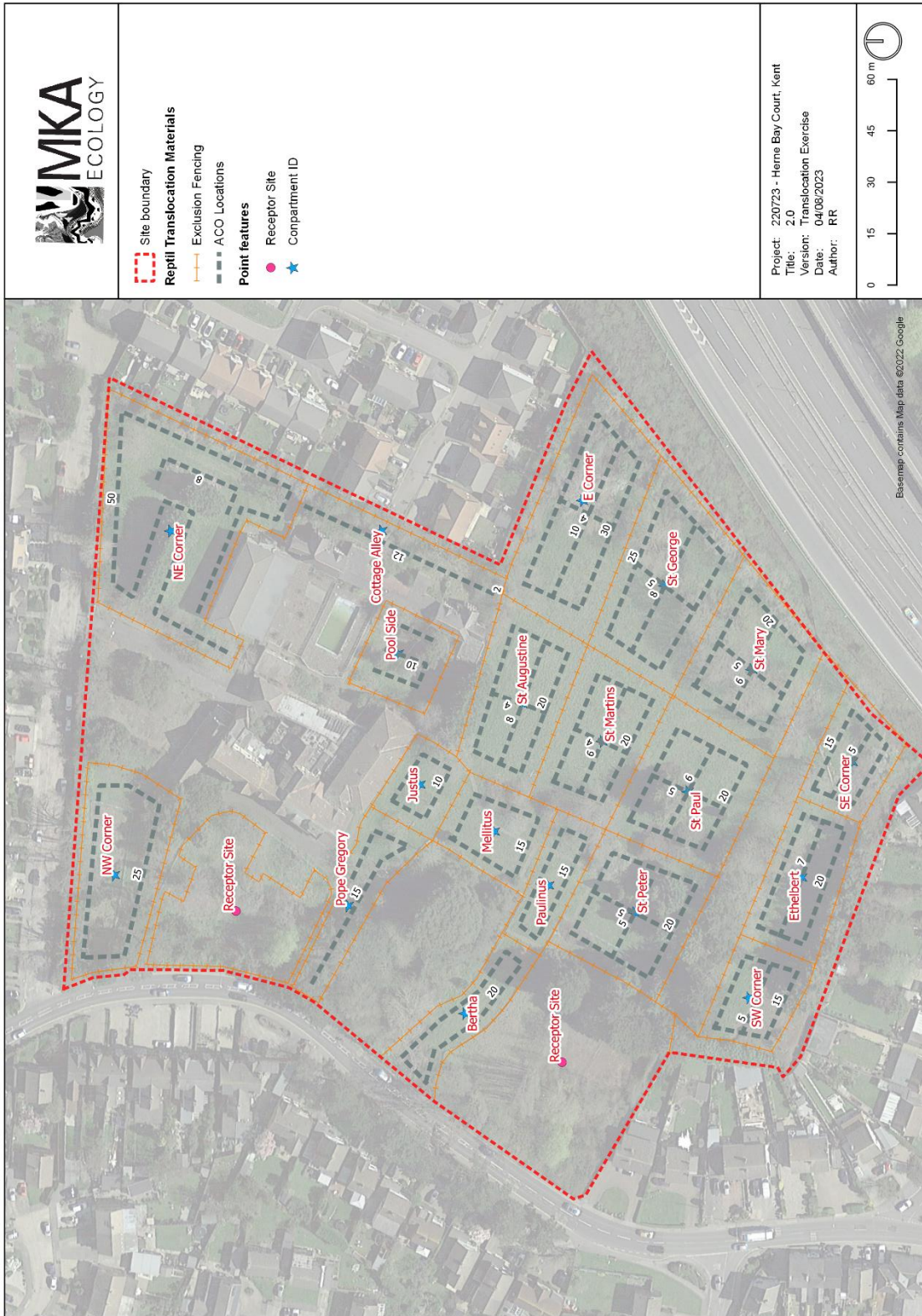


Figure 3: Reptile Translocation Fencing and Tin Plan





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