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Phase 1 Bat Survey of Buildings at Coombe Valley Road, Dover, Kent

Site: Buildings at Coombe Valley Road
Dover, Kent, CT17 0EN

Client: Alliance Building Company Ltd
15 Grace Hill
Folkestone
Kent, CT20 1HA

Surveyors: D P King MEECW (NE Sc. Bat Lic. No. 2015-16001-CLS-CLS)
Registered Bat Consultant Reg. No. RC182
S L Wright (NE Sc. Bat Lic. No. 2016-24340-CLS-CLS)

Survey Date: 19th November 2020

Report Date: 30th November 2020

Phase 1 Bat Survey (Daytime Building Inspection) Bat Survey – Buildings at Coombe Valley Road, Dover, Kent - OS Grid Reference: TR 30919 42393

Executive Summary

Two surveyors from Batscan Ltd (formerly Batbox Ltd Bat Surveys) undertook a Phase 1 bat survey (daytime building inspection/bat scoping survey) of redundant buildings on land at Coombe Valley Road, in Dover, Kent, on 19th November 2020.

The survey was undertaken on behalf of the site developers, the Alliance Building Company Ltd., who are proposing to demolish the existing buildings on the site and to replace these with new residential apartment buildings.

The existing buildings comprise a row of linked barns and other structures, possibly the remains of an old farm complex, but much altered over the years and mostly in a very poor structural condition. Although located near to Dover town centre, the site is a short distance from a local nature reserve and is close to the River Dour, both of which offer good bat habitat and connectivity to surrounding green space. Bats of a number of British species have been recorded within 2km of this site.

By mid-November, British bats are entering their hibernation period and therefore only a desk study and a daytime building survey, where surveyors checked for bats, evidence of bats and the potential for bat use, could be carried out.

During this survey, no bats were seen in the buildings. However, approximately eight bat droppings were found in a small corridor on the first floor of the linked buildings, labelled 6 & 7 on the attached plan. Additionally, a small number of moth wings, almost certainly dropped by a feeding bat, were discovered on the floor of the large old flint barn, Building no. 4. These findings were suggestive of use by a long-eared bat (*Plecotus* sp.) A sample of droppings was collected and submitted to Warwick University for DNA analysis, to allow the species concerned to be positively identified. It has now been confirmed that the bat/s using these areas is the brown long-eared bat (*Plecotus auritus*). Buildings 4 & 6/7 are therefore considered to have a **high potential** to be bat roosts, although it remains to be established whether use is confined to occasional visits or more regular roosting.

No bats or evidence of bat use was found in the other buildings on the site and these structures were assessed as having a **low to moderate** potential for bat use.

The findings of this survey confirm that the site is used by bats, although evidence found to date suggests that activity may be confined to low level use by a small number of individuals. Further surveys will be required to establish the status of roosts and the species and numbers involved.

Phase 2 surveys (dusk emergence checks/bat activity surveys) should be carried out, at an appropriate time of year, when bats are active. The optimum time for bat surveys is between May and September, although surveys may commence a little earlier in the year during periods of good weather.

Further advice can then be provided on requirements for a Bat Mitigation Licence and on appropriate mitigation and compensation or enhancement measures.

1. Introduction and Background

- 1.1 Two appropriately qualified and experienced surveyors from Batscan Ltd undertook a Phase 1 bat survey (daytime building inspection/bat scoping survey) of a group of redundant buildings, on land at the east end of Coombe Valley Road in Dover, Kent, on 19th November 2020. Both surveyors hold Natural England Level 2 Class Licences and one is a Natural England Registered Bat Consultant. For details of surveyors' licences and affiliations, please see report cover.
- 1.2 The survey was undertaken on behalf of the site developers, the Alliance Building Company Ltd., who are proposing to demolish all of the existing buildings on the site and to replace these with new apartment buildings, comprising forty residential units.
- 1.3 Bats and their roosts are protected by British and European Law and must be taken into consideration, should any proposed works risk causing harm or significant disturbance to bats, or damage to roosting sites. A brief account of the laws protecting bats and relevant planning considerations is attached to this report.
- 1.4 By mid-November, British bats are entering their hibernation period and therefore only a desk study and a daytime building inspection, where surveyors checked for bats, evidence of bats and the potential for bat use, can be carried out. The weather was dry and cool during the Phase 1 bat survey.
- 1.5 The existing buildings comprise a row of linked structures which are in a generally rather poor condition. Apart from the presence of some stored furniture, the buildings are entirely disused and most structures offer access and roosting opportunities for bats. The L-shaped group of buildings is situated along the west side of a relatively large area of hard standing. To the east is a series of open bays, once used for the storage of materials.

2. Desk Study

- 2.1 Although located in a largely urban, residential area, close to Dover town centre, the site is a short distance to the east of a local nature reserve, the High Meadows LNR. The White Cliffs Country Trail passes through this reserve and it connects to Whinless Down and Nemo Down, forming a 62 ha area of continuous chalk grassland.
- 2.2 A data search, for bat records from within a 5km radius of the site, has been undertaken by the Kent and Medway Biological Records Centre (see attached). The data search reveals that bats of at least eleven species have been recorded within a 2km radius of the site, with records including bats discovered in underground hibernation sites and a maternity roost for common pipistrelles (*Pipistrellus pipistrellus*), only 0.5km from the Coombe Valley road site. Bats of several species have been recorded flying close to the site and the nearest record for long-eared bats is from 1.4km distance.
- 2.3 The green spaces of Coombe Valley are included in a study of several local sites where the Kent Bat Group is working alongside the E Kent Valleys Grasslands Project to better understand possible use of this area by the rare Greater horseshoe bat (*Rhinolophus ferrumequinum*). The nearby River Dour offers excellent habitat for foraging bats and the tree-lined railway line, which passes close to the site, also provides connectivity to the surrounding countryside.

3. Phase 1 Bat Survey (Daytime Building Inspection) – Methodology*¹

- 3.1 Prior to the survey, a check of aerial maps was undertaken to establish the proximity of the site to suitable bat habitat.
- 3.2 Whilst on site, the surveyors assessed the surrounding habitat for its potential to be used by bats.
- 3.3 Some sections of the buildings are considered to be in a hazardous condition and could only be searched with extreme care. A senior representative from the Alliance Building Company provided assistance with access to the buildings, as well as H&S advice.
- 3.4 The surveyors searched the exterior of the structures for bat droppings on walls and on the ground, below possible roost entrances. Binoculars were used to check features at higher levels. Potential bat roosting places or access points were noted.
- 3.5 The interiors of the buildings were searched with powerful torches. The surveyors checked for bats and evidence of bats, such as corpses, bat droppings, urine stains on stored items and 'rub' marks, from the oil on bats' fur, around well-used roosting places. In the more open buildings, the surveyors also checked for insect remains, dropped by feeding bats, beneath feeding 'perches'.
- 3.6 Open areas were assessed for the likelihood of use by foraging and commuting bats.
- 3.7 Photographs were taken of relevant features and detailed notes were taken.
- 3.8 Recommendations from the Bat Conservation Trust's 'Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn)*² were followed for the course of this survey.

4. Phase 1 Bat Survey (Daytime Building Inspection) - Results

- 4.1 Building 1 - Store (See Plan for Building references)
 - 4.1.1 Building 1, at the south west of the site, is a small, open-sided store, block-built with a slightly sloping, corrugated asbestos type roof. It appears to be of relatively recent construction (compared to other buildings on the site). A small number of items are stored within the building, which has a concrete floor.
 - 4.1.2 No bats or evidence of bats was found in Building 1, although one or two gaps were noted around roof beams and between bricks/blocks near to the doorway. These might be suitable for opportunistic roosting or hibernating by individual bats. **Building 1 is considered to have a low, but not negligible, potential for bat use.**

4.2 Building 2 – Store (Possibly, originally, a small dwelling)

3.2.1 Building 2 is an old, two-storey, flint building, at the south west corner of the site. It has a relatively modern, replacement, pitched roof. The first floor is open to the apex of the roof. The windows to this structure have been boarded and an old fireplace has been bricked up. The ground floor contains some stored items of household furniture. Timber stairs reach to the first floor. There are large openings into the adjoining structure, Building 3, on both the ground and first floors.

4.2.2 No bats or evidence of bat use was found in Building 2. However, bats could gain easy access to this structure, via the adjoining open fronted building, Building 3. Potential roosting/hibernation sites were noted in various cavities, such as within the old chimney breast, where there are holes in the brickwork and other cracks and crevices. **Building 2 is considered to have a moderate potential for roosting bats.**

4.3 Building 3 – Large, Open-fronted Store

4.3.1 Building 3 is a large, open-fronted store with a slightly sloping, felted, timber roof, supported on metal beams. The walls of this, more recently constructed building, are constructed of concrete block and the floor is concrete. A number of items of household furniture and accumulations of cardboard packing materials are stored in this building.

4.3.2 No bats or evidence of bat use was found in Building 3. However, some limited potential for bat use was noted in crevices between the roof timbers and walls. **Building 3 is considered to have a low, but not negligible, potential for bat use.**

4.4 Building 4 – Large Flint Barn

4.4.1 Building 4 is a large old flint barn with a pitched, hipped, roof. Roof tiles have been replaced at some time and the roof is unlined, internally. The roof is supported by a timber frame. There are one or two areas of damage to the roof. The front (east) side and part of the north side are clad with unlined, timber weather-boarding. A number of gaps in the weather-board, where boards have broken or been lost, may provide easy access into the building, for bats. The barn features tall, timber, barn doors, on the front (east) side.

4.4.2 To the rear (west side) of the barn, a small number of steps lead through a large opening into a more recently constructed, block-built extension, divided into several separate rooms. These have sloping, felted roofs. The most northerly of these rooms has an ill-fitting, metal garage door.

4.4.3 No bats were seen in Building 4, but a very small accumulation of fresh moth wings, from yellow under-winged moths, was found below the apex of the roof of the main barn. This is very suggestive of use of the barn as an occasional 'feeding perch', most likely by a long-eared bat (*Plecotus* sp.). There are numerous crevices, suitable for use by roosting bats, in the flint barn, including gaps beneath timber boards, attached to the flint walls and crevices within the roof structure. Barns, such as this, are often used by roosting bats and sometimes by hibernating individuals. No bats or evidence of bats was found in the more modern extension to the rear (west side) of the barn, although some minor potential was noted in one or two crevices around internal

doorways, etc. It has been confirmed that **the main barn, Building 4, is used by bats with a high potential to be a bat roost. The rear extension is considered to offer a low, but not negligible, potential for bats.**

4.5 Building 5 – Store

4.5.1 Building 5 is a single-storey store with block walls to the front (east side) and wide, timber doors. The rear wall is flint and the sloping, timber roof is felted. There is an open doorway through to Building 6. Two doorways are blocked with brick and the west side window is partially covered with mesh.

4.5.2 No bats or evidence of bats was found in Building 5, although one or two crevices were noted, where a bat might find a roosting place. **Building 5 is considered to offer a low, but not negligible, potential for bat use.**

4.6 Building 6/7 – Old Dwelling/Offices

4.6.1 Building 6/7 comprises two sections; an old structure, constructed of painted/rendered flint, with a replacement sloping roof to the south and a linked, relatively modern, two-storey office building to the north. A single-storey, flat roofed entrance lobby, has been added to the front (east side) of the older structure. The lobby is in a dilapidated and somewhat dangerous condition, as is part of the upper floor of the older structure, where rainwater ingress has caused serious damage to the floor timbers. Open doorways, at first floor level, link the two sections of this building. The more recently constructed office buildings have suffered some vandalism over recent years.

4.6.2 No bats were seen in Building 6/7. However, a small accumulation of approximately eight bat droppings, which appeared to be relatively fresh, was found on a first floor link corridor between the older and more modern sections of Building 6. These were of the appearance of long-eared bat droppings and suggest possible use of the building as an occasional night roost, by a single individual. A sample was collected and subsequently submitted to Warwick University for DNA analysis, to allow the species concerned to be positively identified. The results have now been received and confirm that the species is the brown long-eared bat (*Plecotus auritus*). (See attached). Bats of this species, which is considered to be common and widespread, have been recorded previously in this area. The most likely access point, for this bat, is via a small, open window on the east side, although other routes are possible.

4.6.3 At the rear of the building, a slightly lifted timber fascia board is considered to offer some potential for roosting by crevice-dwelling bats, such as pipistrelles (*Pipistrellus* sp.). **Building 6/7 is a confirmed roost, with some sections offering a high potential for bat use.**

4.7 Surrounding Habitat

4.7.1 The storage bays on the south and east sides of the site and the area of hard standing offer no potential for roosting bats. However the overgrown boundary walls, with buddleia and other undergrowth, offer sheltered foraging sites and commuting routes for bats, as does the somewhat enclosed area to the west of the buildings. The neighbouring small but mature gardens also offer good commuting routes to link to foraging habitat, such as the River Dour, the LNR and the tree-lined railway line.

5. Survey Constraints

- 5.1 This building inspection was undertaken in the early part of bats' hibernation season and any droppings left on the exterior of buildings, from summer bat activity, may have been washed away by wind and rain, over recent months.

6. Possible Threats to Bats

- 6.1 Without appropriate mitigation, The proposed demolition of all of the redundant buildings on this site may cause death or injury to any bats which roost in the buildings and would result in the loss of bat roosts. The replacement of the existing structures, with new apartment buildings, would mean that roosting opportunities are lost, unless appropriate compensation and enhancements measures can be included in the new development.

7. Conclusions and Recommendations

- 7.1 The findings of this Phase 1 survey confirm that the site is used by brown long-eared bats, although the evidence found during this building inspection *suggests* that activity may be confined to a low level of use by a small number of individuals. Further surveys will be required to establish the status of roosts and the species and numbers involved, with any degree of certainty.
- 7.2 Phase 2 surveys (dusk emergence checks/bat activity surveys) should be carried out, at an appropriate time of year, when bats are active. The optimum time for bat surveys is between May and September, although surveys may commence a little earlier in the year, should weather conditions allow. In normal circumstances, three Phase 2 surveys are considered sufficient to allow a reasonable picture of bat use of a site.
- 7.3 When surveys are completed, further information can be provided on requirements for a Bat Mitigation Licence and on appropriate mitigation and compensation or enhancement measures. The aim is to ensure that the proposed development does not have a negative impact on bats in this area. Suitable measures may include the provision of bat access tiles and/or roosting units in the new buildings, as well as sympathetic new planting around the site. Consideration should also be given to providing bat access to a roof void or to an ancillary building – roosting sites preferred by long-eared bats. Additionally, consideration to timing and methodology of work will be required, as well as an appropriate lighting scheme.
- 7.4 The results of the DNA analysis of bat droppings, found in Building 6/7, during this survey and the bat records, for the local area, are attached to this report.


*1 Coronavirus - Recommended precautions regarding social distancing and other personal protection measures were in place for the duration of this survey.


*2 Collins, J. (ed.) (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn). The Bat Conservation Trust, London. ISBN-13 978-1-872745-96-1

Proposed Development Site, Coombe Valley Road, Dover - SITE PLAN (19/11/20)



1-7 – Building numbers

 Insect remains dropped
by feeding bat

 Accumulation of bat
droppings

Buildings at Coombe Valley Road, Dover Kent – Photographs – 19th November 2020



View from north to south, through site



Buildings 6/7, viewed from east



Buildings 1, 2 & 3, viewed from east



The main barn, Building 4, viewed from the east



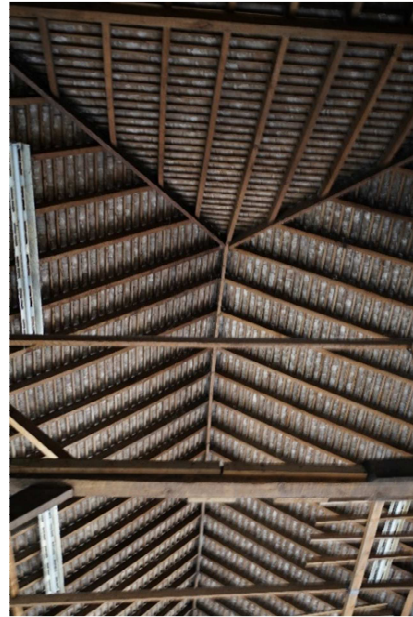
West side, view of rear of buildings 5 & 4



Damage to roof of barn (Building 4) viewed from west



Interior of Main Barn, Building 4



View of interior of roof, Building 4



Potential roosting place at high level, W wall of Building 4



Moth wings dropped by feeding bat, B4



Bat droppings on floor of link room, Building 6/7



Area of bat droppings



View into Building 2, from Building 3



Old fireplace and staircase, Building 2 – holes in brickwork



Crevices within open store, Building 1



Interior of store, Building 5



Interior view of Building 3



Damaged ceiling, Building 7

30 November 20

Re: Identification Results for Sheila Wright, Batscan Ltd

Job number 16157, received 23 November 2020

Sample labelled: BS/19/10/DVR, Coombe Valley Road, Dover, Kent, CT17 0EN.

PCR amplification successful. DNA sequence:

TGACTAACATTCGAAAGTCCCACCCTCTCATAAAAATTATCAATGACTCATTCAATTGA
CTTACCTGCTCCCTCAAATATTTTCATCATGATGAACTTTGGATCTCTTCTAGGCATT
GCCTAGCACTAC

Phylogenetic analysis identification: *Plecotus auritus*

Confirmed by maximum likelihood, maximum parsimony, bootstrap 100%.

Best regards,

Professor Robin Allaby

The results and conclusions in this report are based on an investigation of mtDNA sequence analysis. The results obtained have been reported with accuracy. The interpretation represents the most probable conclusion for the DNA sequence obtained rather than the sample provided given current levels of species data. It should be borne in mind that different circumstances might produce different results. Therefore, care must be taken with interpretation of the results especially if they are used as the basis for commercial recommendations.

Professor Robin Allaby

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The following is our interpretation of the law relating to bats, but should not be relied on in place of professional legal advice.

LEGAL PROTECTION

All bat species and their roosts in Britain are protected under Section 9 of the **Wildlife and Countryside Act 1981 (as amended)** through inclusion on Schedule 5. This Act was significantly strengthened by the **Countryside and Rights of Way Act 2000 (the CRow Act)** which introduced a statutory duty for the government to promote steps to further the conservation of priority habitats and species listed on the UK Biodiversity Action Plan (UKBAP). The Countryside and Rights of Way Act has made a number of important changes to the Wildlife and Countryside Act 1981 in England and Wales. These include making Section 9 offences 'arrestable offences', and increasing fines for these offences to £5000 per bat and/or a period of imprisonment of up to 6 months.

Bats are also included on Annex IV of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive). As a result of the UK ratifying this directive, all British bats were protected under The Conservation (Natural Habitats etc.) Regulations 1994 (the Habitat Regulations), now consolidated as the **Conservation of Habitats and Species Regulations 2010**. These make it illegal to kill, injure, capture or disturb or obstruct access to, damage or destroy bat roosts. Under the law, a roost is any structure or place used for shelter or protection. Since bats tend to use the same roosts, the roost is protected whether the bats are present or not. Four bat species (greater horseshoe, lesser horseshoe, Bechstein's and barbastelle) are also on Annex II of the Regulations, which requires the designation of Special Areas of Conservation (SAC) to ensure that the species is maintained at a favourable conservation status. In the UK, this is being done through the designation of certain selected SSSIs. The Habitat Regulations impose a duty on public bodies, in the exercise of any of their functions, to have regard to the European Habitats Directive (EC Directive 92/43/EEC) on the conservation of natural habitats and wild fauna and flora.

Changes made to the Habitats Regulations increase the legal protection given to bats and their roosts. Previously, if damage was 'an incidental result of a lawful operation' and reasonable precautions had been taken to avoid it, there would have been no offence. This defence has been removed, as has the so-called 'dwelling house' defence. Therefore, there is now a significant risk of operators committing an offence if they do not take necessary checks and seek licences where required. However, the threshold level for disturbance of bats has been raised. New guidance was given in early 2009 on recent changes to the Habitat Regulations, but basic principles remain the same, in that the destruction of a bat roost is illegal, but that some low-level disturbance of bat roosts, considered to be below an agreed threshold of significance, would not constitute an offence. Expert advice, from a suitably qualified ecological consultant, should be sought on what constitutes significant disturbance to protected species or their habitat. Guidance now states that it is an offence to: 'intentionally or recklessly disturb a group of bats where the disturbance is likely to either (a) impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or to hibernate or migrate, or (b) to affect significantly the local distribution or abundance of the species, in either case whether in a roost or not.'

UK signatory to the Agreement on the Conservation of Bats in Europe was set up under the **Bonn Convention**. The Fundamental Obligations of Article III of this agreement, require the protection of all bats and their habitats, including the identification and protection from damage or disturbance of important feeding areas for bats.

Section 40 of the **Natural Environment and Rural Communities Act 2006 (the NERC Act)** states that (1) 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.'

Six species are listed on the UKBAP. These are the greater horseshoe bat (*Rhinolophus ferrumequinum*), the lesser horseshoe bat (*Rhinolophus hipposideros*), barbastelle (*Barbastella barbastellus*), Bechstein's bat (*Myotis bechsteinii*), brown long-eared bat (*Plecotus auritus*) and soprano (55 kHz) pipistrelle (*Pipistrellus pygmaeus*).

Planning Policy Context *

Government policy guidance for biodiversity and nature conservation throughout the UK is provided in the following planning guidance and statements, which are current at the time of writing:

England:

- National Planning Policy Framework 2012 (DCLG, 2012)
- Government Circular 06/2005: Biodiversity and geological conservation – Statutory obligations and their impact within the planning system (DCLG, 2005)
- Circular 02/99: Environmental impact assessment 1999 (DCLG, 1999)

In addition to the national policy guidance outlined above, regional and local planning policies should be consulted and other country-specific guidance, such as NE's standing advice to Local Planning Authorities (LPAs) may also be relevant.

Government planning policy guidance throughout the UK requires LPAs to take account of the conservation of protected species when considering and determining planning applications. This biodiversity duty is imposed in England Wales through the Natural Environment and Rural Communities (NERC) Act 2006, which states that 'every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'.

Planners are required to consider protected species as a material consideration when assessing a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. This requirement has important implications for bat surveys as it means that, where there is a reasonable likelihood of bats being present and being affected by the development, surveys must be carried out before planning permission is considered.

Adequate surveys are therefore required to establish the presence or absence of bats, to enable a prediction of the likely impact of the proposed development on them and their breeding sites or resting places and, if necessary, to design mitigation, enhancement and monitoring measures.

The term 'development' used in these guidelines includes activities and proposals that could impact bats. In planning terms, this includes activities requiring outline and full planning permission but also those that meet the criteria for permitted development, require listed consent and require prior approval to demolish.

Further details on the standard of information required to assess a planning application is detailed in Clauses 6 & 8 of BS42020. (BSI 2013) and additionally in Clause 7.3. The Code of Practice set out within British Standard for Biodiversity – BS42020:2013 provides recommendations and guidance for those in the planning, development and land use sectors who work might affect or have implications for the conservation or enhancement of biodiversity.

The planning system should also deliver overall net gains for biodiversity (enhancements) as laid out in the National Planning Policy framework and other planning policy documents.

*Collins, J. (ed.) (2016) Bat Conservation Trust 'Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd Edition) The Bat Conservation Trust, London. ISBN-13 978-1-872745-96-1

As a result of the Judicial Review Judgement 5th June 2009: **Woolley v Cheshire E Borough Council & Millennium Estates Limited** the role and responsibilities of planning authorities has been clarified. In the course of its consideration of a planning application, where the presence of a European protected species is a material consideration, the LPA must satisfy itself that the proposed development meets three tests as set out in the Directive. The proposed development must meet a purpose of '*preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequence of primary importance for the environment*'. In addition the authority must be satisfied that, (a) '*that there is no satisfactory alternative*' and (b) '*that 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*.' The recent ruling states that '*if it is clear or perhaps very likely that the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable "other imperative reasons of over-riding public interest" then the authority should act on that and refuse permission.*'

Surveys and mitigation strategies for bats should generally not be made a requirement of a planning condition or be undertaken after permission has been granted. The Woolley Judgement clarified this. Local planning authorities are unable to fulfil their duty under Regulation 3(4) of the Habitats Regulations and cannot properly weigh protected species issues (see above) without complete information. However, in a small number of circumstances, conditioning strategies may be the most appropriate course of action. The local Natural England Species Officer should be consulted, where this might be the case.

Following the judgement in the recent case of *Morge (FC) v Hampshire County Council* (2011) UKSC 2 considered the application of local authority duty with in relation to European protected species. It came to the conclusion that, if the Planning Authority

concludes that the carrying out of the development for which permission has been applied for, even if it were to be conditioned, would be likely to offend Article 12(1) by say causing the disturbance of a species with which that Article is concerned, then it must consider the likelihood of a (Natural England) licence being granted. Further detailed standing advice on European Protected species was subsequently produced and is now available at:

www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx

Should works be proposed that are likely to result in the disturbance of bats or a bat roost, English Nature (now Natural England) can advise regarding the legal protection. However, the developer should consult with their ecologist on whether a licence is required as this decision is based on whether it is reasonably likely that an offence may occur. The licence application is made to the Natural England Wildlife Management and Licensing Service. This licence was formerly known as a DEFRA Licence.

Planning authorities should be aware that developments which compromise the protection afforded to European protected species, including all British bats, will normally require a NE EPS licence under the law. Planning issues relating to bats need to be resolved prior to the application for a licence.

The three tests detailed above must be satisfied before NE can issue a licence under Regulation 44(2)(e) to permit otherwise prohibited acts.

Further guidance on the three tests can be found in the Natural England publication entitled 'European Protected Species: Mitigation Licensing – How to get a licence'^{1a}

Ultimately it is for the developer to ensure compliance with the law during the actual implementation of the development, not the planning authority. It is for the planning authority to monitor whether planning conditions are being properly discharged.

Further advice on Bats and the Law can be obtained from:

Wildlife Management and Licensing Service, Natural England, 2 The Square, Bristol, BS1 6EB
Tel: 0845 601 4523 Fax: 0845 601 3438

^{1a} Available to download http://www.naturalengland.org.uk/Images/WML-G12_tcm6-4116.pdf

Also see: *Local Plan* (Chichester District Council, adopted April 1999; policies saved Sep 2007).

⁵ *Focus on Strategic Growth Options: A consultation on the options for major development in Chichester District 2011-2026* (Jan 2010).