

**LAND REAR OF AVIARY COURT,
138 MILES ROAD, EPSOM**

PRELIMINARY ECOLOGICAL APPRAISAL

A Report to: Aviary Investment Holdings Limited

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REPORT VERIFICATION AND DECLARATION OF COMPLIANCE

This study has been undertaken in accordance with British Standard 42020:2013 “Biodiversity, Code of practice for planning and development”.

Report Version	Date	Completed by:	Checked by:	Approved by:
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The information which we have prepared is true, and has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management’s Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

DISCLAIMER

The contents of this report are the responsibility of Middlemarch Environmental Ltd. It should be noted that, whilst every effort is made to meet the client’s brief, no site investigation can ensure complete assessment or prediction of the natural environment.

Middlemarch Environmental Ltd accepts no responsibility or liability for any use that is made of this document other than by the client for the purposes for which it was originally commissioned and prepared.

VALIDITY OF DATA

The findings of this study are valid for a period of 24 months from the date of survey. If works have not commenced by this date, an updated site visit should be carried out by a suitably qualified ecologist to assess any changes in the habitats present on site, and to inform a review of the conclusions and recommendations made.

NON-TECHNICAL SUMMARY

Middlemarch Environmental Ltd was commissioned by Aviary Investment Holdings Limited to carry out a Preliminary Ecological Appraisal at the site of a proposed development at land rear of Aviary Court, 138 Miles Road in Epsom. To fulfil this brief, an ecological desk study and a walkover survey (in accordance with Phase 1 Habitat Survey methodology) were undertaken. The purpose of this survey is to inform a planning application associated with the extension of the existing Aviary Court building and associated soft landscaping.

The desk study exercise identified no European statutory sites within 5 km of the survey area, four UK statutory sites within 2 km, two ancient woodland sites within 2 km, and no non-statutory sites within 1 km. The site is not located within 10 km of a statutory site designated for bats. The desk study also provided records of protected/notable species within 1 km, including: bats, hedgehog, water vole, amphibians, reptiles, birds, invertebrates, and plants.

The walkover survey was undertaken on 4th January 2019 by Will Rees (Ecological Consultant). At the time of the survey, the north-western section of the site was dominated by dense scrub with debris and brush piles, two trees, one partially collapsed and the other partially felled and several rotted stumps. The trees have been removed in the intervening period between the initial site visit and report revision. Patches of tall ruderal vegetation were present within sparser areas of the scrub. The Aviary Court building occupied in the north-eastern corner of the site. A further building was present in southern portion of the site, connected to Aviary Court by an access road bordered by shrubs and plant beds. A range of fencing delineated the site boundaries.

In order to ensure compliance with wildlife legislation and relevant planning policy, the following recommendations are made (see Chapter 7 for full details):

- **Stones Road Pond (SSSI):** Natural England should be consulted prior to any works commencing to determine how works may proceed without adversely impacting this site.
- **Habitats:** The development proposals should be designed (where feasible) to allow for the retention of the deadwood habitat. Biodiversity enhancement measures should be incorporated into the landscaping scheme of the proposed works to maximise the ecological value of the site including replacement tree planting.
- **Foraging/Commuting Bats:** In line with paragraph 180 of the National Planning Policy Framework, the development should aim to limit the impact of light pollution on bats through the careful use of lighting in critical areas only and at a low level with minimum spillage.
- **Reptiles:** The clearance of suitable reptile habitat should be undertaken under the supervision of an experienced ecologist. This should be completed when reptiles are active. This is weather dependent but generally extends between March and October inclusive.
- **Nesting Birds:** Vegetation clearance should be undertaken outside the nesting bird season. The nesting bird season is weather dependent but generally extends between March and September inclusive (peak period March-August).
- **Invertebrates:** The clearance of deadwood habitat should be undertaken under the supervision of an experienced ecologist. If any larvae are found, these should be safely relocated to suitable habitat within the vicinity.
- **Terrestrial Mammals including Badger and Hedgehog:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120 mm must be covered at the end of each work day to prevent animals entering/becoming trapped.

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1. INTRODUCTION

1.1 PROJECT BACKGROUND

In December 2018, Aviary Investment Holdings Limited commissioned Middlemarch Environmental Ltd to undertake a Preliminary Ecological Appraisal at the site of a proposed development at land rear of Aviary Court, 138 Miles Road in Epsom. This assessment is required to inform a planning application associated with the extension of the existing Aviary Court building and associated soft landscaping.

To assess the existing ecological interest of the site an ecological desk study was carried out, and a walkover survey was undertaken on 4th January 2019.

1.2 SITE DESCRIPTION AND CONTEXT

The site under consideration is an irregularly shaped parcel of land situated within Epsom, Surrey. It measures approximately 0.1 hectares in size and is centred at National Grid Reference TQ 20876 61461.

At the time of the survey, the north-western section of the site was dominated by dense scrub with debris and brash piles, a partially collapsed, partially felled tree and several rotted stumps. Patches of tall ruderal vegetation were present within sparser areas of the scrub. The Aviary Court building occupied in the north-eastern corner of the site. A further building was present in southern portion of the site, connected to Aviary Court by an access road bordered by shrubs and plant beds. A range of fencing delineated the site boundaries.

The wider landscape is dominated by residential and commercial development, with some areas of recreational greenspace scattered throughout. A railway line is located 150 m south-east.

1.3 DOCUMENTATION PROVIDED

The conclusions and recommendations made in this report are based on information provided by the client regarding the scope of the project. Documentation made available by the client is listed in Table 1.1.

Document Name / Drawing Number	Author
Elevations	jasplanservices

Table 1.1: Documentation Provided by Client

2. METHODOLOGIES

2.1 DESK STUDY

An ecological desk study was undertaken to determine the presence of any designated nature conservation sites and protected species in proximity to the site. This involved contacting appropriate statutory and non-statutory organisations which hold ecological data relating to the survey area. Middlemarch Environmental Ltd then assimilated and reviewed the desk study data provided by these organisations.

The consultees for the desk study were:

- Natural England - *MAG/C* website for statutory conservation sites; and,
- Surrey Biodiversity Information Centre.

The desk study included a search for European statutory nature conservation sites within a 5 km radius of the site (extended to 10 km for any statutory site designated for bats), UK statutory sites within a 2 km radius and non-statutory sites and protected/notable species records within a 1 km radius.

The data collected from the consultees is discussed in Chapter 4. Selected raw data are provided in Appendix 1. In compliance with the terms and conditions relating to its commercial use, the full desk study data is not provided within this report.

The desk study also included a review of relevant local planning policy with regard to biodiversity and nature conservation (see Chapter 3).

2.2 PHASE 1 HABITAT SURVEY

The walkover survey was conducted following the Phase 1 Habitat Survey methodology of the Joint Nature Conservation Committee (JNCC, 2010) and the Institute of Environmental Assessment (IEA, 1995). Phase 1 Habitat Survey is a standard technique for classifying and mapping British habitats. The aim is to provide a record of habitats that are present on site. During the survey, the presence, or potential presence, of protected species was noted.

Whilst every effort is made to notify the client of any plant species listed on Schedule 9 of the Wildlife and Countryside Act (1981, as amended) present on site, it should be noted that this is not a specific survey for these species.

Data recorded during the field survey are discussed in Chapter 5.

3. LEGISLATION AND POLICY

This chapter provides an overview of the framework of legislation and policy which underpins nature conservation and is a material consideration in the planning process in England. The reader should refer to the original legislation for the definitive interpretation.

3.1 GENERAL BIODIVERSITY LEGISLATION AND POLICY

Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations 2017)

The Habitats Regulations 2017 consolidate and update the Habitats Regulations 2010 (as amended). The Habitat Regulations 2017 are the principal means by which the EEC Council Directive 92/43 (The Habitats Directive) as amended is transposed into English and Welsh law.

The Habitats Regulations 2017 place duty upon the relevant authority of government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria are, in conjunction with the European Commission, designated as Sites of Community Importance, which are subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. The regulations also place a duty upon the government to maintain a register of European protected sites designated as a result of EC Directive 79/409/EEC on the Conservation of Wild Birds (The Birds Directive). These sites are termed Special Protection Areas (SPA) and, in conjunction with SACs, form a network of sites known as Natura 2000. The Habitats Directive introduces for the first time for protected areas, the precautionary principle; that is that projects can only be permitted having ascertained no adverse effect on the integrity of the site. Projects may still be permitted if there are no alternatives, and there are imperative reasons of overriding public interest.

The Habitats Regulations 2017 also provide for the protection of individual species of fauna and flora of European conservation concern listed in Schedules 2 and 5 respectively. Schedule 2 includes species such as otter and great crested newt for which the UK population represents a significant proportion of the total European population. It is an offence to deliberately kill, injure, disturb or trade these species. Schedule 5 plant species are protected from unlawful destruction, uprooting or trade under the regulations.

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

The WCA, as amended, consolidates and amends pre-existing national wildlife legislation in order to implement the Bern Convention and the Birds Directive. It complements the Habitat Regulations 2017, offering protection to a wider range of species. The Act also provides for the designation and protection of national conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSIs).

Schedules of the act provide lists of protected species, both flora and fauna, and detail the possible offences that apply to these species.

The Countryside and Rights of Way (CRoW) Act 2000

The CROW Act, introduced in England and Wales in 2000, amends and strengthens existing wildlife legislation detailed in the WCA. It places a duty on government departments and the National Assembly for Wales to have regard for biodiversity, and provides increased powers for the protection and maintenance of SSSIs. The Act also contains lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

The Natural Environment and Rural Communities (NERC) Act 2006

Section 40 of the NERC Act places a duty upon all local authorities and public bodies in England and Wales to promote and enhance biodiversity in all of their functions. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity. These lists superseded Section 74 of the CRoW Act 2000.

The Hedgerow Regulations 1997

The Hedgerow Regulations make provision for the identification of important hedgerows which may not be removed without permission from the Local Planning Authority.

UK Post-2010 Biodiversity Framework

The UK Biodiversity Action Plan (BAP), published in 1994, was the UK Government's response to signing the Convention on Biological Diversity (CBD) at the 1992 Rio Earth Summit. The new UK Post-2010 Biodiversity Framework replaces the previous UK level BAP. The UK Post-2010 Biodiversity Framework covers the period 2011-2020 and forms the UK Government's response to the new strategic plan of the United Nations Convention on Biological Diversity (CBD), published in 2010 at the CBD meeting in Nagoya, Japan. This includes five internationally agreed strategic goals and supporting targets to be achieved by 2020. The five strategic goals agreed were:

- Address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society;
- Reduce the direct pressures on biodiversity and promote sustainable use;
- To improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity;
- Enhance the benefits to all from biodiversity and ecosystem services; and,
- Enhance implementation through participatory planning, knowledge management and capacity building.

The Framework recognises that most work which was previously carried out under the UK BAP is now focused on the four individual countries of the United Kingdom and Northern Ireland, and delivered through the countries' own strategies. Following the publication of the new Framework the UK BAP partnership no longer operates but many of the tools and resources originally developed under the UK BAP still remain of use and form the basis of much biodiversity work at country level. In England the focus is on delivering the outcomes set out in the Government's 'Biodiversity 2020: a Strategy for England's Wildlife and Ecosystem Services' (DEFRA, 2011). This sets out how the quality of our environment on land and at sea will be improved over the next ten years and follows on from policies contained in the Natural Environment White Paper.

Species and Habitats of Material Consideration for Planning in England

Previous planning policy (and some supporting guidance which is still current, e.g. ODPM Circular 06/2005, now under revision), refers to UK BAP habitats and species as being a material consideration in the planning process. Equally many local plans refer to BAP priority habitats and species. Both remain as material considerations in the planning process but such habitats and species are now described as Species and Habitats of Principal Importance for Conservation in England, or simply priority habitats and priority species under the UK Post-2010 Biodiversity Framework. The list of habitats and species remains unchanged and is still derived from Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006. As was previously the case when it was a BAP priority species hen harrier continues to be regarded as a priority species although it does not appear on the Section 41 list.

3.2 NATIONAL PLANNING POLICY FRAMEWORK AND PRACTICE GUIDANCE

In July 2018, the National Planning Policy Framework (NPPF) was updated, replacing the previous framework published in 2012. The government circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, which accompanied PPS9, still remains valid. A presumption towards sustainable development is at the heart of the NPPF. This presumption does not apply however where developments require appropriate assessment under the Birds or Habitats Directives.

Chapter 15, on conserving and enhancing the natural environment, sets out how the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing existing sites of biodiversity value;
- minimising impacts on and providing net gains for biodiversity; and,
- establishing coherent ecological networks.

If a proposed development would result in significant harm to the natural environment which cannot be avoided (through the use of an alternative site with less harmful impacts), mitigated or compensated for (as a last resort) then planning permission should be refused. With respect to development on land within or outside of a Site of Special Scientific Interest (SSSI) which is likely to have an adverse effect (either alone or in-combination with other developments) would only be permitted where the benefits of the proposed development clearly outweigh the impacts on the SSSI itself, and the wider network of SSSIs. Development resulting in the loss of deterioration of irreplaceable habitats (such as ancient woodland and ancient or

veteran trees) should be refused unless there are wholly exceptional reasons for the development, and a suitable compensation strategy is provided.

Chapter 15 identifies that development whose primary objective is to conserve or enhance biodiversity should be supported and opportunities to incorporate biodiversity improvements in and around development should be encouraged, especially where this can secure measurable net gains for biodiversity.

Chapter 11, making effective use of the land, sets out how the planning system should promote use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs. Opportunities for achieving net environmental gains, including new habitat creation, are encouraged.

In March 2014 the Department for Communities and Local Government released guidance to support the National Planning Policy Framework (NPPF), known as the National Planning Practice Guidance (NPPG).

This has been produced to provide guidance for planners and communities which will help deliver high quality development and sustainable growth in England. The guidance includes a section entitled 'Natural Environment: Biodiversity, ecosystems and green infrastructure' which sets out information with respect to the following:

- the statutory basis for minimising impacts on biodiversity and providing net gains where possible;
- the local planning authority's requirements for planning for biodiversity;
- what local ecological networks are and how to identify and map them;
- the sources of ecological evidence;
- the legal obligations on local planning authorities and developers regarding statutory designated sites and protected species;
- the considerations for local (non-statutory) designated sites;
- definition of green infrastructure;
- where biodiversity should be taken into account in preparing a planning application;
- how development can enhance biodiversity;
- how policy is applied to avoid, mitigate or compensate for significant harm to biodiversity and how mitigation and compensation measures can be ensured; and,
- the consideration of ancient woodlands and veteran trees in planning decisions.

3.3 LOCAL PLANNING POLICY

<https://www.epsom-ewell.gov.uk/residents/planning/planning-policy>

New Local Plan

The current Development Plan for the Borough consists of the 'new' adopted Local Plan Documents and a number of saved policies from the Local Plan (May 2000). The new Local Plan documents will gradually replace the existing Local Plan (adopted May 2000).

The new 'Local Plan' for the Borough will comprise a number of documents. Some of these have already been adopted by the Council, while others are under production. The documents are:

- The Core Strategy (adopted 2007)
- Plan E (Area Action Plan for Epsom Town Centre) (adopted 2011)
- Development Management Policies Document
- Site Allocations

In addition to the above documents, a number of Supplementary Planning Documents (SPDs) have been, or will be produced. These provide supplementary guidance to policies in the local plan.

Core Strategy (adopted 2007)

The Core Strategy was adopted by the Council on 24 July 2007. It sets the overall planning framework for the Borough up to 2022 and contains a number of key strategic policies. The strategic policy of relevance to ecology is:

Policy CS 3 Biodiversity and Designated Nature Conservation Areas

The biodiversity of Epsom and Ewell will be conserved and enhanced through the support for measures which meet the objectives of national and local biodiversity action plans in terms of species and habitat.

Sites that are designated for their nature conservation attributes will be afforded protection appropriate to their designation. Sites of Special Scientific Interest and Ancient Woodland will be afforded the highest level of protection. Development which harms the scientific interest of these areas will not be permitted. Development that would harm Grade 2, Grade 3 SNCIs or Local Nature Reserves will not be permitted unless:

- Suitable mitigation measures are put in place, and
- It has been demonstrated that the benefits of a development would outweigh the harm caused.

Elsewhere, development that is detrimental to the Borough's biodiversity will be minimised, and where it does take place, adequate mitigating measures should be provided. Wherever possible, new development should contribute positively towards the Borough's biodiversity.

Development Management Policies

The Council completed Consultation on the Pre-Submission Development Management Policies Document during Spring/Summer of 2013, and anticipate Submission to the Secretary of State for examination during 2014.

Existing Local Plan (adopted May 2000)

The Local Plan was adopted in May 2000. Following the publication of the more recent Local Plan documents (the Core Strategy and Plan E), a number of policies from the Local Plan (2000) have 'expired' while some remain as 'saved' policies. The 'saved' policies of relevance to ecology are:

Trees, Hedgerows and Woodlands

Policy NE5 where trees or hedgerows are a significant feature of a development site, planning applications will be required to be accompanied by detailed tree and hedgerow surveys. Proposals will be expected to show the retention of important trees and hedgerows.

Policy NE6 conditions will be attached to a grant of permission for new development including the redevelopment or extension of existing buildings to ensure the protection of trees, which are to be retained, during the period of construction work.

New Development

Policy NE8 where development is acceptable in principle, it will be required to be sited and designed with due regard to the need to protect the nature conservation importance and the landscape character of the borough.

4. DESK STUDY RESULTS

4.1 INTRODUCTION

The data search was carried out in January 2019 by Surrey Biodiversity Information Centre. All relevant ecological data provided by the consultees was reviewed and the results from these investigations are summarised in Sections 4.2 to 4.4. Selected data are provided in Appendix 1.

4.2 NATURE CONSERVATION SITES

Statutory and non-statutory nature conservation sites located in proximity to the survey area are summarised in Table 4.1.

Site Name	Designation	Proximity to Survey Area	Description
UK Statutory Sites			
Stones Road Pond	SSSI	280 m north-east	A large, deep pond which is an important breeding locality for the great crested newt <i>Triturus cristatus</i> . The site is situated in an urban area on the edge of a former playing field and adjacent to allotment gardens. The pond is surrounded by a strip of semi-natural vegetation. The adult great crested newt population exceeds 400/500 individuals during the breeding season, making this one of the largest known colonies in South East England. The site also supports a substantial population of smooth newts <i>Triturus vulgaris</i> , with at least 1000 individuals being recorded at a recent count. Outside the breeding season the animals disperse widely over the adjacent land. Apart from the rough vegetation immediately surrounding the pond the most important nearby terrestrial habitat includes the allotment gardens and railway embankments.
Epsom and Ashtead Commons	SSSI / LNR	LNR: 1,150 south-west SSSI: 1,440 m south-west	These two commons support a wide diversity of habitat types on the undulating terrain of the London clay. The site carries four nationally rare invertebrates and several others which are uncommon in Surrey. The range of habitats present promotes a rich community of breeding birds. Variations in drainage and the management history of the commons are chiefly responsible for the diversity of habitats present. The site was once managed by stock grazing, but the cessation of this activity has led to a natural succession from rough grassland to scrub, and finally, to woodland. Woodland dominates approximately half of the site and is variable in age and composition. Several ponds and a stream are also present.
Horton Country Park	LNR	1,620 m north-west	The Country Park has an assortment of distinctive habitats ranging from Ancient Woodland to open grassland, and the various large and small ponds. There are many species of trees and other plants, which provide habitats for a number of mammal, bird, and insect species. Throughout the summer, an abundance of butterflies is to be found among the varied grasses and flowers.
Hogsmill	LNR	1,780 m north-east	The Hogsmill Local Nature Reserve supports a variety of local wildlife. The river itself is most noted as being home to kingfisher <i>Alcedo atthis</i> , which nests along the river banks. The combination of open grassy rides and woodland copses provide habitat for a range of mammal, bird, and insect species.

Table 4.1: Summary of Nature Conservation Sites (continues)

Site Name	Designation	Proximity to Survey Area	Description
Ancient Woodland Sites			
Unnamed woodland	ASNW	1,790 m north-west	No information provided.
Unnamed woodland	ASNW	1,990 m north-west	No information provided.
Key: SSSI: Site of Special Scientific Interest LNR: Local Nature Reserve ASNW: Ancient and Semi-Natural Woodland			

Table 4.1 (continued): Summary of Nature Conservation Sites

The survey area also falls within a SSSI Impact Risk Zone for Stones Road Pond, which is located 280 m north-east and is detailed in Table 4.1.

4.3 PROTECTED / NOTABLE SPECIES

Table 4.2 and the following text provide a summary of protected and notable species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Species of Principal Importance?	Legislation / Conservation Status
Mammals – bats					
Common pipistrelle <i>Pipistrellus pipistrellus</i>	2	2017	Potentially within 1 km*	-	ECH 4, WCA 5, WCA 6
Noctule <i>Nyctalus noctula</i>	1	2017	Potentially within 1 km*	✓	ECH 4, WCA 5, WCA 6
Soprano pipistrelle <i>Pipistrellus pygmaeus</i>	1	2017	Potentially within 1 km*	✓	ECH 4, WCA 5, WCA 6
Mammals – other					
Common shrew <i>Sorex araneus</i>	1	2001	Potentially within 1 km*	-	WCA 6
Hedgehog <i>Erinaceus europaeus</i>	4	2009	Potentially within 1 km*	✓	WCA 6
Water vole <i>Arvicola amphibius</i>	1	2002	Potentially within 1 km*	✓	WCA 5
Amphibians					
Common frog <i>Rana temporaria</i>	1	2014	Potentially within 1 km*	-	WCA 5 S9(5)
Common toad <i>Bufo bufo</i>	2	1990	Potentially within 1 km*	✓	WCA 5 S9(5)
Great crested newt <i>Triturus cristatus</i>	2	2017	Potentially within 1 km*	✓	ECH 2, ECH 4, WCA 5
Smooth newt <i>Lissotriton vulgaris</i>	1	2017	Potentially within 1 km*	-	WCA 5 S9(5)
Reptiles					
Adder <i>Vipera berus</i>	1	2014	Potentially within 1 km*	✓	WCA 5 S9(1) WCA 5 S9(5)
Birds					
Fieldfare <i>Turdus pilaris</i>	1	2013	Potentially within 1 km*	-	WCA1i
Peregrine <i>Falco peregrinus</i>	1	2013	Potentially within 1 km*	-	WCA1i
Red kite <i>Milvus milvus</i>	1	2013	Potentially within 1 km*	-	WCA1i
Redwing <i>Turdus iliacus</i>	1	2013	Potentially within 1 km*	-	WCA1i

Table 4.2: Summary of Protected/Notable Species Records Within 1 km of Survey Area (continues)

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Species of Principal Importance?	Legislation / Conservation Status
Invertebrates					
Stag beetle <i>Lucanus cervus</i>	7	1998	Potentially within 1 km*	✓	ECH 2, WCA 5 S9(5)
Plants					
Butcher's broom <i>Ruscus aculeatus</i>	1	2009	Potentially within 1 km*	-	ECH 5
Pennyroyal <i>Mentha pulegium</i>	1	2010	Potentially within 1 km*	✓	WCA 8
<p>Key: *: Grid reference provided was four figures only.</p> <p>ECH 2: Annex II of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest whose conservation requires the designation of Special Areas of Conservation.</p> <p>ECH 4: Annex IV of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest in need of strict protection.</p> <p>ECH 5: Annex V of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest whose taking in the wild and exploitation may be subject to management measures</p> <p>WCA 1i: Schedule 1 Part 1 of Wildlife and Countryside Act 1981 (as amended). Birds protected by special penalties at all times.</p> <p>WCA 5: Schedule 5 of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds).</p> <p>WCA 5 S9(1): Schedule 5 Section 9(1) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to intentional killing, injury or taking.</p> <p>WCA 5 S9(5): Schedule 5 Section 9(5) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to selling, offering for sale, processing or transporting for purpose of sale, or advertising for sale, any live or dead animal, or any part of, or anything derived from, such animal.</p> <p>WCA 6: Schedule 6 of Wildlife and Countryside Act 1981 (as amended). Animals which may not be killed or taken by certain methods.</p> <p>WCA 8: Schedule 8 of Wildlife and Countryside Act 1981 (as amended). Protected plants and fungi.</p> <p>Species of Principal Importance: Species of Principal Importance for Nature Conservation in England.</p> <p>Note. This table does not include reference to the Berne Convention (Convention on the Conservation of European Wildlife and Natural Habitats), the Bonn Convention on the Conservation of Migratory Species of Wild Animals or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).</p>					

Table 4.2 (continued): Summary of Protected/Notable Species Records Within 1 km of Survey Area

Birds

The desk study provided records of seven species of bird listed as Species of Principal Importance potentially within 1 km. These comprised dunnock *Prunella modularis*, spotted flycatcher *Muscicapa striata*, linnets *Carduelis cannabina*, yellowhammer *Emberiza citrinella*, reed bunting *Emberiza schoeniclus*, turtle dove *Streptopelia turtur*, and house sparrow *Passer domesticus*.

Records of nightingale *Luscinia megarhynchos* (RSPB Red List) potentially within 1 km were also provided.

The desk study also provided records of three species of bird on the RSPB Amber List potentially within 1 km, comprising meadow pipit *Anthus pratensis*, common redpoll *Carduelis flammea*, and tawny owl *Strix aluco*.

Invertebrates

The desk study provided records of five species of butterfly listed as Species of Principal Importance within 1 km, comprising brown hairstreak *Thecla betulae*, white-letter hairstreak *Satyrrium w-album*, grizzled skipper *Pyrgus malvae*, small heath *Coenonympha pamphilus*, white admiral *Limenitis camilla*,

Plants

The desk study provided records of two plant species listed as Species of Principal Importance potentially within 1 km, comprising chamomile *Chamaemelum nobile* and cornflower *Centaurea cyanus*.

4.4 INVASIVE SPECIES

The desk study provided no records of invasive species within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

5. PHASE 1 HABITAT SURVEY

5.1 INTRODUCTION

The results of the Phase 1 Habitat Survey are presented in the following sections. An annotated Phase 1 Habitat Survey Drawing (Drawing C129887-01) is provided in Chapter 8. This drawing illustrates the location and extent of all habitat types recorded on site. Any notable features or features too small to map are detailed using target notes. Photographs taken during the field survey are presented in Chapter 9.

The survey was carried out on 4th January 2019 by Will Rees (Ecological Consultant). Table 5.1 details the weather conditions at the time of the survey.

Parameter	Condition
Temperature (°C)	2
Cloud (%)	10
Wind (Beaufort)	F0
Precipitation	None

Table 5.1: Weather Conditions During Field Survey

5.2 SURVEY CONSTRAINTS AND LIMITATIONS

January is not an optimal time for completing botanical assessments; however, given the nature of the habitats present, this was not considered to be a significant constraint to a robust initial site assessment.

5.3 HABITATS

The following habitat types were recorded on site during the field survey:

- Bare ground;
- Boundaries;
- Buildings;
- Dense scrub;
- Hardstanding;
- Introduced shrub;
- Scattered trees; and,
- Tall ruderal.

These habitats are described below. They are ordered alphabetically, not in order of ecological importance.

Bare ground

Bare earth plant beds were present around the fringes of the buildings on site and along the site boundaries. Species recorded included chickweed *Stellaria media*, snowdrop *Galanthus* sp., and eastern cyclamen *Cyclamen coum*.

Boundaries

The western and eastern site boundaries were bordered by c. 2 m high close board fencing, while iron railing and a foot-high brick wall delineated the northern and southern boundaries respectively. Dense ivy *Hedera helix* cover was noted on sections of the fencing, primarily along the eastern boundary (Target Note 2).

Buildings

Two modern buildings were present on site. Both were two-storeys and of brick construction. The building within the southern section of the site had a hipped, slate-tiled roof, while the building located in the north-eastern corner (Aviary Court) [Plate 9.1] had a pitched roof with brick gable ends. Both buildings were generally in good condition, with tightly fitted roof tiles, intact brickwork with tightly fitted windows and doors.

Dense scrub

The overgrown parcel of land to the west of Aviary Court was dominated by established dense scrub (Plate 9.2). Species included dominant bramble *Rubus fruticosus* and frequent young to semi-mature goat willow *Salix caprea*, with infrequent holly *Ilex aquifolium* and butterfly bush *Buddleja* sp. Several piles of debris (Target Note 3) and brash/grass cuttings (Target Note 4) were noted within this section of the site.

Hardstanding

Several areas of hardstanding were present within the site comprising parking bays, footpaths, and an access road (Plate 9.1).

Introduced shrub

Introduced shrub and herbaceous plant borders were present around the buildings (Plate 9.3) and along the site boundaries. Species included viburnum *Viburnum* sp., wintergreen barberry *Berberis julianae*, holly, firethorn *Pyracantha* sp., variegated greater periwinkle *Vinca major* 'Variegata', fortune's spindle *Euonymus fortunei*, hebe *Hebe* sp., box-leaved honeysuckle *Lonicera pileata*, mastic tree *Pistacia lentiscus*, and butterfly bush. Established elder *Sambucus nigra* and hawthorn *Crataegus monogyna* shrubs were also present within the frontage of the site.

Scattered trees

A partially collapsed, semi-mature holly tree was located within the overgrown section to the west of Aviary Court, along with a partially felled tree which could not be identified. A series of stumps were also present within this section of the site (Plate 9.4). These were in varying states of decay, with those near the north-western boundary being well rotted (Target Note 5).

Tall ruderal

Tall ruderal vegetation was present adjacent to the dense scrub to the west of Aviary Court. This was dominated by common nettle *Urtica dioica*, with frequent cleavers *Galium aparine* and ivy, scattered sycamore *Acer pseudoplatanus*, goat willow, and elder saplings.

5.4 FAUNA

During the survey, field signs of faunal species were recorded. The time of year at which the survey is undertaken will affect species or field signs directly recorded during the survey.

Mammals

A fox *Vulpes vulpes* was observed sheltering beneath the debris piles. Grey squirrel *Sciurus carolinensis* was also recorded during the survey.

Birds

Great tit *Parus major* and feral pigeon *Columba livia domestica* were observed during the survey.

5.5 INVASIVE PLANT SPECIES

No invasive plant species were recorded on site during the survey.

6. DISCUSSIONS AND CONCLUSIONS

6.1 SUMMARY OF PROPOSALS

It is understood that the development will involve the extension of the existing Aviary Court building, tying to the western elevation. Soft landscaping is also proposed for the existing overgrown plot of land to the west of the building, as well as minor landscaping for the remainder of the site.

6.2 NATURE CONSERVATION SITES

The desk study exercise identified no European statutory sites within 5 km of the survey area, four UK statutory sites within 2 km, two ancient woodland sites within 2 km, and no non-statutory sites within 1 km. The site is not located within 10 km of a statutory site designated for bats. The significance of these sites to the proposed development is discussed below.

UK Statutory Sites

Stones Road Pond (SSSI) is located 280 m north-east. The survey area also falls within a SSSI Impact Risk Zone for this site and it is understood that the proposed development falls within the 'all planning applications risk category' as it comprises the addition of new flats, which is not considered to be a householder application. Therefore, a recommendation for consultation with Natural England has been made within Section 7.1.

A further three UK statutory sites are located in excess of 1,140 m from the survey area. Given the distance separating these sites from the survey area and the built-up nature of the intervening habitats, no adverse impacts are anticipated as a result of the proposed development.

Ancient Woodland Sites

Both ancient woodland sites are located in excess of 1,780 m from the survey area. Given the distance separating these sites from the survey area and the built-up nature of the intervening habitats, no adverse impacts are anticipated.

6.3 HABITATS

The ecological importance of the habitats present on site is determined by their presence on the list of Habitats of Principal Importance in England and on the Local BAP. It also takes into account the intrinsic value of the habitat. Those habitats which are considered to be of intrinsic importance and have the potential to be impacted by the site proposals are highlighted as notable considerations.

A discussion of the implications of the site proposals with regard to the habitats present on site is provided in the text below. A separate discussion of the value of the habitats on site to protected or notable species is provided in Section 6.4.

Scattered trees

It is Middlemarch Environmental Ltd.'s understanding that the partially collapsed and partially felled tree have been removed in the intervening period between the initial site visit and report revision. Semi-mature trees are generally considered to be of intrinsic ecological value as it cannot be easily replaced in the short to medium term, however, they are not Habitats of Principal Importance. Despite the poor viability of the specimens recorded on site, it is therefore recommended that appropriate mitigation and compensation measures are implemented into proposed landscaping. A recommendation has been made within Section 7.3.

Bare ground, boundaries, buildings, dense scrub, hardstanding, introduced shrub, and tall ruderal

These habitats are not deemed to be a notable consideration as they are not Habitats of Principal Importance. In addition, they are well represented locally, have low species diversity, or can be easily replicated post development. The potential for these habitats to support protected/notable species is discussed in Section 6.4. Habitats considered to be of relevance to the proposed development are summarised in Table 6.1.

Habitat Type	Habitat of Principal Importance?	Local BAP Habitat?	Summary of Potential Impacts
Scattered trees	-	-	Habitat loss

Table 6.1: Summary of Potential Impacts on Notable Habitats

6.4 PROTECTED/NOTABLE SPECIES

The following paragraphs consider the likely impact of the site proposals on protected or notable species. This is based on those species highlighted in the desk study exercise (Chapter 4) and other species for which potentially suitable habitat occurs within or adjacent to the survey area.

Mammals

Bats

The desk study provided four records of three species of bat potentially within a 1 km radius of the survey area. No potential bat roosting features were identified within the western elevation of the Aviary Court building, which is where works will take place. The building is in a good state of repair, with no lifted tiles or crevices within the brickwork noted. The trees, scrub, tall ruderal vegetation, and introduced shrub offer suitable foraging and commuting opportunities for bats with connectivity to the wider landscape, including adjacent residential houses with associated gardens. As the Aviary Court building was identified as having negligible potential to support roosting bats, no adverse impacts are anticipated. Nevertheless, any excess light during construction or post development could cause disturbance to foraging and commuting bats. A recommendation regarding lighting has been made within Section 7.3.

Badger

The desk study provided no records of badger within a 1 km radius of the survey area. The site offers no suitable sett building habitat; however, the scrub, tall ruderal vegetation, and introduced shrub beds offer potential foraging habitat for badger, with connectivity to the wider landscape. No evidence of badger, such as prints or latrines, was identified on site during the survey. Nevertheless, badgers are mobile animals and there is a possibility they may pass through the site. To ensure no harm to this species during the construction phase of the proposed development, a recommendation regarding terrestrial mammals has been made within Section 7.3.

Hedgehog

The desk study provided four records of hedgehog potentially within a 1 km radius of the survey area. The scrub, tall ruderal vegetation, and introduced shrub beds offer suitable refuge and foraging opportunities for hedgehog, with connectivity to the wider landscape. Therefore, it is considered likely that hedgehog utilise the site in some capacity. To ensure no harm to this species during the construction phase of the proposed development, a recommendation regarding terrestrial mammals has been made within Section 7.3.

Otter

The desk study provided no records of otter within a 1 km radius of the survey area. The site offers no suitable habitat for otter and no watercourses are present within the local vicinity. Otter are, therefore, not a notable consideration in relation to the proposed development.

Water vole

The desk study provided one record of water vole potentially within a 1 km radius of the survey area. The site offers no suitable habitat for water vole and no watercourses are present within the local vicinity. Water vole are, therefore, not a notable consideration in relation to the proposed development.

Amphibians

The desk study provided two records of great crested newt and four records of three common amphibian species potentially within a 1 km radius of the survey area. The scrub, tall ruderal vegetation, debris and brash piles, and introduced shrub beds offer potential habitat for amphibians during the terrestrial phase of their life cycle; however, no breeding habitat is located on site. Reference to Ordnance Mapped data and aerial imagery indicates that Stones Road Pond SSSI is located within a 500 m radius of the survey area, located 280 m north-east. The pond is a known breeding pond for great crested newt and a range of other common amphibians. Terrestrial habitats in close proximity to the pond include rough vegetation immediately surrounding the pond, allotment gardens and railway embankments located in close proximity. The development site offers limited terrestrial opportunities for amphibians, principally within the overgrown north-east corner, is located in excess of 250 m and has poor connectivity to the known breeding pond; a railway

line, series of well-maintained residential gardens and a road lie between the site and the terrestrial habitat known to be of value to the breeding population of great crested newt and common amphibians generally. Therefore, it is considered unlikely that great crested newts and/or common amphibians would be present on site and they are not a notable consideration in relation to the proposed development.

Reptiles

The desk study provided one record of adder potentially within a 1 km radius of the survey area. The scrub, tall ruderal vegetation, and introduced shrub beds offer limited suitable foraging, refuge, and basking habitat for reptiles, while the debris and brash piles offer suitable hibernacula, as well as potential egg laying habitat for species such as grass snake. The site has some connectivity to adjacent residential gardens; however, it is isolated from the wider landscape by busy roads. Nevertheless, given the limited opportunities for reptiles within the survey area, their presence cannot be entirely discounted. If present, there is potential for reptiles to be killed or injured during the construction phase of the proposed development, which would be in breach of the legislation outlined in Appendix 2. Reptiles are, therefore, a notable consideration in relation to the proposed development and a recommendation regarding site clearance activities has been made within Section 7.3.

Birds

The desk study provided four records of four species of bird listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), as well as records of several Species of Principal Importance, potentially within a 1 km radius of the survey area. Schedule 1 species are unlikely to breed on site due to specific habitat ranges and breeding requirements. The scrub, shrubs, and ivy cover offer suitable nesting and foraging habitat for common bird species. The trees on site were considered to be sub-optimal for birds given their poor viability and limited vegetative cover. The development of the site has the potential to cause direct disturbance or harm to breeding birds if timed to occur within the nesting season. A recommendation regarding the appropriate timing of site clearance activities has been made within Section 7.3. Given the extent of suitable habitat within the wider landscape, no long-term impacts on birds are anticipated. Nevertheless, as some losses may occur, a recommendation regarding general habitat enhancement has been provided within Section 7.2.

Invertebrates

The desk study provided seven records of stag beetle potentially within a 1 km radius of the survey area. The rotted stumps within the north-western section of the site offer suitable habitat for stag beetle and other invertebrate species. Therefore, there is potential for invertebrates to be harmed during site clearance activities. It is recommended that deadwood is retained where feasible and any deadwood requiring removal should be subject to sensitive clearance under supervision of a suitably qualified ecologist. Any deadwood requiring removal should be retained within the wider site landscaping. Recommendations to this effect have been made within Section 7.

Other Species

The following protected species are not considered to be material considerations due to the lack of desk study records and absence of suitable habitats within the development site and its surroundings: dormouse *Muscardinus avellanarius*, harvest mouse *Micromys minutus*, pine marten *Martes martes*, polecat *Mustela putorius*, brown hare *Lepus europaeus*, and white-clawed crayfish *Austropotamobius pallipes*.

Summary

Species considered to be of relevance to the proposed development are summarised in Table 6.2.

Species / Species Group	Species of Principal Importance?	Summary of Potential Impacts
Bats	#	Habitat loss, disturbance through increases in lighting.
Badger	-	Direct harm/injury.
Hedgehog	✓	Direct harm/injury, habitat loss.
Reptiles	✓	Direct harm/injury, habitat loss.
Birds	#	Direct harm/injury, habitat loss.
Invertebrates	#	Direct harm/injury, habitat loss.
#: Dependent on species.		

Table 6.2: Summary of Potential Impacts on Notable Species

6.5 INVASIVE PLANT SPECIES

No invasive plant species were recorded on site during the survey. Invasive plant species are, therefore, not a notable consideration in relation to the proposed development.

7. RECOMMENDATIONS

All recommendations provided in this section are based on Middlemarch Environmental Ltd.'s current understanding of the site proposals, correct at the time the report was compiled. Should the proposals alter, the conclusions and recommendations made in the report should be reviewed to ensure that they remain appropriate.

The ecological mitigation hierarchy should be applied when considering development which may have a significant effect on biodiversity. The ecological mitigation hierarchy, as set out in the National Planning Policy Framework (NPPF), and the National Planning Practice Guidance (NPPG) should follow these principles:

- **Avoidance** – development should be designed to avoid significant harm to valuable wildlife habitats and species.
- **Mitigation** – where significant harm cannot be wholly or partially avoided, it should be minimised by design or through the use of effective mitigation measures.
- **Compensation** – where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, compensation should be used to provide an equivalent value of biodiversity.

7.1 NATURE CONSERVATION SITES

The following recommendations are made regarding nature conservation sites:

- R1 Stones Road Pond (SSSI):** The proposed works could potentially indirectly impact upon Stones Road Pond (SSSI) which is located 280 m north-east. As such, Natural England should be consulted prior to any works commencing to determine how works may proceed without adversely impacting this site.

7.2 HABITATS

The following recommendations are made regarding the habitats present on site:

- R2 Habitat Retention and Protection:** The development proposals should be designed (where feasible) to allow for the retention of existing deadwood habitat on site. If retention is not possible, recommendations provided below regarding supervised clearance of the habitat and appropriate replacement habitat provision should be followed, in accordance with the ecological mitigation hierarchy.
- R3 Biodiversity Enhancement:** In accordance with the provision of Chapter 15 of the National Planning Policy Framework (Conserving and Enhancing the Natural Environment) and Local Planning Policy (Policy CS 3 Biodiversity and Designated Nature Conservation Areas), biodiversity enhancement measures should be incorporated into the landscaping scheme of any proposed development to work towards delivering net gains for biodiversity. This will include, for example:
- Planting of habitats which will be of value to wildlife, such as:
 - native seed/fruit bearing species to provide foraging habitat for mammals and birds;
 - nectar-rich species to attract bees, butterflies and moths;
 - species which attract night flying insects which will be of value to foraging bats, for example: evening primrose *Oenothera biennis*, goldenrod *Solidago virgaurea*, honeysuckle *Lonicera periclymenum* and fleabane *Pulicaria dysenterica*.
 - Inclusion of hedgehog passes under any fence lines to allow connectivity between the site and the wider area.
 - Provision of nesting/roosting habitat, such as installation of nest boxes for species such as house sparrow, dense scrub for species such as song thrush, and bat boxes for species such as pipistrelle.
 - Replacement tree planting should be incorporated into the soft landscape scheme.
 - Creation of deadwood habitat for herpetofauna and invertebrate species (e.g. stag beetle).

7.3 PROTECTED / NOTABLE SPECIES

To ensure compliance with wildlife legislation and relevant planning policy (Policy CS 3 Biodiversity and Designated Nature Conservation Areas), the following recommendations are made:

- R4 Foraging/Commuting Bats:** Bats are likely to use trees for foraging and commuting. Therefore, in line with paragraph 180 of the National Planning Policy Framework, the development should aim to limit the impact of light pollution on bats through the careful use of lighting in critical areas only and at a low level with minimum spillage. Any lighting, either temporary or permanent, along the site boundaries should be kept to a minimum and directed away from the boundary features to maintain dark areas and corridors.
- R5 Reptiles:** The clearance of suitable reptile habitat should be undertaken under the supervision of an experienced ecologist. This will involve the clearance of vegetation in a directional manner to allow any reptiles to disperse and careful removal of any hibernacula. This should be completed when reptiles are active. This is weather dependent but generally extends between March and October inclusive.
- R6 Nesting Birds:** Vegetation clearance should be undertaken outside the nesting bird season. The nesting bird season is weather dependent but generally extends between March and September inclusive (peak period March-August). If this is not possible then any vegetation to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing. If birds are found to be nesting any works which may affect them should be delayed until the young have fledged and the nest has been abandoned naturally, for example via the implementation of an appropriate buffer zone (species dependent) around the nest in which no disturbance is permitted until the nest is no longer in use.
- R7 Invertebrates:** The clearance of deadwood habitat should be undertaken under the supervision of an experienced ecologist. If any larvae are found, these should be safely relocated to suitable habitat within the vicinity.
- R8 Terrestrial Mammals including Badger and Hedgehog:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120 mm must be covered at the end of each work day to prevent animals entering/becoming trapped.

7.4 INVASIVE PLANT SPECIES

There are no recommendations made regarding invasive plant species.

8. DRAWINGS

Drawing C129887-01 – Phase 1 Habitat Map



Legend

- - - Site boundary
- Scattered tree
- Fence
- Wall
- Bare ground
- Building
- Hardstanding
- Dense scrub
- Hardstanding
- Introduced shrub
- Tall ruderal

- Target note
- 1. Butterfly bush
- 2. Dense Ivy cover
- 3. Debris pile
- 4. Brush pile
- 5. Well rotted stump

Project Aviary Court, 138 Miles Road, Epsom	
Drawing Phase 1 Habitat Map	
Client Aviary Investment Holdings Limited	
Drawing Number C129887-01	Revision 00
Scale @ A4 1:400	Date January 2019
Approved By WR	Drawn By CD

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C129887-01

9. PHOTOGRAPHS



Plate 9.1: Aviary Court Building and Hardstanding



Plate 9.2: Overgrown Rear Garden with Dense Scrub and Tall Ruderal Growth



Plate 9.3: Introduced Shrub



Plate 9.4: Decayed Tree Stumps

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APPENDICES

APPENDIX 1: Summary of Statutory Nature Conservation Sites

APPENDIX 2: Overview of Relevant Species Specific Legislation

APPENDIX 1

Summary of Statutory Nature Conservation Sites

European Statutory Sites

Site Check Report Report generated on Wed Jan 09 2019

You selected the location: Centroid Grid Ref: TQ20876145

The following features have been found in your search area:

Ramsar Sites (England)

No Features found

Proposed Ramsar Sites (England)

No Features found

Special Areas of Conservation (England)

No Features found

Possible Special Areas of Conservation (England)

No Features found

Special Protection Areas (England)

No Features found

Potential Special Protection Areas (England)

No Features found

UK Statutory Sites

Site Check Report Report generated on Wed Jan 09 2019

You selected the location: Centroid Grid Ref: TQ20876145

The following features have been found in your search area:

Local Nature Reserves (England)

Reference

1009454

Name

EPSOM COMMON

Hectares

177.4

Hyperlink

http://www.lnr.naturalengland.org.uk/special/lnr/lnr_details.asp?themeid=1009454

Reference

1123103

Name

HOGSMILL

Hectares

35.99

Hyperlink

http://www.lnr.naturalengland.org.uk/special/lnr/lnr_details.asp?themeid=1123103

Reference

1009732

Name

HORTON COUNTRY PARK

Hectares

152.32

Hyperlink

http://www.lnr.naturalengland.org.uk/special/lnr/lnr_details.asp?themeid=1009732

Sites of Special Scientific Interest (England)

Name

Stones Road Pond SSSI

Reference

1000368

Natural England Contact

Natural England Phone Number

0845 600 3078

Hectares

0.48

Citation

1000889

Hyperlink

<http://designatedsites.naturalengland.org.uk/SiteDetail.aspx?SiteCode=s1000889>

Name

Epsom and Ashtead Commons SSSI

Reference

1000150

Natural England Contact

Natural England Phone Number

0845 600 3078

Hectares

360.43

Citation

1000129

Hyperlink

<http://designatedsites.naturalengland.org.uk/SiteDetail.aspx?SiteCode=s1000129>

Ancient Woodland (England)

Wood Name

Theme Name

Ancient & Semi-Natural Woodland

Theme ID

1493603

Area (Ha)

0.880963

Wood Name

Theme Name

Ancient & Semi-Natural Woodland

Theme ID

1494094

Area (Ha)

1.270183

National Nature Reserves (England)

No Features found

SSSI Impact Risk Zones - to assess planning applications for likely impacts on SSSIs/SACs/SPAs & Ramsar sites (England)

1. DOES PLANNING PROPOSAL FALL INTO ONE OR MORE OF THE CATEGORIES BELOW?

2. IF YES, CHECK THE CORRESPONDING DESCRIPTION(S) BELOW. LPA SHOULD CONSULT NATURAL ENGLAND ON LIKELY RISKS FROM THE FOLLOWING:

All Planning Applications

ALL PLANNING APPLICATIONS - EXCEPT HOUSEHOLDER APPLICATIONS.

Infrastructure

Wind & Solar Energy

Minerals, Oil & Gas

Rural Non Residential

Residential

Rural Residential

Air Pollution

Combustion

Waste

Composting

Discharges

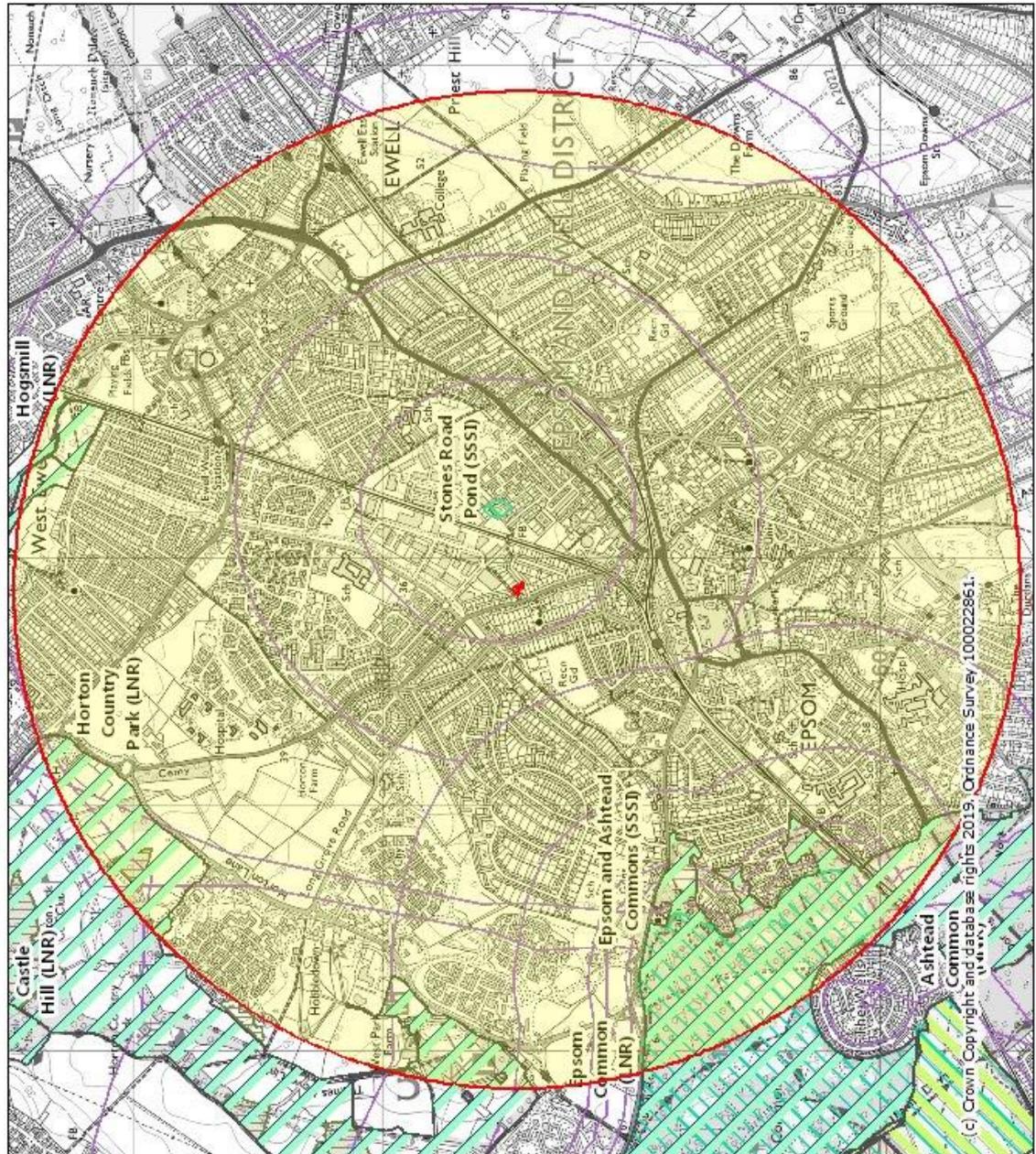
Water Supply

Notes

GUIDANCE - How to use the Impact Risk Zones

[/Metadata for magic/SSSI IRZ User Guidance MAGIC.pdf](#)

MAGiC UK Statutory Sites within a 2 km radius



APPENDIX 2

Overview of Relevant Species Specific Legislation

Bats

Bats and the places they use for shelter or protection (i.e. roosts) receive European protection under The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that bats, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2017, states that a person commits an offence if they:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats; or
- damage or destroy a bat roost (breeding site or resting place).

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2017 for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead bats, part of a bat or anything derived from bats, which has been unlawfully taken from the wild.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to *intentionally* kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to *intentionally or recklessly** damage or destroy, or *obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to *intentionally or recklessly** disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

*Reckless offences were added by the Countryside and Rights of Way (CRoW) Act 2000.

As bats re-use the same roosts (breeding site or resting place) after periods of vacancy, legal opinion is that roosts are protected whether or not bats are present.

The following bat species are Species of Principal Importance for Nature Conservation in England: Barbastelle Bat *Barbastella barbastellus*, Bechstein's Bat *Myotis bechsteinii*, Noctule Bat *Nyctalus noctula*, Soprano Pipistrelle *Pipistrellus pygmaeus*, Brown Long-eared Bat *Plecotus auritus*, Greater Horseshoe Bat *Rhinolophus ferrumequinum* and Lesser Horseshoe Bat *Rhinolophus hipposideros*.

The reader should refer to the original legislation for the definitive interpretation.

Badger

Badgers and their setts are protected under the Protection of Badgers Act 1992. The Protection of Badgers Act 1992 is based primarily on the need to protect badgers from baiting and deliberate harm or injury, badgers are not protected for conservation reasons. The following are criminal offences:

- To intentionally or recklessly interfere with a sett. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it.
- To wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so.

A badger sett is defined in the legislation as:

- '*Any structure or place that displays signs indicating current use by a badger*'.

'Current use' is not synonymous with current occupation and a sett is defined as such (and thus protected) as long as signs of current usage are present. Therefore, a sett is protected until such a time as the field signs deteriorate to such an extent that they no longer indicate 'current usage'.

Badger sett interference can result from a multitude of operations including excavation and coring, even if there is no direct damage to the sett, such as through the disturbance of badgers whilst occupying the sett. Any intentional or reckless work that results in the interference of badger setts is illegal without a licence from Natural England³⁰. In England a licence must be obtained from Natural England before any interference with a badger sett occurs.

The reader should refer to the original legislation for the definitive interpretation.

Hedgehog

Hedgehogs receive some protection under Schedule 6 of the Wildlife and Countryside Act 1981 (as amended); this section of the Act lists animals which may not be killed or taken by certain methods, namely traps and nets, poisons, automatic weapons, electrical devices, smokes/gases and various others. Humane trapping for research purposes requires a licence.

Hedgehogs are a Species of Principal Importance for Nature Conservation in England and are thus capable of being material considerations in the planning process.

Reptiles

All of the UK's native reptiles are protected by law. The two rarest species – sand lizard (*Lacerta agilis*) and smooth snake (*Coronella austriaca*) – benefit from the greatest protection; however these two species are not known to occur within Surrey. Common lizard (*Zootoca vivipara*), slow-worm (*Anguis fragilis*), adder (*Vipera berus*) and grass snake (*Natrix natrix*) are protected under the Wildlife and Countryside Act 1981 as amended from intentional killing or injuring.

In England and Wales, this Act has been amended by the Countryside and Rights of Way Act 2000 (CRoW), which adds an extra offence, makes species offences arrestable, increases the time limits for some prosecutions and increases penalties. The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on Government Departments to have regard for the conservation of biodiversity and maintains lists of species and habitats which are of principal importance for the purposes of conserving biodiversity in England and Wales. All native reptile species are included on these lists.

This is a simplified description of the legislation. In particular, the offences mentioned here may be absolute, intentional, deliberate or reckless. Note that where it is predictable that reptiles are likely to be killed or injured by activities such as site clearance, this could legally constitute intentional killing or injuring.

Birds

The Conservation of Habitats and Species Regulations 2017 places a duty on public bodies to take measures to preserve, maintain and re-establish habitat for wild birds.

Nesting and nest building birds are protected under the Wildlife and Countryside Act WCA 1981 (as amended).

Subject to the provisions of the act, if any person intentionally:

- kills, injures or takes any wild bird;
- takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- takes or destroys an egg of any wild bird, he shall be guilty of an offence.

Some species (listed in Schedule 1 of the WCA) are protected by special penalties. Subject to the provisions of the act, if any person intentionally or recklessly:

- disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturbs dependent young of such a bird, he shall be guilty of an offence.

Several bird species are Species of Principal Importance for Nature Conservation in England, making them capable of being material considerations in the planning process.

Stag Beetle

The stag beetle is in decline globally. It is listed on Annex II of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (a list of animal and plant species of community interest whose conservation requires the designation of Special Areas of Conservation). Stag beetle also receives protection under Schedule 5 of the Wildlife and Countryside Act 1981, as amended, making the following activities illegal: selling, offering for sale, processing or transporting for purpose of sale, or advertising for sale, any live or dead animal, or any part of, or anything derived from, such animal. Stag beetle is also listed as a Species of Principal Importance for Nature Conservation in England.