The Ecology Consultancy

**Plot 10, Central Somers Town Community Hub** / Bat Survey / Report for Neilcott Construction Ltd

# Plot 10, Central Somers Town Community Hub, King's Cross

## Bat Survey

## Report for Neilcott Construction Ltd

| **Job Number** | 6305 | | | |
|---|---|---|---|---|
| **Author** | Verity Heard BSc (Hons) MSc Grad CIEEM | | | |
| **Version** | **Checked by** | **Approved by** | **Date** | **Type** |
| 1.0 | Natalie Hughes BSc (Hons) ACIEEM | Wendy McFarlane MA MSc MCIEEM | 11.09.2017 | Final |

The Ecology Consultancy, Tempus Wharf, 33A Bermondsey Wall West, London SE16 4TQ.
**T**. 020 7378 1914 **E**. enquiries@ecologyconsultancy.co.uk **W**. www.ecologyconsultancy.co.uk

# Contents

# Summary of Key Issues

The Ecology Consultancy was commissioned by Neilcott Construction Ltd in August 2017 to undertake a single bat emergence/re-entry survey to determine the presence or likely absence of roosting bats within the Plot 10, Central Somers Town Community Hub site. The main findings are as follows:

- The development proposals for the site, based on current plans provided by the client are for the redevelopment of the site to provide residential, commercial and community use.
- During the Preliminary Ecological Appraisal conducted in April 2015 (Penny Anderson Associates Ltd, 2015) the single building on site that is scheduled for redevelopment had features with a low-moderate potential to support roosting bats.
- Following this, in February 2016, an internal and external inspection of the building was undertaken by Ecology Network Ltd (2016). The building was assessed as having low potential to support roosting bats.
- In line with current survey guidelines, one bat emergence/re-entry survey was recommended prior to the demolition of the building.
- On 14 October 2016 the development was granted full planning permission, subject to conditions. Condition 49 states an "…an *emergence / re-entry bat survey shall be under taken, by a qualified ecologist, at the southern elevation of the main building, in accordance with recommendations in the daytime bat survey report.*
- A single presence/likely absence survey was carried out in line with best practice guidance (Collins, 2016) on 29 August 2017.
- No evidence of bats roosting within the building was recorded during the emergence survey on site. Therefore, it is considered that a roost is likely absent and development works can occur without the need for further survey.
- Recommendations to enhance the site for bats in line with the London Borough of Camden Local Plan (2017) and Camden Biodiversity Action plan (2013) include the provision of bat boxes, planting which facilitates an increase in prey items and sensitive lighting.

# 1 Introduction

## BACKGROUND TO COMMISSION

1.1 The Ecology Consultancy was commissioned by Neilcott Construction Ltd in August 2017 to undertake a single bat emergence/re-entry survey to assess the presence or likely absence of bats within a single building at Plot 10, Central Somers Town Community Hub, London Borough of Camden. This followed a Preliminary Ecological Appraisal (PEA) conducted at the site by Penny Anderson Associates Ltd in April 2015 which identified features with low – moderate potential to support roosting bats on the building.

1.2 On 16 February 2016, an internal and external inspection of the building was undertaken by Ecology Network Ltd (2016). No evidence of roosting bats such as droppings, staining or feeding remains were found during the inspection. However, features were present with potential to support roosting bats on the building and an external elevated section of the roof could not be accessed at the time of the survey. As such, a single presence/likely absence survey was recommended prior to the demolition of the building, focussing on the external elevated section of the roof which was not accessible as part of the survey.

1.3 Full planning permission to develop the site was granted by London Borough of Camden on 14 October 2016 (Planning reference: 2017/2148/P) subject to conditions. Condition 49 states the following:

*'Precautionary bat survey - Plots 1 and 2 : Immediately prior to demolition of Plot 10, an emergence / re-entry bat survey shall be under taken, by a qualified ecologist, at the southern elevation of the main building, in accordance with recommendations in the daytime bat survey report, which identified features in this location with potential to support bats. Evidence that the survey has been undertaken shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of demolition.*

1.4 This current assessment was carried out in order to provide additional baseline ecological information for the site and discharge Condition 49 of the proposed development. The survey covers a single building located within the site boundary (hereon referred to as 'the site') as indicated on the plan provided by the client (Neilcott Construction, 2016).

## SCOPE OF REPORT

1.5 This report provides an assessment of the likelihood that the site supports roosting bats and outlines any avoidance, mitigation, compensation and enhancement measures as may be required to comply with legislation and policy.

1.6 The assessment is based on the following sources of information:

- one dusk emergence survey (Collins, 2016).

1.7 This assessment has been prepared with reference to best practise guidance published by the Bat Conservation Trust (Collins, 2016) and as detailed in British Standard 42020:2013 *Biodiversity – Code of Practise for Biodiversity and Development* (BSI, 2013).

## SITE CONTEXT AND STATUS

1.8 The site is approximately 0.51 hectares (ha) in size and is located at National Grid reference TQ 296 831. The site comprised a single storey building of timber construction surrounded by a playground and garden. The main habitats present included hardstanding, introduced shrubs and species-poor hedge with scattered trees.

The site is not subject to any statutory or non-statutory nature conservation designations. There is one statutory designated sites within a 1km radius; the Camley Street Local Nature Reserve (LNR) located approximately 200m from the site. There are twelve non-statutory designated Sites of Importance for Nature Conservation (SINC) within a 1km radius, the closest of which is St Pancras Gardens, approximately 200m away (Penny Anderson Associates Ltd, 2015).

## DEVELOPMENT PROPOSALS

1.9 Proposals include the demolition of the existing building on the Plot 10 site and provision of a new community hub and residential units, as part of a wider scheme to re-develop Somers Town.

## RELEVANT LEGISLATION AND PLANNING POLICY

1.10 The following key pieces of nature conservation legislation are relevant to this assessment. A more detailed description of this legislation is provided in Appendix 4.

- The Conservation of Habitats and Species Regulations 2010 (as amended); and
- Wildlife and Countryside 1981 (as amended).

1.11 The National Planning Policy Framework (Department of Communities and Local Government, 2012) requires local authorities to avoid and minimise impacts on biodiversity and, where possible, to provide net gains in biodiversity when taking planning decisions.

1.12 The London Plan: The Spatial Strategy for Greater London (Consolidated with Alterations Since 2011) (GLA, 2016) deals with matters of strategic importance for spatial development in London, including policies regarding protection, enhancement, creation, promotion and management of biodiversity and green infrastructure in support of the Mayor's Biodiversity Strategy (GLA, 2002), and urban greening to mitigate the effects of climate change.

1.13 Other planning policies at the local level which are of relevance to this Proposed Development include Policy A3 of the London Borough of Camden Local Plan (2017) and Action 2.5, 2.6 and 2.16 of the Camden Biodiversity Action Plan (BAP). Further information is provided in Appendix 4.

# 2 Methodology

## BAT SURVEY

### Personnel

2.1 The surveys were led by John Myerscough and Rosie Whicheloe, an Assistant Ecologist and Ecologist respectively, with a combined 7 years commercial bat survey experience.

### Survey area

2.2 The surveys covered a single building in Plot 10, Central Somers Town Community Centre, and King's Cross within the red-line boundary of the site (see Site plan, Neilcott Construction, 2016). A results map was not commissioned by Neilcott Construction Ltd. The map provided within the Ecology Network Daytime Bat Survey report (Ecology Network, 2016) was used to determine the surveyor locations during the survey.

### Aims and Objectives

2.3 The aim of the survey methodologies outlined below is to establish the presence/likely absence of bat roosts for a single building within the site boundary. Once presence has been established the secondary aim is to obtain sufficient information to characterise the type of roost according to criteria set out in the current guidelines (Collins, 2016). The gathered information is then used to inform an assessment of the potential impacts of the development proposals and to devise an appropriate and proportionate mitigation strategy.

### Dusk Emergence Surveys

2.4 The dusk emergence survey was carried out in suitable weather conditions;

*Survey 1:* 29 August 2017, 22-20ºC, light breeze, 5/8 okta cloud cover and no rain. Sunset was at 19:50 and the survey commenced at 19:20 and continued until 21:20.

2.5 The surveyors were positioned in the south east and west of the building to allow clear views of each potential roost entry/exit point that had been identified during the building inspection, with particular emphasis on the external elevated section of the roof that could not assessed previously (Ecology Network, 2016).

2.6 Each surveyor carried a Batbox Duet or Elekon Bat Scanner and an Anabat Express remote detector employed at the site to record bat calls. The surveyors recorded the time of bat passes, along with the species and activity where apparent. All surveys followed

standard protocols and accepted standards (Mitchell-Jones & McLeish 2004; Collins, 2016).

### Sound analysis

2.7 The Anabat recordings were analysed post survey using Analook™ V3.3q by a suitably experienced ecologist.

## EVALUATION AND IMPACT ASSESSMENT

### Evaluation

2.8 The ecological value of the bats using the site has been assessed broadly following guidance issued by the Chartered Institute of Ecology and Environmental Management (CIEEM, 2016) which ranks nature conservation value according to a geographic scale of reference; international, national, county, district, local or of value at the site scale. The following factors are considered when making this evaluation: nature conservation designations, rarity, vulnerability, distribution and the conservation significance[1] of any roosts.

### Impact Assessment

2.9 An assessment is provided on the likely impacts of the development proposals on the bats, bat roosts, foraging and commuting habitats located within or immediately adjacent to the site boundary. This assessment is made with reference to Section 6[2] of the Bat Mitigation Guidelines (Mitchell-Jones & McLeish, 2004) and Natural England's standing advice[3]. This includes a summary of the scale of impact according to roost type and development effect.

## DATA VALIDITY AND LIMITATIONS

2.10 It is important to note that even where data is held, a lack of records for a defined geographical area does not necessarily mean that there is a lack of ecological interest; the area may be simply under-recorded.

[1] Figure 4. Guidelines for proportionate mitigation, the Bat Mitigation Guidelines (Mitchell-Jones & McLeish, 2004)
[2] Predicting the Impact of Development, the Bat Mitigation Guidelines (Mitchell-Jones & McLeish, 2004)
[3] Bats: surveys and mitigation for development projects, first published 28 March 2015

# 3 Results

## BAT SURVEY

3.1 The results of the survey are summarised below. The full survey results are detailed in Appendix 1.

### Emergence Survey: 29 June 2017

3.2 No bats were seen emerging from the building by the two surveyors. Commuting and foraging bats were recorded, however, they were not seen. A high level of lighting was recorded throughout the survey. Most of the features on the building were illuminated.

3.3 A total of six calls were recorded[4] by the surveyors and the Anabat loggers and the Elekon Batlogger M. Two species were recorded – common pipistrelle and soprano pipistrelle:

- The first call recorded was a commuting common pipistrelle at 20:18 approximately 28 minutes after sunset, considered to be within the emergence period for this species. It was a faint, brief unseen call. This species accounted for the majority of the activity observed.
- A single unseen soprano pipistrelle was recorded foraging at 20:23. It was a loud call suggesting it was foraging on site.

3.1 *Sound Analysis*: All calls were clear enough to be attributed to a particular bat species and confirmed the species of bats recorded by the two surveyors.

[4] A number of these calls are likely to be duplicates of the same bat pass recorded at different surveyor locations and have been grouped when considering the number of registrations for each species

# 4 Evaluation and Impacts

## EVALUATION

### Roosting Bats

4.1 No evidence of roosting bats was recorded emerging or entering the building on site during the single dusk emergence survey.

4.2 The soprano and common pipistrelle bats were recorded within the anticipated emergence time for the species. Soprano and common pipistrelle bats emerge from their roost from approximately 30 minutes after sunset (Collins, 2016). However, the bats were not found to be emerging from the building. As such, the time of the activity suggests the two species are likely to be roosting at a nearby location.

### Foraging and commuting habitats

4.3 Despite the site being well lit by nearby street lighting, occasional commuting and foraging activity was recorded by at least two species of bat; common pipistrelle and soprano pipistrelle during the survey.

### Site

4.4 The site is assessed as having value at Site level for bats. This is due to the supporting function that the habitats on the site provide for foraging and commuting bats.

## IMPACT ASSESSMENT

### Roosting Bats

4.5 Due to the absence of evidence for roosting bats during the survey undertaken in 2017, it is considered the proposed works will have no impact upon roosting bats.

### Foraging and commuting habitats

4.6 The site is utilised as a foraging resource and commuting route for soprano pipistrelle and common pipistrelle. It is unlikely that the proposed works would have a negative impact on the ability of bats to move safely across of the site; however, lighting (both during development works and operational lighting post-development) should be designed sensitively.

# 5 Summary and Recommendations

## SUMMARY

5.1 This section summarises the data gathered during the surveys and the likely impacts on bats, bat roosts and supporting habitats that are present on the site, as described in previous sections of this report.

5.2 The following key ecological issues have been identified:

- No bats were recorded emerging or were suspected to have emerged from the building. This species does not pose a constraint to the proposed works and no further surveys are required.
- Foraging and commuting activity was recorded on site from two species of bat recorded during the dusk survey.
- The development of the site is unlikely to impact the foraging resource and commuting route, provided sensitive artificial lighting is employed. It is therefore recommended that the final lighting scheme should be designed to minimise any light spillage to the vegetation on site, see further details below.
- A range of measures should be undertaken to satisfy the requirement for ecological enhancement included in planning policy.

## RECOMMENDATIONS

### Bats and Lighting

5.3 While different species of bat react differently to night time lighting, research has found that bats overall are sensitive to artificial lighting. Excessive and/or poorly directed lighting may delay bats in emerging from their roosts; shortening the time available for foraging, as well as causing bats to move away from suitable foraging grounds, movement corridors or roosting sites, to alternative dark areas (Jones, 2000).

5.4 To minimise indirect impacts from lighting associated with the development works it is recommended that artificial lighting is only directed where necessary for health and safety reasons. Lighting should not illuminate any trees or bat boxes on-site and should only be used for the period of time for which it is required (Jones, 2000). This can be achieved by following accepted best practice (Fure, 2006; Institute of Lighting Engineers 2009; Bat Conservation Trust 2011):

- The level of artificial lighting including flood lighting should be kept to an absolute minimum;

- Where this does not conflict with health and safety and/or security requirements, the site should be kept dark during peak bat activity periods (0 to 1.5 hours after sunset and 1.5 hours before sunrise);
- Lighting required for security or safety reasons should use a lamp of no greater than 2000 lumens (150 Watts) and should comprise sensor-activated lamps;
- Lights utilising LED technology are the preferred option as these lights do not emit on the UV spectrum, are easily controllable in terms of direction/spill and can be turned on and off instantly;
- Avoid the use of sodium or metal halide lamps, these gas lamps require a lengthy period in which to turn off and the diffuse nature of the light emitted makes light spillage a significant problem.
- Lighting should be directed to where it is needed to minimise light spillage. This can be achieved by limiting the height of the lighting columns and by using as steep a downward angle as possible and/or a shield/hood/cowl/ that directs the light below the horizontal plane and restricts the lit area;
- Artificial lighting should not directly illuminate any habitats of value to commuting/foraging bats. Similarly, any newly planted linear features should not be directly lit; and
- Lighting design computer programs can be used to predict the potential impacts of light spillage.

### Planting to enhance the site for bats

5.5 To enhance the biodiversity potential of site it is recommended that post development landscaping plans include plants of known benefit to insects. This would encourage bats to use the site for foraging purposes. See the Bat Conservations Trusts Landscape and Urban Design for Bats and the Royal Horticultural Society's Plants for Bats list: https://www.rhs.org.uk/advice/pdfs/plants-for-bats.

### Provision of roosting bat opportunities

5.6 At least one bat box should be installed on site post development to provide additional roosting opportunities for bats in the area in line with Action 2.16 of the Camden BAP (2013). Woodcrete boxes are recommended as they are long lasting compared to wooden boxes and insulate occupants from extremes of temperature and condensation. The bat box should be positioned between 3-5m above ground level facing south east – south west in a location that will not be lit by artificial lighting.

# References


Bat Conservation Trust (2011) *Statement on the impact and design of artificial light on bats*. Bat Conservation Trust, London.

Collins. (2016) *Bat Surveys - Good Practice Guidelines* 3rd Edition. Bat Conservation Trust, London.

Camden Biodiversity Action Plan (2013). Available at: file:///C:/Users/verity/AppData/Local/Microsoft/Windows/INetCache/IE/IR11AGIK/Camden%20Biodiversity%20Action%20Plan%202013-18.pdf

Ecology Network (2016) Day Time Bat Survey Report.Fure, A. (2006) *Bats and lighting*. The London Naturalist **85**.

GLA (2015). The London Plan Spatial Development Strategy For Greater London - Consolidated With Alterations Since 2011. [On-line] Available from http://www.london.gov.uk/priorities/planning/london-plan [Accessed: /08/2017].

Institute of Lighting Engineers (2009) *Bats and Lighting in the UK* Version 3. Institute of Lighting Engineers and Bat Conservation Trust [online]. Available from http://www.bats.org.uk/data/files/bats_and_lighting_in_the_uk__final_version_version_3_may_09.pdf

Jones, J. (2000) *Impact of lighting on bats*. Bat Conservation Trust, London. http://www.bats.org.uk/downloads/Helpline/lighting.pdf

London Borough of Camden (2017) Local Plan Adopted June 2017. Available at: https://www.camden.gov.uk/ccm/cms-service/stream/asset/?asset_id=3601932&

Mitchell-Jones, A.J. & McLeish, A.P. (2004) *The Bat Workers' Manual* 3rd Edition. Joint Nature Conservation Committee, Peterborough.

Penny Anderson Associates Ltd (2015) Preliminary Ecological Appraisal

# Appendix 1: Survey Data

Survey 1: Dusk Emergence Survey Results

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Project** | | 6205 Plot 10 STCH | | **Building reference** | | 1 | |
| **Surveyor** | | John Myerscough | | **Date** | | 29/08/17 | |
| **Survey no** | | 1 | | **Survey start/end times** | | 19:20 / 21:20 | |
| **Sunset/rise time** | | 19:50 | | **Equipment reference** | | EX8 | |
| **Surveyor-Easting, Northing** | | | | **Surveyor location** | | 1 | |
| **General weather conditions** | | Mild, dry, light breeze, part cloud | | | | | |
| **Temperature (start and end)** | 22/20 | **Cloud cover (0-8)** | 5 | **Wind (Beaufort 0-12)** | 2 | **Rain (0-5)** | 0 |

Species - (CP=common pipistrelle, SP=soprano pipistrelle, LE=long-eared, N=Noctule, S=Serotine, M=Myotis, U=Unknown

Activity type - (E = Emergence, R = Return to roost, C = Commuting, F = Foraging, S = Socialising)

| Time | Species | Number of bats | Seen/not seen (S/NS) | Activity type | Direction of flight | Notes (inc map ref) |
|---|---|---|---|---|---|---|
| 20:25 | CP | 1 | NS | C | U | 1 pass, very brief, faint |
| 20: 35 | CP | 1 | NS | F | U | 1 pass, brief, loud |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Project** | | 6205 Plot 10 STCH | | **Building reference** | | 1 | |
| **Surveyor** | | Rosie Whicheloe | | **Date** | | 29/08/17 | |
| **Survey no** | | 1 | | **Survey start/end times** | | 19:20 / 21:20 | |
| **Sunset/rise time** | | 19:50 | | **Equipment reference** | | EX6 | |
| **Surveyor-Easting, Northing** | | | | **Surveyor location** | | 1 | |
| **General weather conditions** | | Mild, dry, light breeze, part cloud | | | | | |
| **Temperature (start and end)** | 22/20 | **Cloud cover (0-8)** | 5 | **Wind (Beaufort 0-12)** | 2 | **Rain (0-5)** | 0 |

Species - (CP=common pipistrelle, SP=soprano pipistrelle, LE=long-eared, N=Noctule, S=Serotine, M=Myotis, U=Unknown

Activity type - (E = Emergence, R = Return to roost, C = Commuting, F = Foraging, S = Socialising)

| Time | Species | Number of bats | Seen/not seen (S/NS) | Activity type | Direction of flight | Notes (inc map ref) |
|---|---|---|---|---|---|---|
| 20:18 | CP | 1 | NS | F | U | 1 pass, very brief, faint |
| 20: 23 | SP | 1 | NS | | U | 1 pass, brief, loud |
| 20: 38 | SP | 1 | NS | | U | 1 pass, brief, loud |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

# Appendix 2: Legislation

**Important Notice:** This section contains details of legislation applicable in Britain only (i.e. not including the Isle of Man, Northern Ireland, the Republic of Ireland or the Channel Islands) and is provided for general guidance only. While every effort has been made to ensure accuracy, this section should not be relied upon as a definitive statement of the law.

## A NATIONAL LEGISLATION AFFORDED TO SPECIES

The objective of the EC Habitats Directive[5] is to conserve the various species of plant and animal which are considered rare across Europe. The Directive is transposed into UK law by The Conservation of Habitats and Species Regulations 2010 (as amended) (formerly The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended).

The Wildlife and Countryside Act 1981 (as amended) is a key piece of national legislation which implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and implements the species protection obligations of Council Directive 2009/147/EC (formerly 79/409/EEC) on the Conservation of Wild Birds (EC Birds Directive) in Great Britain.

Since the passing of the Wildlife and Countryside Act 1981, various amendments have been made, details of which can be found on www.opsi.gov.uk. Key amendments have been made through the Countryside and Rights of Way (CRoW) Act 2000 (as amended).

Other legislative Acts affording protection to wildlife and their habitats include:

- Deer Act 1991
- Countryside and Rights of Way Act 2000
- Natural Environment and Rural Communities (NERC) Act 2006
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996

Species and species groups that are protected or otherwise regulated under the aforementioned domestic and European legislation, and that are most likely to be affected by development activities, include herpetofauna (amphibians and reptiles), badger, bats, birds, hazel dormouse, invasive plant species, otter, plants, red squirrel, water vole and white clawed crayfish.

**Explanatory notes** relating to species protected under The Conservation of Habitats and Species Regulations 2010 (as amended) (which includes smooth snake, sand lizard, great

[5] Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora

crested newt and natterjack toad), all bat species, otter, hazel dormouse and some plant species) are given below. **These should be read in conjunction with the relevant species sections that follow.**

- In the Directive, the term 'deliberate' is interpreted as being somewhat wider than intentional and may be thought of as including an element of recklessness.
- The Conservation of Habitats and Species Regulations 2010 (as amended) does not define the act of 'migration' and therefore, as a precaution, it is recommended that short distance movement of animals for e.g. foraging, breeding or dispersal purposes are also considered.
- In order to obtain a European Protected Species Mitigation (EPSM) licence, the application must demonstrate that it meets all of the following three 'tests': i) the action(s) are necessary for the purpose of preserving public health or safety, or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment; ii) that there is no satisfactory alternative and iii) that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

### Bats

All species of bat are fully protected under The Conservation of Habitats and Species Regulations 2012 (as amended) through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (all bats)
- Deliberate disturbance of bat species as:

  a) to impair their ability:

  (i) to survive, breed, or reproduce, or to rear or nurture young;

  (ii) to hibernate or migrate[3]

  b) to affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place
- Keeping, transporting, selling, exchanging or offering for sale whether live or dead or of any part thereof.

Bats are also currently protected under the Wildlife and Countryside Act 1981 (as amended) through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

- Selling, offering or exposing for sale, possession or transporting for purpose of sale.

### *How is the legislation pertaining to bats liable to affect development works?*

A European Protected Species Mitigation licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect a bat roost or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (survive, breed, rear young and hibernate). The licence is to allow derogation from the relevant legislation but also to ensure appropriate mitigation measures be put in place and their efficacy to be monitored.

Though there is no case law to date, the legislation may also be interpreted such that, in certain circumstances, important foraging areas and/or commuting routes can be regarded as being afforded *de facto* protection, for example, where it can be proven that the continued usage of such areas is crucial to maintaining the integrity and long-term viability of a bat roost[6].

## B NATIONAL PLANNING POLICY

### The National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) replaced Planning Policy Statement (PPS9) in April 2012 as the key national planning policy concerning nature conservation. The NPPF emphasises the need for suitable development. The Framework specifies the need for protection of designated sites and priority habitats and priority species. An emphasis is also made for the need for ecological networks via preservation, restoration and re-creation. The protection and recovery of priority species – that is those listed as UK Biodiversity Action Plan priority species – is also listed as a requirement of planning policy. In determining a planning application, planning authorities should aim to conserve and enhance biodiversity by ensuring that: designated sites are protected from adverse harm; there is appropriate mitigation or compensation where significant harm cannot be avoided; opportunities to incorporate biodiversity in and around developments are encouraged; planning permission is refused for development resulting in the loss or deterioration of irreplaceable habitats including aged or veteran trees and also ancient woodland.

### The Natural Environment and Rural Communities Act 2006 and The Biodiversity Duty

The Natural Environment and Rural Communities (NERC) Act came into force on 1st October 2006. Section 40 of the Act requires all public bodies to have regard to biodiversity

[6] Garland & Markham (2008) Is important bat foraging and commuting habitat legally protected? Mammal News, No. **150**. The Mammal Society, Southampton.

conservation when carrying out their functions. This is commonly referred to as the 'biodiversity duty'.

Section 41 of the Act (Section 42 in Wales) requires the Secretary of State to publish a list of habitats and species which are of 'principal importance for the conservation of biodiversity.' They are referred to in this report as Species of Principal Importance and Habitats or Principal Importance. This list is intended to assist decision makers such as public bodies in implementing their duty under Section 40 of the Act. Under the Act these habitats and species are regarded as a material consideration in determining planning applications. A developer must show that their protection has been adequately addressed within a development proposal.

## C REGIONAL AND LOCAL POLICY

### The London Plan (2015): The Mayor's Spatial Strategy for Greater London.

The 2015 London Plan includes all updates since its previous 2011 version and deals with matters of strategic importance for spatial development in London.

*Policy 7.19 Biodiversity and access to nature*

A The Mayor will work with all relevant partners to ensure a proactive approach to the protection, enhancement, creation, promotion and management of biodiversity in support of the Mayor's Biodiversity Strategy. This means planning for nature from the beginning of the development process and taking opportunities for positive gains for nature through the layout, design and materials of development proposals and appropriate biodiversity action plans.

B Any proposals promoted or brought forward by the London Plan will not adversely affect the integrity of any European site of nature conservation importance (to include special areas of conservation (SACs), special protection areas (SPAs), Ramsar, proposed and candidate sites) either alone or in combination with other plans and projects. Whilst all development proposals must address this policy, it is of particular importance when considering the following policies within the London Plan: 1.1, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16 and 2.17, 3.1, 3.3, 3.7, 5.4A, 5.14, 5.15, 5.17, 5.20, 6.3, 6.9, 7.14, 7.15, 7.25, 7.26 and 7.27 and 8.1. Whilst all opportunity and intensification areas must address the policy in general, specific locations requiring consideration are referenced in Annex 1.

### Camden Local Plan (2017)

*Policy A3: Biodiversity*

The Council will protect and enhance sites of nature conservation and biodiversity. We will:

a. designate and protect nature conservation sites and safeguard protected and priority habitats and species;

b. grant permission for development unless it would directly or indirectly result in the loss or harm to a designated nature conservation site or adversely affect the status or population of priority habitats and species;

c. seek the protection of other features with nature conservation value, including gardens, wherever possible;

a. assess developments against their ability to realise benefits for biodiversity through the layout, design and materials used in the built structure and landscaping elements of a proposed development, proportionate to the scale of development proposed;

e. secure improvements to green corridors, particularly where a development scheme is adjacent to an existing corridor;

f. seek to improve opportunities to experience nature, in particular where such opportunities are lacking;

g. require the demolition and construction phase of development, including the movement of works vehicles, to be planned to avoid disturbance to habitats and species and ecologically sensitive areas, and the spread of invasive species;

h. secure management plans, where appropriate, to ensure that nature conservation objectives are met; and

i. work with The Royal Parks, The City of London Corporation, the London Wildlife Trust, friends of park groups and local nature conservation groups to protect and improve open spaces and nature conservation in Camden.

### D REGIONAL AND LOCAL BIODIVERSITY ACTION PLANS

The UK plan encourages the production of local Biodiversity Action Plans (BAP) at the County or District level. All bat species are identified as priority species in the London BAP and Camden BAP and are dealt with collectively as part of London Biodiversity Partnership's Species Action Plan for Bats.

The Ecology Consultancy

The Ecology Consultancy is part of the Temple Group.

**Making places better for people and wildlife**

**London** - Tempus Wharf, 33a Bermondsey Wall West, London, SE16 4TQ
T. 020 7378 1914 W. www.ecologyconsultancy.co.uk E. enquiries@ecologyconsultancy.co.uk

- **Sussex** - The Old Dairy, Barcombe Mills Road, Lewes, East Sussex BN8 5FF T. 01273 813739
- **East Anglia** - Thorpe House, 79 Thorpe Road, Norwich NR1 1UA T. 01603 628408
- **Midlands** - 9 The Mews, Trent Park, Eastern Avenue, Lichfield WS13 6RN T. 01543 728971
- **North** - Trinity Walk, Unit G37b, Market Walk, Wakefield, West Yorkshire WF1 1QR T. 01924 683558
- **Scotland** - 3 Coates Place, Edinburgh Scotland EH3 7AA T. 0131 225 8610