



PHASE 1 BAT & NESTING BIRD SURVEY

**24 Kenilworth Road, Leamington Spa,
Warwickshire, CV32 6JB**

2nd October 2023

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Control Sheet

General Report Information	
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Prepared by	Dr Jon Russ
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1 Introduction

1.1 Background to activity/development

This report has been prepared by Dr Jon Russ at the request of Rami Aluk acting on behalf of Cloister Capital Ltd. Planning consent is being sought from Warwick District Council to develop the site at 24 Kenilworth Road, Leamington Spa, Warwickshire. The local planning authority will require a bat and nesting bird survey to inform the planning process.

A bat and nesting bird survey carried out by Ridgeway Ecology in 2019 (amended 2020) found “*no evidence of bats roosting within the described house and cottage*” and considered the house and cottage to be of “*limited-moderate bat roosting potential.....as although there are potential roosting sites for both attic-dwelling and crevice-dwelling species, some of which could be used as maternity sites, access is quite limited*”. This report is now considered to be out of date.

1.2 Site description

The site proposed for development, 24 Kenilworth Road (GR: SP318669), is situated in Leamington Spa, Warwickshire (Figure 1). The site is in a residential area and as such is surrounded by dwellings and gardens. The land approximately 600m north of the site consists of improved grassland with an associated network of hedgerows and treelines. The River Avon is situated 1.3 km to the north and the River Leam is situated 800 m to the south in the centre of Leamington Spa. The nearest significant areas of woodland include Bericote Wood, a 4.6 ha of mixed woodland situated approximately 2 km north of the site, Waverley Wood, an area of coniferous Forestry Commission Access Land of about 120 ha located 2.5 km to the north-east and North Cubbington and South Cubbington Woods, a 40 ha area of mixed woodland situated approximately 2.8 km north-east of the site. The network of treelines and hedgerows, the rivers, and the areas of woodland represents good foraging habitat for bats.

1.3 Proposed works

Planning consent is being sought from Warwick District Council to develop the site at 24 Kenilworth Road, Leamington Spa, Warwickshire. This will involve demolishing the single-storey element at the rear of the house and rebuilding it with a pitched roof plus adding a two-storey extension to the cottage at the eastern end of the site.

1.4 Planning and legislative context

The information below is intended only as guidance to the legislation relating to these species. The Acts themselves should be referred to for the correct legal wording.

Bats – Legislative context

All bats are included in Schedule 2 of The Conservation of Habitats and Species Regulations 2017, which implements the requirements of the Habitats Directive in England, Scotland and Wales and in Schedule 2 of the Conservation (Natural Habitats, &c.) Regulations (Northern Ireland) 1995 (as amended) which implement the requirements of the Habitats Directive in Northern Ireland. Bats and their breeding sites or resting places are protected under Regulation 39. An amendment to the

Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 came into force in Northern Ireland on 21st August 2007 (Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2007).

It is an offence for anyone without a license to:

- Intentionally or recklessly/deliberately injure, take or kill a bat;
- To possess a bat (unless obtained legally) whether alive or dead;
- Intentionally or recklessly/deliberately damage, destroy or obstruct access to any place that bats use for shelter or protection whether bats are present or not;
- Intentionally or recklessly/deliberately disturb a bat while it is occupying a structure or place that it uses for shelter or protection.
- deliberately disturb bats in such a way as to be likely significantly to affect—
 - (i) the ability of any significant group of bats to survive, breed, or rear or nurture their young;
 - or
 - (ii) the local distribution or abundance of that species;

Prosecution could result in imprisonment, fines of £5,000 per animal affected and confiscation of vehicles and equipment used.

Recent amendments to the Habitat Regulations in 2007 have removed many of the defences. This includes the commonly relied upon 'incidental result defence', which previously covered acts that were the incidental result of an otherwise lawful activity and which could not reasonably have been avoided. As the incidental result of a lawful operation defence has been removed from legislation (Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007) operators are now open to this strict liability offence, whether the damage occurs by accident or not. An offence will only be committed if the deliberate disturbance is likely to significantly affect a significant group of animals of that species' ability to survive, breed, or rear or nurture its young or is likely to significantly affect the local distribution or abundance of that species. Deliberate disturbance of a protected animal (species on Schedule 5 which includes EPS) in its place of shelter or protection will continue to be an offence under the Wildlife and Countryside Act 1981. However, the incidental result of a lawful operation defence will be available for that offence where the disturbance could not have been reasonably avoided.

In England, Scotland and Wales all bat species are protected under the Wildlife and Countryside Act 1981 (WCA) (as amended) through inclusion in Schedule 5. The existing offences under the Wildlife and Countryside Act (1981) as amended which cover obstruction of places used for shelter or protection, disturbance and sale still apply to European protected species.

In England and Wales, the WCA was amended by the Countryside and Rights of Way Act 2000 (CRoW), which adds an extra offence ('or recklessly' to S9(4)(a) and (b)), makes species offences arrestable, increases the time limits for some prosecutions and increases penalties.

Exemptions can be granted from the protection afforded to bats under the Habitat Regulations, by means of a EPS (European Protected Species) Habitats Regulations licence obtained from Natural England.

A 'EPS Habitats Regulations Licence' could be required for:

- Demolition of a building known to be used by bats prior to development of a site
- Conversion of barns or other buildings known to be used by bats

- Removal of trees known to be used by bats as well as tree pruning
- Significant alterations to roof voids known to be used by bats
- Road building or widening
- Bridge strengthening

There are three tests, which must be satisfied, before a licence can be issued to permit otherwise prohibited acts;

- Regulation 53(2)(e), for the purpose of preserving 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; or
- Regulation 53(2)(f) for the purpose of preventing the spread of disease; or
- Regulation 53(2)(g) for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other forms of property or to fisheries; subject to Natural England being satisfied that the application additionally meets:
 - Regulation 53(9)(a) that there is no satisfactory alternative; and
 - Regulation 53(9)(b) that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

A European Protected Species License is required before the commencement of any development that might impact on bats or their roosts.

Birds – Legislative context

All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended). It is an offence, with certain exceptions, to:

- Intentionally kill, injure, or take (handle) any wild bird.
- Intentionally take, damage or destroy any wild bird nest whilst in use or being ‘built’.
- Intentionally take or destroy a wild bird egg.
- Have in one’s possession or control a wild bird (dead or alive), or egg, (unless one can show that it was obtained legally).

Some species of bird listed under Schedule 1 (e.g. Barn Owls, of the Act receive extra protection. For these species it is an offence to:

- Intentionally or recklessly disturb any wild bird whilst ‘building’ a nest or whilst in, on, or near a nest containing eggs or young.
- Intentionally or recklessly disturb any dependent young of wild birds.

Disturbance may be deemed reckless if it is committed by someone who could be expected to know that the bird(s) might be present but failed to check.

Under the 1981 Act (Part 1, section 25) local authorities are given the function of bringing this legislation to the attention of the public and may institute proceedings for any offence committed within their area. The police are empowered to enter onto any land and search, or stop and search, any person where an offence is suspected (section 14). Anyone found guilty of an offence is liable to a fine of up to £5,000 or imprisonment for a term not exceeding six months, or both.

Planning policy and Biodiversity Action Plan context

The National Planning Policy Framework (NPPF) is guidance for local planning authorities on the content of their Local Plans but is also a material consideration in determining planning applications. The NPPF has replaced much of the existing planning policy guidance, including Planning Policy Statement 9: Biological and Geological Conservation. However, the government circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, which accompanied PPS9 remains valid.

The Natural Environment and Rural Communities (NERC) Act 2006, in particular Section 40, places a duty on public bodies to have regard to the conservation of biodiversity. This duty is guided by the habitats and species lists in Section 41 of the Act, within which seven bat species are included: barbastelle (*Barbastella barbastellus*), Bechstein's (*Myotis bechsteinii*), noctule (*Nyctalus noctula*), soprano pipistrelle (*Pipistrellus pygmaeus*), brown long-eared (*Plecotus auritus*), greater horseshoe (*Rhinolophus ferrumequinum*) and lesser horseshoe (*Rhinolophus hipposideros*) bats. These seven species are also listed as Priority Species within the UK Biodiversity Action Plan (UKBAP), (the UK Government's response to the Convention on Biological Diversity).

1.5 Objectives

The bat survey was commissioned to assess:

- what species of bat are present at the site;
- what types of bat activity are occurring within the site;
- whether or not bats are roosting within the site; what population levels (size and importance) are present at the site;
- and to make recommendations on any further action that may be required to provide sufficient information for the local planning authority to support a planning application

A nesting bird survey was commissioned to:

- determine the use or otherwise of the site by nesting birds;
- determine the value of the site to nesting birds;
- make an assessment of the potential impacts and effects of the proposed development of the site on nesting birds;
- determine the legal implications of the proposed development; and
- recommend appropriate mitigation measures to remove or reduce impacts.

2 Methods

2.1 Pre-survey data search

As the scale of the proposed development is small a pre-survey data search of biological records was not carried out. A search using the MagicGov and Nature on the Map (Natural England) websites was performed to identify sites of nature conservation.

2.2 Surveyor information

The survey was carried out by Dr Jon Russ CEnv, MIEEM. Jon is a terrestrial and behavioural ecologist with a specialist interest in bats. As Director of Ridgeway Ecology Ltd and through his academic research and work with the Bat Conservation Trust he has managed, designed and carried out large- and small-scale bat surveys and bat monitoring programmes in the UK and the tropics. He has extensive experience with the United Kingdom and European Union legislation regarding bats and has been a fully licensed bat worker for over 20 years, holding bat conservation, education and scientific licences for radio-tracking, mist-netting, ringing, harp-trapping, ultrasonic playback and DNA sampling. His publication record includes a large number of articles in scientific journals as well as other publications including the widely used book, “The Bats of Britain and Ireland: Echolocation, Sound Analysis, and Species Identification”, “Review of ASSI designation for bats in Northern Ireland”, “The Northern Ireland Bat Action Plans” which he coordinated and delivered, “British Bat Calls: A Guide to Species Identification” and the recently published “Bat Calls of Britain & Europe”. In addition, Jon has a great deal of experience in avoidance, mitigation and compensation measures relating to bats and development. Licences include Natural England Class 3 (CL19 - 2015-11383-CLS-CLS) & Class 4 (CL20 - 2015-11384-CLS-CLS), Bat Mitigation Class Licence (CL21 - RC011), HS2 Bat Low Impact Class Licence for Trees (CL40 - B40RC016), HS2 Bat Low Impact Class Licence for Buildings (CL39 - B39RC016), Bat Earned Recognition (Ref: cBER0254).

2.3 Field surveys

The bat survey was undertaken in accordance with current best practice guidelines, which include: Bat Mitigation Guidelines (Mitchell-Jones, 2004); The Bat Workers Manual (Mitchell-Jones & McLeish, 2004); and Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins 2023).

A nesting bird survey was also undertaken in accordance with reference to *Field Guide to Nests, Eggs and Nestlings of British and European Birds* (Collins Field Guide 1985); *Survey techniques* (Barn Owl Trust 2010); and *Barn owls on site: A guide for developers and planners 2nd Edition* (English Nature 2002).

2.3.1 Habitat survey

A survey of the habitats that may be used by roosting bats was carried out.

2.3.2 Bat roost survey/Nesting bird survey(s)

On the 27th September 2023, the buildings were surveyed for potential roost sites and signs of bats. The survey utilised a ladder, a high-powered torch, binoculars and an endoscope (Ridgid CA-300 with 6mm and 9mm camera heads). The external inspection involved looking for bat droppings on the ground, stuck to walls or roof tiles and on windows and sills and recording suitable entry and exit points. The internal inspection focused on those areas which may be suitable for roosting bats, such

as ridge tiles, gable walls, joints and crevices in wood, crevices in walls as well as searching for bat droppings and feeding signs on the floors and other surfaces.

The following criteria were used to determine the roosting potential of the buildings.

Table 1. Description of roosting potential categories

Roosting potential	Criteria
Good	Buildings that have many areas suitable for roosting with a large number of potential access points. These are normally in sheltered locations, subject to low variation in temperature. Buildings with good potential could be used for a whole range of roosts including maternity roosts.
Moderate	Buildings with a smaller number of areas suitable for roosting, but still supporting features that could be attractive to bats and potentially support maternity roosts.
Limited	Buildings with limited roosting opportunities. These may be in locations that are subject to wide temperature fluctuations and drafts. They could be used as occasional or transient roosts, but are unsuitable for maternity roosts. Buildings that would otherwise be moderate to good potential but have reduced value due to other factors such as exposed location, separation from nearby foraging habitat, or presence of strong streetlight.
Low	Buildings that have no obvious places for bats to roost, but could be used on a sporadic or occasional basis for feeding or solitary day roosting.
Negligible	Buildings that appear unsuitable for roosting bats due to a clear lack of roosting spaces such as voids etc and/or absence of suitable access points. Such buildings in practice are rare.

A general search was made in and around the building for signs of nesting birds such as pellets, feathers, droppings, nests and nest debris.

2.3.3 Bat activity survey(s)

n/a

3 Results

3.1 Pre-survey data search

3.1.1 Designated sites

There are no designated sites within 2 km of the site.

3.1.2 Protected species

The surveyor has recorded day roosts of common pipistrelles within buildings on the opposite side of Kenilworth Road.

3.2 Field Surveys

3.2.1 Habitat description

As the buildings have not changed during the interim period the following text is taken from the 2019 report, updated where appropriate. The photographs are from 2023.

The focus of the survey is a large two-storey rendered house with a two-storey hipped and gabled projection forming the centre of the building and a single-storey flat-roofed extension to the east at the eastern end of the building plus a separate detached brick cottage at the eastern end of the site (Figure 2). The house has been converted into student accommodation. The roofs of the main part and central part of the house and the cottage are covered with slates and are lined with a traditional bitumastic lining and the roof of the single-storey extension at the eastern end of the building is covered with corrugated metal.

3.2.2 Bat roost survey/Nesting bird survey(s)

House (Figure 2; Photographs 1-7)

Potential Bat Access Points:

Generally, the roof on the main part of the building appears to be quite well-sealed (e.g. Photographs 8 and 9). The slates on the gable and hipped roof in the centre of the building are also well-sealed (e.g. Photograph 10) except for an opening under a ridge tile (Photograph 11) and under slates at the eastern end (Photographs 12 and 13). These could be visually inspected and did not contain any signs of being used by bats.

There is a gap between the wall at the fascia at the north-east corner of the central part of the house (Photograph 14). There were no signs of bats in the cavity behind the fascia.

The flat roof of the single-storey extension is completely sealed (Photograph 15) and although there are gaps underneath the edge of the roof (Photograph 16) these are unlikely to be used by bats.

Other than the above, the soffits and fascias are completely sealed (e.g. Photograph 17).

Bat Roosting Potential:

There is a large enclosed roof void within the main part of the building (Figure 2; Photographs 18-20) which contains exposed roof timbers and timber sarking suitable for perching (e.g. Photograph 21). There is also an enclosed roof void within the central part of the building (Photographs 22 and 23) within which the timbers are less exposed as they have been covered with a lower membrane, although this has degraded in many places. Such roof voids are suitable for those species of bats that require a large flying area within the roosting space, such as brown long-eared bats. However, the prevalence of cobwebs and dust indicates that bats have not been present for some time, if at all. In addition, there does not appear to be any suitable access.

The cavities between the slates, battens and lining are suitable for crevice-dwelling species such as those of the genus *Pipistrellus* and the small *Myotis* (e.g. Photograph 15). However, access is limited to the openings mentioned above.

Evidence of bats:

No evidence of bats (actual sightings, droppings, feeding remains, scratch marks, associated staining) was recovered during the internal and external inspection of the house.

Cottage (Photographs 24 and 25)**Potential Bat Access Points:**

The roof is completely sealed (e.g. Photograph 26) except for a few small openings under the ridge tiles (e.g. Photograph 27).

The west dormer window is sealed (Photograph 28). Although there are a few gaps they are too small to afford bats access.

The soffits and fascias are sealed (e.g. Photographs 29 and 30).

Bat Roosting Potential:

There is an enclosed roof void within the building (Figure 2; Photographs 31 and 32) which contains exposed roof timbers suitable for perching. Such roof voids are suitable for those species of bat that require a large flying area within the roosting space, such as brown long-eared bats. However, the cobwebs hanging from ridge to floor within the main part and to a lesser extent in the gabled projection to the south indicate that bats have not been present for some time, if at all.

The cavities between the slates, battens and lining are suitable for crevice-dwelling species such as those of the genus *Pipistrellus* and the small *Myotis*. However, access is limited to a couple of openings under ridge tiles.

Evidence of bats:

No evidence of bats (actual sightings, droppings, feeding remains, scratch marks, associated staining) was recovered during the internal and external inspection of the cottage.

3.2.3 Bat activity survey(s)

n/a

3.2.4 Interpretation and evaluation of survey results

Bats

There was no evidence of bats within the house or the cottage. It was possible to visually inspect all of the potential roosting sites with suitable access for bats except for the cavities under ridge tiles on the cottage (see 3.2.2).

The house and the cottage are considered to be of limited bat roosting potential (see Table 1) as although there are potential roosting sites for both attic-dwelling and crevice-dwelling species, some of which could be used as maternity sites, access is very limited.

Nesting Birds

There was no evidence of nesting birds

4 Assessment

4.1 Constraints

None.

4.2 Potential impacts of the development

Planning consent is being sought from Warwick District Council to develop the site. This will involve demolishing the single-storey element at the rear of the house and rebuilding it with a pitched roof plus adding a two-storey extension to the cottage at the eastern end of the site. As there was no evidence of bats within the identified potential roosting sites, the majority of which could be visually inspected, this work is unlikely to have an impact on this group of species. However, precautionary working methods are recommended.

The proposed work is unlikely to have an impact on nesting birds.

5 Recommendations and mitigation

Bats

There was no evidence of bats roosting within the described house and cottage at 24 Kenilworth Road, Leamington Spa (see sections 3.2.2 and 3.2.4). The house and the cottage are considered to be of limited bat roosting potential (see Table 1) as although there are potential roosting sites for both attic-dwelling and crevice-dwelling species, some of which could be used as maternity sites, access is very limited. As all of the potential roosting sites to be affected by the proposed work could be inspected (except for two openings under the tiles on the cottage) and as none contained any evidence of bats, no further survey work is considered necessary.

Planning consent is being sought from Warwick District Council to develop the site. This will involve demolishing the single-storey element at the rear of the house and rebuilding it with a pitched roof plus adding a two-storey extension to the cottage at the eastern end of the site. As there was no evidence of bats within the identified potential roosting sites, the majority of which could be visually inspected, this work is unlikely to have an impact on this group of species. However, it is recommended that:

- As a precaution, a licensed ecologist is present to oversee the removal of the ridge tiles on the cottage, prior to demolition (see 3.2.4). If there is any evidence of bats during the removal of the tiles work must stop and if it is not possible to reinstate the roost sites it may be necessary to obtain an appropriate derogation licence from Natural England.
- All work must be carried out carefully with the expectation that bats may be found. If bats are observed within the buildings at any time Natural England or the ecologist for this project must be contacted. Work must cease immediately and it may be necessary to obtain a European Protected Species licence from Natural England before work can proceed.

The development of the site provides an opportunity to improve the roosting opportunities for bats within the area. Bats could be encouraged to roost within the site by:

- Incorporating bat boxes into the top of the east, south or west-facing walls (e.g. Photographs 31 and 32).

Birds

There was no current evidence of nesting birds within the buildings. However, it is recommended that:

- If nesting birds are observed when a qualified ecologist is not present, work must stop and they must be contacted for advice. A suitable 'no work' buffer zone will need to be created around the nest and work may not be able to continue until the young have fledged.

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7 Figures



Figure 1. Location of the site (arrowed). 2006. Crown Copyright; Ordnance Survey

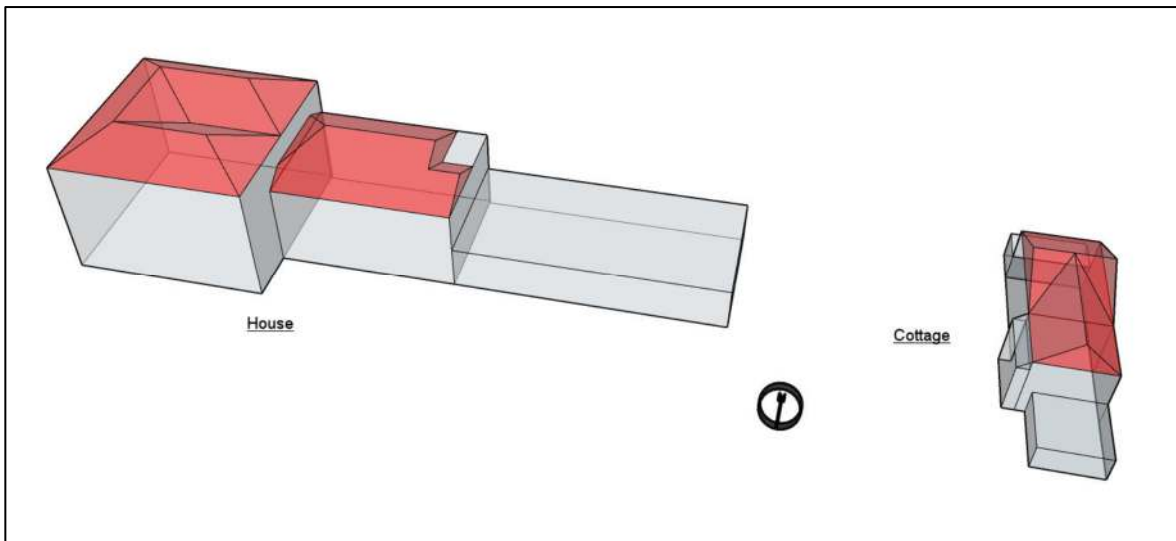


Figure 2. Rough plan of the buildings showing the extent of the enclosed roof voids (shaded pink)

8 Photographs



Photograph 1. The west elevation of the house



Photograph 2. The north elevation of the main part of the house



Photograph 3. The south elevation of the main part of the house



Photograph 4. The east elevation of the main and central part of the house



Photograph 5. The north elevation of the eastern part of the house



Photograph 6. The east elevation of the eastern part of the house



Photograph 7. The south elevation of the central and eastern sections of the house



Photograph 8. Example of the slates on the west-facing roof pitch of the house



Photograph 9. Example of the slates on an east-facing roof pitch of the house



Photograph 10. Example of the slates on the central part of the house



Photograph 11. Opening under a ridge tile on the central part of the house



Photograph 12. Opening under a slate above the west gable on the central part of the house



Photograph 13. Opening under a slate above the half gable on the central part of the house



Photograph 14. Gap under the soffit at the north-east corner of the main part of the house



Photograph 15. The roof of the single-storey section at the eastern end of the house



Photograph 16. Example of a gap under the roof of the single-storey section at the eastern end of the house



Photograph 17. Example of the soffit on the main part of the house



Photograph 18. The enclosed roof void within the main part of the house (west section)



Photograph 19. The enclosed roof void within the main part of the house (south section)



Photograph 20. The enclosed roof void within the main part of the house (north section)



Photograph 21. Sarking and roof timbers within the main part of the house



Photograph 22. The enclosed roof void in the central part of the house (to east gable)



Photograph 23. The enclosed roof void in the central part of the house (to half gable)



Photograph 24. The west elevation of the cottage



Photograph 25. The south elevation of the cottage



Photograph 26. Example of the slates on the roof of the cottage



Photograph 27. Opening under a ridge tile on the cottage



Photograph 28. Example of sealed hanging slates on the dormer window on the western side of the cottage



Photograph 29. Example of sealed soffits on the cottage



Photograph 30. Further example of sealed soffits on the cottage



Photograph 31. The section of enclosed roof void within the main part of the cottage



Photograph 32. The section of enclosed roof void within the gabled projection to the south on the cottage



Photograph 31. Woodstone Bat Box



Photograph 32. Greenwood's EcoHabitats single cavity bat box

END OF REPORT



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