



Habitat Management and Monitoring Plan

The Stables, Pookbourne Lane, Sayers Common, Hassocks, West Sussex BN6 9HD

Helena Browne

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Arbtech Consultant's Contact Details:

Chantae Bleakman-Wells

Consultant Ecologist

Email: chantaewells@arbtech.co.uk

Arbtech Consulting Ltd

<https://arbtech.co.uk>

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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, paragraph 174 of the National Planning Policy Framework for England.

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

(BS 42020, 2013)

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 was commissioned by Helena Browne to produce a Habitat Management and Monitoring Plan for the proposed development at The Stables, Pookbourne Lane, Sayers Common, Hassocks, West Sussex BN6 9HD (hereafter referred to as the site).

The site has been subject to the following previous ecological assessment of relevance to this report:

- Preliminary Ecological Appraisal (Arbtech Consulting Ltd, 2024);
- Biodiversity Net Gain Assessment (Arbtech Consulting Ltd, 2024).

1.2 Project Description

The planning application pertaining to the site (Mid Sussex District Council Reference: DM/24/1545) describes the development as: “Creation of a sand school and associated fencing in paddock area (hereafter referred to as “the proposed development”). Planning application (reference DM/24/2758) is described as “Discharge of BNG Plan condition relating to planning application DM/24/1545”. A proposed development plan is provided in **Appendix 1**.

1.3 Site Context

The site is located in Hassocks, at TQ27241974 and comprises a working fishing lake surrounded by grassland and scattered trees, horse grazed paddocks and stables. The site lays ~210m east of the A23 and ~500m south of A2300. The site is surrounded by fields, networks of hedgerows and ditches. A site location plan is provided in **Appendix 2**.

1.4 Scope of This Report

Following the submission of planning application DM/24/1545 (and to discharge the BNG Plan Condition, reference DM/24/2758), comments were received from Mid Sussex District Council on 23rd December 2024 with the recommendation to further required information pertaining to the Biodiversity Net Gain (BNG) assessment. The recommendation states:

“We have reviewed the Biodiversity Gain Plan dated 11th November 2024 and the Biodiversity Net Gain Assessment Final Issue 4 (Arbtech Consulting Limited, October 2024). We understand that the applicant wishes to adopt Scenario B which provides a 10% gain in habitat units and a 10% gain in linear hedgerow units.

We are not satisfied that the submitted information includes the detail required by this condition. This is because the completed and finalised Statutory Biodiversity Metric – Calculation Tool , together with evidence of the legal agreement (between the developer and the LPA) and the accompanying Habitat Management and Monitoring Plan for on-site significant enhancements, has not been submitted to the LPA to meet the biodiversity gain condition requirements.”

2.0 Ecological Baseline Conditions Relevant to This Report

The baseline ecological conditions of relevance to this report were determined as a result of the Preliminary Ecological Appraisal (Arbtech, 2024).

2.1 Habitats Recorded on Site and Value to Protected and/ or Notable Species

The site is characterised by a horse grazed field (other neutral grassland) with associated ditch and native hedgerow. Within the land ownership boundary, there is a fishing pond, scattered trees, hedgerows and grassland present. Given the type and extent of habitats recorded and the assessed connectivity between the site and the wider landscape, the site is assessed to provide value to support the following protected and/ or notable species:

- Foraging and commuting bats;
- Amphibians and reptiles;
- Common species of nesting birds.

The site is not considered suitable to support any other protected and/or notable species or habitats. For full details of the protected species appraisal, please refer to the PEA and PRA report.

2.2 BNG and Proposed Habitat Creation

Proposals for the site comprise the creation of a riding track within the existing grass field. It is proposed to compensate for habitat loss through new landscaping (within the land ownership boundary). Proposed habitats can be seen on the plan at **Appendix 3**. Proposed compensatory habitat creation and target conditions to be achieved during the 30-year management term are detailed below:

Retained

- **Other neutral grassland** – 0.29954Ha (poor condition)
- **Native hedgerow** – 0.1757km (moderate condition)

Enhanced

- **Other neutral grassland** – 0.109Ha (from poor to good condition)

Created

- **Individual trees** – ten, small trees 0.0407Ha (moderate condition)
- **Native hedgerow** – 0.021km (moderate condition)

2.2 Scope for Mitigation and Management

Species-Specific Enhancement

The grassland, hedgerows and trees within the land ownership boundary provide suitable habitat for protected species. The site is connected to better quality habitat in the wider landscape, including grassland and pockets of deciduous woodland. Providing species-specific enhancements targeting species that may utilise such habitats will have reasonable chances of occupancy and represent viable gains to biodiversity.

Through the proposed habitat creation and enhancements, the development will deliver 2.29 area based habitat units (1.2 retained grassland, 0.14 trees, 0.95 enhanced grassland) and 0.77 hedgerow units (0.7 retained hedgerow, 0.07 created hedgerow), which will result in +10% biodiversity net gain in habitat and linear units.

General installation and management best practice are detailed in this report to ensure that the retained, enhanced and proposed new landscaping is appropriately retained, enhanced or created and maintained for the 30-year management term.

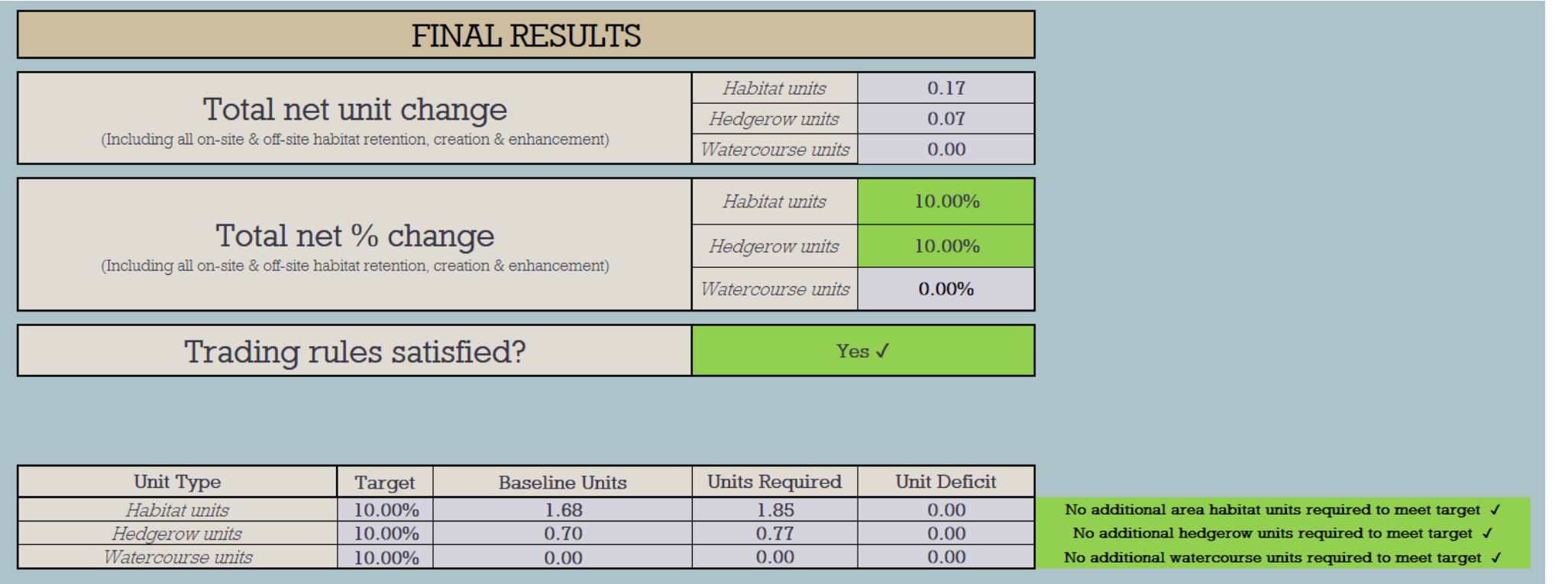


Figure 1: Headline results from statutory biodiversity metric showing 10% net gain

3.0 Habitat Management and Monitoring Plan

3.1 Persons Responsible

Persons responsible, lines of communication, and remediation implementation detail is provided below in **Table 1**.

Table 1: Persons responsible, lines of communication, and remediation

Mitigation	Specification
Persons Responsible and Lines of Communication	A Development Biodiversity Champion will be selected for the construction phase of the development. The Development Biodiversity Champion will be someone with significant influence during construction, such as the contract/project manager or landowner. The Development Biodiversity Champion will be responsible for ensuring all actions outlined in this document are implemented. Any queries with regards to the mitigation and 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 enhancement installation works and provide updates where necessary. Once the ecological enhancements have been installed/created, a Post-Development Biodiversity Champion will be allocated who has influence on site once the development is complete, such as a long-term maintenance contractor or landowner. The Post-Development Biodiversity Champion will be responsible for ensuring all recommended management is undertaken and any associated remedial measures are completed where necessary.
Post-Development Site Visit	A post-development site visit by a Suitably Qualified Ecologist (SQE) will be undertaken to confirm the successful installation/creation of the biodiversity enhancements no more than five years following creation. A report will be produced by the SQE detailing the results of the site visit and any remediation requirements. Where remediation is necessary, i.e. if the biodiversity enhancements have not been installed to a satisfactory standard, further evidence will need to be provided proving implementation. Depending on the scale of the remediation requirements, this will require an additional site visit by an SQE or photographic evidence to be provided by the Post-Development Biodiversity Champion. This requirement will be defined based on the results of the first site visit by the SQE. Once the SQE confirms that the biodiversity enhancements have been installed correctly, no further site visits will be necessary. The Post-Development Biodiversity Champion will then be responsible for identifying and implementing remediation measures as part of the ongoing management of the site.
Legal Responsibility	Compliance with BNG Management Plans is often legally enforced through a Section (s) 106 agreement. As part of this legal agreement, habitat creation and management detailed within this BNG MP will need to be retained and appropriately managed for the entire 30-year term to meet legislative objectives outlined in the Environment Act (2021). Should any future development at the site be proposed that will impact habitats that deliver the required gain as part of a s106 agreement, this will need to be considered and suitably compensated for in accordance with any future plans.

3.2 Species-Specific Enhancement

Species-specific enhancements targeting species with connectivity to the site as identified through previous ecological assessment are included in **Table 2** below and illustrated on the plan in **Appendix 3**.

Table 2: Enhancement Prescriptions

Ecological Enhancement	Specification
<i>Provision of Bat Boxes</i>	The site is likely to support foraging and commuting bats. Given that there are two granted European Protected Species Licences (EPSLs) for bats with 2km of the site, and good commuting and foraging habitat in the local landscape, the site is well placed to provide enhancements for roosting bats. Two bat boxes should be erected around the site, on existing buildings or trees (See Appendix 3 for suggested locations). Details of the bat boxes to be installed are as follows: • The recommended bat box will be constructed of woodcrete/ woodstone. Boxes of this construction are known to require minimal maintenance and have a lifespan of 25 years plus. • Suitable examples include Low Profile WoodStone Bat Box or General Purpose Bat Box (as shown in figure 2 and 3 below) • The bat boxes will be positioned 3-5m above ground level facing a south or south-east, with a clear flight path to and from the entrance, away from artificial light and facing vegetated habitats.



Figure 2: Low Profile WoodStone Bat Box



Figure 3: General Purpose Bat Box

Management:

The proposed bat box is designed to require no management or maintenance. Furthermore, preventing physical disturbance of the bat boxes will increase chances of occupation by roosting bats. However, it is recommended that the bat box is visually inspected by the Post-Development Biodiversity Champion annually following installation. The bat box must be replaced if they appear damaged, have been removed, or have fallen from their proposed location. Any maintenance or replacement works required must take place outside of the summer roosting period when bats are most likely to be utilising this bat box type, which is between May and September inclusive, i.e. remediation works must take place between October and April where necessary.

Provision of bird boxes

Two bird boxes will be mounted onto mature trees within the land ownership boundary (see **Appendix 3** for location). Details of the bird boxes to be installed is as follows:

- The recommended bird box will be constructed of woodcrete/ woodstone. Boxes of this construction are known to have minimal maintenance and have a lifespan of 25 years plus.
- Vivara Pro WoodStone House Sparrow Nest Box (One Double Chamber or two single chamber) as shown in **Figure 4**. These bird box types are suitable to support a wide range of species including house sparrows and other small bird species

- The bird box will be positioned approximately 2-3m above ground level facing a north-west, where it will be sheltered from prevailing wind, rain and strong sunlight.



Figure 4: Vivara Pro WoodStone House Sparrow Nest Box

Management:

It is recommended that the bird box is inspected annually between December-January and any material is removed. The box interior should be cleaned using boiling water, avoiding the use of chemical disinfectants. The box should be visually inspected by the Post-Development Biodiversity Champion for signs of damage. The box must be replaced if they appear damaged, have been removed, or have fallen from its desired location. Any maintenance or replacement works required must take place outside of the typical breeding bird season when birds are most likely to use the boxes for nesting, which is between March and September inclusive, i.e. remediation works must take place between October and February where necessary.

3.2 Habitat Creation and Management

Best practice habitat creation and management over a 30-year term to ensure a BNG consistent with that reported within the BNG Assessment is provided in **Table 3** below.

Table 3: Habitat Creation and Management Prescriptions

Ecological receptor	Specification									
Waste Disposal and Materials Storage	A secure area for waste storage should be proposed on site within areas of hardstanding or buildings. Storage of waste in such areas will not impact any retained or newly created habitats during the operational phase. All future materials storage will be over areas of hardstanding located within the land ownership boundary. No materials will be stored over areas of soft landscaping at any time.									
Retained Native Hedgerow	Overview: One hedgerow lies along the majority of the eastern, western and southern boundary of the site impact area and is to be retained as part of the proposals. The hedgerow is assessed as moderate condition and as such, must remain as moderate condition throughout and post development. Objectives: • To manage the existing hedgerow appropriately to maintain the current moderate condition rating • To undertake landscaping works in compliance with BS 4428:1989 – The Code of Practice for General Landscape Operation. Management prescriptions covering a 30-year term: <table><tr><th>Management</th><th>When</th><th>Rationale</th></tr><tr><td>Do not apply chemical fertilisers</td><td>At all times.</td><td>The use of chemical fertilisers will encourage vigorous grasses and weeds to grow</td></tr><tr><td>Undertake any pruning requirements outside of the nesting bird season, which is between March and September inclusive.</td><td>At all times.</td><td>Ensure no active bird nests are impacted by maintenance works.</td></tr></table>	Management	When	Rationale	Do not apply chemical fertilisers	At all times.	The use of chemical fertilisers will encourage vigorous grasses and weeds to grow	Undertake any pruning requirements outside of the nesting bird season, which is between March and September inclusive.	At all times.	Ensure no active bird nests are impacted by maintenance works.
Management	When	Rationale								
Do not apply chemical fertilisers	At all times.	The use of chemical fertilisers will encourage vigorous grasses and weeds to grow								
Undertake any pruning requirements outside of the nesting bird season, which is between March and September inclusive.	At all times.	Ensure no active bird nests are impacted by maintenance works.								

Newly created native hedgerow**Overview:**

0.021km (21m) of native hedgerow will be created within the land ownership boundary, at the north-west of the site

Objectives:

- To undertake landscaping works in compliance with BS 4428:1989 – The Code of Practice for General Landscape Operation.
- To create a moderate condition, native hedgerow totalling a minimum of 21m in accordance with the BNG Assessment.
- To create a dense hedgerow that will provide foraging, commuting, and nesting opportunities for notable species groups including bats and birds.

Management prescriptions covering a 30-year term:

Management	When	Rationale
Prepare planting area in summer, in preparation for autumn/winter planting	June – August	To ensure the ground is dry and workable.
Plant shrubs within proposed areas in Autumn	September – November	Helps shrubs take root and establish prior to the first growing phase the following spring.
Removal of spent flowers to be removed through 'deadheading'	Twice annually, late spring and in the Autumn	Allows plants to place more energy into re-growth.
At the end of each growing season all plant failures are to be 100% replaced	When required; checked annually in Autumn.	To maintain amenity and wildlife value and to ensure there are no canopy gaps within the hedgerow.
Application of bark mulch at a depth of 50 mm	Immediately after planting and then when required; checked annually in Autumn.	Reduce competition for resources nutrients etc.by weeds

	Do not apply chemical fertilisers	At all times.	The use of chemical fertilisers will encourage vigorous grasses and weeds to grow. Plant species indicative of nutrient enrichment must cover <20% of the undisturbed ground
	Watering should be undertaken before and after planting and as necessary for the continued thriving of all planting	Annually for the 30-year term when required following prolonged periods of draught.	Ensures plants do not dry out and subsequently fail.
	Once the hedgerow reaches an average height of 1.5m along the hedgerow length, this height or above must be retained	Likely to represent a dense hedgerow 1m in height between years 3 and 5 – to be checked annually for the 30-year period.	To ensure the hedgerow is not maintained at a low level of worse value to biodiversity.
	Once the hedgerow reaches an average width of 1.5m, this width must be retained	Likely to represent a dense hedgerow 1m in width between years 3 and 5 – to be checked annually for the 30-year period.	To ensure the hedgerow is not maintained at a thin density of worse value to biodiversity.
	Undertake any pruning requirements outside of the nesting bird season, which is between March and September inclusive.	At all times.	Ensure no active bird nests are impacted by maintenance works.

Retained other neutral grassland (poor)	Habitats to be retained on site in accordance with the proposed development are as follows: • Other neutral grassland – 0.29954ha Retained habitat coverage as detailed above and within the BNG assessment must be maintained in full for the required 30-year term. The baseline condition of the other neutral grassland is poor, and as such, the condition cannot be further decreased. So long as this habitat is not removed or altered it will remain its current condition.
Enhanced other neutral grassland	Overview: A minimum of 0.109Ha of other neutral grassland within the land ownership boundary must be enhanced from poor to achieve good condition. Proposed location of grassland enhancement is shown on the plan in Appendix 3. Objectives: • To create a successful and species rich neutral grassland that will provide habitat for pollinating invertebrate species, that will in turn, provide foraging opportunities for notable species groups including amphibians, bats, birds, badgers, hedgehogs, and reptiles. • Ensure a healthy species diverse sward is created; • Ensure that a natural appearance is retained by utilising a seed mix alongside allowing native species of local provenance to recolonise from the seedbank; • Employ techniques that minimise the use of chemicals wherever possible. Creation Method: • Ground preparation • It is recommended that the existing grassland is ploughed and harrowed to provide a bare soil substrate for sowing a wildflower seed mix. • Seeding To be undertaken in spring or autumn. The following seed rates are recommended: 40kg/ha or 4g/m² of a wildflower and grass seed mix. Inclusion of yellow rattle in the seed mix will help suppress vigorous grass growth that may suppress the success of wildflowers within the sward. • Bedding in of seed:

After sowing, seeds will be 'bedded' in by trampling or light rolling.

- **Recommended seed mix:**

It is recommended that Emorsgate's EM4 Meadow Mixture for Clay Soils is used at the site. This seed mix includes 21no. wildflower species suitable for neutral soils. Notably, the species mix includes yellow rattle which is known to suppress dominant grass species which will allow existing grasses within the seed bank to colonise whilst preventing dominance and thus increasing species and structural diversity. For exact specifications, please refer to: <https://wildseed.co.uk/about-us/>.

Management prescriptions covering a 30-year term:

Management	When	Rationale
Cut meadow once first year after sowing	First August after sowing	The seeds will germinate and left to grow freely over the year until late summer, when a cut will be undertaken once initial seeds have established.
Cut meadow twice annually	Annually (>1 year after sowing) Late March / early April and late August/ early Sept	This ensures the meadow does not grow excessively long and become rank but allows wildflowers to set seed and invertebrates to breed. This will also allow a diverse sward of varying lengths to naturally occur in accordance with growth characteristics of each species. Cutting twice annually will also prevent encroachment of scrub and bracken.
Cut grass as to provide a heterogeneous habitat structure aiming to maintain at least 20% of grass <7cm and 20% >7cm. As such, each cutting phase must cut 20% of the area to ground level, 60% of the area to 15cm, and the remainder to 30cm. These areas must be rotated each year to maintain a diverse	Late March / early April and– late August/ early Sept	To retain a diverse sward whilst limiting impacts to protected species potentially present at ground level and ensuring the natural germination of seeds.

	sward. Turn and dry the cut grass over 3-5 days before removing arisings off Site Post cut This allows the seeds to drop encouraging species diversity and invertebrates to relocate unharmed. Removing the arisings is essential to prevent the grass decaying into the soil homogenising nutrient availability. Do not apply chemical fertilisers At all times. The use of chemical fertilisers will encourage vigorous grasses and weeds to grow or cause large areas of bare ground due to inhospitable growing conditions
Newly created individual trees	Overview: A total of ten native trees will be planted around the lake, within the land ownership boundary, The proposed location of these trees is shown on the plan in Appendix 3. Objectives: - To create trees of moderate condition, or above, in accordance with the BNG Assessment. - To plant trees that will provide pollinating, foraging, and refuge opportunities for protected and/ or notable species groups including amphibians, bats, birds, hedgehogs, invertebrates, and reptiles. - Ensure that good horticultural practice is employed to encourage long-term health and vitality of all trees and scrub. Creation Method: Ground preparation and planting Each tree should be planted within a hole three times as wide of the supplied pot and of a similar depth. Root balls should be soaked thoroughly in water before planting and root balls should be loosened to expose restricted roots before planting. The planted trees should then be backfilled ensuring there are no air pockets around roots or any roots protruding out of the ground. Timing

It is best to prepare the land during the summer ready for planting between November and March. Planting trees before the new year helps ensure better rooting and subsequent establishment including faster growth during the first growing season.

Recommended management prescriptions over a minimum 30-year term:

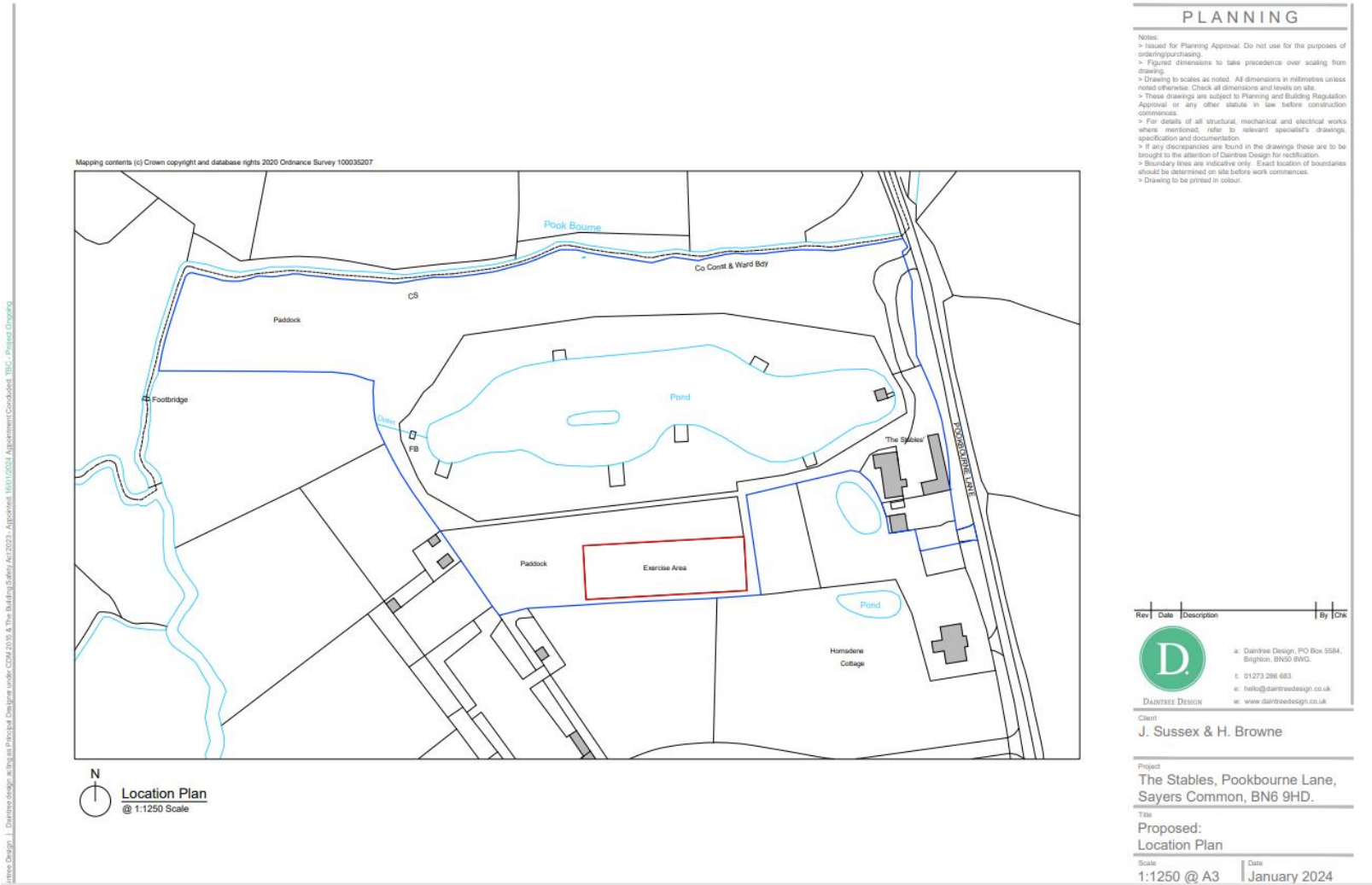
Management	When	Rationale
At the end of each growing season all plant failures are to be 100% replaced	When required; checked annually in Autumn.	To maintain amenity and wildlife value.
If required, provision of stakes and guards. Guards to be left on for a minimum of 5 years	During planting.	Protect from damage
Stakes should be checked and any broken or damaged stakes during this time would be removed (as above) and replaced with ties re-fixed	When required; checked annually in Autumn.	Maintain protection
Remove weeds	When required; checked twice annually in early spring and in Autumn.	Reduce competition for resources nutrients etc.by weeds
Application of bark mulch at a depth of 50 mm	Immediately after planting and then when required; checked annually in Autumn.	Reduce competition for resources nutrients etc.by weeds
Do not apply chemical fertilisers	At all times.	The use of chemical fertilisers will encourage vigorous grasses and

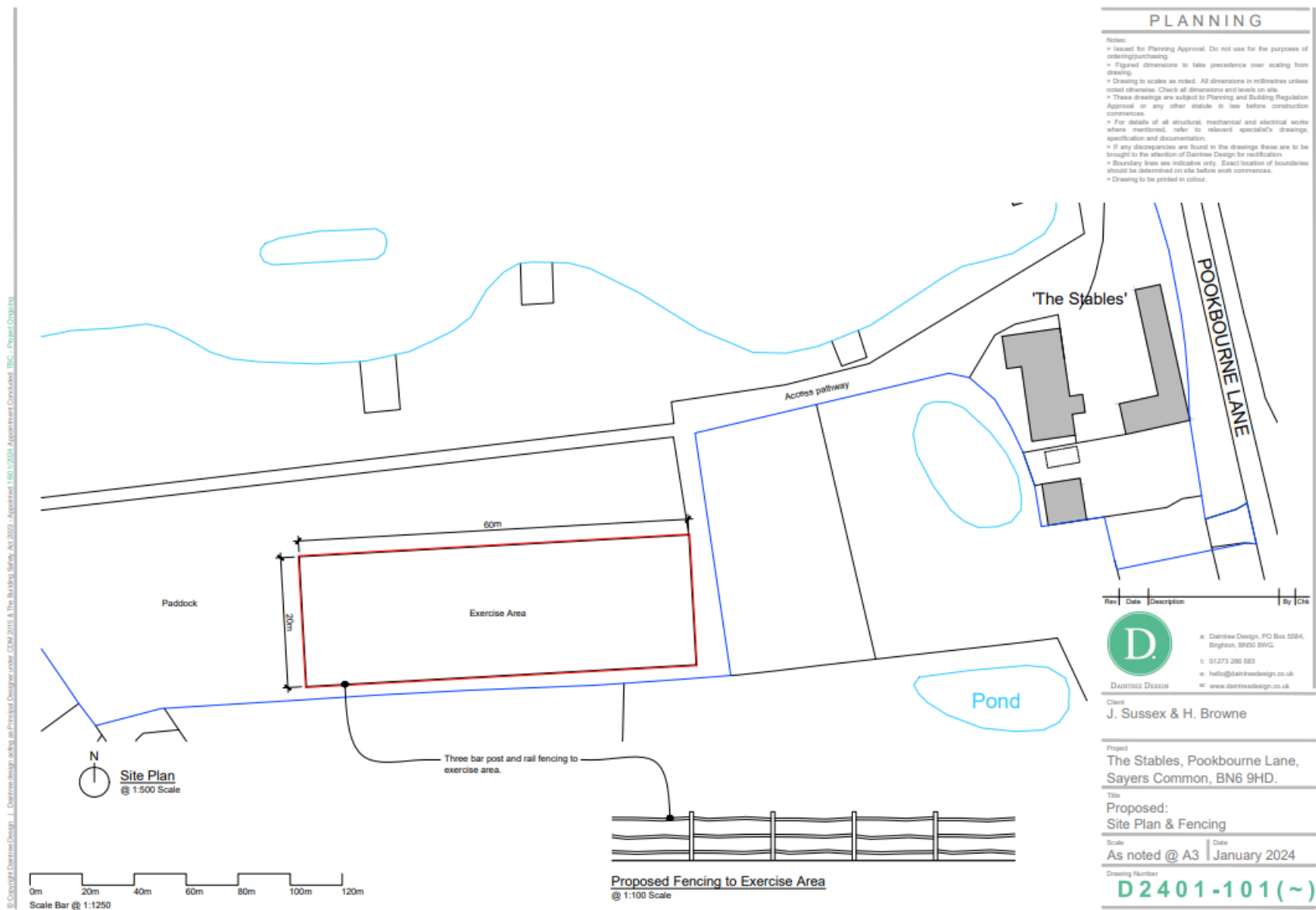
			weeds to grow
	Apply a light dressing of well-rotted manure	Annually in the winter	Note the overuse of manure fertilisers will encourage vigorous grasses and weeds to grow.
	Watering should be undertaken before and after planting out and as necessary for the continued thriving of all planting.	When required; provide more water during periods of draught and less water during times of prolonged rain.	Ensures plants do not dry out and subsequently fail.

4.0 Bibliography

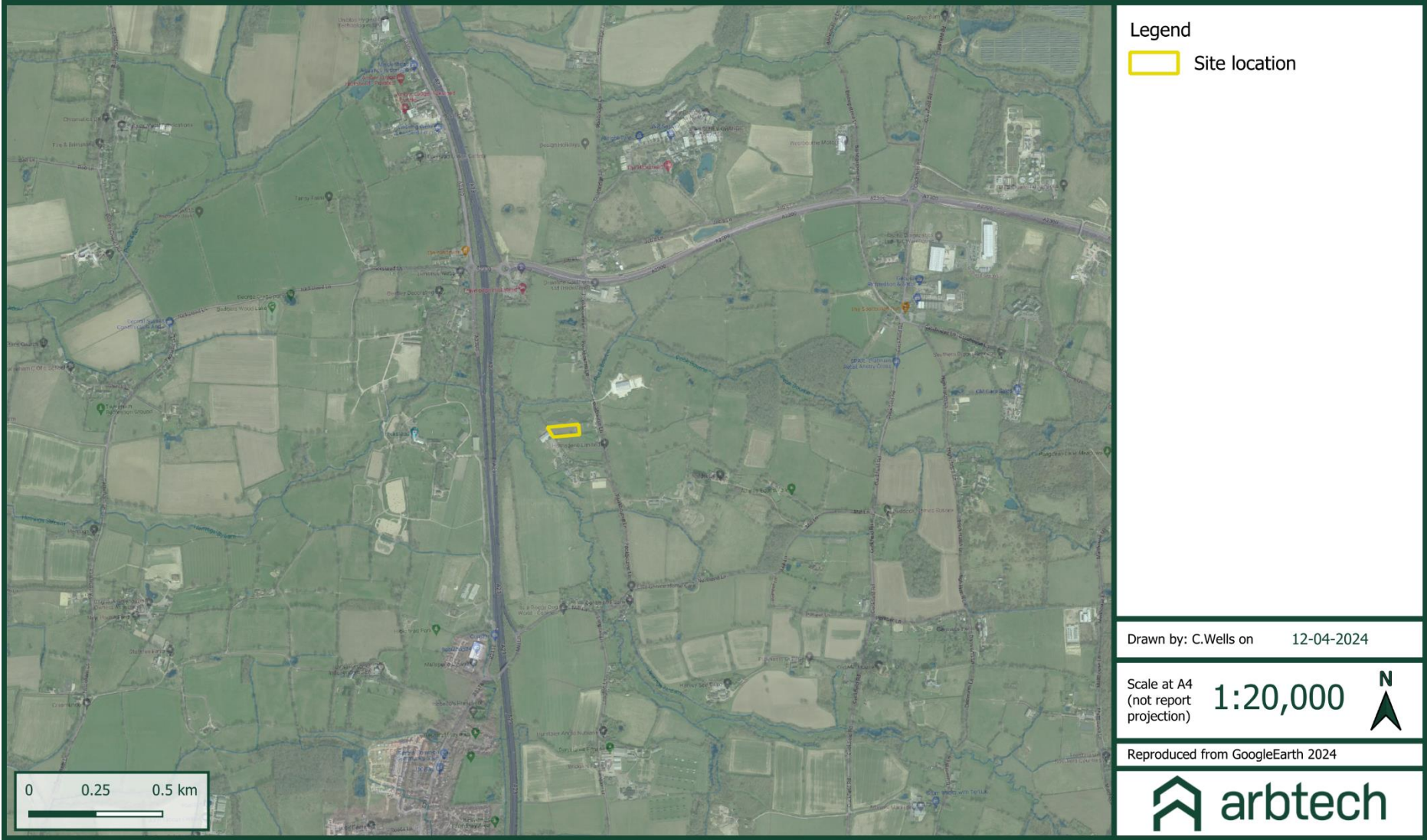
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Appendix 1: Proposed Development Plan





Appendix 2: Site Location Plan



Appendix 3: Proposed Habitats and Species-Specific Enhancements



Appendix 4: 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
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996

Badgers

Badgers *Meles meles* are protected under The Protection of Badgers Act which makes it an offence to:

- Wilfully kill, injure, take, or attempt to kill, injure or take a badger
- Cruelly ill-treat a badger, including use of tongs and digging
- Possess or control a dead badger or any part thereof
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when it is occupying a badger sett
- Intentionally or recklessly cause a dog to enter a badger sett
- Sell or offers for sale, possesses or has under his control, a live badger

Effects on development works:

A development licence will be required from the relevant countryside agency for any development works liable to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agency's to define what would constitute a licensable activity. It is not possible to obtain a licence to translocate badgers.

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:

Helena Browne

The Stables, West Sussex BN6 9HD

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 plants listed on Schedule 5 of the Conservation of Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

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. 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.

Helena Browne

The Stables, West Sussex BN6 9HD

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.