

Construction Environmental Management Plan: Biodiversity

Bolney Green Energy Hub
(DM/21/2276)

Document prepared by Envams Ltd for:

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1 INTRODUCTION

1.1 PLANNING CONTEXT

This Construction Environmental Management Plan (CEMP): Biodiversity has been prepared pursuant to an application to discharge planning condition 5 of application reference DM/21/2276, which has been submitted to Mid Sussex District Council (the Council). The consented application relates to the construction and operation of a Battery energy storage system (BESS) and associated infrastructure (the Development).

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Planning condition 5 states that:

A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.*
- b) Identification of "biodiversity protection zones".*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*
- d) The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECOW) or similarly competent person.*
- h) Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) and to accord with Policy DP38 of the District Plan.

Table 1 summarises where in this CEMP: Biodiversity parts (a)–(h) of the condition have been addressed.

Table 1: Where condition 8 parts (a)–(i) have been addressed in this CEMP: Biodiversity.

Condition part	CEMP reference
a) Risk assessment of potentially damaging construction activities.	Section 2, Method Statements
b) Identification of "biodiversity protection zones".	Section 2, Method Statements
c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).	Section 2, Method Statements
d) The location and timing of sensitive works to avoid harm to biodiversity features.	Section 2, Method Statements

Condition part	CEMP reference
e) The times during construction when specialist ecologists need to be present on site to oversee works.	Section 1.5.2, Ecological Clerk of Works Section 2, Method Statements
f) Responsible persons and lines of communication.	Section 1.5, Roles and Responsibilities
g) The role and responsibilities on site of an ecological clerk of works (ECow) or similarly competent person.	Section 1.5.2, Ecological Clerk of Works
h) Use of protective fences, exclusion barriers and warning signs.	Section 1.5.2, Ecological Clerk of Works Section 1.5.3, Communication Section 2, Method Statements

1.2 DEVELOPMENT DESCRIPTION

The Development comprises the construction and operation of a BESS facility and associated infrastructure, including a site office, a transformer, operator room, perimeter walkway for members of the public and biodiversity enhancement area.

1.3 RELEVANT LEGISLATION

Legal compliance is a key driver of the CEMP: Biodiversity and the following sections summarise the most relevant legislation.

1.3.1 The Wildlife and Countryside Act 1981

The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act (CRoW) 2000 and the Natural Environment and Rural Communities Act (NERC) 2006, is the main legislation that protects wildlife in England. The legislation makes it an offence to:

- Intentionally kill, injure or take any wild bird or their eggs or nests (with certain exceptions) and disturb any bird species listed under Schedule 1 to the Act, or its dependent young while it is nesting;
- Intentionally kill, injure or take any wild animal listed under Schedule 5 to the Act; intentionally or recklessly damage, destroy or obstruct any place used for shelter or protection by any wild animal listed under Schedule 5 to the Act; intentionally or recklessly disturb certain Schedule 5 animal species while they occupy a place used for shelter or protection; and
- Pick or uproot any wild plant listed under Schedule 8 of the Act. Schedule 9, Part II of the Act also lists many species for which it is an offence to plant, or otherwise cause to grow, in the wild. Any material containing Japanese knotweed is also identified as controlled waste under the Environmental Protection Act 1990 and must be disposed of properly at licenced landfill according to the Environmental Protection Act (Duty of Care) Regulations 1991.

1.3.2 The Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, establish the strict protection of some species – 'European Protected Species' – and make it an offence to deliberately capture, kill or disturb certain wild animals, and to damage or destroy a breeding site or resting place of such an animal even if the animal is not present at the time.

1.3.3 Natural Environment & Rural Communities (NERC) Act 2006

The NERC Act 2006 places a duty on local planning authorities to have due regard for biodiversity and nature conservation during their operations and thus ensures that biodiversity is a key consideration in the planning process. The Act also establishes a list of species and habitats of principal importance ('priority' species and habitats) for the conservation of biodiversity.

1.3.4 The Environment Act 2021

The Environment Act 2021 provides a framework for environmental protection in the UK. It is a wide-ranging piece of legislation affecting many aspects of the natural environment, including biodiversity. The act sets clear targets to halt the decline in wildlife populations through a legally binding target for species abundance by 2030 and a requirement to increase species populations by 10% by 2042. The Act also establishes a mandatory requirement for Biodiversity Net Gain (BNG) for developments consented after February 2024, which therefore exclude the Development.

1.3.5 Protection of Badgers Act 1992

Badgers receive strict protection under the Protection of Badgers Act 1992, which prohibits the taking, injuring, selling, possessing or killing of badgers and makes it an offence to ill-treat any badger, damage, destroy, disturb or cause a dog to enter a badger sett.

1.4 AIMS AND OBJECTIVES

The aim of the CEMP: Biodiversity is to provide a clear account of the measures by which sensitive ecological features will be safeguarded during construction. The CEMP: Biodiversity explicitly addresses the ecological features most likely to be affected by work, as identified in the Ecological Impact Assessment¹, although provision is made for unforeseen issues. In meeting this aim, the following objectives will be addressed:

- Define roles and responsibilities;
- Identify potential adverse effects on ecological features; and
- Describe measures to mitigate potential adverse effects.

1.5 ROLES AND RESPONSIBILITIES

1.5.1 Principal Contractor

It will be the responsibility of the Principal Contractor to implement the CEMP: Biodiversity and to communicate its requirements to appointed contractors and site personnel. The following approach will be implemented via this CEMP: Biodiversity and associated plans and reports:

- The Developer, along with the Principal Contractor, and other parties to the construction process will act collaboratively and cooperatively to achieve the best environmental outcomes;
- The work will progress in accordance with the requirements of the approved environmental reporting and methods agreed with the Council and consultees;
- The Principal Contractor is experienced in delivering works in environments similar to the Site and in implementing mitigation work of similar nature to those defined in the CEMP: Biodiversity and environmental reporting within the Application;
- The Principal Contractor will plan the work to integrate from the outset the objectives of the Development and the environmental requirements as defined in the CEMP: Biodiversity and environmental reporting within the Application;
- The Principal Contractor will programme the work in a manner that is safe and so that the work and mitigation measures have the greatest opportunity to be effective;
- The Principal Contractor will develop contingency plans for reasonably foreseeable events. The Developer, Designer and other parties will take reasonable steps to support the development of the Principal Contractor's plans; and
- In all operations, management of the environment and control of effects will be an integral part of the design, management and construction process.

1.5.2 Ecological Clerk of Works (ECoW)

An Ecological Clerk of Works (ECoW) will be appointed. The appointment shall cover the full programme of the construction works and will be extended, as necessary, to provide pre- and post-works support. The scope of the work of the ECoW shall include:

- Carrying out surveys in line with the methods in the CEMP: Biodiversity;

¹ Enzygo (2021)) Ecological Impact Assessment. Bolney Green Energy Hub. Rev A. CRM.347.006.EC.R.001.

- Monitoring and reporting compliance with the CEMP: Biodiversity;
- Providing advice about the protection of ecological features;
- Identifying biodiversity protection zones and establishing appropriate safeguards;
- Planning for known ecological issues and localised constraints, and responding to new ones, appropriately;
- Contractor briefings and Toolbox Talks (or inputs to and materials for these);
- Seeking specialist support (e.g. from an Arboriculturist), as required;
- Communicating with the wider project team;
- Post-works monitoring (e.g. to check reinstatement of ground conditions);
- Recording observations; and
- Monthly reporting

The frequency of ECoW site visits will be determined by the construction programme. At times of higher sensitivity, such as during initial ground works, a higher frequency of visits may be required. At times of lower sensitivity, such as during site demobilisation during the winter months, fewer visits may be required. The ECoW will be responsible for reviewing the programme and planning their site attendance and inputs accordingly.

1.5.3 Communication

The Principal Contractor will be responsible for arranging and delivering, with the support of the ECoW, Toolbox Talks to site operatives as part of site inductions or at other appropriate times. Toolbox talks will cover all of the issues in this CEMP: Biodiversity in sufficient and proportionate detail such that operatives can fulfil their obligations in accordance with the risks associated with their work.

At the discretion of the ECoW, infographics and signage may be displayed prominently in the site office, welfare facilities and at other locations deemed appropriate, to clearly and concisely communicate ecological risks and features.

The ECoW will provide a monthly written report summarising observations and actions and this will be submitted to the client and the Council. Note that the report may form part of the reporting commitments of the CEMP.

1.6 BASELINE UPDATE

The baseline ecological conditions (as reported in the EcIA), on which the CEMP: Biodiversity is based might change between the date of the field surveys (2020) and the start of construction. Consequently, the baseline will be validated by an ecological walkover survey sufficiently in advance of construction to allow for the completion of any additional surveys that might be required. The timing of the walkover will be determined by the construction programme but would typically take place 8–12 weeks (depending on season) in advance of the start of construction.

If the walkover does not identify new information that would materially change the method statements in this CEMP: Biodiversity, then it will be considered to be fit for purpose.

Additional surveys will only be required to address the following:

- To update the baseline, or parts thereof, if it is considered insufficient following the walkover;
- To provide information about new and previously unknown risks; and
- To provide the necessary up-to-date information for protected species licence applications. Note that these are not currently required.

2 METHOD STATEMENTS

2.1 OVERVIEW

The method statements provide a framework for mitigating ecological effects during the works. They are proportionate to the risks and are based on the best available evidence, standard good practice guidelines, and the current understanding of the Development.

The method statements do not provide definitive procedures to deal with every eventuality, but, instead, provide some flexibility and give the ECoW the discretion to act in a way that is appropriate to the prevailing conditions. For the avoidance of doubt, the ECoW will have the authority to stop works, deviate from the method statement, and seek advice/support.

Most works will take place in improved grassland and so the potential for adverse ecological impacts has been greatly reduced. Night-time works are not proposed. Nonetheless, the following potential adverse ecological effects (and associated legal offences) are possible:

- Permanent habitat loss;
- Temporary habitat loss and disturbance;
- Habitat fragmentation;
- Direct harm to animals; and
- Direct disturbance of animals.

The method statements summarise, for each ecological feature identified in the EclA, the conservation status, likely potential effects of work, and the measures to safeguard these features during construction works.

2.1.1 CEMP

The main CEMP for the Development will be submitted and approved pursuant to the discharge of planning condition 8 in relation to wider environmental resources. The main CEMP will include measures that directly and indirectly safeguard ecological features and these are not repeated herein. The ECoW will monitor compliance with the CEMP.

2.2 HABITATS

Works will take place mostly within an area of improved grassland and short perennial vegetation, which are generally recognised as habitats of relatively limited ecological value. Habitats of ecological importance on site include standing water (a pond) and broadleaved woodland and trees.

2.2.1 Legal and Conservation Status

Ponds and broadleaved woodland/trees are priority habitats under the NERC Act 2006. The trees on site are not subject to any formal safeguards (e.g. Tree Protection Orders) and have no other recognised protection or conservation status.

2.2.2 Potential Effects of Works

Effect	Example Activity
Direct harm to above-ground structures (e.g. tree branches)	Physical damage caused by machinery
Direct harm to below-ground structures (e.g. plant roots)	Physical damage caused by groundworks and soil compaction
Direct harm from pollution	Fuel spills

2.2.3 Mitigation

The ECoW will carry out an inspection of habitats before works near them commence which will inform the approach to mitigating incidental effects (e.g. avoiding impacts to adjacent areas) and their reinstatement (e.g., the storage of excavated materials). Reseeding and replanting (in line with the Landscape and Ecological Management Plan, LEMP) may be recommended to ensure prompt and successful habitat reinstatement.

223.1 Woodland and Trees

An Arboricultural Report² was submitted in support of the planning applications and part A of condition 2 (details of hard and soft landscaping) and includes *“Measures for, and plans showing, the protection of retained trees including a method statement for the access treatment within RPAs”*. The plans and method statement submitted pursuant to the discharge of condition 2 therefore demonstrates how the Development will proceed with minimal risk to retained trees, including woodland and ancient woodland, and so these details are not repeated herein. For the avoidance of doubt, all trees and woodland will be retained and no works (e.g. pruning) to them are proposed.

223.2 Ponds

The pond in the north-west of the Site will be retained. The perimeter fence will mark the limit of construction works in this area and until it is erected, a Heras fence of similar will demarcate a fenced Biodiversity Protection Zone (BPZ) to the east of the pond. The proposed footpath is within the BPZ and will be created with no-dig construction and subject to the safeguards (for great crested newt, reptiles, breeding birds), as set out below.

223.3 Grassland

Excavations and works in farmland have limited potential to cause adverse ecological effects due to the low value and sensitivity of the habitats. Excavated topsoil and subsoil will be managed (e.g. excavated and stored separately) to facilitate their successful reinstatement.

If necessary, temporary trackways (e.g. track matting) may be used to reduce the risk of rutting in areas without permanent tracks that could lead to soil erosion and runoff, particularly during wet weather.

2.3 BREEDING BIRDS

The habitats of the Site have relatively limited potential to support a notable breeding bird assemblage. Nonetheless, some species of conservation concern, including ground-nesting species, may breed in habitats affected by works.

2.3.1 Legal and Conservation Status

Breeding (nesting) birds are protected by the Wildlife and Countryside Act (WCA) 1981. The level of protection is increased for species listed in Schedule 1 of the Act. Many species are also conservation priorities at national and local scales.

2.3.2 Potential Effects of Works

Effect	Example Activity
Damage to or destruction of an active or under-construction nest (including harm to birds and eggs)	Ground works and vehicle movements
Disturbance of nesting Schedule-1 species and their young	Heavy plant operating near a nest site

2.3.3 Mitigation

The breeding bird season is defined as March to August inclusive, although some species may breed outside this period. Works taking place outside the nesting season may proceed without restrictions. The remainder of this method statement relates to works taking place between March and August.

- The ECoW will check work areas for active nests before works start. This check will take place no more than 48 hours before works and will be repeated if works in a defined area have not been completed within this time;
- If the check confirms that nesting birds are absent from a work area, works may proceed without further mitigation;

² Tim Moya Associates (2021) Arboricultural Report 200938-PD-11

- If a nesting bird is recorded in or near a work area, an appropriate exclusion zone around the nest will be determined by the species, landscape context (e.g., presence of natural screening), and the character of the works (e.g., magnitude, duration or frequency of disturbance). The exclusion zone will be clearly and visibly marked and communicated to the workforce. No works will be permitted in an exclusion zone until an ecologically sensitive and legally compliant solution is in place, or until it can be confirmed by the ECoW that the nest has been vacated; and
- Upon natural conclusion of the breeding attempt (i.e., once breeding has finished and all adults and young have vacated the nest), works may commence in the exclusion zone.

In addition to the above measures, should it be necessary to schedule critical construction activities within the breeding season in open farmland or grassland, visual deterrents such as reflective bunting or kite hawks may be deployed before the commencement of the breeding season to dissuade birds from nesting. These will be removed when works start.

Wherever possible, vegetation removal and management will take place outside the breeding season to minimise harm or disturbance to nesting birds.

2.4 GREAT CRESTED NEWT

2.4.1 Legal and Conservation Status

The Great crested newt is strictly legally protected under the Wildlife and Countryside Act 1981 (as amended) and under the Conservation of Habitats and Species Regulations 2017. In addition, the great crested newt is listed as a Species of Principal Importance under the NERC Act 2006.

2.4.2 Potential Effects of Works

Effect	Example Activity
Direct damage to and destruction of a resting place or breeding site	Ground works and vehicle movements near a breeding site
Disturbance of animals in a resting place or breeding site	Heavy plant operating near a breeding site
Disturbance of animals resulting in behavioural changes to foraging or movements	Loud construction noises
Harming or killing individuals	Entrapment in excavation

2.4.3 Mitigation

Great crested newt mitigation has been secured through a District Level Licence (DLL) issued by the NatureSpace Partnership (licence reference NSP1369MSDC), as required by Condition 4 of the planning consent. The DLL will provide the means by which planning Condition 4 (relating to great crested newt mitigation) will be discharged. A requirement of the DLL is that works proceed in accordance with Annex B of the licence (*Protocol for activities and operations affecting great crested newts within the Licensed Area*) and the associated *Best Practice Principles*. The guidance in these documents is not repeated herein to avoid duplication or confusion, but it must be followed to safeguard great crested newts and to comply with the terms of the licence.

2.5 OTHER PROTECTED AND NOTABLE SPECIES

The EclA concluded that the site had relatively limited potential to support other notable and projected species and recommended precautionary mitigation to safeguard such species. Species that were explicitly considered included common amphibians, reptiles, invertebrates and hedgehog.

2.5.1 Legal and Conservation Status

These species are conservation priorities and/or legally protected, although the degree of conservation importance and legal protection varies among them.

2.5.2 Potential Effects of Works

Effect	Example Activity
Direct damage to and destruction of a resting place or breeding site	Ground works and vehicle movements near a breeding site
Disturbance of animals in a resting place or breeding site	Heavy plant operating near a breeding site
Disturbance of animals resulting in behavioural changes to foraging or movements	Loud construction noises
Harming or killing individuals	Entrapment in excavation

2.5.3 Mitigation

Construction works have a very low probability of affecting these species. The species also have very different ecologies and are subject to different mitigation good practice. Consequently, it is not appropriate to provide prescriptive mitigation as this stage. Instead, this method statement provides a general approach to avoiding and reducing potential adverse effects and provides a mechanism to implement additional mitigation, as required.

- The ECoW will survey the work area and surrounding habitats before works start. An initial survey will be undertaken approximately 8–12 weeks before the commencement of works and, if no constraints are identified, a second check will take place no more than 48 hours before works. Checks will be repeated if works in a defined area have not been completed within 48 hours of being checked;
- If no evidence of notable/protected species is recorded, works may proceed without further specialist mitigation (but see *General Good Practice*, below);
- If evidence of notable/protected species is recorded, the ECoW will determine the need for species-specific mitigation based on the characteristics of the work activity;
- It is anticipated that adequate and legally compliant mitigation can be provided through Reasonable Avoidance Measures (RAMs) including one or more of the following:
 - Relocating works to a less sensitive area;
 - Excluding works from sensitive areas;
 - Programming works for a less sensitive time;
 - Sensitive clearance and management of vegetation; and
 - Translocating animals³ to a less sensitive area.
- If RAMs are unlikely to provide adequate or legally compliant mitigation, then the ECoW will be responsible for securing a protected species mitigation licence to facilitate works, during which time potentially harmful work activities will cease.

2.5.3.1 General Good Practice

- Vegetation removal will take place sensitively (e.g., staged cutting) after inspection by the ECoW;
- While the construction programme has yet to be finalised, vegetation removal is currently anticipated to take place during October to November 2026, and will be planned to limit ecological risks to all species as far as is practicable;
- Linear works (e.g. trenching) of more 100 m will, outside of works hours, maintain safe and unimpeded passage for terrestrial wildlife;
- Open excavations will be securely covered at night or include a means of escape; and
- Excavations will be checked for the presence of wildlife before works in them, including reinstatement, recommence. In the event that wildlife are present, the ECoW will be responsible for taking the necessary action.

³ Not applicable to strictly legally protected species: badger and great crested newt