Date: 12 December 2018

Planning Department
Council of the Isles of Scilly
Town Hall, St Mary's
Isles of Scilly
TR21 0PB

Dear Ms Walton

Reference: Planning Permission P/18/052/FUL Condition 6
Site: 2 Matthews Field, Church Road, Hugh Town, St Mary's, TR21 0NA

I am writing at the request of the applicants (Mr & Mrs Stevens) to provide further assistance on the question of bat survey and licensing requirements at the above site. I am an experienced bat surveyor, having held a bat licence for science and development purposes continuously since 2004. I currently hold a Bat Class Licence (WML18) Level 2 2015-13029-CLS-CLS I am also a Registered Consultant for the BLICL/BMCL scheme. I have held numerous DEFRA, English Nature and Natural England mitigation (development) licenses every year since approximately 2005 (since 2011 this has amounted to 91 bat mitigation licenses including BLICL/BMCL applications). These licenses have covered a wide range of bat species (including common and soprano pipistrelle, whiskered, Natterer's, brown long-eared and lesser horseshoe bat). I am a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM) and the Royal Society of Biology (RSB).

I have been provided a copy of the Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment (hereafter referred to as the *PEA and PRA*) produced by the Isles of Scilly Wildlife Trust (IOS WT, 2018), which was submitted with the applicant's planning application. Whilst the authors are not licensed to disturb bats and are relatively inexperienced, the report is for the most part well-written and the advice broadly followed current best practice guidelines (namely Collins, 2016 and Natural England & DEFRA, 2015). However, for some reason, although suspected bat droppings were found in the roof void of the property, these were not sent away for DNA analysis and confirmation of identity.

Mindful that this could provide further clarity on the matter, I advised my client to insist that the droppings be sent away for DNA analysis, which has now been completed. The DNA analysis of the bat droppings (see attached report) has confirmed that they are from a common pipistrelle bat *Pipistrellus pipistrellus*. Whilst being fully protected under UK and European law, common pipistrelles are the most abundant species of bat in the UK[1], and are quite cosmopolitan and opportunist in their habitat and roosting preferences.

The PEA and PRA report states that the property is of 'moderate' suitability for roosting bats, applying current best practice guidelines (Collins, 2016). To quote the guidelines 'moderate' suitability means:

> "*A structure or place 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) – the assessments in this table are made irrespective of species conservation status, which is established after presence is confirmed'.* (Collins, 2016 p. 35 Table 4.1).

I would agree with the IOS WT that the property is of no more than 'moderate' suitability for roosting bats and specifically that there is no suggestion of a 'high conservation status' roost being present. High conservation status roosts are generally taken to be maternity roosts (where female bats gather to give birth), hibernation roosts and swarming roosts.

The condition of the building, coupled with the DNA analysis result and survey findings to date would indicate that 2 Matthews Field is very likely to support a day roost (or roosts) of common pipistrelle bats. Armed with the DNA results and detailed development proposals it is acknowledged that the proposed development works are reasonably likely to give rise to damage/modification of a bat roost, but also that a number of potential roost features and access points will remain and wholesale destruction of a bat roost (*e.g.* through demolition or complete removal of all roosting opportunities) is unlikely.

[1] See *e.g.* https://cdn.bats.org.uk/pdf/About%20Bats/commonpipistrelle_11.02.13.pdf?mtime=20181101151257

The ‘partial destruction or modification’ of a day roost of bats is assessed as a ‘low’ level of impact by Natural England in their standing advice (see excerpt below from https://www.gov.uk/guidance/bats-surveys-and-mitigation-for-development-projects#survey-effort-needed ‘Scale of Impacts’, accessed 12.12.2018 and highlighted for ease).

Night roosts, day roosts or feeding roosts	**Impact**
Destruction	Medium
Fragmentation and isolation	Medium
Partial destruction or modification	Low
Modified management, *e.g*. changes to light, temperature or noise which will affect bats	Low
Post-development interference	Low
Temporary destruction then reinstatement	Low
Temporary destruction	Low

There is no evidence of the property being used by loft-dwelling bat species, such as the brown long-eared bat. This species commonly makes use of larger loft areas to roost (typically over 2m high from floor to ridge) and characteristically leaves collections of bat droppings on the floor of the void, typically directly below the ridge board, where they commonly congregate and are often visible to the surveyor.

As the ‘presence’ of bats has now been confirmed through the use of DNA analysis, the next step is to determine the likely impact of the development proposals on bats and undertake sufficient ‘roost characterisation’ survey effort as may be required to support a licence application to ensure that the works can progress in full compliance with the law.

There is no specific minimum survey effort requirement for roost characterisation surveys, with the guidelines focussing on the minimum number of presence/absence surveys that should be employed to have confidence in a negative result. It is also acknowledged that there are situations where roost characterisation is not, strictly, necessary:

> "*When presence is established, this should trigger* ***roost characterisation surveys*** *unless sufficient information has already been collected to inform impact assessment and design of mitigation measures."* (see Collins, 2016, p.52, 7.2.1).

The best practice guidelines offer the following in their discussion of proportionate survey effort for roost characterisation surveys:

> "*Survey effort required to collect the relevant information that is needed for an impact assessment and the design of mitigation strategies is very much site-specific…effort should always be proportionate to impact"* (see Collins, 2016, p.53, 7.2.8).

Natural England Standing Advice mirrors the sentiment on survey effort for bats:

> "*The number of visits you'll need to make will depend on the local conditions and how much risk the proposed work and the location will be for bats*."

(see https://www.gov.uk/guidance/bats-surveys-and-mitigation-for-development-projects#survey-effort-needed).

In summary, the development proposals are likely to necessitate the need to obtain an EPS bat mitigation licence from Natural England, owing to the fact that a bat roost has now been confirmed from DNA analysis and a number of potential roost access points/locations are likely be impacted by the proposals. We are therefore no longer in a 'presence/absence' situation as presence has now been confirmed.

The information obtained to date about the species confirmed as present (common pipistrelle) and type of roost likely to be present (day roost or other low conservation significance roost) indicates that the development is likely to qualify for registration under Natural England's Bat Mitigation Class Licence (BMCL) WML-CL21. This licence scheme is specifically for works affecting small numbers of common species of bats and damage/destruction of 'low conservation significance roosts'. Small numbers of common pipistrelles, soprano pipistrelles and brown long-eared bats (as well as a number of other vesperilionid bat species) are all covered under the criteria of this licence.

The level of survey and roost characterisation evidence required to register a site under WML-CL21 varies from case to case. There are even situations where the use of DNA analysis and daytime survey work *alone* is sufficient to obtain a bat licence, for example when applying Natural England's New Policy 4 (see below).

> "***Policy 4 - Appropriate and relevant surveys where the impacts of development can be confidently predicted***
> *Natural England will be expected to ensure that licensing decisions are properly supported by survey information, taking into account industry standards and guidelines. It may, however, accept a lower than standard survey effort where: the costs or delays associated with carrying out standard survey requirements would be disproportionate to the additional certainty that it would bring; the ecological impacts of development can be predicted with sufficient certainty; and mitigation or compensation will ensure that the licensed activity does not detrimentally affect the conservation status of the local population of any EPS.*"

(see https://www.gov.uk/government/consultations/wildlife-licensing-comment-on-new-policies-for-european-protected-species-licences).

Taking all of this in the round, my client and I would therefore politely request a revised wording of Condition 6 (as suggested below), to allow for whatever level of sufficient survey effort may be required to allow the proposed development work to be completed lawfully under EPS bat mitigation licence.

Condition 6

No development shall take place until a bat mitigation (EPS) licence has been obtained from Natural England. The applicant to provide the Planning Authority with copies of all relevant documentation and the results of any required further survey work as applicable. Works to be completed in strict compliance with the terms of any licence issued by Natural England. Planning Authority to be provided with a copy of all relevant bat mitigation provision and the results of any required post-development monitoring as applicable. All bat survey records arising from this project to be provided to the relevant Biological Recording Centre.

I hope that the wording suggested above will provide the Planning Authority with sufficient confidence:

a) that the works will be completed lawfully;

b) that the applicant is acting responsibly and constructively to ensure that the development proposals do not have an adverse impact on the '*favourable conservation status*' of bats at this site and

c) the Planning Authority will be kept fully up to date with developments.

Please do not hesitate to get in touch if you have any further queries.

Kind regards,

Graham Davison
Director

QUALIFICATIONS & EXPERIENCE

Focus Ecology was formed in 2010 and has the expertise to provide sure-fire ecological and arboricultural solutions to a wide range of projects. The company ethos forges the highest standards of professional scientific practice with a best value approach for our clients. Our core area of expertise is in the production of specialist ecological and arboricultural reports and advice to support planning applications. However, our flexible approach, range of skills and broad project experience from major infrastructure contracts to smaller projects allows us to adapt to your individual requirements. Focus Ecology is situated in Worcestershire, providing a convenient and central UK location.

Graham Davison BSc (Hons) MSc MCIEEM MRSB

Graham is an ecologist with over sixteen years of experience in the field of applied ecology. He holds a BSc (Hons) degree in Zoology and an MSc with distinction in Law and Environmental Science. Graham's Masters paper on legal and practical implications for mammal reintroductions was published by the IUCN. His ecological experience includes surveys to identify nationally and locally important sites for wildlife, ecological services to local planning authorities and provision of ecological reports to accompany major infrastructure projects, housing schemes, industrial developments and mineral extraction. Graham is a skilled botanical surveyor specialising in Phase I and Phase II (NVC) Habitat Surveys. Graham has considerable expertise in protected species surveys, holding protected species licenses for bats, great crested newts, white-clawed crayfish and barn owls as well as competency in the survey of badgers, reptiles, otter, water vole, breeding and over-wintering birds. Graham has held Natural England Mitigation (development) licences for bats (including being a Registered Consultant for the new Bat Low Impact Class Licence) and great crested newts, and numerous Natural England licences to close or disturb badger setts. Graham is highly skilled in the production of reports and Nature Conservation Management Plans providing advice to ensure legal compliance and consistency with recognised best practice. Graham has appeared and delivered evidence as an expert witness for Planning Appeals and Public Inquiry. Graham has been interviewed for BBC local radio and TV programmes to provide specialist expertise on ecological topics.