BARN AT MILL LANE, RUSHTON SPENCER STAFFORDSHIRE

Further Bat Surveys

Prepared for
THE LOCKITT FAMILY

October 2019

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1. INTRODUCTION

1.1 This report presents the results of surveys for bats of a barn and associated outbuilding at Rushton Spencer in Staffordshire undertaken by Apex Ecology Limited. The survey was a recommendation of a previous Apex Ecology preliminary roost assessment (PRA) report from February 2019; see *Inspection of Building for Bats and Birds* | 5th February 2019 (MR/190203).

1.2 The project was undertaken for the Lockitt family, the owners of the property. The proposals are to convert the existing barn for residential purposes and to demolish the outbuilding.

1.3 Bats and their roosts are legally protected under European and domestic legislation and they are a material consideration during the determination of planning applications and during works that could potentially affect bats or their roosts. A summary of the key legislation protecting bats is provided in Appendix I.

1.4 The barn is located at Nether Lea immediately adjacent to Mill Lane around 8km northwest of the town of Leek and 7.6km east of the centre of the town of Congleton. The adjacent open fronted outbuilding is in a more dilapidated state with roof tiles missing and looks to be becoming unstable. The site is located at OS grid reference SJ 93098 62679.

1.5 There is excellent bat foraging habitat close by with areas of woodland such as Oulton's Wood (220m to the west) and other woodlands in the locale. Ponds and brooks are dotted throughout the wider landscape.

1.6 The report describes the methods used for the surveys and any constraints encountered, along with the results of the surveys, including a description of any evidence of bats found. It provides an assessment of the suitability of the building for roosting bats; interprets the findings in light of the proposals and makes recommendations.

2. SURVEY METHODOLOGY

2.1 For the purposes of reporting the buildings are labelled as B1 (the barn) and B2 (the outbuilding). The layout of these buildings is shown in Figure 1.

2.2 Three evening surveys to watch for bats emerging from B1 were carried out. For building B2 one dawn and one evening survey were undertaken. The evening surveys commenced approximately 0.5 hours before sunset and finished 1.5 – 2 hours after sunset. The dawn survey commenced 1.5 – 2 hours prior to sunrise until 15 minutes after sunrise. The surveys followed standard methodologies set out in the *Bat Mitigation Guidelines* (Mitchell-Jones, 2004) and *Bat Surveys – Good Practice Guidelines,* Bat Conservation Trust (Collins, 2016).

2.3 The surveys were undertaken by Helen Ball, Max Robinson and Philip Playford. Helen and Max are licensed to survey for and to handle bats: (Helen Ball - CLS001492 CL18 Level 2, Max Robinson - CLS001149 CL18 Level 2.

2.4 The surveyors were positioned externally around the buildings during the surveys to watch for emerging bats or any 'swarming' behavior (gathering and 'circling') around the entrance to a roost before dawn. The surveyors were positioned so as to ensure best coverage of the building.

2.5 The surveyors used bat detectors (Bat Box Duet, Stag Electronics) to identify the presence and identity of bats. This model of bat detector has two modes of detection. In addition, Anabat SD1 CF Detectors (from Titley Electronics, Australia) were placed around the exterior of the building to constantly record any bat activity (such as emerging or foraging bats). Bat calls picked up by the Anabats were written onto a compact flash card and, where necessary, analysed on a PC to confirm species.

2.6 The table below summarises the date and weather conditions during the surveys.

Date	Building	Time	Weather Conditions	Temperature
15th May 2019	B1	Dusk	20% broken cloud, light air (1)	Start: 14°C End: 12°C
24th June 2019	B1	Dusk	Humid, high broken cloud 70%, no wind (0)	Start: 18°C End:16°C
9th July 2019	B1	Dusk	Overcast, calm (0), dry, warm and humid. Brief heavy rain shower.	Start: 15°C End: 13°C
5th September 2019	B2	Dawn	Clear skies (0% cloud cover), dry with a light breeze (2)	Start: 10.5°C End: 10°C
17th September 2019	B2	Dusk	Clear, calm (1), dry and mild	Start: 12.2°C End: 8.3°C

Constraints to the Survey

2.7 No constraints encountered.

3. SURVEY FINDINGS & INTERPRETATION

Survey Findings

3.1 Three bat species in total were recorded as using both buildings; two species using B1 for roosting and a single species using B2.

Building B1

3.2 During the first survey bats were encountered from 21:15 (evening emergence) on the 15th May with common pipistrelle *Pipistrellus pipistrelle* seen foraging around the buildings most of the evening. A common pipistrelle was seen to emerge from the ridge of B1 at 21:33. There was a pass close to the surveyor at the south-east end of B1 by a brown long-eared bat *Plecotus auritus* at 21:53. At 22:23 a *Myotis* species was recorded on detectors but not seen. Much of the bat activity during the survey was of foraging or commuting along the adjacent lane. There were also some social calls from common pipistrelle.

3.3 During the second visit several bat passes were recorded early on in the survey. Common pipistrelles were again active around the site, with regular passes and foraging both outside and inside B1. A brown long-eared bat was recorded within B1 hanging from the roof timbers at the north-west end. This bat remained inside B1 for the duration of the survey, occasionally foraging within the barn. No other bats were seen to emerge from the barn on this visit.

3.4 During the third visit bat activity was very similar to visit two. One brown long-eared bat emerged into B1 at 21:44, remaining inside and intermittently foraging within during the survey. Common pipistrelles were again active around the site throughout the night. Again most of the activity was of foraging and commuting associated with the adjacent lane. No other bats were recorded emerging from the building. Fresh droppings presumed from brown long-eared bat were also recorded inside the barn.

Building B2

3.5 During the surveys of the outbuilding (B2) three species were recorded on site, one of which was using the outbuilding, this being a whiskered/Brandt's bat.

3.6 During the dawn survey, a brown long-eared bat was seen flying around nearby trees at 04:59. There was a brief pass by a common pipistrelle which was heard but not seen at 05:04. At 05:41 a whiskered/Brandts bat *Myotis mystacinus/brandtii* was seen flying around B2 and then entered B2 under the ridge tiles at the gable end at around 05:43.

3.7 The evening survey of 17th September also noted activity from whiskered/Brandts bats. Between 19:43 and 19:48 a whiskered/Brandts bat was flying inside B2 before leaving through the open front of the building. This could possibly be 'light sampling' behaviour as they fly in and out of the roost repeatedly. This is assumed to be bats assessing light levels before leaving a roost. This species of bat was picked up again between 19:55 and 20:00, flying around inside the

building, completing long loops. Common pipistrelles were recorded intermittently throughout the survey, commuting and foraging around the buildings.

Interpretation

3.8 The surveys have established that both buildings B1 and B2 are used by bats for roosting purposes. Common pipistrelle and brown long-eared are using B1 and whiskered/Brandt's are using B2. The presence of accumulated droppings and prey remains and the emergence of a brown long-eared into B1 shows that this building receives repeat use by this species as a feeding perch and day roost. The emergence of common pipistrelle bats on separate visits indicates that this building receives repeat use by this species again for day roosting.

3.9 Building B2 is used by bats for roosting. Activity by a whiskered/Brandts bat inside the building was recorded on both visits and shows repeated use by this species.

3.10 The counts of single or small numbers of bats emerging demonstrates that the buildings are used by small numbers of these species seeking cool conditions for day roosting (such as males or non-breeding females during the summer months). No evidence was found to suggest the presence of a maternity roost (where female bats gather together in the summer months to each give birth to a single young, rarely twins).

3.11 Bats are roosting below ridge tiles of both B1 and B2. They may also be making use of suitable gaps below common tiles for roosting in one small area of B1 where roof lining has been installed at the northeast end. They may well use other gaps in the brickwork and partition walls. The buildings offer varied opportunities and conditions for bats to use for roosting and thus the buildings (particularly B1) may be used throughout the year by bats.

3.12 The buildings will be affected directly by the proposals as it is proposed to convert B1 into a dwelling and to demolish B2. As well as direct impacts, such as loss of roosting locations and a reduction in the overall space available to bats, as a result of any development proposals there would be indirect effects such as disturbance.

4. RECOMMENDATIONS

Bats

4.1 The surveys have shown that the buildings are used by common pipistrelles, whiskered/Brandts and brown long-eared for roosting. In view of the legal protection afforded to bats (see Appendix I), a statutory European Protected Species (EPS) development licence would need to be sought from Natural England to undertake the proposed conversion of the buildings and demolition of B2.

4.2 In order to issue a licence, Natural England would require detailed and up-to-date information about the status of bat roosts and bat use of the building. In addition, a commitment to mitigation and compensation measures where applicable would be necessary and planning permission (usually full) would need to have been granted for the development to proceed where relevant.

4.3 In order to obtain a licence from Natural England, any development or work proposals would need to satisfy the following three tests:

- there is no satisfactory alternative;
- the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range; and
- the action authorised preserved 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.

4.4 An individual EPS licence could be sought, although it may be possible to undertake the proposals under the 'bat mitigation class licensing' (BMCL) scheme subject to the proposals meeting certain (non-ecological) criteria specified under BMCL. The other option is an individual mitigation licence. Apex Ecology could advise on this, with both Helen Ball and Max Robinson Registered Consultants able to register sites under BMCL.

Replacement Roosting Provision and Compensation

4.5 There is also an obligation under the NERC Act to ensure no net loss of roosting sites (see Appendix 1).

4.6 Examples of replacement roosting provision are given below. These are given in light of the species and small numbers of non-breeding common pipistrelle, whiskered/Brandts and brown long-eared bats present.

- ***Maintenance of existing roosting locations and access points.*** This may be an option depending upon the proposals for the building. Replacement of roof tiles enables roost points and new roost opportunities to be reinstated or created.

- ***Provision for bats to roost below ridge tiles and between tiles and underfelt***. This could be achieved by mortaring ridge tiles in place to create a

void below that could be accessed by bats for roosting. In addition, access points consisting of small gaps, *c.* 20mm high by 50mm long where the ridge tiles meet the roof tiles would need to be created. Small gaps could also be left between the common roof tiles to enable bats to access spaces between the underfelt and tiles.

- Traditional bitumen hessian (type1F) underfelt would need to be used (not breathable roofing membrane (BRM) or type 5U bitumen underfelt) on the roofs where provision for bats to roost is included or where bats may access below tiles. Based upon current research and mounting anecdotal evidence non-woven breathable roofing membranes BRMs pose an entanglement threat to bats due to the continuous polypropylene filaments that make up the products. When used in bat roosts, it can also result in deterioration of the BRM (due to wear and tear of bats roosting and rubbing against it and from urine and staining from natural oils present in bat fur) resulting in a reduction in the effectiveness of the membrane. Please see Waring *et al.* (2013) and http://www.batsandbrms.co.uk

- Any treatment of roof timbers would need to be done using a chemical approved by Natural England for use in bat roosts (a list of approved chemicals can be provided by the bat ecologist).

- ***Provision of a small number bat boxes****.* This could be achieved by installing commercially available bat boxes into the walls of the building (thus ensuring longevity and removing the need for maintenance of wall fixings). Several companies now manufacture suitable boxes for this purpose and they can be bought 'off the shelf' or have a matching brick face made to match the building materials. Other types of boxes can be set into the walls and bricks of the building cut to face the bat box, such as the Schwegler 1FR. Schwegler boxes are made from woodcrete or similar (a blend of wood, concrete and clay) and have long durability (reputed to be 20-25 years). Should a different brand of boxes be used, these should have a similar durability; it is not recommended wooden boxes be used.

- The bat boxes would need to be located towards the tops of the walls (at least 3-4m above ground). Boxes should not be located facing due south and their access points would need to be free from obstruction. It is best not to fix boxes above windows or doorways. Deflector boards to catch bat droppings can be installed below the boxes if necessary.

- Given that boxes and their fixings require maintenance it is advised that any boxes attached to walls (rather than built into them) should be installed in areas where there is no risk to people should a box become loose and fall. Where possible, however, it is recommended that box types be selected that can be built into the structure of the walls.

- A licensed bat ecologist should brief all persons (roofers, builders, etc.) undertaking the work prior to any works commencing. The briefing session would need to cover legislation protecting bats, identification of the species present, identification of bat droppings, where bats are likely to be roosting and the procedure to follow in the event that bats are found during work;

- The building should be surveyed by the licensed bat ecologist for signs of bat occupation immediately prior to the commencement of works. This should involve a visual inspection of the interior of the building for the presence of bats;

- The roof tiles should each be carefully lifted by hand and inspected below for signs of bats. Tiles should be lifted directly upwards to avoid accidental crushing of any bats roosting beneath. Any crevices, such as between the tiles and tops of the walls or between tiles and rafters should be inspected by means of a torch and/or endoscope;

- Any gaps within the walls should be carefully inspected for signs of bats, using an endoscope and carefully dismantled by hand;

- Works should be overseen by a licensed bat worker.

- ***External lighting*** installed as part of any proposals in the vicinity of any replacement roosting would need to be limited to ensure these areas remained dark. The use of low lux intensity lighting coupled with low level designs, possibly with timers or motion detectors would help to reduce light spill.

4.7 Replacement roosting provision may also be a requirement of the LPA to ensure no net loss of roosting sites under NERC Act obligations (see Appendix 1). The use of bituminised felting below the common roof tiles should ensure that roost points lost to the demolition of the outbuilding are more than adequately compensated for by roost points created below the common roof tiles on the barn conversion.

Precautionary Working Practices

4.8 Precautionary working practices would need to be put in place during works to the buildings according to the licence conditions. All personnel undertaking the work would need to be made aware of these requirements and follow the advice below.

- This report and a copy of the EPS licence once granted would need to be made available on the working site and all parties working on the site made aware of their presence and access allowed to them. The information the documents contain must be adhered to by all site operatives in order for works to be carried out within the law. Failure to follow the advice set out in this report and according to the licence conditions may result in an offence being committed and delays to work.

- The personnel undertaking the work should understand that bats are possibly and likely present. Information on bat identification can be found readily on the Bat Conservation Trust website.

- Some works such as any ridge tile removal around the roost locations (and possibly other areas) will need to be supervised by a licensed ecologist. Other

areas, for example, common roof tile removal/replacement/re-mortaring or reroofing) may need to be supervised by the licenced ecologist.

- Ridge and common tiles would need to be carefully stripped by hand to avoid injury to any undiscovered bats that may be present. The tiles would then need to be lifted vertically and outwards and inspected below for bats or signs of bats, such as droppings[1]. To ensure no bats were trapped or entombed by works, bat exclusion devices may well need to be installed prior to works taking place (these can only effectively be used at times of year bats are active and not during winter months when bats may be deep in torpor).

- Any bats located would need to be moved by the ecologist into a bat box located in a secure position on site in accordance with the licence conditions.

- Should bats be found to be present when the ecologist is not on site, they would need to be left *in situ* and not handled or touched. If a bat is disturbed and it wishes to fly then it should be allowed to do so. If a bat is uncovered, for instance by lifting of a tile, then the tile should be gently placed back with care taken not to crush the bat below. Alternatively, a plastic or cardboard box with ventilation holes could be temporarily placed over the bat to protect the bat.

- There would be a need for timing restrictions when certain works could take place to reduce impacts on bats. For instance, works affected roosting locations would need to be timed to avoid periods of cold weather during the winter months, such as prolonged spells of cold or sudden cold snaps (such as during frosts or snow/icy weather). Licenses do not usually cover impacts on hibernation roosts/hibernating bats.

- Design and installation of the bat roosting and access provision, and any precautionary working practices would need to be supervised by the ecologist as a condition of the Natural England licence.

Birds

4.9 Any demolition or roof stripping works of the buildings would need to take account of the potential presence of nesting birds. The presence of nesting birds can be avoided as a constraint to the proposals by timing relevant works to avoid the bird nesting season. Should the works need to be carried out during the bird nesting season then surveys and a watching brief would need to be carried out during works to check for the presence of nesting birds. The findings of the surveys and watching brief would be used to ascertain the best method to proceed to avoid impacting upon nesting birds. The bird nesting season is generally deemed to run from March to July/August inclusive, although some species can nest outside this period.

4.10 To off-set loss of nesting sites within the site, it is recommended that bird boxes be included as part of the development. It would be best to install a range of box

[1] Bat droppings are small and black/brown in colour. They appear similar to mouse dropping except when crushed they crumble into dust (unless wet). Mouse droppings are soft and can have an odour when fresh, but become hard very quickly. Hands should be disinfected after touching droppings.

styles to cater for a number of species and targeted at species known to be present in the area or using the site. Advice from the ecologist sought on this should boxes be installed once proposals have been finalised.

4.11 Given the paucity of mature trees there are few suitable locations on site for bird boxes to be located, hence boxes may be best installed on buildings, and or in buildings not subject to the proposals. Boxes must not be located facing due south and their access points would need to be free from obstruction. Given that boxes and their fixings require maintenance, it is advised that boxes should be installed in areas where there is no risk to people should a box become loose and fall off the wall.

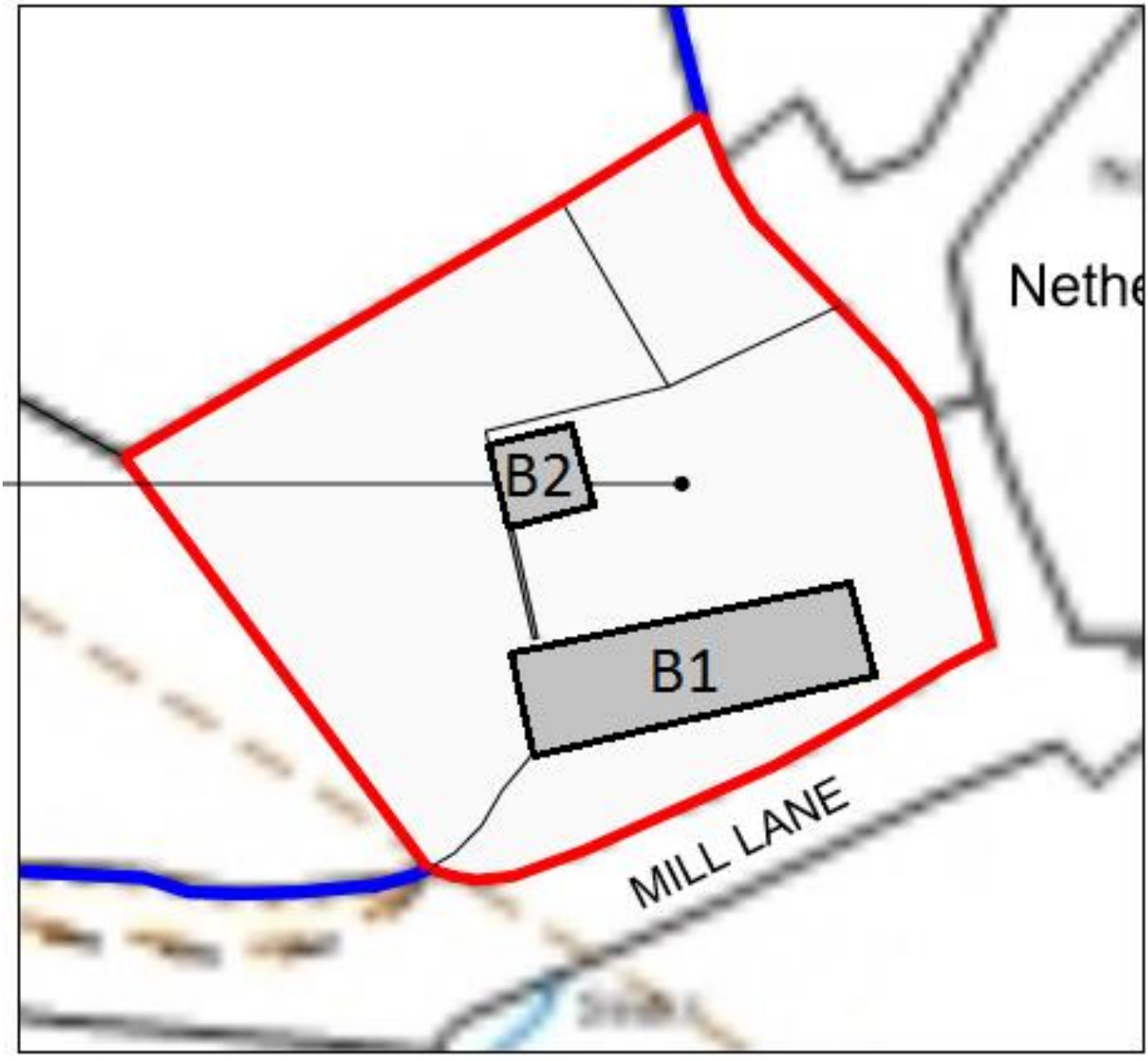
5. REFERENCES

Collins, J. (ed). (2016). *Bat Surveys for Professional Ecologists – Good Practice Guidelines.* 3rd Edition. Bat Conservation Trust, London.

Mitchell-Jones, A. J. (2004). *The Bat Mitigation Guidelines.* English Nature, Peterborough.

Waring, S. D., Essah, E., Gunnell, K. and Bonser, R. (2013),*Double jeopardy: the potential for problems when bats interactwith breathable roofing membranes in t he United Kingdom.* Architecture & Environment, 1 (1). pp. 113. ISSN 2329-2296 doi: https://doi.org/10.12966/ae.5.1.2013 Available at http://centaur.reading.ac.uk/33044/

Figure 1. Layout of site buildings



APPENDIX 1 - LEGISLATION RELATING TO PROTECTED SPECIES DISCUSSED IN THE REPORT

The information below is intended only as guidance to the legislation relating to these species and relates solely to England and does not purport to provide legal advice. It is recommended that the legislative documents be referred to for the full legal wording and the services of a relevant specialist sought where legal advice is required.

Bats

There are seventeen different species of bat in the UK; some are very rare whilst others are widespread. However, because the populations of most species have declined in past decades, all British bats have been protected by law.

Bats are protected in England under European Legislation via the Conservation (Natural Habitats and Wild Flora and Fauna (92/43/EEC)) or 'The Habitats Directive'. The Directive is transposed into UK law via the Conservation of Habitats and Species Regulations 2010 (Statutory Instrument 2010/0490 known as the Habitats Regulations), which came into force on the 1st April 2010. The Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") consolidate and update the Conservation (Natural Habitats, &c.) Regulations 1994 (Statutory Instrument 1994/2716) and amendments. Due to their inclusion on Schedule 2 of the Habitats Regulations, bats are considered 'European Protected Species'.

In summary, this legislation makes it an offence to:

- deliberately capture, injure or kill a bat;
- deliberately disturb a bat;
- damage or destroy a breeding site or resting place of any bat;
- possess a bat (alive or dead) or any part of a bat.

Disturbance of bats includes in particular any disturbance which is likely:

(a) to impair their ability:

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

(ii) to hibernate or migrate; or

(b) to affect the local distribution or abundance of the species to which they belong.

Bats are also protected under the Wildlife and Countryside Act 1981 (as amended), which has also been amended by the Countryside and Rights of Way (CRoW) Act, 2000.

In summary, this legislation makes it an offence to:

- intentionally or recklessly disturb a bat while it is occupying a structure or place which it uses for shelter or protection;
- intentionally or recklessly obstruct access to any structure or place which any bat uses for shelter or protection.

In addition, under UK's Biodiversity Action Plans seven British bat species are listed as 'Priority Species'. These include 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.*

Birds

All wild birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended). It is, therefore, an offence (subject to certain exceptions) to:

- kill, injure or take any wild bird;
- take, damage or destroy the nest of any wild bird whilst it is in use or being built;
- take or destroy the egg of any wild bird.

In addition to the above, in accordance to amendments of the Wildlife and Countryside Act by the Countryside and Rights of Way Act 2000, it is an offence to:

- intentionally or recklessly disturb any species listed on Schedule 1 of the Wildlife and Countryside Act whilst building a nest, or whilst it is on, in or near a nest containing eggs or young; and
- disturb the dependant young of a Schedule 1 bird.

For example, barn owl is protected under Schedule 1 of the Wildlife and Countryside Act, protecting them from intentional or reckless disturbance during the breeding season (which is normally considered the time from when the female makes the first nest 'scrape' and lays the first egg until the time when the last dependent young stops returning to the nest (English Nature, 2002/3)).

NERC ACT AND BIODIVERSITY

A number of UK habitats and species are also included on the list of habitats and species which are of principal importance for the conservation of biodiversity in England as required under Section 41 of the Natural Environment and Rural Communities (NERC) Act. The NERC Act came into force on 1st Oct 2006. Section 41 (S41) of the Act requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England. The list has been drawn up in consultation with Natural England, as required by the Act.

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 NERC Act to have regard to the conservation of biodiversity in England, when carrying out their normal functions.

Fifty-six habitats of principal importance are included on the S41 list. These are all the habitats in England that were identified as requiring action in the UK Biodiversity Action Plan (UK BAP) and continue to be regarded as conservation priorities in the subsequent UK Post-2010 Biodiversity Framework. They include terrestrial habitats such as upland hay meadows to lowland mixed deciduous woodland, and freshwater and marine habitats such as ponds and subtidal sands and gravels.

There are 943 species of principal importance included on the S41 list. These are the species found in England which were identified as requiring action under the UK Biodiversity Action Plan and which continue to be regarded as conservation priorities under the UK Post-2010 Biodiversity Framework. In addition, the Hen Harrier has also been included on the list because without continued conservation action it is unlikely that the Hen Harrier population will increase from its current very low levels in England. In accordance with Section 41(4) the Secretary of State will, in consultation with Natural England, keep this list under review and will publish a revised list if necessary.

The impact that this legislation has on the Planning system is also outlined in ODPM 06/2005 Government Circular: Biodiversity and Geological Conservation – Statutory obligations and their Impact within the Planning System. This states:
The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult English Nature [now Natural England] before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of the species. They should also advise developers that they must comply with any statutory species' protection provisions affecting the site concerned.