



Habitat Management and Mitigation Plan

Sackville School, Lewes Road, East Grinstead, West Sussex RH19 3TY

Sackville School

Status	Issue	Name	Date
Draft	0	Georgina Rennie BSc (Hons), MSc	18/04/2025
Reviewed	0.2	Mel Reid BSc (Hons) MRes AMRSB, Principal Ecologist	22/04/2025
Final	1	Georgina Rennie BSc (Hons), MSc	23/04/2025
Amended	2	Georgina Rennie BSc (Hons), MSc	29/04/2024

Arbtech Consultant's Contact Details:

Georgina Rennie
Consultant Ecologist
Tel: 07842 431841 Email: georginarennie@arbtech.co.uk
<https://arbtech.co.uk>

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Validity

The survey results and recommendations contained within this report are valid for 18 months. An updated site visit may be required if the report is to be used any longer than 18 months after completion.

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 instructed by Sackville School to undertake a Biodiversity Net Gain (BNG) Assessment at Sackville School, Lewes Road, East Grinstead, West Sussex RH19 3TY (hereafter referred to as the site).

The site has been subject to previous ecological assessment by Arbtech Consulting Limited, comprising the following:

- A Preliminary Ecological Appraisal (PEA) (Arbtech Consulting Ltd. 2024)
- A Biodiversity Net Gain (BNG) Assessment (Arbtech Consulting Ltd. 2024)

1.2 Project Description

This report is prepared to inform a planning application with the Mid Sussex District Council. The proposal is described as:

“The upgrade of existing Redgra surfaced sports facilities with associated artificial turf, mesh fencing, LED lighting, acoustic barrier, areas of hard standing and resurfaced long/triple jump pits” (hereafter referred to as “the proposed development”).

1.3 Site Context

The survey site is centred on National Grid Reference RH19 3TY and has an area of approximately 1.7ha. The site is located to the north-east of the town of East Grinstead. Ashplats Wood is present to the north of the site, whilst Pitlands Wood is present to the east. Habitat surrounding the site includes residential dwellings and grassland. In the wider landscape, grassland, agricultural land, residential properties, and woodland are present. There is no priority habitats present on site, however deciduous woodland, ancient woodland, traditional orchards, and good quality semi-improved grassland are present within a 2km radius from the site, with deciduous woodland present 90m to the east of the site. Habitats onsite comprise grassland and ground of trees. A site location plan is provided in Appendix 2.

1.4 Scope of This Report

Following the submission of planning application DM/25/0263. This plan aims to support with the recommended planning conditions.

Condition 1:

“ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal and Preliminary Roost Assessment (Arbtech Consulting Ltd., October 2024), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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 (as amended)."

Condition 2:

"A Biodiversity Enhancement Layout for the biodiversity enhancements listed in the Preliminary Ecological Appraisal and Preliminary Roost Assessment (Arbtech Consulting Ltd., October 2024), shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Layout shall include the following:

- *detailed designs or product descriptions for biodiversity enhancements; and*
- *locations, orientations and heights for biodiversity enhancements on appropriate drawings.*

The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter."

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under paragraph 187d of the NPPF 2024 and s40 of the NERC Act 2006 (as amended)

Condition 3:

"PRIOR TO BENEFICIAL USE: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

A lighting design scheme for biodiversity based on Guidance Note: 08/23 (Institute of Lighting Professionals) shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

Reason: To 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 (as amended)."

The plan is also in accordance with current BNG legislation. Of relevance to this report, Schedule 7A to the Town and Country Planning Act 1990:

Paragraph 13 of Schedule 7A:

"Planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition") that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun. The Biodiversity Gain Plan should be in accordance with the Biodiversity Net Gain documents already submitted. For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development."

Reason: To secure compliance with Schedule 7A to the Town and Country Planning Act 1990."

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 previous ecological assessments undertaken at the site including the PEA and BNG Assessment (Arbtech Consulting Ltd. 2024).

2.1 Habitats recorded on Site.

The site is characterised by modified grassland within the redline boundary. The rest of the site is made up of developed land, vegetated garden, ornamental hedgerows, hedgerows with trees.

2.2. Value to Protected/Notable Species

Given the type and extent of habitats recorded and the assessed connectivity between the site and the wider landscape, the site was assessed to provide opportunities for the following protected and/ or notable species:

- Common species of amphibians
- Common species of reptiles
- Commuting and foraging badgers
- Commuting and foraging bats
- Hedgehogs

The site is not considered suitable to support any other species.

Amphibians

No suitable refuge habitat is present on site, and the main area of grassland on site is separated from the pond by the athletics track. However, due to the close proximity to the pond to the north of the site, there may be a risk to GCN and other common amphibians.

Reptiles

The project will result in the removal of a small area grassland. No impacts are anticipated on reptiles due to the minimal area of habitat being removed and the lack of connectivity to the site. However, a small risk of injury may be present.

Badgers

No badger setts were noted on site or within a 30m radius of the site. Grassland will be removed from site. This is likely to be inconsequential to local badger populations owing to their low value and the presence of more extensive habitat locally. However, construction activities could result in the death or injury of badgers, if present.

Bats

Light levels on and around the site will be increased due to the addition of flood lights on site. Shields have been incorporated into the lighting design which has significantly decreased the light spill into the woodland, however, there is some light spill from the eastern football pitch.

Hedgehogs

The grassland onsite provides foraging and commuting opportunities for hedgehogs, with further habitat nearby. Grassland will be removed during construction. The loss of such habitats is likely to be inconsequential to local hedgehog populations owing to their low value and the presence of more extensive habitat locally. However, construction activities could result in the death or injury of hedgehogs, if present.

2.3 Scope for Mitigation and Enhancement

As above, the site provides suitable opportunities to support protected and/ or notable species including common amphibians, foraging and commuting bats, badgers, hedgehogs, and reptiles. Although the site is not assessed to represent a significant resource for these species in the context of the wider landscape, their presence for transient periods cannot be discounted. As such, mitigation is considered necessary to reduce potential impacts to these species to an acceptable level during development activity. Furthermore, there is scope to provide ecological enhancement of the site through the provision of new landscaping, in addition to the provision of species-specific enhancements. The proposed landscaping plan includes the provision of high value habitats including tree planting and the enhancement of grassland. The provision of these habitats has been shown to demonstrate a significant net gain in Biodiversity through the BNG Assessment (Arbtech Consulting Ltd. 2024). The effective installation and subsequent management of these habitats alongside the provision of species-specific enhancements will ensure the long-term ecological value of the site is maintained post-development. The landowner will be required to ensure the mitigations are in place for 30-years along with any funding required.

3.0 Landscape and Ecology Management Plan

3.1 Mitigation

Mitigation prescriptions to reduce adverse impacts to existing ecological features and biodiversity as identified through previous ecological assessment are detailed in **Table 1** below. The landowner will be required to ensure the below mitigations are in place for 30-years.

Table 1: Mitigation Prescriptions

Mitigation	Specification
Persons Responsible and Lines of Communication	A Development Biodiversity Champion must be selected for the construction phase of the development. The Biodiversity Champion should be someone with significant influence during construction, such as the contract or project manager. The Development Biodiversity Champion is responsible for ensuring all actions outlined in this HMMP are implemented. Any queries with regards to the mitigation and enhancement prescriptions should be addressed to the project ecologist and communication should 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. It is recommended that the Biodiversity Champion informs the project ecologist of the commencement of enhancement installation works and provides updates where necessary.. Once the ecological enhancements have been installed, a Post-Development Biodiversity Champion must be allocated to someone who has influence on site once the development is complete, such as a long-term maintenance contractor. 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 by a Qualified Ecologist	A post-development site visit by a qualified ecologist must be undertaken to confirm the successful installation of the biodiversity enhancements and proposed soft landscaping. A short report will be produced detailing the results of the site visit and any remediation recommendations, if necessary.
Wildlife Sensitive Lighting Strategy	Any proposed external lighting will be installed in accordance with current guidance issued by the Bat Conservation Trust and Institute of Lighting Professionals: <i>Guidance Note 08/18: Bats and Artificial lighting in the UK</i> (BCT & ILP 2018). The below strategy utilises light prescriptions detailed within this guidance to limit impacts of artificial lighting on bats and other light sensitive species potentially utilising retained habitats on and directly adjacent to the site including badgers and hedgehogs. In particular, the lighting strategy seeks to influence the lighting design so that impacts can be avoided to key habitats of value including: • The species-specific habitat enhancements detailed below, predominantly the bird box and mixed scrub planting. • Newly proposed landscaping including the wildflower grassland, mixed scrub and tree planting. • Retained habitats on and directly adjacent to the site such as retained areas of grassland and the line of trees to the south of the site.

	The following lighting design prescriptions are considered suitable for the type and scale of the Development to minimise the impacts of artificial lighting on site or within the public realm on bats and other light sensitive species. Lighting design prescriptions recommended for the Site comprise: • Reducing the operating time of any installed public realm lighting and levels of illuminance provided via: Part-night operation. Turning off lights between certain hours, for example between midnight and 06:00. The use of motion sensors will be avoided to ensure no unnecessary light spill occurs during night-time hours. Where the use of motion sensors cannot be avoided, lights must be set to be turned on for no longer than 1 minute. • Avoiding light spill via: The use of directional lighting by using luminaires with rear shields and an upwards lighting ratio of zero; and Consideration to the height and spacing between lighting columns where practicable. Examples include stud LED or footpath lighting. • Light type: Use of lamps that minimise UV emissions or use UV filters to reduce the attractiveness of the lamp to invertebrates. Use high-pressure sodium or LED lamps, ideally warm white as this has a low relative attractiveness of invertebrates. Installing lighting systems that deliver no greater than a 3lux average illuminance, with a maximum horizontal illuminance of 0.6 uniformity (subject to appropriate maintenance factors); and The use of landscaping as to block light spill where appropriate.
Precautionary methods of working – badgers and hedgehogs	No evidence indicating the presence of badgers or hedgehogs was recorded on site during the site survey. However, the presence of these species foraging and/ or commuting on site for transient periods cannot be discounted. The following precautionary working methods will therefore be adhered to during construction: • Any excavations will be covered overnight, or a ramp will be installed to enable any trapped animals to escape. • The use of night-time lighting will be avoided, or sensitive lighting design will be implemented to avoid light spill on to retained habitats which mammals could use. It is noted that the recommended lighting strategy to reduce impacts to bats will also benefit badgers and hedgehogs. • Any chemicals or pollutants used or created by the development must be stored and disposed of correctly according to COSHH regulations.
Precautionary methods of working – Reptiles and common amphibians	<i>Pre-development vegetation clearance</i> Precautionary methods of working when removing vegetated habitats of value to reptiles and amphibians, including the dense scrub and grassland, is required to prevent causing injury or death to these species' groups during development works. Vegetation clearance works must take place outside of the hibernation period for reptiles and amphibians, which is typically between November and February. Reptiles and amphibians are mostly torpid during this timeframe and are thus most vulnerable to injury or death. Undertaking vegetation clearance works during their active period, typically between March and September, will allow individuals to disperse unperturbed to adjacent retained habitats. Vegetation removal will comprise a phased cutting method in addition to cutting in systematic patterns. The phased cutting method will be undertaken in two stages; the first cut will remove all vegetation to approximately 200-300mm from ground level and the second cut will be to ground level/ bare ground. Reptiles and amphibians are most likely to be present at or just below ground level; the phased technique allows any individuals present at

this vegetation level to disperse. The systematic vegetation cutting must be applied to both cutting phases and comprises cutting systematically towards areas of retained habitat to encourage any individual reptiles and amphibians to retreat to retained habitat unharmed. This method also prevents the creation of habitat islands during the second cutting phase which has potential to trap reptiles and amphibians in isolated pockets of habitat and thus increase the potential for injury or death during works. A suitable systematic cutting technique is exemplified below on **Figure 1**.

Once the sensitive vegetation clearance has been completed, this area will then be managed as bare ground or very short vegetation (<100mm) which is unsuitable to support reptiles and amphibians for prolonged periods and is likely prevent individuals from recolonising this section of the site prior to works. All vegetation arisings created from the cutting will be removed from the area; the arisings will be used to create new hibernacula within the retained habitat sections on site. This will enhance the retained habitats for reptiles and amphibians whilst ensuring the cleared sections of the site remain unsuitable to support this species during construction.

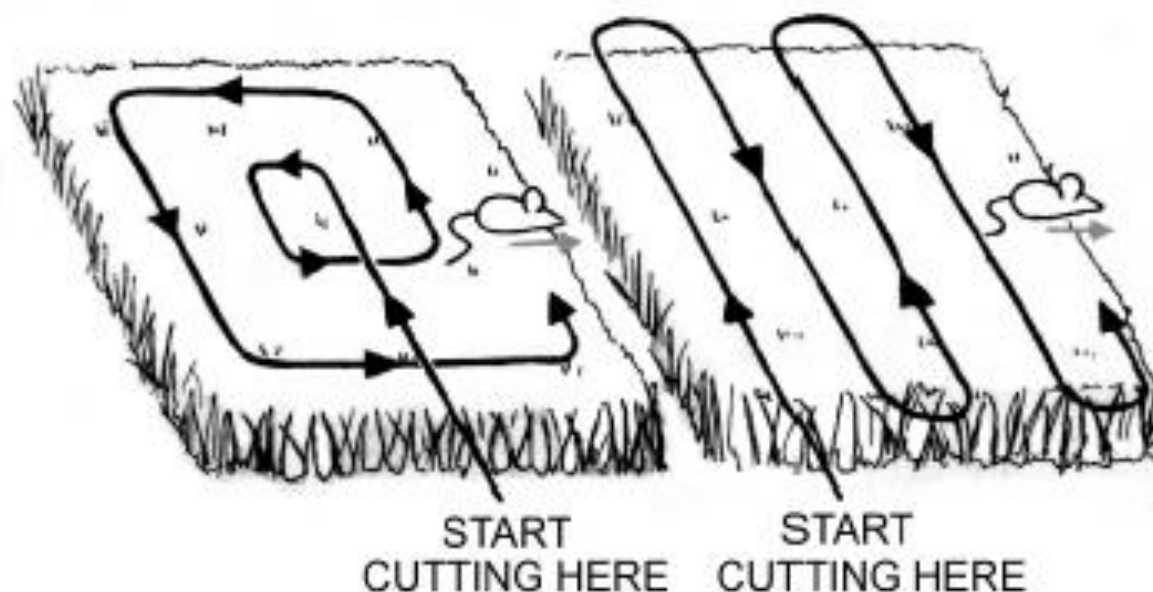


Figure 1: A schematic representation of vegetation cutting patterns as best to eliminate terrestrial opportunities for reptiles and amphibians.

Precautionary methods of working – Great Crested Newts	Owing to the nature of the proposed development and the low potential for impacts to great crested newts, further surveys are considered to be disproportionate. A precautionary working method will be implemented for common amphibians during construction, including the following measures: • A staged approach will be adopted for vegetation clearance, whereby the vegetation will be strimmed to 15cm and left overnight to allow any amphibians to disperse. The vegetation can then be cleared to ground level and must be maintained at this level for the duration of construction to deter amphibians from the working area. • Any rubble piles will be dismantled by hand and debris and brash will be stored on pallets or removed from the site to prevent amphibians from utilising these areas. • Best practice pollution prevention measures will be implemented to minimise impacts to nearby aquatic habitats that amphibians could use. • Any chemicals or pollutants used or created by the development must be stored and disposed of correctly according to COSHH regulations. • If any common amphibians are found in the working area these must be allowed to disperse of their own accord or, if at immediate risk, must be moved by hand to a sheltered, vegetated area away from disturbance. • In the unlikely event that a great crested newt is identified, works must cease and advice must be sought from a suitably qualified ecologist.

3.2 Enhancement

Enhancement of the site and subsequent management prescriptions to ensure the ongoing biodiversity value of the site post-construction are detailed in **Table 2** below.

Table 2: Enhancement Prescriptions

Ecological receptor	Specification
Modified grassland – g4	Overview: It is proposed to create 0.096ha of modified grassland in good condition. Objectives:

- To create modified grassland in good condition by passing condition criteria A, C, D, E, F, & G (as a minimum) in accordance with the Grassland – Low distinctiveness Habitat Type Condition Sheet and BNG Assessment.
- To create grassland that will be suitable for amenity purposes whilst also providing pollination, foraging, and commuting opportunities for protected and/ or notable species groups including badgers, herptiles, hedgehogs, invertebrates, bats, and birds.
- To undertake landscaping works in compliance with BS 4428:1989 – The Code of Practice for General Landscape Operation.

Creation Method:

- **Ground preparation**

A soft strip of the current vegetation present will be undertaken and removed from the area to provide a bare soil substrate for sewing the seed mix. The bare soil will be subject to light rolling or trampling to provide a firm base for seeding.

- **Seeding**

To be undertaken in the spring between April and May or in the Autumn between September and October.

The following seed rates are recommended: 40kg/ha or 4g/m²

- **Proposed seed mix:**

It is proposed to seed the grassland with Emorsgate EM2 General Purpose Meadow Mixture. This seed mix contains 5no. grass species and 15no. wildflower species. The mixture contains no dominant grass species. Due to this diversity and absence of dominant species, the number of grass and wildflower species present per m² is increased; it is therefore considered reasonable to assume a species diversity of 6-8 species per m². For exact specifications, please refer to: <https://wildseed.co.uk/about-us/>.

Management prescriptions covering a 30-year term:

Table 2.1: Modified Grassland management prescriptions.

Management	When	Rationale	BNG condition criteria compliance
Cut monthly during the growing season	Between April and October	Cutting monthly will allow a neat a tidy appearance whilst allowing more species to effectively colonise.	A, C, F, & G.
Turn and dry the cut grass over 3-5 days before removing arisings off Site	Following cuts in May and September.	This allows any seeds present seeds to drop encouraging species diversity and invertebrates to relocate unharmed.	A.

	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, D & E.
Tree planting	Overview: 0.0122 ha of scattered trees (3 small trees) will be planted within the site boundary with species yet to be decided due to the sites diverse range of tree species. Native tree species are recommended to achieve a moderate condition. The tree planting locations are shown 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. • Ensure well-balanced crowns and/ or natural shape by preventing over competition. 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 and shrubs should then be backfilled ensuring there are no air pockets around roots or any roots protruding out of the ground. Species planted should be native in order to achieve a • Timing It is best to prepare the land during the summer ready for planting between November and March. Planting trees and scrub 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:

	Table 2.2: New tree planting management prescriptions.			
	Management	When	Rationale	BNG condition criteria compliance - Trees
	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.	A
	If required, provision of stakes and guards. Guards to be left on for a minimum of 5 years	During planting.	Protect from damage	C
	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	C
	Do not apply chemical fertilisers	At all times.	The use of chemical fertilisers will encourage vigorous grasses and weeds to grow	D
	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.	F
Retained habitats	Habitats to be retained on site in accordance with the proposed development are as follows: • Modified grassland – 0.317 ha 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 grassland is good based on the condition assessment completed.			
Provision of bird boxes	One bird box will be installed on existing trees. These need to be close to the southern boundary with the newly create other neutral grassland as bordering habitat. The location is shown on the plan in Appendix 3 . Details of the bird boxes recommended for the site are as follows:			

- 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.
- No. 1 Woodstone Nest Box – with 28mm entrance holes is recommended, as shown in **Figure 2**. The bird box type is suitable to attract blue tits *Cyanistes caeruleus*, coal tits *Periparus ater*, and great tits *Parus major*, all of which are likely to be present in the local area. Alternative bird boxes include Woodland Trust Simon King curve cavity nestbox and the Vivara Pro Seville 28mm WoodStone Nest Box.
- The bird box needs to be positioned approximately 1.5m above ground level where they will be sheltered from prevailing wind, rain and strong sunlight with a predator guard 15cm below the box to protect any nesting birds from potential predation.



Figure 2: Woodstone Nest Box (image credit arkwildlife.co.uk)

Recommended Management:

The proposed bird box is 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 box is inspected annually for the first five years outside of the typical nesting bird season (March to September inclusive) following installation. Bird boxes must be replaced if they are damaged, removed, or have fallen from their recommended location.

Provision of bat boxes

One bat box will be installed onto retained trees across the site in accordance with the proposed development, the approximate locations of which are shown on the plan in **Appendix 3**. Details of the proposed bat boxes to be installed are as follows:

- The recommended bat boxes will be constructed of woodcrete/ woodstone. Boxes of this construction are known to require minimal maintenance and have a lifespan of 25 years plus.
- Greenwood’s Ecohabitats bat boxes will be utilised (or similar alternative) (<https://www.greenwoodsecohabitats.co.uk/shop>).
- The following types of bat boxes are recommended: Single Crevice Bat Boxes, Medium Hollow Bat Boxes, and three Crevice Bat Boxes. A total of seven will be installed (or similar specification), as shown in Figure 3. These bat box types are suitable to support a wide range of species including brown long-eared *Plecotus auritis*, noctules *Nyctalus noctula* and soprano pipistrelles *Pipistrellus pygmaeus*.
- The bat boxes will be positioned 3-5m above ground level facing a south elevation with a clear flight path to and from the entrance, away from artificial light and facing vegetated habitats.
- 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 a 30-year management term by the Post-Development Biodiversity Champion outside of the typical active season for bats (May to September inclusive). Bat boxes must be replaced like-for-like (insofar as is possible) if they are damaged, removed, or have fallen from their recommended location.



Figure 3: The single crevice bat box, medium hollow bat box, and three crevice bat boxes (image credit: <https://www.greenwoodsecohabitats.co.uk/>)

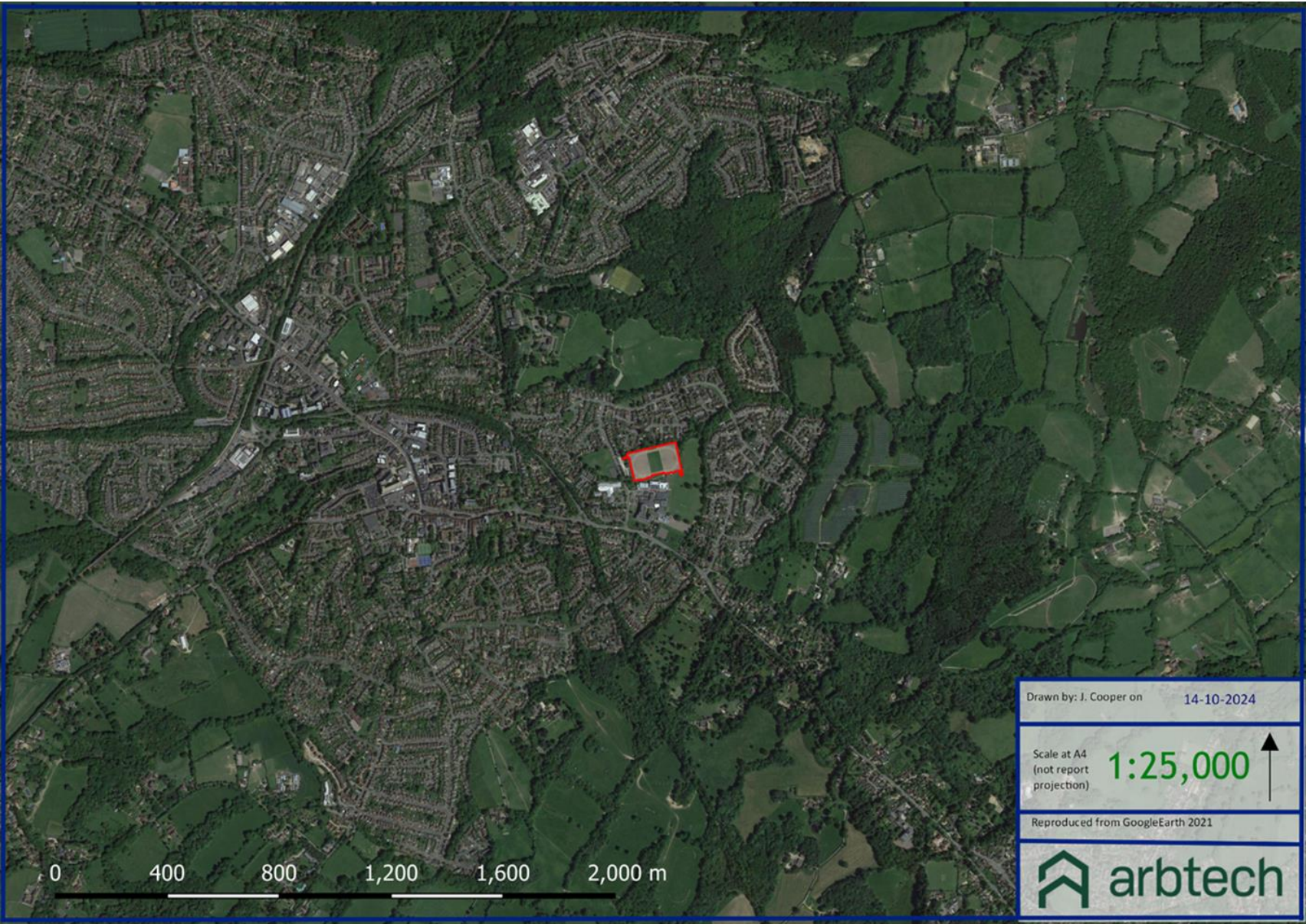
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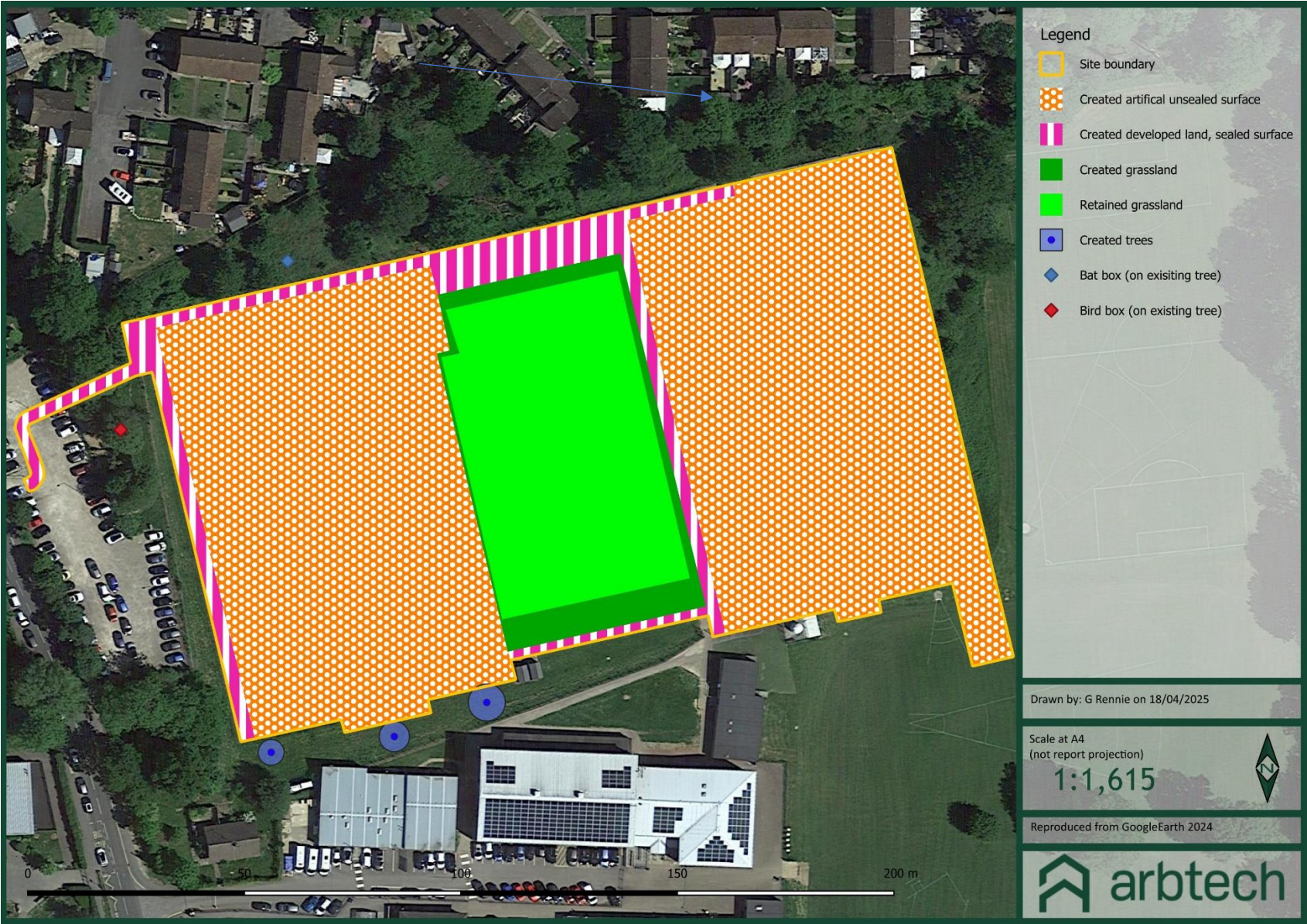
Appendix 1: Proposed Development Plan



Appendix 2: Site Location Plan



Appendix 3: Proposed Landscaping and Enhancements Plan



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 agencies 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 must 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 must 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.

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 landowner or occupier may be required to 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.