



# Preliminary Ecological Appraisal and Preliminary Roost Assessment

Gofer Bulking Station, Rhuddlan Road, Abergele, Conwy, LL22 9SE

Conwy County Borough Council

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### Industry Guidelines and Standards

This report has been written with due consideration to:

- Chartered Institute of Ecology and Environmental Management (2017). Guidelines for Preliminary Ecological Appraisal. 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2018). Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. Version 1.1. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2017). Guidelines on Ecological Report Writing. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2020). Guidelines for Accessing, Using and Sharing Biodiversity Data in the UK. 2nd Edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- British Standard 42020 (2013). Biodiversity – Code of Practice for Planning and Development.
- British Standard 8683:2021 (2021). Process for Designing and Implementing Biodiversity Net Gain.

### 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.

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)

**Executive Summary**

Arbtech Consulting Limited was instructed by Conwy County Borough Council to undertake a Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) at Gofer Bulking Station, Rhuddlan Road, Abergele, Conwy, LL22 9SE (hereafter referred to as “the site”). The survey was required to inform a planning application for the construction of a new building on the western side of the site (hereafter referred to as “the proposed development”).

**The following is work you will need to commission to comply with planning policy and legislation. Further information, along with opportunities for biodiversity enhancement, are outlined in Table 5 of this report.**

Feature	Survey Results Summary	Impact Assessment	Recommendations
Amphibians	There is one pond present within the red-line boundary which will be retained and unimpacted by the proposed development. There is suitable terrestrial habitat present on site in the form of scrub and unmanaged grassland.	The proposed development area will be restricted to the existing areas of hard standing and managed grassland which are sub-optimal for amphibians. The ponds and suitable terrestrial habitats will be retained and unimpacted. As such there are no impacts are anticipated on amphibians, as a result of the proposed development.	Owing to the nature of the proposed development and the low potential for impacts to amphibians, further surveys are considered to be disproportionate. A precautionary working method will be implemented for common amphibians during construction.
Reptiles	There is suitable reptile habitat present on site in the form of scrub and unmanaged grassland.	Managed grassland will be removed during construction. The loss of such habitats is likely to be inconsequential to local reptile populations owing to their low value and the presence of more extensive habitat locally and on site. However, site clearance could result in the death or injury of reptiles, if present.	Owing to the nature of the proposed development and the low potential for impacts to reptiles, further surveys are considered to be disproportionate. A precautionary working method will be implemented during construction.
Foraging and commuting bats	The scrub and trees could be used by local bat populations for foraging and commuting. These could also be used by bats dispersing from nearby roosts outside of the site.	The proposed development will not result in the removal of any habitats which could be used by foraging or commuting bats.  The proposed development will include the use of lighting which could spill on to bat roosting, foraging or commuting habitat and deter bats from using these areas.	A low impact lighting strategy will be adopted for the site during and post-development.

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## **1.0 Introduction and Context**

### ***1.1 Background***

Arbtech Consulting Limited was instructed by Conwy County Borough Council to undertake a Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) at Gofer Bulking Station, Rhuddlan Road, Abergele, Conwy, LL22 9SE (hereafter referred to as “the site”). The survey was required to inform a planning application for the construction of a new building on the western side of the site (hereafter referred to as “the proposed development”). A plan showing the proposed development is provided in Appendix 1.

The aim of the PEA was to obtain data on existing ecological conditions, and to conduct a preliminary assessment of the likely significance of ecological impacts on the proposed development. The aim of the PRA was to determine the presence or evaluate the likelihood of the presence of roosting bats, and to gain an understanding of how bats could use the site for roosting, foraging or commuting.

No previous ecology reports have been produced for this site by Arbtech Consulting Ltd or, to the author’s knowledge, by any other consultancy.

### ***1.2 Site Location and Landscape Context***

The site is located at National Grid Reference SH 97300 77249 and has an area of approximately 1.94ha comprising of hard standing, buildings, managed and unmanaged grassland, scrub, trees and a pond. The surrounding habitat is comprised of arable farmland with hedgerow boundaries. The northern boundary is adjacent to a narrow water way used the arable land run of. The site is approximately 1.3 miles from the Irish sea coast. A site location plan is provided in Appendix 2.

### ***1.3 Scope of the Report***

The PEA element of this report describes the baseline ecological conditions at the site, evaluates habitats within the survey area in the context of the wider environment and describes the suitability of those habitats for notable or protected species. It identifies possible ecological constraints as a result of the proposed development and summarises the requirements for further surveys and mitigation measures to inform subsequent mitigation proposals, achieve planning or other statutory consent and to comply with wildlife legislation.

The PRA element of this report provides a description of all features suitable for roosting, foraging and commuting bats and evaluates those features in the context of the site and wider environment. It further documents any physical evidence collected or recorded during the site survey that establishes the presence of roosting bats. It provides information on possible constraints to the proposed development as a result of bats and summarises the requirements for any further surveys to inform subsequent mitigation proposals, achieve planning or other statutory consent and to comply with wildlife legislation.

To achieve this, the following steps have been taken:

- A desk study has been carried out.

- A field survey has been undertaken to record baseline information on the site and surrounding area including habitat types and their suitability for notable or protected species, including roosting bats.
- Invasive plant and animal species (such as those listed on Schedule 9 of the Wildlife & Countryside Act) have been identified.
- Potential impacts on features of value, as a result of the proposed development, have been identified.
- Recommendations for further surveys and mitigation have been made.
- Opportunities for the enhancement of the site for biodiversity have been set out.

## 2.0 Methodology

### 2.1 Desk Study

The desk study included a review of the magic.gov.uk database for statutory designated sites within a 2km radius of the site. Landscape value and the presence of notable habitats as well as granted European Protected Species Licence (EPSL) and notable species records held on magic.gov.uk database has also been considered where these are within influencing distance of the site.

### 2.2 Field Survey

The survey was undertaken by Mel Reid (accredited agent Natural Resource Wales Bat Licence Number: S091515/1) on 19<sup>th</sup> June 2023.

#### Preliminary Ecological Appraisal

An extended habitat survey was undertaken, following the methodology set out in *UK Habitat Classification User Manual* (UK Habitat Classification Working Group, 2018). All land parcels are described and mapped and, where appropriate, target notes provide supplementary information on habitat conditions, features too small to map to scale, species composition, structure and management. Botanical species lists were compiled with reference to the DAFOR scale (D = Dominant; A = Abundant, F = Frequent, O = Occasional, R = Rare).

During the survey, habitats were assessed for their suitability to support protected species, and field signs indicating their presence recorded. The assessment takes into consideration the findings of the desk study, the habitat conditions on site and in the context of the surrounding landscape, and the ecology of the protected species.

Ponds on and adjacent to the site were assessed for their suitability to support great crested newts using the *Habitat Suitability Index (HSI) Assessment Methodology* (Oldham et al, 2000).

#### Preliminary Roost Assessment

The PRA focussed on the built structures which will be affected by the proposed development as well as providing an overview of the wider site and the surrounding landscape for bat roosting, foraging and commuting habitat.

A non-intrusive visual appraisal was undertaken from the ground, using binoculars to inspect the external features of the building for features which bats could use for roosting, including access or egress points and for signs of bat use including droppings, scratch marks, insect remains and urine smear marks. An internal inspection of the building was also made, including the living areas and any accessible roof spaces, using a torch and ladders. The surveyor paid particular attention to the floor and flat surfaces, window shutters and frames, lintels above doors and windows, and carried out a detailed search of numerous features within the roof space.



Suitability Assessment

Built structures were categorised according to the likelihood of bats being present and the types of roost that the identified features could support. This is summarised in Table 1 below. Roost suitability is classified as high, moderate, low and negligible and dictates any further surveys required before works can proceed.

Table 1: Features of a building that are correlated with use by bats

<b>Classification</b>	<b>Feature of building and its context</b>
High	Buildings or structures with features of particular significance for larger numbers of roosting bats e.g. mines, caves, tunnels, icehouses and cellars. Habitat on site and surrounding landscape of high quality for foraging bats e.g. broadleaved woodland, tree-lined watercourses and grazed parkland. Site is connected with the wider landscape by strong linear features that would be used by commuting bats e.g. river and or stream valleys and hedgerows. Site is proximate to known or likely roosts (based on historical data). Buildings with high suitability could support roosts of high conservation value such as maternity or hibernation roosts.
Moderate	Buildings or structures with one or more features suitable for more regular roosting due to their size, shelter, protection, conditions and surrounding habitat but unlikely to support a roost of high conservation value such as maternity or hibernation roosts. Continuous habitat connected to the wider landscape which could be used by bats for commuting such as lines of trees, linked gardens. Foraging habitat in the surrounding area such as trees, scrub, grassland or water.
Low	Buildings or structures with one or more features suitable for use sporadically by individual or small numbers of bats. Potential roost features may be suboptimal for reasons such as shallow depth, poor thermal qualities or upwards orientation with exposure to inclement weather or predators. Habitat suitable for foraging in close proximity, but largely isolated in the landscape. Or an isolated site not connected by prominent linear features.
Negligible	Unsuitable for use by bats.

**2.3 Limitations**

It should be noted that whilst every effort has been made to describe the baseline conditions within the survey area, and evaluate these features, this report does not provide a complete characterisation of the site. This assessment provides a preliminary view of the likelihood of protected species being present. This is based on suitability of the habitats on the site and in the wider landscape, the ecology and biology of species as currently understood, and the known distribution of species as recovered during the searches of historical biological records.

A biological records data search has not been undertaken. However, given the location of the site, the nature of the habitats present and the assessed suitability of the site for protected or notable species, it is not anticipated that the purchase of biological records data will add any significant weight or alter the conclusions and recommendations outlined in this report.

### 3.0 Results and Evaluation

#### 3.1 Designated Sites

No statutory designated sites were identified within 2km of the site. The presence of non-statutory designated sites within 2km cannot be established without biological records data from COFNOD.

#### 3.2 Field Survey Results

The results of the field survey are illustrated in Appendix 3. The weather conditions recorded at the time of the survey are shown in Table 2.

*Table 2: Weather conditions during the survey*

<b>Date:</b>	19/06/2023
<b>Temperature</b>	17°C
<b>Humidity</b>	78%
<b>Cloud Cover</b>	10%
<b>Wind</b>	3mph
<b>Rain</b>	None

#### Habitats and Flora

The following habitats are present within and adjacent to the site:

- Developed land; sealed surface (u1b)
- Buildings (u1b5)
- Other neutral grassland (g3c)
- Pond
- Dense scrub with trees

A description and photographs of each habitat are provided in Table 5.

No protected or non-native invasive plant species (as listed under Schedules 8 or 9 of the Wildlife and Countryside Act 1981) were identified on the site.

Table 3: Description and photographs of habitats within and adjacent to the site

Habitat type	Habitat description	Photograph
<p>Developed land; sealed surface</p>	<p>The eastern side of the site is dominated by a large area of hard standing which forms part of the active waste recycling centre. This area of hard standing is in constant use and is of negligible value for wildlife.</p>	 <p>Photo 1: hard standing on site</p>  <p>Photo 2: hard standing on site</p>

Buildings

There is one main building on site which forms the active waste recycling centre. The is constructed from metal panels and offer no gaps suitable for roosting bats. The internal areas are in constant use and also offer no area suitable for roosting bats. There are a further two smaller cabins building present at the eastern side of the site which also offer negligible habitat value for supporting roosting bats. All existing buildings on site will be retained and unimpacted by the proposed development.





Photo 3: main building on site




Photo 4: cabins on site



<p>Other grassland</p> <p>neutral</p>	<p>To the western side of the site (within the fenced boundary) is an area of other neutral grassland. Species present include perennial ryegrass <i>Lolium perenne</i> (D), Yorkshire fog <i>Holcus lanatus</i> (A), cock's-foot <i>Dactylis glomerata</i> (A), broad-leaved dock <i>Rumex obtusifolius</i> (F), creeping buttercup <i>Ranunculus repens</i> (F), nettle <i>Urtica dioica</i> (O), ribwort plantain <i>Plantago lanceolata</i> (O), oxeye daisy <i>Leucanthemum vulgare</i> (O), common ragwort <i>Jacobaea vulgaris</i> (O) and common thistle <i>Cirsium vulgare</i> (O). The grassland is manged with a uniform sward length of less than 7cm. A section of this areas of grassland will be removed to facilitate the new proposed new building.</p> <p>Further areas of other neutral grassland are present at eastern side of the site. There is further unmanaged grassland surrounding the pond at the north-western corner of the site. These grassland areas are less managed with varied sward lengths over 7cm and higher forb species present. These areas of grassland will be retained and remain unimpacted by the proposed development.</p>	 <p>Photo 5: grassland at western side of site (to be impacted)</p>  <p>Photo 6: grassland at eastern side of site (not impacted)</p>
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<p>Scrub with trees</p>	<p>The active waste recycling centre is surrounded by a metal fence, beyond with is a buffer along the north, western and southern sides of the site consisting of scrub with semi-mature trees. The scrub is dominated by bramble and nettle. Tree species present include ash <i>Fraxinus excelsior</i>, willow <i>Salix sp.</i>, poplar, pine, sorbus, cheery and elder <i>Sambucus nigra</i>. The trees are largely semi-mature and lack any features typically associated with roosting bats (e.g. knot holes, cracks). No trees or scrub will be removed as a result of the proposed development.</p>	 <p>Photo 7: scrub and trees outside fence</p>
<p>Pond</p>	<p>There is a pond located at the north-western corner of site. The pond was surrounded by dense tall vegetation preventing a full inspection of the water body, and as such a HSI could not be carried out. This pond lies outside of the fenced boundary and will not be impacted by the proposed development.</p>	 <p>Photo 8: pond at north-western corner of site</p>

**Fauna**

An assessment of the suitability of the site for protected or notable species is provided in Table 4.

*Table 4: Assessment of the suitability of the site for protected or notable species*

Species	Assessment of suitability
Amphibians	<p>There is one pond within the red line boundary. A HSI could not be carried out on the water body due to the dense surrounding vegetation preventing a lack of access. The pond lies outside of the fence area of the site and will be retained and unimpacted by the proposed development.</p> <p>A review of the MAGIC database and aerial imagery indicate the lack of other ponds within a 500m radius of the site.</p> <p>Habitats on site provide opportunities for GCN and other protected amphibians in the form of scrub and unmanaged grassland. The hard standing and areas of managed grassland offer limited suitable habitat for amphibians given the lack of refuge from predation.</p>
Reptiles	<p>Habitats on site provide opportunities for reptiles in the form of scrub and unmanaged grassland. The hard standing and areas of managed grassland offer limited suitable habitat for reptiles given the lack of refuge from predation.</p>
Badgers	<p>No badger setts were noted on site or within a 30m radius of the site. Further, no evidence of foraging badgers was noted within the development area.</p>
Bats	<p>The buildings and trees on site offer negligible habitat value for supporting roosting bats due to a lack of suitable roosting features.</p> <p>Habitats recorded on site are assessed to provide foraging and commuting opportunities for bats in the form of unmanaged grassland, scrub and trees. These habitats are likely to provide micro-climatic conditions that support invertebrates that will in turn provide foraging opportunities for local bat populations.</p>
Hedgehog	<p>Habitats recorded on site are assessed to provide foraging, commuting, and refuge opportunities for hedgehogs in the form of scrub and unmanaged grassland. However, no evidence indicating the presence of hedgehogs was recorded during the site survey.</p> <p>Although no evidence indicating the presence of hedgehogs was recorded, the future presence of hedgehogs cannot be discounted.</p>
Otter	<p>There is a water course located to the north of the site which may provide suitable habitat for otters. An inspection of the watercourse could not be carried out due to the dense surrounding vegetation.</p>
Water Vole	<p>The aforementioned water course may also offer suitable habitat for water voles.</p>
Birds	<p>Due to the small size of the site and the extent and type of the habitats recorded, the site not considered suitable to support a significant assemblage of protected and/or notable birds. However, habitats recorded on site are assessed to provide nesting opportunities for common species of breeding birds in the form of semi-mature trees and scrub.</p>

## 4.0 Conclusions, Impacts and Recommendations

### 4.1 Informative Guidelines

A summary of the relevant legislation and planning policies is provided in Appendix 4.

### Likelihood of the Presence of Protected Species

Where physical evidence of the presence of protected species is indeterminate during the survey, the habitats on site are evaluated as to their likelihood to provide sheltering, roosting, foraging, basking or nesting habitat.

Where this report supports a planning application, the ecological interest of the study area (i.e. the area covered by the desk study and field survey) and the proposed development has also been evaluated in terms of the planning policies relating to biodiversity.

### 4.2 Evaluation

Taking the desk study and field survey results into account, Table 5 presents an evaluation of the ecological value of the site and also details any ecological constraints identified in relation to the proposed development which will comprise the construction of a new building on the western side of the site.

Table 5: Evaluation of the site and any ecological constraints

Feature	Survey Results Summary	Impact Assessment	Recommendations	Biodiversity Enhancement Opportunities <sup>1</sup>
Designated sites	There are no statutory designated sites within 2km of the site.  The presence of non-statutory designated sites within 2km of the site cannot be established without data from COFNOD.	No impacts to designated sites are anticipated due to the small scale and distance of the proposed development from such sites (where known) as well as the urban location of the site with surrounding physical barriers.	None.	None.
Habitats and flora	The site also contains scrub, unmanaged grassland and semi-mature trees which are of good	The proposed development will result in the loss of managed grassland. This is likely to have a minimal impact on biodiversity due to the low ecological value of these habitats.	Best practice measures to minimise the possibility of pollution must be implemented during construction.	The following habitat creation and enhancement opportunities could be

<sup>1</sup> The Local Planning Authority has a duty to ask for enhancements under the NPPF (2021).



	<p>quality and could be of value to local wildlife populations (as detailed in subsequent sections of this table). The remaining habitats are common and widespread and have low ecological value.</p>		<p>Retained trees should be protected in line with the measures outlined in the British Standard "Trees in Relation to Design, Demolition and Construction to Construction - Recommendations" (BS 5837) (2012).</p>	<p>incorporated into the proposed development:</p> <ul style="list-style-type: none"> <li>• Native tree planting</li> <li>• Native shrub planting</li> </ul> <p>Species-specific enhancement opportunities are detailed later in this table.</p>
<p>Amphibians</p>	<p>There is one pond present within the red-line boundary which will be retained and unimpacted by the proposed development. There is suitable terrestrial habitat present on site in the form of scrub and unmanaged grassland.</p>	<p>The proposed development area will be restricted to the existing areas of hard standing and managed grassland which are sub-optimal for amphibians. The ponds and suitable terrestrial habitats will be retained and unimpacted. As such there are no impacts anticipated on amphibians, as a result of the proposed development.</p>	<p>Owing to the nature of the proposed development and the low potential for impacts to amphibians, further surveys are considered to be disproportionate. A precautionary working method will be implemented for common amphibians during construction, including the following measures:</p> <ul style="list-style-type: none"> <li>• Site clearance will be undertaken outside of the amphibian hibernation season (November to February) insofar as is possible.</li> <li>• A toolbox talk will be given to contractors regarding the possible presence of amphibians, including great crested newt, at the site.</li> <li>• Heras fencing will be erected around the working area to prevent encroachment towards aquatic habitats where amphibians could be present.</li> <li>• Vegetation maintained at a short sward length to discourage amphibians.</li> <li>• 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.</li> </ul>	<p>None.</p>

			<ul style="list-style-type: none"> <li>• Any excavations will be covered overnight, or a ramp will be installed to enable any trapped animals to escape.</li> <li>• Best practice pollution prevention measures will be implemented to minimise impacts to nearby aquatic habitats that amphibians could use.</li> <li>• Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.</li> <li>• If any common amphibians are found in the working area these should be allowed to disperse of their own accord or, if at immediate risk, should be moved by hand to a sheltered, vegetated area away from disturbance.</li> <li>• In the unlikely event that a great crested newt is identified, works must cease and advise must be sought from a suitably qualified ecologist.</li> </ul>	
<p>Reptiles</p>	<p>There is suitable reptile habitat present on site in the form of scrub and unmanaged grassland.</p>	<p>Managed grassland will be removed during construction. The loss of such habitats is likely to be inconsequential to local reptile populations owing to their low value and the presence of more extensive habitat locally and on site. However, site clearance could result in the death or injury of reptiles, if present.</p>	<p>Owing to the nature of the proposed development and the low potential for impacts to reptiles, further surveys are considered to be disproportionate. A precautionary working method will be implemented during construction, including the following measures:</p> <ul style="list-style-type: none"> <li>• Site clearance will be undertaken outside of the reptile hibernation season (November to February) insofar as is possible.</li> <li>• A toolbox talk will be given to contractors regarding the possible presence of reptiles at the site.</li> <li>• Vegetation maintained at a short sward length to discourage reptile.</li> <li>• Any rubble piles will be dismantled by hand and debris and brash will be stored on pallets or removed from the site to</li> </ul>	<p>None.</p>

			<p>prevent reptiles from utilising these areas.</p> <ul style="list-style-type: none"> <li>• Any excavations will be covered overnight, or a ramp will be installed to enable any trapped animals to escape.</li> <li>• Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.</li> <li>• In the unlikely event that a reptile is identified, works must cease and advise must be sought from a suitably qualified ecologist.</li> </ul>	
Roosting bats	The buildings and trees on site have negligible value for roosting bats due to a lack of potential roost features.	Bats are very unlikely to be roosting within the buildings and trees on site and as such, there are not anticipated to be any impacts on roosting bats as a result of the proposed works.	In the unlikely event that a bat or evidence of bats is discovered during the development all work must stop and a bat licensed ecologist contacted for further advice.	The installation of bat boxes at the site will provide additional roosting habitat for bats. The bat boxes will be installed on existing trees surrounding the site. Bat boxes should be positioned 3-5m above ground level facing in a south or south-westerly direction with a clear flight path to and from the entrance, away from artificial light.
Foraging and commuting bats	The scrub and trees could be used by local bat populations for foraging and commuting. These could also be used by bats dispersing from nearby roosts outside of the site.	<p>The proposed development will not result in the removal of any habitats which could be used by foraging or commuting bats.</p> <p>The proposed development will include the use of lighting which could spill on to bat roosting, foraging or commuting habitat and deter bats from using these areas.</p>	<p>A low impact lighting strategy will be adopted for the site during and post-development, which will include the following measures:</p> <ul style="list-style-type: none"> <li>• Light spill on to the scrub and trees surrounding the site should be avoided.</li> <li>• Use narrow spectrum light sources to lower the range of species affected by lighting.</li> </ul>	None.

			<ul style="list-style-type: none"> <li>• Use light sources that emit minimal ultra-violet light.</li> <li>• Avoid white and blue wavelengths of the light spectrum to reduce insect attraction and where white light sources are required in order to manage the blue shortwave length content they should be of a warm / neutral colour temperature &lt;4,200 kelvin.</li> <li>• Not use bare bulbs and any light pointing upwards. The spread of light will be kept in line with or below the horizontal.</li> <li>• Light spill will be reduced via the use of low-level lighting used in conjunction with hoods, cowls, louvers and shields. Lights will also be directional to ensure that light is directed to the intended areas only.</li> <li>• External lighting will be on PIR sensors that are sensitive to large objects only (so that they are not triggered by passing bats) and will be set to the shortest time duration to reduce the amount of time the lights are on.</li> <li>• Wall lights and security lights will be 'dimnable' and set to the lowest light intensity settings. There are several products on the market that allow the control of the light intensity and the duration that the lights are on. All lighting on the developed site will make use of the most up to date technology available.</li> </ul>	
Badger	It is considered likely that badgers are absent from	No impacts are anticipated on badgers as a result of the proposed development.	None.	None.

	site due to a lack of setts or foraging evidence.			
Hedgehog	The site provides suitable hedgehog habitat.	Managed 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.	A precautionary working method will be implemented during construction, including the following measures: <ul style="list-style-type: none"> <li>• Site clearance will be undertaken outside of the hedgehog hibernation season (November to March) insofar as is possible.</li> <li>• A toolbox talk will be given to contractors regarding the possible presence of hedgehogs at the site.</li> <li>• Any excavations will be covered overnight, or a ramp will be installed to enable any trapped animals to escape.</li> <li>• 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 hedgehogs could use.</li> <li>• Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.</li> <li>• If any hedgehogs are found in the working area these should be allowed to disperse of their own accord or, if at immediate risk, should be moved by hand to a sheltered, vegetated area away from disturbance.</li> </ul>	None.
Otter	The water course to the north of the site may provide suitable otter holt building and foraging habitat.	The proposed development will not result in the loss of any riparian habitats or impacts to the water course. However, due to the presence of the watercourse within close proximity of the site, indirect effects such as pollution could occur during construction.	Best practice pollution prevention measures will be implemented to minimise impacts to the watercourse and any retained habitats that otters could use. Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.	None.

Water vole	The water course to the north of the site may provide suitable water vole habitat.	No works will be undertaken within 5m of the top of the banks of the watercourse. Therefore, no impacts are anticipated on water vole as a result of the proposed development.	Best practice pollution prevention measures will be implemented to minimise impacts to the watercourse and any retained habitats that otters could use. Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.	None.
Birds	The scrub and trees provide suitable bird nesting habitat.	No suitable bird nesting habitats will be removed and as such no impacts are anticipated on nesting birds as a result of the proposed development.	None.	None.

## 5.0 Bibliography

- Biggs, J., Ewald, N., Valentini, A., Gaboriaud, C., Dejean, T., Griffiths, R., Foster, J., Wilkinson, J., Arnell, A., Brotherton, P., Williams, P. and Dunn, F. (2014). Using eDNA to Develop a National Citizen Science-based Monitoring Programme for the Great Crested Newt (*Triturus cristatus*). *Biological Conservation*. 183. 10.1016/j.biocon.2014.11.029.
- Bright, P., Morris, P., Mitchell-Jones, T. and Wroot, S. (2006). *The Dormouse Conservation Handbook* Second Edition.
- British Standard 42020 (2013). *Biodiversity – Code of Practice for Planning and Development*.
- British Standard 8683:2021 (2021). *Process for Designing and Implementing Biodiversity Net Gain*.
- Chanin, P. (2003). *Ecology of the European Otter*. *Conserving Natura 2000 Rivers Ecology Series No. 10*. Natural England, Peterborough.
- Chartered Institute of Ecology and Environmental Management (2017). *Guidelines for Preliminary Ecological Appraisal*. 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2017). *Guidelines on Ecological Report Writing*. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2018). *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine*. Version 1.1. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2020). *Guidelines for Accessing, Using and Sharing Biodiversity Data in the UK*. 2nd Edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- Collins, J. (2016). *Bat Surveys for Professional Ecologists – Good Practice Guidelines*, 3<sup>rd</sup> edition, Bat Conservation Trust, London.
- Defra (2007). *Hedgerow Survey Handbook. A Standard Procedure for Local Surveys in the UK*. Defra, London.
- Edgar, P., Foster, J. and Baker, J (2010). *Reptile Habitat Management Handbook*. Amphibian and Reptile Conservation, Bournemouth  
<http://downloads.gigl.org.uk/website/Reptile%20Habitat%20Management%20Handbook.pdf>
- Garland, L. & Markham, S. (2008) Is Important Bat Foraging and Commuting Habitat Legally Protected?  
<http://biodiversitybydesign.co.uk/cmsAdmin/uploads/protection-for-bat-habitat-sep-2007.pdf>
- Gent, T. and Gibson, S. (2003). *Herpetofauna Workers' Manual*. JNCC, Peterborough.
- Gilbert, G., Gibbons, D.W., and Evans, J. (1998) *Bird Monitoring Methods: A Manual of Techniques for UK Key Species*. The Royal Society for the protection of Birds, Sandy, Bedfordshire, England.
- Google Earth. Accessed on 06/07/2023.

- Harris, S., Cresswell, P. and Jefferies, D.J. (1989). Surveying badgers. Mammal Society, London.
- HMSO: Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 <https://www.legislation.gov.uk/ukxi/2019/579/contents/made>
- HMSO: Countryside & Rights of Way Act (2000) <http://jncc.defra.gov.uk/page-1378>
- HMSO: Natural Environmental and Rural Communities Act (2006) <http://www.legislation.gov.uk/ukpga/2006/16/contents>
- HMSO: The Protection of Badgers Act 1992 (as amended) <http://www.legislation.gov.uk/ukpga/1992/51/contents>
- HMSO: Wildlife and Countryside Act 1981 (as amended 01.04.1996) <http://jncc.defra.gov.uk/page-1377>
- Institution of Lighting Professionals (2018). Guidance Note 08/18 Bats and Artificial Lighting in the UK. Bats and the Built Environment Series Publication: [http://www.bats.org.uk/news.php/406/new\\_guidance\\_on\\_bats\\_and\\_lighting](http://www.bats.org.uk/news.php/406/new_guidance_on_bats_and_lighting).
- JNCC (2004). Bat Workers Manual, 3rd Edition. <http://jncc.defra.gov.uk/page-2861>
- Joint Nature Conservation Committee (2010). Handbook for Phase 1 habitat survey a technique for environmental audit. [http://jncc.defra.gov.uk/PDF/pub10\\_handbookforphase1habitatsurvey.pdf](http://jncc.defra.gov.uk/PDF/pub10_handbookforphase1habitatsurvey.pdf)
- Langton, T., Beckett, C. and Foster, J (2001). Great Crested Newt Conservation Handbook. Froglife. Suffolk. [http://www.froglife.org/wp-content/uploads/2013/06/GCN-Conservation-Handbook\\_compressed.pdf](http://www.froglife.org/wp-content/uploads/2013/06/GCN-Conservation-Handbook_compressed.pdf)
- Magic Database. <http://www.magic.gov.uk/MagicMap.aspx> Accessed on 06/07/2023.
- Mitchell-Jones, A.J. (2004). Bat Mitigation Guidelines. English Nature, Peterborough.
- National Planning Policy Framework (2021). <https://www.gov.uk/government/publications/national-planning-policy-framework--2>
- Natural England Designated Sites View. <https://designatedsites.naturalengland.org.uk/SiteSearch.aspx> Accessed on 06/07/2023.
- Natural England (2005). Organising Surveys to Determine Site Quality for Invertebrates: A Framework Guide for Ecologists. Natural England, Peterborough.
- Natural England (2007). Badgers and Development a Guide to Best Practice and Licensing. Natural England. Bristol. <http://www.wildlifeco.co.uk/wp-content/uploads/2014/03/badgers-and-development.pdf>
- Oldham R.S., Keeble J., Swan M.J.S. and Jeffcote M. (2000). Evaluating the Suitability of Habitat for the Great Crested Newt (*Triturus cristatus*). Herpetological Journal 10(4), 143-155. <https://www.thebhs.org/publications/the-herpetological-journal/volume-10-number-4-october-2000/1617-03-evaluating-the-suitability-of-habitat-for-the-great-crested-newt-triturus-cristatus/file>
- Panks, S., White., N., Newsome, A., Potter, J., Heydon, M., Mayhew, E., Alvarez, M., Russell, T., Scott, S.J., Heaver, M., Scott, S.H., Treweek, J., Butcher, B. and Stone, D. (2021). Biodiversity Metric 3.0: Auditing and Accounting for Biodiversity – Technical Supplement. Natural England.



- Stanbury, A., Eaton, M., Aebischer, N., Balmer, D., Brown, A., Douse, A., Lindley, P., McCulloch, N., Noble, D., and Win I. 2021. The status of our bird populations: the fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of Man and second IUCN Red List assessment of extinction risk for Great Britain. *British Birds* 114: 723-747.
- Strachan, R., Moorhouse, T. and Gelling, M. (2011). *Water Vole Conservation Handbook*. Third Edition. Wildlife Conservation Research Unit, Oxford.
- UK Habitat Classification Working Group (2018). UK Habitat Classification User Manual at <http://ecountability.co.uk/ukhabworkinggroup-ukhab>
- Wray, S., Wells, D., Long, E. and Mitchell-Jones, T (2010). Valuing Bats in Ecological Impact Assessment. *IEEM In-Practice*. Number 70 (December 2010). Pp. 23-25.



### Appendix 2: Site Location Plan





### Appendix 3: Habitat Survey Plan



## Appendix 3: 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 (the Wild Birds Directive) respectively. Both form part of the wider Natura 2000 network across Europe.

Under the Habitats Directive Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe. Over 1000 animal and plant species, as well as 200 habitat types, listed in the directive's annexes are protected in various ways:

**Annex II species** (about 900): core areas of their habitat are designated as Sites of Community importance (SCIs) and included in the Natura 2000 network. These sites must be managed in accordance with the ecological needs of the species.

**Annex IV species** (over 400, including many Annex II species): a strict protection regime must be applied across their entire natural range, both within and outside Natura 2000 sites.

**Annex V species** (over 90): their exploitation and taking in the wild is compatible with maintaining them in a favourable conservation status.

SPAs are classified under Article 2 of the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds both for rare bird species (as listed on Annex I) and for important migratory species.

The Conservation of Habitats and Species Regulations 2017 (as amended) form the legal basis for the implementation of the Habitats and Birds Directives in terrestrial areas and territorial waters out to 12 nautical miles in England and Wales (including the inshore marine area) and to a limited extent in Scotland and Northern Ireland.

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 01.04.1996) 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). Further provisions for the protection and management of SSSIs have been introduced by the Nature Conservation (Scotland) Act 2004.

***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.

***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 Conservation of Habitats and Species Regulations 2017 (as amended)***

The Conservation of Habitats and Species Regulations 2017 (as amended) aims to promote the maintenance of biodiversity by requiring the Secretary of State to take measures to maintain or restore wild species listed within the Regulations at a favourable conservation status.

The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild population of the species concerned.

#### ***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 1979, implemented 1982) 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).

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 1992 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

#### **EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS**

A development licence will be required from the relevant countryside agency (i.e. Natural England) for any development works likely 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 kill, injure or take any wild bird
- Intentionally take, damage or destroy 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.

Certain species of bird, for example the barn owl, bittern and kingfisher receive additional protection under Schedule 1 of the WCA 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

#### **EFFECT OF LEGISLATION AND POLICY 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.

### ***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 reptiles 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.

### **EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS**

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England) will be required for works likely 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

### **EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS**

If development works are likely to affect habitats known to support water voles, the relevant countryside agency (i.e. Natural England) 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 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

#### **EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS**

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England) will be required for works likely 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

#### **EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS**

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England) will be required for works are likely 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 EPSL. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

**Hazel Dormice**

Hazel 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

**EFFECT OF LEGISLATION AND POLICY 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 a European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England). The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

**White Clawed Crayfish**

There is a considerable amount of legislation in place in an attempt to protect the White-clawed crayfish *Austropotamobius pallipes*. This species is listed under the European Union's (EU) Habitat and Species Directive and is listed under Schedule 5 of the Wildlife and Countryside Act (1981). This makes it an offence to:

- Protected against intentional or reckless taking
- Protected against selling, offering or advertising for sale, possessing or transporting for the purpose of sale

**EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS**

The relevant countryside agency (i.e. Natural England) 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 picking, uprooting or destruction of any wild Schedule 8 species
- 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.

### **EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS**

A European Protected Species Licence (EPSL) will be required from the relevant countryside agency (i.e. Natural England) for works which are likely 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 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*

**EFFECT OF LEGISLATION AND POLICY 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 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*

**EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS**

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*****Environment Act 2021***

The Environment Act 2021 (EA 2021) received Royal Assent on 9 November 2021 and is expected to become fully mandated within the next couple of years. The Act principally creates a post Brexit framework to protect and enhance the natural environment. Through amendments to the Town and Country Planning Act 1990, the Act will require all planning permissions in England (subject to exemptions which is likely to include householder applications) to be granted subject to a new general pre-commencement condition that requires approval of a biodiversity net gain plan. This will ensure the delivery of a minimum of 10% measurable biodiversity net gain. The principal tool to calculate this will be the Defra Biodiversity 3.0 Metric. Works to enhance habitats can be carried out either onsite or offsite or through the purchase of 'biodiversity credits' from the Secretary of State. However, this flexibility may be removed (subject to regulations) if the onsite habitat is 'irreplaceable'. Both onsite and offsite enhancements must be maintained for at least 30 years after completion of a development (which period may be amended).

***National Planning Policy Framework 2021***

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 species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006) 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; measurable gains in biodiversity in and around developments are incorporated; 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 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.

## 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.