



Premier Inn, Euston

Bat Survey Report



For Whitbread Group

July 2019

11th Floor, 1 Angel Court, London, EC2R 7HJ




Tel: 0123 456 789

Email: ecology@wyg.com



Document Control

Project: Premier Inn, Euston
 Client: Whitbread Group
 Job Number: A113580
 File Origin: <\\ds-dc-vm-002\Group Ecology\Projects\Projects A113000 on\A113580 Premier Inn, Euston\REPORTS\2. Bat Survey>

Version 1	1 st July 2019	DRAFT
Prepared by:		Georgia Alfreds ACIEEM Project Ecologist
Checked By:		Jonathan Jackson CEnv MCIEEM Principal Ecologist
Verified By:		Phil Preston MCIEEM Principal Ecologist

Version:	Date:	Updated by:	Verified by:	Description of changes:
2	24/07/19	GA	VG	Update to number of floors of rear extension

WYG Environment Planning Transport Ltd. accept no responsibility or liability for the use which is made of this document other than by the Client for the purpose for which it was originally commissioned and prepared.



Contents

Executive Summary	1
Glossary	2
1.0 Introduction	3
1.1 Background	3
1.2 Site Location.....	3
1.3 Development Proposals	3
1.4 Previous Ecology Reports	3
1.5 Purpose of the Report	3
2.0 Methodology	4
2.1 Limitations.....	5
3.0 Survey Results	5
4.0 Relevant Planning Policy & Legislation	5
4.1 Revised National Planning Policy Framework.....	5
4.2 Biodiversity 2020: A strategy for England’s Wildlife & Ecosystem Services	7
4.3 Local Biodiversity Action Plan.....	7
4.4 Local Plan.....	7
4.5 Legislation	9
5.0 Summary and Recommendations for enhancement	10
5.1 Roosting Bats	10
5.2 Commuting and Foraging Bats	10
5.3 Ecological Enhancements for Bats	10
6.0 References	11

FIGURES

Figure 1 – Location of the surveyors

Appendix A – Report Conditions

Appendix B – Key Legislation



Executive Summary

Contents	Summary
Site Location	Premier Inn, Euston, 1 Duke's Road, London, WC1H 9PJ (National Grid Reference: TQ 29884 82639).
Proposals	Whitbread Group are proposing to submit a planning application in mid-July 2019 for a seven-storey rear car park extension and two storey rooftop extension to the existing Premier Inn hotel at Euston.
Existing Site Information	WYG conducted an Ecological Appraisal in June 2019 (WYG, 2019). The building on site (B1) did not have any potential roosting features (PRFs). However, the elevations of three buildings adjacent to the site (B2, B3 & B4) supported PRFs with low suitability to support roosting bats.
Scope of this Survey(s)	As the features of B2, B3 and B4 may be affected by the proposals, WYG was commissioned by Whitbread Group to survey each feature to determine if they supported roosting bats. Surveys involved one dusk emergence survey of each features. The surveys were carried out on 2 nd July 2019.
Results	No bats were recorded during the surveys.
Recommendations	No further surveys are required. The details of the bat survey are considered to remain valid for a period of one bat survey seasons (until July 2020), subject to there being no significant changes to the development proposals.



Glossary

BCT	Bat Conservation Trust
CIEEM	Chartered Institute of Ecology & Environmental Management
CRoW Act	Countryside and Rights of Way Act 2000
DEFRA	Department for the Environment, Food and Rural Affairs
EA	Ecological Appraisal
EPS	European Protected Species
EPSL	European Protected Species Licence
GradCIEEM	Graduate of Chartered Institute of Ecology & Environmental Management
Habitat Regulations	Conservation of Habitats and Species Regulations 2017 (as amended)
HAP	Habitat Action Plan
HPI	Habitat(s) of Principal Importance
JNCC	Joint Nature Conservation Committee
LBAP	Local Biodiversity Action Plan
LNR	Local Nature Reserve
MCIEEM	Member of Chartered Institute of Ecology & Environmental Management
Natura 2000 site	A European site designated for its nature conservation value
NE	Natural England
NERC Act	Natural Environment and Rural Communities Act 2006
NPPF	National Planning Policy Framework
PRF	Potential Roosting Feature
SAC	Special Area of Conservation
SAP	Species Action Plan
SPA	Special Protection Area
SPI	Species of Principal Importance
W&CA	Wildlife & Countryside Act 1981 (as amended)



1.0 Introduction

1.1 Background

WYG was commissioned by Whitbread Group on 17th June 2019 to undertake a single bat emergence survey of the buildings surrounding the Premier Inn car park. This survey was required following evidence of potential bat roost features being identified during an Ecological Appraisal (EA) of the site (WYG, 2019).

This report has been prepared by WYG Project Ecologist Georgia Alfreds BSc MSc ACIEEM and the conditions pertinent to it are provided in Appendix A.

1.2 Site Location

The site is located at 1 Duke's Road, WC1H 9PJ in London and is centred at Ordnance Survey National Grid Reference TQ 29884 82639 (see Figure 1). It is situated in a heavily urbanised location, immediately south of the A501 Euston Road and east of Duke's Road. Urban development surrounds the site in all directions. The site comprises one building, a hardstanding car park and one tree.

1.3 Development Proposals

Proposals include a seven-storey rear car park extension and two-storey rooftop extension to the existing Premier Inn at Euston. The project will also re-configure the entire ground floor of the hotel extending, re-branding the existing restaurant and re-positioning the reception.

1.4 Previous Ecology Reports

WYG conducted an Ecological Appraisal of the site in June 2019 (WYG, 2019). The site was assessed as having negligible suitability to support foraging bats. This was due to the lack of any suitable habitat on site or its immediate environs.

The building on site (B1) has negligible suitability for roosting bats therefore no further surveys of this building were required. However, the elevations of buildings immediately adjacent to the site contain six PRFs for bats. The missing bricks of B2, ventilation holes of B3 and hole in brickwork and gap under the windowsill of B4 have been assessed as having a low suitability to support roosting bats. The proposals will not remove these features. However, the footprint of the seven-storey rear car park extension will be located within 10m of these features and would be highly likely to disturb / change the nature of a bat roost (should one be present).

As such, a further survey of the features in B2, B3 & B4 is required to ascertain whether roosting bats are present. In line with the BCT guidance (Good Practice Guidelines, 3rd Edition Collins 2010), one dusk emergence survey is required between the months of May to August inclusive.

1.5 Purpose of the Report

The objective of this report is to:



- Determine the presence or likely absence of roosting bats within the site which will be within close proximity to the construction of a building extension located in the car park;
- Ascertain the number and species of bat roosting within the surrounding buildings;
- Outline the relevant planning policy and legislative protection for bats; and
- Provide an assessment of potential ecological constraints to the proposed development on site and recommendations for further survey, avoidance, mitigation and / or enhancement, where appropriate.

Note that scientific names are provided at the first mention of each species and common names (where appropriate) are then used throughout the rest of the report for ease of reading.

2.0 Methodology

In accordance with Bat Surveys for Professional Ecologist, Good Practice Guidelines, 3rd Edition Collins 2010) (survey effort for a low suitability feature requires one survey, either one dusk emergence survey or one dawn return-to-roost survey. Therefore a single dusk emergence survey was completed for all PRFs at this site.

During the surveys, three surveyors were stationed in strategic locations around the building so that all suitable PRFs for bats could be seen.

During the survey, the areas identified as potential access and egress points were observed by the surveyors for any bats emerging from or returning to the roost. Incidental bat activity was also recorded. The dusk emergence survey was undertaken on 2nd July 2019 by WYG Assistant Ecologist Rachel Sore GradCIEEM, WYG Project Ecologist Georgia Alfreds, and WYG Field Ecologist Marisa Costa. All of the surveyors are experienced in undertaking bat surveys.

The surveyors used Elekon Batlogger M detectors to record bats which is a real time, full spectrum, heterodyne detector with automatic tuning. The Batlogger tunes into the ultrasonic frequencies which the bats are calling at. The Batlogger is able to record directly onto a SD card, this allows recordings to be stored for later analysis, using 'Bat Explorer' version 2.1.4.0 software.

Table 1 summarises the survey times and weather conditions of the dusk emergence survey.

Table 1: Dates, Surveyor Locations, Timings and Weather Conditions for Dusk Emergence Survey

Date of Survey	Surveyor Locations	Start	Sunset/Sunrise	Finish	Temp (°C)		Precipitation	Wind (Beaufort Scale)	Cloud (%)
					Max	Min			
02/07/19	1, 2, 3	20:50	21:20	23:50	21	19	None	1	90

The bat survey was completed during the period when bats are active, within the optimum survey season and within suitable weather conditions (above 10°C at start, dry and with calm winds).



2.1 Limitations

The survey was carried out at the appropriate time of year under optimal conditions. Therefore, no limitations were experienced which may affect the conclusions drawn in this report.

Details of this report are considered to remain valid for one bat survey season (until July 2020), subject to no significant changes in the development proposals. Beyond this period, if works have not yet been undertaken, it is recommended that a review of the ecological conditions is undertaken.

3.0 Survey Results

The results below should be read with reference to Figure 1, which shows the locations of the surveyors. No bats were observed emerging from or returning to the buildings B2 – B4 during the survey. In addition, no incidental activity was recorded. It is therefore considered highly unlikely that bats use buildings B2-B4 for roosting purposes.

4.0 Relevant Planning Policy & Legislation

4.1 Revised National Planning Policy Framework

A revised NPPF was issued on 19th February 2019 (Ministry of Housing Communities and Local Government, 2019) and currently supplements government Circular 06/2005, *Biodiversity and Geological Conservation: Statutory Obligations and their Impact within the Planning System* (Office of the Deputy Prime Minister, 2005).

Circular 06/2005 states that the presence of protected species is a material consideration in the planning process. Paragraph 170 of the NPPF also states that:

'Planning policies and decisions should contribute to and enhance the natural environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*



The conservation and enhancement of wildlife is also specifically reference re: development within the National Parks or the Broads.

Paragraph 174 then goes on to confirmed that:

When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*

Regarding EcIA's and HRA's – any sites identified, or required, as compensatory measures for adverse effects on any Natura 2000/habitats site should also be given the same level as protection as the pSPA's and cSAC's themselves. In addition, when an application is being determined, Paragraph 177 clarifies that:

“The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”

Paragraph 180 is also relevant as;

“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:...

- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”*



4.2 Biodiversity 2020: A strategy for England's Wildlife & Ecosystem Services

Biodiversity 2020 (DEFRA, 2011) replaces the previous UK Biodiversity Action Plan and sets national targets to be achieved. The intent of Biodiversity 2020, however, is much broader than the protection and enhancement of less common species, and is meant to embrace the wider countryside as a whole.

The priority species and habitats considered under Biodiversity 2020 are the SPI & HPI detailed under NERC Act (see Appendix B for further details).

4.3 Local Biodiversity Action Plan

Local Biodiversity Action Plans (LBAPs) identify habitat and species conservation priorities at a local level (typically County by County) and are usually drawn up by a consortium of local Government organisations and conservation charities. Although they are no-longer managed at a national level many are still reviewed and updated at a local level.

The London BAP (Greater London Authority, March 2016) is the relevant document for this site. This was developed by the London Biodiversity Partnership who identified 214 priority species that are under particular threat in London. Planning decisions must take these species into account. Eight of these species (or species groups) were identified as needing targeted action to secure their future in London, and these have their own SACs.

Table 2: LBAP SAPs

Species Action Plans	
Bats	Sand martin <i>Riparia riparia</i>
Black poplar <i>Populus nigra</i>	Stag beetle <i>Lucanus cervus</i>
House sparrow <i>Passer domesticus</i>	Water vole <i>Arvicola amphibius</i>
Mistletoe <i>Viscum album</i>	Reptiles
Other Important Species	
Black redstart <i>Phoenicurus ochruros</i>	Otter <i>Lutra lutra</i>
Common dormouse <i>Muscardinus avellanarius</i>	Peregrine falcon <i>Falco peregrinus</i>
Grey heron <i>Ardea cinerea</i>	

It should be noted that the existence of a SAP or HAP does not always infer an elevated level importance for those features. These plans may be designed to encourage an increase in these habitats / species, rather than to protect a county-scarce feature (for example).

4.4 Local Plan

London Plan

Policy 7.19, part C of the London Plan (2016), Biodiversity and access to nature, states;

"C. Development Proposals should:



- a) *wherever possible, make a positive contribution to the protection, enhancement, creation and management of biodiversity*
- b) *prioritise assisting in achieving targets in biodiversity action plans (BAPs), set out in Table 7.3, and/or improving access to nature in areas deficient in accessible wildlife sites*
- c) *not adversely affect the integrity of European sites and be resisted where they have significant adverse impact on European or nationally designated sites or on the population or conservation status of a protected species or a priority species or habitat identified in a UK, London or appropriate regional BAP or borough BAP...*

Camden Local Plan

Policy A3 Biodiversity of the Camden Local Plan (2017), states;

"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;*
- d) *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.*

Trees and vegetation

The Council will protect, and seek to secure additional, trees and vegetation. We will:

- j) *resist the loss of trees and vegetation of significant amenity, historic, cultural or ecological value including proposals which may threaten the continued wellbeing of such trees and vegetation;*
- k) *require trees and vegetation which are to be retained to be satisfactorily protected during the demolition and construction phase of development in line with BS5837:2012 'Trees in relation to Design, Demolition and Construction' and positively integrated as part of the site layout;*



- l) *expect replacement trees or vegetation to be provided where the loss of significant trees or vegetation or harm to the wellbeing of these trees and vegetation has been justified in the context of the proposed development;*
- m) *expect developments to incorporate additional trees and vegetation wherever possible."*

4.5 Legislation

All British bat species are given special protection within England by their inclusion on Schedule 2 Habitats Regulations and Schedule 5 of the W&CA.

As a result, it is an offence to:

- Deliberately capture, injure or kill a bat;
- Intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats;
- Damage or destroy a bat roosting place (even if bats are not occupying a roost at the time);
- Possess or advertise, sell or exchange a bat (dead or alive) or any part of a bat; and/or
- Intentionally or recklessly obstruct access to a bat roost.

With specific reference to the offence of disturbance, Regulation 41 (1) of the Habs Regs states that a person commits an offence if they deliberately disturb wild animals of any such species [i.e. European Protected Species] in such a way as to be likely significantly to affect:

- (i) the ability of any significant group of animals of that species to survive, breed, or rear or nurture their young; or
- (ii) the local distribution or abundance of that species.

Where development will result in damage to, or obstruct access to, any bat roost (whether occupied or not) or risks harming or significantly disturbing bats, a EPSL is required from Natural England to allow the development to proceed.

Bats are also afforded more general protection in England (and Wales) within the Natural Environment and Rural Communities Act (NERC) 2006. This imposes a duty on all public bodies, including local authorities and statutory bodies, in exercising their functions, to have due regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity [Section 40 (1)]. It notes that conserving biodiversity includes restoring or enhancing a population or habitat [Section 40 (3)]. Consequently, attention should be given to dealing with the modification or development of an area if aspects of it are deemed important to bats, such as roosts, flight corridors and foraging areas.

Species of Principal Importance for the Conservation of Biodiversity in England are listed under Section 41 of the NERC Act. This list includes barbastelle bat, Bechstein's bat, noctule, soprano pipistrelle, brown long-eared bat, greater horseshoe bat *Rhinolophus ferrumequinum* and lesser horseshoe bat *Rhinolophus hipposideros*.



5.0 Summary and Recommendations for enhancement

5.1 Roosting Bats

The surveys confirmed that features on site are unlikely to support a bat roost. Therefore no further survey work or mitigation is required in relation to this project. In the highly unlikely event of roosting bats being discovered during works then works in that area should stop and advice be sought from a licenced bat ecologist.

5.2 Commuting and Foraging Bats

No suitable commuting and foraging habitat for bats were recorded and no bat activity was recorded during the survey, therefore no mitigation is required.

5.3 Ecological Enhancements for Bats

Due to the urbanised location of the site within the wider environment, ecological enhancements for bats are not required.



6.0 References

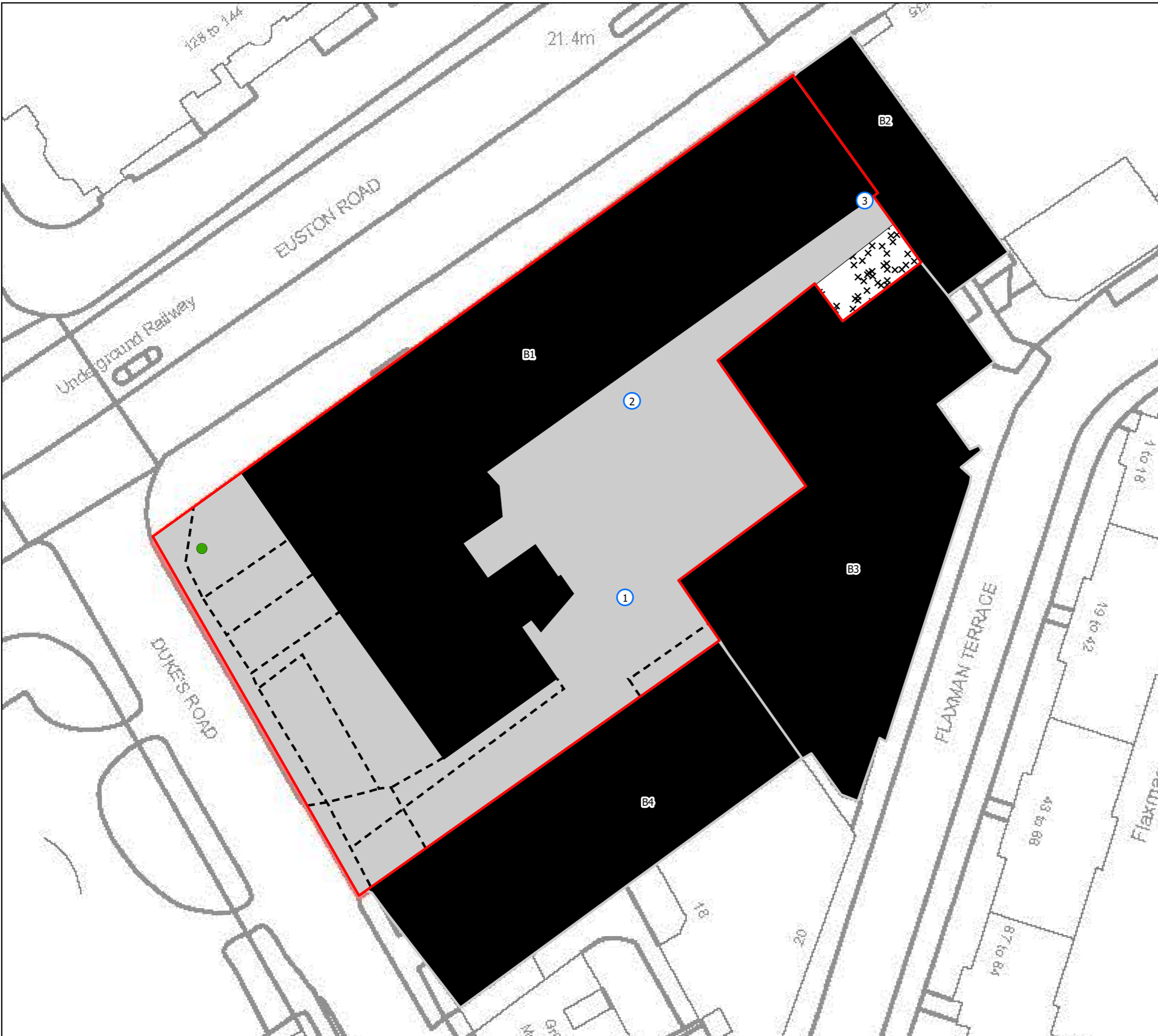
- Camden Biodiversity Action Plan (2013-18) Interim Report, online Available at: <https://www.camden.gov.uk/documents/20142/2205931/Camden+Biodiversity+action+plan+interim+review.pdf/3b370f31-2758-1276-792d-10419f6cfe3b> Accessed July 2019.
- Camden Local Plan (2017), online Available at: <https://www.camden.gov.uk/documents/20142/4820180/Local+Plan.pdf/ce6e992a-91f9-3a60-720c-70290fab78a6> Accessed July 2019.
- Collins, J. (ed.), (2016), *Bat Surveys for Professional Ecologists: Good Practice Guidelines*, 3rd Edition, The Bat Conservation Trust: London.
- DEFRA, (2011), *Biodiversity 2020: A strategy for England's wildlife and ecosystem services*, [online] Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69446/pb13583-biodiversity-strategy-2020-111111.pdf, Accessed July 2019.
- Greater London Authority, (March 2016), The London Plan, The Spatial Development Strategy for London Consolidated with Alternations Since 2011, online Available at: https://www.london.gov.uk/sites/default/files/the_london_plan_malp_final_for_web_0606_0.pdf Accessed July 2019.
- Ministry of Housing Communities and Local Government, (2019), *National Planning Policy Framework*, [online] Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779764/NPPF_Feb_2019_web.pdf, Accessed July 2019.
- ODPM, (2005), Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System, [online] Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7692/147570.pdf, Accessed July 2019.
- WYG, (2019), *Premier Inn, Euston: Ecological Appraisal*, Report on behalf of Whitbread Group, Project No. A113580.

Please note that the legislation which is relevant to this report is not included in the list above, but details are included in Appendix B below.



FIGURES

Figure 1 – Location of the surveyors

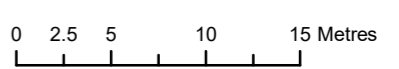


Rev	Date	Notes
A	11/07/19	Initial map production

Legend

- Site boundary
- x x x x Ephemeral / short perennial
- Buildings
- Hardstanding
- Garage footprint
- Scattered tree
- Surveyor location

Site Location Plan
 Drawn Date: March 2019
 Provided by: CHQ Architects Ltd.



Phase 1 Habitat Plan and Surveyor Locations

**Premier Inn, Euston
Whitbread Group**

Scale at A3: 1:400	Project No: A113580	Drawing No: Figure 1	Revision: A
Drawn by: Maddie Errington		Drawn date: 11/07/2019	Approved by: Georgia Alfreds

Contains Ordnance Survey Data © Crown copyright and database right 2019. © Natural England © Northern Ireland Environment Agency. Open Government Data reproduced contains public sector information licensed under the Open Government Licence v3.0. Other Credits:



Appendix A – Report Conditions

This Report has been prepared using reasonable skill and care for the sole benefit of Phil Brown (“the Client”) for the proposed uses stated in the report by WYG Environment Planning Transport Limited (“WYG”). WYG exclude all liability for any other uses and to any other party. The report must not be relied on or reproduced in whole or in part by any other party without the copyright holder’s permission.

No liability is accepted or warranty given for; unconfirmed data, third party documents and information supplied to WYG or for the performance, reliability, standing etc of any products, services, organisations or companies referred to in this report. WYG does not purport to provide specialist legal, tax or accounting advice.

The report refers, within the limitations stated, to the environment of the site in the context of the surrounding area at the time of the inspections'. Environmental conditions can vary and no warranty is given as to the possibility of changes in the environment of the site and surrounding area at differing times. No investigative method can eliminate the possibility of obtaining partially imprecise, incomplete or not fully representative information. Any monitoring or survey work undertaken as part of the commission will have been subject to limitations, including for example timescale, seasonal and weather-related conditions. Actual environmental conditions are typically more complex and variable than the investigative, predictive and modelling approaches indicate in practice, and the output of such approaches cannot be relied upon as a comprehensive or accurate indicator of future conditions. The “shelf life” of the Report will be determined by a number of factors including; its original purpose, the Client’s instructions, passage of time, advances in technology and techniques, changes in legislation etc. and therefore may require future re-assessment.

The whole of the report must be read as other sections of the report may contain information which puts into context the findings in any executive summary.

The performance of environmental protection measures and of buildings and other structures in relation to acoustics, vibration, noise mitigation and other environmental issues is influenced to a large extent by the degree to which the relevant environmental considerations are incorporated into the final design and specifications and the quality of workmanship and compliance with the specifications on site during construction. WYG accept no liability for issues with performance arising from such factors.



Appendix B – Key Legislation

Bern Convention

The *Convention on the Conservation of European Wildlife and Natural Habitats* (the *Bern Convention*) was adopted in Bern, Switzerland in 1979, and was ratified in 1982. Its aims are to protect wild plants and animals and their habitats listed in Appendices 1 and 2 of the Convention, and regulate the exploitation of species listed in Appendix 3. The regulation imposes legal obligations on participating countries to protect over 500 plant species and more than 1000 animals.

To meet its obligations imposed by the Convention, the European Community adopted the *EC Birds Directive* (1979) and the *EC Habitats Directive* (1992 – see below). Since the Lisbon Treaty, in force since 1st December 2009, European legislation has been adopted by the European Union.

Bonn Convention

The Convention on the Conservation of Migratory Species of Wild Animals or 'Bonn Convention' was adopted in Bonn, Germany in 1979 and came into force in 1985. Participating states agree to work together to preserve migratory species and their habitats by providing strict protection to species listed in Appendix I of the Convention. It also establishes agreements for the conservation and management of migratory species listed in Appendix II.

In the UK, the requirements of the convention are implemented via the Wildlife & Countryside Act 1981 (as amended), Wildlife (Northern Ireland) Order 1985 (as amended), Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 and the Countryside and Rights of Way Act 2000 (CRoW).

Habitats Directive

The Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, or the 'Habitats Directive', is a European Union directive adopted in 1992 in response to the Bern Convention. Its aims are to protect approximately 220 habitats and 1,000 species listed in its several Annexes.

In the UK, the Habitats Directive is transposed into national law via the Conservation of Habitats and Species Regulations 2017 (as amended) in England and Wales, and via the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) in Northern Ireland.

Conservation of Habitats and Species Regulations 2017 (as amended)

Regulations place a duty on the Secretary of State to propose a list of sites which are important for either habitats or species (listed in Annexes I or II of the Habitats Directive respectively) to the European Commission. These sites, if ratified by the European Commission, are then designated as Special Protection Areas (SPAs) within six years. Public bodies must also help preserve, maintain and re-establish habitats for wild birds.

The 2018 amendments mainly related to the impact of the *People Over Wind* decision and some implications arising for neighbourhood plan development and a range of other planning tools including Local Development Orders and Permission in Principle – see here for full details:

<https://www.legislation.gov.uk/uksi/2018/1307/note/made>

The Regulations make it an offence to deliberately capture, kill, disturb or trade in the animals listed in Schedule 2, or pick, uproot, destroy, or trade in the plants listed in Schedule 5 - see below:

Schedule 2 – European Protected Species of Animals

Horseshoe bats *Rhinolophidae* – all species

Common bats *Vespertilionidae* – all species



Wildlife & Countryside Act 1981 (as amended)

This is the principal mechanism for the legislative protection of wildlife in the UK. This legislation is the chief means by which the 'Bern Convention' and the Birds Directive are implemented in the UK. Since it was first introduced, the Act has been amended several times.

The Act makes it an offence to (with exception to species listed in Schedule 2) intentionally:

- kill, injure, or take any wild bird;
- take, damage or destroy the nest of any wild bird while that nest is in use; or
- take or destroy an egg of any wild bird.

Or to intentionally do the following to a wild bird listed in Schedule 1:

- disturbs any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturbs dependent young of such a bird.

In addition, the Act makes it an offence (subject to exceptions) to:

- intentionally or recklessly kill, injure or take any wild animal listed on Schedule 5;
- interfere with places used for shelter or protection, or intentionally disturbing animals occupying such places; and
- The Act also prohibits certain methods of killing, injuring, or taking wild animals.

Finally, the Act also makes it an offence (subject to exceptions) to:

- intentionally pick, uproot or destroy any wild plant listed in Schedule 8, or any seed or spore attached to any such wild plant;
- unless an authorised person, intentionally uproot any wild plant not included in Schedule 8; or
- sell, offer or expose for sale, or possess (for the purposes of trade), any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant.

Following all amendments to the Act, Schedule 5 'Animals which are Protected' contains a total of 154 species of animal, including several mammals, reptiles, amphibians, fish and invertebrates. Schedule 8 'Plants which are Protected' of the Act, contains 185 species, including higher plants, bryophytes and fungi and lichens. A comprehensive and up-to-date list of these species can be obtained from the JNCC website.

Part 14 of the Act makes unlawful to plant or otherwise cause to grow in the wild any plant which is listed in Part II of Schedule 9.

It is recommended that plant material of these species is disposed of as bio-hazardous waste, and these plants should not be used in planting schemes.

Animal (Vertebrate) Species Listed in Schedule 5 (full legal protection at all times)

Horseshoe Bats (all species)	<i>Rhinolophidae</i>	Typical Bats (all species)	<i>Vespertilionidae</i>
------------------------------	----------------------	----------------------------	-------------------------

Natural Environment and Rural Communities Act 2006

Section 41 (S41) of this Act requires the Secretary of State to publish a list (in consultation with Natural England) of Habitats and Species which are of Principal Importance for the conservation of biodiversity in England. The S41 list is 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 (NERC) Act 2006, to have regard to the conservation of biodiversity in England, when carrying out their normal (e.g. planning) functions. The S41 list includes 65 Habitats of Principal Importance and 1,150 Species of Principal Importance.



Local Biodiversity Action Plan (LBAP)

Local Biodiversity Action Plans (LBAP) identify habitat and species conservation priorities at a local level (typically at the County level), and are usually drawn up by a consortium of local Government organisations and conservation charities.

Some LBAP's may also include Habitat Action Plans (HAP) and/or Species Action Plans (SAP), which are used to guide and inform the local decision making process.

Wild Mammals (Protection) Act 1996

This Act offers protects a form of protection to all wild species of mammals, irrespective of other legislation, and focussed on animal welfare, rather than conservation.

Unless covered by one of the exceptions, a person is guilty of an offence if he mutilates, kicks, beats, nails or otherwise impales, stabs, burns, stones, crushes, drowns, drags or asphyxiates any wild mammal with intent to inflict unnecessary suffering.

It's application is typically restricted to preventing deliberate harm to wildlife (in general) during construction works etc.



ecology@wyg.com

**WYG Environment Planning Transport
Limited.**

Registered in England & Wales Number:
3050297

Registered Office: Arndale Court, Headingley,
Leeds, LS6 2UJ



creative minds safe hands