



Preliminary Roost Assessment

12 Ash Road North, Wrexham Industrial Estate, North Wales, LL13 9JT

Proserve Logistics Limited

Status	Issue	Name	Date
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Industry Guidelines and Standards

This report has been written with due consideration to:

- Chartered Institute of Ecology and Environmental Management (2017). Guidelines for Preliminary Ecological Appraisal. 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2018). Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. Version 1.1. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2017). Guidelines on Ecological Report Writing. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2020). Guidelines for Accessing, Using and Sharing Biodiversity Data in the UK. 2nd Edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- British Standard 42020 (2013). Biodiversity – Code of Practice for Planning and Development.
- British Standard 8683:2021 (2021). Process for Designing and Implementing Biodiversity Net Gain.

Proportionality

The work involved in preparing and implementing all ecological surveys, impact assessments and measures for avoidance, mitigation, compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development. Consequently, the decision-maker should only request supporting information and conservation measures that are relevant, necessary and material to the application in question. Similarly, the decision-maker and their consultees should ensure that any comments and advice made over an application are also proportionate.

This approach is enshrined in Government planning guidance, for example, paragraph 174 of the National Planning Policy Framework for England.

The desk studies and field surveys undertaken to provide a Preliminary Ecological Appraisal (PEA) might in some cases be all that is necessary.

(BS 42020, 2013)

Executive Summary

Arbtech Consulting Limited was instructed by Proserve Logistics Limited to undertake a Preliminary Roost Assessment (PRA) at 12 Ash Road North, Wrexham Industrial Estate, North Wales, LL13 9JT (hereafter referred to as “the site”). The survey was required to inform a planning application for the extension of the eastern elevation of the existing warehouse building, (hereafter referred to as “the proposed development”).

The following is work you will need to commission to comply with planning policy and legislation. Further information, along with opportunities for biodiversity enhancement, are outlined in Table 5 of this report.

Feature	Survey Results Summary	Impact Assessment	Recommendations
Roosting bats (B1)	B1 has negligible value for roosting bats due to a lack of potential roost features, in line with the Good Practice Guidelines, (Collins, J. (ed) 2023).	Bats are very unlikely to be roosting within this building and as such, there are not anticipated to be any impacts on roosting bats as a result of the extension of this building.	In the unlikely event that a bat or evidence of bats is discovered during the development all work must stop and a bat licensed ecologist contacted for further advice.
Foraging and commuting bats	The woodland to the east could be used by local bat populations for foraging and commuting. These could also be used by bats dispersing from nearby roosts outside of the site.	The proposed development will not result in the removal of any habitats which could be used by foraging or commuting bats. The proposed development will include the use of lighting which could spill on to bat roosting, foraging or commuting habitat and deter bats from using these areas.	A low impact lighting strategy will be adopted within the proposed development. This should be designed in accordance with Guidance Note GN08/23 Bats and Artificial Lighting at Night (Institution of Lighting Professionals, 2023).
Other ecological constraints	No great crested newts were identified during the survey, however, as a non-licence mitigation plan has been implemented to include the addition of a pond to the east of the site, there is a possibility that great crested newts would be within the vicinity of the development area.	The proposed development involves extending the existing building outwards on the eastern elevation. This extension would be installed on top of hardstanding which is suboptimal for great crested newts. However, as the pond has been installed in line with the great crested newt non-licence mitigation plan, great crested newts and other common amphibians could have encroached into the pond and could be within the development area.	Owing to the nature of the proposed development and the low potential for impacts to great crested newts, further surveys are considered to be disproportionate. A precautionary working method will be implemented for common amphibians during construction.

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1.0 Introduction and Context

1.1 Background

Arbtech Consulting Limited was instructed by Proserve Logistics Limited to undertake a Preliminary Roost Assessment (PRA) at 12 Ash Road North, Wrexham Industrial Estate, North Wales, LL13 9JT (hereafter referred to as “the site”). The survey was required to inform a planning application for the extension of the eastern elevation of the existing warehouse building, (hereafter referred to as “the proposed development”). A plan showing the proposed development will be provided in Appendix 1 when available.

The aim of the PRA was to determine the presence or evaluate the likelihood of the presence of roosting bats, and to gain an understanding of how bats could use the site for roosting, foraging or commuting. This has been undertaken with due consideration to the “Bat Surveys for Professional Ecologists —Good Practice Guidelines” publication (Collins, 2023).

A Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) was completed in February 2016, (Clwydian Ecology, 2016), and an updated Preliminary Ecological Appraisal was completed in November 2021, (Arbtech, 2021). The site was deemed suboptimal for protected species and no further surveys were recommended. A low impact lighting strategy was recommended as to avoid the vegetated habitats surrounding the site.

A Great Crested Newt Non-Licence Mitigation Plan was completed in July 2023, (Arbtech, 2023). This included the addition of a pond to the east of the site, and precautionary working methods for sensitive working regarding great crested newt.

1.2 Site Location and Landscape Context

The site is located at National Grid Reference SJ 37562 49993 and has an area of approximately 0.3ha comprising a warehouse with associated parking and access. It is located to the north of the Wrexham Industrial Estate. An area of hardstanding is located to the north and east of the site, with a pond and grassland surrounding the pond to the east, just beyond the site boundary. Woodland extends beyond the eastern boundary of the site. A site location plan is provided in Appendix 2.

1.3 Scope of the Report

This report provides a description of all features suitable for roosting, foraging and commuting bats and evaluates those features in the context of the site and wider environment. It further documents any physical evidence collected or recorded during the site survey that establishes the presence of roosting bats. It provides information

on possible constraints to the proposed development as a result of bats and summarises the requirements for any further surveys to inform subsequent mitigation proposals, achieve planning or other statutory consent and to comply with wildlife legislation. To achieve this, the following steps have been taken:

- A desk study has been carried out.
- A field survey has been undertaken, including an inspection of built structures, to determine the presence or the suitability of any features which bats could use for roosting and to assess the suitability of the site's bat foraging and commuting habitat.
- An outline of potential impacts on any confirmed or unidentified roosts has been provided, based on the proposed development.
- Recommendations for further surveys and mitigation have been made, along with advice on the requirements for a European Protected Species Licence (EPSL) application if appropriate.
- Opportunities for the enhancement of the site for roosting, foraging and commuting bats have been set out.

2.0 Methodology

2.1 Desk Study

The desk study included a 2km radius review of the magic.gov.uk database for statutory designated sites with bat qualifying interests. An assessment of the surrounding landscape structure was also completed using aerial images from Google Earth and OS maps.

2.2 Field Survey

The survey was undertaken by Sally Hall BSc (Hons), (Accredited Agent on Natural Resources Wales Bat Licence Number: S092694/1) on 28th November 2023.

The PRA focussed on one built structure which will be affected by the proposed development as well as providing an overview of the wider site and the surrounding landscape for bat roosting, foraging and commuting habitat.

For any surveyed buildings

A non-intrusive visual appraisal was undertaken from the ground, using binoculars to inspect the external features of the building for features which bats could use for roosting, including access or egress points and for signs of bat use including droppings, scratch marks, insect remains and urine smear marks. An internal inspection of the building was also made, including the living areas and any accessible roof spaces, using a torch and ladders. The surveyor paid particular attention to the floor and flat surfaces, window shutters and frames, lintels above doors and windows, and carried out a detailed search of numerous features within the roof space.

2.3 Breeding Birds and Other Incidental Observations

The surveyor also made note of any other ecological constraints observed during the survey, notably the likelihood of presence or signs of breeding birds, and the suitability of the site for barn owls.

2.4 Suitability Assessment

Built structures were categorised according to the likelihood of bats being present and the types of roost that the identified features could support. This is summarised in Table 1 below. Roost suitability is classified as high, moderate, low and negligible and dictates any further surveys required before works can proceed.

Table 1: Features of a building that are correlated with use by bats

Potential Suitability	Roosting Habitats in Structures
Negligible	No obvious habitat features on site likely to be used by roosting bats; however, a small element of uncertainty remains as bats can use small and apparently unsuitable features on occasion.
Low	A structure with one or more potential roost sites that could be used by individual bats opportunistically at any time of the year. However, these potential roost sites do not provide enough space, shelter, protection, appropriate conditions and/or suitable surrounding habitat to be used on a regular basis or by larger numbers of bats (i.e. unlikely to be suitable for maternity and not a classic cool/stable hibernation site, but could be used by individual hibernating bats).
Moderate	A structure with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat but unlikely to support a roost of high conservation status (with respect to roost type only, such as maternity and hibernation – the categorisation described in this table is made irrespective of species conservation status, which is established after presence is confirmed).
High	A structure with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat. These structures have the potential to support high conservation status roosts e.g. maternity or classic cool/stable hibernation site.

2.5 Limitations

It should be noted that whilst every effort has been made to describe the features on site in the context of their suitability for roosting bats, this does not provide a complete characterisation of the site. This survey provides a preliminary view of the likelihood of bats being present. This is based on suitability of the habitats on site and in the local area, the ecology and biology of bats as currently understood. Bats are highly mobile creatures that switch roosts regularly and therefore the usage of a site by bats can change over a short period of time.

A search for historical bat records has not been undertaken. However, given the location of the site, the nature of the habitats present and the assessed suitability of the site for bats, it is not anticipated that the purchase of historical records data will add any significant weight or alter the conclusions and recommendations outlined in this report.

These limitations have been taken into account during the evaluation of the site and requirement for further surveys and mitigation.

3.0 Results and Evaluation

3.1 Designated Sites

No statutory designated sites with bat qualifying interests were identified within 2km of the site.

3.2 Historical Records

Bat records have been returned by COFNOD within 2km of the site. Records from the last ten years are summarised in Table 2.

Table 2: Historical records of bats within 2km of the site

Common name	Number of records	Dates of records	Roost records
Brandt's bat	2	2016	Closest record is 196m from site. Individual sightings.
Brown long-eared bat	7	2014 - 2018	Closest record is 590m from site. Mainly individual sightings, with one maternity roost and one day roost.
Common pipistrelle	10	1998 - 2020	Closest record is 196m from site. All individual sightings or day roosts.
Daubenton's bat	2	2016 - 2019	Closest record is 655m from site.
Lesser horseshoe	4	2005 - 2023	Closest record is 1060m from site. Two individual sightings, one day roost confirmed and one maternity roost confirmed.
Myotis sp.	2	2016	Closest record is 655m from site. One is an auditory record and the other was droppings found within a bat box.
Noctule	5	2016 - 2019	Closest record is 196m from site. Individual sightings.
Pipistrelle sp.	1	2003	Two individuals recorded, located 730m from site.
Soprano pipistrelle	4	2015 - 2019	The closet record is 318m from the site. BERS surveys found 12 roosts alongside a maternity roost located 1749m from site.
Unidentified bat sp.	4	1994 - 2005	Closest record is 786m from site.
Whiskered bat	4	1999 - 2004	All individual sightings with the closest being 415m from the site.

3.3 Field Survey Results

The weather conditions recorded at the time of the survey are shown in Table 3. The results of the field survey are detailed in Table 4 and illustrated in Appendix 3.

Table 3: Weather conditions during the survey

Date:	28/11/2023
Temperature	7°C
Humidity	78%
Cloud Cover	60%
Wind	1mph
Rain	None

Table 4: PRA Results

Feature	Description	Photographs
Bat foraging and commuting habitat Figure 1	The site lies within the Wrexham Industrial Estate which is a regularly disturbed and urban area. However, there are pockets of greenspace throughout the estate, including pockets of woodland, ponds, the Redwither brook to the east and the river Clywedog to the south. There is a large pocket of deciduous woodland and a large section of grassland to the east of the site, alongside a pond that has been created within the grassland.	
B1 - overview	B1 is a occupied, detached industrial building with an “M” shaped roof, with a two storey section to the west that is partially clad in corrugated cement fibre sheeting and partially clad in corrugated metal sheeting, and a four storey section to the east, all clad in corrugated metal sheeting. The roof verges	

	are constructed of metal panelling, and the walls are constructed of corrugated metal sheeting. There are windows and doors on the western and northern elevations that are constructed of metal and uPVC.	
B1 – eastern and southern elevations <i>Figure 2</i>	There are no roosting features on the southern or eastern elevations. The roof verges are well sealed, and there are no gaps suitable for roosting bats. The metal material would fluctuate in temperature and would provide an unstable roosting environment for bats.	
B1 – northern elevation <i>Figure 3</i>	There are no roosting features on the northern elevation. The roof verges are well sealed and are unsuitable for crevice dwelling bats. The metal material would fluctuate in temperature and would provide an unstable roosting environment for bats.	

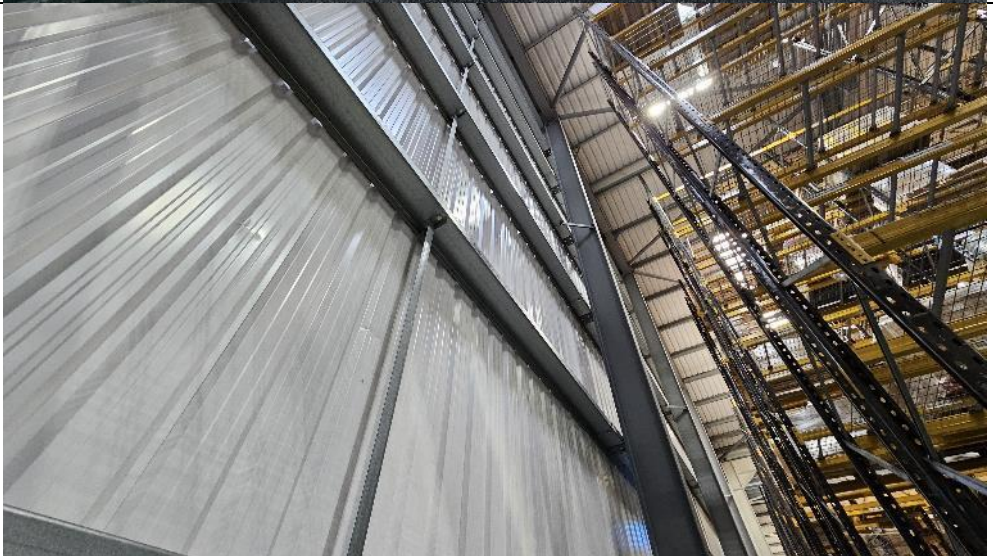
B1 – western elevation <i>Figure 4</i>	There are no roosting features on the western elevation. The roof verges are well sealed, and there are no gaps suitable for roosting bats. The metal material would fluctuate in temperature and would provide an unstable roosting environment for bats. The cement fibre roof appears to be in good condition with no gaps or cracks present for bats to roost in. There are no gaps around the door and window frames that could be used by crevice dwelling bats, and there are no access points into the building for void dwelling bats.	
B1 – interior <i>Figure 5</i>	The interior consists of one large warehouse room, with several smaller office rooms in the westernmost section of the building. The approximate internal dimensions of the warehouse are: 84 (L) x 54m (W) x 12m (H). The interior is constructed of metal beams and the roof of B1 is not lined, exposing the underside of the external corrugated metal and corrugated cement fibre roof structures. The walls are constructed of corrugated metal sheeting and brickwork, and the floor is constructed of cement. The walls and floor are not insulated. The metal roof, walls and beams would fluctuate in temperature and would therefore be unsuitable for roosting bats. As the cement fibre roof is not lined, there is no suitable habitat for bats to crawl into and roost within.	

Figure 6	The interior is consistently brightly lit and regularly disturbed with machinery, which is likely to deter bats from roosting here. There are no access points into the building that void dwelling bats could use. Consistent daylight also enters the room via the clear uPVC panels within the cement fibre roof structure.	
B1 suitability assessment	B1 is deemed negligible due to the lack of suitable roosting features present. There are no crevices or gaps for crevice dwelling bats to use, there are no access points into the building for void dwelling bats, and the metal material that comprises of the majority of the structure would fluctuate in temperature, creating an unstable roosting environment for bats. No evidence of roosting bats (e.g. droppings, oil staining, etc.) or nesting birds (e.g. nests, feathers etc.) was identified within the interior or on the exterior of B1 during the survey.	

4.0 Conclusions, Impacts and Recommendations

Taking the desk study and field survey results into account, Table 5 presents an evaluation of the value of the site for bats and also details any other ecological constraints identified such as nesting birds in relation to the proposed development which will comprise of the extension of the eastern elevation of the existing warehouse building.

Table 5: Evaluation of the site for bats and any other ecological constraints

Building	Survey Results Summary	Impact Assessment	Recommendations	Biodiversity Enhancement Opportunities ¹
Roosting bats (B1)	B1 has negligible value for roosting bats due to a lack of potential roost features, in line with the Good Practice Guidelines, (Collins, J. (ed) 2023).	Bats are very unlikely to be roosting within this building and as such, there are not anticipated to be any impacts on roosting bats as a result of the extension of this building.	In the unlikely event that a bat or evidence of bats is discovered during the development all work must stop and a bat licensed ecologist contacted for further advice.	The installation of two bat boxes at the site will provide additional roosting habitat for bats. The bat boxes will be installed on a pole close to the eastern boundary of the site, near to the pond. Bat boxes should be positioned 3-5m above ground level facing in a south or south-westerly direction with a clear flight path to and from the entrance, away from artificial light. The bat boxes will be a specification suitable for crevice dwelling species such as Beaumaris Bat Box, Vivara Pro Woodstone Bat Box or a similar alternative brand.
Foraging and commuting bats	The woodland to the east could be used by local bat populations for foraging and	The proposed development will not result in the removal of any habitats which could be used by foraging or commuting bats.	A low impact lighting strategy will be adopted within the proposed development. This should be designed in accordance with Guidance Note	The following habitat creation and enhancement opportunities could be incorporated into the proposed

¹ The Local Planning Authority has a duty to ask for enhancements under the Planning Policy Wales (2021).

	commuting. These could also be used by bats dispersing from nearby roosts outside of the site.	The proposed development will include the use of lighting which could spill on to bat roosting, foraging or commuting habitat and deter bats from using these areas.	GN08/23 Bats and Artificial Lighting at Night (Institution of Lighting Professionals, 2023). Avoidance of light spill on to key habitats or features which bats may use for roosting, foraging or commuting (e.g., the pond and woodland to the east) via an appropriately sized buffer insofar as possible. A luminaire specification which reduces the effects of light spill on bats should be chosen where feasible. The installation of physical screening features, glazing treatments and the use of dimming or part night lighting could also be considered, where appropriate.	development which would be beneficial for foraging bats: Planting of native tree, shrub and hedgerows where possible to increase foraging opportunities.
Nesting birds (B1)	The building offers no opportunities for nesting birds.	None.	None.	The installation of a minimum of two bird boxes mounted on a pole near to the south-eastern boundary will provide additional nesting habitat for birds e.g. - Schwegler 1B Nest Boxes - Schwegler 2H Robin Boxes - Woodstone Nest Box Or a similar alternative brand. Tree boxes should be positioned approximately 3m above ground level where they will be sheltered from prevailing wind, rain and strong sunlight. Small-hole boxes are best placed approximately 3m above ground on an area of the pole trunk where foliage will not obscure the entrance hole.
Other ecological constraints	No great crested newts were identified during the survey, however, as a non-	The proposed development involves extending the existing building outwards on the eastern elevation. This extension would be installed on top of hardstanding	Owing to the nature of the proposed development and the low potential for impacts to great crested newts, further surveys are considered to be disproportionate. A precautionary working method	None.

	licence mitigation plan has been implemented to include the addition of a pond to the east of the site, there is a possibility that great crested newts would be within the vicinity of the development area.	which is suboptimal for great crested newts. However, as the pond has been installed in line with the great crested newt non-licence mitigation plan, great crested newts and other common amphibians could have encroached into the pond and could be within the development area.	will be implemented for common amphibians during construction, including the following measures: • Store building materials on hardstanding ground or where this is not possible, on pallets to prevent creating hibernacula that great crested newts could use • Separate adjacent areas of suitable great crested newt habitat from the development with fencing (such as heras fencing) to prevent encroachment of development activity • Cover excavations overnight, or a ramp will be installed to enable any trapped animals to escape. • If any common amphibians are found in the working area these should be allowed to disperse of their own accord or, if at immediate risk, should be moved by hand to a sheltered, vegetated area away from disturbance. In the unlikely event that a great crested newt is identified, works must cease and advise must be sought from a suitably qualified ecologist.	
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5.0 Bibliography

- Arbtech Consulting Ltd, (2023). Great Crested Newt Non-Licence Mitigation Plan.
- Arbtech Consulting Ltd, (2021). Preliminary Ecological Appraisal.
- Clwydian Ecology, (2016). Preliminary Ecological Appraisal and Preliminary Roost Assessment.
- Collins, J. (2023). Bat Surveys for Professional Ecologists —Good Practice Guidelines, 4th edition, Bat Conservation Trust, London.
- Garland, L. & Markham, S. (2008) Is Important Bat Foraging and Commuting Habitat Legally Protected? <http://biodiversitybydesign.co.uk/cmsAdmin/uploads/protection-for-bat-habitat-sep-2007.pdf>
- Google Earth. Accessed on 06/12/2023.
- Institution of Lighting Professionals (2023) and the Bat Conservation Trust. Guidance Note GN08/23 Bats and Artificial Lighting at Night. <https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>
- Magic Database. <http://www.magic.gov.uk/MagicMap.aspx> Accessed on 06/12/2023.
- Mitchell-Jones, A.J. (2004). Bat Mitigation Guidelines. English Nature, Peterborough.
- Natural Resources Wales Designated Sites Search. <https://naturalresources.wales/guidance-and-advice/environmental-topics/wildlife-and-biodiversity/protected-areas-of-land-and-seas/find-protected-areas-of-land-and-sea/?lang=en> Accessed on 06/12/2023.
- Reason, P.F. and Wray, S. (2023). UK Bat Mitigation Guidelines: a guide to impact assessment, mitigation and compensation for developments affecting bats. Chartered Institute of Ecology and Environmental Management, Ampfield.
- Wray, S., Wells, D., Long, E., Mitchell-Jones, T (2010) Valuing Bats in Ecological Impact Assessment. IEEM In-Practice. Number 70 (December 2010). Pp. 23-25.

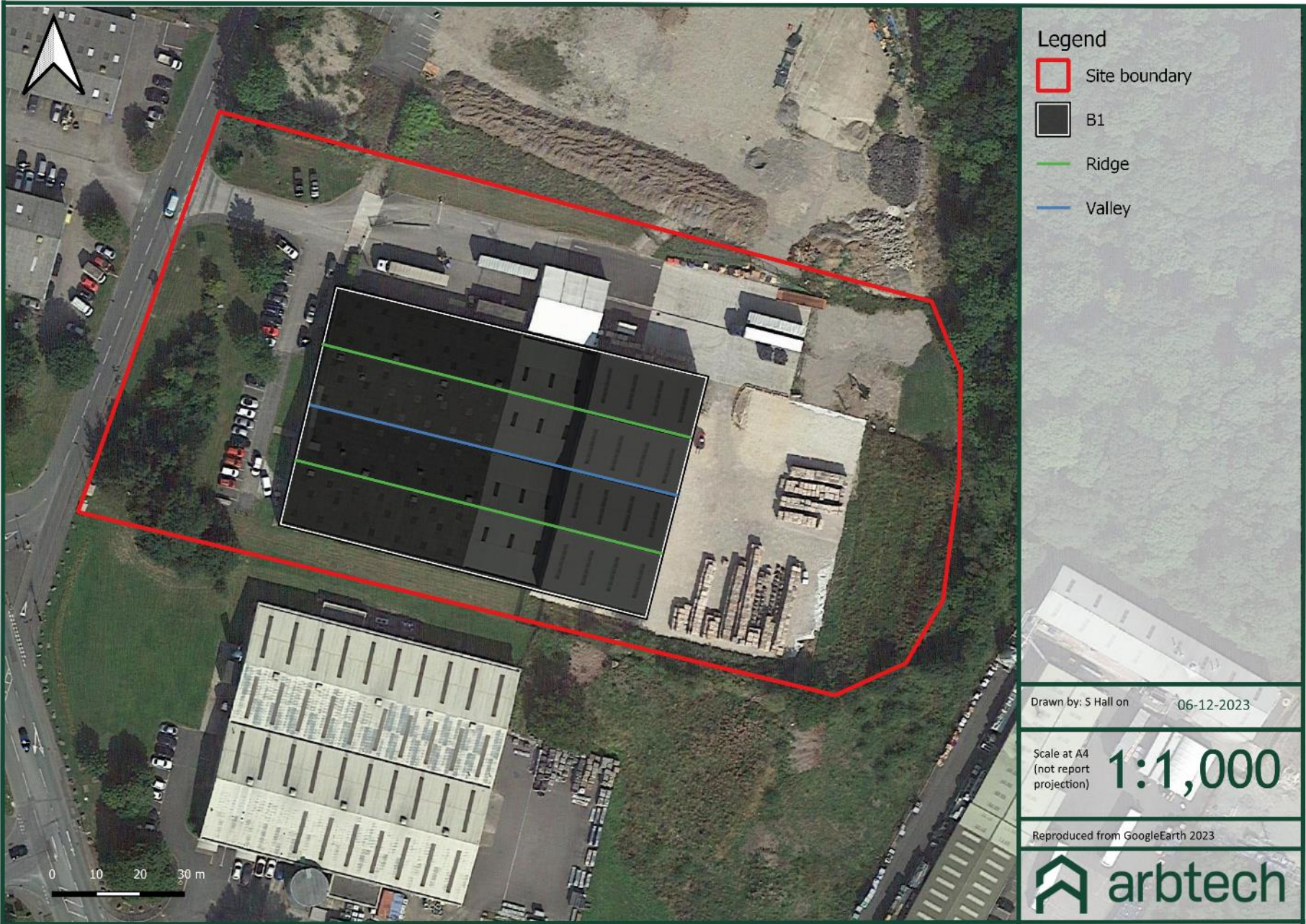
Appendix 1: Proposed Development Plan

Not available at the time of writing this report.

Appendix 2: Site Location Plan



Appendix 3: PRA Plan



Appendix 4: Legislation and Planning Policy Related to Bats

LEGAL PROTECTION

All species of bat are fully protected under *The Conservation of Habitats and Species Regulations 2017* (as amended) through their inclusion on Schedule 2.

Regulation 43: Protection of certain wild animals - offences

(1) A person is guilty of an offence if they:

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

(2) For the purposes of paragraph (1) (b), disturbance of animals includes in particular any disturbance which is likely—

- (a) To impair their ability:
 - (i) To survive, to breed or reproduce, or to rear or nurture their young; or
 - (ii) In the case of animals of a hibernating or migratory species, to hibernate or migrate; or
- (b) To affect significantly the local distribution or abundance of the species to which they belong.

Bats are also protected under the *Wildlife and Countryside Act 1981* (as amended) through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection
- Selling, offering or exposing for sale, possession or transporting for purpose of sale

NATIONAL PLANNING POLICY

Environment (Wales) Act 2016 and the Biodiversity Duty

The Environment (Wales) Act 2016 introduces a new biodiversity duty, which highlights biodiversity as an essential component of ecosystem resilience. This new duty replaces the biodiversity duty in the Natural Environment and Rural Communities Act 2006 (referred to as the NERC Act). Part 1 of the Act deals with Sustainable management of natural resources including Biodiversity and Resilience of Ecosystems Duty. The Environment Act enhances the current NERC Act duty to require all public authorities, when carrying out their functions in Wales, to seek to “maintain and enhance biodiversity” where it is within the proper exercise of their functions. In doing so, public

authorities must also seek to “promote the resilience of ecosystems”. As under the NERC Act the new duty will apply to a range of public authorities such as the Welsh Ministers, local authorities, public bodies and statutory undertakers. This ensures that biodiversity is an integral part of the decisions that public authorities take in relation to Wales. It also links biodiversity with the long-term health and functioning of our ecosystems, therefore helping to align the biodiversity duty with the framework for sustainable natural resource management provided in the Act.

Planning Policy Wales (2021)

Paragraph 6.4.3 of the document refers to Biodiversity and Ecological Networks and states:

The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. Addressing the consequences of climate change should be a central part of any measures to conserve biodiversity and the resilience of ecosystems. Information contained in SoNaRR, Area Statements and species records from Local Environmental Record Centres should be taken into account. Development plan strategies, policies and development proposals must consider the need to:

- support the conservation of biodiversity, in particular the conservation of wildlife and habitats;
- ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats;
- ensure statutorily and non-statutorily designated sites are properly protected and managed;
- safeguard protected and priority species and existing biodiversity assets from impacts which directly affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water and soil, including peat; and
- secure enhancement of and improvements to ecosystem resilience by improving diversity, condition, extent and connectivity of ecological networks.

Biodiversity and Resilience of Ecosystems Duty (Section 6 Duty)

Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. Planning authorities must also take account of and promote the resilience of ecosystems, in particular the following aspects:

- a) Diversity between and within ecosystems;
- b) The connections between and within ecosystems;
- c) The scale of ecosystems;
- d) The condition of ecosystems (including their structure and functioning); and
- e) The adaptability of ecosystems.

In fulfilling this duty, planning authorities must have regard to:

- a) The list of habitats of principal importance for Wales, published under Section 7 of the Environment (Wales) Act 2016;
- b) The State of Natural Resources Report (SoNaRR), published by NRW; and
- c) Any Area Statement that covers all or part of the area in which the authority exercises its functions.

Planning Authorities should also refer to up to date ecological survey information (where appropriate).

A proactive approach towards facilitating the delivery of biodiversity and resilience outcomes should be taken by all those participating in the planning process. In particular, planning authorities should demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions.

The broad framework for implementing the duty and building resilience through the planning system includes addressing:

- Diversity: to ensure mechanisms are in place to minimise further loss and that circumstances allow for species' populations to expand and recolonise their natural range (former range) or adapt to future change. This means development should provide a net benefit for biodiversity, and at the very least, with no significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity;
- Extent: to ensure mechanisms allow for the maintenance of existing assets and networks and promote the restoration of damaged, modified or potential habitat and the creation of new habitat. This means that planning choices should incorporate measures which seek the creation and restoration of green networks and linkages between habitats and maintaining and enhancing other green infrastructure features and networks;
- Condition: Ecosystems need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services. Planning decisions should not compromise the condition of ecosystems. By taking an integrated approach to development, for example, which considers both direct and wider impacts and benefits it should be possible to make a positive contribution. Planning for the long term management of retained habitats is key to maintaining condition through for example, the use of planning obligations;
- Connectivity: to take opportunities to develop functional habitat and ecological networks within and between ecosystems and across landscapes, building on existing connectivity and quality and encouraging habitat creation, restoration and appropriate management. The opportunities could include enlarging habitat areas, developing buffers around designated sites or other biodiversity assets or corridors, including transport and river corridors, and the creation of 'stepping stones' which will strengthen the ability of habitats and ecological networks to adapt to change, including climate change; and
- Adaptability to change: primarily in the form of climate change, for both species (diversity) and ecosystems requires action to protect the extent, condition and connectivity of habitats, features and ecological networks. Development plans, planning proposals and applications which build on protecting designated sites and securing and enhancing green infrastructure will be key ways of addressing the attributes of ecosystems resilience identified in the Environment Act as well as facilitating social and economic resilience aspirations of the Well-being of Future Generations Act.

Good Practice Guide GPG 3 (October 2015) NRW Approach to Bats and Planning

As explained in Planning Policy Wales (Chapter 5 - Conserving and Improving Natural Heritage and the Coast), the presence of a European protected species is a material consideration for a development proposal that would be likely to result in disturbance or harm to the species or its breeding sites or resting places. Planning Policy Wales also explains that planning authorities should seek the advice of Natural Resources Wales for all planning applications likely to result in disturbance or harm to bats and should always consult them before granting permission. Local Planning Authorities address this by screening applications to identify when there is a reasonable likelihood that bats may be present and, therefore, when to require a bat survey and report that will confirm if bats are present and if they likely to be disturbed or harmed by the proposal. The overall requirement on Local Planning Authorities, Natural Resources Wales and developers is to avoid harm or disturbance to bats and their breeding sites and resting places, unless Natural Resources Wales has given a licence to allow the harm or disturbance. Natural Resources Wales may only give a licence if the requirements for derogation are met, including that disturbance or harm to individual bats (or to their breeding sites and resting places) would not be detrimental to the maintenance of the population.

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

A European Protected Species Licence (EPSL) issued by Natural Resources Wales will be required for works likely to affect a bat roost or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficiency/success to be monitored. The legislation may also be interpreted such that, in certain circumstances, important foraging areas and/or commuting routes can be regarded as being afforded *de facto* protection, for example, where it can be proven that the continued usage of such areas is crucial to maintaining the integrity and long-term viability of a bat roost (Garland & Markham, 2008).

There are 17 species of bat breeding in England and Natural England issues licences under Regulation 55 of the Habitats Regulations to allow you to work within the law.

Licences are issued for specific purposes stated in the Regulations, if the following three tests are met:

- The purpose of the work meets one of those listed in the Habitats Regulations (see below);
- That there is no satisfactory alternative;
- That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range

The Habitats Regulations permits licences to be issued for a specific set of purposes including:

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

2. scientific and educational purposes;
3. ringing or marking; and,
4. conserving wild animals.

Development works fall under the first purpose and Natural England issues bat mitigation licences for developments.