PHASE 1 / PRELIMINARY ECOLOGICAL APPRAISAL SURVEY INTERIM REPORT

Site name: Site at Stoke Haven, Stoke Prior, Leominster, Herefordshire HR6 0LG

Commissioned by: Mr Paul Arnold

Date: Ver. 2.0 31-7-19 (1.0 20-12-18)

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The survey was carried out by Stephen West MSc MCIEEM MACMA, who is is an ecologist with more than twenty years experience of environmental consultancy, and thirty years of project management work and habitat management experience. He studied ecology at bachelors level at U.E.A. and possesses a Master of Sciences degree (with distinction) in Habitat Creation and Management and another similar relevant qualification from Oxford University. Stephen is a highly experienced ecological surveyor and consultant and was a foundation member representing Southern England on the National Council of the Bat Conservation Trust in the 1990's. He has worked with all types of wildlife, and with bats since the 1970's in the UK and abroad, and held an English Nature / Natural England licence to disturb bats for the purposes of science and education or conservation since 1991 (Survey licence no's **CLS001710 – Bat survey level 4, & CL20 Level 4 2015-15782-CLS-CLS** to survey bats of all species for scientific (including research) and/or educational purposes). He is a Registered Consultant under the Bat Low Impact Class Licence System **Bat Mitigation Class Licence, Annexes B & D**, with Natural England enabling us to provide speedier and less bureaucratic licensing for work on sites of low impact on the commoner bat species. Stephen is the founding chairman of the current Worcestershire Bat Group, and a foundation and currently serving committee member of the West Midlands branch of the **Chartered Institute of Ecology and Environmental Management**. He holds a number of Natural England and Countryside Council for Wales protected species conservation licences including badger, great crested newt, barn owl and hazel dormouse.

Our work has involved extensive development of mitigation plans and DEFRA / Natural England and W.A.G. / Natural Resources Wales licence applications, ecological impact assessments, ecological management plans and appearing as expert witness at public inquiry. Europaeus Land Management Services was established in 1993 and has held management and consultancy contracts with a great many organisations and private individuals.

Information on legally protected, rare or vulnerable species may appear in this report. It is recommended that appropriate caution be used when circulating copies. Whilst all due diligence and reasonable care is taken in the preparation of reports, Europaeus Land Management Services accept no responsibility whatsoever for any consequences of the release of this report to third parties. It should be noted that we are an ecological practice and matters concerning the interpretation of legal matters should be considered appropriately and further advice sought if necessary. It should also be noted that, whilst every effort is made to meet the client's brief, no site investigation can ensure complete assessment or prediction of the natural environment.

Executive Summary

1. A Phase One / Preliminary Ecological Appraisal survey for protected species and habitats issues was undertaken at the survey site (identified land and structures at Stoke Haven, Stoke Prior), consisting of a small agricultural yard, the boundaries of such and the habitats bordering, during the early winter of 2018. A full ecological scoping preliminary survey for protected species and habitats issues in this area, and an ecological appraisal were carried out to best practice guidelines drawing evidence from aerial photographs, desk-based tools and typical associations from the habitats present on the site and surrounding land.

2. During the site survey evidence for the presence of protected species was sought searching for signs of badgers, amphibians and reptiles, water voles, nesting birds etc and for important habitat types, and in particular, any structures, (several present), or mature trees, were examined for the potential to support roosting bats.

3. No identifiable signs of a bat roosting presence were observed at the structures or trees surveyed nor are any trees present deemed suitable for either bat access or for bat roosting dependency. No further surveys for bats will therefore be required unless significant time elapses from the date of this survey.

4. Some limited recent or historic signs were identified of bird nesting although this was only a one-off scoping survey and not a concerted species survey.

5. No signs of other protected species groups were directly identified and no further dedicated surveys for other protected species were undertaken or are deemed necessary.

6. It is our conclusion that there is a low possibility of encountering locally valued and / or protected species (such as bats, reptiles, badgers etc) on site, although mobile species could and are likely to utilise parts of the site at certain times, (such as breeding birds, small mammals including hedgehogs etc). A precautionary approach to work is therefore recommended.

7. (For ease of understanding, English vernacular names of common species are used throughout this report. A full scientific species list can be made available if requested.)

8. **An Ecological Working Method Statment is provided in Appendix 3, Pages 29 - 34.**

1. Introduction

1.1 ***Background:*** Europaeus Land Management Services was commissioned by Mr Paul Arnold, to carry out a Phase One and protected species and habitats / Preliminary Ecological Appraisal assessment survey of the identified site at Stoke Haven, Stoke Prior (forming the "survey site"). Issues pertaining to protected species and habitats were addressed. This report has been commissioned and prepared in proportionate accordance with best practice guidelines for ecological appraisal and impact assessment set out by the Chartered Institute of Ecology and Environmental Management (2012, 2006) and relevant survey handbooks. It is also intended to align with the British Standard for Biodiversity BS 42020 (BSI 2013) and the National Planning Policy Framework. This report sets out the findings of the survey and provides recommendations in the light of those findings. Any proposal to disturb or carry out development to parts of the site could potentially involve disturbance to any species and natural or semi-natural habitats. As a consequence there is the possibility of direct or indirect disturbance to some parts of the site which may have potential for use by protected species. The PEA and habitat assessment were undertaken in the early winter of 2018 (6-12-18) with dedicated search made by exploring the whole identified site and immediately surrounding land.

1.2 **Ecological *context:*** The site is a small sub-division of a pasture in a relatively rural location. The site is associated with the residential property to the immediate north, though separated from it. The site itself is generally level, (though on an apparently artificial platform adjacent to a deep cut track), and has deep, moderately acidic soils derived from halite and with a loam to sility texture with medium organic matter. The connectivity of natural or semi-natural habitat for wildlife is relatively high quality in a location of a few protected sites, quiet lanes or other corridor habitats such as old hedgelines and with some stretches of woodland etc.

1.3 ***Precautions & Proviso***: It could not be entirely ruled out that protected species are not using parts of the site at this location, or that they would not be present should work take place. It has not been possible on this scoping assessment to determine any level of use of the location by breeding birds. Also many species are cryptic or mobile and might take up residence or commence behaviour associated with any site at any time. A detailed check immediately prior to the commencement of any works should therefore be considered if development is to proceed, to update and confirm this initial appraisal approach. It must be noted that work schedules may well be affected should any protected species be discovered.

2. Survey methodology

2.1 ***Preliminary Ecological Appraisal, Habitats and Species:*** The detailed methodologies for the survey followed a considered and proportionate approach to best practice recommendations in Guidelines for Preliminary Ecological Appraisal (IEEM, 2012), with regard to Guidelines for Baseline Ecological Assessment (Institute of Environmental Assessment 1995), Institute of Ecology and Environmental Management Professional Issue Series (IEEM 2006), and to relevant survey handbooks. It is also intended to align with the British Standard for Biodiversity BS 42020 (BSI 2013) and the National Planning Policy Framework. The phase 1 habitat survey was in proportionate accordance with the guidelines set out in the Handbook for Phase 1 Habitat Survey (JNCC 2010). Target notes were used to record any habitats or features of particular interest and any sightings, signs or evidence of protected or notable faunal or flora species or any potential habitat for such species.

2.2 ***Survey objectives:*** The first objective of the survey was to categorise the survey site as identified and highlight any potential issues pertaining to protected species and habitats. The objectives of the survey methodology were to identify protected or locally valued species at the survey site, and assess their uses of the location with a view to potential impacts of proposed works to the identified site and vicinity; similarly to make an assessment of the presence or possibility of any protected species, to assess the possibility of the site being occupied by protected species. A full walkover "scoping" preliminary assessment of the site and habitat components was undertaken examining features for the presence of protected species and assessing the likelihood of their occupation or use. The suitability of habitats for any protected animal species was assessed at the same time as the Phase 1 Habitat Survey and any incidental evidence of such species was recorded if encountered. Species that might be expected to be present in the geographic location include bats, badger *Meles meles*, water vole *Arvicola amphibious,* nesting birds, great crested newt *Triturus cristatus,* and other small mammal and reptile species.

2.3 ***Bats:*** This full survey, including, where required and present, a thorough and systematic visual examination of the buildings/structures present and trees for signs or presence of bats was undertaken, concentrating on any voids, structural cracks etc, by a highly experienced ecologist. High powered and small beam torches were utilised with the structures and trees viewed in detail from all aspects including some high level access if required. Binoculars and a flexible video endoscope were available to be employed. Comprehensive and systematic search was made in detail to crevices etc for bats, their droppings, food remains or characteristic grease marks at potential exit and entrance points. A considered and proportionate approach to survey protocols as described in *Bat Surveys: Good Practice Guidelines* (BCT 2007, revised 2016), the *Bat Mitigation Guidelines* (English Nature 2004), and the Bat Workers' Manual (JNCC 2004) was adopted.

Limitations: The optimal survey period for the characterisation, mapping and assessment of the presence and nature of protected species (bats) present on a site in this geographical region, to the level required for a comprehensive ecological assessment, is May - August inclusive which period is the optimal survey period for bats on a site in this geographical region, to the level required for a comprehensive assessment. Bats are active at this season and their droppings and other field signs, whilst typically cryptic and requiring detailed search, will nonetheless be apparent to the experienced surveyor. However, with recent changeable weather trends, bats are known to have, in some circumstances, altered their movement and occupation patterns. This full scoping survey, including all the structures and trees, was deemed to have taken place adequately for a scoping assessment with the aid of a flexible endoscope, binoculars and ultraviolet light transmission equipment. The site, all trees and the immediate surroundings, had no significant other inspection limitations. None of the structures or trees had voids nor other structural components suitable for the use of roosting bats, and therefore a full bat activity survey assessment will not be required. It should be noted that investigation of the site represented a protected species appraisal and, due to the various access and seasonal limitations identified, we feel it is at least conceivable that relevant species and habitat matters may have been overlooked as visits may miss species not apparent at the times of survey by reason of surveyor access, seasonality, mobility, habits or chance. Particular seasonal limitations are indicated in the text. However, we regard the significance of this potential as very low. Weather conditions were acceptable at the time of the survey for this type of scoping approach. (None of the trees at the location are of sufficient stature or condition to potentially provide roosting opportunities for bats.)

Signs of bat activity searched for included:

- Droppings - these can contain fragments of insect exoskeleton and will crumble to dust (unlike those of small rodents, which typically become hard). Bat droppings will stick to surfaces including walls, windows and window ledges and may also become caught in spider webs near a roost site or feeding perch.
- Feeding remains - these include the discarded wings of flying invertebrates, which may accumulate under a well-used feeding perch. Some species, such as the brown long-eared bat, have seasonal preference for moths of the *noctuid* family the accumulated wings of which identify this bat as being present.
- Oil staining - the fur of bats may leave an oily residue on surfaces close to occupied roost sites and access/egress points.
- Smell – most bat species have an identifiable aroma while certain species, such as the noctule (*Nyctalus noctula*), are noted for their "smelly roosts" due to urine scent marking activity.
- Daytime vocalisations - these are most pronounced at larger roost sites during periods of hot weather.
- Absence of cobwebs - a well used bat roost and its access points are typically clear of cobwebs.
- Scratching - scratch marks produced by the claws of many bats may be apparent close to the access point for a well-used roost.
- Dead bats, either older or especially babies within maternity roosts.
- Pupae of the bat fly.
- Tracks in dust.

2.4 For ***breeding birds*** an assessment of nesting sites was taken during the survey visit and the site searched paying particular attention to the possible presence of all nesting and dependant species.

Limitations: The May – June period is the optimal season for the identification of breeding bird assemblages where song birds identify and defend nesting territories and sites, where vegetation is less dense than later and first broods might be expected to be observable. The season was thus too late to identify breeding territories in the current year.

2.5 For ***crested newts,*** a detailed search was made of the survey site for signs or presence. A search was conducted for adults of the species under stones, timber etc.

Limitations: There were no significant limitations to the survey effort dedicated to the wider site apart from any more distant access considerations. There appeared to be no standing waterbodies within the boundaries of the site nor evidently nearby.

2.6 For ***badgers*** the following signs were sought:-

- Setts and entrances
- Spent bedding material
- Footprints
- Runs
- Feeding signs
- Faeces including latrine sites
- Hair (pellage)

Limitations: A search for signs of badger activity can be undertaken at any season though early spring, when activity can be high following the winter and when undergrowth is less dense, is generally regarded as the optimum period. There were no limitations. Other than a search for general signs over the period of the survey as listed no further survey effort was undertaken.

2.7 For ***reptiles and amphibians*** signs were sought of adults, juveniles, eggs, refugia and possible feeding, foraging and breeding habitat.

Limitations: The habitat was assessed for the possible suitability for these species, with a judgement made on whether sufficient habitat area and quality was available and whether suitable habitat within normal travelling distance was available nearby and that accessibility would be possible. There were no significant limitations to the survey effort dedicated to the site.

2.8 For ***water voles*** signs were sought for any suitable water bodies or water courses.

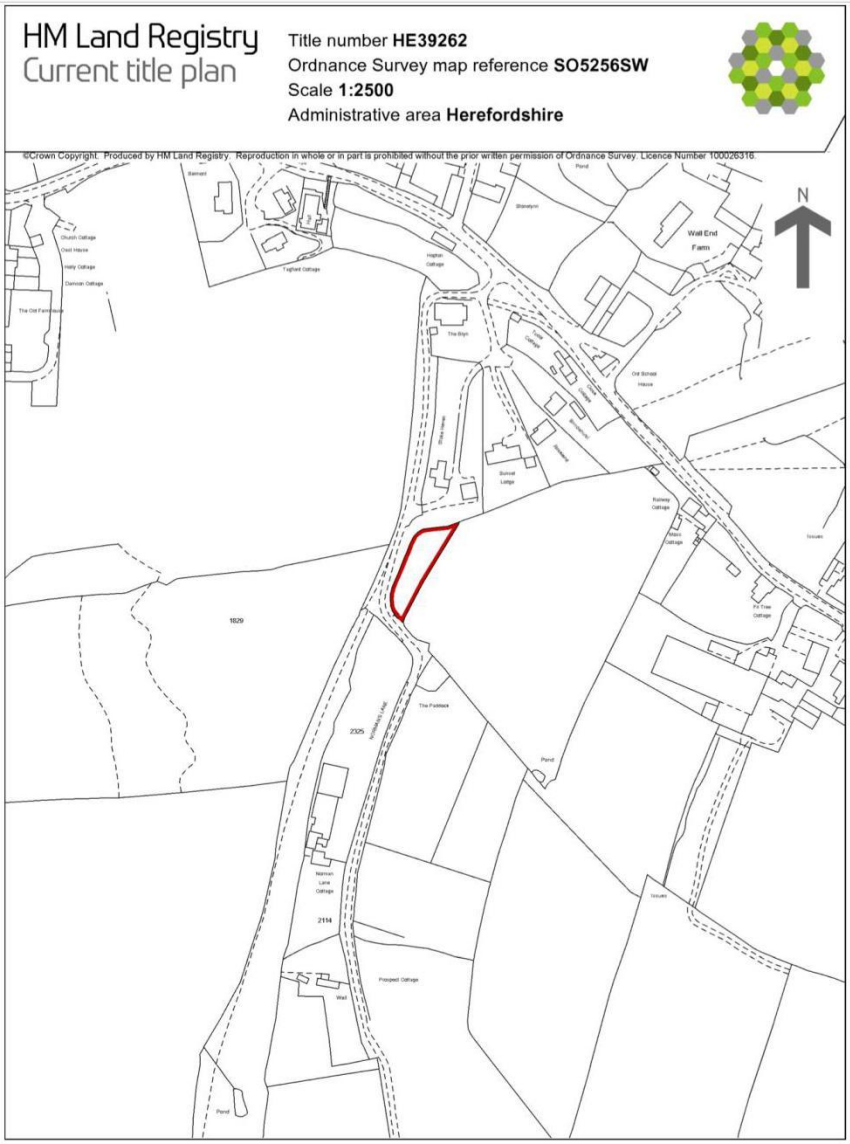
Limitations: The site was examined with no apparent waterbodies or suitable features present.

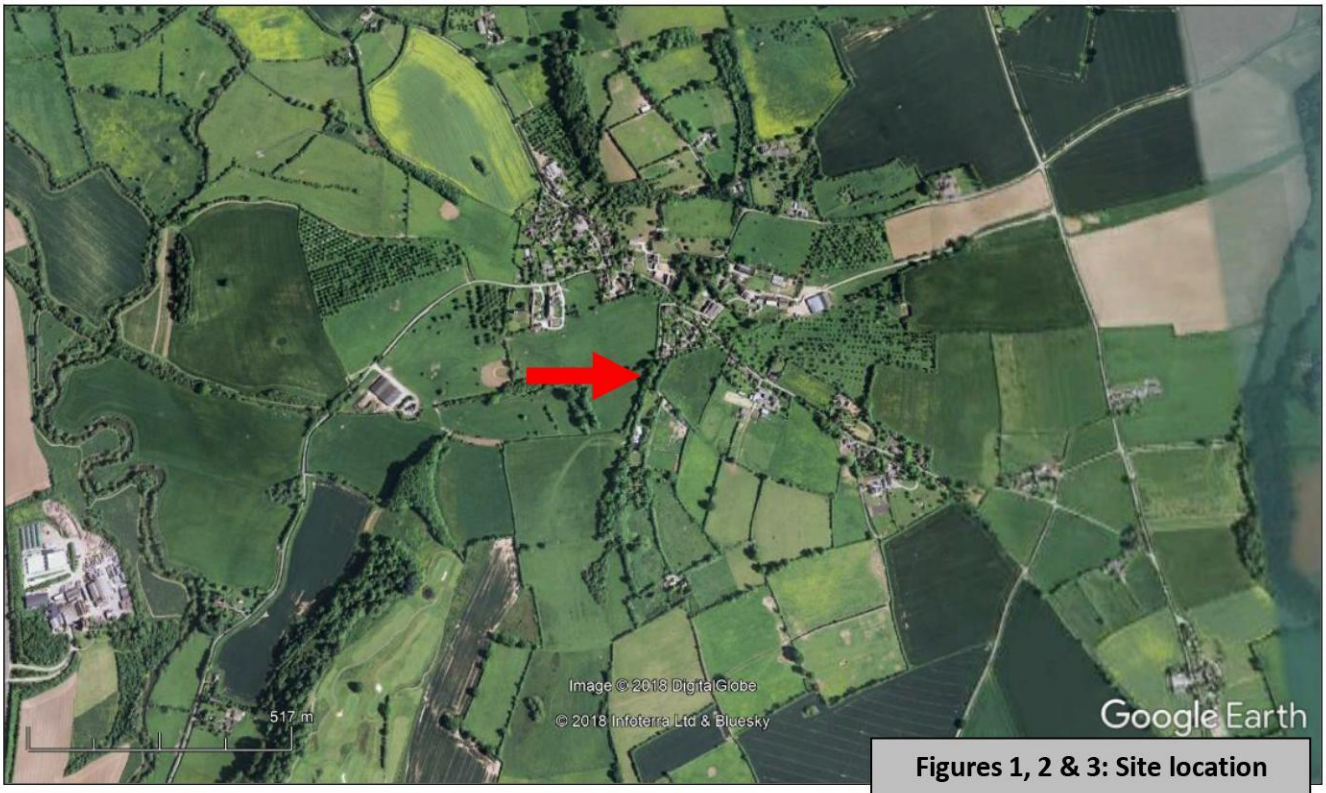
2.9 ***Hedgehog, harvest mouse, brown hare*** and ***polecat.*** These species are listed as priority species in the UK Biodiversity Action Plan (and as species of principal importance for the conservation of biological diversity in England under Section 74 of the Countryside and Rights of Way (CRoW) Act 2000).

Limitations: There were no limitations within the scope of this survey other than the general access restrictions. The season was acceptable to identify active or recently harvest mouse nests in grass and tall herb stands.

3. Survey results

3.1 ***Location & description:*** The centre of the survey location is at national grid reference SO52256 56349, in Stoke Prior, Leominster, Herefordshire. It is a small parcel of land to the south of the residential property and the village of Stoke Prior. The surveyed site is a small working yard subdivision of a larger field (linked to the east). Further descriptions of habitat features are provided on the Phase 1 map and target note (TN) table at Appendix 2.





Figures 1, 2 & 3: Site location and site boundary

3.2 ***Habitats & features:*** The main use of the surveyed site is as a "yard" with storage of materials and equipment, associated with agricultural and rural activities. It is a smaller subdivision of a rural pasture, though evidently has been for a good many years. There are lines of hedging and/or self-establishing trees to all of the margins but the hedgeline to the east is the most significant with layered and fully mature shrubs, primarily hazel and with hawthorn, set up on a lynchett forming the field edge to the east. It is a broadly level site with a steep bank to the west with semi-mature cypresses and self-establishing ash. There is a mobile home at the location and an assortment of small, mostly open, timber and tin-sheet storage structures. None of the trees present (see Phase One plan and notes), or close by, have a breast height diameter of greater than 20cm and none possess stature or features potentially attractive to the roosting behaviour of bats (other than a single ash in the north-west). Species are mentioned in the notes associated with the Phase One map though a comprehensive species list has not been prepared for the site.

3.3 ***Protected species.*** No signs of badger use were evident around the site (though trackways were observed to the western bank (outside the boundary of the site and similarly to the southern side), nor any signs of other protected species use or occupation of the site, although there appears to be scope for a range of small and medium sized mammals, a possibility for reptiles, breeding birds and invertebrates.

3.4 ***Species evidence: Bats***. All relevant and accessible areas of the site including all structures trees were viewed in detail on the survey. All surfaces were scrutinised for evidence of bats. Any accessible cracks in structure were examined in detail including endoscopic analysis where applicable. The structures are open to the elements, made of tin or thin timber, lacking any voids etc are are generally unsuitable for the accommodation of bats. By these means no evidence of any current bat usage was located. No current bat activity has been identified at the site and no potentially suitable features for bat roosting were identified within the site.

3.5 No signs of use by reptiles, amphibians, dormice or water voles of the surveyed plot were discerned. Some evidence of breeding bird use of the site was identified with old nest sites in the boundary habitat to the east discerned, and this must be deemed probable in due season particularly in the scrub / woodland edge habitats and structures. No open ground species of bird were observed.

3.6 Floristically the ground flora is extremely limted with species of ruderal or "weed" types establishing where activity is reduced.

3.7 ***Evidence gathered from other sources and contextual research:*** Full species and recognised site records were obtained from The Herefordshire Biological Records Centre, the local biological recording centre, within a 1km radius of the site. Records were identified of a few species of note from the area, including bats, badger, otter, great crested and smooth newts, barn owl and a small range of notable plant species, but none specifically associated with the property directly. Note that there are no SAC (Special Areas of Conservation) records found and no NNR (National Nature Reserve) records found in the search area. There are also no statutory or non-statutory designated sites, other than local / special wildlife sites (LWS/SWS) and Local Geological Sites (LGS); these are Stoke Prior LGS, Blackwardine LGS, Land at Stoke Prior SWS, Land near Stone Farm SWS and the second Land at Stoke Prior SWS. It is our conclusion that it is possible that certain of these and other mobile species could utilise parts of the site at certain times but that any such issues could easily be mitigated by the usually accepted methods and indeed there is the opportunity to enhance local habitats within any proposed change of use at the location. A full report on the data acquired can be made available subject to the terms and conditions concerning confidentiality, sensitivity and reproduction of these records imposed by the recording centre. Apart from these, no more notable sites or recent species records were identified from close to the target survey location. Despite our survey failing to identify any signs of protected species it must be noted that absence of evidence or of records cannot necessarily be used as proof of evidence of absence.

4. Ecological evaluation, appraisal and recommendations

4.1 These recommendations are made in order to facilitate proposed works at the site location, and to ensure compliance with local and national statutory planning policies, species protection and best practice. Planning authorities should aim to conserve and enhance biodiversity (NPPF para. 118). Additionally, and of note in this circumstance, where the loss of trees is unavoidable they should be replaced by appropriate native species.

4.2 ***Habitats & Features:*** Other than the well established hedgerow particularly that to the easrt, and the establishing smaller trees, there are very few habitat types to note. The structures, stored materials etc and the associated ruderal, "weedy" vegetation present nothing of a significant note in terms of species dependence. The survey site contains no apparently protected habitats nor does it border or appear to influence any. The primary habitats to note are the few extant trees and semi-natural vegetation associated with the hedges and blending into the bank to the western boundary. The site appears to have the potential for medium and smaller mammal species, for breeding birds, for bats' foraging, for butterflies and other invertebrate species, and, potentially, for reptiles, and there are signs that badgers are present nearby with transit routes observed close-by (though no latrines or excavations). It is our conclusion that it is possible that certain mobile species could utilise parts of the site at certain times and consideration will need to be given to any impacts of structural disturbance, tree or scrub removal if that is deemed necessary.

4.3 We consider that a well-configured development proposal, taking consideration for maintenance and enhancement, could allow for site improvements to support locally valued species and habitats and our advice would always be to incorporate ecological input when drawing up such schemes. Such measures as the retention or replacement planting of native tree and shrub species, the deployment of porous parking and transit surfaces where required ("grasscrete" or similar), the retention of tree-dominated areas, creation of pond or "bog" features and the connectivity of the site with nearby habitats would all serve to perpetuate and enhance the existing site wildlife value. Generally the avoidance of any tree felling ought to be a prerequisite of planning consent and particularly that of the historic eastern hedgeline. However, if tree removal is required we feel it likely that a quickly functioning replacement habitat could be planned and tree cover at the location augmented within a new development.

4.4 Additionally, current planning policy requires that development projects minimise ecological damage and should contain elements of ecological enhancement. A variety of habitat creation options could be implemented at the site. These are not statutory requirements but would be considered appropriate options for the site should a developer wish to offset the negative impacts of any site development. The general approach, therefore, should be for the mitigation and compensation approach to any site development to retain or replace the habitats as described.

4.5 ***Need for European Protected Species disturbance licence / further work required:*** In our considered opinion it is highly unlikely that protected species would be present or users of the site though we recommened an appropriate pre-commencement re-survey and to include any stripping operations.

5. Legislation

5.1 ***Background:*** This section briefly describes legal protection applying to species mentioned in this report. It does not comprehensively reflect the text of the legislation and it should not be relied upon in place of it.

5.2 ***The need for a bat survey:*** Some bat species in Britain are reported to be declining in numbers and distribution. There are 17 resident species in the country constituting over a third of all mammal species present. With habitat loss, fragmentation and degradation, building conversion, misuse of timber-treatment chemicals, increase in predators and direct persecution, the situation in some areas is serious. Several of the commoner bat species are reported to have declined in numbers by approximately half in recent years. Bats are therefore protected under national and international wildlife law, and owners, developers and planners have to take due notice of their protection within activities. There is no defence under law for a plea of ignorance even when carrying out otherwise lawful activities.

Legislation: All species of bat and their breeding sites or resting places (roosts) are protected under Regulation 39 of the Conservation (Natural Habitats) Regulations 1994 and Section 9 of the Wildlife and Countryside Act 1981. Further enforcement has been provided by The Countryside and Rights of Way Act 2000. The Conservation of Habitats and Species Regulations 2010 updated the legislation. In exercising their decisions within the planning framework, local authorities are duty bound to take full account of the impact on biodiversity, including the wider biodiversity network and 'notable' species listed within Red Data Books, taxa-specific conservation lists and Schedule 41 of the Natural Environment and Rural Communities Act 2006.

It is illegal to:

- deliberately disturb bats (whether in a roost or not) in a way as to be likely to significantly affect the ability of any significant groups of animals of that species to survive, breed, or rear or nurture their young, or the local distribution of abundance of that species

- damage, destroy or obstruct access to bat roosts
- possess or transport a bat or any part of a bat, unless acquired legally and in possession of a licence to sell, barter or exchange bats, or parts of bats unless in possession of a licence to do so.

Within the Conservation of Habitats and Species Regulations the law has been made quite clear. Many formerly used defences can now no longer be used in disturbance situations. These include the commonly relied upon 'incidental result defence', which previously covered acts that were the incidental result of an otherwise lawful activity and which could not reasonably have been avoided.

There is, therefore, an obligation on those who seek to effect changes to buildings, structures, caves or trees, or carry out activities which might constitute a disturbance, where bats are present, thought to be present, or have the reasoned possibility of presence to seek specialist advice, and to ensure that appropriate systems are in place to avoid damage to bat roosts or their habitat.

As bats are protected by both national and European legislation, works under a planning permission that will cause disturbance to a bat or bat roost shall require a specific licence from Natural Resoucres Wales (NRW), (or the Wildlife Licensing Unit (W.L.U.) of Natural England (DEFRA)), and only after planning permission has been granted where this is required.

Conditions may be added to a licence or the granting of a licence may be refused. Under the Conservation of Habitats and Species Regulations NRW or the W.L.U. can issue licences for:

- preserving public health and safety or other imperative reasons of over-riding public interest including those of a social and economic nature and beneficial consequences of primary importance for the environment;

- preventing the spread of disease; preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries

NRW or the W.L.U. can only issue a licence if it is satisfied that the activity meets one of the above purposes and is also satisfied that there is no satisfactory alternative, and 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.

Applications to apply for European Protected Species licence for bats consist of the following:-

- Application form – this provides detail on the applicant, project, the purpose of the work and consideration of alternatives.
- Method Statement – this provides detail on the methods to be used to carry out the work with regard to bats and will include a survey undertaken to determine the number of bats present.
- Detailed timetable of works, mitigation measures and all monitoring and possible modification works.
- Reasoned Statement of Application (for large scale projects) – this provides the reasons for the disturbance and gives evidence of the justification.

(Within England, and for projects involving small numbers of the most commonly encountered bat species in licence situations and in roosting behaviour other than important maternity, mating or hibernation sites (amongst others), an approach of a Registered Consultant being employed to instruct works under the Bat Low Impact Class / Bat Mitigation Class Licence (BLICL/BMCL) system may be appropriate with a lower burden of paperwork, compensation and monitoring.)

5.3 ***The need for a breeding bird survey:*** The Wildlife and Countryside Act 1981 (WCA 1981) provides that all wild birds are protected and cannot be killed or taken except under licence. The Act also prohibits or controls certain methods of killing or taking except under licence. Certain exceptions to this general rule apply. However, with the exception of a certain few derogated pest or very common species, the legislation gives protection to all wild birds in Britain.

5.4 ***Other species groups. The need for a badger survey. Legislation:*** Badgers (*Meles meles*), and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to kill, injure or take badgers or to interfere with a badger sett. Interference with a sett includes blocking tunnels or damaging setts in any way. This legislation has been amended as a result of the Hunting Act 2004.

5.5 ***The need for a great crested newt survey:*** Similarly protective legislation to that applying to all bat species pertains to other species such as great crested newts (*Triturus cristatus*). Great crested newts can exist across large tracts of land within metapopulations. The majority of newts will however be found within 250m of breeding ponds and more particularly within 50m.

Legislation: As with bats, crested newts are protected under the Conservation (Natural Habitats, &c.) Regulations 1994 which implements the EC Directive 92/43/EEC in the United Kingdom and it is an offence, with certain exceptions, to:

- deliberately capture or kill any wild animal of a European protected species;
- deliberately disturb any such animal;
- deliberately take or destroy eggs of any such wild animal;
- damage or destroy a breeding site or resting place of such a wild animal;
- deliberately pick, collect, cut, uproot or destroy a wild plant of a European protected species;
- keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal or plant of a European protected species, or any part of, or anything derived from such a wild animal or plant.

5.6 ***Reptiles and amphibians (other than great crested newts): Legislation:*** The grass snake (*Natrix natrix*), slow-worm (*Anguis fragilis*), viviparous (common) lizard (*Lacerta vivipara*) and adder (viper) (*Vipera berus*) are all protected from intentional or reckless killing and injury under Schedule 5, Section 9(1), of the Wildlife and Countryside Act as amended/reinforced by the CROW Act 2000. They are also protected under Schedule 5, Section 9(5) which prohibits selling, offering for sale, possessing or transporting for the purpose of sale, or advertising for sale, any live or dead animal, or any part of, or anything derived from the species.

5.7 ***The need for a barn owl survey: Legislation:*** Barn owls (*Tyto alba*), are fully protected under Schedule 1 of the Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000. As a consequence, and in addition to the general protection afforded to the majority of British wild birds, it is an offence to deliberately or recklessly disturb a nesting barn owl. Offences pertaining to Schedule 1 birds are subject to a special penalty. The barn owl is also listed in the EC Birds Directive and Appendix II of the Bern Convention. It is an 'Amber List' species of conservation concern (Gregory *et al*. 1996) and is listed as 'globally threatened' in the UK Biodiversity Steering Group Report (1995).

5.8 ***The need for a* water vole *survey: Legislation:*** The water vole used to be very common until the 1960s or early 1970s along the waterways of Britain. However, they have declined by almost 90% over the last thirty years, with many remnant populations being severely fragmented (Strachan & Moorhouse, 2006; see also www.naturalengland.org.uk/ourwork/regulation/wildlife/species/watervoles.aspx) as a result of which the species is afforded full protection in the UK under the Wildlife & Countryside Act in April 2008. They are also a UK BAP Priority Species. It is an offence, with certain exceptions, to:

- intentionally capture, kill or injure water voles
- damage, destroy or block access to their places of shelter or protection (on purpose or by not taking enough care)
- disturb them in a place of shelter or protection (on purpose or by not taking enough care)
- possess, sell, control or transport live or dead water voles or parts of them (not water voles bred in captivity)

If convicted of an offence there could be a committal to prison for up to 6 months and fines of £5,000 for each offence.

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Appendix 1: Survey photographs 6-12-18

Plate 1: View of the site from the south-west showing the mobile home on the eastern boundary

Plate 2: View of the interior of the largest structure

Plate 3: View of the interior of a further structure

Plate 4: View of the south-eastern part of the site

Plate 5: View of further structures at the location

Plate 6: View of the main structure at the north of the survey site

Plate 7: View of the northern boundary

Plate 8: View of the apparent badger transit route to the immediate south-east of the survey site

Appendix 2: Annotated Phase One map & accompanying Target Note table

Drawing title: Phase 1 map

Site at Stoke Haven

Not to accurate scale: 10m

Date of survey: 6-12-18 **Surveyor: S.P.B. West**

europaeus land management services

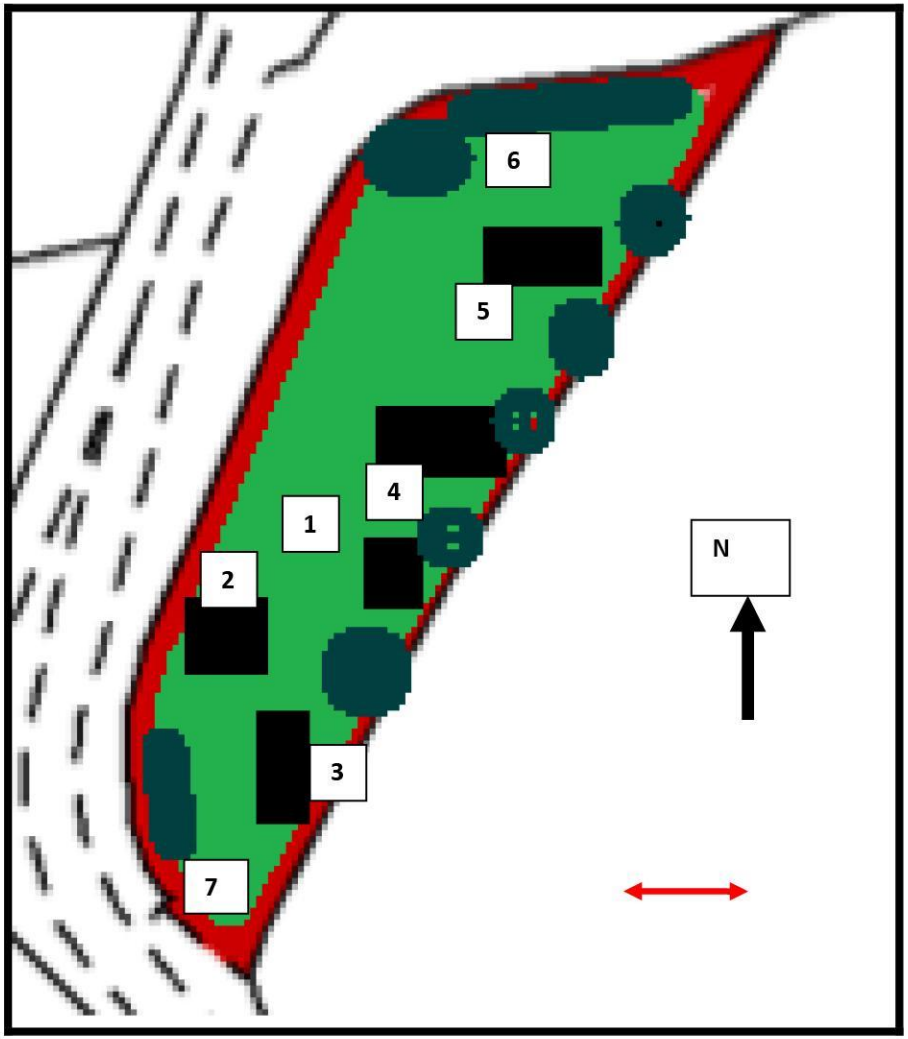
Key:

Ruderal vegetation

Trees / Vegetation

1 Target Note

Structures / mobile home



TARGET NOTE	DESCRIPTION
TN1	Inbetween structures = establishment of suppressed grass & ruderal "weeds" (cleavers, ivy, buddleia, white deadnettle, herb robert, wood avens, nettle, hedge woundwort, bramble, dock, elder etc)
TN2	Largest structure = open-sided stores with monopitch roof of corrugated tin sheet
TN3	Mobile home; the hedgeline forming the eastern boundary is of very mature hazels primarily indicating a substantial age, the boundary is a lynchett with a step up to the hazels (and other smaller hedge trees) and the open field beyond
TN4	Timber shed of tin sheet roof to the south with curved roof, open-fronted tin sheet shed
TN5	Further curved roof tin sheeted shed

TN6	**Cleared area with tall cypress hedge separating the site from the garden of the residence; Single mature ash tree of dbh c 25cm**
TN7	**Access gate to the south, with three cypresses ≤15cm dbh to the south-western edge; Beyond the site to the west is a steep bank from the in-cut roadway; Near the gates, outside of the boundary, is a medium sized mammal track up into the field indicative of a badger transit**

APPENDIX 3: REASONABLE AVOIDANCE MEASURES / ECOLOGICAL WORKING METHOD STATEMENT

1 Introduction

1.1 The aims and objectives of the Reasonable Avoidance Measures contained within this Ecological Working Method Statement (EWMS) are to propose the methods which will be employed during works to minimise the risk of an offence being committed should bats, great crested newts or other amphibians, reptiles, small mammals etc be revealed as present in the proposed working area.

1.2 This document suggests methods of carrying out the currently proposed works so as to avoid committing any criminal offence (see Legislation section in associated section of report). The benefit of this approach is that works could proceed potentially without the need to obtain a European Protected Species mitigation (EPSM) licence or other derogation from relevamnt legislation and to avoid any breach of those laws.

1.3 An EPS license can be granted in respect of development to permit activities that would otherwise be unlawful under European legislation Operations. However, Natural England's view is that:
'If the consultant ecologist, on the basis of survey information and specialist knowledge of the species concerned, considers that on balance the proposed activity is ***reasonably unlikely*** *to result in an offence under regulation 39 or 43 then no licence is required'* (Natural England, 2009).

Where an EPS license is not deemed necessary, Natural England urges that '*reasonable precautions be taken to avoid affecting EPS during works*' (Natural England, 2009).

2 Assessment and rationale

2.1 These recommendations are made in order to facilitate proposed works at the site location, and to ensure compliance with local and national statutory planning policies, species protection and best practice.

2.2 The survey site is within a relatively biodiverse region of the country. As such, protected wildlife which is supported there should figure highly in management and development proposals at the locality.

2.3 At this time a survey has been carried out for signs of protected species. It is felt that disturbance to the various structures present and development site as a whole as part of the consented works has little potential to encounter these species other than possibly breeding birds in due season. It is recognised that within the proposed development it seems reasonable to conclude that continued favourable habitat management around the plot would continue to provide local advantage to a range of species which may be present at the location.

2.4 Please note, an offence would certainly be triggered if a protected creature was killed or injured by the proposed works, however given the factors discussed, and the proposed mitigation measures, the likelihood of killing or injury of one is considered to be reasonably unlikely.

2.5 The following site-specific factors are considered to further reduce the risk of an offence being committed with regard to bats and to great crested newts:

- No signs of any presence or resting use
- Predominantly sub-optimal roosting habitat and terrestrial habitat for the species in question;
- Presence of more suitable terrestrial habitat away from the working area;
- Short construction duration and temporary nature of habitat damage;

3 Precautionary Methods of Working

3.1 In cases where a licence is considered to be not required, Natural England urges that '*...reasonable precautions be taken to avoid affecting EPS during works*' (Natural England, undated). The following activities would be undertaken and the contents of this document would be made available to contractors carrying out the works.

Timing of Works

3.2 Works to make the site stripping (both structures and vegetation) to commence in the autumn only, once the main chance of summer bat roosting use (March – September), and the primary dispersal period for amphibians is over (June – July) and outside of the key spring migration (to breeding ponds). The initial stripping and excavation works are to take place prior to the November – February hibernation period for such amphibians.

Toolbox Talk

3.3 All site operatives, including contractor and sub-contractor staff, would receive a briefing by a Natural England licensed ecologist / the appointed Ecological Clerk of Works (ECoW) who will be Stephen P.B. West, the author of this report. (Stephen has now been retained in this capacity by the site owner.) The briefing would include details of the legal protection of great crested newts for instance and other species, the precautionary methods of working (outlined in this document), tips on identification of species and procedures to follow should any be discovered during works.

Structure and Hand Searching, and Supervision of Substrate Strip

3.4 Utilisation of the working area by contractors will not be permitted until the structures and whole area has been thoroughly resurveyed and hand searched by an experienced surveyor holding a Natural England survey licence (the ECoW). During the hand searching, any debris (*e.g.* wood and rubbish) would be lifted and removed from the working area and any areas of denser vegetation (*i.e.* tussocks) would be parted to look for animals. Hand searching would be timed for immediately prior (i.e. within 24 hours) to the onset of works. This supervision will include the dismantling and removal of the structures present.

Working Methods

3.5 We recommend only light machinery be used for the excavation operations, all other vehicles must remain within the areas of hard standing and/or driveways.

3.6 All excavated material i.e. spoil won from trenching activities, must be immediately removed from site or used to backfill excavations; no excavated material will be stored on site overnight other than in vehicles. The method employed for excavation works would be dig and backfill on the same day to avoid any trenches exposed overnight or to ensure than timber ramps are placed in all excavations adequate for the use of herptiles, small mammals and hedgehogs for instance.

Storage of Materials and Vehicular Tracking

3.7 All material storage and vehicle/plant parking must be on areas of hard standing away from the working area, or along the existing roads. There should be no vehicle tracking outside the areas previously subject to a hand search, or existing hard standing.

Procedure if great crested newts are found during works

3.8 If a great crested newt is found at any time during the activities, all works would cease immediately. If not present on site, an ecologist would be contacted to make an assessment of the situation and to determine whether a licence would be required before work proceeds. If considered necessary further guidance would be sought from Natural England.

Procedure for bats and if found during works

3.9 **Summary**: If any bat is found or suspecicion about their presence is raised at any time during the activities, all works would cease immediately. If not present on site, the ECoW is to be contacted to make an assessment of the situation and to determine whether a licence would be required before work proceeds. If considered necessary further guidance would be sought from Natural England.

Detail: We consider the likelihood of encountering bats during the currently proposed work to be relatively negligible, particularly at the indicated and recommended work time of the year. With regard to the often transitory and quickly changing nature of bats' use of buildings and due to the extent of the work as explained to us in this project we feel it appropriate and proportional to proceed in the way set out here, that is, with caution and awareness. This appendix should be made available to all workers onsite and constitute a "tool box" briefing at the start of the project (the first phase of any structural disturbance), and following a further internal update search by the ecologist. The named foreman or project manager will then be responsible for adherence to all relevant protected species legislation. The ecologist and author of this report, commissioned by the owners and acting as the Ecological Clerk of Works (ECoW) is to be informed of work commencement, and must be onsite for the initial works at the stripping phase of operations to supervise and remain available to offer further advice if and when required.

A strong precautionary approach should generally be followed to building works and demolition especially. Should any bats be discovered during works (or suspicion arise about the possible presence of bats, for instance in a crevice, behind a cavity, beneath hanging tiles, or within stonework etc), that work must cease immediately and the licensed consultant employed to establish bat presence or otherwise. The situation would then be assessed in the light of that evidence. It should be noted that any work schedule may well be affected should bats be discovered elsewhere. It is important to note that certain bat species do not occupy the internal volume of roofs and can often be supported between, for example, lining and the roof covering of buildings or, for example, beneath roof components, flashing and fascia panels etc and along wall tops.

Bats in the UK when encountered in structures are not huge things like fruit bats hanging from beams, rather they are very small (generally smaller by far than a man's thumb), brownish in colour and tucked away in tiny niches and crevices. You must look very carefully when lifting tiles, slates, flashing, exposing roof components etc. They are known to potentially carry a range of diseases and should therefore not be handled with bare hands by anyone other than authorised and suitably prepared personnel. This must be pointed out at the start of the project.

Bats: Summary for site disturbance works

- Make this appendix available to all site workers and this to be the responsibility of the foreman or project / site manager. The commencement of site works on existing buildings and initial strip of the structures and disturbance of any other components such as trees must be carefully undertaken under (ECoW) ecological supervision and following a full briefing to workers and re-survey of the site.

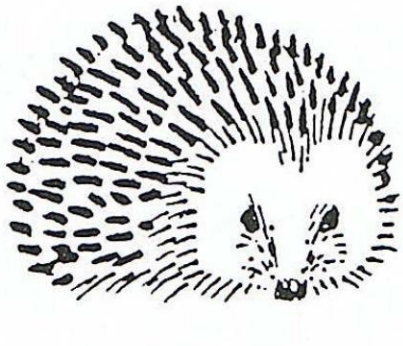
- Subsequently if any bats are encountered or a suspicion about their presence or a roost being discovered then:-

- **Stop immediately.**

- Carefully replace the component which removal led to the discovery, and gently cover the bat unless it has already flown (a soft cloth can be used).

- **Do not handle any bat unless absolutely necessary** to avoid it being harmed. In that event handle only with gloves and place somewhere safe, in the dark and where undisturbed.

- Call Stephen immediately in any case on 07767 853495. Do not continue until full consultation has taken place. It could be a prosecutable offence to continue without the further consultation.



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