



PHASE 1 BAT & NESTING BIRD SURVEY

**Block 1, Vernon Close, Leamington
Spa, Warwickshire, CV32 6HH**

24th April 2024

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Control Sheet

General Report Information	
Report title	Phase 1 Bat & Nesting Bird Survey
Client	Vernon Close Ltd
Location	Block 1, Vernon Close, Leamington Spa, Warwickshire, CV32 6HH
Prepared by	Dr Jon Russ
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Where any appraisal is based upon information provided by third parties, it is assumed that this information is relevant, correct and complete; there has been no independent verification of information obtained from third parties unless otherwise stated. Where field investigations have been carried out these have been appropriate to the agreed scope of works and carried out to a level of detail required to achieve the stated objectives

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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 Jonathan Holland of Jonathan Holland Architects acting on behalf of their client, Vernon Close Ltd. Planning consent is being sought from Warwick District Council to remove the existing roof covering on Block 1, Vernon Close, Leamington Spa, Warwickshire, CV32 6HH and introduce a new covering. The local planning authority will require a bat and nesting bird survey to inform the planning process.

1.2 Site description

The site proposed for development, Block 1, Vernon Close (GR: SP315674), is situated at the northern edge of Leamington Spa, Warwickshire (Figure 1). The site is in a residential area consisting of dwellings and gardens situated to the south, west and east of the site and arable cropland with an associated network of hedges and treelines to the immediate. 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 represent good foraging habitat for bats and the variety of habitats is suitable for a relatively diverse range of bird species.

1.3 Proposed works

Planning consent is being sought from Warwick District Council to remove the existing roof covering on Block 1, Vernon Close, Leamington Spa, Warwickshire, CV32 6HH and introduce a new covering.

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: UK Bat Mitigation Guidelines (Reason & Wray 2023); 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 18th April 2024, the building was 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 building.

Table 1. Description of roosting potential categories. Note that these differ from those in the current guidelines (Collins 2023) which are skewed towards categorising nearly all buildings as being of high roosting potential

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 1 km of the site.

3.1.2 Protected species

See 2.1.

3.2 Field Surveys

3.2.1 Habitat description

The focus of the survey is a three-storey brick block of 14 townhouses (Photographs 1-4). The flat roof is covered with a bitumen roof covering. There are hanging tiles within the area of the first floor on the east and west elevations.

Photographs for each pair of houses are present sequentially in Photographs 5-51.

3.2.2 Bat roost survey/Nesting bird survey(s)

Bats

There are very few potential roosting opportunities for bats. There are a small number of openings in the area of the hanging tiles – 21 in total – leading to the cavities underneath (Photographs 8, 14, 16-19, 22, 24-26, 30-34, 37, 41-43, 48 and 49). Such cavities are suitable for crevice-dwelling bats, such as those of the genus *Pipistrellus*. However, the vast majority are located on the eastern side of the building where human disturbance is relatively high and external lighting is present underneath the tiles next to many of the front doors.

There are areas where the roof edge trim has lifted slightly providing access to a very shallow cavity underneath (e.g. Photographs 9-11, 15, 23, 29, 38, 47, 50 and 52). The cavities are probably not deep enough to be used by bats and those that could be lit by a powerful focussing torch were full of cobwebs.

Nesting birds

There was no evidence of nesting birds.

3.2.3 Bat activity survey(s)

n/a

3.2.4 Interpretation and evaluation of survey results

Bats

The building is considered to be of low bat roosting potential as overall there are only a very small number of openings leading to the cavities between the hanging tiles, battens and lining and the majority of these are in slightly sub-optimal locations being next to areas of potential disturbance and lighting.

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 remove the existing roof covering on the building and introduce a new covering to comply with building regulations. As this work will affect the roof only and as the possibility of bats being present under hanging tiles is quite low it is considered unlikely that it will have an impact on this group of species. The work is also unlikely to have an impact on nesting birds.

5 Recommendations and mitigation

Bats

There was no evidence of bats within the described building – Block 1 – at Vernon Close, Leamington Spa (see 3.2.2 and 3.2.4). The building is considered to be of low bat roosting potential as overall there are only a very small number of openings leading to the cavities between the hanging tiles, battens and lining and the majority of these are in slightly sub-optimal locations being next to areas of potential disturbance and lighting. As the potential roosting areas will be largely unaffected by the proposed work (see below) no further survey work is considered necessary in accordance with sections 2.2.17, 2.2.18 and 2.2.19 of current guidelines (see Collins 2023).

Planning consent is being sought from Warwick District Council to remove the existing roof covering on the building and introduce a new covering to comply with building regulations. As this work will affect the roof only and as the possibility of bats being present under hanging tiles is quite low it is considered unlikely that it will have an impact on this group of species. The work is also unlikely to have an impact on nesting birds. However, the following must be adhered to.

- When the scaffolding has been erected, or there is other alternative access, a licensed ecologist must inspect the openings under the roof edge trim and also the areas where there are openings in the hanging tiles to confirm that bats are not present. If bat roosts are identified by the ecologist all work must stop. It may be necessary to obtain an appropriate derogation licence (i.e. European Protected Species Licence, Bat Mitigation Class Licence) unless the ecologist confirms that work can proceed without committing an offence.

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:

- Installing bat boxes at the top of the south, east and/or west walls or on trees within the site boundary (e.g. Photographs 52 and 53).

Birds

There is no current evidence of nesting. In Britain, all wild birds are granted legal protection under the Wildlife & Countryside Act 1981 (as amended), the Bern Convention and the EC Birds Directive. The legislation protects the birds and their eggs and nests while being built or in use. This protection makes it an offence to intentionally kill, injure, take or have in possession any wild bird or egg. It is also an offence to intentionally damage or destroy the nest of any wild bird while it is being built or in use. Therefore, the following must be adhered to:

- 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.

6 References

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7 Figures

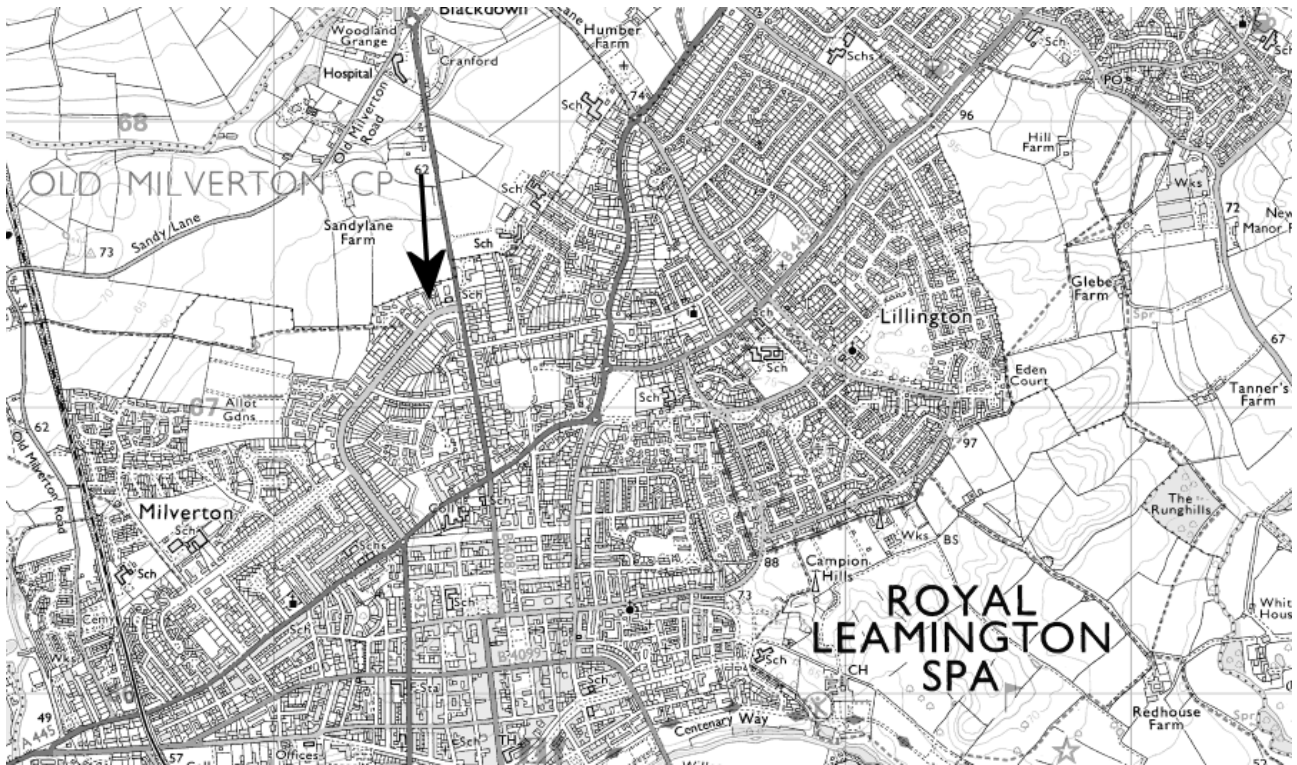


Figure 1. Location of the site (arrowed). 1:25000

8 Photographs



Photograph 1. The east and south elevations of the building (from south-west corner)



Photograph 2. The east elevation of the building (from north-west corner)



Photograph 3. The north and west elevations of the building (from north-east corner)



Photograph 4. The east elevation of the building (from southern end)



Photograph 5. The east elevation of Nos 1 and 2



Photograph 6. The south elevation of Nos 1 and 2



Photograph 7. The west elevation of Nos 1 and 2



Photograph 8. Hole in a hanging tiles on the east side of Nos 1 and 2



Photograph 9. Lifted roof edge trim on the east side of Nos 1 and 2



Photograph 10. Lifted roof edge trim on the south side of Nos 1 and 2



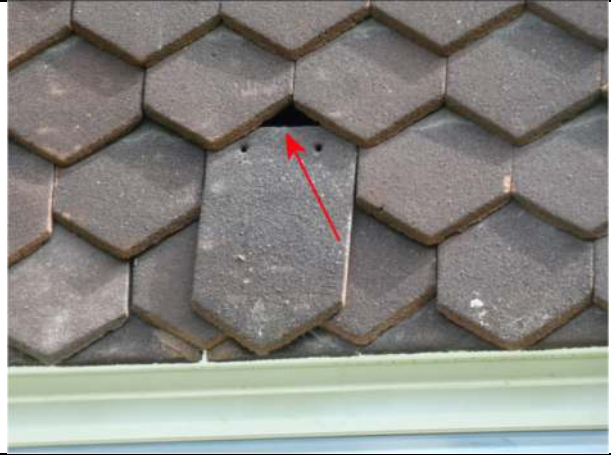
Photograph 11. Lifted roof edge trim on the west side of Nos 1 and 2



Photograph 12. The east elevation of Nos 3 and 4



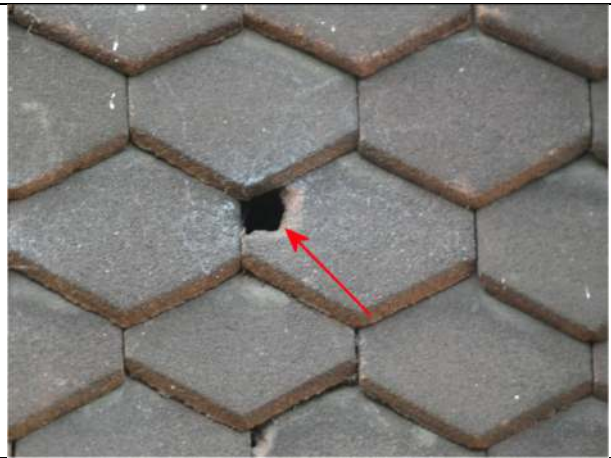
Photograph 13. The west elevation of Nos 3 and 4



Photograph 14. Slipped hanging tile on the west elevation of Nos 3 and 4



Photograph 15. Opening under the roof edge trim on the east elevation of Nos 3 and 4



Photograph 16. Opening in the hanging tiles on the east elevation of Nos 3 and 4



Photograph 17. Opening in the hanging tiles on the east elevation of Nos 3 and 4



Photograph 18. Opening in the hanging tiles on the east elevation of Nos 3 and 4



Photograph 19. Opening in the hanging tiles by the vent on the east elevation of Nos 3 and 4



Photograph 20. The east elevation of Nos 5 and 6



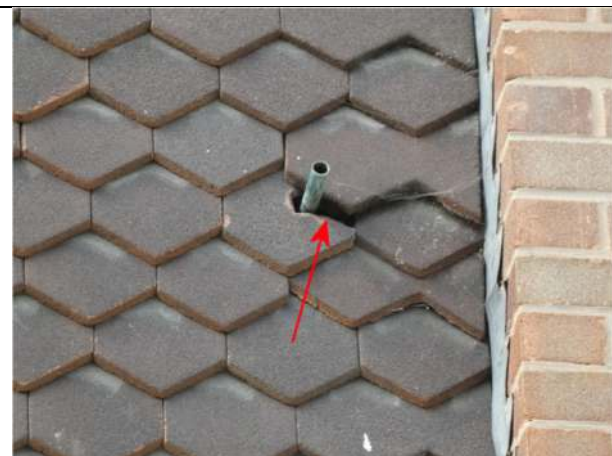
Photograph 21. The west elevation of Nos 5 and 6



Photograph 22. Missing slate on the west elevation of Nos 5 and 6



Photograph 23. Opening under the roof edge trim on the west elevation of Nos 5 and 6



Photograph 24. Opening in the hanging tiles on the east elevation of Nos 5 and 6



Photograph 25. Opening in the hanging tiles on the east elevation of Nos 5 and 6



Photograph 26. Opening in the hanging tiles on the east elevation of Nos 5 and 6



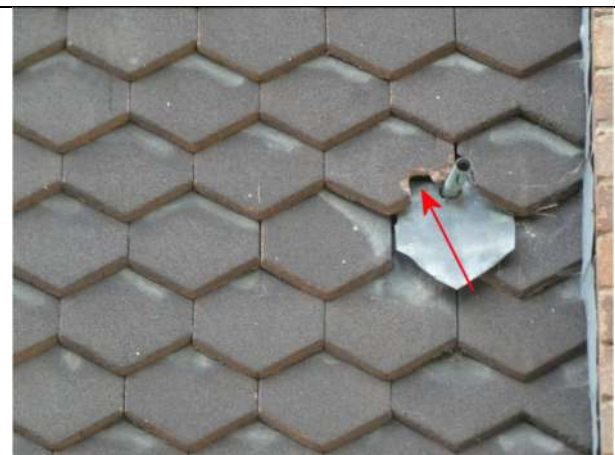
Photograph 27. The east elevation of Nos 7 and 8



Photograph 28. The west elevation of Nos 7 and 8



Photograph 29. Opening under the roof edge trim on the east elevation of Nos 7 and 8



Photograph 30. Opening in the hanging tiles on the east elevation of Nos 7 and 8



Photograph 31. Opening above the vent on the east elevation of Nos 7 and 8



Photograph 32. Opening under hanging tiles at the corner of the window on the east elevation of Nos 7 and 8



Photograph 33. Opening under hanging tiles at the corner of the window on the east elevation of Nos 7 and 8



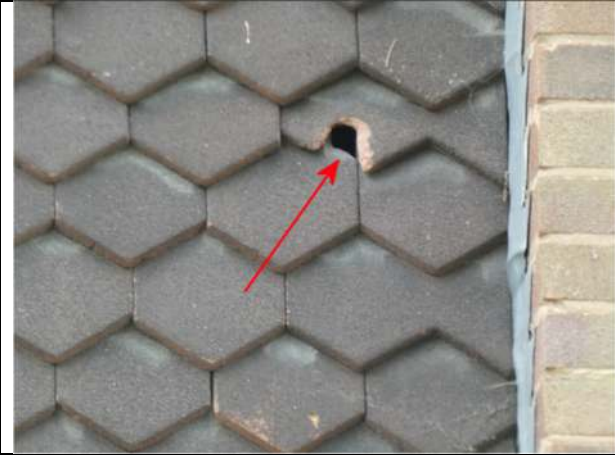
Photograph 34. Opening in the hanging tiles on the east elevation of Nos 7 and 8



Photograph 35. The east elevation of Nos 9 and 10



Photograph 36. The west elevation of Nos 9 and 10



Photograph 37. Opening in the hanging tiles on the east elevation of Nos 9 and 10



Photograph 38. Opening under the roof edge trim on the east elevation of Nos 9 and 10



Photograph 39. The east elevation of Nos 11 and 12



Photograph 40. The west elevation of Nos 11 and 12



Photograph 41. Opening under lead the roof edge trim under a window on the west elevation of Nos 11 and 12



Photograph 42. Opening under hanging tiles on the west elevation of Nos 11 and 12



Photograph 43. Opening in the hanging tiles on the east elevation of Nos 11 and 12



Photograph 44. The east elevation of Nos 13 and 14



Photograph 45. The west elevation of Nos 13 and 14



Photograph 46. The north elevation of Nos 13 and 14



Photograph 47. Opening under the roof edge trim on the east elevation of Nos 13 and 14



Photograph 48. Opening under hanging tiles above a window on the east elevation of Nos 13 and 14



Photograph 49. Opening under hanging tiles at the corner of a window on the east elevation of Nos 13 and 14



Photograph 50. Opening under the roof edge trim on the east elevation of Nos 13 and 14



Photograph 51. Opening under the roof edge trim on the east elevation of Nos 13 and 14



Photograph 52. Greenwood's EcoHabitats single cavity bat box



Photograph 53. PRO UK Build-in WoodStone Bat Box

END OF REPORT



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