



Ecological Enhancement Plan

Site Office Building, Crabbet Park Equestrian Centre, Tuner Hill Rd, Worth, Crawley, RH10 4ST

Peacock 5 Ltd

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Guidelines

This assessment has been designed to meet:

- British Standard 42020 (2013) 'Biodiversity – Code of Practice for Planning and Development'.

Proportionality

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

This approach is enshrined in Government planning guidance, for example, Section 15 of the National Planning Policy Framework for England.

The desk studies and field surveys undertaken to provide a preliminary ecological appraisal (PEA) might in some cases be all that is necessary. (BS 42020, 2013)

In consequence of the scale and intensity of the proposed development, this plan-led report is considered adequate and proportionate. It communicates all relevant information necessary to determine a planning application or support the recommendations for further surveys.

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1.0 Introduction and Context

1.1 Background

Arbtech Consulting Limited were commissioned by Peacock 5 Ltd to produce an Ecological Enhancement Plan (EEP) for the proposed development at Site Office Building, Crabbet Park Equestrian Centre, Crawley, RH10 4ST (hereafter referred to as the site).

1.2 Project Description

The project is described as '*The demolition of the existing site office and construction of a new building*' (hereafter referred to as "the proposed development"). A proposed development plan is provided in **Appendix 1**.

1.3 Site Context

The survey site is centred on National Grid Reference TQ 30548 37255 and has an area of approximately 0.074ha.

The site comprises one building (B1), an area of grassland, scattered trees and an unsealed surface track that connects the site to Turner Hill Road. It is situated within Crabbet Park Equestrian Centre, within the rural outskirts of east Crawley. There are scattered trees within the site that extend into the local landscape, particularly as there are areas of a scattered trees within the immediate local landscape that connect to a substantial parcel of woodland to the east.

Aerial imagery shows the local landscape to have a mixed character. To the west of the site, the landscape is highly urban, consisting of residential development, small parcels of grassland and woodland. Whereas the remaining landscape to the north, east and south comprises of parcels of woodland, areas of grassland and scattered residential and commercial properties. A site location plan is provided in **Appendix 2**.

1.4 Scope of This Report

Following the submission of planning application DM/25/1023, planning permission was conditionally granted. The appeal decision includes conditions that relate to ecology; of relevance to this report, condition 7 states:

Condition(s)	
<i>Condition 7</i>	Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected, Priority and threatened species, prepared by a suitably qualified ecologist in line with the DECISION NOTICE Page 4 recommendations of the Preliminary Ecological Appraisal and Roost Assessment (Arbtech, March 2025) shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following: a) Purpose and conservation objectives for the proposed enhancement measures; b) detailed designs or product descriptions to achieve stated objectives; c) locations of proposed enhancement measures by appropriate maps and plans (where relevant); d) persons responsible for implementing the enhancement measures; and e) details of initial aftercare and long-term maintenance (where relevant). The works shall be implemented in accordance with the approved details shall be retained in that manner thereafter." Reason: To enhance protected, Priority and threatened species and allow the LPA to discharge its duties under paragraph 187d of NPPF 2024 and s40 of the NERC Act 2006 (as amended).

The aim of this EEP is to outline species-specific enhancement measures to improve the site's biodiversity and its value for protected species post-development. By implementing these habitat and species enhancements, this EEP supports the validity of the planning application.

2.0 Ecological desk study and evaluation of the surrounding habitat

The baseline ecological conditions of relevance to this report were determined through a Preliminary Ecological Appraisal (Arbtech, March 2025), the details of which are included in full below. The scope for mitigation and enhancement has been developed in accordance with the results of this assessment in addition to best practice mitigation principles.

Table 1. Preliminary Ecological Appraisal Survey Conditions

Survey Details					
The site survey was undertaken by Rebecca Gane BSc (Hons) Graduate Ecologist, an accredited agent on the Natural England survey licences for bats [2018-33540-CLS-CLS (class 1).					
Date of survey	Temperature (°C)	Humidity (%)	Cloud Cover (%)	Wind (km/h)	Rain
04/03/2025	11	38	0	0	None.

2.1 On-site habitat descriptions

The site contains no listed habitats of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act (2006). However, the site contains two scattered trees which are of good quality and could be of value to local wildlife populations. Other habitats within the site are common and widespread and have low ecological value. Further notable habitats are present within 2km.

u1b5 – Buildings

A single storey building (B1) is located along the eastern boundary of the site. A smaller, second building (B2) is located on the southern side of B1.

u1c – Artificial unvegetated, unsealed surface

An unsealed tracked connects B1 to Turners Hill Road. A review of MAGIC shows the western portion of the site to contain priority deciduous woodland, however upon undertaking the ecological appraisal the trees within this area, that are all offsite, more accurately resemble a line of trees as opposed to deciduous woodland. These treelines are composed entirely of horse chestnut and have been heavily managed in the past. After reviewing the findings and aerial imagery, it is considered to be more accurate to classify this area as artificial, unsealed surface.

g4 – Modified grassland with scattered trees [32]

Species-poor grassland is surrounding the north, west and southern aspects of B1. To the north there is a small managed strip that contains (D) perennial rye-grass, (O) red fescue, common nettle, bramble and (R) broadleaf dock. To the south, the area contains (D) Yorkshire fog, (F) cock's-foot, yarrow, ribwort plantain, (O) bramble, creeping buttercup, broadleaf dock and creeping cinquefoil. There is an area that appears to be previously dominated by nettles, but due to the survey being undertaken in the suboptimal season, this area is currently lacking in dense vegetation. Please see appendix 2 for specific location.

Some works have already taken place onsite, in the form of a roof strip and vegetation removal, therefore large piles of clay tiles and brash are currently located within the southern grassed area.

There are <6 vascular plant species present per metre squared across the whole area and whilst the sward height is homogeneously short in the northern portion of the grass, the southern area (not obscured by rubble and brash piles) remains unmanaged and has developed a heterogenous sward height. Low levels (<20% coverage) of bramble are found in this area and no remnants of bracken and no invasives were found. As stated above, some site clearance has taken place, and >5% of the grassland has been damaged.

Table 2. Tree details

ID	Tree species	Size class and DBH (mm - approximate)	Ecological niches present (Yes/No) and details.	To be removed?
T01	Ash	Small - ~290mm	No	Yes
T02	Hazel	Small - ~15mm (multi-stem, largest stem measured)	No	Yes

2.2 Local Notable Habitats

Patches of lowland mixed deciduous woodland (LMDW) are present adjacent to the site. Further parcels are located across the 2km radius, with the second closest parcel located ~0.05km to the west, with a third patch of LMDW ~0.14km to the southeast. The trees on-site likely have functional connectivity to these patches of woodland, given their proximity to the site and the presence of numerous trees throughout the landscape. LMDW is classed as a priority habitat under Section 41 of the Natural Environment and Rural Communities (NERC) Act, 2006. Further priority habitats are present within 2km of the site, including ancient woodland (~0.04km west, ~0.13km southeast, ~0.19km east), woodpasture and parkland (~1.8km east), and traditional orchards (~1.8km east).

2.3 Statutory Designated Sites

The following Statutory Designated sites are present within 2km of the site:

Table 3. Statutory Designated sites within 2km of site.

Statutory Designated Sites	Location	Reason for Designation
High Weald National Landscape	~400m south	The High Weald National Landscape encompasses a diverse range of semi-natural habitats resulting from long-term human land use and geological processes. The ancient woodlands, that represent one of the largest concentrations in England, provide structurally complex ecosystems that support high species diversity, including hazel dormouse and nightingale. Ghyll woodlands, confined to steep-sided ravines, create humid microclimates that sustain bryophytes and shade-tolerant vascular plants of conservation significance. Species-rich unimproved grasslands, dominated by sweet vernal grass yellow rattle, contribute to high botanical diversity and support invertebrate populations. Hedgerows, function as linear habitats and ecological corridors, promoting genetic exchange among fragmented populations of small mammals and invertebrates. Ponds and wetland features provide breeding sites for great crested newt and support a range of aquatic invertebrates, while remnant heathlands

		represent a rare habitat supporting species such as adder and nightjar. The connectivity of these habitats underpins the landscape's ecological integrity and biodiversity value. The site is considered to be suitably connected to High Weald National Landscape via grassland and woodland.
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The site lies within the impact risk zone for Worth Forest SSSI and Turner's Hill SSSI, however proposed development is not listed as a possible high risk for this designation.

2.4 European Protected Species License (EPSL) Data

A search of the magic.gov.uk database for granted EPSLs within a 2km radius of the site has been completed. There is one EPSL for bats within a 2km radius of the site as detailed in **Table 2**. Displaced bats from licensed sites less than 2km away from the survey site will find alternative habitats either within the mitigation measures implemented as part of the licence or will relocate to other known roost sites in close proximity to the licensed site.

Table 4. Bat ESPLs within 2km of the site.

EPSL reference	Bat species affected	Distance from site	Impacts allowed by licence
2018-36875-EPS-MIT	C-PIP	~1.2km west	Destruction of a resting place

In addition to these bat records, a review of the MAGIC database returned 10 granted EPSL records for hazel dormice within 2km of the site. The two closest EPSLs are ~1.3km south.

A further 2 EPSL records for great crested newts were identified within 2km of the site but no evidence indicating the presence of great crested newts resulting from historic pond surveys undertaken in 2017. These records are located ~1.4km north.

2.5 Identified Ecological Receptors

The habitats on site are a mixture of artificial, and poor condition modified grassland, with two deciduous trees in moderate condition. While the artificial areas of the site are of low ecological value, the trees and the surrounding environment are likely to provide important resources. Additionally, B1 was identified as a common pipistrelle day roost. These areas may offer foraging, nesting, and nest-building opportunities for birds and common invertebrates, as well as commuting routes for bats.

Given the type of habitats on site, the assessed connectivity between the site and the wider landscape, and the anticipated impacts of the proposed development, the below ecological receptors were identified:

- Bats
- Common species of nesting birds
- Reptiles
- Amphibians
- Small mammals, namely hedgehogs

2.6 Scope for Mitigation and Enhancement

Mitigation is required during the site preparation and construction to ensure no adverse impacts to protected and/ or notable habitats and species occur in accordance with the proposed development. Mitigation is required in the form of reasonable avoidance measures (RAMS) to prevent excessive impacts on nesting birds, bats, reptiles, amphibians and terrestrial mammals. A specific scope for enhancement has been outlined by the LPA through the associated condition, which stipulates the provision of enhancement measures, such as bird and bat boxes as well as gaps at the bottom of fences to allow for the movement of small mammals across the site, and details of their maintenance.

3.0 EEP

3.1 Mitigation

The persons responsible for implementing any enhancement measures is detailed within **Table 5** below.

Table 5: *Mitigation Prescriptions*

Mitigation	Specification
Persons Responsible and Lines of Communication	A Development Biodiversity Champion will be selected for the site preparation and construction phase of the development. The Development Biodiversity Champion will be someone with significant influence during development activity such as the project or site manager. The Development Biodiversity Champion will be responsible for ensuring all actions outlined in this EEP are implemented. Any queries with regards to the enhancement prescriptions will be addressed to the project ecologist and communication will be retained between the Development Biodiversity Champion and project ecologist throughout the project. The project ecologist's contact details are located on the title page of this report. The Development Biodiversity Champion will inform the project ecologist of the commencement of development activity and will provide ecological updates where necessary.

3.2 Enhancement

Enhancement prescriptions to ensure the ongoing biodiversity value of the site post-construction are detailed in **Table 6** below and illustrated in the plan in **Appendix 3**.

Table 6: Enhancement Prescriptions

Enhancement	Specification
Bat Boxes	Overview: A total of two bat boxes will be installed at the site, these will be installed as integrated into the new building. The proposed locations are shown on the plans provided in Appendix 4. Details of the bat boxes recommended for the sites are as follows: - The recommended integrated bat bricks will be constructed of woodcrete/ woodstone. Boxes of this construction are known to require minimal maintenance and have a lifespan of 25 years plus. 2 No. Integrated Eco Bat Box with Cavity (or similar) (see Figure 1) will be installed into the façade of new buildings. This bat brick type is suitable for integration into a range of building types including brick walls, timber cladding, and stone and are suitable to support a range of species including common pipistrelles <i>Pipistrellus pipistrellus</i> which are present on site, and soprano pipistrelles <i>Pipistrellus pygmaeus</i> which are likely to be present in the local area.

- The bat boxes will be positioned 3-5m above ground level facing a southwest elevation with a clear flight path to and from the entrance, away from artificial light and facing vegetated habitats.



Figure 1: Integrated Eco Bat Box with cavity suitable for a range of crevice dwelling bat species.

(Photo credit: <https://www.wildcare.co.uk/integrated-eco-bat-box-cavity.html>)

Recommended management:

The proposed bat boxes are designed to require no management or maintenance. Furthermore, preventing physical disturbance of bat boxes will increase the chances of occupation by roosting bats. However, it is recommended that the bat boxes are inspected annually for the first five years outside of the typical active season for bats (May to September inclusive) following installation. Bat boxes must be replaced if they are damaged, removed, or have fallen from their recommended location.

Bird Boxes	Two bird boxes are recommended to be installed on site. Integrated bird boxes are proposed for this site, this is to include house sparrow terraced style boxes. The recommended bird boxes will be constructed of woodcrete/ woodstone. Boxes of this construction are known to have minimal maintenance and have a lifespan of 25 years plus. • 2No. Vivara Pro WoodStone House Sparrow Nest Boxes (or similar) (see Figure 2) will be installed into the façade of new buildings. This bird box type is designed to provide enhanced nesting opportunities for house sparrow <i>Passer domesticus</i>. House sparrows are priority species listed on Section 41 of the NERC Act. However alternative species like tits will also utilise these boxes if sparrows are not present. • The bird box will be positioned approximately 3m above ground level facing a northern elevation where they will be sheltered from prevailing wind, rain and strong sunlight.  • Figure 2: Vivara Pro WoodStone House Sparrow Nest Box Nest Box (image credit arkwildlife.co.uk)
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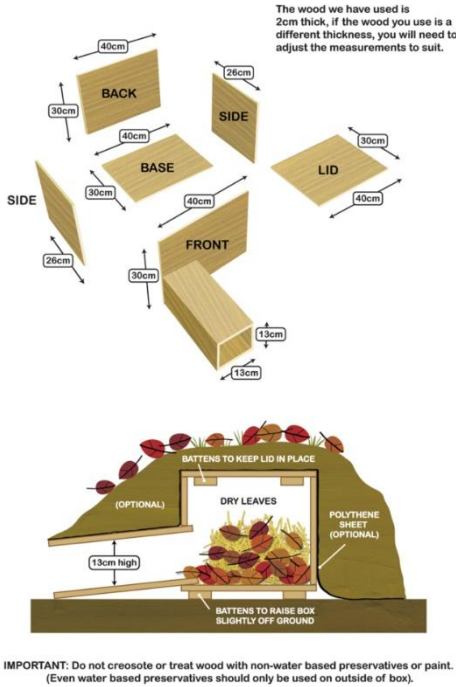
	Recommended Management: The proposed bird boxes are designed to require no management or maintenance. Furthermore, preventing physical disturbance of bird boxes will increase the chances of occupation by nesting birds. However, it is recommended that the bird boxes are inspected annually for the first five years outside of the typical nesting bird season (March to September inclusive) following installation. External bird boxes must be replaced if they are damaged, removed, or have fallen from their recommended location. Internal bird boxes will not be blocked or removed.
Hedgehog House	One hedgehog house will be installed within the vegetated area, towards the southeast of the site, where there is further connectivity to habitat within the landscape. A hedgehog house suitable for the site (or a similar alternative brand) can be found here: https://www.nhbs.com/hedgehog-house. Hedgehog houses can also be partially buried underneath turf to hide it greater to create a more permanent structure. Figure 3: Hedgehog house (image credit www.nhbs.co.uk) 

Figure 4- Permanent buried hedgehog house- source www.Britishhedgehogs.org.uk**Access points**

Access will be continued to be provided for hedgehogs on the site. This will include the installation of one hedgehog access point along the southern boundary of the site, within the close boarded fence. The eastern fence will remain post and rail.

The gap in the fencing will be a minimum 15 x 15cm. A hedgehog highway plaque will be installed over this gap to indicate the reasoning and to prevent these being accidentally being fixed or blocked off, as demonstrated in **Figure 5**.

Location of suitable gaps are noted in the map in **Appendix 2**. This will also provide movement access for smaller fauna such as reptiles.

**Figure 5- Hedgehog highway plaque- Source- www.Wildcare.co.uk**

Tree and Shrub Planting	As a general enhancement, any new planting should favour native species over non-natives and ornamentals with a minimum ratio of 70:30 (in line with the CIEEM guidance outlined within Smith & Day (2012). Species to be considered include Rowan (<i>Sorbus aucuparia</i>), Alder (<i>Alnus glutinosa</i>), Hazel (<i>Corylus avellana</i>), Hawthorn (<i>Crataegus monogyna</i>), Blackthorn (<i>Prunus spinosa</i>), Bird Cherry (<i>Prunus padus</i>), Dog rose (<i>Rosa canina</i>), Dogwood (<i>Cornus sanguinea</i>), Holly (<i>Illex aquifolium</i>), Elder (<i>Sambucus nigra</i>), Silver Birch (<i>Betula pendula</i>), Small-leaved Lime (<i>Tillia cordata</i>), <i>Quercus spp.</i> and Willow (<i>Salix spp.</i>). Ornamental species such as laurel, rhododendron and non-native cotoneasters listed on the schedule 9 invasive species list must be avoided.
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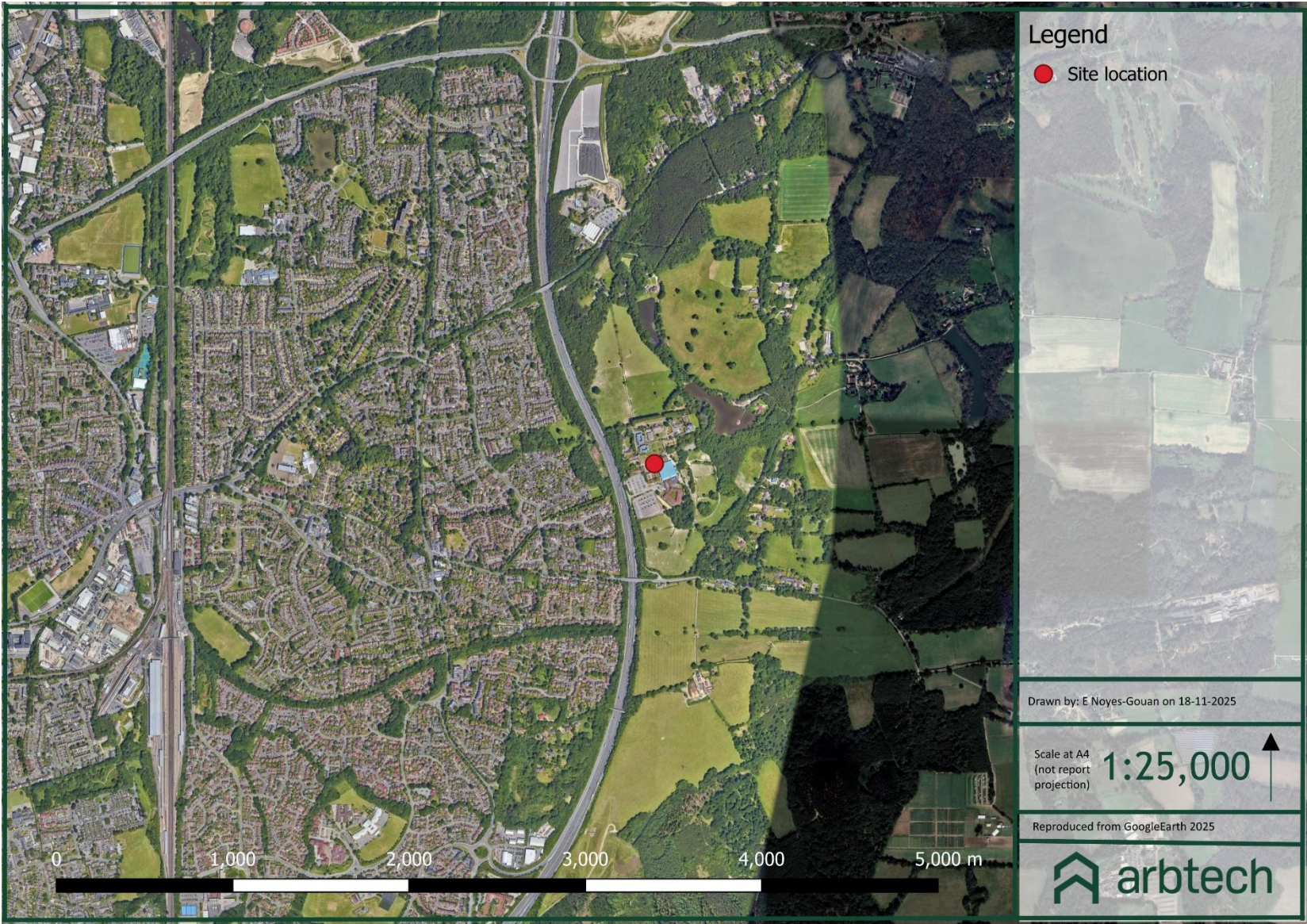
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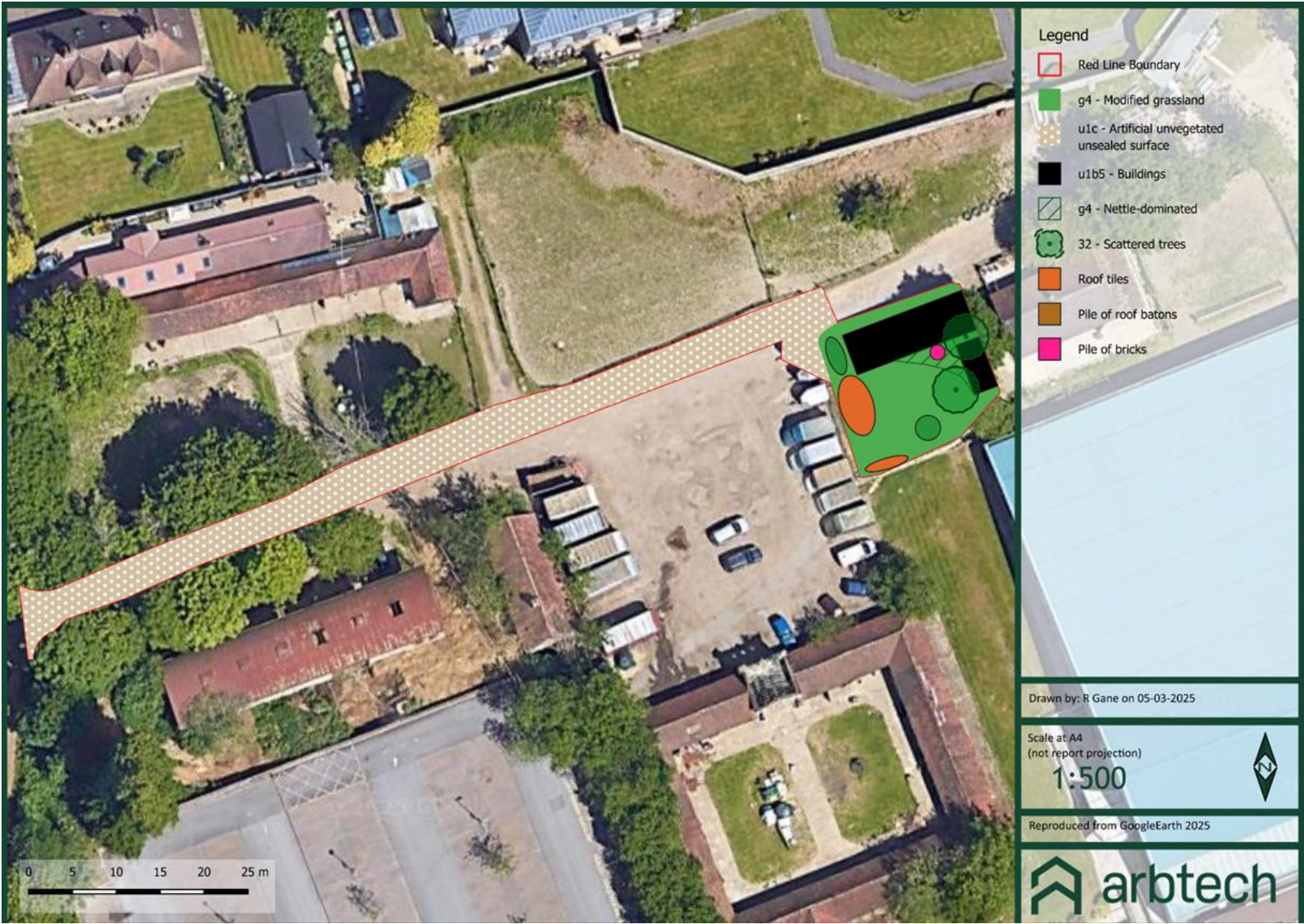
Appendix 1: Proposed Development Plan



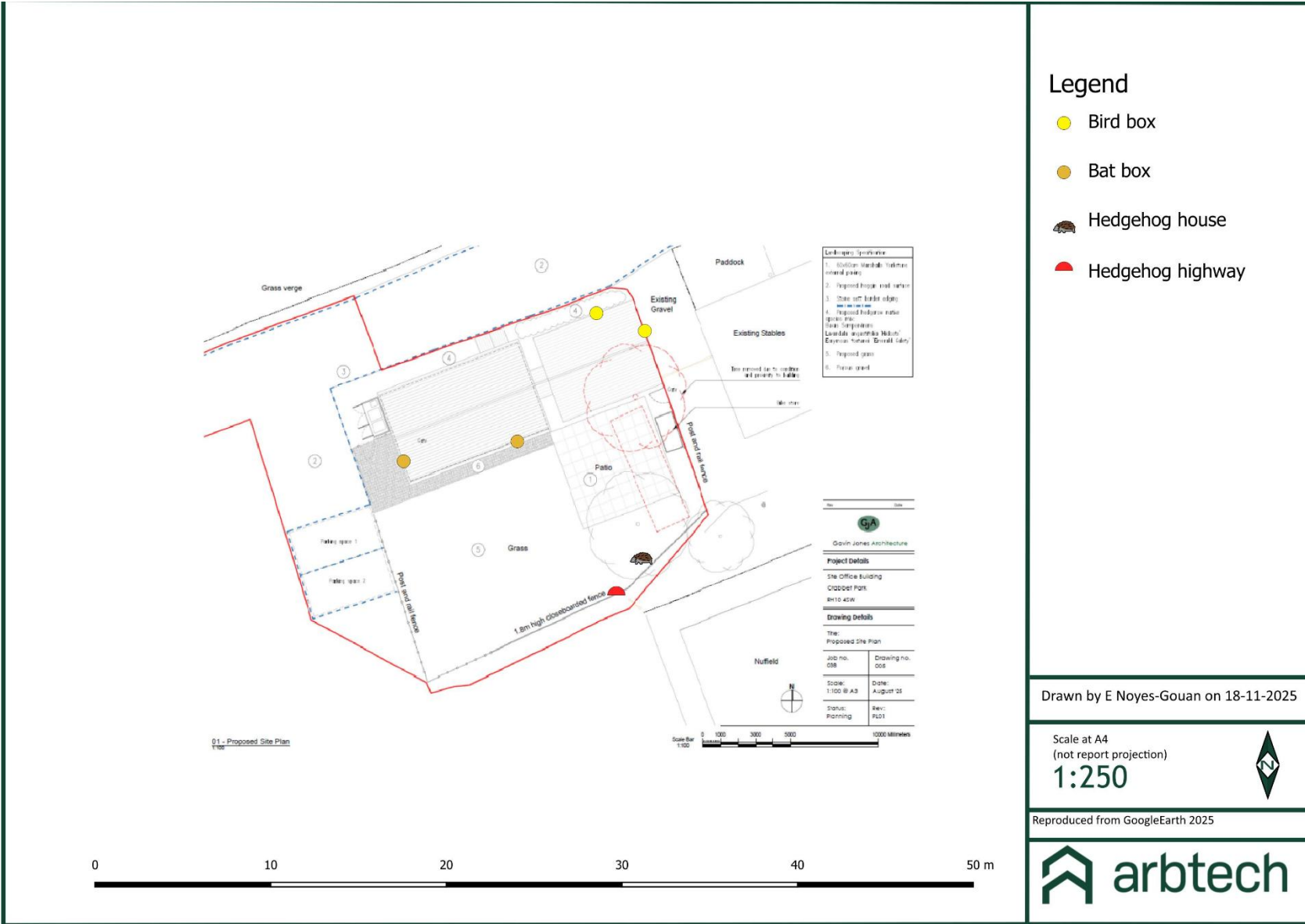
Appendix 2: Site Location Plan



Appendix 3: Habitat map



Appendix 4: Ecological Mitigation and Enhancement Plan



Appendix 5: Legislation and Planning Policy

LEGAL PROTECTION

National and European Legislation Afforded to Habitats

International Statutory Designations

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are sites of European importance and are designated under the EC Habitats Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (the Habitats Directive) and the EC Birds Directive 2009/147/EC on the conservation of wild birds respectively. Both form part of the wider Natura 2000 network across Europe.

Under the Habitats Directive the Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe in order to conserve the 189 habitats and 788 species (non- bird) identified in Annexes I and II of the Directive (as amended).

SPAs are classified under Article 2 of the EC Birds Directive both for rare bird species (as listed on Annex I) and for important migratory species.

SACs and SPAs up to 12 nautical miles (nm) from the coast are afforded protection in the UK under the Conservation of Habitats and Species Regulations 2010 which consolidate all amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994. In Scotland, the requirements of Habitats Directive are implemented through a combination of the 1994 and the 2010 (reserved matters) Regulations. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) provide a means for designating and protecting SACs in UK offshore waters (from 12-200 nm).

Ramsar sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention covers all aspects of wetland conservation and recognises the importance of wetland ecosystems in relation to global biodiversity conservation. The Convention refers to wetlands as “areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres” however they may also include riparian and coastal zones. Ramsar sites are statutorily protected under the Wildlife & Countryside Act 1981 (as amended) with further protection provided by the Countryside and Rights of Way (CROW) Act 2000. Policy statements have been issued by the Government in England and Wales highlighting the special status of Ramsar sites. The Government in England and Wales has

issued policy statements which ensure that Ramsar sites are afforded the same protection as areas designated under the EC Birds and Habitats Directives as part of the Natura 2000 network (e.g. SACs & SPAs).

National Statutory Designations

Sites of Special Scientific Interest (SSSI) are designated by nature conservation agencies in order to conserve key flora, fauna, geological or physio-geographical features within the UK. The original designations were under the National Parks and Access to the Countryside Act 1949 but SSSIs were then re-designated under the Wildlife & Countryside Act 1981 (as amended). As well as reinforcing other national designations (including National Nature Reserves), the system also provides statutory protection for terrestrial and coastal sites which are important within the European Natura 2000 network and globally. Further provisions for the protection and management of SSSIs have been introduced by the Countryside and Rights of Way Act 2000 (in England and Wales) and the Nature Conservation (Scotland) Act 2004.

Local Statutory Designations

Local authorities in consultation with the relevant nature conservation agency can declare Local Nature Reserves (LNRs) under the National Parks and Access to the Countryside Act 1949. LNRs are designated for flora, fauna or geological interest and are managed locally to retain these features and provide research, education and recreational opportunities.

Non- Statutory Designations

All non-statutorily designated sites are referred to as Local Wildlife Sites (LWS) and can be designated by the local authority for supporting local conservation interest. Combined with statutory designation, these sites are considered within Local Development Frameworks under the Town and Country Planning system and are a material consideration during the determination of planning applications. The protection afforded to these sites varies depending on the local authority involved. Regionally Important Geological Sites (RIGs) are the most important geological and geomorphological areas outside of statutory designations. These sites are also a material consideration during the determination of planning applications.

The Hedgerow Regulations 1997

The Hedgerow Regulations 1997 are designed to protect 'important' countryside hedgerows. Importance is defined by whether the hedgerow (a) has existed for 30 years or more; or (b) satisfies at least one of the criteria listed in Part II of Schedule 1 of the Regulations.

Under the Regulations, it is against the law to remove or destroy hedgerows on or adjacent to common land, village greens, SSSIs (including all terrestrial SACs, NNRs and SPAs), LNRs, land used for agriculture or forestry and land used for the keeping or breeding of horses, ponies or donkeys without the permission of the local authority. Hedgerows 'within or marking the boundary of the curtilage of a dwelling-house' are excluded.

National and European Legislation Afforded to Species

The Habitats Directive

The EC Habitats Directive aims to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore wild species listed on the Annexes to the Directive at a favourable conservation status, introducing robust protection for those species of European importance. The Directive is transposed into UK law by The Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations) and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended). The following notes are relevant for all species protected under the EC Habitats Directive:

In the Directive, the term 'deliberate' is interpreted as being somewhat wider than intentional and may be thought of as including an element of recklessness.

The Habitats Regulations do not define the act of 'migration' and, therefore, as a precaution, it is recommended that short distance movement of animals for e.g. foraging, breeding or dispersal purposes are also considered.

In order to obtain a European Protected Species Mitigation (EPSM) licence, the application must demonstrate that it meets all of the following three 'tests': the action(s) are necessary for the purpose of preserving public health or safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment;

- There is no satisfactory alternative; and
- The action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

The Wildlife and Countryside Act (WCA) 1981 (as amended)

The Wildlife and Countryside Act (WCA) 1981 (as amended) implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and implements the species protection requirements of EC Birds Directive 2009/147/EC on the conservation of wild birds in Great Britain (the birds

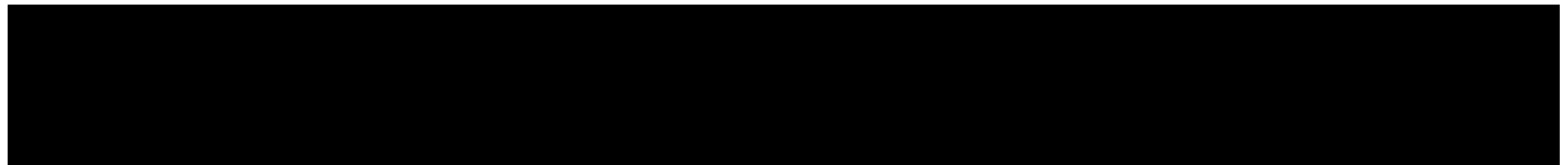
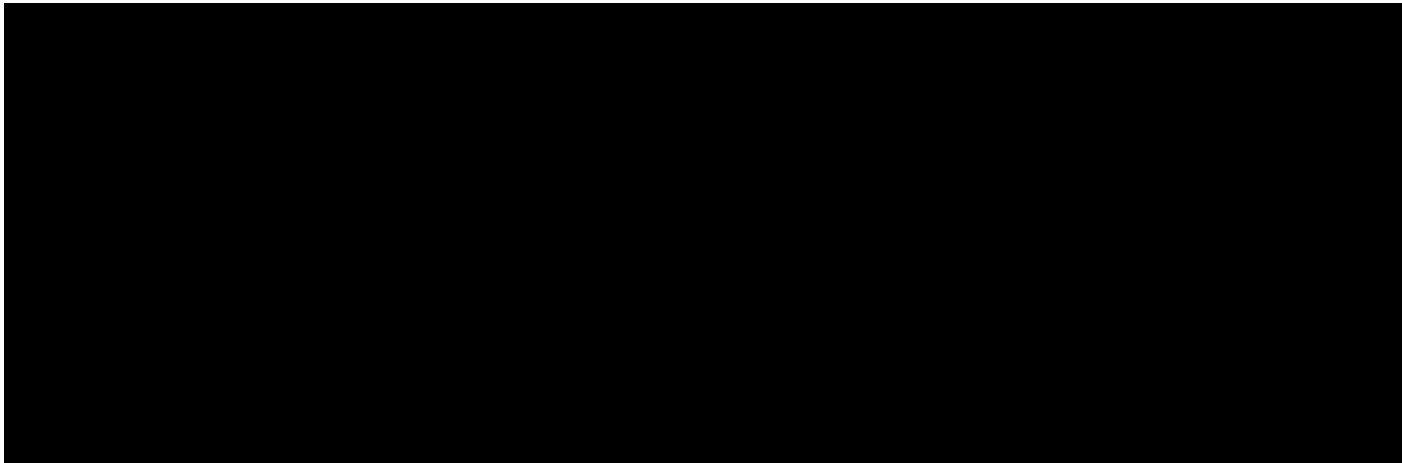
Directive). The WCA 1981 has been subject to a number of amendments, the most important of which are through the Countryside and Rights of Way (CRoW) Act (2000) and Nature Conservation (Scotland) Act 2004.

Other legislative Acts affording protection to wildlife and their habitats include:

- Deer Act 1991
- Natural Environment & Rural Communities (NERC) Act 2006

■ [REDACTED]

- Wild Mammals (Protection) Act 1996



Birds

With certain exceptions, all birds, their nests and eggs are protected under Sections 1-8 of the WCA. Among other things, this makes it an offence to:

- Intentionally (or recklessly in Scotland) kill, injure or take any wild bird
- Intentionally (or recklessly in Scotland) take, damage or destroy (or, in Scotland, otherwise interfere with) the nest of any wild bird while it is in use or being built
- Intentionally take or destroy an egg of any wild bird
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof.
- Intentionally or recklessly obstruct or prevent any wild bird from using its nest (Scotland only)

Certain species of bird, for example the barn owl, bittern and kingfisher receive additional protection under Schedule 1 of the WCA and Annex 1 of the European Community Directive on the Conservation of Wild Birds (2009/147/EC) and are commonly referred to as “Schedule 1” birds.

This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young
- Intentional or reckless disturbance of dependent young of such a bird
- In Scotland only, intentional or reckless disturbance whilst lekking
- In Scotland only, intentional or reckless harassment

Effects on development works:

Works should be planned to avoid the possibility of killing or injuring any wild bird, or damaging or destroying their nests. The most effective way to reduce the likelihood of nest destruction in particular is to undertake work outside the main bird nesting season which typically runs from March to August. Where this is not feasible, it will be necessary to have any areas of suitable habitat thoroughly checked for nests prior to vegetation clearance.

Schedule 1 birds are additionally protected against disturbance during the nesting season. Thus, it will be necessary to ensure that no potentially disturbing works are undertaken in the vicinity of the nest. The most effective way to avoid disturbance is to postpone works until the young have fledged. If this is not feasible, it may be possible to maintain an appropriate buffer zone or standoff around the nest.

Herpetofauna (Amphibians and reptiles)

The sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita*, pool frog *Pelophylax lessonae* and great crested newt *Triturus cristatus* receive full protection under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species

- Deliberate disturbance of species in such a way as:
- To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
- To impair their ability to hibernate or migrate
- To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

With the exception of the pool frog, these species are also listed on Schedule 5 of the WCA and they are additionally protected from:

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

Other native species of herpetofauna are protected solely under Schedule 5, Section 9(1) & (5) of the WCA, i.e. the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis*. It is prohibited to:

- Intentionally or recklessly kill or injure these species.

Effects on development works:

A European Protected Species Mitigation (EPSM) Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect the breeding sites or resting places amphibian and reptile species protected under Habitats Regulations. A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow derogation from the relevant legislation, but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the WCA.

Water voles

The water vole *Arvicola terrestris* is fully protected under Schedule 5 of the WCA. This makes it an offence to:

- Intentionally kill, injure or take (capture) water voles

- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection
- Intentionally or recklessly disturb water voles while they are occupying a structure or place used for shelter or protection

Effects on development works:

If development works are liable to affect habitats known to support water voles, the relevant countryside agency must be consulted. It must be shown that means by which the proposal can be re-designed to avoid contravening the legislation have been fully explored e.g. the use of alternative sites, appropriate timing of works to avoid times of the year in which water voles are most vulnerable, and measures to ensure minimal habitat loss. Conservation licences for the capture and translocation of water voles may be issued by the relevant countryside agency (e.g. Natural England) for the purpose of development activities if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will then only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of works.

Otters

Otters *Lutra lutra* are fully protected under the Conservation Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Otters are also currently protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

An EPSM Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect otter breeding or resting places (often referred to as holts, couches or dens) or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, and rear young). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored

Bats

All species are fully protected by Habitats Regulations 2010 as they are listed on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (e.g. All bats)
- Deliberate disturbance of bat species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Bats are afforded the following additional protection through the WCA as they are included on Schedule 5:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

Works which are liable to affect a bat roost or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Dormice

Dormice *Muscardinus avellanarius* are fully protected under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:

- To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
- To impair their ability to hibernate or migrate
- To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Dormice are also protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

Works which are liable to affect a dormice habitat or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

White clawed crayfish

The white clawed crayfish *Austropotamobius pallipes* receives partial protection under Schedule 5 of the WCA in respect of Sections 9(1) and 9(5). This makes it an offence to:

- Intentionally take (capture) white-clawed crayfish.

Effects on development works:

The relevant countryside agency will need to be consulted about development which could impact on a watercourse or wetland known to support white clawed crayfish. Conservation licences for the capture and translocation of crayfish can be issued if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of the works.

Wild Mammals (Protection Act) 1996

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it an offence to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

To avoid possible contravention, due care and attention should be taken when carrying out works (for example operations near burrows or nests) with the potential to affect any wild mammal in this way, regardless of whether they are legally protected through other conservation legislation or not.

Legislation afforded to Plants

With certain exceptions, all wild plants are protected under the WCA. This makes it an offence for an 'unauthorised' person to intentionally (or recklessly in Scotland) uproot wild plants. An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.

Certain rare species of plant, for example some species of orchid, are also fully protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). This prohibits any person from:

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)
- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof
- In addition to the UK legislation outlined above, several plant species are fully protected under Schedule 5 of The Conservation of Habitats and Species Regulations 2010. These are species of European importance. Regulation 45 makes it an offence to:
 - Deliberately pick, collect, cut, uproot or destroy a wild Schedule 5 species
 - Be in possession of, or control, transport, sell or exchange, or offer for sale or exchange any wild live or dead Schedule 5 species or anything derived from such a plant.

Effects on development works:

An EPSM licence will be required from the relevant countryside agency for works which are liable to affect species of planted listed on Schedule 5 of the Conservation or Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Invasive Species

Part II of Schedule 9 of the WCA lists non-native invasive plant species for which it is a criminal offence in England and Wales to plant or cause to grow in the wild due to their impact on native wildlife. Species included (but not limited to):

- Japanese knotweed *Fallopia japonica*
- Giant hogweed *Heracleum mantegazzianum*
- Himalayan balsam *Impatiens glandulifera*

Effects on development works:

It is not an offence for plants listed in Part II of Schedule 9 of the WCA 1981 to be present on the development site however it is an offence to cause them to spread. Therefore, if any of the species are present on site and construction activities may result in further spread (e.g. earthworks, vehicle movements) then it will be necessary to design and implement appropriate mitigation prior to construction commencing.

Injurious weeds

Under the Weeds Act 1959 any land owner or occupier may be required prevent the spread of certain 'injurious weeds' including (but not limited to):

- Spear thistle *Cirsium vulgare*
- Creeping thistle *Cirsium arvense*
- Curled dock *Rumex crispus*
- Broad-leaved dock *Rumex obtusifolius*
- Common ragwort *Senecio jacobaea*

It is a criminal offence to fail to comply with a notice requiring such action to be taken. The Ragwort Control Act 2003 establishes a ragwort control code of practice as common ragwort is poisonous to horses and other livestock. This code provides best practice guidelines and is not legally binding.

NATIONAL PLANNING POLICY (ENGLAND)

National Planning Policy Framework

The National Planning Policy Framework promotes sustainable development. The Framework specifies the need for protection of designated sites and priority habitats and species. An emphasis is also made on the need for ecological infrastructure through protection, restoration and re-creation. The protection and recovery of priority species (considered likely to be those listed as UK Biodiversity Action Plan priority species) is also listed as a requirement of planning policy.

In determining a planning application, planning authorities should aim to conserve and enhance biodiversity by ensuring that: designated sites are protected from harm; there is appropriate mitigation or compensation where significant harm cannot be avoided; opportunities to incorporate biodiversity in and around developments are encouraged; and planning permission is refused for development resulting in the loss or deterioration of irreplaceable habitats including aged or veteran trees and also ancient woodland.

The Natural Environment and Rural Communities Act 2006 and the Biodiversity Duty

Section 40 of the Natural Environment and Rural Communities (NERC) Act, 2006, requires all public bodies to have regard to biodiversity conservation when carrying out their functions. This is commonly referred to as the 'biodiversity duty'.

Section 41 of the Act (Section 42 in Wales) requires the Secretary of State to publish a list of habitats and species which are of 'principal importance for the conservation of biodiversity.' This list is intended to assist decision makers such as public bodies in implementing their duty under Section 40 of the Act. Under the Act these habitats and species are regarded as a material consideration in determining planning applications. A developer must show that their protection has been adequately addressed within a development proposal.

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

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

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

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

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

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

- 1. include preserving public health or public safety or other imperative reasons of over-riding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;***
2. scientific and educational purposes,
3. ringing or marking
4. conserving wild animals

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

EUROPEAN PROTECTED SPECIES POLICIES

In December 2016 Natural England officially introduced the four licensing policies throughout England. The four policies seek to achieve better outcomes for European Protected Species (EPS) and reduce unnecessary costs, delays and uncertainty that can be inherent in the current standard EPS licensing system. The policies are summarised as follows:

- Policy 1; provides greater flexibility in exclusion and relocation activities, where there is investment in habitat provision;
- Policy 2; provides greater flexibility in the location of compensatory habitat;
- Policy 3; provides greater flexibility on exclusion measures where this will allow EPS to use temporary habitat; and,
- Policy 4; provides a reduced survey effort in circumstances where the impacts of development can be confidently predicted.

The four policies have been designed to have a net benefit for EPS by improving populations overall and not just protecting individuals within development sites. Most notably Natural England now recognises that the Habitats Regulations legal framework now applies to 'local populations' of EPS and not individuals/site populations.