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**521 Garstang Road, Broughton, Preston PR3 5JA**

## **Bats: Night time Activity Survey**

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**For**

**Midas Land Limited**

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## 1.0 INTRODUCTION

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### 1.1 Background Information

- 1.1.1 Simply Ecology Limited was commissioned in June 2018 to undertake a night-time bat activity survey at 521 Garstang Road, Broughton, Preston PR3 5JA (O/S Grid SD 524 350), hereafter referred to as 'the Site'. See Plan 1: Site location.
- 1.1.2 This bat survey was the follow-up work to a previous building scoping survey report by Tyrer Ecological Consultants Ltd in May 2018 which had not found any signs of bats but which had identified some potential roost features for bats at the site (Pritchard 2018).

### 1.2 Aims

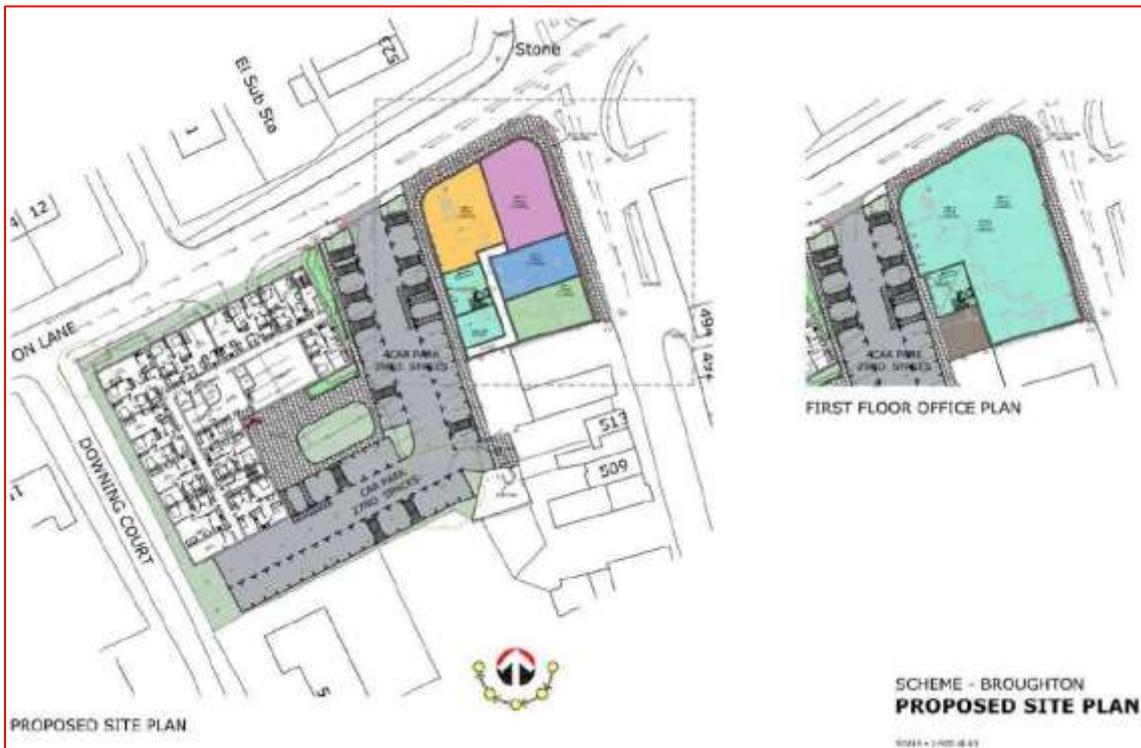
- 1.2.1 The aim of this survey was to gather up-to-date information on the presence and activity of bats at the site. This involved:
- Gaining an understanding of species/numbers of bats (if any) that utilise the buildings.
  - Observing activity using bat detectors as well as visual and audio cues to identify species/activity in the field.
  - Providing an assessment of the likely importance of the site for bats and their conservation.
  - Advising the client in relation to the proposed development and any impacts upon bats in order to ensure legislative compliance.
- 1.2.2 To achieve this, a single night-time bat activity survey (a dusk emergence survey) was undertaken on 8<sup>th</sup> June 2018. This submission presents the results of the survey.

### 1.3 Site Description and Proposed Works

- 1.3.1 The site comprises a plot of land approximately 0.34ha in size, including a detached building, currently used as a restaurant with an associated car park.
- 1.3.2 The site is located on the Preston- Lancaster Road (A6) junction in the centre of the village of Broughton. This site had, until the Broughton bypass opened earlier in 2018, been located on a busy road junction. The property is immediately next to the A6, with Woodplumpton Lane to the north. It is an area of mainly commercial properties (restaurants, pubs and petrol stations), with the residential properties of Broughton next to them.
- 1.3.3 The survey described in this report was commissioned to inform an outline planning application for redevelopment of the site to include office units with associated car park spaces. The proposals will require demolition of the existing building within the site.



Plan 1: Site location



Plan 2 Proposed site plan ©Tyrer Ecological Consultants Ltd 2018

## 2.0 SURVEY METHODOLOGY

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### 2.1 Night Time Activity Survey

2.1.1 A single emergence (dusk) survey was undertaken in accordance with the standard methods described in the 'Bat Worker's Manual' (JNCC 2004) and 'Bat Surveys – Good Practice Guidelines' (Bat Conservation Trust 2016). In accordance with best practice, the surveys comprised the following elements:

- Emergence Survey: One night-time visit was undertaken to determine if bats were emerging from the building and to assess levels of bat activity.
- During the survey, two surveyors were positioned to provide the best coverage of the building based upon the potential roost location (one in the car park to the rear of the building and one on the other side of the A6 at the road junction to observe the building frontage). The surveyors would be expected to hear and also see any bats emerging from the building. Activity was detected using Wildlife Acoustics EM Touch full spectrum bat detectors.

#### 2.1.2 Personnel

2.1.3 The dusk survey was undertaken by Jason Reynolds MSc MCIEEM and Colin Barnes. Jason started Simply Ecology Limited in 2007. He has an MSc from The University of Aberdeen and his thesis investigated the relationship between habitat type and complexity and the foraging behaviour of Pipistrelle bats. He has been conducting bat surveys since 1995 and is an experienced botanist with a broad range of ecological and conservation knowledge gained over 23 years' working as a Conservation Officer for both statutory and charitable conservation bodies. These include English Nature, The Joint Nature Conservation Committee, Cumbria Wildlife Trust and the Environment Agency. Jason holds protected species survey licences for all British bats, white-clawed crayfish and great crested newts.

2.1.4 Colin Barnes gained a FDS in Ecology & Conservation Management at the University of Central Lancashire in 2009. Colin has a range of ecological experience, principally gained over the last 7 years. He worked as an Assistant Reserve Manager Gait Barrows NNR, Natural England 2009 2010 and has been a regular subcontractor for Simply Ecology since 2010 where he assists with Phase 1 surveys, bat surveys and great crested newt surveys. Colin has a personal interest in invertebrates and is currently involved in honing his microscopy and key identification skills.

#### 2.1.5 Timing and Constraints

2.1.6 The night-time activity survey of the property was carried out on the 8<sup>th</sup> June 2018. This is during the ideal survey period for bats and the weather conditions were considered ideal to observe and record any bat activity at the site (see Table 1 below). There were no obstructions to vision around the building and it was possible to survey the building effectively.

2.1.7 It was considered that a robust assessment of the building's potential to support bats could therefore be made.

*Table 1: Weather conditions for activity survey*

<b>Survey Date</b>	<b>Temperature at Start of Survey</b>	<b>Sunset</b>	<b>Weather Conditions</b>
8 <sup>th</sup> June 2018	16 °C	21.40	Dry, still and clear. 100% cloud cover

## 3.0 SURVEY RESULTS

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### 3.1 Night Time Activity Survey

- 3.1.1 The dusk bat activity survey of the building was undertaken on 10th May 2018. The survey commenced at 21.30 and ended at 23:00. The surveyors were located in the car park to the rear of the building to see the gable end and rear of the roof and the other surveyor was positioned on the A6 junction to view the front of the building.
- 3.1.2 During the survey, no bats were recorded emerging from the building. This is evidence that it was not being used as a roost.
- 3.1.3 The other notable fact was that during the survey, not one single bat was detected by either surveyor. No bats were recorded either foraging around or commuting over the site during the survey period despite the fact that it was a warm and still night which would otherwise be ideal for bats. The absence of bat activity is fairly unusual as habitat nearby is known to the surveyors to support bats. The result was, nonetheless, not particularly surprising as it was surmised that the lack of bats in the centre of the village is likely to be a reflection the selection of more suitable bat flight lines according to habitat quality.
- 3.1.4 The previous Tyrer Bat & Breeding Bird Survey report concluded that the potential roost features on the building gave it a 'moderate' potential to support roosting bats. However, following the night-time survey this conclusion was re-assessed. In light of the total absence of bats during the survey, the location of the building immediately adjacent to a busy junction, as well as the very high light pollution levels means that Simply Ecology concluded that the building only had 'low' potential to support bats. The field survey results informed our conclusion that no bat roost was present.



*Plate 1: The view of the building was unrestricted and light levels were high.*

### **3.2 Site Status and Protected Species Assessment**

- 3.2.1 Taking into account the lack of evidence of bat activity found internally (“...no recent or historic evidence of use...”) or externally (“No external signs of bats are observed...”) and the lack of bat activity encountered during the activity survey, it was concluded that there was no reasonably foreseeable likelihood that bats utilise the building.
- 3.2.2 **It was the professional ecologist’s judgement that the building was not used by bats. As such, the proposed work is likely to have no impact on local bat populations.**

## 4.0 CONCLUSIONS AND RECOMMENDATIONS

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### 4.1 Bats

4.1.1 In June 2018, Simply Ecology was commissioned by Midas Land to undertake a bat activity survey of the Touch of Spice restaurant building at 521 Garstang Road in Broughton. It is understood that the development at 521 Garstang Road will involve the demolition of the building. This would affect any protected bat species if found to be present. However, a building inspection by Tyrer Ecological Consultants Ltd in April 2018 and subsequent night time survey in June 2018 by Simply Ecology Limited found no evidence of bats using the property. No bats were encountered at the site and it was determined that there is no reasonably foreseeable likelihood that bats are roosting in the building or that any bats being impacted by the work.

4.1.2 As such, the following advice is provided:

- All works can continue with no need for any supervision by the Appointed Ecologist. No Natural England licence is necessary in this instance as no impact upon any bat roost is predicted. This is due to the lack of any signs of current or historical use of the building by bats. Reason: This will deliver compliance with: Section 9 (1 & 4) of The Wildlife & Countryside Act 1981 (as amended), Part 3 (43; 1 & 2) of The Conservation of Habitats and Species Regulations 2017 and Section 11 (109 & 118) of the Nation Planning Policy Framework.

### 4.2 Breeding Birds

4.2.1 The site is used by small numbers of breeding birds. In view of the protection afforded to all breeding birds, their nests and eggs, development works should proceed as follows:

- *It is recommended* that all demolition should be carried out outside of the bird breeding season (March to August inclusive);
- If this is not possible, a suitably qualified ecologist should carry out a check to confirm the absence of nesting birds immediately prior to clearance works commencing; if a bird nest in current use is discovered then demolition must wait until after the nest is vacated. **Reason:** This will ensure that no offences are committed under The Wildlife and Countryside Act 1981 (as amended).

## 5.0 REFERENCES

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Bat Conservation Trust (2016). *Bat Surveys – Good Practice Guidelines*. Bat Conservation Trust, London.

Department for Communities and Local Government (2012). *National Planning Policy Framework*. HMSO. London.

Mitchell-Jones, A.J, & McLeish, A.P. Ed., (2004). *3rd Edition Bat Workers' Manual*. JNCC, Peterborough.

Pritchard, M. (2018) *521 Garstang Road, Broughton, Preston PR3 5JA Bat and Breeding Bird Survey*. Tyrer Ecological Consultants Limited. Unpublished report.

### Statutory legislation links:

The Conservation of Habitats and Species Regulations 2017:

<http://www.legislation.gov.uk/uksi/2010/490/contents/made>

Wildlife and Countryside Act 1981:

<http://www.legislation.gov.uk/ukpga/1981/69/contents>

## ANNEX A: STATUTORY AND PLANNING CONTEXT

A.0.1 The client is advised that many species of British wildlife are legally protected. The following section provides a brief overview of the protection afforded to species commonly encountered during development. The Recommendations at the end of this report will advise as necessary, but it is also useful for the client to have an understanding of the legal protection as this helps to ensure that the law is complied with.

### A.1 Badgers

A.1.1 Badgers are protected under Schedule 6 of the Wildlife and Countryside Act 1981 (as amended) (WCA), and the Protection of Badgers Act 1992. It is illegal to:

- Kill, injure, take, possess or cruelly ill-treat a badger or to attempt to do so;
- Interfere with a badger sett by damaging or destroying it;
- Obstruct access to or any entrance of a badger sett;
- Disturb a badger when it is occupying a sett

A.1.2 A badger sett is "any structure or place that displays signs indicating current use by a badger". Natural England, the Government's statutory nature conservation body, classifies a sett as active if it has been occupied within the last 12 months.

A.1.3 Operations that might cause disturbance of an active sett entrance can be carried out under licence from Natural England. If any badgers are found during the course of the survey, this will be highlighted in this report.

### A.2 Birds

A.2.1 All wild birds are protected against killing or injury under The WCA 1981 (as amended). This protection extends to bird's nests during the breeding season, which makes it an offence to damage or destroy nests or eggs. Birds that are listed on Schedule 1 of the Act receive additional protection against intentional or reckless disturbance during the breeding season. This makes it an offence to disturb these species at or near to their nesting site.

### A.3 European Protected Species (includes bats, otter, hazel dormouse, great crested newts, and others)

A.3.1 The client is advised that all bats and great crested newts are European Protected Species (EPS). These EPS are protected under European legislation that is implemented in England via The Conservation of Habitats and Species Regulations 2017 (Section 43). A full list of EPS is provided in Schedule 2 of the Regulations. In addition, these EPS also receive the protection of the Wildlife and Countryside Act 1981 (as amended) in respect of Section 9 (4)(b & c) and (5).

A.3.2 If both national and international legislation are taken together, the legislative protection afforded to these species makes it an offence to:

- Intentionally/ deliberately kill, disturb, injure or capture them.
- Intentionally or recklessly damage, destroy or obstruct access to any breeding site or resting place.
- Possess or control any live or dead specimen or anything derived from a European Protected Species.

A.3.3 If an activity is likely to result in any of the above offences, derogation from the legal protection can be issued in the form of a European Protected Species licence issued by Natural England. Licences for development purposes are issued under The Conservation Of Habitats And Species Regulations (2017) and only allow what is permitted within the terms

and conditions of the licence. If any EPS are found during the course of the survey, this will be highlighted in this report.

#### **A.4 Protected Mammals and Reptiles (includes water vole, red squirrel, reptiles and others)**

- A.4.1 All native reptiles and a variety of British mammals also receive protection under The WCA 1981 (as amended). Schedule 5 of The WCA lists animals that are protected. The degree of protection varies. Water voles and red squirrel are examples of species with full protection. The Act makes it an offence to intentionally kill, injure, take, possess, or trade in any wild animal listed in Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places.
- A.4.2 All native reptiles in the UK are protected. The commoner species such as grass snake, common lizard, slow worm and adder are protected only from unlawful killing and injuring. In practice this may require a reptile protection scheme before implementing a planning permission but no specific licence is required. Sand lizard and smooth snake listed as EPS (see A3.3 above).
- A.4.4 If any protected species are found during the course of the survey, this will be highlighted in this report.

#### **A.5 Non-native invasive species**

- A.5.1 A number of non-native plant species growing wild in the UK are listed on Schedule 9 of the WCA due to their invasive nature and the detrimental impact they can have on native habitats and wildlife. This legislation makes it an offence to plant or otherwise cause to grow in the wild any plant species which is included in Part II of Schedule 9.
- A.5.2 This legislation should be considered during site clearance works which could lead to the spread of Schedule 9 listed plant species from the site if plant material is not properly handled and disposed of. Development proposals should also consider the removal of invasive species from areas of site that would otherwise remain unaffected by works in order to avoid the risk of these invasive plants spreading from the site in the future and enhance habitats within the site. This would in turn free up space for wildlife friendly planting, prioritising use of native species within planting schemes where appropriate.

#### **A.6 Planning Considerations**

- A.6.1 1. When considering each planning application, the presence of protected species, such as those listed above, is a material consideration which must be fully considered by the Local Authority when granting planning permission. If a licence from Natural England is required, then prior to issuing any planning consent, the local planning authority will need to be satisfied that there is no reason why such a licence would not be issued. Therefore, in reaching the planning decision the local planning authority will need to have regard to the requirements of The Conservation of Habitats and Species Regulations 2017. The three licensing tests given in the Regulations must be considered. In summary, these are that:

The development is required for the purpose of:

- preserving public health or public safety,
- for 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,
- for preventing serious damage to property.

2. There is no satisfactory alternative.
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3. The proposal will not be detrimental to the maintenance of the population of the species at a favourable conservation status.
- A.6.2 All necessary information would need to be provided to the planning authority as part of the planning application in order to address the above tests.
- A.6.3 The Natural Environment and Communities Act (NERC Act) 2006 extended the biodiversity duty set out in the Countryside and Rights of Way (CROW) Act to public bodies and statutory undertakers to ensure due regard to the conservation of biodiversity. The Duty is set out in Section 40 of the Act, and states that:
- "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity"
- A.6.4 The Duty applies to all local authorities, community, parish and town councils, police, fire and health authorities and utility companies. Section 41 (S41) of this Act (the 'England Biodiversity List') also requires the Secretary of State to publish a list of habitats and species that are of principal importance for the conservation of biodiversity in England. This list is used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under section 40(1) of the Act.
- A.6.5 Also, Local Authorities must follow the National Planning Policy Framework (NPPF) which provides guidance on the interpretation of the law in relation to wildlife issues and development. For each development proposal considered by the Local Planning Authority the NPPF states that the authority must aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

#### **UK Biodiversity Action Plan (UK BAP)**

- A.6.6 The UK BAP, which was first published in 1994, was the UK government response to the 1992 Convention on Biological Diversity. It sets priorities for nationally important 'priority species' and 'priority habitats'. Each species and habitat action plan has costed actions and targets, and is used to inform the compilation of national lists such as the Section 41 List described above.