

4 Evaluation

4.1 Introduction

- 4.1.1 This section evaluates the survey area in terms of the habitats and species present or potentially present on site or its immediate vicinity, in the context of relevant legislation and planning policy. See Appendix V for a review of the legislation and planning context.

4.2 Designated Sites

- 4.2.1 None of the statutory or non-statutory wildlife sites within the desk-study search zone are likely to be affected by the Proposed Development, considering the size and scale of the proposal and its distance from the designated sites; the closest designation is c.500m north (Wickham Woods LWS).

4.3 Habitats

Evaluation

- 4.3.1 Table 4.1 presents a preliminary evaluation of the habitats recorded within or adjacent to the survey area, with reference to the criteria defined at section 2.2.8. It is important to note that these preliminary evaluations may be updated following completion of more detailed botanical or protected species surveys.

Table 4.1: Preliminary evaluation of habitats within the survey area

Habitat	Evaluation	Rationale
Lowland Mixed Deciduous Woodland	Local	While this habitat is not uncommon within the local landscape it is of high ecological value and provides a connection between small woodland blocks in the local area.
Individual trees	Local	Many of the trees are of low ecological value but there are several important mature specimens.
Ancient trees	County	Trees T36 and T85 are listed as Ancient trees on the Ancient Tree Inventory. Ancient trees are irreplaceable and of high intrinsic and ecological value.
Native hedgerows H1, H2 and H4	Negligible	Despite comprising native species these hedgerows are species poor and are of lower importance as a connecting feature due to the presence of woodland. H1 may become a valuable hedgerow in the future but it is too young at this stage.
All other habitats	Negligible	These habitats are common and widespread or poor-quality examples, none of which are Priority Habitat.

Priority Habitats

4.3.2 Priority Habitats present within the survey area or at its boundaries include:

- ▶ Lowland Mixed Deciduous Woodland
- ▶ Hedgerow
- ▶ Ancient Trees

Lowland Mixed Deciduous Woodland

4.3.3 Deciduous Woodland Priority Habitats are present within the survey area. These features are of high intrinsic ecological value and provide habitats suitable for a range of protected species, including nesting birds, badger (foraging and sett creation), foraging, commuting and roosting bats, and hazel dormouse. Dead wood within these habitats also provides valuable habitat for fungi and saproxylic invertebrates (e.g. stag beetle *Lucanus cervus*) and refuge/hibernation habitats for widespread amphibians, great crested newt and reptile species. It is expected that this Priority Habitat will be retained as part of the Proposed Development and will be protected during construction.

4.3.4 Lowland Mixed Deciduous Woodland includes “woodland growing on the full range of soil conditions, from very acidic to base-rich, and takes in most semi-natural woodland in southern and eastern England... It occurs largely within enclosed landscapes, usually on sites with well-defined boundaries, at relatively low altitudes... The woods tend to be small, less than 20 ha. Often there is evidence of past coppicing, particularly on moderately acid to base-rich soils; on very acid sands the type may be represented by former wood-pastures of oak and birch. There is great variety in the species composition of the canopy layer and the ground flora... *Quercus robur* is generally the commoner oak (although *Quercus petraea* may be abundant locally) and may occur with virtually all combinations of other locally native tree species” (Maddock, 2008).

Hedgerows

4.3.5 Native hedgerows H2 and H4 were classified as species-poor while hedgerow H1 was species rich but was newly planted. Hedgerow Priority Habitats are defined “as any boundary line of trees or shrubs over 20m long and less than 5m wide, and where any gaps between the trees or shrub species are less than 20m wide..., consisting predominantly (i.e. 80% cover or more) of at least one woody UK native species” (any bank, wall, ditch or tree within 2m of the centre of the hedgerow is considered to be part of the hedgerow habitat, as is the herbaceous vegetation within 2m of the centre of the hedgerow) (Maddock, 2008). The native hedgerows within the survey area broadly fall into this classification.

4.3.6 Hedgerow Priority Habitats are of high intrinsic ecological value and provide habitats suitable for a range of protected species, including amphibians and reptiles (shelter and dispersal), nesting birds, invertebrates, foraging / commuting bats, and hazel dormouse. It is currently anticipated that all hedgerows will be retained and protected during construction.

Ancient Trees

- 4.3.7 Ancients Trees T36 and T85 are irreplaceable and are of high intrinsic and ecological value, and provide habitat for a range of species including bats, birds, invertebrates, plants and fungi. Both trees are expected to be retained and protected during construction and operation.

Other habitats

- 4.3.8 The Proposed Development site includes c.2.75ha of non-priority habitats including buildings, modified grassland, other mixed woodland, introduced shrub, individual trees and non-native hedgerow. Some losses are expected in these areas, depending on the extent and layout of the proposals; they are of relatively low ecological value but provide habitats suitable for a number of protected species (e.g. great crested newt, nesting birds, badger, roosting bats, hazel dormouse and reptiles).

4.4 Species

Amphibians (excluding great crested newt)

- 4.4.1 Dominant habitats within the survey area such as taller grassland sections, introduced shrub, woodland and hedgerow are potentially suitable terrestrial habitats for common and widespread amphibian species such as common frog, common toad and smooth newt which have been recorded in the desk-study search zone. Both pond P1 and P2 provide suitable aquatic habitat and smooth newts were recorded using P2 during the survey. The shortly mown grasslands are largely sub-optimal due to their uniform structure and short sward height. The majority of suitable habitat and both ponds are expected to be retained, and there is extensive alternative terrestrial habitat within the surrounding landscape to the north and west. Common amphibians are not considered to present a constraint to the Proposed Development.

Great crested newt

- 4.4.2 SxBRC returned four records of GCN from within the desk-study search zone, mostly from 1988 and 2014. The closest record was located c.50m north-east in 2013.
- 4.4.3 The survey area contains good quality terrestrial habitats for GCN, including the horse paddock to the north-west which had a tussocky grassland structure, which is suitable for foraging. The other less managed sections of modified grassland were also suitable for foraging. The woodlands, introduced shrub and hedgerow provide shelter, dispersal habitat and hibernation potential. The shortly mown lawns were sub-optimal for GCN, but if left unmanaged could increase in suitability.
- 4.4.4 There are two ponds within the survey area (P1 and P2), and analysis of Ordnance Survey maps and aerial photography indicated that a further two ponds (P3 and P4) are present within 500m of the survey area; see Appendix II for a pond plan. Research undertaken by Natural England (Cresswell & Whitworth, 2004) suggests GCN will rarely move further than 200-250m from a breeding pond, with much reduced distances recorded where adjacent habitats are of good quality. Jehle (2000) also determined a terrestrial zone of 63m, within which 95% of summer GCN

refuges were located. In addition, following the breeding season, Jehle and Arntzen (2000) recorded 64% of newts within 20m of the pond edge. P3 and P4 were c.280m from the survey and relatively isolated by residential development. If GCN are present within P3 and P4 they are unlikely to be able to reach habitats within the survey area.

- 4.4.5 P1 and P2 were accessible and assessed for their suitability to support breeding GCN using field observations supported by a HSI (Oldham et al, 2000); the full results are listed at Appendix III P1 achieved an HSI value of 0.81, making it of excellent suitability for breeding GCN. P2 achieved an HSI value of 0.64, making it of average suitability for breeding GCN.
- 4.4.6 In conclusion, GCN may be present within the patches of suitable terrestrial habitat which are present within the survey area, and use the onsite ponds for breeding. Construction works would likely involve some site clearance, creation of access tracks and materials storage compounds, vehicle movements and groundworks, which together could result in destruction of GCN habitats or present a risk of killing, injury or disturbance for GCN if present during the works. Further surveys for great crested newt in the nearby suitable ponds are recommended at section 5.2.

Birds (nesting)

- 4.4.7 SxBRC returned records of 103 notable bird species from within the desk-study search zone during a date range of 1981 to 2023. The boundary woodlands, introduced shrub, individual trees and hedgerow within the survey area are suitable for nesting birds such as wren, dunnock (an Amber-listed bird of conservation concern (BoCC5); Stanbury et al., 2021), robin *Erithacus rubecula* and chaffinch *Fringilla coelebs*, while the buildings, particularly B2-B9 provide suitability for species such as house sparrow *Passer domesticus* (BoCC5 Red-listed). Jackdaws *Corvus monedula* were seen nesting in the chimney of the Cottage (B5). The modified grasslands are unlikely to support ground-nesting species such as skylark (BoCC5 Red-listed) due to the relatively short sward heights, small size and enclosure by woodland and hedgerow. Precautionary measures for nesting birds are recommended at section 5.3.

Invertebrates

- 4.4.8 SxBRC returned records of five species of protected invertebrate from within the desk-study search zone, during a date range of 2003 to 2022, comprised entirely of Lepidoptera (moths and butterflies).
- 4.4.9 Woodland habitats, taller modified grassland, individual trees, hedgerows and introduced shrub are likely to provide moderate value for a common and widespread range of invertebrates. Any deadwood within the woodland also provides potential habitat for saproxylic species such as stag beetle. The majority of these habitats, including the woodland is expected to be retained and protected during the works and similar habitats are widely available in the surrounding landscape. On balance invertebrates are not considered to present a constraint to the Proposed Development and no further surveys for this group are required.

Mammals (terrestrial)

Badger

- 4.4.10 SxBRC does not supply badger records for animal welfare reasons.
- 4.4.11 The survey area provides suitable foraging habitat for badger and sett creation habitat for badger. A search for badger setts and signs of their presence was undertaken within a 30m radius of the survey area boundary but did not include the adjacent private properties to the north and east. Infrequent signs of potential badger foraging were observed within the woodland, but these were limited in extent and no setts were found despite extensive searching. There was no other observable evidence of badger activity within or around the survey area, such as badger paths, footprints, latrines, dung pits, or badger hairs caught at fence lines. Badger is not considered to present a constraint to the development proposals and no further surveys for this species are required. General ecological protection measures for badgers and other mammals are advised in section 5.4.

Bats

- 4.4.12 SxBRC returned 182 records of at least nine species of bat from within 2km of the survey area, during a date range of 1982 to 2023, including serotine, Daubenton's bat, whiskered / Brandt's bat, Natterer's bat, noctule, Nathusius' pipistrelle, common pipistrelle, soprano pipistrelle and brown long-eared. Most of these records were of bats in flight but included 60 roost sites, the closest recent record to the survey area being an unspecified common pipistrelle roost located c.650m south-east in 2023.
- 4.4.13 The PRA concluded that buildings B1, B4, B5, B7 and B9 were of high suitability for roosting bats, B2, B3 and B8 were of moderate suitability and B7 was of low suitability and their possible use by roosting bats cannot be ruled out. Significant alteration or demolition of these buildings could result in destruction of a bat roost or present a risk of killing, injury or disturbance if bats are present during the works. Further surveys for bats roosting in buildings are recommended at section 5.2.
- 4.4.14 Trees within the survey area were not surveyed for roosting bat potential however several were displayed suitable PRFs. If felling or arboricultural works to trees within the survey area is required to facilitate the proposals, it could result in destruction of a bat roost or present a risk of killing, injury or disturbance if bats are present during the works. A detailed ground-level tree assessment for bats is recommended at section 5.2 if the individual trees or woodland habitats are to be impacted by the Proposed Development.
- 4.4.15 The modified grasslands that dominate the survey area are low suitability habitats for foraging and commuting bats. Moderate to high quality habitats are present, including woodlands which may serve as a navigation route or foraging feature, particularly where they connect to higher quality habitat to the north. It is expected that woodland habitats will be retained and protected as part of the Proposed Development. Recommendations with regard to artificial light are provided at section 5.4.

Hazel dormouse

- 4.4.16 SxBRC returned seven records of hazel dormouse within the desk study search area, during a date range of 2013 to 2019, the nearest record being located c.700m north-east in 2019.
- 4.4.17 The other mixed woodlands were largely unsuitable for dormouse as they lacked a dense understory of native shrubs and were dominated by ornamental species that would not provide a suitable year-round food supply for dormouse. The Lowland Mixed Deciduous Woodland at the western boundary was of higher suitability as were the hedgerows at the southern and eastern boundaries. The Lowland Mixed Deciduous Woodland and hedgerows were well connected to higher quality habitats within the local landscape, but both these habitats are expected to be retained as part of the Proposed Development. Surveys for hazel dormouse are unlikely to be required unless significant areas of woodland or hedgerow are to be removed, as recommended at section 5.2.

Water vole and otter

- 4.4.18 SxBRC returned no records of water vole *Arvicola amphibius* from within the desk study search area. SxBRC does not supply records of otter *Lutra lutra*.
- 4.4.19 There are no riparian habitats running through or adjacent to the survey area. The nearest stretch of riparian habitat is located c.190m north of the survey area. If present, neither species are unlikely to venture this distance from the riverbank. Water vole and otter are not considered to present a constraint to Proposed Development and further surveys are not required.

Plants, native

- 4.4.20 SxBRC returned records of three protected plant species from within the desk-study search zone during a date range of 2006 to 2019, including bluebell which was recorded within the onsite woodlands.
- 4.4.21 Native bluebell was recorded in low numbers in the western woodlands of the survey area; the species is listed on schedule 8 of the WCA which affords it protection against possession, transport and trade. No other rare or protected species of flora were recorded within the survey area. Given the scale of the proposals and the expectation to retain the majority of the woodland habitat, no further surveys are considered necessary.

Plants – invasive non-native species and injurious weeds

- 4.4.22 Common rhododendron, an invasive non-native species listed on Schedule 9 of the WCA, was present within the other mixed woodlands, and wall cotoneaster was present within introduced shrub habitat at TN1. These species should be removed prior to the Proposed Development to stop them spreading into the wild. Recommendations with respect to this are given at section 5.4. No other schedule 9 plants were recorded.
- 4.4.23 No significant stands of injurious weed species were noted (ragwort *Senecio jacobea*, spear thistle *Cirsium vulgare*, creeping thistle *Cirsium arvense*, curled dock *Rumex crispus*, and broad-leaved dock *Rumex obtusifolius*).

Reptiles (terrestrial)

- 4.4.24 SxBRC returned 25 records of terrestrial reptile species from within the desk-study search area, during a date range of 1991 to 2020. Three of the four widespread species have been recorded in the vicinity; slow worm grass snake and common lizard. The closest records to the survey area were a slow worm and a grass snake located c.200m north in 2014.
- 4.4.25 The survey area contains patches of good quality habitats for reptiles, particularly the large grassland paddock at the north-west of the survey area and less managed strips of grassland along the access road. The hedgerows, woodland and introduced shrub also provide shelter, dispersal and hibernation habitat. Construction works would involve site clearance, creation of access tracks and materials storage compounds, vehicle movements and groundworks, which together could present a risk of killing or injury for reptiles if present within the survey area. Further surveys for reptiles are recommended at section 5.2 if large areas of suitable habitat are to be removed.

Other protected, rare or notable species

- 4.4.26 SxBRC returned ten records of hedgehog from within the desk-study search zone during a date range of 2005 to 2021. The closest to the site was located c.560m south-west in 2006. The survey area contains habitats suitable for this species, including grassland, hedgerow and woodland. Hedgehog is listed as a species of principal importance under the NERC and is undergoing a significant population decline. Measures should be taken to continue accommodating this species within the survey area post-development (see section 5.4).

5 Recommendations and Conclusions

5.1 Introduction

- 5.1.1 With regard to the objectives of this PEA, recommendations are made below for further protected species survey where necessary. Preliminary recommendations are also made for the protection of important ecological features, and/or to avoid or mitigate ecological impacts, and to enhance the survey area for wildlife following construction. It is intended that these recommendations should be considered during future changes to the design of development proposals so that protection of important ecological features is secured and opportunities for ecological enhancement are realised. The recommendations should be reviewed following the completion of further ecological surveys.

5.2 Botanical or Protected Species Surveys

- 5.2.1 The following species / groups (Table 5.1) will require additional surveys prior to refining development designs and formulating a suitable avoidance and mitigation strategy (if required).

Table 5.1: Recommendations for further ecological surveys

#	Recommendations for further ecological survey
R1	Presence / absence surveys for GCN in ponds P1 and P2, undertaken using eDNA sampling techniques from mid-April to end June, or using conventional techniques from mid-March to mid-June.
R2	Ground-level tree assessment for roosting bats within woodland and scattered trees, if removal is required, preferably during winter or spring.
R3	Presence / absence surveys for roosting bats within buildings B1, B2, B3, B4, B5, B6, B7, B8 and B9, undertaken between May and August.
R4	Presence / absence surveys for dormouse, undertaken between April and November, if clearance of woodland and hedgerows is required.
R5	Presence / absence surveys for reptiles, undertaken between April and September, if large areas of suitable habitat are to be removed.
R6	If any of the above species are present and affected by the proposals, a full EclA of the effects of the Proposed Development should be carried out. The EclA will include detailed advice on ecological avoidance, mitigation, enhancement and/or compensation measures. This is in line with the latest guidance from the Chartered Institute of Ecology and Environmental Management (CIEEM, 2017a, 2017b, 2018).

Great crested newt

- 5.2.2 A great crested newt survey is recommended to establish whether the species is present in ponds P1 and P2. If GCN are absent from these ponds then it is likely they are also absent from the

survey area. Environmental DNA (eDNA) sampling should be sufficient in the first instance and has the advantage of being more time- and cost-efficient where there is a high number of waterbodies or the likelihood of recording GCN is low. A single visit to the pond should be made by a suitably experienced and licensed ecologist between 15 April and 30 June. However, this method carries the risk that conventional survey techniques (which are more resource-intensive) will still be required if GCN is recorded. Twenty water samples are collected from each waterbody during the visit using purpose-designed sterile sampling kits, preserved in ethanol and subsequently dispatched for laboratory analysis. The sampling and analysis should follow the latest protocols set out in Natural England's '*Technical advice note for field and laboratory sampling of great crested newt environmental DNA*' (Biggs et al., 2014).

Roosting bats

- 5.2.3 A ground-level tree assessment following current guidelines (Collins, 2023) is required to establish the potential for individual trees and trees within the woodland habitats to support roosting bats, if felling or arboricultural works to facilitate development works are required within these habitats. The objective is to classify each tree as of negligible, PRF-I or PRF-M suitability for roosting bats, to inform the need for further tree-climbing or presence/absence surveys.
- 5.2.4 The location of each tree potentially suitable for roosting bats within the survey area should be recorded, along with the following standard data: species, life stage, diameter at breast height, form and condition, types roost feature present, their aspect, stem orientation and approximate height above ground level. Ground-level tree assessment is best carried out during winter or early spring (after the leaves have fallen and before re-growth) in order to gain adequate view of potential roost features.
- 5.2.5 The Proposed Development will require the alteration and / or restoration of buildings B1, B2, B3, B4, B5, B6, B7, B8 and B9. These works could result in destruction of a bat roost or killing, injury or disturbance to roosting bats, and further surveys are recommended to determine their presence or likely absence with these features. The surveys should follow current guidelines (Collins, 2023), comprising dusk emergence surveys with night vision aids carried out between May and September (May to August is the optimal period). Surveys should begin at least quarter of an hour before dusk and continue for up to 2 hours after sunset. B1, B4, B5, B7 and B9 were of high suitability for roosting bats, B2, B3 and B8 were of moderate suitability and B7 was of low suitability. The level of survey effort required is dependent on each feature's suitability for roosting bats, as follows:
- ▶ Confirmed roost / High suitability / PRF-M: Three separate dusk emergence surveys.
 - ▶ Moderate suitability: Two separate dusk emergence surveys.
 - ▶ Low suitability: One dusk emergence survey.

Hazel dormouse

- 5.2.6 The other mixed woodlands were largely unsuitable for dormouse as they lacked a dense understory of native shrubs. The Lowland Mixed Deciduous Woodland was of higher suitability as were the hedgerows at the southern and eastern boundaries and were well connected to higher quality habitats within the local landscape.

- 5.2.7 It is expected that the woodland and hedgerow habitats will be retained however, if the Proposed Development will require the full or partial removal of woodland or hedgerow habitats then further presence / absence surveys for hazel dormouse may be required depending on the extent of habitat loss.

Reptiles

- 5.2.8 The survey area contains habitats suitable for reptiles including taller sections of modified grassland (particularly MG1 and MG3), introduced shrub, hedgerow and woodland. There is hence a risk of killing or injury to reptiles if these habitats are removed. If removal of large areas of suitable grassland is required, then further surveys for reptiles by an experienced herpetologist are recommended to establish their presence or likely absence within the proposed construction footprint. The survey should involve a minimum of seven visits to the site in suitable weather conditions during the active season (broadly April to September), following current guidelines (Froglife, 1999; Gent & Gibson, 2003). Methods include visual encounter surveys (i.e. targeted transects) and searches of artificial and natural refuges.

5.3 Precautionary Measures

- 5.3.1 The following species/groups (Table 5.2) require specific precautionary measures to be adhered to prior to and during construction to ensure that an offence under the relevant legislation is avoided. These measures may need to be added to or amended following completion of the protected species surveys described above.

Table 5.2: Recommended precautionary measures

#	Recommended precautionary measures
R7	Removal of nesting bird habitats (including vegetation and buildings) will be undertaken outside of the bird nesting season, which runs from 1 March to 31 August. It will therefore be carried out between September and February, but should be planned and implemented in accordance with the findings of the further ecological surveys recommended above, as other protected species may still be present outside of the bird breeding season. Any construction works undertaken within the bird breeding season where suitable bird breeding habitat exists will require a site check for nesting birds by a suitably qualified ecologist. This will take place no more than two days prior to works commencing. This is to ensure that no disturbance to active bird nests occurs. If a nest is found it must be cordoned off and works adjacent to the nest must be delayed until such time that the chicks have fledged from the nest. This will be supervised by a suitably qualified ecologist.
R8	Badger's use of the landscape is dynamic and can change rapidly. A repeat badger survey should be undertaken prior to commencement of development works in order to determine if any new badger setts have established within the survey area. The survey area should include the construction zone plus a 30m buffer to ensure that disturbance to badgers occupying a sett does not occur during the works.
R9	Works to remove small areas of suitable dormouse habitat (woodland and hedgerow) will be undertaken in accordance with a Non-Licensed Method Statement to reduce the risk of killing / injury to hazel dormouse. The Method Statement will specify reasonable avoidance measures including progressive reduction of vegetation height by hand (initial cut to 15cm max during

#	Recommended precautionary measures
	November to March, stump removal from May) to enable any dormice present to disperse into suitable surrounding areas of retained habitat, and will be carried out under the supervision of a suitably qualified ecologist.
R10	If small sections of suitable reptile habitat (modified grassland MG1 / MG3, woodland, hedgerow, introduced shrub) are to be removed the work will be undertaken in accordance with a Precautionary Working Method Statement to reduce the risk of killing /injury to reptiles. The Method Statement will specify reasonable avoidance measures including timing restrictions (works to be carried out during the reptile active season, broadly March / April to September / October), progressive reduction of vegetation height to displace any reptiles present, and will be carried out under the supervision of a suitably qualified ecologist. Once vegetation removal is complete, the survey area will be maintained in unsuitable condition to prevent recolonisation.

Table 5.3: Recommended ecological protection measures

#	Recommended ecological protection measures
R11	Lowland Mixed Deciduous Woodland priority habitat within the survey area is of high intrinsic ecological value and provide habitats suitable for a range of protected species, including amphibians, nesting birds, invertebrates, badger, bats, hazel dormouse and reptiles. This habitat is expected to be retained and protected during construction and will also provide a focus for ecological enhancement measures.
R12	Trees T36 and T85 were classified as Ancient Trees irreplaceable and of high intrinsic and ecological value and provide habitat for a variety of bats, birds, invertebrates, plants and fungi. Both trees should be retained during construction and operation.
R13	British Standard BS 5837:2012 will be followed at all times during construction when working in close proximity to trees or shrubs which are to be retained. According to BS 5837:2012 the root protection area is 12x diameter of the trunk (diameter is measured around the trunk at a height of 1.5m above ground level), which will constitute the construction exclusion zone. The distance is measured from the centre of the trunk to the nearest part of any excavation or other work. If a separate tree survey is carried out for the proposed development, works will be undertaken in accordance with the approved arboricultural method statement.
R14	Rhododendron is present within the survey area woodland habitats. This species is highly invasive and it is inadvisable to have it present in or bordering woodland. A method statement will be prepared to ensure adequate control measures are adopted during construction to prevent it spreading from the site. Control measures can comprise a variety of options including: a cut stump application whereby herbicide is injected to the surface of a stump on the same day as cutting; foliar regrowth herbicide application; hand pulling of any seedlings; overall foliar herbicide application of small shrubs (below 1.3 m in height); or manual cutting. Wall cotoneaster is present within the survey area introduced shrub habitats (TN1). This species is invasive and spreads to form dense stands that exclude other vegetation. A method statement will be prepared to ensure adequate control measures are adopted during construction to prevent it spreading from the site. Control measures can comprise mulching and/or burning on site so that the plants cannot spread.
R15	The use of external lighting will be avoided or reduced to the minimum required for its intended purpose, during both construction and operation. This will be of benefit to nocturnal species e.g. bats. Where external lighting is to be provided, it will be low-level, directional

#	Recommended ecological protection measures
	lighting with minimal spill and glare, and consideration will be given to reduced hours of operation and/or a movement responsive system of control. Use narrow-spectrum bulbs and light sources that emit minimal UV light, avoiding white and blue wavelengths of the spectrum. Use glass lantern covers instead of plastic to filter UV light. Lighting will not be directed towards the woodland, hedgerows or mature trees, especially the Ancient Trees T36 and T85.
R16	To enable continued dispersal of hedgehogs (which require large territory sizes) and other small mammals across the site and within the local area following the Proposed Development, small access gaps to measure c.13x13cm are recommended to be provisioned at the base of all new fence boundaries. These will allow easy passage for small mammals to continue foraging in the area while still being small enough to contain pets.
R17	All excavations left overnight will either be covered over, or provided with a ramp to enable easy escape of badgers, hedgehogs, small mammals, amphibians and other fauna, and inspected each morning prior to recommencement. Open pipework greater than 150mm outside diameter will be blanked off at the end of each working day.
R18	Where fox dens or rabbit warrens are to be damaged or destroyed as part of the proposed works, this will be undertaken in accordance with the Mammals Act 1996 by a registered pest control company.

5.4 Recommendations for Ecological Enhancement

- 5.4.1 The following ecological enhancements (Table 5.4) should be considered to improve the value of the survey area for biodiversity after construction but should be reviewed and specified further following the completion of recommended protected species surveys.

Table 5.4: Preliminary recommendations for ecological enhancement

#	Preliminary recommendations for ecological enhancement
R19	The retained woodland will be enhanced through additional understorey planting of a range of native fruiting shrubs of local provenance appropriate to the location.
R20	Buffers of less intensively managed vegetation (e.g. coarse grasses and wildflowers, including the use of tussock-forming grass species such as cock's foot, Yorkshire fog, tufted hair-grass <i>Deschampsia cespitosa</i> and false oat-grass) will be created within soft landscaped areas within the Proposed Development, towards the survey area boundaries and alongside the woodlands and pond. This will help to maintain / enhance ecological connectivity through the survey area for reptiles, amphibians and small mammals, and provide forage for invertebrates.
R21	Hedgerow creation and/or restoration as part of the landscaping plan for the survey area will use a range of native shrub species. Fruit, seed, nut and nectar-bearing species will be used preferentially when selecting species for landscape planting, so that food sources are available throughout the year (e.g. hazel, hawthorn, blackthorn <i>Prunus spinosa</i> , field maple <i>Acer campestre</i> , dogwood, privet <i>Ligustrum vulgare</i> , spindle <i>Euonymus europaeus</i> and honeysuckle <i>Lonicera periclymenum</i>). If an evergreen hedge is required for landscape screening, suitable native species include holly, yew, although both can be rather slow growing.
R22	The landscaping plans for the survey area will utilise plant species which encourage bats. The table at Appendix IV lists species of plants that can provide benefit for bats either by providing

#	Preliminary recommendations for ecological enhancement
	a food source for insects on which bats feed, or providing additional roosting opportunities (Gunnell <i>et al.</i> , 2012). The plant species are predominantly native to Britain, but not all species will be suitable in all situations. The aim is to encourage a diverse range of invertebrate food sources and increased bat roost potential.
R23	Habitat piles will be created within areas of retained rough grassland or woodland. These will provide additional hibernation and shelter resources for amphibians, invertebrates, reptiles, and a range of other wildlife, and egg-laying substrate for grass snakes. Hibernacula can be created by partially burying logs and stones in sheltered areas away from flood risk, and covering over with earth or turf. Breeding habitats can be created by collecting grass clippings and other prunings arising from landscape management of the site, and composting them in a secluded corner of the site. Deadwood piles can be created using arisings from site clearance to provide shelter and breeding opportunities for invertebrates, particularly saproxylic species which are dependent on deadwood.
R24	The value of the survey area for birds will be enhanced by installing a range of artificial nest boxes. These will be placed on retained mature trees within the development or at the site boundaries, or incorporated within building facades. For instance: ▪ New buildings: nest boxes can be installed under the eaves for birds that utilise buildings for nesting, e.g. house sparrow and swift. These species are of principal importance, of conservation concern and/or are notable in Sussex. ▪ Trees: nest boxes with entrance holes suitable for tit species, woodpeckers and nuthatches, and open-fronted boxes suitable for spotted flycatcher or song thrush, and treecreeper <i>Certhia familiaris</i> boxes.
R25	The value of the survey area for bats will be enhanced by installing a range of artificial roost boxes. These will be placed on retained mature trees within the development or at the site boundaries, or incorporated within building facades. Boxes suitable for a range of species should be used, for instance: ▪ New buildings: integral bat tubes can be installed within buildings which face vegetated areas. Bat tubes can be incorporated into the design of the building so that only the access holes are visible from the exterior of the building. The Schwegler 1FR or 2FR Bat Tube is designed to meet the characteristic requirements of the types of bats that inhabit buildings such as pipistrelles <i>Pipistrellus spp.</i> or serotines <i>Eptesicus serotinus</i>. It is designed to be installed on the external walls of buildings, either flush or beneath a rendered surface. ▪ Pipistrelles: bat boxes suitable to install on mature trees either within or at the edges of the development include the Schwegler 1FF Flat Bat Box, or other manufacturer's equivalent. ▪ Noctules <i>Nyctalus spp.</i> and brown long eared bats: bat boxes suitable to install on mature trees either within or at the edges of the development include the Schwegler 2F General Purpose Bat Box or the 2FN Woodland Bat Box, or other manufacturer's equivalent. Bat boxes on buildings should ideally be located south-facing (between south-east and south-west) and above 4m from ground level. On trees, bat boxes should ideally be located on three aspects of each tree (facing north, south-east and south-west) and at ≥5m from ground level. In both cases they should be installed facing vegetation features such as mature hedgerows or trees, but with a clear line of flight for bats exiting the roost, and away from sources of artificial light.

5.5 Conclusions

- 5.5.1 The majority of the survey area is of moderate ecological value. Significant constraints to the Proposed Development were identified including Priority Habitats, and the potential presence of GCN, nesting birds, badger, roosting bats, foraging and commuting bats, hazel dormouse and reptiles. Further ecological surveys and impact assessment are required prior to submitting a planning application, to determine the value of the site for these species and to formulate a suitable mitigation strategy.

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Appendix I: UKHab Habitats Plan

Sunte House, Haywards Heath

- Survey area
- Modified grassland
- Other neutral grassland 16 tall forbs;
81 ruderal/ephemeral
- Ponds 46 - Ornamental lake or pond
- Pond (Non-Priority Habitat)
- Roosting bat suitability - High
- Roosting bat suitability - Moderate
- Roosting bat suitability - Low
- Developed land, sealed surface;
buildings
- Developed land, sealed surface
- Introduced shrub
- Lowland mixed deciduous woodland
- Other woodland; mixed
- Native hedgerow
- Non-native and ornamental hedgerow
- Target note
- Individual tree
- Ancient tree



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Ordnance Survey 0100031673

Scale (at A4): 1:1,400 Created by: EM

Date: May 2024 Reviewed by: NP

Drawing number:

UE0664ECOARB-SunteHouse_240520:Habitats



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Appendix II: Pond Plan

Sunte House, Haywards Heath

-  Survey area
-  250m buffer
-  500m buffer
-  Ponds



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Ordnance Survey 0100031673

Scale (at A4): 1:7,000 Created by: EM

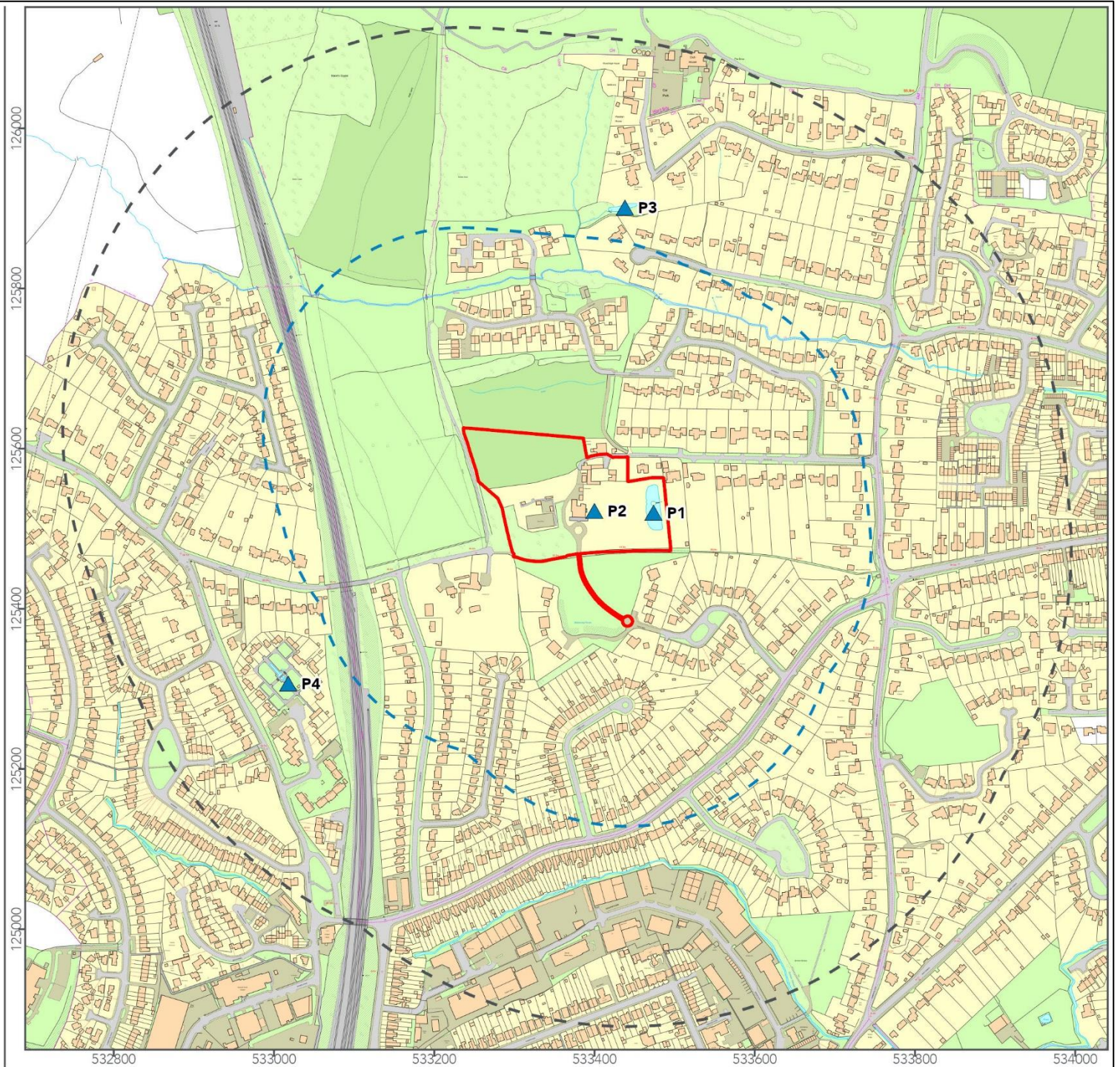
Date: Apr 2024 Reviewed by: NP

Drawing number:

UE0664ECOARB-SunteHouse_240430:Ponds



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Appendix III: Habitat Suitability Indices

HSI results for all accessible waterbodies potentially suitable for GCN within 500m of the site are shown below.

Variable	Field score	SI value	Field score	SI value
	Pond 1		Pond 2	
Location	<i>Zone A</i>	1	<i>Zone A</i>	1
Pond area (m2)	<i>1000m2</i>	0.95	<i>8m2</i>	0.05
Pond permanence	<i>Never dries</i>	0.9	<i>Never dries</i>	0.9
Water quality	<i>Good</i>	1	<i>Moderate</i>	0.67
% shaded 1m from bank	<i><60%</i>	1	<i><60%</i>	1
Fowl	<i>Minor</i>	0.67	<i>Absent</i>	1
Fish	<i>Possible</i>	0.67	<i>Absent</i>	1
Pond density (per km ²)	<i>6.00</i>	0.83	<i>6.00</i>	0.83
Terrestrial habitat	<i>Moderate</i>	0.67	<i>Moderate</i>	0.67
Macrophyte cover %	<i>30.00%</i>	0.6	<i>40.00%</i>	0.7
HSI value		0.81		0.64
Suitability		Excellent		Average

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Appendix IV: Plant Species Which Encourage Bats

Please see following pages which are drawn from Gunnell *et al.* (2012).

Plant Species	Common name	Native	Type	Benefit	Soil	Light	Extensive green roofs	Living walls	Rain Gardens	Hedges/ trees	Beds/ borders
<i>Acer campestre</i>	Field maple	N	T/S	C	Any	Sun / shade				Y	
<i>Acer platanoides</i>	Norway maple		T	S	Well drained / alkaline	Sun / shade				Y	
<i>Acer saccharum</i>	Sugar maple		T	S	Any	Sun / shade				Y	
<i>Achillea millefolium</i>	Yarrow	N	HP	C,F	Well drained	Sun	Y				
<i>Ajuga reptans</i>	Bugle	N	HP	C,F	Any	Sun / shade	Y				
<i>Anthyllis vulneraria</i>	Kidney vetch	N	HP	F	Well drained	Sun	Y				
<i>Aubrieta deltoidea</i>	Aubrieta		H	F	Well drained	Sun / shade		Y			
<i>Betula pendula</i>	Silver birch	N	T	C	Sandy / Acid	Sun				Y	
<i>Cardamine pratensis</i>	Cuckoo-flower	N	HP	F	Moist	Sun / shade					Y
<i>Carpinus betulus</i>	Hornbeam	N	T	C	Clay	Sun				Y	
<i>Centaurea nigra</i>	Common knapweed	N	HP	C,F	Dry, not acid	Sun	Y				Y
<i>Centranthus ruber</i>	Red valerian		HP	F	Well drained / alkaline	Sun	Y				Y
<i>Clematis vitalba</i>	Old man's beard	N	C	F	Well drained / alkaline	Sun				Y	
<i>Corylus avellana</i>	Hazel	N	S	C	Any dry	Sun / shade		Y		Y	
<i>Crataegus monogyna</i>	Hawthorn	N	S	S,C	Any	Sun / shade				Y	
<i>Daucus carota</i>	Wild carrot	N	Bi	S,C,F	Any	Sun	Y				Y
<i>Dianthus spp.</i>	Pinks	N	A-Bi	F	Well drained	Sun	Y	Y			Y
<i>Digitalis purpurea</i>	Foxglove	N	Bi	C	Well drained	Shade / partial shade				Y	Y
<i>Erica cinerea</i>	Bell heather	N	S	F	Sandy	Full sun					Y
<i>Erysimum cheiri</i>	Wallflower		Bi-P	F	Well drained	Sun		Y			
<i>Eupatorium cannabinum</i>	Hemp agrimony	N	H	F	Moist	Sun / shade					Y
<i>Fagus sylvatica</i>	Beech	N	T	C,R	Well drained / alkaline	Sun / shade				Y	
<i>Foeniculum vulgare</i>	Fennel		H	F	Well drained	Sun					Y
<i>Fraxinus excelsior</i>	Common ash	N	T	C,R	Any	Sun / shade				Y	
<i>Hebe spp.</i>	Hebe species		S	F	Well drained	Sun / shade				Y	Y
<i>Hedera helix</i>	Ivy	N	C	F,C	Any	Sun / shade		Y		Y	Y
<i>Hesperis matronalis</i>	Sweet rocket		H	F	Well drained / dry	Sun / shade					Y
<i>Hyacinthoides non-scripta</i>	Bluebell	N	B	F	Loam	Shade / partial shade		Y		Y	Y

Plant Species	Common name	Native	Type	Benefit	Soil	Light	Extensive green roofs	Living walls	Rain Gardens	Hedges/ trees	Beds/ borders
<i>Ilex aquifolium</i>	Holly	N	T	C	Any	Sun / shade				Y	
<i>Jasminum officinale</i>	Common jasmine		C	F	Well drained	Sun		Y			Y
<i>Lavandula</i> spp.	Lavender species		S	F	Well drained / sandy	Sun		Y			Y
<i>Linaria vulgaris</i>	Toadflax	N	HP	C	Well drained / alkaline	Sun	Y				Y
<i>Lonicera periclymenum</i>	Honeysuckle	N	C	F	Well drained	Sun		Y		Y	
<i>Lotus corniculatus</i>	Bird's foot trefoil	N	HP	F	Well drained / dry	Sun	Y				Y
<i>Lunaria annua</i>	Honesty		Bi	F	Any	Sun / partial shade	Y				
<i>Malus</i> spp.	Apple		T	C	Any	Sun				Y	
<i>Matthiola longipetala</i>	Night-scented stock		A	F	Well drained/ moist	Sun			Y		
<i>Myosotis</i> spp.	forget-me-not	N	A	F	Any	Sun	Y	Y			
<i>Nicotiana glauca</i>	Ornamental tobacco		A	F	Well drained/ moist	Sun / partial shade			Y		
<i>Oenothera</i> spp.	Evening primrose species		Bi	F	Well drained/ dry	Sun	Y				
<i>Origanum vulgare</i>	Marjoram	N	HP	F	Well drained/ dry	Sun	Y	Y			
<i>Populus alba</i>	White poplar	N	T	C	Clay loam	Sun				Y	
<i>Primula veris</i>	Cowslip	N	HP	F	Well drained/moist	Sun / partial shade	Y				
<i>Primula vulgaris</i>	Primrose	N	HP	F	Moist	Partial shade	Y	Y		Y	
<i>Prunus avium</i>	Wild cherry	N	T	C	Any	Sun				Y	
<i>Prunus domestica</i>	Plum		T	C	Well drained/ moist	Sun				Y	
<i>Prunus spinosa</i>	Blackthorn	N	S	C	Any	Sun / partial shade				Y	
<i>Quercus petraea</i>	Sessile oak	N	T	C,R	Sandy loam	Sun / shade				Y	
<i>Quercus robur</i>	Common oak	N	T	C,R	Clay loam	Sun / shade				Y	
<i>Rosa canina</i>	Dog rose	N	S	C	Any	Sun			Y	Y	
<i>Salix</i> spp.	Willow species	N	S	S,C	Moist	Sun / shade			Y	Y	
<i>Sambucus nigra</i>	Elder	N	T	C	Clay loam	Sun				Y	
<i>Saponaria officinalis</i>	Soapwort	N	HP	F	Any	Sun					
<i>Saxifraga oppositifolia</i>	Saxifrage	N	HP	C	Well drained	Sun	Y	Y			
<i>Scabiosa columbaria</i>	Small scabious	N	HP	F	Well drained/ alkaline	Sun	Y				
<i>Sedum spectabile</i>	Ice plant		HP	F	Well drained/ dry	Sun	Y				
<i>Silene dioica</i>	Red campion	N	HP	F	Any	Shade / partial shade		Y	Y	Y	

Plant Species	Common name	Native	Type	Benefit	Soil	Light	Extensive green roofs	Living walls	Rain Gardens	Hedges/ trees	Beds/ borders
<i>Sorbus aucuparia</i>	Rowan	N	T	C	Well drained	Sun				Y	
<i>Stachys lanata</i>	Lamb's ears		HP	F	Well drained/dry	Sun	Y				
<i>Symphotrichum</i> spp.	Michaelmas daisies		HP	F	Any	Sun					
<i>Tegetes patula</i>	French marigold		A	F	Well drained/moist	Sun					
<i>Thymus serpyllum</i>	Creeping thyme	N	HP/S	F	Well drained/dry	Sun	Y	Y			
<i>Tilia x europaea</i>	Common lime		Type	C	Any	Sun / shade				Y	
<i>Trifolium</i> spp.	Clover species	N	HP	F	Any	Sun	Y				
<i>Valeriana</i> spp.	Valerian species	N	HP	F	Moist	Sun / partial shade			Y		
<i>Verbascum</i> spp	Mulleins	N	Bi,HP	C	Well drained	Sun	Y				
<i>Verbena bonariensis</i>	Verbena		HP	F	Well drained/moist	Sun					
<i>Viburnum lantana</i>	Wayfaring tree	N	S	C	Any	Sun / shade				Y	
<i>Viburnum opulus</i>	Guelder rose	N	S	C	Moist	Sun / shade			Y	Y	
<i>Viola tricolor</i>	Pansy	N	A	F	Well drained/moist		Y	Y			

The table above is derived from the BCT publication Landscape and Urban Design for Bats and Biodiversity (Gunnell et al., 2012) and lists suggested plant species that can provide benefit for bats either by providing a food source for insects or roost potential. The plants listed are predominately native to Britain. The small group of non-native plants is included for their documented value for wildlife. This list has been checked against Natural England's list of invasive non-native plants.

HP: Herbaceous perennial

T: Tree

A: Annual

Benefit:

Bi: Biennial

S: Shrub

B: Bulb

C: Moth caterpillar food plant

F: Flowers attract adult moths

BiP: Biennial perennial

H: Herb

C: Creeper/climber

S: Sap sucking insects (e.g. whiteflies)

R: Good roost potential

Appendix V: Legislation and Planning Context

Legislation

General

The main legislative instruments for ecological protection in England and Wales are: the Wildlife and Countryside Act 1981 (WCA; as amended); Countryside and Rights of Way Act 2000 (CRoW; as amended); Natural Environment and Rural Communities Act 2006 (NERC; as amended); the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations; as amended); and the Environment Act 2021.

WCA 1981 consolidated and amended pre-existing national wildlife legislation in order to implement the Bern Convention and the European Union Wild Birds Directive (Council Directive 2009/147/EC). It complements the Habitats Regulations, offering protection to a wider range of species than the latter. The Act also provided for the designation and protection of nationally important conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSI). Schedules of the act list protected species of flora and fauna, as well as invasive species, and detail the possible offences that apply to these species.

The CROW Act 2000 amended and strengthened existing wildlife legislation detailed in the WCA. It placed a duty on government departments & the National Assembly for Wales to have regard for biodiversity, provided increased powers for the protection and maintenance of SSSI, and created a right of access to parts of the countryside. The Act contained lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

The NERC Act 2006 consolidated and replaced aspects of earlier legislation. Section 40 of the Act places a duty upon all local authorities and public bodies in England and Wales to have regard to the purpose of conserving biodiversity in exercising all of their functions, including by restoring or enhancing habitats and species populations. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity (otherwise known as Priority Habitats/species as listed in the now superseded UK Biodiversity Action Plan). These lists supersede Section 74 of the CRoW Act 2000. These species and habitats are a material consideration in the planning process.

The Habitats Regulations 2017 are the principal means by the European Union Habitats Directive (Council Directive 92/43/EEC) was transposed into English and Welsh law, and place a duty upon the relevant authority of government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria in Europe are designated as Sites of Community Importance by the European Commission, and subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. Since the UK's departure from the European Union the European Commission no longer has a role in designating SACs in the UK. The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 establish a single stage designation process, where the appropriate authority is the decision maker. The selection and designation of SACs is based on the criteria set out in Annex III of the Habitats Directive insofar as it applies to the UK, and having regard to the advice of the appropriate nature conservation body.

The 2019 Amendment Regulations have created a new national site network on land and at sea, including both the inshore and offshore marine areas in the UK. The national site network includes existing SACs, existing Special

Protection Areas (SPA) originally designated as a result of Council Directive 2009/147/EC on the Conservation of Wild Birds, and any new SACs and SPAs designated under the 2019 Regulations. SACs and SPAs in the UK therefore no longer form part of the EU's Natura 2000 ecological network.

The Habitats Regulations also provide for the protection of individual species of fauna and flora of European conservation concern listed in Schedules 2 and 5 respectively (European Protected Species (EPS)). Schedule 2 includes species such as otter and great crested newt for which the UK population represents a significant proportion of the total European population. It is an offence to deliberately kill, injure, disturb or trade in these species. Schedule 5 plant species are protected from unlawful destruction, uprooting or trade under the regulations. Under the Habitats Regulations disturbance includes any activity which is likely to: impair the ability of a EPS to survive, breed, reproduce, or rear/nurture its young; impair the ability of a EPS to migrate or hibernate; or significantly affect the local distribution or abundance of the species.

The Environment Act 2021, among other things: established an Office for Environmental Protection; introduced a mandatory requirement for all new development requiring planning permission to achieve a net gain for biodiversity of at least 10% (although implementation of this is transitional); amended the NERC Act duty to conserve biodiversity by explicitly adding a duty to enhance; and requires local authorities to produce local nature recovery strategies.

Great crested newt (*Triturus cristatus*; GCN) (and natterjack toad *Bufo calamita*)

GCN is fully protected by the WCA and the Habitats Regulations. The legislation makes it an offence, *inter alia*, to:

- ▶ Intentionally kill, injure or take a GCN (including its eggs).
- ▶ Possess or control a live or dead GCN, any part of, or anything derived from a GCN.
- ▶ Intentionally or recklessly damage, destroy or obstruct access to any structure or place that a GCN uses for shelter or protection.
- ▶ Intentionally or recklessly disturb a GCN while it is occupying a structure or place that it uses for shelter or protection.

Wild birds

Wild birds are protected by the Wildlife and Countryside Act, 1981 (as amended). This legislation makes it an offence to intentionally kill, injure or take away any wild bird. It is also an offence to take, damage or destroy the nest of any wild bird while it is in use or being built or to take or destroy the egg of any wild bird. In addition, certain species are listed on Schedule 1 of the WCA (such as kingfisher *Alcedo atthis*). This makes it an additional offence to intentionally or recklessly disturb the adults while they are in and around their nest or intentionally or recklessly disturb their dependent young. Such species are considered to be in greater need of legal protection or of high nature conservation priority.

Birds of Conservation Concern (BoCC5) are included on Red and Amber lists (Stanbury *et al.*, 2021). Birds on the Red list are those of highest conservation priority due significant and sustained population decreases and/or range contractions (e.g. house sparrow *Passer domesticus* and starling *Sturnus vulgaris*). Birds on the Amber list are the next most critical group and include species whose population/range have shown moderate declines, or which have recovered to some extent from historical decline, such as dunnock *Prunella modularis*.

Badger (*Meles meles*)

Badgers are listed under Schedule 6 of the Wildlife and Countryside Act which grants them partial protection. This protection is extended by the Protection of Badgers Act 1992 (Badger Act) which makes it an offence to take, injure or kill a badger, interfere with a sett, sell or possess a live badger, or mark or ring a badger without a licence. Under the Act disturbance is illegal without a licence. Natural England has published guidelines to be adopted when determining whether an activity is 'disturbing' i.e. a licence is required when, for example, using heavy machinery (generally tracked vehicles) within 30m of any entrance to an active sett. Licences are not normally issued during the badger breeding season (December – June inclusive).

Bats (*Chiroptera*)

Bats and their roosts are fully protected by protected by the WCA and the Habitats Regulations, and seven species of bats are species of principal importance. The legislation makes it an offence, *inter alia*, to:

- ▶ Intentionally kill, injure or take a bat.
- ▶ Possess or control a live or dead bat, any part of a bat, or anything derived from a bat.
- ▶ Intentionally or recklessly damage, destroy or obstruct access to any structure or place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.
- ▶ Intentionally or recklessly disturb a bat while it is occupying a structure or place that it uses for shelter or protection.
- ▶ Make a false statement in order to obtain a licence for bat work.

Under the Habitats Regulations disturbance includes any activity which is likely to:

- ▶ Impair the ability of a bat to survive, breed, reproduce, or rear/nurture its young.
- ▶ Impair the ability of a bat to migrate or hibernate.
- ▶ Significantly affect the local distribution or abundance of the species.

Eurasian beaver (*Castor fiber*)

From October 2022 Eurasian beavers are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Under this legislation it is an offence to:

- ▶ Deliberately disturb a beaver – this includes any action likely to impair their ability to survive, breed or rear their young.
- ▶ Deliberately injure, capture or kill a beaver.
- ▶ Damage or destroy the breeding site or resting place of a beaver.

It is also an offence to:

- ▶ Possess, control or transport a beaver.
- ▶ Sell or exchange a beaver.
- ▶ Offer a beaver for sale or exchange.

This applies whether the beaver is alive or dead and includes beaver parts and derivatives.

The Wildlife and Countryside Act 1981 (as amended) prohibits the release of beavers into the wild except with a licence. It also makes it an offence to use any trap or snare for the purpose of killing, taking or restraining beavers. It is also an offence to set a trap or snare in place to cause injury to a beaver.

Some management activities near or in a site of special scientific interest may need permission from Natural England under this legislation.

Beavers are protected from unnecessary suffering and cruel treatment under the Animal Welfare Act 2006 and the Wild Mammals (Protection) Act 1996.

Hazel dormouse (*Muscardinus avellanarius*)

Dormouse is fully protected by the WCA and the Habitats Regulations. The legislation makes it an offence, *inter alia*:

- ▶ Intentionally kill, injure or take a dormouse.
- ▶ Possess or control a live or dead dormouse, any part of, or anything derived from a dormouse.
- ▶ Intentionally or recklessly damage, destroy or obstruct access to any structure or place that a dormouse uses for shelter or protection.
- ▶ Intentionally or recklessly disturb a dormouse while it is occupying a structure or place that it uses for shelter or protection.

Otter (*Lutra lutra*)

Otter is fully protected by the WCA and the Habitats Regulations. The legislation makes it an offence, *inter alia*, to:

- ▶ Intentionally kill, injure or take an otter.
- ▶ Possess or control a live or dead otter, any part of, or anything derived from an otter.
- ▶ Intentionally or recklessly damage, destroy or obstruct access to any structure or place that an otter uses for shelter or protection.
- ▶ Intentionally or recklessly disturb an otter while it is occupying a structure or place that it uses for shelter or protection.

Water vole (*Arvicola amphibious*)

Water vole is fully protected by the WCA. The legislation makes it an offence, *inter alia*, to:

- ▶ Intentionally kill, injure or take a water vole.
- ▶ Possess or control a live or dead water vole, any part of, or anything derived from a water vole.
- ▶ Intentionally or recklessly damage, destroy or obstruct access to any structure or place that a water vole uses for shelter or protection.
- ▶ Intentionally or recklessly disturb a water vole while it is occupying a structure or place that it uses for shelter or protection.

Reptiles

The four common species (slow-worm *Anguis fragilis*, common lizard *Zootoca vivipara*, adder *Vipera berus* and grass snake *Natrix helvetica*) are partially protected under the WCA. They are protected, *inter alia*, against intentional killing and injuring. The handling and translocation of these reptiles does not require a licence.

Smooth snake *Coronella austriaca* and sand lizard *Lacerta agilis* are fully protected by the WCA and the Habitats Regulations. The legislation makes it an offence, *inter alia*, to:

- ▶ Intentionally kill, injure or take a smooth snake or sand lizard.
- ▶ Possess or control a live or dead smooth snake or sand lizard, any part of, or anything derived from a smooth snake or sand lizard.
- ▶ Intentionally or recklessly damage, destroy or obstruct access to any structure or place that a smooth snake or sand lizard uses for shelter or protection.
- ▶ Intentionally or recklessly disturb a smooth snake or sand lizard while it is occupying a structure or place that it uses for shelter or protection.

Weeds Act 1959 / Ragwort Control Act 2003

This legislation provides for orders to be made for control where notifiable weed species such as ragwort are said to be a problem. The act does not make it illegal to have ragwort (or other weed species) on your land, make it illegal to allow ragwort to spread, or force landowners automatically to control it. However, if DEFRA is satisfied that there are injurious weeds to which this Act applies growing upon any land it may serve upon the occupier of the land a notice in writing requiring them, within the time specified in the notice, to take such action as may be necessary to prevent the weeds from spreading.

Planning context

National Planning Policy Framework (Section 15: Conserving and enhancing the natural environment)

The National Planning Policy Framework (NPPF), published in December 2023, outlines the Government's commitment to the conservation of wildlife and natural features. It is concerned with:

- ▶ Protecting and enhancing valued landscapes, sites of biodiversity or geological conservation value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- ▶ Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- ▶ Maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- ▶ Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current & future pressures;
- ▶ Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- ▶ Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

The NPPF requires that local plans should “distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value...; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries”.

To protect and enhance biodiversity and geodiversity, the NPPF states that planning policies should:

- ▶ Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
- ▶ Promote the conservation, restoration and enhancement of Priority Habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

When determining planning applications, local planning authorities should aim to protect and enhance biodiversity by applying the following principles:

- ▶ if significant harm to biodiversity 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;
- ▶ development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- ▶ development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- ▶ development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

The following wildlife sites should be given the same protection as habitats sites:

- ▶ potential Special Protection Areas and possible Special Areas of Conservation;
- ▶ listed or proposed Ramsar sites; and
- ▶ sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site. The policies within the NPPF (and additional guidance contained within Circular 06/2005) are a material planning consideration.

UK/Local Biodiversity Action Plan Designations and Birds of Conservation Concern and Red Data Book Listings

Note that BAP designations and status as RSPB Birds of Conservation Concern or Red Data Book species does not offer any further legal protection, but planning authorities are required to prevent these species from being adversely affected by development in accordance with National Planning Policy and the CROW and NERC Acts. The United Kingdom Biodiversity Action Plan (UKBAP), first published in 1994 and updated in 2007, was a government initiative

designed to implement the requirements of the Convention of Biological Diversity to conserve and enhance species and habitats. The UKBAP contained a list of Priority Habitats and species of conservation concern in the UK, and outlined biodiversity initiatives designed to enhance their conservation status.

However, as a result of devolution, and new country-level and international drivers and requirements, much of the work previously carried out by the UK BAP is now focussed at a country-level rather than a UK-level, and the UK BAP was succeeded by the 'UK Post-2010 Biodiversity Framework' in July 2012. The UK lists of Priority Habitats and species nonetheless remain an important reference source and were used to draw up statutory lists of Priority Habitats and species in England, Northern Ireland, Scotland and Wales. The Priority Habitats and species correlate with those listed on Section 41 and 42 of the NERC Act.

The UKBAP required that conservation of biodiversity be addressed at a County level through the production of Local BAPs. These are targeted towards species of conservation concern characteristic of each area. In addition, a number of local authorities and large organisations have produced their own BAPs. Where they exist, Local BAP targets with regard to species and habitats are a material consideration in the planning process.

Local Planning Policy

The Mid Sussex District Plan 2014-2031 (Mid Sussex District Council, March 2018) contains the following policy relating to wildlife and biodiversity:

DP38 – Biodiversity

“Biodiversity will be protected and enhanced by ensuring development:

- Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and
- Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and
- Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and
- Promotes the restoration, management and expansion of priority habitats in the District; and
- Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas”.

Appendix VI: Legal and Technical Limitations

- This report has been prepared by Urban Edge Environmental Consulting Ltd (UEEC Ltd) with all reasonable skill, care and diligence within the terms of the contract made with the Client to undertake this work, and taking into account the information made available by the Client. No other warranty, expressed or implied, is made as to the professional advice included in this report or any other services provided by us.
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- The advice provided in this report does not constitute legal advice. As such, the services of lawyers may also be considered to be warranted.
- Unless otherwise stated in this report, the assessments made assume that the sites and facilities that have been considered in this report will continue to be used for their current planned purpose without significant change.
- All work carried out in preparing this report has utilised and is based upon UEEC Ltd's current professional knowledge and understanding of current relevant UK standards and codes, technology and legislation. Changes in this legislation and guidance may occur at any time in the future and may cause any conclusions to become inappropriate or incorrect. UEEC Ltd does not accept responsibility for advising the Client or other interested parties of the facts or implications of any such changes;
- Where this report presents or relies upon the findings of ecological field surveys (including habitat, botanical or protected/notable species surveys), its conclusions should not be relied upon for longer than a maximum period of two years from the date of the original field surveys. Ecological change (e.g. colonisation of a site by a protected species) can occur rapidly and this limitation is not intended to imply that a likely absence of, for instance, a protected species will persist for any period of time;
- This report has been prepared using factual information contained in maps and documents prepared by others. No responsibility can be accepted by UEEC Ltd for the accuracy of such information;
- Every effort has been made to accurately represent the location of mapped features, however, the precise locations of features should not be relied upon;
- Populations of animals and plants are often transient in nature and a single survey visit can only provide a general indication of species present on site. Time of year when the survey was carried out, weather conditions and other variables will influence the results of an ecological survey (e.g. it is possible that some flowering plant species which flower at other times of the year were not observed). Every effort has been made to accurately note indicators of presence of protected, rare and notable species within and adjacent to the site but the possibility nonetheless exists for other species to be present which were not recorded or otherwise indicated by the survey;
- Any works undertaken as a consequence of the recommendations provided within this report should be subjected to the necessary health & safety checks and full risk assessments.

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