

HERTFORDSHIRE BIOLOGICAL RECORDS CENTRE

Environment, County Hall, Hertford, Herts, SG13 8DN

Ms J. Phillips
Planning Officer
Welwyn Hatfield Borough Council
The Campus Welwyn Garden City
AL8 6AE

Pl. ask for :- Graham Goodall
Our Ref :-
Your Ref :- S6/2011/2743/FP
Telephone :- 01992 556155

Date :- 06/02/2012

Dear Ms Phillips

**Planning application: S6/2011/2743/FP; 3 Hook Lane, Northaw.
Erection of two storey rear extension and formation of hardstanding.**

HBRC database and site evaluation.

We have a record of a bat roost in an adjacent property. In addition, Hook Lane is immediately adjacent to Hook Wood Wildlife Site; woodland is a favoured feeding habitat for bats.

There are several pieces of recent guidance that provide advice on where bats are most likely to be present. Key documents are:

- Natural England's Standing Advice to Local Planning Authorities in the East of England (including Hertfordshire) published in September 2009; and
- The Bat Conservation's Trust's 'Bat Surveys Good Practice Guidelines' published in 2007.

These organisations have produced a "Trigger list of where bats are likely to be present and where developers can be reasonably expected to submit a bat survey" (BCT 2007).

- Proposals for the modification, conversion, demolition or removal of buildings and structures, all agricultural buildings particularly of traditional brick or stone with exposed wooden beams.
- All buildings with weather boarding and/or hanging tiles that are within 200m of woodland and/or water.
- Pre-1960 detached buildings and structures within 200m of woodland and/or water.
- Pre-1914 buildings within 400m of woodland and/or water and those with gable ends or slate roofs, regardless of location.
- All listed buildings.
- Proposals in a rural setting with mature woodland, hedges, trees, grassland, rivers, lakes and ponds; all favoured habitats of bats for feeding, commuting and potentially roosting.

As a result, we take the view that it is possible that bats may be roosting in the dwelling and could be harmed or disturbed by the proposed development.

This would constitute a criminal offence, and therefore, the LPA has a statutory, legal duty to apply the three tests contained in the European Protected Species provision of the Habitat Regulations 2010.

2. Bats the Law and Planning Process:

Bats are protected under both European and national legislation and are a material consideration in the determination of a planning application, that if implemented would be likely to result in harm to the species. Consequently, **an *initial inspection bat survey* should be undertaken by a suitably experienced bat ecologist to establish whether bats are present and likely to be affected.**

If evidence of bats is found and further surveys are required, the ecologist should provide advice on the procedure which needs to be followed. HBRC guidance on what to expect from an initial inspection bat survey, subsequent report and likely appropriate further survey effort is provided in the attached HBRC Technical Advice Note on bats. We strongly advise you read this and send a copy to the applicant. A list of bat consultants is also attached.

The government circular accompanying PPS 9 (paragraphs 98-99) states that: ***"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"***.

Being European Protected Species (EPS), bats are also covered by case-law, as of June 2009 (known as 'the Woolley Judgment')¹. This judgment clarified that **in granting planning permission the LPA has a statutory duty to apply the three tests contained in the species protection provision of the Habitat Regulations.**

In order to discharge this duty the LPA will need to ask the applicant for appropriate information (via an appropriate ecological survey report or other documentation) and apply the three stage test.

The three tests are as follows:

- The proposals must be for imperative reasons of overriding public interest (OPI) or for public health and safety.
- There must be no satisfactory alternative.
- The favourable conservation status of the species in their natural range must be maintained.

The LPA will need to apply these tests prior to making a decision on the planning application. Otherwise there is a risk that any planning permission granted could be legally challenged by a third party and subsequently quashed.

It is also of note that in the Woolley judgment, the court held that **this duty cannot be discharged by the LPA imposing a condition on the consent that requires the developer to obtain a licence from Natural England**².

Consequently we advise that a bat assessment survey should be undertaken and advice provided before the application is determined to ensure that, if required, any necessary mitigation can be incorporated into the proposals submitted for approval.

¹ R (on the application of Simon Woolley) v East Cheshire Borough Council 2009 EWHC1227. Further information on the Woolley judgment is available via <http://www.planningofficers.org.uk/media/www/documents/LPAProtectedSpeciesDuty.pdf>

² Natural England (2009). *European Protected Species and the Planning Process*. Accessible via http://www.naturalengland.org.uk/Images/WoolleyVsCheshireEastBC_tcm6-12832.pdf

Conclusions and Recommendations.

1. An initial bat inspection survey should be undertaken by a licensed bat ecologist to establish whether bats are present and whether they are likely to be affected by the proposed development works.
2. If the building search and assessment finds no evidence of bats, then the application will not need to be determined on ecological grounds.
3. If the initial building search and assessment finds evidence of a bat roost, then further emergence surveys will be required to inform the LPA **before** a planning decision can be taken.
4. It should be noted that bat emergence surveys cannot be conducted until April 2012 at the earliest, depending on prevailing weather conditions.
5. This may mean that the planning application cannot be determined in the required time-frame and will have to be withdrawn or refused.

Yours sincerely,

Graham Goodall. BSc (Hons). CEnv. MIEEM.
Senior Ecologist

The consultants listed below are known by the Hertfordshire Biological Records Centre to have experience of undertaking ecological surveys (habitats, mammals, reptiles, amphibians and birds) in Hertfordshire.

Inclusion on this list does not imply any form of approval or recommendation. HBRC accepts no responsibility in any form whatsoever, whether direct or indirect, in using the services of any of the consultants / contractors listed. You are advised to obtain more than one quote.

The Institute of Ecology and Environmental Management (IEEM) publishes a Directory of Ecologists may be able to provide assistance with finding consultants:- www.ieem.org.uk; Email: [enquiries\[at\]ieem\[dot\]net](mailto:enquiries[at]ieem[dot]net); Tel: 01962 868626; Post: IEEM, 43 Southgate Street, Winchester, Hampshire, SO23 9EH.

CONSULTANCY	CONTACT	ADDRESS	TELEPHONE	EMAIL	WEB ADDRESS
Amphibian, Reptile & Mammal Conservation Limited	Clive Herbert	67A Ridgeway Avenue East Barnet Hertfordshire EN4 8TL	020 8440 6314		
Andrew McCarthy Associates		(London & South-East office) Whitehouse Farm Bams Gaddesdon Row Hemel Hempstead Hertfordshire HP2 6HG	01582 840471	ipedder@amaenvironment.co.uk	www.amaenvironment.co.uk
ArbTech	Martin O'Connor	Luton	0845 0178950	moc@arbtech.co.uk	www.arbtech.co.uk
Baker Shepherd & Gillespie		(Oxford office) Worton Rectory Park Oxford Oxon OX29 4SX	01865 883833		www.bsg-ecology.com
Carter Ecological		The Old Coach House West Street Shutford Banbury Oxon OX16 6PH	01295 780066	enquiries@carterecological.co.uk	
CPM		Akeman Barns Coln St Aldwyns Cirencester Gloucestershire GL7 5AW	01285 750555	info@cpm-uk.co.uk	
Cresswell Associates		Willow House Slad Road Stroud Gloucestershire GL5 1QJ	01453 764450	mail@cresswell-associates.com	
CSa Environmental Planning (Herts office)	Clive Self	Barn A, Dixies High Street, Ashwell Hertfordshire SG7 5NT	01462 743647		www.csaenvironmental.co.uk
ELMAV Consulting	Keith Seaman	Greys Farm, Therfield Road Royston Hertfordshire SG8 9NW	01763 245900	keith.seaman@elmav.co.uk	
EPCAD Consultants		The Old Granary Brooklands Broughton Milton Keynes Buckinghamshire MK16 0HU	01908 231125	Epcad@epcad.co.uk	
Herts and Middlesex Wildlife Consultancy	Tim Hill	Grebe House St Michael's Street St Albans Hertfordshire AL3 4SN	01727 858901	tim.hill@hmvw.org	
Jaquelin Fisher Associates		2C Hillgate Place 18-20 Balham Hill London SW12 9ER	0208 673 2001	info@ifa.co.uk	
Jones & Sons Environmental Sciences Ltd	Roger Jones	21/23 North Road Hertford Hertfordshire SG14 1LN	01992 552407	reception@jonesandsons.co.uk roger@jonesandsons.co.uk	www.jonesandsons.co.uk
Maydencroft Land Advisory	Matt Perry	Maydencroft Manor, Gosmore, Hitchin, Hertfordshire SG4 7QA	01462 420851	mailto:matt@maydencroft.com	www.maydencroft.com
Mike Jennings	Mike Jennings	27 Morefields Tring Hertfordshire HP23 5EU	01442 822659	Michaela.jennings@btinternet.com	
MKA Ecology Ltd		The Holt, 7 The Sidings Station Road Shepreth, Royston Hertfordshire SG8 6PZ	01763 262211		www.mkaecology.co.uk
OHES	Mike Hill		0870 2403329	mike.hill@ohes.co.uk	
RPS Consultants		Wellfield House 33 New Hey Road Huddersfield HD3 4AL	01484 543124		
RSK Carter Ecological	Dave Cove	18 Frogmore Road Hemel Hempstead Hertfordshire HP3 9RT	01442 437500	dcove@rskcarterecological.co.uk	

HERTFORDSHIRE BIOLOGICAL RECORDS CENTRE

Technical Advice Note

Bats: the planning system, law and best practice

October 2010

Summary of Key Points

This note provides advice to planning officers within Hertfordshire County Council and the 10 districts within Hertfordshire: Dacorum Borough Council, East Hertfordshire District Council, Hertsmere Borough Council, North Hertfordshire District Council, St Albans City & District Council, Three Rivers District Council, Welwyn Hatfield Council, Watford Council, Broxbourne Borough Council and Stevenage Borough Council.

The aim of the note is to set out how issues relating to bats should be dealt with in the planning system by law, planning policy and best practice guidance on bat surveys. A number of recent changes and case law have prompted the production of this note.

There are currently 17 species of bats known to breed in the UK. All species of bats and their roosts are protected under both European and national legislation. Being protected species, all planning authorities are required to take account of the presence or potential presence of bats when determining planning applications as they are a 'material consideration' in the planning decision process. **We therefore recommend that a local authority, in considering a planning application that could have an impact on bats, should ensure that sufficient information is provided prior to registration to enable a properly informed determination to be made.**

An LPA should not register a planning application if adequate information on protected species is not provided by an applicant as it will be unable to meet the requirements of both Planning Policy Statement (PPS) 9 and the Habitat Regulations.

PPS 9 states that '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'.

Bats are protected under European Legislation '92/43/EEC Directive on the Conservation of Wild Habitats and Fauna and Flora commonly known as the 'Habitats Directive'. Being European Protected Species (EPS) they are covered by new case-law created in June 2009 (The Woolley Judgment) which ruled that **before granting planning permission, where there is a reasonable likelihood of EPS being present, the LPA has a statutory duty to apply the 'three tests' as set out in the EU Habitats Directive if there is a risk of a criminal offence being committed as a result of the proposals.** The judgement also clarified that **'it was not sufficient for planning authorities to claim that they had discharged their duties by imposing a condition on a consent that requires the developer to obtain a licence from Natural England'** (Natural England 2009).

Consequently, HBRC recommends that if a criminal offence cannot be avoided, in addition to a bat report, the LPA also needs to receive evidence as to how the 'three tests' can be met to enable the LPA to discharge its statutory duty.

Further details on these issues are provided below.

How do I know if a planning proposal / application I am dealing with will have an impact on bats?

Bats roost in a variety of different structures including buildings, trees, caves, cellars, mines and many other structures. Some species have particular affinities with certain structures and habitats. Bats will generally use a number of different types of roosts throughout the year as their annual cycle and the ambient weather conditions dictate. However, it should be noted that once identified, **a bat roost is legally protected regardless of whether or not bats are present.**

Current guidance

There are several pieces of recent guidance that provide advice on where bats are most likely to be present. Key documents are:

- **Natural England's Standing Advice to Local Planning Authorities** in the East of England (including Hertfordshire) published in September 2009; and
- **The Bat Conservation's Trust's 'Bat Surveys Good Practice Guidelines'** published in 2007.

These organisations have produced a "**Trigger list of where bats are likely to be present and where developers can be reasonably expected to submit a bat survey**" (BCT 2007). These trigger lists include¹:

- Proposals for the modification, conversion, demolition or removal of buildings and structures (especially roof voids), all agricultural buildings particularly of traditional brick or stone with exposed wooden beams;
- All buildings with weather boarding and/or hanging tiles that are within 200m of woodland and/or water;
- Pre-1960 detached buildings and structures 200m of woodland and/or water;
- Pre-1914 buildings within 400m of woodland and/or water and those with gable ends or slate roofs, regardless of location;
- All listed buildings;
- Proposals in a rural setting with mature woodland, hedges, trees, grassland, rivers, lakes and ponds; all favoured habitats of bats for feeding, commuting and potentially roosting; and
- All developments affecting buildings, where bats are known to be present.

HBRC Advice on Planning Proposals

HBRC provides advice to most of the LPAs in Hertfordshire on whether protected species are likely to be an issue for specific planning applications. If no protected species survey has been provided, when consulted HBRC will review the information submitted by the LPA in the context of the latest guidance and use professional judgement to advise on whether there is a **reasonable likelihood²** of bats being an issue in relation to a proposal. In these circumstances, **we will recommend that a bat survey of the site is undertaken. The subsequent report will need to provide an assessment of the evidence and if present,**

¹ For further details and for a full list of factors affecting the probability that bats will be using a building, tree or other features please see Natural England's website: http://www.naturalengland.org.uk/Images/eoc-flowchart_tcm6-12374.pdf, http://www.naturalengland.org.uk/Images/eoc-checklist_tcm6-12373.pdf, http://www.naturalengland.org.uk/regions/east_of_england/ourwork/standingadvice/protectedspecies/bats.aspx, http://www.bats.org.uk/download_info.php?id=379&file=BCT_Survey_Guidelines_web_final_version.pdf&referer=http%3A%2F%2Fwww.google.co.uk%2Fsearch%3Fhl%3Den%26source%3Dhp%26q%3DBat%2BSurvey%2BGuidelines%26meta%3D%26aq%3D%26oq%3D

² It is of note that bats are mobile species and do regularly move between structures suitable for roosting and can turn up in numerous locations at any time. Hence, even if no bat survey is recommended at your site by HBRC, there may still be a risk that they could be present. If bats are found unexpectedly during construction or demolition works, all works should stop immediately and advice sought as to how to proceed from either Natural England 01206 796666; UK Bat Helpline 0845 1300 228; or Herts and Middlesex Bat Group 01992 581442.

advise on further surveys required or how to proceed. Advice will depend on the extent that bats will be impacted by the proposals.

Biodiversity Checklists

HBRC would strongly recommend that each LPA creates their own 'Biodiversity Checklist' to ensure that HBRC are consulted on those proposals that have the greatest likelihood of impacting features of nature conservation interest including: bats, other protected species and wildlife sites. Triggers for selection of applications with potential impacts to bats include: **proposals for demolition, barn and loft conversions, any proposals that will change the roof structure, works to bridges, tunnels, underground structures and trees.** HBRC are happy to help LPAs on the creation of an appropriate checklist for their district.

Bats: The law and planning policy (including recent case law)

The Law

Bats are protected under both:

- European (92/43/EEC Directive on the Conservation of Wild Habitats and Fauna and Flora commonly known as the 'Habitats Directive'); and
- National legislation:
 - The Conservation of Habitats and Species Regulations 2010 (commonly known as the '2010 Habitat Regulations'),
 - The Wildlife and Countryside Act 1981 (as amended by *inter alia* Countryside and Rights of Way Act (CRoW) 2000)).

In summary³, it is an offence to:

- deliberately or intentionally capture, injure or kill a bat;
- deliberately disturb any bat. In particular any disturbance which is likely to impair their ability to survive, breed or reproduce, or to rear or nurture their young, or to hibernate or migrate or to significantly affect the local distribution or abundance of the species;
- damage or destroy a breeding site or resting place of a bat;
- intentionally or recklessly disturb any wild bat while it is occupying a structure or place it uses for shelter or protection;
- intentionally or recklessly damage, destroy or obstruct access to any structure or place that a wild bat uses for shelter or protection; and
- possess or control/transport/advertise/sell/exchange a live or dead bat.

It is key to note that bat roosts are protected whether or not the bats themselves are present.

It is also of note that a list of species considered to be of principal importance for nature conservation was taken forward by the government in England in August 2008 as required by section 41 of the Natural Environment and Rural Communities Act (NERC) 2006. This list includes six species of bats.

Recent Case-law in June 2009, 'the Woolley Judgment'

In June 2009 a High Court judgment ('the Woolley Judgment'⁴) **clarified LPAs' legal duty when determining planning applications that may result in a criminal offence relating to a EPS. This judgment ruled that in granting planning permission, the LPA must give consideration to the three tests contained in the species protection provision of the Habitat Regulations. An LPA failing to do so would be in breach of regulation 9 (5) of**

³ Please note this is a summary of the law and in no way constitutes a legal opinion, should you require further clarification please refer to the law directly or seek your own legal advice.

⁴ R (on the application of Simon Woolley) v Cheshire East Borough Council 2009 EWHC1227.

the 2010 Habitat Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions. *Otherwise there is a risk that any planning permission granted could be legally challenged and subsequently quashed.*

It is also of note that in the Woolley Judgment the court held that *it is not sufficient* for the LPA to discharge their duty by imposing a condition on a consent that requires the developer to obtain a licence from Natural England;

Natural England's interpretation of the judgment also highlights that it is essential that appropriate survey information supports a planning application prior to determination. *Natural England does not regard the conditioning of surveys to a planning consent as an appropriate use of conditions.* Information on mitigation of any impacts to EPS should also be included in the supporting information:

Hence, the LPA must consider the following three tests as laid out in the Habitat Regulations:

- The activity must be for imperative reasons of overriding public interest (OPI) or for public health and safety;
- There must be no satisfactory alternative; and
- The favourable conservation status of the species in their natural range must be maintained.

The LPA should note that the application of the three stage test *is therefore a statutory duty*. In order to discharge its duty if there is a risk of a criminal offence, the LPA will need to ask the applicant for appropriate information (via an appropriate ecological survey report or separate documentation) and apply the three stage test

Planning Policy and Bats

The key planning policy document relating to biodiversity and the planning system is Planning Policy Statement 9 (PPS 9) 'Biodiversity and Geological Conservation' with the accompanying Office of the Deputy Prime Minister (ODPM) Circular 06/2005.

Key paragraphs from the circular state:

- paragraph 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*";
- Paragraph 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*". "*The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances*". It is also noted that "*bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. 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.*"

If I need to ask an applicant for a bat survey, what is the process?

Bat Consultants

Where protected species are *suspected or present on a proposed development site*, the applicant and/or their agent is responsible for commissioning a suitably licensed bat consultant to undertake a site survey to determine the presence or absence of bats and the potential impact of the proposed development on bats.

A list of bat consultants who work in Hertfordshire can be obtained from HBRC on request. The Institute of Ecology and Environmental Management (IEEM) also have an on-line directory of consultants with professional indemnity insurance (accessible via www.ieem.net)

The Bat Survey Process

The following provides an indication of the process the applicant will have to go through in order to satisfy planning and legal requirements. Further advice on the steps involved and when to consult Natural England is available via Natural England's Standard Advice: www.naturalengland.org.uk/regions/east_of_england/ourwork/standingadvice/protectedspecies/bats.aspx

1) Initial Inspection Bat Surveys – first stage:

External and internal 'inspection surveys' are very basic; they are also referred to as "scoping" or "first stage surveys". These surveys should be carried out by a licensed bat consultant and determine the presence/absence of bats by looking for signs of bats roosting in a building or structure (e.g. fur and urine stains, droppings, discarded moth wings etc). Provided evidence of bat usage has not been subject to human interference or weather this can be done at any time of the year.

It is of note that "*these surveys may determine the presence of bats using the building, and in most cases the species of bats. However a building survey on its own is unlikely to yield sufficient information to complete an impact and mitigation assessment where evidence of bat usage has been found*" (Natural England Standing Advice 2009).

2) Further Bat Surveys – second stage:

If bats or evidence of them are found to be present following the initial inspection survey, the consultant's report should outline if this initial survey has provided adequate information in order to determine the impacts of the scheme on bats and advise if a criminal offence can be avoided and if not whether the favourable conservation status of the species can be maintained (i.e. if the development passes the 'third test').

If further survey work is required in order to make this assessment, the consultant will advise the applicant on the need for further bat surveys. Depending on the nature of the building these are likely to include additional emergence surveys (that can only be undertaken in the summer) and / or other surveys including looking for evidence of hibernation which can only be undertaken in the winter.

Usually further survey work will involve the need for bat dusk emergence and dawn re-entry surveys. This should be undertaken during the active season for bat surveys. Guidance from Natural England and BCT advise that **2 to 3 surveys should be undertaken during the active season for bats where the optimal period is considered to be 'between May and**

August⁵. Guidance of other types of bat survey can be found via BCT's guidance on bat surveys⁵.

This additional survey effort will also be required to provide adequate evidence to obtain a licence from Natural England for the proposed works, if required.

It is of note that further surveys may be required to have confidence in a negative survey result. An experienced bat consultant will be able to advise further what is recommended following a visit to the site.

3) Bat Survey Reports

If bats are found to be present, the surveys should determine:

- The species of bat present and population size (i.e. the type of roost present e.g. maternity, daytime summer roost used by males, hibernation roost etc);
- How bats and their roosts are using the building or structure and **how they will be affected by the development (if they are) including if there is a risk of committing a criminal offence**; and
- How any impacts to the roost identified will be mitigated or compensated for so that no net loss is caused to the bat population, hence the favourable conservation status of the species is maintained (as per the third test).

Where the presence of bats is confirmed, a Habitat Regulation Licence may be needed in order for the works to take place. Recent guidance from Natural England **highlights that the consultant ecologist should advise the applicant as to if an offence is reasonably likely to occur from the works and hence if a licence from Natural England should be applied for**⁶. It should be noted that if a criminal offence could be avoided using measures that show a high degree of certainty for success then the application could be determined via planning conditions and obligations. If it is not possible all three tests must be satisfied before the planning application is determined.⁷

Natural England has introduced new measures for the EPS licensing process. Previously, licences could only be sought once full planning consent had been given. The new system means that full consent may not be required in all cases. However, adequate information and evidence of any relevant consents will be required as part of the Reasoned Statement section of a licence application.

What justification is there for requesting this information?

The following pieces of legislation can be used to request additional information in relation to planning applications:

- 1) ***section 63(3) of the Town and Country Planning Act 1990:***
 - a. ***"The LPA may require that an application for planning permission must include:***
 - i. ***Such particulars as they think necessary***
 - ii. ***Such evidence in support of anything or relating to the application as they think necessary***

⁵Natural England's Standing Advice:
http://www.naturalengland.org.uk/regions/east_of_england/ourwork/standingadvice/protectedspecies/bats.aspx ; Bat Conservation trust's Guidance:
http://www.bats.org.uk/download_info.php?id=379&file=BCT_Survey_Guidelines_web_final_version.pdf&referer=http%3A%2F%2Fwww.google.co.uk%2Fsearch%3Fhl%3Den%26source%3Dhp%26q%3DBat%2BSurvey%2BGuidelines%26meta%3D%26aq%3Df%26oq%3D

⁶ Natural England (2009). European Protected Species: Mitigation Licensing – how to get a licence p. 10

- 2) *Article 3 of the General Development Procedure Order 1995: further details may be required prior to determining an outline permission (must be exercised within 1 month of receipt of the application).⁷*

What about other protected species and habitats?

Bats are only one of a suite of species and habitats that are protected or considered important for nature conservation that could be affected by planning proposals. Further advice on other species or habitats can be provided by HBRC and through consulting Natural England's Standing Advice. Technical Advice Notes on other species that are considered particularly likely to be impacted by planning applications in Hertfordshire will be produced in due course. It is however of particular note that birds are often known to nest within structures that could also support bats. Nesting birds are also protected under the Wildlife and Countryside Act 1981 (as amended) and hence it is likely that nesting birds may also need to be considered.

References and Useful Sources of Further Information

- Bat Conservation Trust (BCT) (2007). Bat Surveys Good Practice Guidelines. Available to download
<http://www.bats.org.uk/publications.php?keyword=surveys&month=&year=2007&category=&search=Search>
- Bat Conservation Trust (BCT) (2007). Bats, Development & Planning in England.
- DLA Piper (2009). *LPAs and Protected Species – article available via*
<http://www.planningofficers.org.uk/media/www/documents/LPAProtectedSpeciesDuty.pdf>
- DLA Piper (2010). *Hertfordshire County Council & Districts: LPAs and Protected Species – discharging your legal duties*. Training event provided by Penny Simpson of DLA Piper on 6th October 2010 at County Hall, Hertford.
- English Nature (2004). *Bat Mitigation Guidelines* available via
<http://naturalengland.etraderstores.com/NaturalEnglandShop/IN136>
- Fry, M (2008). *A Manual of Nature Conservation Law*. NCWG Publishing Limited
- Natural England (2009) *Standing Advice for Protected Species* (for Natural England Eastern Region). Available via. http://www.naturalengland.org.uk/Images/eoe-flowchart_tcm6-12374.pdf; http://www.naturalengland.org.uk/Images/eoe-checklist_tcm6-12373.pdf; http://www.naturalengland.org.uk/regions/east_of_england/ourwork/standingadvice/protectedspecies/bats.aspx
- Natural England (2009). *European Protected Species: Mitigation Licensing – how to get a licence*
- Natural England (2009). *European Protected Species and the Planning Process*. Accessible via http://www.naturalengland.org.uk/Images/WoolleyVsCheshireEastBC_tcm6-12832.pdf
- Planning Policy Statement 9 (PPS 9): Biodiversity and Geological Conservation
- Office of the Deputy Prime Minister (ODPM) (2005). Government Circular: Biodiversity and Geological Conservation- Statutory Obligations and their impacts in the planning system.
- ODPM (2006). Planning for Biodiversity and Geological Conservation – A Guide to Good Practice
- R (on the application of Simon Woolley) v Cheshire East Borough Council 2009 EWHC1227.

Acknowledgements

Matt Dodds of Aylesbury Vale District Council

⁷ DLA Piper (2010). Hertfordshire County Council & Districts: LPAs and Protected Species – discharging your legal duties, training day on 6th October 2010 at County Hall, Hertford.