

# The Shop Building, The Blue Cross, Chilton Cross, Tiverton, Devon, EX16 8RS.

## Bat Survey Report 2023



Kings Arms – Bat Survey  
Report  
EHM Ltd

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## Executive Summary

EHM Ltd has been commissioned to carry out a bat survey of a buildings at disused barn/ shop that is part of a former animal welfare centre in Tiverton, Devon. This report provides the details of a survey to determine the presence or likely absence of bats. This report follows on from a Preliminary Roost Assessment conducted by EHM as part of a Preliminary Ecological Assessment.

The site is located on the southeast corner of a former animal welfare centre. The site contains a single building; a former barn that was being used as a shop when the welfare centre was open. The site covering an area of approximately 350 m2 also contained some areas of hardstanding, amenity grassland and a species poor hedgerow. The site is located on a crossroad between the A3072, Northdown Rd and another country lane. The A3072 runs along the southern boundary of the site with the country land to the west of the site. The site bordered by the wider blue cross site to the north and east.



The site is located in a rural area to the south-west of the town of Tiverton. The local landscape is dominated by agricultural land with pockets of woodland dotted across the wider landscape. A steep hill rises up to the north of the site and there are farm buildings located within the local landscape. The site (as shown on figure 1) is located in Devon; SS 91650595.

## Results

- Following analyses of the video taken from the surveys and observation from the surveys the following summary is made;
- Three confirmed species of bats were recorded on the dusk survey: common pipistrelle (*Pipistrellus pipistrellus*), noctule (*Nyctalus noctula*) and soprano pipistrelle (*Pipistrellus pygmaeus*). As well as an unidentified *Myotis* sp.
- Five confirmed species of bats were recorded on the dusk survey: common pipistrelle, noctule, soprano pipistrelle, Brown long-eared bat (*Plecotus auratus*) and grey long-eared bat (*Plecotus austriacus*). As well as an unidentified *Myotis* sp. and *Plecotus* sp.
- Overall five confirmed bat species were recorded across both surveys.
- The earliest recorded bat on the first survey (common pipistrelle) was recorded at 21:59, 29 minutes after sunset.
- The latest recorded bat on the second survey (soprano pipistrelle) was recorded at 05:10, 26 minutes before sunset.
- Activity was predominantly recorded as commuting with occasional foraging bats. .
- No emergencies were recorded.

## Conclusions & Recommendations

In conclusion, following a dusk emergence survey and dawn re-entry survey, the target building at the former Blue Cross animal shelter in Tiverton is considered as not supporting a bat roost.

It is recommended that a method statement be followed as well as the inclusion of additional bat features as part of the development. Recommendations around suitable lighting and pollution control measures have also been made.

## 1. Introduction

EHM Ltd has been commissioned to carry out a bat survey of a buildings at disused barn/ shop that is part of a former animal welfare centre in Tiverton, Devon. This report provides the details of a survey to determine the presence or likely absence of bats. This report follows on from a Preliminary Roost Assessment conducted by EHM<sup>1</sup> as part of a Preliminary Ecological Assessment.

### 1.1. Development outline

EHM Ltd understands that the development comprises of re developing the site for residential units.

### 1.2 Site Description

The site is located on the southeast corner of a former animal welfare centre. The site contains a single building; a former barn that was being used as a shop when the welfare centre was open. The site covering an area of approximately 350 m<sup>2</sup> also contained some areas of hardstanding, amenity grassland and a species poor hedgerow. The site is located on a crossroad between the A3072, Northdown Rd and another country lane. The A3072 runs along the southern boundary of the site with the country land to the west of the site. The site bordered by the wider blue cross site to the north and east.

The site is located in a rural area to the south-west of the town of Tiverton. The local landscape is dominated by agricultural land with pockets of woodland dotted across the wider landscape. A steep hill rises up to the north of the site and there are farm buildings located within the local landscape.

The site (as shown on figure 1) is located in Devon; SS 91650595.

### 1.3 Survey Objectives

The purpose of this report is to provide the evidence that an assessment has been made as to the potential for the building in question to support roosting bats in order to demonstrate compliance with wildlife legislation protecting bats and planning policy.

The key objectives of this survey are as follows:

- assess the presence or likely absence of roosting bats within buildings on site, identify key commuting and foraging routes for bats across the site.
- if roosting bats are found to be present on the site, give an indication of the population size of each species present.
- recommend further mitigation where assessed as necessary and suggest potential enhancements.

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<sup>1</sup> 010423- The Shop Building, The Blue Cross, Chilton Cross, Tiverton, Devon, EX16 8RS. Preliminary Ecological Assessment. RP-FWA-005. EHM Ltd. 25/07/2023.



Figure 1: Approximate boundary of the site.

### 1.4 Survey Limitations

It should be noted that this survey, whilst carried out in accordance with current best practice, identifies bat usage of the site, which may change throughout the year. This survey should be regarded however as a robust recognised method. It is possible that on occasion, despite best effort, bats may be found on site after works commence; if this is the case, advice should be sought immediately from a suitably qualified ecologist on the best course of action to take.

In order to minimise the likelihood of adverse effects on protected animal species over time, it is accepted good practice for ecological surveys to be repeated should works be deferred for over 12 months from the date of initial survey. It is the duty of the landowner, developer and operations managers to act responsibly and to comply with current environmental legislation if protected species are suspected or found prior to, or during works.

## 1.5 Legal Status of Bats

All eighteen of the UK's bat species are protected under section 9 of the Wildlife and Countryside Act (WCA) 1981 (as amended). The WCA states that 'a person is guilty of an offence if intentionally or recklessly they disturb [a bat] while it is occupying a structure or place which it uses for shelter or protection; or he obstructs access to any structure or place which [a bat] uses for shelter'.

Under the Conservation of Habitats and Species Regulations 2017, it is an offence if;

- A person deliberately captures, injures or kills any wild animal of a European Protected Species;
- Deliberately disturbs wild animals of any such species;
- Damages or destroys a breeding site or resting place of such an animal.
- A detailed list of UK wildlife legislation is provided in the appendix.

## 2. Methods

The surveys described below have taken due regard of the Bat Conservation Trust Bat Survey Good Practice Guidelines 2016<sup>2</sup> recognised as a robust survey methodology, Bat Workers Manual (Mitchell-Jones & McLeish, 2004<sup>3</sup>) and the Bat Mitigation Guidelines (English Nature, 2004). Bat Conservation Trust (BCT) Interim Guidance Note (May 2022)<sup>4</sup>.

### 2.1 Preliminary Bat Roost Assessment

Buildings are known to provide suitable roosting opportunities for a number of bat species<sup>5</sup>. An external and internal inspection of the building on site was carried out to assess their potential to support bat roosts, following Bat conservation trust guidelines<sup>6</sup>. An internal inspection was undertaken where possible inspecting all roof voids and potential roosting locations with a high powered torch looking for signs of bats in the form of staining, droppings, feeding remains and the bats themselves. This was followed by an external inspection of the buildings looking for potential ingress points through soffits, eaves, missing roof tiles/slates and brickwork and windows.

EHM undertook a site visit on the 26<sup>th</sup> of April 2023. This was to carry out an inspection to search for and identify potential feeding perches, roosting opportunities and signs of bat use externally. The methodology for assessing bat roost potential followed that recommended by the Bat Conservation Trust.

The building was inspected from the ground using a powerful torch and binoculars. The visual inspection focussed on searching for feeding remains and bat droppings on external walls. Crevices and other potential roost sites were investigated for smear/grease marks, lack of cobwebs, urine staining.

The site visit was undertaken by Katie Jones (Natural England Bat Class Licence CL18 (level 2) 2015-11763-CLS-CLS).

### Desk Top Study

The Multi-Agency Geographical Information for the Countryside (MAGIC) map was reviewed (Magic.gov.uk). This resource was studied for relevant protected species and habitat information. A report from the Devon Biological Records Centre (DBRC) was also obtained which detailed records of protected and notable species within 1 km of the site as well as protected areas.

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<sup>2</sup> Collins, J. (ed) (2016). Bat Surveys for professional Ecologists/; Good Practice Guidelines (3<sup>rd</sup> edn). The Bat Conservation Trust, London.

<sup>3</sup> Mitchell-Jones, A.J, & McLeish, A.P. Ed., (2004), 3rd Edition Bat Workers' Manual, Joint Nature Conservation Committee, Peterborough

<sup>4</sup> Use of night vision aids for bat emergence surveys and further comment on dawn surveys. Bat Conservation Trust (May 2022)

<sup>5</sup> Bats and Buildings. Bats and the Build Environment Series. Bat Conservation Trust. January 2012.

<sup>6</sup> Collins, J. (ed) (2016). Bat Surveys for professional Ecologists/; Good Practice Guidelines (3<sup>rd</sup> edn). The Bat Conservation Trust, London.



## 2.2 Emergence Surveys

Following the initial roost assessment, it was decided that one dusk emergent surveys and one dawn re-entry survey would be conducted.

These surveys would be carried out at a suitable time of year and in suitable weather conditions in line with BCT guidelines. The emergence survey visits were undertaken by experienced bat surveyors, overseen by Edd Lane (Natural England Bat Class Licence 2016-25945-CLS-CLS) and supported by Poppy Hookings (Natural England Bat Class Licence 2018-37946-CLS-CLS).

An emergence/ re-entry surveys were undertaken on the evening of 03/07/2023 and the morning of 18/07/2023. In accordance with good practice guidelines the dusk survey started from 15 minutes before sunset until 90 minutes afterwards in favourable weather conditions. The dawn survey begun 2 hours before sunrise and ended 15 minutes after.

### Equipment Used

Species calls were identified and species were verified by flight patterns in the field. During the surveys the following equipment was used; echo meter touch 2.

## Results

### 3.1 Preliminary Roost Assessment

An external inspection was carried out searching for any potential crevices or gaps that might provide a roosting opportunity. An external inspection was undertaken, where possible, looking for evidence of bats or features that have potential to support a bat roost.

The converted barn on site was constructed of rendered walls with a pitched slate roof and wooden soffit boards. A single storey section is located to the north, also with a sloping slate roof. A stone wall was noted on the exterior of the northern end. The interior contained no accessible loft space as the upper floor had been converted. No direct evidence of bats was seen however the following features were noted that have potential to support a bat roost;

- Gaps at the wall tops on the north, south and east aspects
- Crevices in the stonework on the northern end
- Open, broken soffit on the southeast corner
- Hole between sloping roof and wall top on north aspect

Due to the number of features present the building is considered as having a **moderate** potential to support a bat roost.



Photo 1: Exterior of barn/ shop.

### Desktop Study Results

The local records data contains records of a single bat species; Brown long eared bat (*Plecotus auratus*). This is located approximately 600m to the southeast of the site near to Chilton. The magic map shows a protected species licence relating to bats approximately 2km to the east of the site.

### 3.1 Survey Results

#### Weather Conditions

Date	Start time	End time	Sunset/ Sunrise Time	Temp (°C)	Wind (Beaufort)	Rain
03/07/2023	21:15	23:00	21:30	16	2	0
18/07/2023	03:51	05:36	05:36	12	0	0

**Table 1: Summary of weather conditions and survey parameters.**

#### Survey Results Dusk/ dawn Survey

For both surveys the three surveyors were located to the west, north and southeast of the building (figure 2).

Survey results shown in table 2 below. Following analyses of the video taken from the surveys and observation from the surveys the following summary is made;

- Three confirmed species of bats were recorded on the dusk survey: common pipistrelle (*Pipistrellus pipistrellus*), noctule (*Nyctalus noctula*) and soprano pipistrelle (*Pipistrellus pygmaeus*). As well as an unidentified *Myotis sp.*
- Five confirmed species of bats were recorded on the dawn survey: common pipistrelle, noctule, soprano pipistrelle, Brown long-eared bat (*Plecotus auratus*) and grey long-eared bat (*Plecotus austriacus*). As well as an unidentified *Myotis sp.* and *Plecotus sp.*
- Overall five confirmed bat species were recorded across both surveys.
- The earliest recorded bat on the first survey (common pipistrelle) was recorded at 21:59, 29 minutes after sunset.
- The latest recorded bat on the second survey (*soprano pipistrelle*) was recorded at 05:10, 26 minutes before sunset.
- Activity was predominantly recorded as commuting with occasional foraging bats. .
- No emergences were recorded.

## Bluebell Shop- 03/07/2023- Dusk

Time	Position	Species	Heard (H)/ Seen (S)	Activity type (E = Emergence, R = Return to roost, C = Commuting, F = Foraging, S = Socialising)	Notes on behaviour (including direction of flight, number of bats and habitats used)
21:59:00	A	Common pipistrelle	H&S	C	Flew north to south
21:59:00	B	Common pipistrelle	H&S	F	Multiple passes over position. Continuous till 22:30.
22:05:00	A	Myotis sp.	H&S	C	Flew north to south
22:05:00	A	Common pipistrelle	H&S	C	x2 bats. Commuting along road
22:18:00	B	Myotis sp.	H&S	C	
22:18:00	C	Common pipistrelle	H	C	
22:21:00	A	Common pipistrelle	H	C	
22:28:00	C	Common pipistrelle	H		
22:30:00	B	Noctule	H	C	Multiple passes.
22:39:00	A	Noctule	H	C	
22:40:00	B	Common pipistrelle	H&S	F	Multiple passes.
22:41:00	C	Soprano pipistrelle	H		

Table 2: summary of the bat activity 03/07/2023

## Bluebell Shop- 18/07/2023- Dawn

Time	Position	Species	Hear d (H)/ Seen (S)	Activity type (E = Emergence, R = Return to roost, C = Commuting, F = Foraging, S = Socialising)	Notes on behaviour (including direction of flight, number of bats and habitats used)
03:49:00	C	Common pipistrelle	H	C	Not seen
03:50:00	C	Soprano pipistrelle	H	C	
03:55:00	C	Noctule bat	H	C	
03:57:00	A	Myotis sp.	H	F	Multiple passes
04:01:00	A	Common pipistrelle	H	F	Multiple passes
04:01:00	B	Common pipistrelle	H	F	
04:02:00	A	Plecotus sp.	H	C	
04:02:00	B	Grey long-eared	H	C	
04:08:00	A	Common pipistrelle	H	C	
04:10:00	A	Plecotus sp.	H	C	Single pass
04:10:00	B	Soprano pipistrelle	H	C	
04:10:00	B	Brown long-eared	H	F	
04:19:00	A	Noctule bat	H	C	Single pass
04:19:00	B	Myotis sp.	H	C	
04:20:00	C	Soprano pipistrelle	H	C	
04:24:00	A	Common pipistrelle	H	C	South to north
04:26:00	B	Noctule bat	H	F	
04:26:00	C	Noctule bat	H	C	
04:32:00	B	Noctule bat	H	C	

Time	Position	Species	Hear d (H)/ Seen (S)	Activity type (E = Emergence, R = Return to roost, C = Commuting, F = Foraging, S = Socialising)	Notes on behaviour (including direction of flight, number of bats and habitats used)
04:34:00	C	Noctule bat	H	C	
04:37:00	B	Common pipistrelle	H	C	
04:48:00	A	Noctule bat	H	C	
04:48:00	B	Noctule bat	H	C	
04:48:00	C	Noctule bat	H	C	
05:04:00	A	Noctule bat	H	C/ F	West to east
05:04:00	B	Noctule bat	H	C	
05:04:00	C	Noctule bat	H	C	
05:10:00	B	Noctule bat	H	C	

Table 3: summary of the bat activity 19/06/2023

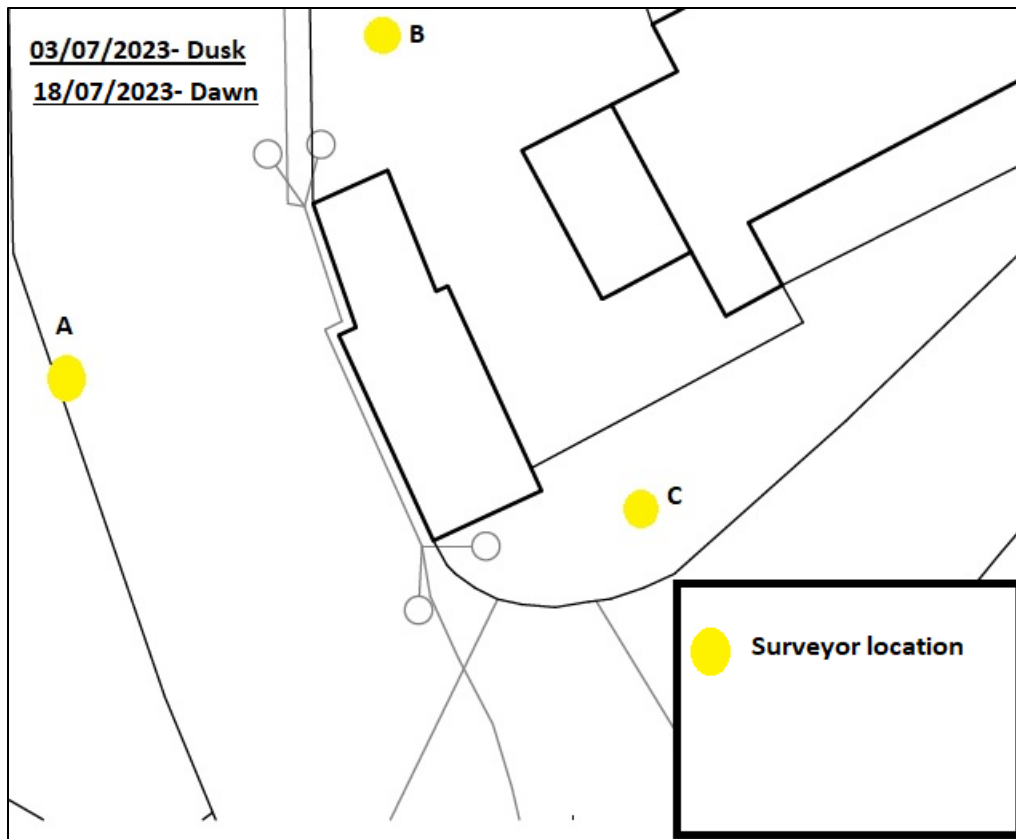


Figure 2: Surveyor locations on dusk and dawn surveys.

## 4. Discussion

### 4.1 Roost Characterisation

Based on the bat surveys and analysis of the data the building is considered as unlikely to support a bat roost and therefore can be re classed as having a **negligible** potential to support a bat roost.

### 4.2 Bat Foraging and Commuting Habitat

Five species were recorded on site; common pipistrelle, noctule, soprano pipistrelle, Brown long-eared bat and grey long-eared bat . As well as an unidentified *Myotis sp.* and *Plecotus sp.*. The majority of the activity recorded was commuting bats with more activity recorded on the dawn survey than on the dusk.

The recording of bats within proximity to dusk and dawn may indicate that bat roosts are located within close to the site.

The majority of species recorded are relatively common, of note is the presence of grey long-eared bat which is a very rare bat restricted to a few sites in southern England<sup>7</sup>. This was only recorded once, on the dawn survey, commuting past the north of the site. It is possible other recordings were made though only identified as a *Plecotus sp.*.

In conclusion the site provides foraging and commuting opportunities for species of bats. Though foraging was relatively limited on site.

### 4.3 Potential Impacts

If the development was to proceed without further mitigation or compensation measures it would have the following potential impacts;

- Disturbance of commuting and foraging habitats.

These impacts would have a long-term effect on the local bat population. Therefore appropriate mitigation measure are required to ensure any impacts are mitigated or adequately compensated.

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<sup>7</sup> <https://cdn.bats.org.uk/uploads/pdf/Resources/For-professionals/BFTB-GLEB-Species-info-sheet.pdf?v=1634908573>

## 5. Mitigation and Recommendations

### 5.1 European Protected Species Mitigation Licensing

As the building is considered as being unlikely to support a bat roost a protected species licence will not be required.

### 5.2 Mitigation Hierarchy

The mitigation hierarchy, as described within the National Planning Policy Framework (NPPF, 2021), was followed in designing this Mitigation Strategy. As such, impacts to bats are, in the first instance, avoided; then, adequately mitigated for; or, as a last resort, they are proportionally compensated for (Collins, J. (Ed.), 2016).

The following actions are recommended to reduce potential to bat roosts and bat habitats.

### 5.3 Careful Working practices

Though the building is not considered as supporting a bat roosts, it should be noted that bat absence is very difficult to prove definitively due to their mobility and size, and single or small numbers of bats are able to roost in extremely small spaces, such as in gaps between panels. The development work should be undertaken with care, for example with roof tiles lifted rather than dragged. If during development works a bat (or an accumulation of bat droppings) is discovered at any time, work is to temporarily cease whilst an experienced bat ecologist is contacted for guidance and assistance. This can be the Bat Conservation Trust (BCT) helpline (0845 1300 228).

### 5.4 Lighting

Lighting can adversely impact bats<sup>8</sup>. Guidelines provided by the Bat Conservation trust should be followed<sup>9</sup> during construction to avoid unnecessary illumination. Lighting should also be considered post-development with any external lighting positioned so as not to illuminate potential habitat for bats. The impact of lighting on bats can be minimised by;

- Using Low-pressure sodium lamps instead of high- pressure sodium or mercury lamps;
- Maintaining the brightness as low as possible;
- Directing the lighting to where it is needed to avoid light spillage; and,
- Minimising upward lighting to avoid light pollution.

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<sup>8</sup> Fure (2006), Bats and lighting, The London Naturalist, No. 85, 2006

<sup>9</sup> [http://www.bats.org.uk/pages/bats\\_and\\_lighting.html](http://www.bats.org.uk/pages/bats_and_lighting.html)



## 5.5 General Ecological Protection Measures

The following measures are suggested to help minimise the impact to the wider environment and nearby roost sites;

- Suppression and monitoring of dust where relevant.
- Control sources of aquatic pollution, particularly from entering local water courses or ground water.
- All proposed work must strictly be in accordance with all relevant Pollution Prevention Guidelines (PPG) published by the Environment Agency which may include but is not limited to PPG1 (general), PPG5 (works in, near, or liable to affect watercourses) and PPG6 (work at construction & demolition sites). Contingency plans should be drawn up to address chemical spillage, collision, etc.

### 5.5 Additional Roost provision

Though no bat roosts were identified, it is recommended to enhance the local bat population and provide roosting opportunities within the site artificial roost sites could be incorporated into the development. Bat boxes could be incorporated into the fabric of the building; the Istock Enclosed Bat Box (B and C)<sup>10</sup> can be easily incorporated into the exterior of a building. Additionally bat tiles could be added to the roof of any new development. These will provide additional roosting features for bats (see example below).



Figure 3: Example of bat tile to be incorporated into the new development.

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<sup>10</sup> <https://www.istockbrick.co.uk/kevington/eco-products/>

## 6. Conclusion

In conclusion, following a dusk emergence survey and dawn re-entry survey, the target building at the former Blue Cross animal shelter in Tiverton is considered as not supporting a bat roost.

It is recommended that a method statement be followed as well as the inclusion of additional bat features as part of the development. Recommendations around suitable lighting and pollution control measures have also been made.

## 7. Appendix

### 7.1 Appendix 1: Legislation

Protected species have protection under national legislation such as the Wildlife and Countryside Act 1981 and European legislation such as the Habitats Directive.

Please note the following:

(1) If there is no record of a particular protected species, this does not signify that the species is absent from the site in question. It may mean that it has not been recorded, that the site has not been surveyed for this species, or that data relating to its presence has not been made available to us.

(2) The presence of a protected species record does not mean that the species is still present. It means that the species was recorded at that time and place. The implications of the record should be further evaluated, and a survey to establish the current status may be required.

(3) The following summary of legislation is designed purely as a basic guide, if any action is to be taken regarding any of the protected species listed, then it is imperative that the full relevant legislation be consulted.

#### WILDLIFE PROTECTION LEGISLATION IN ENGLAND

Legislation that protects wildlife in England exists at the European and national level.

##### European Law

The Bern Convention on the Conservation of European Wildlife and Natural Habitats (1979) was aimed at ensuring conservation and protection of all wild plants and animals, increasing cooperation between states, and affording special protection to the most vulnerable or threatened species. It was implemented by the EC Birds Directive (Council Directive 79/409/EEC) and the EC Habitats Directive (Council Directive 92/43/EEC).

The Bonn Convention on Migratory Species of Wild Animals (1979 & 1994) requires the protection of migratory animals. It was implemented by the EC Birds Directive (Council Directive 79/409/EEC) and the EC Habitats Directive (Council Directive 92/43/EEC).

The EC Habitats Directive aims to establish a network of protected areas in order to maintain the distribution and the abundance of threatened species and habitats. A number of species are listed in the annexes.

Annex II lists animals and plants whose conservation requires the designation of Special Areas of Conservation (SACs).

Annex IV lists animals and plants in need of strict protection. For the animals, this prohibits deliberate capture, killing, disturbance (especially during breeding period), destruction or taking of eggs from wild, and destruction or deterioration of breeding sites or resting places. For the

plants, this prohibits deliberate picking, collecting, uprooting, cutting, destruction, and trade in entire plants or parts, at all stages of life.

Annex V lists animals and plants for which taking in the wild may be subject to management measures

#### National Law

Wildlife and Countryside Act The Wildlife and Countryside Act 1981 (as amended) is the main source of legal protection for wildlife in England and was strengthened by the Countryside and Rights of Way Act 2000. A statutory five-yearly review of Schedules 5 and 8 (protected wild animals and plants) is undertaken by the relevant authorities. Species protection is provided under Schedules 1, 5, 6 and 8:

Schedule 1 lists bird species that are rare, endangered, declining or vulnerable. The Schedule is divided into two parts. Part I lists birds which receive special protection; these birds receive additional protection from disturbance at the nest. Part II lists birds that receive the same level of special protection, but only during the breeding season.

Schedule 5 protects animal (other than bird) species from certain actions, according to the sections of the Act under which they are listed:

S9 (1) prohibits the intentional killing, injury or taking. S9 (2) protection is limited to possessing and controlling. S9 (4a) prohibits the damaging, destroying or obstructing access to any place used by the animal for shelter or protection. S9 (4b) prohibits disturbing the animal while it is occupying any structure or place which it uses for shelter or protection. S9(5) prohibits the selling, offering for sale, possessing or transporting for purpose of sale, or advertising for sale, any live or dead animal, or any part of, or anything derived from such an animal. Species on this Schedule do not appear on the PSI.

Schedule 6 lists animals that may not be killed by certain methods. Even humane trapping for research requires a licence.

Schedule 8 lists plant species for which it is prohibited to intentionally pick, uproot, destroy, trade in, or possess (for the purposes of trade).

Under the Wildlife and Countryside Act, all wild plants in Britain are protected from intentional uprooting by an unauthorised person. Landowners, land occupiers, persons authorised by either of these, or persons authorised in writing by the Local Authority for the area are exempt from this, except for Schedule 8 species.

Conservation Regulations the Conservation of Habitats and Species Regulations 2010 (as amended) transpose the EC Habitats Directive into national law. In addition to enabling the designation of SACs, the regulations also provide species protection:

Schedule 2 protects the listed animals from deliberate capture, killing, disturbance or trading in.

Schedule 4 protects the listed plants from picking, collecting, uprooting, destroying or trading in.

These actions can be made lawful through the granting of licences by the appropriate authorities. Licences may be granted for a number of purposes, but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild the population of the species concerned.

Protection of Badgers Act the Protection of the Badgers Act prohibits the killing, injuring or taking of badgers and damage or interference with a badger sett, unless licensed to do so by a statutory authority.

#### International and European Obligations

In the UK, species receiving protection under international legislation and agreements are protected through the Wildlife and Countryside Act, so are not shown separately in the BMERC notable species lists. For reference, the relevant categories are shown below.

Bern Convention on the Conservation of European Wildlife and Natural Habitats the Bern Convention aims to ensure the conservation of wild flora and fauna species and their habitats.

- Appendix 1 (strictly protected flora) - Plants for which contracting parties will prohibit deliberate picking, collecting, cutting or uprooting.
- Appendix 2 (strictly protected fauna) - Animals for which contracting parties will prohibit deliberate capture, possession, killing, damage to or destruction of breeding or resting sites, disturbance or destruction or taking of eggs. Appendix 3 (protected fauna) - Animals for which contracting parties will include closed seasons and regulate their sale, keeping for sale, and transport for sale or offering for sale of live and dead wild animals. (Not included in Notable Species List).

Bonn Convention on Migratory Species the Bonn Convention aims to conserve terrestrial, marine and avian migratory species throughout their range.

- Appendix 1 (migratory species threatened with extinction) - Species for which contracting parties will strictly protect and endeavour to conserve or restore the places where they live, mitigating obstacles to migration and controlling other factors that might endanger them.
- Appendix 2 (migratory species that need or would benefit from international co-operation) - Species for which contracting parties will be encouraged to conclude global or regional agreements for the conservation and management of individual species or, more often, of a group of species. (Not included in Notable Species List).

The EC Council Directive on the Conservation of Wild Birds the Birds Directive provides a framework for the conservation and management of all wild birds in Europe. As well as designating important sites for birds as Special Protection Areas, birds are generally protected from deliberate killing or capture and destruction of or damage to their nests or eggs, and deliberate disturbance. Allowances are made for game birds.

## UK BAP & notable species

### UK Biodiversity Action Plan and Section 41 Species

Biodiversity, or biological diversity, is the whole variety of life on Earth. The Convention on Biological Diversity (CBD) came about as a result of the 1992 Earth Summit. As one of 168 countries to sign up to the CBD, the UK was required to develop a national strategy for the conservation of biodiversity; the UK Biodiversity Action Plan (UKBAP) was born.

The UKBAP is the result of contributions involving a wide range of people and organisations, enabling the identification of species and habitats that are listed as priorities for conservation action. A 2007 review of the UKBAP has resulted in 1149 species and 65 habitats being listed as conservation priorities. For more information see [www.ukbap.org.uk](http://www.ukbap.org.uk).

### The UK BAP

(From Explanatory Note by Defra and Natural England on Section 41 of the Natural Environment and Rural Communities

(NERC) Act 2006 - Habitats and Species of Principal Importance in England)

The England Biodiversity List has been developed to meet the requirements of Section 41 of the Natural Environment and Rural Communities Act (2006). This legislation requires the Secretary of State to publish a list of species of flora and fauna and habitats considered to be of principal importance for the purpose of conserving biodiversity.

The S41 list will be used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under section 40 of the Natural Environment and Rural Communities Act 2006 'to have regard' to the conservation of biodiversity in England, when carrying out their normal functions. In particular:

- Regional Planning Bodies and Local Planning Authorities will use it to identify the species and habitats that should be afforded priority when applying the requirements of National Planning Policy framework (NPPF) and PPS9 Circular to maintain, restore and enhance species and habitats.
- Local Planning Authorities will use it to identify the species and habitats that require specific consideration in dealing with planning and development control, recognising that under NPPF and PPS9 Circular the aim of planning decisions should be to avoid harm to all biodiversity.
- All Public Bodies will use it to identify species or habitats that should be given priority when implementing the NERC Section 40 duty.

Habitats of Principal Importance Fifty-six habitats of principal importance are included on the S41 list. These are all the habitats in England that have been identified as requiring action in the UK Biodiversity Action Plan (UK BAP). They range from habitats such as upland hay meadows to

lowland mixed deciduous woodland and from freshwater habitats such as ponds to marine habitats such as subtidal sands and gravels.

**Species of Principal Importance** There are 943 species of principal importance included on the S41 list. These are the species founding England which have been identified as requiring action under the UK BAP. In addition, the Hen Harrier has also been included on the List because without continued conservation action it is unlikely that the Hen Harrier population will increase from its current very low levels in England.

**Relationship with the UK Biodiversity List of Species and Habitats** the UK BAP list of priority species and habitats is an important reference source and will be the focus for conservation action across the UK over the next decade. It has been used to draw up the species and habitats of principal importance in England under S41 of the NERC Act.

The revised UK BAP list of priority species and habitats can be downloaded from the UK Biodiversity Website: <http://www.ukbap.org.uk/NewPriorityList.aspx>

**Relationship with the biodiversity duty under Section 40 of the NERC Act** There is a general biodiversity duty in the NERC Act (Section 40) which requires every public body in the exercising of its functions to 'have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'.

There is no direct relationship between the Section 41 duty on the Secretary of State to publish the list and promote the taking of steps to conserve the habitats and species on it, and the Section 40 duty on public bodies to have regard to the purpose of conserving biodiversity. Importantly:

(a) Biodiversity, as covered by the Section 40 duty includes all biodiversity and not just the habitats and species of principal importance. However, there is an expectation that public bodies would refer to the S41 list when complying with the section 40 duty.

(b) The duty on the Secretary of State to promote the taking of steps by others is not restricted to public bodies.

Defra guidance for local authorities and public bodies on implementing the biodiversity duty in the NERC Act draws attention to the S41 list, emphasising that local authorities and public bodies have a role to play in ensuring the protection of these species and habitats. Copies of the guidance can be downloaded from:

<http://archive.defra.gov.uk/environment/biodiversity/documents/pa-guid-english.pdf>