Batscan Ltd
5 Penlands Vale
Steyning
West Sussex BN44 3PL
Tel. 01903 810119

email: surveys@batscan.org

BAT SURVEY REPORT 2023

Site: South Mundham House
South Mundham
Chichester
West Sussex PO20 1LY

Clients: Mr & Mrs D Evans
South Mundham House
South Mundham
Chichester
West Sussex PO20 1LY

Surveyors: D P King MEECW (NE Bat Class Lic. No. 2015-16001-CLS-CLS)
NE Registered Bat Consultant RC 182
S L Wright (NE Sc. Bat Lic. No. 2016-24340-CLS-CLS)

Survey Date: 28th August & 6th September 2023

Report Date: 10th September 2023

Repeat Bat Survey of South Mundham House, South Mundham, Chichester, West Sussex, PO20 1LY
OS Grid Reference: SU 87715 00745 – August 2023

Executive Summary

Batscan surveyors undertook two 'follow-up' bat surveys of South Mundham Farmhouse, in South Mundham, West Sussex, on 28th August and 6th September 2023, in order to update information on bat use of the large, 17th Century house. The property is Grade II* listed and is situated in extensive grounds, in a rural area, to the south of Chichester.

The latest surveys included the house, where a single-storey extension is to be added to the SW annexe and an adjacent outbuilding, which is to be refurbished, in order to provide additional accommodation, suited to the owners' future requirements.

The surveys included daytime building inspections and dusk emergence check/bat activity surveys (Phase 1 & 2 surveys) and were undertaken on behalf of the property owners. Because bats and their roosts are protected by law, Batscan bat consultants were first asked to carry out appropriate bat surveys in 2019, prior to a planning application. An initial, combined P1 & P2 survey was carried out by surveyors in early September 2019 and a repeat Phase 2 bat survey was undertaken by suitably qualified and experienced consultants, on behalf of Batscan, in August 2020.

During the first building inspection, in 2019, droppings from serotine bats *(Eptesicus serotinus)* and long-eared bats *(Plecotus* sp.) were found in the main roof, which will not be affected by the proposed works. It was noted that the clay tiled roofs on those sections of the house, where work is proposed, offer numerous bat roosting opportunities and that the single-storey out--building also offers a low to moderate potential for bat use. During the 2019 emergence check, small numbers of bats emerged from the roof of the SW annexe.

During the 2020 survey, two serotines emerged from the roof of the SW annexe and a single long-eared bat emerged from the SW corner, at eaves level.

The main roof void and that of the SW annexe was searched during the first of the 2023 surveys. Small numbers of droppings from serotine and long-eared bat were noted in both voids. The internal rooms of the outbuilding were searched.

During the latest dusk emergence checks, one serotine and a long-eared bat emerged from the roof of the SW gable of the main house. No bats were seen to emerge from the outbuilding.

It is understood that the roof of the SW annexe will not be affected by the proposed construction work, with the new roof peaking at around 1m below eaves level on the existing roof. However, care will be required to ensure that works do not cause any disturbance to the roosting area or access/egress points. Provided that works can be carried out without disturbance to the bat roosting area, a Natural England Bat Mitigation Licence will **not** be required to allow the proposed building works to proceed. However, a detailed Method Statement must be agreed to minimise any risk to bats or their roosts.

Because bats are very active around the entire site, appropriate care should also be taken when works to the outbuilding are carried out. Further advice is given in this report.

1. Introduction and Background

1.1 Batscan surveyors undertook two follow-up bat surveys of the historic house, known as South Mundham Farmhouse, in South Mundham, near Chichester, West Sussex, on the evenings of 28th August and 6th September 2023. Both surveyors hold Natural England Level 2 Bat Class Licences and one is also a NE Registered Bat Consultant.

1.2 The large, 17th Century house is Grade II* listed and is situated in extensive grounds, in a rural area, to the south of Chichester. Bats of almost all British species have been recorded in the surrounding area.

1.3 The latest surveys included the house, where a single-storey extension is to be added to the SW annexe, the single-storey section at the west, where new roof lights are to be fitted and an adjacent L-shaped outbuilding, a former dairy. The outbuilding, currently used as a music room, library and store-room, is to be refurbished, in order to provide additional accommodation, suited to the owners' future requirements. The outbuilding is constructed of brick and flint and has a pitched, clay-tiled roof.

1.4 The surveys included daytime building inspections and dusk emergence check/bat activity surveys (Phase 1 & 2 surveys) and were undertaken on behalf of the property owners.

1.5 The latest surveys followed an initial combined P1 & P2 survey of the site, carried out by Batscan surveyors in early September 2019*[1] and a repeat Phase 2 bat survey, undertaken by two, suitably qualified and experienced consultants, on behalf of Batscan, in August 2020*[2].

1.6 Because bats and their roosts are protected by British and European law, Batscan Ltd bat consultants were asked to carry out appropriate bat surveys, in 2019, prior to an application for necessary planning consents, which were approved 5th October 2020.

1.7 During the initial building inspection, in 2019, droppings from serotine bats *(Eptesicus serotinus)* and long-eared bats *(Plecotus* sp.) were found in the main roof, which will not be affected by the proposed works. Quantities were consistent with long-term use by small numbers of individuals. It was noted that the clay tiled roofs of those sections of the house, which will be somewhat affected by the proposals, offer numerous bat roosting opportunities and that the single-storey outbuilding offers a low to moderate potential for bat use.

1.8 During the September 2019 dusk emergence check, bats of four species emerged from the house, including two serotines and a possible whiskered or Brandt's bat *(Myotis mystacinus* or *M. brandtii),* which flew out from the roof of the south-west annexe. Both common pipistrelles *(Pipistrellus pipistrellus* and soprano pipistrelles *(Pipistrellus pygmaeus)* emerged from beneath hanging tiles on the south side of the house, from an area which will not be affected by the proposed works. A noctule *(Nyctalus noctula)* was also recorded flying high over the site. No building inspections were undertaken in 2020, owing to concerns over the Covid virus. During the 2020 Phase 2 survey, two serotines emerged from the roof of the SW annexe and a single bat, believed to be a long-eared bat, emerged from the SW corner, at eaves level. Calls from common pipistrelle and noctule were also recorded during the bat activity survey.

2. Repeat Phase 1 Survey (Daytime Building Inspection) – 28th August 2023 - Methodology

2.1 Prior to the survey, Batscan consultants and the surveyors reviewed the previous bat survey reports and the plans for the site.

2.2 A search of the MAGIC (Multi Agency Geographic Information for the Countryside) website was undertaken, to establish the proximity of the site to granted European Protected Species Licences, in respect of bats. (See below).

2.3 The surveyors checked the exteriors of the SW annexe, main house and the outbuilding, looking for any evidence of bats and for bat roosting potential. Checks of higher levels were undertaken from ground level, using binoculars. Powerful torches were used to inspect crevices under lower level roof tiles and hanging (vertical) tiles.

2.4 The main roof void of the house was searched, using a torch to search for bats and evidence of bat use, such as bat corpses, droppings, urine stains and 'rub' marks, from the oil on bats' fur, around well-used access points. The small roof void above the first floor room in the south-west annexe, was also inspected.

2.5 Internal rooms in the outbuilding were searched. No access was available into the roof voids of the outbuilding.

2.6 Photographs were taken and detailed notes made. Positions were chosen for the dusk emergence check to allow surveyors to watch relevant sections of the house and outbuilding.

2.7 Recommendations from the Bat Conservation Trust's 'Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn.)*3 were followed for the course of this survey.

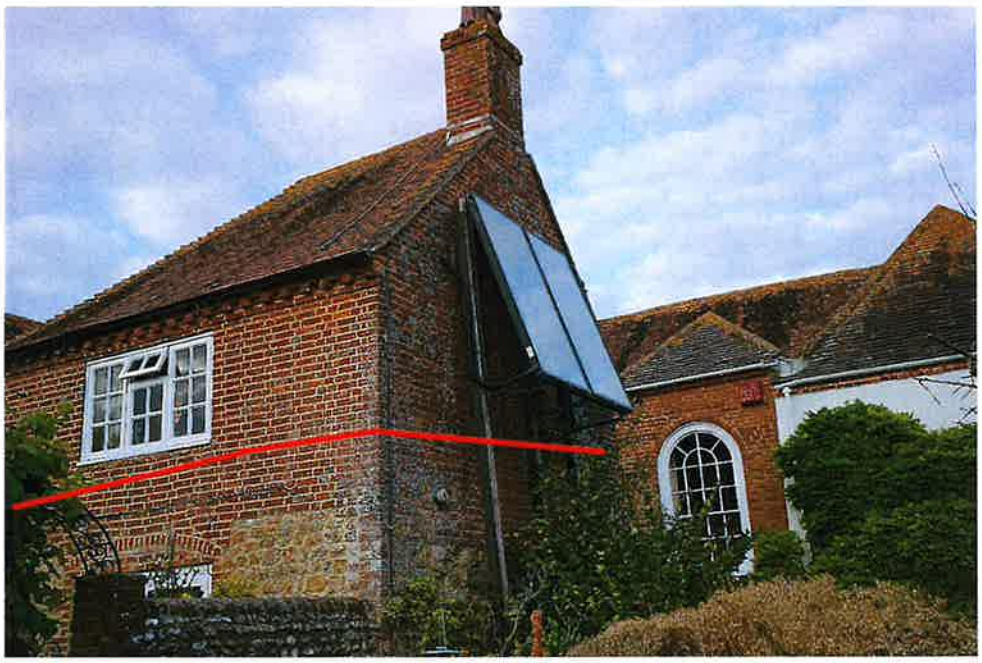
3. Phase 1 Survey (Daytime Building Inspection) – 28th August 2023 - Results

3.1 The search of the MAGIC database showed that four EPS Licences, in respect of bats, have been granted within approximately 2km of the site. These related to non-breeding roosts for brown long-eared bat *(Plecotus auritus)* common and soprano pipistrelle *(Pipistrellus pipistrellus* and *Pipistrellus pygmaeus)* and dated from between 2013 and 2017. See MAGIC Maps, below.

3.2 Exterior – Main House

No evidence of bat use was seen around the exterior of those parts of the house which were the subject of this survey, although all sections of this building were assessed as offering a high potential for bat use, as previously.

Approximate positon of proposed new roof lights (starred) & approx. position of proposed extension (red line)



Approximate position of proposed extension at SW (red line)

3.2 Roof void – Main House

There are several linked roof voids, accessed via a staircase, above the main house, including one room which is boarded internally. In the open voids, the roofs are lined, internally, with bitumastic felt and the floors of the voids are insulated with fibre-glass insulation material. Once again, an accumulation of fresh droppings from serotines was discovered on top of

insulation material, towards the south of the roof space. Scattered droppings from long-eared bats were also noted in these roof voids. No bats were seen.

View of area of main roof void/s

Bat droppings on floor of void

3.3 Roof void of South-west annexe

This roof of this section of the building is lined, internally, with bitumastic roofing felt and the floor is insulated with fibre-glass insulation material. Scattered droppings from both serotine and long-eared bat were found on the floor of this void. No bats were seen.

Scattered bat dropping on insulation material in roof void of SW annexe

Interior of roof, SW annexe

3.4 Exterior – Outbuilding

The single storey, L-shaped outbuilding offers bat roosting potential beneath clay roof, bonnet and ridge tiles, although some sections are heavily shaded by surrounding trees. No bats or evidence of bats was seen around the exterior or in gaps beneath uneven roof tiles, where these could be viewed from ground level.

Views of exterior of outbuilding – from SE

North side view

View from west

View from east side courtyard

3.5 Interior – Outbuilding

The former dairy is divided into three rooms, each with exterior doors. At the present time, The building is used as a library, music room and as a store for domestic and garden/farm goods. The music room and library have ceilings, with very shallow voids above and there is a boarded ceiling to the storeroom. There is no access available to the roof void/s above. The windows have been boarded, internally and the rooms appear to be quite tightly sealed. No bats or evidence of bats was seen inside the building and there is no obvious potential for bat use of the ground floor rooms.

4. Phase 2 Survey (Dusk Emergence Check/Bat Activity survey 1) – 28th August 2023 – Methodology

4.1 At dusk, when bats emerge from their roosts to feed, the surveyors were positioned so as to get the best possible view of any bats exiting the SW annexe or the outbuilding.

Surveyor 1: To the west of the SW annexe – David King

Surveyor 2: To the north of the outbuilding – Sheila Wright

4.2 Equipment
The surveyors used Batbox Griffin bat recorders and Batbox Baton XD detectors to listen to and record bats' echolocation calls and to identify any bats heard to species level, where possible. Recordings were made for later computer analysis with Batscan and Sonobat software. Additionally two Canon XA20 IR cameras, with additional IR illuminators, were used to observe bat activity after dark. One camera was positioned to the west of the annexe and one to the south-west of the annexe. The surveyors carried high powered torches and communicated via 2-way radio comms.

4.3 Weather conditions
The survey was undertaken on a warm, calm, dry and humid evening with 70% cloud cover. The temperature was 21°C at the start of the survey period and 18oC at sunset. Conditions were considered to be ideal for bat activity.

4.4 The evening emergence check/bat activity survey started at 19:30. Sunset was at 19:58.

5. Phase 2 Survey (Dusk Emergence Check/Bat Activity Survey 1) – 28th August 2023 - Results

5.1 One serotine emerged from beneath a bonnet tile on the gable of the SW annexe and a single long-eared bat emerged from the eaves of this building. Bats seen and heard were as follows:

Time	Species	Activity
20:08	Soprano pipistrelle *(Pipistrellus pygmaeus)*	Pass to NW of outbuilding
20: 14	Noctule *(Nyctalus noctula)*	Passing overhead
20:19 – 20:20	Noctule	Passing overhead
20:20	Common pipistrelle *(Pipistrellus pipistrellus)*	Flying around buildings
20:23	**Serotine *(Eptesicus serotinus)***	**Emerged from beneath bonnet tile on SW annexe**
20:24	**Long-eared bat *(Plecotus* sp.)**	**Emerged from eaves level, W side, SW annexe**
20:25	Bat of *Myotis* genus	Pass at W of SW annexe
20:28 – 20:35	Soprano pipistrelle	Foraging near outbuilding
20:36 – 20:37	Bat of *Myotis* genus	Passes at W of house
20:37	Long-eared bat	Passing house
20:41 – 21:10	Common pipistrelle	Distant passes around house
20:48	Bat of *Myotis* genus, probably whiskered or Brandt's bat *(Myotis mystacinus* or *My. brandtii)*	Pass in courtyard at W of house

Surveyors' positions – Svy 1 ★ IR camera positions – S1 ★

6. Phase 2 Survey (Dusk Emergence Check/Bat Activity survey 2) – 6th September 2023 – Methodology

6.1 Prior to the dusk emergence check, the surveyors made a repeat inspection of the exterior and interior of the outbuilding.

6.2 For the second survey, concentrating on the outbuilding, the surveyors were positioned as follows:

Surveyor 1: To the west of the SW annexe – David King

Surveyor 2: To the north of the outbuilding – Sheila Wright

6.3 Equipment
Equipment was as for Survey 1, above.

6.4 Weather conditions
The survey was undertaken on a very warm, calm, dry and humid evening with thin, high cloud cover. The temperature was 22°C throughout the survey period. Conditions were considered to be ideal for bat activity.

6.5 The evening emergence check/bat activity survey started at 19:15. Sunset was at 19:38.

7. Phase 2 Survey (Dusk Emergence Check/Bat Activity survey 2) – 6th September 2023 – Results

7.1 No bats were seen emerging from the outbuilding during this survey. Bats seen and heard were as follows:

Time	Species	Activity
19:53 – 19:55	Soprano pipistrelle *(Pipistrellus pygmaeus)*	Flying to SW of outbuilding, with social calls
20:02 - 20:50	Soprano pipistrelle	Regular passes from small numbers of bats of this species, with constant social calls
20:06	**Serotine *(Eptesicus serotinus)***	**Likely to have emerged from main house**
20:11	**Long-eared bat *(Plecotus* sp.)**	**Flying at low level around outbuilding. Likely to have emerged from main house**
20:24 – 20:41	Common pipistrelle *(Pipistrellus pipistrellus)*	Occasional passes
20:30	Daubenton's bat *(Myotis mystacinus)*	Passing between buildings

Surveyors' positions – Svy 2 ☆ IR camera positions – Svy 2 ★

7.2 Bats Recorded during the 2023 surveys:

- Common pipistrelle *(Pipistrellus pipistrellus)* is considered to be common and widespread in the UK.
- Soprano pipistrelle *(Pipistrellus pygmaeus)* is also considered to be common and widespread in the UK.
- Noctule *(Nyctalus noctula)* is a large, high-flying bat, which roosts, almost exclusively, in trees. Noctules appear to have declined in numbers in recent years.
- **Serotine *(Eptesicus serotinus)* is a large bat which roosts, almost exclusively, in buildings. Although not widespread in the UK, serotines are regularly recorded in Sussex.**
- Whiskered or Brandt's bat *(Myotis mystacinus* or *Myotis brandtii)* – two closely related species which cannot easily be differentiated by echolocation calls alone. Whiskered bat occurs more frequently in the south-east of England.
- **Brown long-eared bat *(Plecotus auritus)* is common and widespread throughout the UK. The grey long-eared bat *(Plecotus austriacus)* is very rare but has been recorded in the UK.**
- Daubenton's bat *(Myotis daubentonii)* is a medium sized bat which roosts in trees or built structures. This species is commonly associated with water-bodies.

8. Survey Constraints

8.1 Although undertaken rather late in the season, the latest survey were carried out in ideal weather conditions when bats were very active. Results were consistent with the findings of both the 2019 and the 2020 surveys.

9. Conclusions and Recommendations

9.1 During the latest dusk emergence checks, one serotine and a long-eared bat emerged from the roof of the SW gable of the main house. No bats were seen to emerge from the outbuilding.

9.2 It is understood that the roof of the SW annexe will not be affected by the proposed construction of a single-storey extension, with the new roof peaking at around 1m below eaves level on the existing building. However, care will be required to ensure that works do not cause any disturbance to the roosting area or access/egress points. *Provided that works can be carried out without disturbance to the bat roosting area*, a Natural England Bat Mitigation Licence will **not** be required to allow the proposed building works to proceed. Nevertheless, a detailed Method Statement will have to be agreed to minimise any risk to bats or their roosts.

9.3 Because bats are very active around the entire site, appropriate care should also be taken when works to the outbuilding are carried out. If the building plans change, in any significant respect, further advice must be sought. The Method Statement will cover the timing of works, as well as methodology and this should be agreed, at an early stage. The proposals for an appropriate Method Statement, which were provided at the time of the previous survey, remain appropriate.

9.4 Should no works commence within one year of the date of this survey, a repeat survey should be carried out.

Draft Method Statement

- Timing of works
  The *commencement* of building works must be timed to avoid bats' breeding season (generally considered to be May – August) to avoid disturbing bats at the most sensitive time of the year.

- It must be ensured that any scaffold, close to the roof of the SW annexe, does not block possible access/egress points used by bats. Specifically, there should be no impediment to access points close to the chimney, to the bonnet tiles, or at eaves level, particularly at the south-west side.

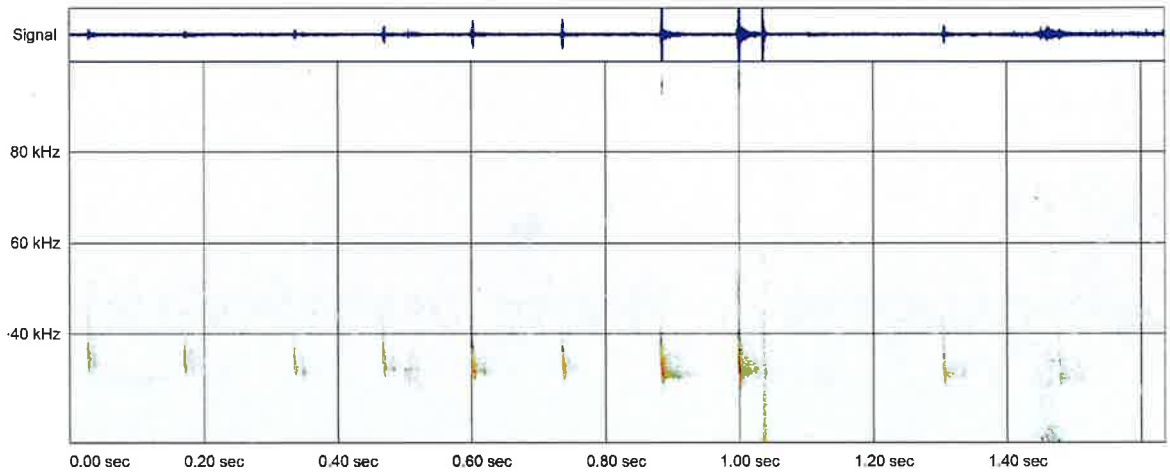
- A toolbox talk, with regard to bats, will be provided to the contractors, undertaking the construction; prior to the commencement of works. This will ensure that contractors understand the care required when working in areas where bats might be discovered and on what to do if a bat, or evidence of bat use, is found.

- It is recommended that provisions for roosting bats are retained in the re-tiled roof of the outbuilding. This can be achieved by fitting hand-made, clay roof tiles, which are generally slightly uneven in shape, allowing bats to gain access, or by fitting a minimum of four, purpose-made bat access tiles, to the refurbished roof. **Please note that 1F roofing felt, rather than a woven membrane, must be used, beneath tiles, in all areas where bats might roost. Further advice is available, on request.**

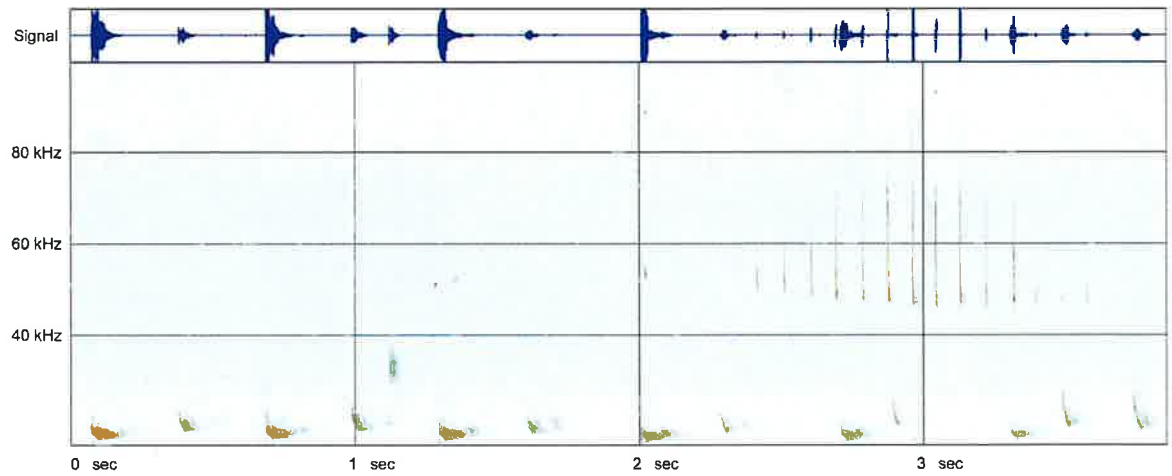
- It should be ensured that lighting is not directed at bat roost access points and that light spill is kept to the minimum, in this area. See advice on bats and lighting Guidance Note 8 Bats and Artificial Lighting | Institution of Lighting Professionals (theilp.org.uk)

- The proposed works should not affect connectivity around the site for commuting and foraging bats.

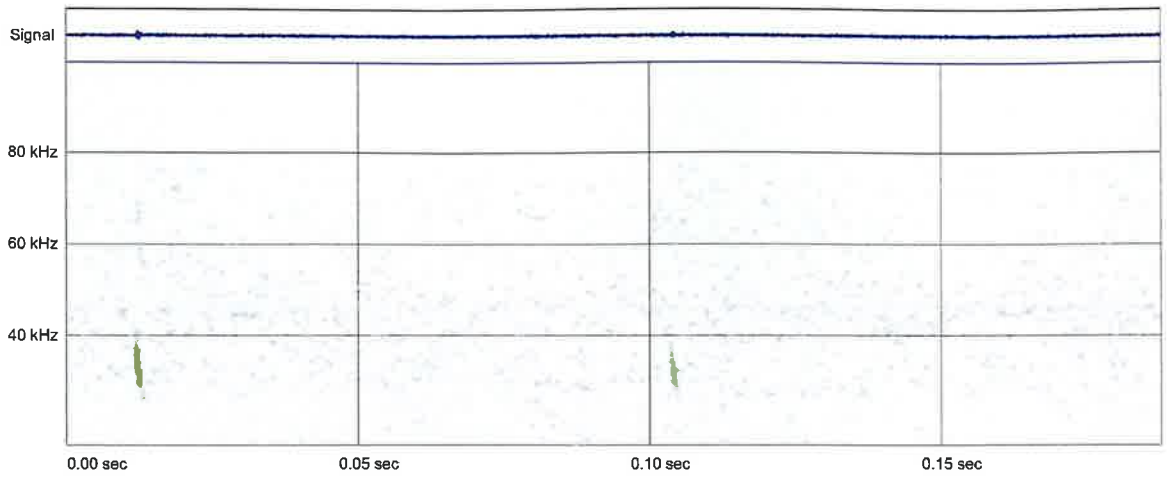
Bat Sonagrams – 2023



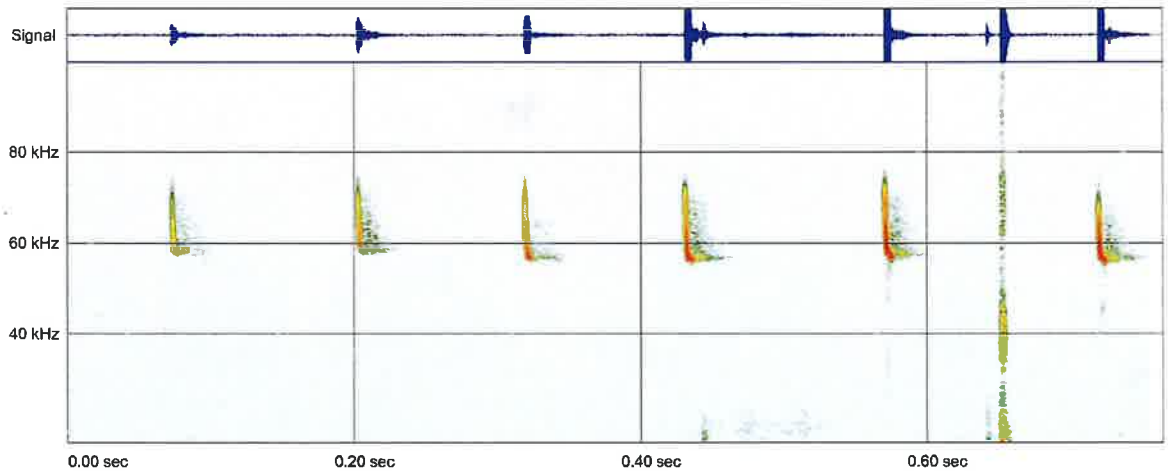
Serotine *(Eptesicus serotinus)*



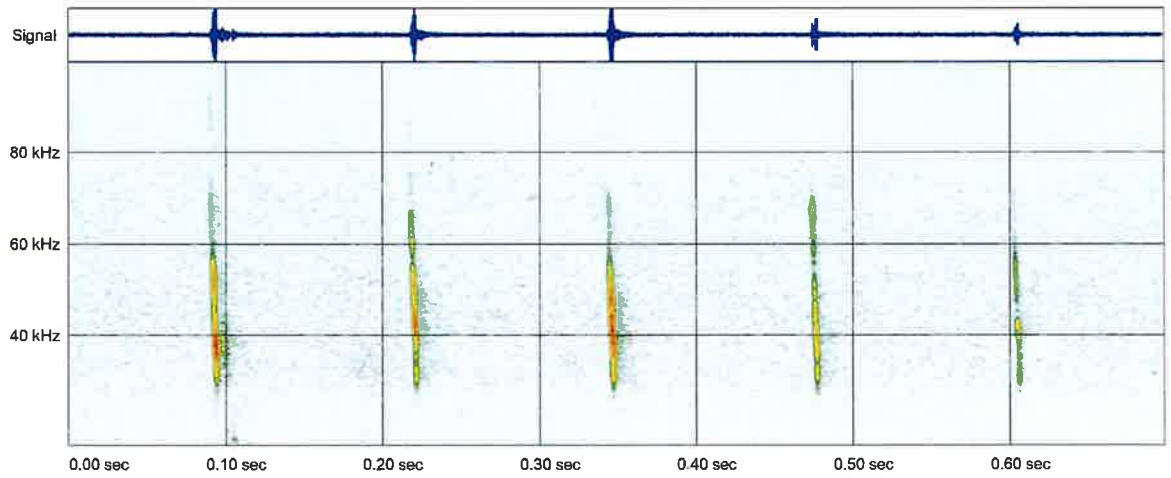
Noctule *(Nyctalus noctula)* and common pipistrelle *(Pipistrellus pipistrellus)*



Long-eared bat *(Plecotus* sp.)

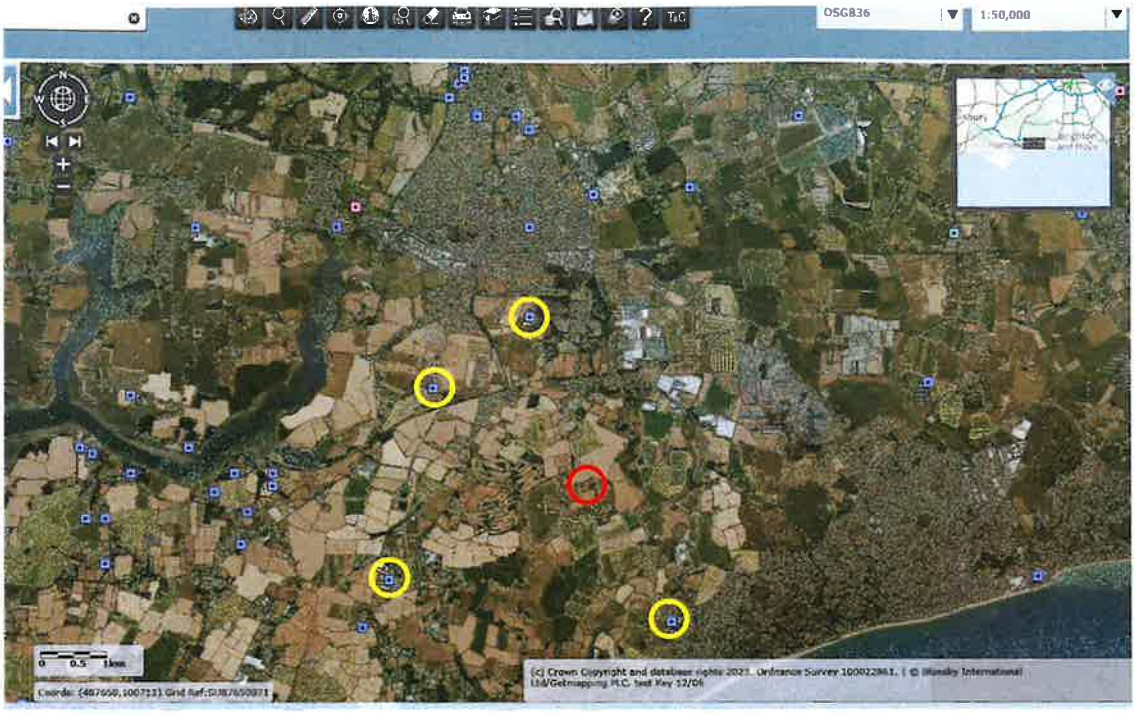


Soprano pipistrelle *(Pipistrellus pygmaeus)*



Bat of the *Myotis* genus, probably Daubenton's bat *(Myotis daubentonii)*

MAGIC MAPS



MAGIC Maps – the site (circled red) - sites where NE EPS Licences (Bats) have been granted, within approximately 2km of site (circled yellow)

*1 Batscan Ltd – Bat Survey Report, South Mundham Farmhouse – Survey dated 04/09/19 – Report dated 20/09/19

*2 Batscan Ltd – Bat Survey Report 2020, South Mundham House – Survey dated 31/08/2020 – Report dted 14/09/2020

*3 Collins, J. (ed.) (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn). The Bat Conservation Trust, London. I SBN-13 978-1-872745-96-1

The following is our interpretation of the law relating to bats, but should not be relied on in place of professional legal advice. This may be subject to change, now that the UK has left the European Union.

LEGAL PROTECTION

All bat species and their roosts in Britain are protected under Section 9 of the **Wildlife and Countryside Act 1981 (as amended)** through inclusion on Schedule 5. This Act was significantly strengthened by the **Countryside and Rights of Way Act 2000 (the CRoW Act)** which introduced a statutory duty for the government to promote steps to further the conservation of priority habitats and species listed on the UK Biodiversity Action Plan (UKBAP). The Countryside and Rights of Way Act has made a number of important changes to the Wildlife and Countryside Act 1981 in England and Wales. These include making Section 9 offences 'arrestable offences' and increasing fines for these offences to £5000 per bat and/or a period of imprisonment of up to 6 months.

Bats are also included on Annexe IV of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive). As a result of the UK ratifying this directive, all British bats were protected under The Conservation (Natural Habitats etc.) Regulations 1994 (the Habitat Regulations), now consolidated as the **Conservation of Habitats and Species Regulations 2010**. These make it illegal to kill, injure, capture or disturb or obstruct access to, damage or destroy bat roosts. Under the law, a roost is any structure or place used for shelter or protection. Since bats tend to use the same roosts, the roost is protected whether the bats are present or not. Four bat species (greater horseshoe, lesser horseshoe, Bechstein's and barbastelle) are also on Annex II of the Regulations, which requires the designation of Special Areas of Conservation (SAC) to ensure that the species is maintained at a favourable conservation status. In the UK, this is being done through the designation of certain selected SSSIs. The Habitat Regulations impose a duty on public bodies, in the exercise of any of their functions, to have regard to the European Habitats Directive (EC Directive 92/43/EEC) on the conservation of natural habitats and wild fauna and flora.

Changes made to the Habitats Regulations increase the legal protection given to bats and their roosts. Previously, if damage was 'an incidental result of a lawful operation' and reasonable precautions had been taken to avoid it, there would have been no offence. This defence has been removed, as has the so-called 'dwelling house' defence. Therefore, there is now a significant risk of operators committing an offence if they do not take necessary checks and seek licences where required. However, the threshold level for disturbance of bats has been raised. New guidance was given in early 2009 on recent changes to the Habitat Regulations, but basic principles remain the same, in that the destruction of a bat roost is illegal, but that some low-level disturbance of bat roosts, considered to be below an agreed threshold of significance, would not constitute an offence. Expert advice, from a suitably qualified ecological consultant, should be sought on what constitutes significant disturbance to protected species or their habitat. Guidance now states that it is an offence to: 'intentionally or recklessly disturb a group of bats where the disturbance is likely to either (a) impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or to hibernate or migrate, or (b) to affect significantly the local distribution or abundance of the species, in either case whether in a roost or not.'

UK signatory to the Agreement on the Conservation of Bats in Europe was set up under the **Bonn Convention**. The Fundamental Obligations of Article III of this agreement, require the protection of all bats and their habitats, including the identification and protection from damage or disturbance of important feeding areas for bats.

Section 40 of the **Natural Environment and Rural Communities Act 2006 (the NERC Act)** states that (1) 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.'

Six species are listed on the UKBAP. These are the greater horseshoe bat (*Rhinolophus ferrumequinum)*, the lesser horseshoe bat (*Rhinolophus hipposideros)*, barbastelle (*Barbastella barbastellus)*, Bechstein's bat (*Myotis bechsteinii)*, brown long-eared bat (*Plecotus auritus)* and soprano (55 kHz) pipistrelle (*Pipistrellus pygmaeus).*

Planning Policy Context *

Government policy guidance for biodiversity and nature conservation throughout the UK is provided in the following planning guidance and statements, which are current at the time of writing:

England:

- National Planning Policy Framework 2012 (DCLG, 2012)
- Government Circular 06/2005: Biodiversity and geological conservation – Statutory obligations and their impact within the planning system (DCLG, 2005)
- Circular 02/99: Environmental impact assessment 1999 (DCLG, 1999)

In addition to the national policy guidance outlined above, regional and local planning policies should be consulted and other country-specific guidance, such as NE's standing advice to Local Planning Authorities (LPAs) may also be relevant.

Government planning policy guidance throughout the UK requires LPAs to take account of the conservation of protected species when considering and determining planning applications. This biodiversity duty is imposed in England Wales through the Natural Environment and Rural Communities (NERC) Act 2006, which states that 'every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'.

Planners are required to consider protected species as a material consideration when assessing a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. This requirement has important implications for bat surveys as it means that, where there is a reasonable likelihood of bats being present and being affected by the development, surveys must be carried out before planning permission is considered.

Adequate surveys are therefore required to establish the presence or absence of bats, to enable a prediction of the likely impact of the proposed development on them and their breeding sites or resting places and, if necessary, to design mitigation, enhancement and monitoring measures.

The term 'development' used in these guidelines includes activities and proposals that could impact bats. In planning terms, this includes activities requiring outline and full planning permission but also those that meet the criteria for permitted development, require listed consent and require prior approval to demolish.

Further details on the standard of information required to assess a planning application is detailed in Clauses 6 & 8 of BS42020. (BSI 2013) and additionally in Clause 7.3. The Code of Practice set out within British Standard for Biodiversity – BS42020:2013 provides recommendations and guidance for those in the planning, development and land use sectors who work might affect or have implications for the conservation or enhancement of biodiversity.

The planning system should also deliver overall net gains for biodiversity (enhancements) as laid out in the National Planning Policy framework and other planning policy documents.

*Collins, J. (ed.) (2016) Bat Conservation Trust 'Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd Edition) The Bat Conservation Trust, London. ISBN-13 978-1-872745-96-1

As a result of the Judicial Review Judgement 5th June 2009: **Woolley v Cheshire E Borough Council & Millennium Estates Limited** the role and responsibilities of planning authorities has been clarified. In the course of its consideration of a planning application, where the presence of a European protected species is a material consideration, the LPA must satisfy itself that the proposed development meets three tests as set out in the Directive. The proposed development must meet a purpose of *'preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequence of primary importance for the environment'*. In addition the authority must be satisfied that, (a*) 'that there is no satisfactory alternative' and (b) 'that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.'* The recent ruling states that *'if it is clear or perhaps very likely that the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable "other imperative reasons of over-riding public interest" then the authority should act on that and refuse permission.'*

Surveys and mitigation strategies for bats should generally not be made a requirement of a planning condition or be undertaken after permission has been granted. The Woolley Judgement clarified this. Local planning authorities are unable to fulfil their duty under Regulation 3(4) of the Habitats Regulations and cannot properly weigh protected species issues (see above) without complete information. However, in a small number of circumstances, conditioning strategies may be the most appropriate course of action. The local Natural England Species Officer should be consulted, where this might be the case.

Following the judgement in the recent case of Morge (FC) v Hampshire County Council (2011) UKSC 2 considered the application of local authority duty with in relation to European protected species. It came to the conclusion that, if the Planning Authority

concludes that the carrying out of the development for which permission has been applied for, even if it were to be conditioned, would be likely to offend Article 12(1) by say causing the disturbance of a species with which that Article is concerned, then it must consider the likelihood of a (Natural England) licence being granted. Further detailed standing advice on European Protected species was subsequently produced and is now available at: www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx

Should works be proposed that are likely to result in the disturbance of bats or a bat roost, English Nature (now Natural England) can advise regarding the legal protection. However, the developer should consult with their ecologist on whether a licence is required as this decision is based on whether it is reasonably likely that an offence may occur. The licence application is made to the Natural England Wildlife Management and Licensing Service. This licence was formerly known as a DEFRA Licence.

Planning authorities should be aware that developments which compromise the protection afforded to European protected species, including all British bats, will normally require a NE EPS licence under the law. Planning issues relating to bats need to be resolved prior to the application for a licence.

The three tests detailed above must be satisfied before NE can issue a licence under Regulation 44(2)(e) to permit otherwise prohibited acts.

Further guidance on the three tests can be found in the Natural England publication entitled 'European Protected Species: Mitigation Licensing – How to get a licence'[1a]

Ultimately it is for the developer to ensure compliance with the law during the actual implementation of the development, not the planning authority. It is for the planning authority to monitor whether planning conditions are being properly discharged.

Further advice on Bats and the Law can be obtained from:
Wildlife Management and Licensing Service, Natural England, 2 The Square, Bristol, BS1 6EB
Tel: 0845 601 4523 Fax: 0845 601 3438

[1a] Available to download http://www.naturalengland.org.uk/Images/WML-G12_tcm6-4116.pdf

Also see: *Local Plan* (Chichester District Council, adopted April 1999; policies saved Sep 2007).
[5] *Focus on Strategic Growth Options: A consultation on the options for major development in Chichester District 2011-2026* (Jan 2010).