

**Lucille Fairbank
Wildlife Survey and Consultancy**

**Wildlife Survey
Land Located At
Lands Farm,
Cliffe lane
Gomersal BD19 4EU**



Prepared for: Mr R Bean

Licence No. 20100238 granted under section 16(3)(C) of The Wildlife And Countryside Act 1981 (amended 1990) and under section 44(2)(c) of The Conservation Regulations 1994

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**Client: Mr Robert Bean,
Lands Farm,
Cliffe Lane,
Gomersal BD19 4EU**

Agent: A J Oldroyd & Sons Ltd

Date of Survey: 17th November 2010

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1: Introduction:

A wildlife survey has been carried out on approx three hectares of steep sloping agricultural land situated at Lands Farm Gomersal, prior to a Planning Application to allow the tipping of inert waste in order to create a more level site.

Grid ref for this site is: SE 1965026277

The survey was carried out with particular emphasis regarding protected species, which fall under The Wildlife and Countryside Act 1981 and the Conservation of Habitats & Species Regulations 2010. This legislation places certain requirements on Planning Authorities and developers to ensure the continued protection of the species.

Additionally PPS9 requires the Planning Authority to regard as a material consideration the presence of a protected species when considering a development proposal, which, if carried out, would be likely to result in harm to the species or its habitat.

The Local Planning Authority for the proposed application is Kirklees Metropolitan District Council.

Desk research was carried out using West Yorkshire Ecology database and our own database to identify any protected species in the wider environment.

Two consultants undertook a surroundings walkover and survey of the site on 17th November 2010. Results of the desk research and survey are shown in section 5 and our conclusions and recommendations regarding any impact on wildlife in the area are shown in sections 3 and 4

2: Objectives

To conduct an inspection survey of the site.

To determine the potential for use by protected species.

To assess potential impact on wildlife

To advise on mitigation, further action and recommendations for enhancement if necessary.

3: Conclusions

1: The site is open, grazed and offers little in the way of cover for wildlife either in transit or sheltering. A single dividing hedge is sparse and subject to soaking by running water from east side of site.

2: No evidence on site of tracks, prints or scats, burrowing, digging out or nesting was noted to indicate usage.

3: The area of woodland and water immediately beyond north boundary is considered of good value to wildlife and high value to some bat species for roosting, resting and navigating purposes.

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4: It is proposed the dividing hedge and two Oaks will be removed. The hedge is not a hedgerow under the meaning of the regulations. No bird nests or remains of nests were observed in this hedge, nor any use by other species noted.

5: The flow of spring water will be culverted and be subsequently covered by tipped waste. This action will allow the water to follow the same course and flow directly into the spring at the north boundary therefore sustaining the volume of water flowing beneath the rail cutting to north.

6: We understand the tip area falls sufficiently short of the north boundary such as the proposed waste to be tipped will not infringe upon this area by altering the ground level and water flow.

This will ensure access to watering facility will remain unaltered for any wildlife.

7: Wild rabbits were seen on site close to the lower, north boundary area. No other wildlife was seen, or evidence of such.

8: Two Oak trees close to north part of site were observed and offered no roosting possibility for bat species.

9: It is concluded that in all probability there will be little long- term impact upon any wildlife in the area. No loss of land area is proposed. The adoption of recommendations of new more substantial hedge/tree planting would provide a more beneficial long- term feature.

4: Recommendations

1: It is recommended that there should be no planning restrictions regarding development of the site identified in the text as west and east field, Lands Farm BD19 4EU with regard to European Protected Species Bats or any other species protected by The Wildlife and Countryside Act 1981 and the Conservation of Habitats & Species Regulations 2010 providing the recommendations 2-3 below are adopted.

2: It is recommended that to compensate for the loss of the hawthorn hedge (although considered poor specimens) and the two Oak trees, a new, more substantial hedge be planted along the fenced west boundary leading directly to habitat at the north boundary.

3: It is further recommended that the planting shall also include native trees at intervals within the hedge.

Reason: This should serve to create a new, stronger linear element, which would provide navigational aid for bat species. Also provide direction and cover towards habitat at the north boundary. Further, growth would create new habitat for certain species of wildlife.

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4: It is recommended that due care should be taken with respect to nesting birds. No work should be carried out in respect of removal of hedge/Oaks between March and end July in any year if nesting birds are present. The hedge/Oaks should be carefully checked prior to commencement of works to ensure no nesting birds are present. If nesting birds are present then any work, which may cause disturbance, must not commence until all birds have ceased nesting.

Reason: It is an offence under Section 1 of the Wildlife and Countryside Act of 1981 intentionally to take, damage or destroy the nest of any wild bird while it is *in use or being built*.

5: Survey Review and Methodology

Prior to survey, a search using Google Earth and Magic, (Multi-Agency Geographic Information for the Countryside) was undertaken in order to ascertain the location of the site and therefore identify any features in the locality that may offer habitat value to protected species. The site for survey is not a designated area of conservation or protection.

The closest notable water source is the River Spen, and Mann Dam. In 2009 interest from Kirklees Council Spen Valley Area Committee (now Kirklees Town and Valley Committee) gave rise to a community based environmental project mainly in creating increased access and use of a length of the River Spen. Mann Dam, originally a mill- dam is approximately one and a half acres in surface area, with a top and bottom pond and is now used for fishing. The River Spen and dam are found to south –west of site. Spen Bottoms is noted as particularly significant both environmentally and ecologically, offering bio-diversity with distinct and differing habitats.

An un-named spring is on site and to north boundary. Several woods are near site, one being Lanes Wood which is alongside part of north site boundary. Mainly to north beyond site are fields of improved/semi- improved grassland of agricultural usage.

Close to north of site and heading east is the now dismantled London & North Western Railway line beneath which is an archway access from farm buildings, and fields north of site and in the same ownership.

Following rail line further east and a short distance beyond site there is the Gomersal Tunnel, which has been used for tipping purposes in the past. More tipping off site but alongside east boundary is evident on land being in other ownership.

Desk research undertaken using West Yorkshire Ecology database and our own database shows no record of protected species use at the site specifically. The nearest record is over 0.5km distant to the east. (Pipistrelle bat roost in housing estate.)

There are no records, any species, bat or otherwise within 500m of site.

Site owner, Mr Bean commented having seen bats earlier in the year flying within the vicinity of the farm buildings, some short distance from site.

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App1 maps the recorded observations and known habitat of protected species within +/- 2km radius details of which are shown in table 1. All records are for Bats only.

An unconfirmed report of an Otter 2km to the n/w of site and to the north side of the M62 was made in 2006. *Source:* Member of the public.

Table 1: Protected species within +/- 2km of site

Common Name	Date	Location Name	Record Type
Leisler's Bat	2005-2007	Whitcliffe Mount School,	Roost
Bat Unidentified	Jul-04	The Maltings, Cleckheaton,	Grounded
Bat Unidentified	Jun-05	Whitcliffe Road, Cleckheaton	Roost
Bat Unidentified	Jul-03	Stone St, Cleckheaton,	Roost
Bat Unidentified	Jun-05	Hunsworth Lane, Cleckheaton	in building
Leisler's Bat	Jun-05	Kilroyd Drive, Cleckheaton,	Roost
Bat Unidentified	Oct-07	The Town Hall, Cleckheaton	in building
Pipistrelle	2005-2007	Drubb Lane, Cleckheaton	Roost
Pipistrelle45	Sep-08	Eddercliffe Crescent, Cleckheaton	field record
Bat Unidentified	Aug-05	Woodlands Crescent, Gomersal ,	Roost
Leisler's Bat	2005-2008	Oakroyd Hall, Birkenshaw	Roost
Pipistrelle45	Jun-03	Cliffe Lane, Gomersal,	Roost
Bat Unidentified	May-05	Beech Grove, Gomersal	Grounded
Pipistrelle	May-07	Tetley Drive, Birkenshaw	Roost
Bat Unidentified	Jul-05	Swincliffe Crescent, Gomersal	Roost
Pipistrelle45	Jul-08	Reform Street, Gomersal	Roost
Bat Unidentified	Jun-02	Upper Lane, Gomersal	Roost
Pipistrelle55	May-04	Gomersal Mill Pond	Field record
Pipistrelle	Jul-06	Birksland Moor, Birkenshaw	Roost
Bat Unidentified	Sep-07	Gomersal Middle School, Gomersa	Grounded
Bat Unidentified	Jun-05	Craven Close, Gomersal	In building

Site and Surroundings

The location of site is relatively rural but also close to a more urban and industrial type of landscape. Gomersal is to the east with the larger and more industrial conurbation of Cleckheaton to south- west. The M62 motorway is to north and west, creating a significant barrier for most terrestrial mammals. Over 2k distance from site Great Crested Newts are identified being beyond the M62 Motorway. The water source on site and at north boundary are not such as to support this species.

Closer to site is Lanes Wood to east listed on the National Inventory of Woodland and Trees. Woodland found to north and east and partly adjoining Lanes Wood is not classified. South approximately ½ k beyond Cliffe Lane is Fuscan Wood being classified as Ancient Replanted Woodland*. Some trees adjoining Fuscan Wood to west and east are seemingly unclassified.

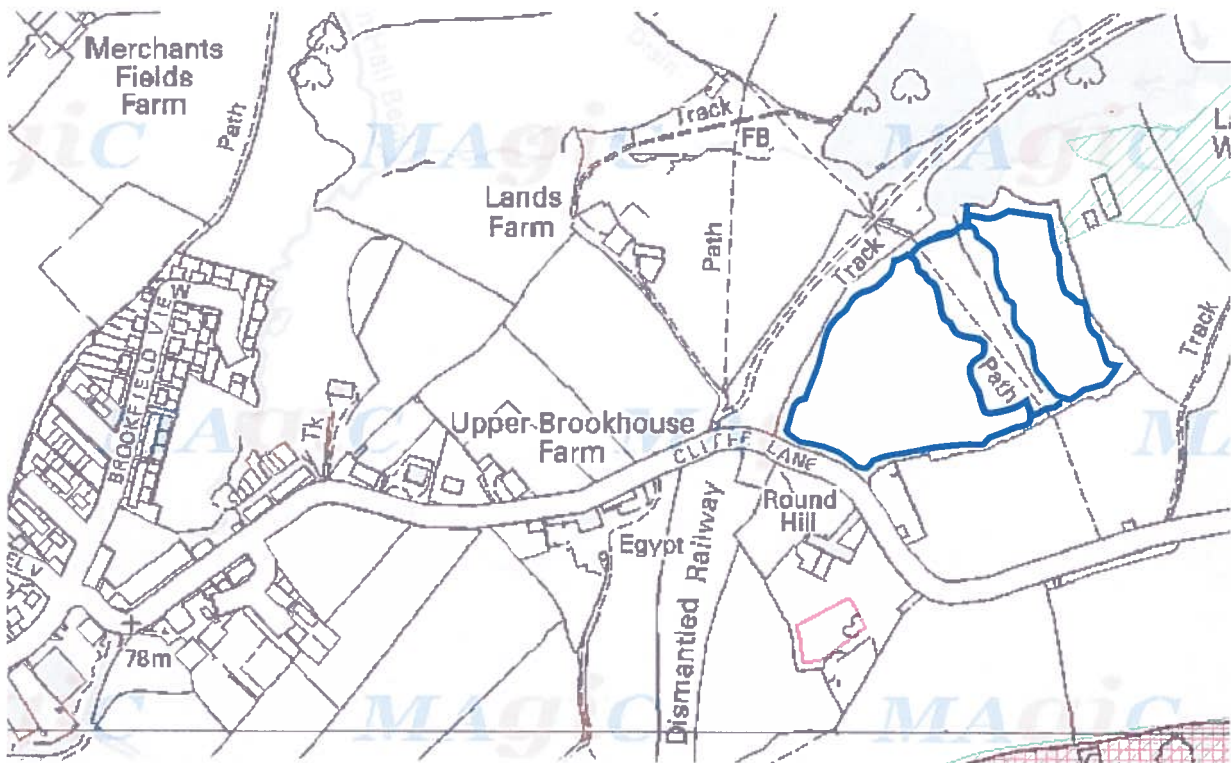
Close to south of site and Round Hill is an area classified as Provisional Traditional Orchard. Also to southern side of Cliffe Lane is a designated Woodland Grant Area. The notable Spen Valley Heritage Trail is found to west of site.

*Ancient Replanted, ancient woodland sites where original native tree cover has been felled and replaced by planting, usually with conifers and usually this century.

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Site

A walkover of the site was undertaken to assess suitability for use by wildlife.



Field site surveyed: Marked in blue, hedge and footpath seen between

Entrance to site is found off Cliffe Lane by way of access from the farm lane. Gated access to right of farm lane leads directly into site. The lane also gives direct access to Lands Farm - house and buildings further to north.

No buildings are located on site or alongside. The site is divided north to south by a hedge and small water-course being an un-named spring surfacing in the east part creating two distinct areas, the land to west being the greater part. To immediate west side of the hedge is a Public Footpath. No other tree or hedge is found on site other than boundary hedging. The site has part boundary with Cliffe Lane to south. Here the land is at a lower level than that of Cliffe Lane with a raised hedge and fence alongside. Further to s/e the land has a hedge boundary with now a small field between site and Cliffe Lane. The east boundary is fenced with hedge alongside. Immediately behind the east boundary the land overlooks site at a significantly higher level than that of site. This area is not part of site and is in other ownership. It is obvious that much tipping had taken place in the past. It is doubtful wildlife would access site from this point.

The west boundary is fenced with a further smaller field being between site and the farm access lane. The land is seen to be at a much lower level at the north boundary in comparison to south or east.

The land slopes significantly downwards to north site boundary and close to dismantled rail line. Two distinct undulations are seen west to east with a noticeable ridge between. The grass growth here is seen being rougher in texture along the ridge area. This once was a siding to the now dismantled rail line seen just beyond the fenced north boundary.

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Off site a short distance beyond the north boundary, are two arches beneath the rail cutting. One is access for cattle etc from the farm to the fields that constitute site. One, much smaller is to allow water passage from a spring alongside site with joining of the spring on site. This continues towards north passing buildings of Cliffe Farm. The west end of Lanes Wood between rail cutting and boundary creates a significant area of habitat for many species as it adjoins the edge of the spring towards east. At the lowest point the spring widens slightly and flows beneath undergrowth and through the arch. The wood is mainly mature and consists mostly of Oak with an undergrowth seen quite dense given time of year and little foliage remaining. This would serve to offer ground cover for wildlife. This area was not surveyed other than that which could be seen from site, as it did not constitute part of site. It is understood tipping, if permission granted, would not infringe upon this, as the waste would fall suitably short of boundary.

For identification purpose the site is divided into two areas, East, being the smaller and West being the greater area.



Yellow Pin: Site **Green line:** Existing Hedge **Yellow line:** Recommended New Hedgerow, west boundary. **Cliffe Lane:** Seen bottom left showing farm lane & site entrance. **Lanes Wood:** Centre top at site north boundary

Site, East Field

The hedge creating the division between east and west areas is not considered a hedge under the Hedgerow Regulations. It is untrimmed Hawthorn with the inclusion of two Oaks of reasonable size towards the lower, north end. The Oaks were observed and found

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to have no gaps, holes or fissures suitable in particular for bat roosting purposes. The hedge is not continuous, having gaps periodically to allow cattle and farm implements to access from west to east. The growth is thin with no undergrowth and offers little to no shelter. No nesting use by birds was noted in any part of the hedge. Either side of the hedge was extremely muddy where the spring runs alongside and down towards north. All areas were viewed for signs of use such as prints, scat, fur, remains etc. No evidence of use was found other than the sight of two wild rabbits and bovine hoof prints, not unexpected given cattle having access to site.

The surface area of the field is very uneven, sloping and considered of poor quality grass with potentially little yield. Some bramble, thistle, dock and nettle are to the east of the dividing hedge and east boundary. A spring surfaces to the upper s/e area and an attempt to lessen the area soaked by the flow has been made by part culverting via a small section of concrete pipe and stones. This has been done with the aim of directing the flow alongside the hedge and towards the lower spring immediate north of site. The land surrounding the flow is soaked and continues such as the water passes alongside the hedge to the lower spring.

The land in other ownership and behind the linear element being the east boundary fence and hedge is considerably higher than site due to prior tipping. There is possibility the water flow may have been redirected somewhat due to the amount of tipping, rear of the east boundary.

Site, West Field

Alongside the hedge, west is a Public Footpath. Two telegraph poles are towards the south boundary with cables running s/w to east. No trees other than the two Oaks identified in the lower part of the dividing hedge are found on site.

The surface area is considered of reasonable quality grass being used to graze cattle and cut for feed. There are two low areas either side of the ridge seen from west to east. However, when viewed from south to north the ridges are not seen. If permission is given to raise the lower levels in line with the ridge, it is noted, when landscaped the view should not change other than the dividing hedge. The removal of the dividing hedge and two trees would facilitate the levelling to continue into the area east.

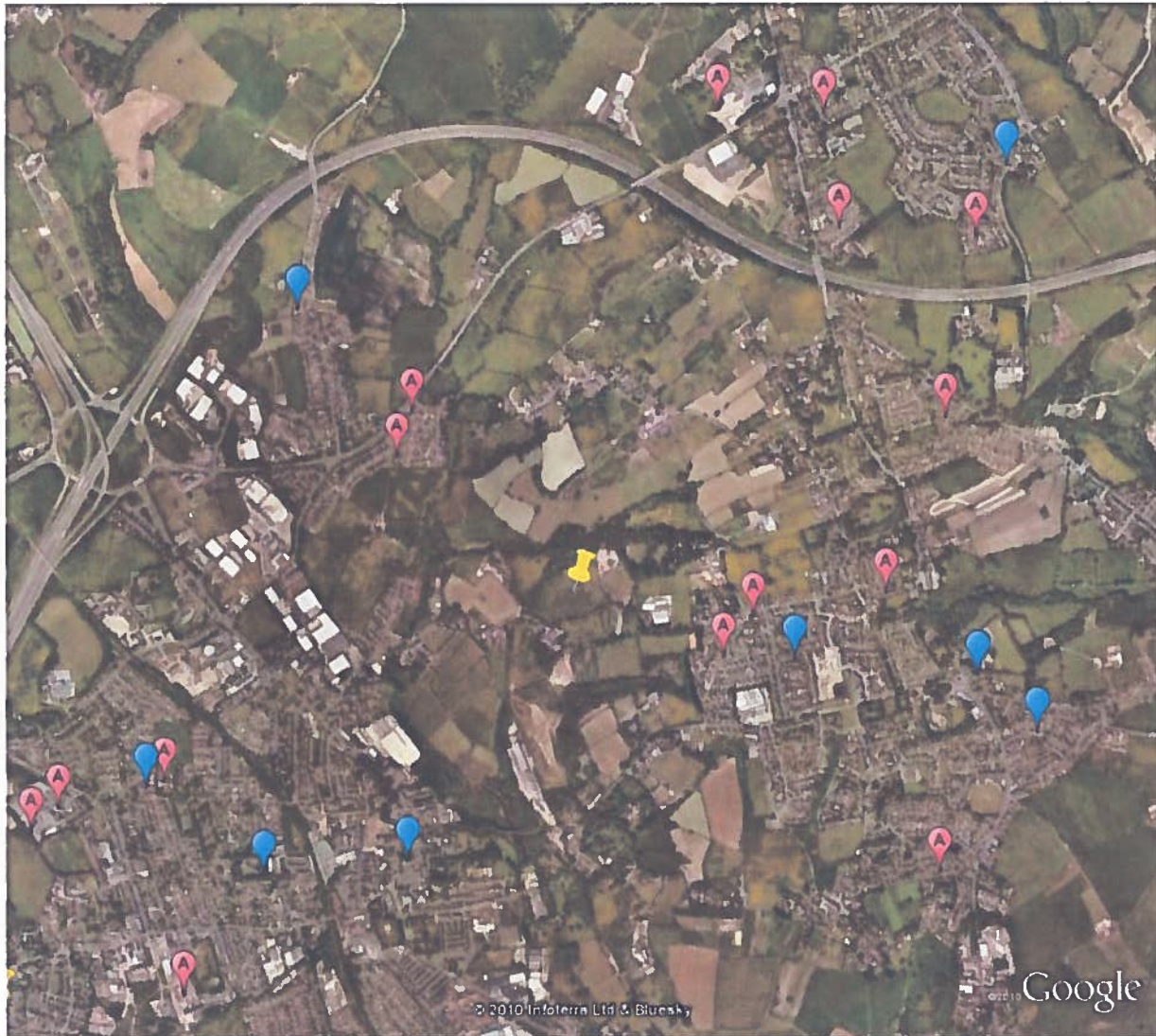
The south boundary is higher than the site land level and creates a barrier with hedge and fence. It is thought unlikely that wildlife would access from this barrier as the land also sweeps down significantly from this point giving an even greater drop. It was noted the grass at this point was not as well cut given the degree of slope.

No shelter is available as the land is open and grazed. No evidence of use by other than cattle and wild rabbit was seen. No burrows were seen or dug out areas were noted on site, either part.

The area considered much more suitable for use by wildlife is the northern area immediately beyond site boundary where the spring adjoins Lanes Wood.

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Appendix 1
Wider Environment**

Showing site and bat roosts/observations – 2km radius



**Yellow: Site, Lands Farm Gomersal BD19 4EU
Red: Recorded Bat Roosts
Blue: Field Records, Bats**

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Appendix 2

Buildings

1: Northwards: In West Field



2: Eastwards: In West Field



3: Dividing Hedge



4: East Field + Hedge Westwards



5: East Field Towards South



6: Dividing Hedge



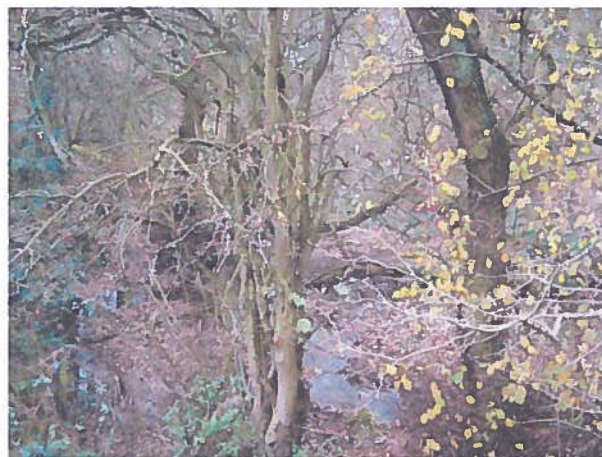
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Appendix 2 Cont

7: North, Wood Outside Boundary



8: North, Wood Outside Boundary



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Appendix 3 Bats and the Law

All species of bat and their breeding sites or resting places (roosts) are protected under Regulation 41 of the Conservation of Habitats and Species Regulations 2010 and Section 9 of the Wildlife and Countryside Act 1981 as amended. All bats in the UK are listed as 'European protected species'

It is an offence not only to intentionally or *recklessly* kill, injure or handle any bat but also intentionally or *recklessly* to damage, destroy or obstruct access to any structure or place that bats use for shelter or protection, *whether they are present or not*,

In this context 'damage means make worse for the bat' and so would include such operations, as, for instance,

The blocking of accesses and exits by whatever means, or demolition of all or part of a building or structure, or replacement of one material by another which was inappropriate

Or treatment with the toxic chemicals found in wood preservatives

Or, in the case of winter hibernacula, changes causing alterations in temperature or airflow.

Under the Wildlife and Countryside Act it is an offence to intentionally or recklessly disturb a bat while it is occupying a structure or place that it uses for shelter or protection. Disturbance could include physical presence, loud noises, bright lights or even vibration. Works associated with development or building work are likely to lead to an increase in human presence at the site, extra noise and changes in the site layout and local environment.

All these may have a detrimental effect on the bats, which seek particular environmental conditions, such as a low incidence of direct human disturbance, particular temperature and humidity regimes and a stable internal and external layout so they can continue to follow established flight-paths.

Penalties for causing such an offence or disturbing bats are fines up to £5000 per bat and up to 6 months imprisonment.

An offence would be committed if for instance a developer did not exercise sufficient due diligence before a project was commenced by not having an appropriate survey, particularly in a bat friendly area, and bats were later found to be present and the roost disturbed or destroyed. This action would be regarded as reckless and penalties mentioned above could be applicable. The offences could also be regarded as corporate leading to not only the individual(s) causing the disturbance but also directors being liable

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Appendix 4

‘Developments have the potential to destroy or degrade the habitats of bats. The planning system therefore has an important role to play in the conservation of this protected species.’ *

* ISBN 1 85716 781 3- Bat Mitigation Guidelines – A J Mitchell – Jones - Natural England

Extract from

Planning Policy Statement 9 Circular 06/2005 ODPM

PART IV Conservation of Species Protected by Law

98. 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. ~~ 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. ~~

99. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. ~~~

. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence~~

103. The Habitats Regulations implement the requirements of the Habitats Directive for species listed in Annexe IV of the Directive (European protected species). Stricter provisions than those contained in the Wildlife and Countryside Act 1981 apply for these species and regulation 3(4) of the Habitats Regulations places a duty on local planning authorities, in the exercise of their functions, to have regard to the requirements of the Directive so far as they might be affected by those functions. All European protected species are also separately protected under the Wildlife and Countryside Act 1981.

116. When dealing with cases where a European protected species may be affected, a planning authority is a competent authority within the meaning of regulation 6 of the Habitats Regulations, and therefore has a statutory duty under regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercise of its functions. So the Directive's provisions are clearly relevant in reaching planning decisions, and these should be made in a manner which takes them fully into account. ~~ ~~~Planning authorities should give due weight to the presence of a European protected species on a development site to reflect these requirements, in reaching planning decisions, and this may potentially justify a refusal of planning permission.

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Appendix 5

Selected Extracts from

The Conservation of Habitats & Species Regulations 2010

Protection of wild animals

41.—(1) A person who—

- (a) deliberately captures, injures or kills any wild animal of a European protected species,
- (b) deliberately disturbs wild animals of any such species,
- (c) deliberately takes or destroys the eggs of such an animal, or
- (d) damages or destroys a breeding site or resting place of such an animal,

is guilty of an offence.

(2) For the purposes of paragraph (1)(b), disturbance of animals 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) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
- (b) to affect significantly the local distribution or abundance of the species to which they belong.

(3) It is an offence for any person—

- (a) to be in possession of, or to control,
- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange,

anything to which this paragraph applies.~

Licences for certain activities relating to animals or plants

53.—(1) Subject to the provisions of this regulation, the relevant licensing body may grant a licence for the purposes specified in paragraph (2).

(2) The purposes are—

- (a) scientific or educational purposes;
- (b) ringing or marking, or examining any ring or mark on, wild animals;
- (c) conserving wild animals or wild plants or introducing them to particular areas;
- (d) protecting any zoological or botanical collection;
- (e) preserving 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;
- (f) preventing the spread of disease; or
- (g) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.

(3) Regulations 41 (protection of certain wild animals: offences), 43 (prohibition of certain methods of capturing or killing wild animals) and 45 (protection of certain wild plants: offences) do not apply to anything done under and in accordance with the terms of a licence granted under paragraph (1).~

(9) The relevant licensing body must not grant a licence under this regulation unless they are satisfied—

- (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 ~~~~~

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Appendix 6: Consultants

Lucille Fairbank:

A consultant with over 20 years experience of specialisation in bat species.

Lucille undertook her early training with NCC (now Natural England) and further training under the personal guidance of Peter Lina, Bat Conservation Officer for the Netherlands.

She has held licences to disturb bats for both scientific and conservation purposes, which has allowed her to handle and work with bats, for over 20 years.

She is a founder member of the Bat Conservation Trust; the only organisation in the UK solely dedicated to the conservation of bats and their habitats. She was also a founder member of Bradford Bat Group, which evolved to become West Yorkshire Bat Group.

Besides operating a wildlife consultancy specialising in bats and offering advice on conservation and habitat enhancement she also offers her expertise on a voluntary basis to Natural England as a Bat Warden. Lucille has worked with and been involved in the training of the West Yorkshire Police Wildlife Liaison Officer with particular reference to bats.

She has been instrumental in amicably and successfully resolving many situations where humans have been in conflict with bats.

She is well versed in Barn Owl ecology, having advised on several successful mitigations. She holds a Natural England Barn Owl Licence and is one of a very limited number of consultants in the North holding a Barn Owl Trust certificate.

Stephen A Fairbank, M.A., B.Sc.

An associate consultant who has over 15 years experience with the species and has been involved in survey work for over 10 years.

Stephen's particular interest is in the use of technology in data collection and statistical analysis. He has considerable knowledge, research experience and mathematical modelling skills in the effects of wind turbines on bats as well as system analysis and procedural processes with respect to bat mitigation guidelines.

He also offers his services as a Natural England volunteer bat worker.

He holds a Natural England Barn Owl Licence, has advised on several successful mitigation and enhancement plans and holds the Barn Owl Trust Ecology Certificate.