

Bat Preliminary Roost Assessment and Bird Survey

Netherfield House Barn

St George's Road, Holmfirth

June 2023

Prepared for: Your Architect Ally

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EXECUTIVE SUMMARY

- On 21st June a Preliminary Roost Assessment survey for bats and a bird survey was undertaken at Netherfield House Barn, St George's Road, Scholes, Holmfirth.

Bats

- The barn is considered to have high suitability for bats given the potential roost features. The proposals to convert the structures may impact on bats.
- Further survey work in the spring/summer months is recommended to determine the presence or absence of a bat roost in the house. This survey work must be undertaken between May – August when bats are active, ideally with two surveys in two surveys in June or July.

Birds

- No evidence of birds nesting or roosting within the barn was found. However, there is suitability for nesting birds and for this reason avoidance mitigation to avoid harm to nesting birds is proposed.

Verity Webster

Ecology and Protected Species Consultancy

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1. Introduction

1.1 Application Site

- 1.1.1. This report details a bat survey undertaken for a barn and attached garage at Netherfield House Barn, St George's Road, Scholes, Holmfirth HD9 1UH. National grid reference SE15850785.
- 1.1.2. Kevin Drayton of Your Architect Ally commissioned Verity Webster Ltd to undertake the bat survey work to inform the planning application.

1.2 Objectives

- 1.2.1 The objectives of the Preliminary Roost Assessment are to determine:
- The suitability of the buildings on site to support a bat roost or nesting birds
 - Whether bats or birds are currently using the buildings, or have done in the past.
 - The potential status of any roost present.
 - How bats might be using the site and the potential species present.
 - The potential impacts of the proposals on any potential roost present or on bats using the site.
 - The potential impacts of the proposals on any bird species using the site.
 - The requirement for further survey work and/or mitigation.
 - How any impacts might be avoided, mitigated and/or ameliorated, including advice on European Protected Species Mitigation (EPSM) application if required.
 - The potential for biodiversity net gain on site.
- 1.2.2 The format and content of this report follow that required by the European Protected Species Mitigation (EPSM) licence application where appropriate.

1.3 Proposals

- 1.3.1 The proposals comprise the conversion of the barn into living accommodation.

1.4 Ecologist

- 1.4.1 The Preliminary Roost Assessment was undertaken by Verity Webster. Verity is a licensed bat surveyor (Bat Survey Class Licence WML CL18 (Class 2) Registration number: 2015-13858-CLS-CLS).
- 1.4.2 Verity has worked as an ecological consultant since 2007. She has undertaken preliminary bat assessments and further bat emergence/activity surveys for a large variety of projects and schemes, producing the required impact assessment and subsequent mitigation schemes/method statements when necessary.



2. Site Location

- 2.0.1 The survey site is located in a rural location on the northeast boundary of Scholes, approximately 1.5km east of the centre of Holmfirth. Residential housing lies to the south and open countryside extends to the east and north, and beyond the residential area to the west. The countryside comprises a matrix of arable and pasture land divided by a tree lines and hedgerows with copses of trees, scattered waterbodies and waterways. New Mill Dyke, a tributary of the River Home weaves north to south approximately 400m to the east of the survey site in a valley boarded by trees.
- 2.0.2 Overall, the site is in a very good location for bats. The variety of habitat provides excellent potential foraging and roosting habitat. The linear features including waterways and tree lines provide good potential commuting corridors, facilitating the movement of bats through the landscape.



Figure 1: Ordnance survey map showing the location of the proposed development site.

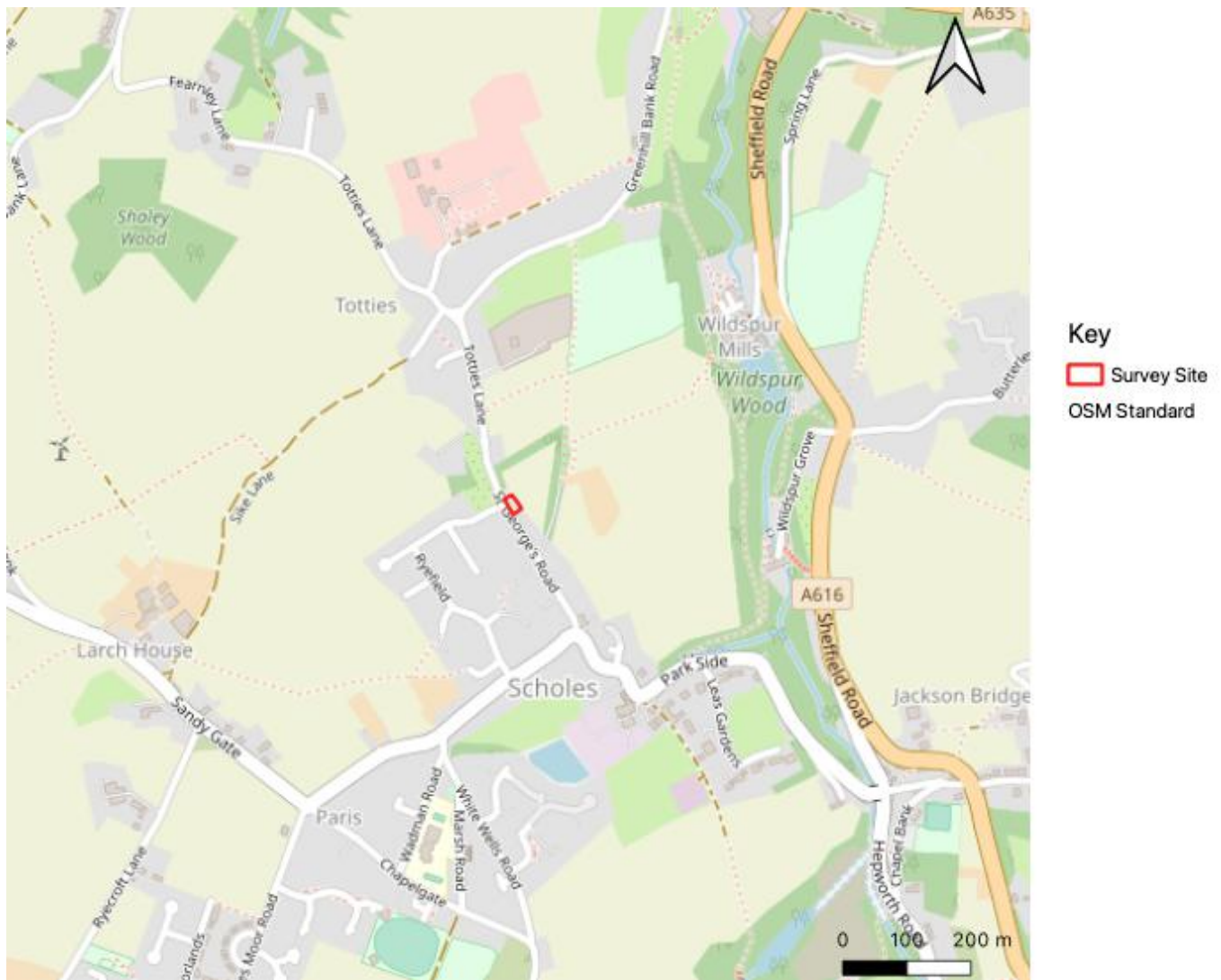
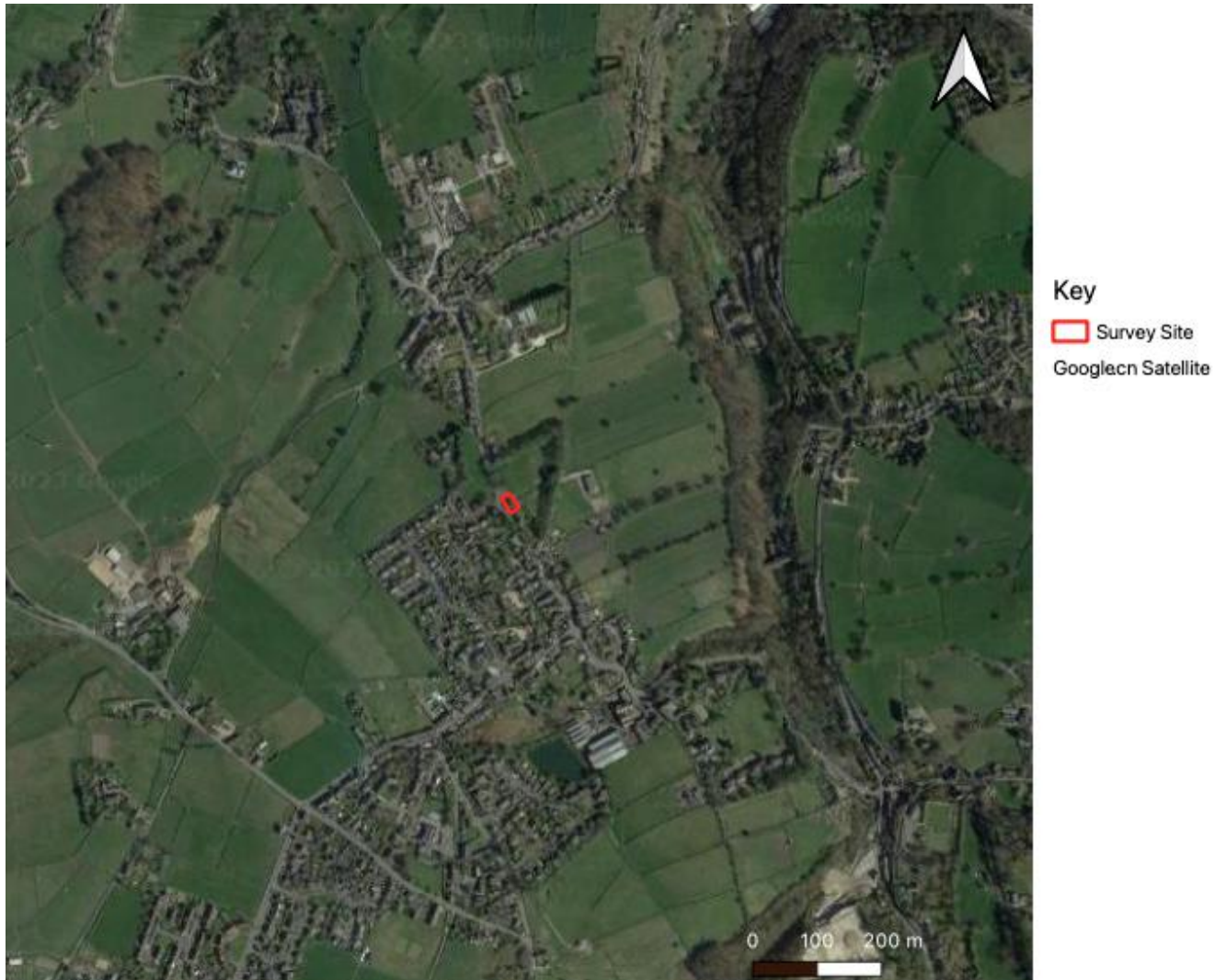




Figure 2: Aerial image showing the proposed development site and immediate surroundings





3. The Survey Site

- 3.0.1 The survey site, a barn, is located within the wider Netherfield House site, to the northwest of the house. St George's Road runs along the southwest side of the site, whilst to the east there is pasture sloping down into a valley.

The Barn

- 3.0.2 The barn is a rectangular stone structure oriented northeast to southwest and can be divided into two sections which have separate pitched roofs supporting heavy slates. The large barn is on the southeast side, and the combined workshop and garage on the northwest side. Additionally, there is a small potting shed on the southwest end of the southeast elevation of the large barn. See Figure 3.
- 3.0.3 The large barn is two-storey and open to the eaves with the queen trusses exposed. The internal walls are exposed stone and partially pointed. The roof is lined with bitumen felt.
- 3.0.4 The workshop, the northeast portion of the northwest arm, has a boarded ceiling, whilst the garage to the southwest has a partially boarded ceiling with some exposed bitumen felt.
- 3.0.5 The potting shed is composed of brick with a corrugated transparent plastic sheet roof supported by wooden beams.



The northwest elevation of Netherfield House Barn



Figure 3: The Barn and Garage within the wider farm site





4. Legislation

Full details of relevant legislation and planning policy can be found in Appendix A.

4.1 UK and EU Legislation

Bats

4.1.1 Key legislation regarding the protection of bats:

- Wildlife and Countryside Act 1981 (as amended)
- The Countryside and Rights of Way Act (CROW), 2000
- The Natural Environment and Rural Communities Act (NERC, 2006)
- Conservation of Habitats and Species Regulations 2017 (as amended)

4.1.2 Under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2018, it is a criminal offence to:

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

Nesting Birds

4.1.3 The Wildlife and Countryside Act 1981 consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive) in Great Britain (NB Council Directive 79/409/EEC has now been replaced by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version)).

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

- kill, injure, or take any wild bird,
- take, damage or destroy the nest of any wild bird while that nest is in use or being built (also [take, damage or destroy the nest of a wild bird included in Schedule ZA1] under the Natural Environment and Rural Communities Act 2006), or
- take or destroy an egg of any wild bird.

Schedule 1 Birds

4.1.5 In addition to the above, special penalties are available for offences related to birds listed on Schedule 1. Barn owl is included on this schedule.

4.1.6 It is an offence to disturb any Schedule 1 bird at the nest, or to disturb their dependent young.



4.2 Planning Policy and Legislation

- 4.2.1 Under the NERC Act 2006, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site before they make a decision on the planning permission.
- 4.2.2 The National Planning Policy Framework (NPPF, 2021) encourages Local Planning Authorities to conserve and enhance biodiversity.

Chapter 15, Para 174 of NPPF states: *"The planning system should contribute to and enhance the natural and local environment by:*

- a) **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils....***
 - d) **minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"**.*
- 4.2.3 Para 179 states: *"Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."*
- 4.2.4 Para 180 identifies that plans should do the following to protect and enhance biodiversity and geodiversity:
- a) **"Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and***
 - b) **Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and peruse opportunities for securing measurable net gains for biodiversity."***
- 4.2.5 Para 175 states that *"when determining planning applications, local authorities should apply the following principles:*
- a) **if significant harm to biodiversity from a development cannot be avoided...,adequately mitigated, or, as a last resort compensated for, then planning permission should be refused"***
- 4.2.6 The local planning authority has a responsibility, therefore, to obtain all information regarding the potential for protected species on a site prior to making a decision about a proposal.



5. Survey Methodology

- 5.0.1 The Preliminary Roost Assessment was undertaken in accordance with currently accepted guidance: Collins, J. (ed.) (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd Edn). The Bat Conservation Trust, London.

5.1 Desk Study

- 5.1.1 Data sources used to establish background information about bats and their likely presence in the locality:
- Magic Map, Natural England (2023)
 - Bing Maps (2023)
 - Bat Records Data from West Yorkshire Ecology Services (WYES) (2023)
- 5.1.2 Satellite mapping, Ordnance survey, road map, habitat and designated site data from Magic Map (Natural England, 2014) was used to assess the value of the surrounding habitat for bats in the area at a landscape scale (5km), including any potentially important habitat corridors (linear habitat features), feeding grounds or potential roost opportunities, such as large expanses of woodland. The features and habitats immediately surrounding the site (local area) were also assessed at a finer scale as these influence the likely presence of bats within the survey site.
- 5.1.3 Bat records data from WYES includes information about bat species recorded and known bat roosts within 2km of the survey site.

5.2 Preliminary Roost Assessment

- 5.2.1 An internal and external inspection of the structures was undertaken during daylight to determine the suitability for bats and establish, if possible, whether bats are using the building or have been in the past.
- 5.2.2 All accessible parts of the structures were inspected to look for bats and signs of the presence of bats, including:
- Droppings.
 - Feeding remains including moth and butterfly wings.
 - Staining from urine or oils near crevices or holes or on timber (such as roof beams), walls, chimney breasts etc.
 - Scratch marks on walls and timber.
 - Squeaking or chattering calls.
- 5.2.3 The systematic search inside the building included inspection of beams, floors, surfaces of stored materials, loose roof insulation or felt covering, junctions between roof timbers and timbers and the walls, and crevices within brickwork. Potential access into the building was also inspected by searching for holes in insulation and any light penetration into the interior from the outside.
- 5.2.4 The assessment outside the building included inspection of all walls, windows, window sills, fascias, soffits, eaves and tiles, including a search for any crevices under tiles, under lifted lead flashing or lifted roofing felt, missing mortar, gaps in the ridge or gable end of the roofs, crevices in brickwork or under flaking paintwork or render, gaps in cladding or hanging tiles and any other potential bat roost



opportunities.

- 5.2.5 Equipment: During the survey, a strong torch with directional beam was used to inspect the buildings.
- 5.2.6 As a result of the preliminary roost assessment, the structure on site was characterised as having 'negligible', 'low', 'medium' or 'high' suitability for bats. It may also be possible to confirm the presence of a roost.
- 5.2.7 Buildings or structures typically characterised as having:
- **Negligible** suitability for bats will lack features with any potential to support roosting bats. Modern or newly-built well-sealed structures may fall into this category. Structures that are metal clad with metal internal beams might have negligible potential if there are no favourable roosting spaces. Structures may also be unfavourable due to the level of disrepair, being subject to poor weather conditions.
 - **Low** suitability for bats will have sub-optimal roost features with limited potential for roosting bats. Features may be used by single bats opportunistically, but do not provide enough space, shelter, protection, appropriate conditions and/or suitable surrounding habitat to be used on a regular basis by large numbers of bats.
 - **Medium** suitability for bats may have few features with potential for bats, that provide enough space, shelter, protection and other suitable conditions, or several features with limited potential for bats. It may also be that a potentially suitable structure is situated in an area with habitat that has an only low potential for foraging and commuting bats.
 - **High** suitability for bats will support at least one or more features that provide opportunities for roosting bats such that they might be used regularly, for longer periods by larger numbers of bats. These may be external features, such as lifted weatherboard or crevices in brick or stonework, or internal, such as large loft spaces with potential access. Barns, with open doorways and windows with wooden rafters and beams, may fall into this category. If a structure is close to good habitats, such as a waterway, marshland or woodland, this also increases the potential for roosting bats.
 - **Confirmed** roost presence when it is evident as a result of signs from inspection, such as droppings, or sight of bats, that a roost exists within the building. It is not always possible to ascertain the presence or absence of a roost even if some signs, such as droppings or feeding remains are found.

5.3 Nesting Bird Assessment

- 5.3.1 An assessment of the suitability of the structure to support nesting birds and to determine the presence/absence of nesting birds, including old bird nests was undertaken during the site visit.
- 5.3.2 Holes and crevices suitable for hole-nesting species were noted and inspected where possible. The structure and the surroundings were searched for evidence of nesting including nest material, feathers and old fragments of egg shells.
- 5.3.3 Observation of the structure was also undertaken to determine any evident nesting activity, including gathering of nest materials or regular visiting to crevices, holes or structures.



6. Survey Limitations

- 6.0.1 The survey was undertaken in daylight in late June. At this time of year bats are likely to be in summer roost sites. Evidence of bats on the exterior of a building may be present if used by bats. Evidence of use of the interior of a building by bats either currently or over the previous seasons is likely to be present as signs (such as droppings and feeding remains) are likely more protected from the elements.
- 6.0.2 The survey was undertaken at a time when birds will be nesting and evidence of past use may also be evident.



7. Findings: Preliminary Roost Assessment

7.1 Suitability of the Locality for Bats

- 7.1.1 At a landscape level, the area surrounding the survey site is very good for bats. Refer to Figure 2.
- 7.1.2 Open countryside comprising a matrix of habitat types surrounds the site. The habitat, including grassland, hedgerows, small plots of woodland and waterbodies will support a variety of bat species such as the widespread common and soprano pipistrelle bat (*Pipistrellus pipistrellus* and *Pipistrellus pygmaeus* respectively). Species that favour open habitats such as Leisler's (*Nyctalus leisleri*) and noctule bat (*Nyctalus noctula*) are also expected. Woodland is present in patches in the wider landscape, but not extensive, so species that favour wooded habitat, such as Natterer's bat (*Myotis nattereri*), whiskered bat (*Myotis mystacinus*) and Brandt's bat (*Myotis brandtii*) are less likely to be present in abundance.

The Conservation Status of Bats in the Area

- 7.1.3 The conservation status of bats in the area is shown in Table 1.

Table 1: The Conservation Status of Bats in the area at a Local, County and Regional Level

Species	Local	County	Regional
<i>Common pipistrelle</i>	<i>Likely to be common in the area. There are records of this species in the area (10km).</i>	<i>Common and widespread Frequently recorded.</i>	<i>Common and widespread Frequently recorded across the Northwest</i>
<i>Soprano pipistrelle</i>	<i>Likely to be present due to the presence of riparian habitat.</i>	<i>Widespread. Frequently recorded.</i>	<i>Common and widespread Frequently recorded across the Northwest</i>
<i>Nathusius's pipistrelle</i>	<i>Likely to be rare in the area.</i>	<i>Infrequently recorded, but this may be due to low survey effort. Not yet recorded breeding in the county.</i>	<i>Rare across the northwest. A migratory species.</i>
<i>Brown long-eared bat</i>	<i>Likely to be in the area. There is a recent record of this species within 10km of the site.</i>	<i>Common and widespread Frequently recorded.</i>	<i>Common and widespread Frequently recorded across the Northwest.</i>
<i>Natterer's bat</i>	<i>Likely to be in the area, although this species favours woodland habitat, which is infrequent in the landscape.</i>	<i>Scattered distribution in West Yorkshire.</i>	<i>Widespread and scattered across the Northwest.</i>
<i>Noctule</i>	<i>Present</i>	<i>Widespread and frequently recorded.</i>	<i>Common and widespread. Frequently recorded in the Northwest.</i>
<i>Whiskered bat</i>	<i>Present but likely rare</i>	<i>Present</i>	<i>Widespread.</i>



<i>Brandt's bat</i>	<i>Rare / absent</i>	<i>Present</i>	<i>Widespread.</i>
<i>Alcathoe's bat</i>	<i>Unknown</i>	<i>Unknown</i>	<i>Widespread. Likely under-recorded.</i>
<i>Daubenton's</i>	<i>Presence is likely due to the riparian habitat present.</i>	<i>Widespread, frequently recorded near water.</i>	<i>Widespread</i>
<i>Serotine</i>	<i>Rare / absent</i>	<i>Unknown</i>	<i>Restricted to south and southwest Britain, rarely recorded in the northwest.</i>
<i>Leislars</i>	<i>Rare</i>	<i>Unknown</i>	<i>Rare, but widespread in Britain. Present in the northwest.</i>
<i>Barbastelle</i>	<i>Unlikely to be present in the area. This species is a woodland-specialist and there is a lack of this habitat present.</i>	<i>Unknown</i>	<i>Present south of a line from North Wales to the Wash.</i>

7.2 Biological Records Data

- 7.2.1 Data from WYES shows that six bat species have been recorded within 2km of the site; Daubenton's bat, whiskered bat, Natterer's bat, noctule, common pipistrelle and soprano pipistrelle.
- 7.2.2 There are 22 roosts recorded within 2km, which is a high number and likely owing to the high quality of the surrounding habitat. The closest roost is that of common pipistrelle recorded 440m away. There are no records of a roost from within the survey site.

7.3 Preliminary Roost Assessment

- 7.3.1 The building inspection and bat roost assessment was undertaken in daylight on 21st June 2023. For the purposes of the preliminary roost assessment the barn has been divided into the various sections.

The Barn

- 7.3.2 **The large barn is considered to have high suitability for bats.**
- 7.3.3 Externally there are numerous crevices and gaps beneath the roof slates and between the roof and the walls, but also crevices in-between the stonework that may provide potential roosting opportunities for crevice-roosting bats such as pipistrelle bats and whiskered bats to roost either between the stone or between the slates and the bitumen lining.
- 7.3.4 The southeast elevation has particular potential as this side of the roof will heat in the sunshine, a factor which is favoured by roosting bats.
- 7.3.5 Internally, the space is of a size that is ideal for bats, such as brown long-eared bats to fly and light sample prior to leaving a roost, or to feed. No droppings were found internally, however, suggesting that there is no significant roost internally.

The workshop and garage are considered to have high suitability for bats.



- 7.3.6 Similar to the large barn, the external features of the workshop and garage on the north elevation have high suitability for bats due to the numerous potential crevice roost features in the roof and crevices in the wall.
- 7.3.7 Gaps above the doors provide potential access to the interior of the workshop. There are holes in the roof of the garage providing easy access for bats. A single bat dropping was found on the northeast wall of the garage during the inspection. This does not necessarily indicate the presence of a roost, a bat may have entered the space just to forage, but the evidence does suggest that bats are active in the locality, which would be expected given the surrounding habitat.

The potting shed is considered to have negligible suitability for bats.

- 7.3.8 The small potting shed has well-sealed brick walls and a transparent plastic roof. Externally the walls are in good condition with no visible crevices. The internal space does not lend itself to bats given the influx of natural light.
- 7.3.9 **Overall, given the high level of suitability for bats, further survey work will be required to determine the presence or absence of a bat roost within the barn prior to the start of works. The survey work will inform any necessary mitigation requirements.**



The northeast elevation of the large barn



The northeast elevation of the workshop and garage



Showing crevices and holes in the stonework on the northeast elevation of the large barn



Showing crevices and holes in the stonework on the northeast elevation of the workshop and garage



The upper floor of the large barn



The interior of the garage



Bat dropping found on the northeast wall of the garage



The potting shed

8. Findings: Bird Survey

- 8.0.1 There was no evidence of use of the barn by nesting birds including owls.
- 8.0.2 However, due to the suitability of the barn to support nesting birds, avoidance mitigation is recommend to prevent harm and disturbance to these bird species that may nest in the building during the spring and summer months.



9. Appraisal

Bats

- 9.0.1 The Preliminary Roost Assessment of the barn at Netherfield House was undertaken to determine the suitability of the buildings for roosting bats and to determine the likely impact of the proposed works on bats.
- 9.0.2 The barn was considered to have high suitability for bats due to the numerous potential roost features within the roof structure and also internally, although there was very little evidence of internal use. Further survey work is necessary to determine the presence or absence of a bat roost.
- 9.0.3 It is considered that due to the fact that the potential for bats is largely restricted to the roof structure, that mitigation will be possible for a crevice roost following conversion, but this will need to be confirmed following further survey.

Nesting Birds

- 9.0.4 The barn has potential to support nesting birds in the spring and summer months. For this reason avoidance mitigation is recommended as a precaution.
- 9.0.5 The proposals provide the opportunity to maintain enhance the functionality site for nesting birds and recommendations for this have been made.



10. Recommendations

10.1. Bats - Further survey work

10.1.1. The barn is considered to have high suitability to support roosting bats. In order to determine the species present and the status of the roost it is necessary to undertake further survey work. It is recommended that:

- Three evening and/or dawn surveys are undertaken between May – August. At least two surveys would ideally be undertaken in June or July.

10.1.2. The survey work will inform any necessary mitigation.

10.1.3. If a bat roost is confirmed present, it will be necessary to apply for and attain a European Protected Species Mitigation (EPSM) licence prior to the start of works.

10.1.4. An EPSM licence (issued by Natural England) would detail the necessary mitigation and procedures of work required to ensure that no bats are harmed during the works and that the conservation status of the species is retained following the works.

10.2. Nesting Birds

10.0.1 To avoid harm to nesting birds, the following must be undertaken:

- Initial works to the barn should be undertaken outside the bird nesting season (nesting season March – September inclusive).
- If this is not possible a survey by a suitably experienced ecologist must be undertaken prior to the start of works to determine the presence or absence of nesting birds and to inform any necessary mitigation.

10.3. Enhancement

10.0.2 The proposals provide the opportunity to retain existing opportunities and enhance the site for nesting birds:

- Installation of additional bird boxes on the building will increase the opportunities for other species such as house sparrow
- The following boxes can be used, but alternatives are available at NHBS.com



*Vivara Pro WoodStone
House Sparrow Nest Box*



*Vivara Pro Seville
WoodStone Nest Box with
both 32mm holes and
28mm holes, allowing for
use by different species.*

11. References

- BING maps (2023) <http://www.bing.com/mapspreview>
- 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
- Google maps (Accessed 2023) <https://www.google.co.uk/maps>
- MAGIC Map (Accessed 2023) <http://www.magic.gov.uk/MagicMap.aspx>. DEFRA.



• APPENDIX A: Wildlife Legislation and Planning Policy

UK AND EU LEGISLATION

11.1. KEY LEGISLATION

11.1.1. Key legislation regarding the protection of bats:

- Wildlife and Countryside Act 1981 (as amended)
- The Countryside and Rights of Way Act (CROW), 2000
- The Natural Environment and Rural Communities Act (NERC, 2006)
- Conservation of Habitats and Species Regulations 2017 (as amended)

11.2. WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

11.2.1. The Wildlife and Countryside Act 1981 is UK legislation.

11.2.2. Bats are listed on Schedule 5 of the Wildlife and Countryside Act (WCA) 1981. Under Section 9 of this legislation it is an offence to:

- Kill, injure or take a bat.
- Possess, a live or dead bat.
- Intentionally or recklessly damage or destroy any structure of place which any bat uses as shelter or protection.
- Intentionally or recklessly disturb a bat whilst it is occupying a structure or place which it uses for shelter or protection.
- Intentionally or recklessly obstruct access to any structure or place which a bat uses as shelter or protection.
- Sell, offer or expose for sale any live or dead bat.

11.3. COUNTRYSIDE AND RIGHTS OF WAY ACT 2000

11.3.1. Schedule 12 of the Countryside and Rights of Way (CROW) Act 2000, amended by the Wildlife and Countryside Act 1981 by removing the need to prove intent to damage a roost / harm (etc) a bat or other species listed on Schedule 1 by adding the words 'or recklessly' after 'intentionally' into the wording in Section 9 of the WCA 1981. The CROW act also strengthened the penalties for offences to bats and other species listed on Schedule 5.

11.4. CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 (AS AMENDED)

11.4.1. The Conservation of Habitats and Species Regulations 2017 (as amended) consolidate all the various amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994 in respect of England and Wales.

11.4.2. The 1994 Regulations transposed Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive) into national law. The regulations came into force on 30 October 1994.

11.4.3. The Regulations provide for the designation and protection of European Sites and European Protected Species, including bats.



11.4.4. Under the Regulations, competent authorities (ie any government department or public body) have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive.

11.4.5. With regard to European Protected Species (including bats), the Regulations make it an offence to:

- Deliberately capture;
- Kill;
- Disturb or;
- Trade in animals listed in Schedule 2, which include all UK bat species.

11.5. European Protected Species (EPS) Licenses and the Three Tests

11.5.1. These actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education, conservation, preserve public health and safety). For such a licence to be granted the appropriate authority would have to be satisfied that an application has met the three tests, which are:

- 1)- The licence may be granted "to preserve public health or public safety or for reasons of overriding public interest, including those of a social or economic nature and beneficial consequences or primary importance for the environment"
- 2)- There must be "no satisfactory alternative"
- 3)- The proposal "will not be detrimental to the maintenance of the species at a favourable conservation status in its natural range"

11.6. NATURAL ENVIRONMENT AND RURAL COMMUNITIES (NERC) ACT 2006 (PLANNING SYSTEM)

Planning Authorities: A Duty to Conserve Biodiversity

11.6.1. Under this legislation, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site *before* they make a decision on the planning permission.

11.6.2. Part 2, Section 40 confers on the planning authorities a duty to conserve biodiversity and states:

"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 biodiversity"

Species of Principal Importance

11.6.3. Part 3, Section 41 requires the Secretary of State to "*publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of **principle importance** for the purpose of conserving biodiversity*".

11.6.4. This requirement leads to production of a list of species and habitats of Principal Importance. This list includes all UK bats.



PLANNING POLICY

11.7. NATIONAL PLANNING POLICY FRAMEWORK

11.7.1. Under the NERC Act 2006, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site before they make a decision on the planning permission.

11.7.2. The National Planning Policy Framework (NPPF, 2021) encourages Local Planning Authorities to conserve and enhance biodiversity.

Chapter 15, Para 174 of NPPF states: *"The planning system should contribute to and enhance the natural and local environment by:*

- b) **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils....***
- e) **minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"**.*

11.7.3. Para 179 states: *"Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."*

11.7.4. Para 180 identifies that plans should do the following to protect and enhance biodiversity and geodiversity:

- c) **"Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and***
- d) **Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and peruse opportunities for securing measurable net gains for biodiversity."***

11.7.5. Para 175 states that *"when determining planning applications, local authorities should apply the following principles:*

- b) **if significant harm to biodiversity from a development cannot be avoided...,adequately mitigated, or, as a last resort compensated for, then planning permission should be refused"***

11.7.6. The local planning authority has a responsibility, therefore, to obtain all information regarding



the potential for protected species on a site prior to making a decision about a proposal.

11.8. ODPM CIRCULAR 06/2005: BIODIVERSITY AND GEOLOGICAL CONSERVATION

- 11.8.1. This document, to be read in conjunction with NPPF provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It makes it clear that it is the intention of the government that local authorities and developers consider protected species at the earliest possible stage in the planning process. Any planning application that is likely to affect protected species should come with details of the surveys which have been undertaken and should include, if necessary, recommendations for mitigation. Applications which do not include sufficient data should be rejected.