

BAT SURVEYS FOR DEVELOPMENT PROPOSALS IN NORTH-EAST ENGLAND

**SUPPLEMENTARY GUIDANCE NOTE: SURVEYING FOR BATS
FOLLOWING THE PUBLICATION OF ENGLISH NATURE'S
NATIONAL BAT MITIGATION GUIDELINES (January 2004)
Issued by English Nature, Northumbria Team March 2004**

1. INTRODUCTION

This guidance is for surveys where bats may be affected by 'development' requiring planning permission, or works to listed buildings or maintenance works to structures such as bridges or monuments that do not require planning permission. In these cases thorough survey and reporting are required to ensure compliance with the Habitats Regulations 1994, which strictly protects all bat species and seeks to ensure maintenance of a favourable conservation status. The guidance will be of particular interest to consultant ecologists, local planning authorities, Defra, English Heritage, developers, land agents and architects and supplements the extensive guidance in English Nature's national *Bat Mitigation Guidelines* (BMG) published in January 2004)

<http://www.english-nature.org.uk/pubs/publication/PDF/Batmitigationguide2.pdf>. Relevant sections of the national BMG are cross referenced (*italicised in brackets*) throughout this document to help users access the appropriate parts of the national guidance. Separate guidance for Bat Workers undertaking bat surveys in relation to works not classed as 'development' in domestic dwellings (e.g. roof, repairs, timber treatment in attics, etc) is already provided by the Bat Workers' Manual (JNCC 1999).¹

Although bats occur throughout the North East, their numbers have declined dramatically over recent years. It is as a result of such declines that all 16 species of bats found in Britain are protected by both UK and European legislation. In particular, there is a high risk that certain old rural buildings and structures such as listed buildings, monuments, bridges and traditional farm buildings will support roosting bats for at least parts of the year. These can be affected by redevelopment, restoration works or routine maintenance that results in disturbance or the loss of cracks, crevices and other potential roost sites.

Guidelines to the factors to be considered where development may affect European protected species surveys are available from the Habitats Regulations, PPG 9, Wildlife and Countryside Act 1981, Countryside and Rights of Way Act 2000, the Defra website and in publications such as the great crested newt and bat mitigation guidelines which indicate the level of survey and assessment required for European protected species. Planning officers and Ecological Consultants should be familiar with these documents.

¹ Bat workers with a conservation licence provide advice on English Nature's behalf where bats may be affected by works within a dwelling such as roof repairs or timber treatment. Neither the licence nor English Nature's insurance applies to development related work, which requires a scientific licence. Bat workers undertaking such consultancy work are not representing English Nature, should produce reports that address any derogation from the Habitat regs, and are recommended to provide their own Insurance cover in line with the Bat Conservation Trust guidelines (*Guidelines for Bat Groups on Contract Work 2000*).

Where developments requiring planning permission may affect protected species such as bats it is essential that appropriate surveys are undertaken, at the right time of year, and submitted to meet the requirements of para 47 of PPG9:

The presence of a protected species is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in harm to the protected species or its habitat.

If a planning application does not contain sufficient survey information to reliably assess impacts on protected species then the local authority should refuse or defer the application on these grounds alone (*BMG Section 6.4*). Alternatively, if a proposed development does not require planning permission but is considered likely to impact upon bats, it will require appropriate survey, impact assessment and mitigation information to meet the requirements of Defra licencing for derogation from the Habitats Regulations 1994

2. GENERAL SCREENING CRITERIA FOR BAT SURVEYS

A bat survey should be undertaken only if features likely to support bats may be impacted upon by the proposed works. The following criteria may be used to screen those applications for which it is advisable that bat surveys should be undertaken:

- Presence of **built structures** which appear to have a high probability of use by bats:-
 - Properties older than 1939, with multiple roofs within 200m of woodland or water.
 - Properties older than 1914 within 200m of woodland or water.
 - Listed buildings or monuments.
 - Traditional ranges of farm buildings.

The risk of bat roosts being present will be higher where structures have:

- Pre-20th Century construction.
- A lowland rural setting.
- Woodland, mature trees, species-rich grassland and/or water nearby.
- Large dimension roof timbers with cracks, joints and holes.
- Numerous crevices in stonework and structures.
- Uneven roof covering with gaps, though not too draughty.
- Hanging tiles or roof cladding, especially on south-facing walls.
- Roof warmed by the sun.
- Disused or little used; largely undisturbed.

The risk of bat roosts being present will be lower where structures have:

- Urban setting with little greenspace.
- Heavy disturbance.
- Small, cluttered roof void (particularly for brown long-eared).
- Modern construction with few gaps or crevices that bats can fly or crawl through (though pipistrelles may still be present).
- Prefabricated of steel or sheet materials
- Active industrial premises

Please note that the above ‘trigger list’ provides generic screening criteria only (*BMG Section 5.2*) and there are exceptions to consider. For example, pipistrelle breeding

roost sites are often found in modern housing estates and therefore the absence of bats from such locations should not always be assumed.

- Presence of **trees** with a high probability of use by bats. These include ancient woodland or parkland, large trees with complex growth form and trees with cavities, visible damage and loose bark (Coniferous plantation and young trees of simple form are less likely to support roosts). Except in the simplest of cases, it can be extremely difficult to be certain of the presence or absence of bat roosts in trees meeting the above criteria.
- Recent or historical **records of bats** on the site, or bat roosts in the general area.
- Presence of **underground structures** such as abandoned mines, tunnels, kilns, cellars or fortifications which provide appropriate hibernation conditions.
- Where a development has a **significant habitat impact** on woods, hedgerows with field trees, parkland, diverse grassland and wetland habitats potential impacts on tree roosts, foraging habitats and flight-lines should be considered.

3. METHODS

3.1 INITIAL BAT INSPECTION & RISK ASSESSMENT

This process is likely to commence with an initial consultation with the local bat group or other sources for records, habitat assessment of the setting and thorough on-site inspection and risk assessment to assess the likely presence or absence of bat roosts. Sufficient work should be undertaken (in accordance with the methods outlined in Section 3.3) for the initial inspection to provide a robust assessment considering the type and number of buildings/structures/trees, their location and condition, adjacent habitats, and the number of dusk or dawn inspections required to cover all potential roost access points. Depending upon the site-specific circumstances the consultant must decide upon the appropriate number of personnel and effort required to provide a suitably robust assessment.

Time implications and costs may vary between consultants and the developer must think carefully about the level of information likely to be required according to the particular development when choosing a consultant. For example, if the consultant generates insufficient information at this stage it may result in delays and further expense at planning application or construction stages if further detailed information is required to demonstrate that bats are not likely to be recklessly disturbed or harmed (see also Section 6.1 & 6.2).

3.2 DETAILED BAT SPECIES\POPULATION SURVEYS

Where the initial bat inspection and risk assessment indicates that bat roosts are present, or that there is a moderate to high risk of bats likely to be present, more detailed surveys of sufficient detail for a Defra licence application are recommended (in accordance with the methods outlined in Section 3.3) at an appropriate time of year. English Nature can provide generic advice regarding such surveys but it is ultimately for the consultant to decide upon the appropriate level of survey work required on a site-specific basis, and to decide when a Defra licence is required for the works to proceed (*BMG Section 5.2*).

3.3 GENERAL METHODS FOR BAT INSPECTIONS AND SURVEYS

Trees

Except in the simplest cases, it is extremely difficult to inspect trees and be certain that any bat roosts have been detected. A careful inspection using high-quality binoculars may pinpoint potential or actual roost sites and some species may be quite noisy at times during the summer. Endoscopes may also be useful for inspecting likely cavities given access to the canopy. Confirmation of the presence of bats may be attempted by using bat detectors for an emergence or dawn swarming inspection at an appropriate time of the year (see section 4). Emergence or dawn swarming inspections should be undertaken during mild weather when bats are likely to be active. Often a risk assessment may be required where presence or absence of roosts can not be reliably determined, with retention of high risk trees wherever possible and checking inspections before felling.

Built Structures

The most commonly used survey is close inspection of sites or structures for bats or evidence of bats. A typical approach to surveying buildings would include the following elements:

- Allow sufficient daylight hours to permit a **thorough inspection** of each structure
- Ensure that all parts of the structure can be inspected. This may require prior arrangement with owners, occupiers, caretakers etc. Access and inspection equipment, such as ladders, binoculars, bat detector, mirror and a good torch, will be required.
- Carry out a risk analysis and ensure safe working methods are adopted. Identify methods to safely carry out a thorough survey.
- Ask appropriate people (owners, neighbours etc.) whether there is any history of bats using the site. Some information may be misleading, bats are often overlooked, but important clues on seasonal use can be obtained.
- Carry out an external inspection of the structure looking for bat droppings on the ground or stuck to walls, suitable entry and exit points around eaves, soffits, flashing under tiles etc, polishing, scratching and staining from bat access.
- Carry out an internal inspection of the structure. This should focus on areas which provide appropriate environmental conditions for bats. This may include warm darker areas, joints and crevices in wood, ridge beams and hips as well as cooler crevices in stone work or subterranean areas suitable for torpor or hibernation. Listen for bats; be aware of the characteristic smell of a bat roost; examine floors, walls and structural elements for droppings, urine spots; check for other signs of bat use, such as corpses or skeletons, oily marks (from fur) and scratches around possible access points and roost areas, lack of cobwebs along beams, in masonry joints and gable ends, feeding remains such as moth wings or other insect parts.
- Undertake dusk/dawn emergence/swarming surveys with sufficient observation points to cover all the buildings and sufficient repeat visits to generate reliable data on seasonal use.
- Record and report any signs of bats found on a plan of the structure and if useful collect samples of droppings, bones or feeding remains for record purposes and comparison with a reference collection.

Habitats

Recent radio-tracking and bat detector studies have demonstrated the importance of linear features in the landscape to many species of bats. Features such as hedges, tree-lines and waterways are used to navigate between roosts and feeding sites and the continuity of such features is important. Presence and importance of such features and foraging habitats near roosts should be considered and assessed through habitat mapping and activity surveys.

4. TIMING AND INTENSITY OF SURVEYS

Trees

The best time to carry out inspections for suitable cavities is between November and April, when the trunk and branches are not obscured by leaves. If inspection suggests that the tree has suitable cavities or roost sites, a bat detector survey at dusk or dawn during the summer may produce evidence of bats, though the nomadic nature of most tree-dwelling species means that the success rate is very low. It can also be difficult to pinpoint exactly which tree a bat emerged from. A dawn survey is more likely to be productive than a dusk one as swarming bats returning to the roost are much more visible than those leaving the roost. Climbing trees to look for roosts, using appropriate equipment and safety precautions, is a possible approach for small numbers of trees with a high probability of bats, but the results of radio-tracking studies of some species suggest that bats may use cracks or crevices that are far from obvious.

Built Structures

Although inspection for field signs in dry buildings can demonstrate roost presence throughout most of the year, particularly for large roosts, interpreting the results can be particularly difficult during the winter when bats are unlikely to be present in large numbers and therefore further work at other times of the year may be required. It can be extremely difficult to reliably demonstrate absence of bat roosts in the winter (*BMG Section 5.6.6*). Emergence or dawn swarming surveys should be undertaken during the active period in fine weather when bats are likely to be flying to check for missed roost sites.

Roosts of species which habitually enter roof voids are probably the easiest to detect as the droppings will normally be readily visible. Roosts of crevice-dwelling species may require careful searching, dusk/dawn survey and, in some situations, the opening up of otherwise inaccessible areas. As this may cause disturbance the surveyor must be licenced for such work and any roosts preserved intact.

Roosts used by a small number of bats can be particularly difficult to detect and may require extensive searching backed up (in summer) by bat detector surveys or emergence/dawn counts (*BMG Section 5.7.1.1*). Dawn survey can also be of value in determining whether bats are roosting in buildings or just feeding within them.

If surveys are more than a year old, it is likely that checking surveys will be required before development commences for sites where roosts are likely to be present.

The time spent searching will vary greatly with the situation, but as a guide the roof areas (void, gables and soffits) of a normal-sized unexceptional domestic property could probably be searched thoroughly in 1-2 person-hours whereas a large building complex such as a hospital or stately home is likely to take more than 1 person-day and may take several days if there are many buildings.

If surveys of open or damp structures, such as barns, are undertaken during the winter, there is a significant chance that signs of bats will have been removed by weathering and extra care will be required to detect bat usage. If there is doubt as to whether a structure is used by bats, further visits during the summer or autumn should be undertaken (*BMG Section 5.7.1.1*) for high/moderate risk sites to demonstrate that roosts are absent, or mitigation provided based on a worse-case scenario.

In addition to recording field signs, dawn and dusk surveys can be very valuable to detect roosts that may otherwise be overlooked. The number of survey nights required can vary greatly: the presence of a large breeding roost may be demonstrated in half an hour, but smaller and seasonal roosts may require much greater effort to detect, whilst surveys to demonstrate that bats are definitely not present may require much more effort than is typically accepted to detect their presence. The following typical minimum requirements are identified for the number of survey nights for a range of site types, though circumstances can vary considerably. Surveys should be spread through the active season whenever practicable, with the number of field surveyors on each night being appropriate for the size, conservation value and complexity of the site.

Risk Assessment	High	Moderate	Low
Single small building	3	2	1
Large country house or range of traditional farm buildings	4	3	2
Victorian Hospital complex	5	4	3

The risk assessment for the presence of bat roosts should consider the type, age and design of structures, potential roost sites, surrounding habitats and ease of thorough survey.

5. RECOMMENDED CONTENTS OF BAT SURVEY REPORTS

It has been English Nature’s practice for some time to expect Defra levels of survey and mitigation information at planning application stage for developments affecting European protected species (all bats species, great crested newt, otter etc), as the planning decision is the start of the derogation process from the strict protection provided by the Habitats Regulations. Over recent months the importance of this has been highlighted by Defra’s revised procedures where they request written evidence of how the planning committee considered derogation issues before granting permission.

Bat survey reports must contain enough information for the planning authority and English Nature’s Conservation Officer to reliably assess the risks to protected species and the development impacts so that appropriate advice can be provided (*BMG Section 3.2*). Where roosts are present this must include details of impacts and

mitigation, which may well require greater levels of field survey, analysis and architectural design (including details of the condition of the building) than was provided at this stage in the past. If for old projects detailed surveys cannot or have not been undertaken, it may be practicable to propose acceptable construction timing and mitigation works that minimise the risk of harming any bats that may be present, based on a worse case scenario, and so avoid unreasonable delays. A planning condition, ensuring that appropriate mitigation is implemented, must be attached in such cases. Where the absence of roosting bats has been reliably demonstrated through thorough inspection or survey many of the sections of the report may be omitted or very brief, but sufficient detail will be required to support the conclusion that roosts are absent.

To help ensure that standard levels of information are provided for bat reports, English Nature's Northumbria Team suggests that the report structure is based on that included with the Defra licence application form. This format can be used for commissioning or writing any bat reports to be used to support any works affecting or having a high risk of affecting bat roosts other than minor work in domestic dwellings. It is important to provide clear plans and diagrams showing the current situation and what is proposed (*BMG Section 10.1*). Defra forms are updated periodically and it is advised that users check on the Defra website that the form they are using is the current version (January 2004 version included overleaf as an example).

Recommended bat survey\mitigation plan structure

A Contents

B Introduction

- B1 Background to development [location, ownership, type of and need for the proposed development, planning history, land allocation in Local Plan (or equivalent), etc]
- B2 Consideration of alternative solutions [e.g. consideration of other sites, or site layouts, and why they have been discounted]

C Survey and site assessment

- C1 Pre-existing information on bats at survey site
- C2 Status of the species in the local/regional area
- C3 Objective(s) of survey
- C4 Survey area
- C5 Habitat description [based on daytime visit(s); to include the roost and surrounding area for context]
- C6 Field survey
 - C6.1 Methods
 - C6.2 Timing
 - C6.3 Weather conditions
 - C6.4 Personnel
- C7 Results [to include raw data, any processed or aggregated data, and negative results as appropriate]
- C8 Interpretation and evaluation
 - C8.1 Presence/absence
 - C8.2 Population assessment
 - C8.3 Site status assessment
 - C8.4 Constraints [factors influencing survey results]
- C9 Map(s) of survey area [with habitat description, marking structures or features examined; summary of survey results marked on map if appropriate. Map should show area on an Ordnance Survey (or similar) base-map]
- C10 Cross-referenced photographs of key features [if appropriate]

D Impact assessment

- D1 Pre- and mid-development impacts
- D2 Long-term impacts [roost or habitat loss, modification, fragmentation, etc]
- D3 Post-development interference impacts [disturbance etc]
- D4 Other impacts
- D5 Summary of impacts at the site level
- D6 Summary of impacts in a wider context
- D7 Plans or maps to show impacts [clear indication of which areas would be affected and how]

E Mitigation and compensation

- E1 Mitigation strategy [overview of how the impacts will be addressed in order to ensure no detriment to the maintenance of the population at a favourable conservation status]
- E2 Roost creation, restoration and/or enhancement [as appropriate]
 - E2.1 Integration with the development

- E2.2 Integration with other species/habitat requirements
 - E3 Exclusion
 - E3.1 Timing and methods
 - E4 Post-development site safeguard
 - E4.1 Roost management and maintenance [either set out details here, or if complex then give outline here and give details as an annexed stand-alone plan]
 - E4.2 Population monitoring
 - E4.3 Mechanism for ensuring delivery [eg section 106 Agreement; include who will undertake the work, and reporting details]
 - E5 Work schedule [phasing diagram to include all works associated within section E, and to indicate construction works timing]
 - E6 Map to show location of new roost in relation to development site
 - E7 Plan to show exclusion works
 - E8 Map to show habitat creation, restoration and/or enhancement
 - E9 Map to show post development management [if appropriate]
 - E10 Diagram to show exclusion apparatus [only required if non-standard techniques are proposed]
- F Summary
- F1 Summary of development and mitigation [NB to include overall consideration of the three main licensing criteria: effect on conservation status, purpose, and alternatives; see 2.2 Exceptions and licensing for details]
- G References
- G1 Management and maintenance plan
 - G2 Section 106 Agreement / planning permission / other planning documents as appropriate
 - G3 Pre-existing survey report(s)
- H Annexes

6. SUMMARY OF IMPORTANT PRINCIPLES

Adequacy of survey reports and mitigation proposals will be assessed against the Habitats Regulations provision of strict protection for all bat species and the requirement to maintain a favourable conservation status. **Current English Nature advice is that there should be no net loss in local bat population status. When it is unavoidable that a development will affect a bat population, the mitigation should aim to maintain a population of equivalent status in the area (BMG Section 2.2).**

The combination of level of survey and working methodology for demolition/conversion/construction must be sufficient to minimise the risk of harming bats. If survey results are unclear, a higher level of mitigation is likely to be required to minimise the risk of harm. Reports should clearly address these considerations and be based on the precautionary principle where our knowledge of bat ecology is insufficient for confident conclusions. If the proposals affect a maternity roost, swarming/mating site or large hibernation site there is clearly a higher risk of adversely affecting the conservation status of bats in the area. More detailed survey is likely to be required and a higher level of mitigation and monitoring provided.

6.1 IMPACTS UPON BATS HIGHLY UNLIKELY

It is the consultant's task to advise the developer on the risk of disturbance or damage to a bat roost and the appropriate way forward. **If, after appropriate inspection of the site and the proposals, the consultant considers that disturbance to bats or damage or destruction of roosts is highly unlikely then it is recommended that a method statement detailing the work to be carried out (BMG Section 8.3) and any working practices or precautions necessary to avoid breaking the law should be provided to the client, designer and contractors. In such cases it is not strictly necessary to consult English Nature or apply for a Defra license as, in the consultant's opinion, no offence is likely to be committed in relation to protected species (BMG Section 2.2.1).** It should be noted that a consultant's poor method statement or the failure of the client, or anyone working under the client's direction, to follow an acceptable method statement may result in a breach of the law and leave the client or others open to prosecution. **If there is any doubt about the likely presence of bats or the adequacy of any method statement it is clearly advisable for the consultant, developer or planning authority to seek the advice of English Nature.**

In certain cases English Nature may consider that bats are reasonably likely to be present at some stage of the year (based on the screening criteria listed in Section 2 and the principles listed in Section 6.2) and further survey work by appropriately experienced bat consultants will be advised (BMG Section 5.2 & 6.4). It is then up to the consultant, developer or planning authority to accept or reject this advice and proceed accordingly, taking into account the legal protection of these species. **It is important to note that any list provided by English Nature showing consultants undertaking bat survey work does not indicate English Nature approval, but is simply a list of people and organisations that have indicated their willingness to undertake such work.**

6.2 IMPACTS UPON BATS LIKELY

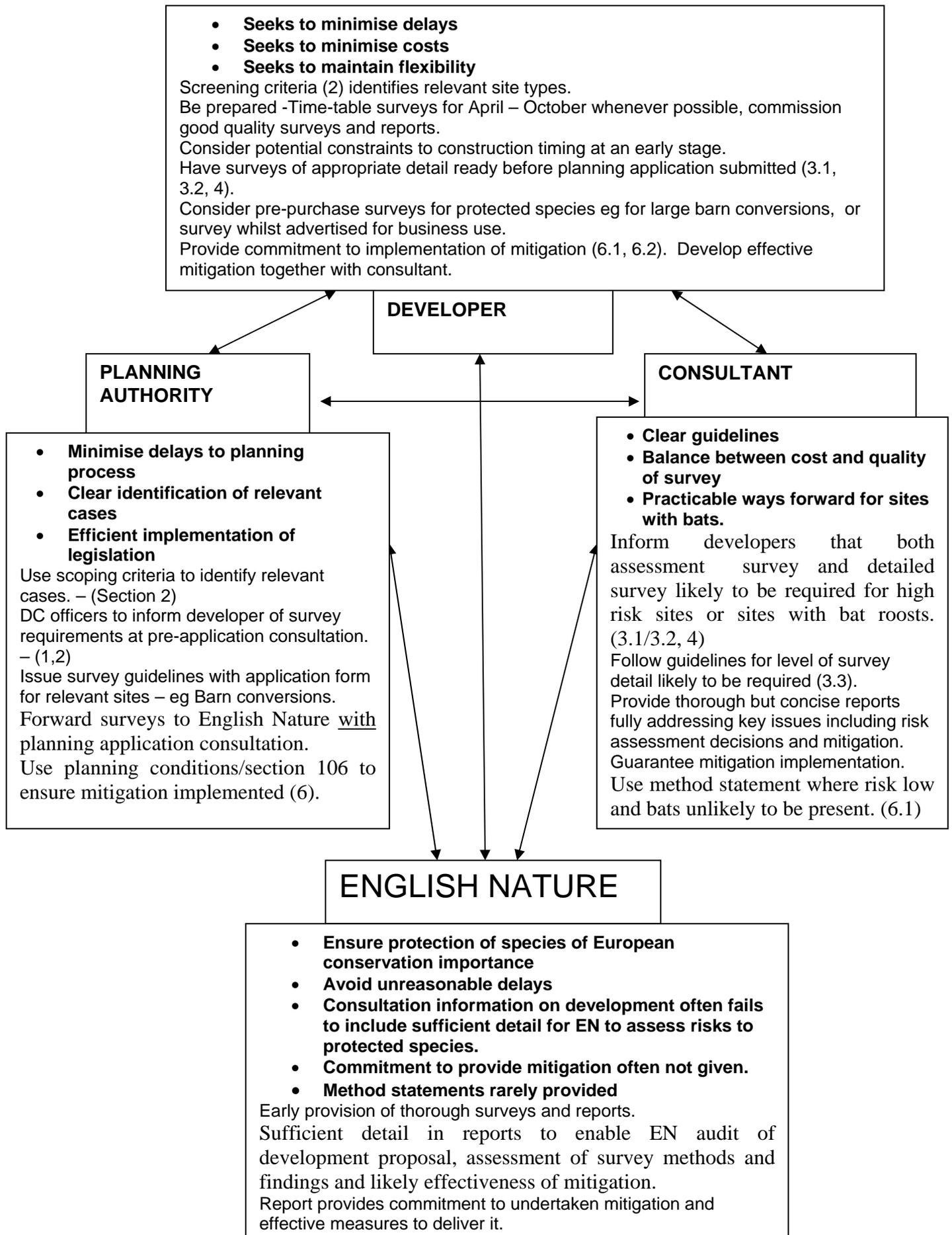
If the consultant, client or planning authority considers that the development may result in disturbance to a bat roost then it is necessary to consult with English Nature for formal advice and a Defra licence will be required. **The following principles will be used by English Nature's Northumbria Team to assess bat survey reports that are submitted to local authorities for comment**

- If a report based on an initial single night's inspection records one or two bats emerging from **moderate or high risk sites** or records definitive field signs within the structure, we will: (i) consider that there is a clear need for a detailed risk assessment and mitigation based on the precautionary principle, and/or (ii) advise additional survey during the active period to accurately assess the population (*BMG Section 5.7.2*). Reports for such sites should contain sufficient detail to assess derogation from the Habitats Regulations 1994.
- If English Nature considers that the work provided to support a planning application is inadequate, we may advise the local planning authority that there is insufficient information to enable them to determine the application (*BMG Section 5.2*). **Where there is a moderate or high risk that bats may be present at some time through the year, then further survey and assessment at appropriate times of year may often be required to reliably demonstrate absence or provide a reliable indication of population numbers, species, impacts and mitigation and to consider justification for derogation from the Habitats Regulations.** Following a recent legal case in Cornwall, English Nature advises that such information must be provided to the local planning authority prior to its determination of an application rather than relying on planning conditions to implement further surveys after granting of planning permission. This may mean that some planning applications will have to be deferred or delayed until the necessary information (based upon surveys using appropriate methods at appropriate times of year) has been provided by the applicant (*BMG Section 6.1*). **Only in certain limited cases, notably where there is good evidence to indicate that the site is of very low importance and there will be negligible impacts will it be acceptable to submit mitigation plans based on little or no survey** (*BMG Section 7.2, p41*).
- If several nights' inspection, preferably through the active period and following the principles outlined previously, indicate a **consistently low population of common species, or no roosting bats**, then this will be taken as an accurate assessment and more limited mitigation will be required (*BMG Section 7.2*).

- Winter bat survey work often cannot accurately report summer bat usage for features such as castles, monuments, barns and trees where field signs are likely to be lost due to weathering or damp conditions: dry house attics are much more likely to preserve droppings or feeding remains as signs of seasonal use. As a result, **winter surveys may not be accepted as reliable evidence for the absence of bats in locations subject to weathering or damp conditions with a high risk of supporting bat roosts at some stage through the year and repeat survey during the active season may be requested** (*BMG Section 5.6.6*). Most ‘developments’ are planned well in advance of a proposed start date, so there is ample time for an informed developer to ensure that bat surveys are undertaken at the optimum time of year.
- For **small-scale or low-risk developments a winter survey may be acceptable** given a detailed risk assessment and guaranteed mitigation based on the precautionary principle (*BMG Section 5.7.2*).
- English Nature has to advise that any bat roost is protected from disturbance by national and European legislation. **If development would result in an illegal operation, then a Defra licence is required** (*BMG Section 2.2*). Licensing can help to ensure that mitigation is implemented.
- Bat reports in support of a planning application should **include details of targeted mitigation that will be provided**, not a list of advice to the developer (e.g. Only bat-friendly timber treatments will be used – rather than – Only bat-friendly timber treatments should be used). In addition, a mechanism for guaranteeing the implementation of mitigation should be identified. Mitigation should aim to ensure that the population will be free from further disturbance, and is subject to adequate management, maintenance and monitoring. Any proposals should be confirmed, ideally by a legal agreement or planning obligation, and not left as open-ended options (*BMG Section 7.2, p40*). In many cases the risk of harming bats can be minimised by the appropriate timing of works, good working practice with the consultant checking key stages, and mitigation through roost retention, creation and habitat enhancement. **Where thorough survey has been undertaken and appropriate mitigation is ensured English Nature is most unlikely to object to an application.**

APPENDIX 1: ROLES OF KEY ORGANISATIONS IN DEVELOPMENTS LIKELY TO AFFECT BATS

(Figures in brackets refer to relevant sections of bat survey guidelines)



APPENDIX 2. THE IMPLICATIONS OF THE ‘CORNWALL CASE’ FOR DEVELOPMENTS LIKELY TO IMPACT UPON BATS

Under the Habitat Regulations (Reg 3 (4)) all competent authorities in the exercise of their functions must have regard to the requirements of the Habitats Directive. Therefore local authorities considering a planning application affecting a European protected species are required to apply the requirements of Article 12 and Article 16 before issuing permission. This can only be done with adequate survey effort and ecological information. The local authority could be held negligent in fulfilling its duties if it does not have regard for these requirements. This could trigger a judicial review and a planning permission could be quashed opening the LPA to litigation from the developer. Consequently a LPA can refuse permission if adequate information on protected species is not forthcoming from an applicant because the LPA will be unable to assess impacts on protected species and thus meet the requirements of PPG9 or the Habitats Directive. An application can be withdrawn and resubmitted with the appropriate information.

A recent case in Cornwall (**R v Cornwall CC ex parte Hardy**) confirms this approach, where a high court ruling quashed a planning permission that potentially affected European protected species (bats) because the LPA had not fully considered the ecological information before granting planning permission. The case is an important decision, not least because it is a legal judgement, not just an interpretation by an Inspector or Secretary of State. It confirms that **full environmental information must be submitted and considered prior to permission being granted**. Where there are grounds to believe that a protected species may be present then **it is not acceptable to leave required surveys, impact assessments and mitigation measures to be dealt with by way of a planning condition to be implemented after granting of planning permission**. This case was reported in the Journal of Planning and Environmental Law, July 2001, p.786.

APPENDIX 3. EXAMPLE OF CONSULTANT'S METHOD STATEMENT TO ACCOMPANY A DEVELOPMENT WHERE A DEFRA LICENCE IS NOT CONSIDERED NECESSARY

This statement should be copied to the site owner, designer, Clerk of works, and to those contractors whose work may affect bat roosts including those involved in demolition, timber treatment, roofing and building works .

A species with full legal protection

All bat species are protected under the Wildlife and Countryside Act 1981 (as amended), the Countryside and Rights of Way Act 2000 and the Conservation (Natural Habitats &C) Regulations 1994. As a result it is illegal to damage or disturb any bat roost, whether occupied or not, or harm a bat. **Prosecution could result in imprisonment, fines of £5,000 per animal affected and confiscation of vehicles and equipment used.** In order to minimise the risk of breaking the law it is essential to work with care to avoid harming bats, to be aware of the procedures to be followed if bats are found during works, and to commission surveys and expert advice as required to minimise the risk of reckless harm to bats.

Finding roosts

Bats and their roosts can be very difficult to detect. A pipistrelle bat is small enough to fit into a match box and roosts in cracks just 14-20mm wide. Common locations for roosts within buildings include beneath the slates or tiles, in crevices between stonework, particularly where these extend to the rubble fill or wall cavity, in mortice joints, around window frames and behind barge boards.

Working approach

For this site survey has indicated that there is some risk that bats may be present at some times of the year. To minimise the risk of harm, the procedures to be followed include:

- Remove roof coverings by hand during March-May or September-October.
- Avoid starting works in the winter when hibernating bats may be present.
- Avoid repointing during the winter period to prevent bats being entombed within walls. Only repoint crevices where the full depth of the crevice can be seen so that bats are known to be absent.
- Only use bat-friendly timber treatments and avoid treatment when bats may be present.
- Retain some crevices, between the masonry at the eaves, that are 14-25mm in width at the narrowest point and provide access to the cavity wall. A roll of newspaper can be used to allow retention of a narrow downward pointing access gap whilst allowing the majority to be pointed up.
- Incorporate any agreed design details to allow continued bat access.

If bats are found during works contact English Nature immediately (01661 845500) and the ecological consultant for this project (give contact details here).

If it is necessary to remove a bat to avoid it being harmed, gloves should be worn. It should be carefully caught in a cardboard box and kept in the dark in a quiet place until it can be released at dusk near to where it was found, or moved to an undisturbed part of the building, with outside access, and placed in a location safe from predators.

APPENDIX 4. EXAMPLE MATRIX TO SUMMARISE BAT ROOST RISK ASSESSMENT AND PREDICTED IMPACTS

Number of site visits		Surveyor		Site Name/grid reference	
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	Roost Risk Assessment					Numbers			Confidence ² of popn'size	Species ³	ID ⁴ method
	Present	Likely	Possible	Unlikely	Absent	10 +	4-10	1-4			
Maternity roost											
Hibernation site											
Mating site											
Gathering roost											
Summer roost											
Cool roost											
Swarming site											
Night roost											
Commuting route											
Foraging site											

	Predicted Impacts				Net impact without mitigation			
	Disturbance	Roost loss	Roost modification	Fragmentation and isolation	Post-development interference impacts	No impact on bats	Risk of disturbance to bats or roost	Risk of net reduction to local population
Maternity roost								
Hibernation site								
Mating site								
Gathering roost								
Summer roost								
Cool roost								
Swarming site								
Night roost								
Commuting route								
Foraging site								

² High, low or worse case

³ Use format to indicate confidence of identification, eg Myotis sp/Pipistrellus?pipistrellus/Pipistrellus pygmaeus

⁴ In hand, heterodyne, time expansion/frequency division, droppings, feeding signs, behaviour etc

