

**Owen Mumford Site at Windrush
Industrial Park, Witney**

Construction Environmental Management
Plan - Biodiversity (CEMP-B)

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1 Introduction

Background to commission

- 1.1 BSG Ecology was commissioned on 20 April 2021 by Ridge LLP to assist with the discharge of various planning conditions associated with an approved planning application (West Oxfordshire District Council planning reference 20/02391/FUL) for the development of the Owen Mumford site at Windrush Industrial Park in Witney, Oxfordshire, centred at Ordnance Survey National Grid Reference SP 3349 1024 (the 'Site').
- 1.2 Condition 16 of the planning decision notice states that: *'No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan-Biodiversity (CEMP-B) has been submitted to and approved in writing by the local planning authority'*. This current report provides this CEMP-B.
- 1.3 BSG Ecology previously conducted an Ecological Assessment report¹ to inform the planning application for the development. This involved undertaking a Phase 1 habitat survey and a desk study, as well as further surveys for bats and reptiles, and recommending appropriate mitigation and enhancement measures.

Site description

- 1.4 The Site is approximately 4.4 ha in extent and is located at the end of De Havilland Way within Windrush Industrial Park to the west of Witney. The Site (pre-development and pre-clearance) comprised predominantly grassland with areas of tall ruderal vegetation, scrub, and hardstanding (including an asphalt road running through the Site). Surrounding the Site are warehouses within the industrial estate to the west and south, a grass sports field to the north and an area of semi-mature woodland (Deer Park Wood) and residential areas to the east.

Description of project

- 1.5 Owen Mumford Ltd obtained planning consent in April 2021 to develop a pharmaceutical factory at the Site, including associated road infrastructure, car parking and areas of landscaping.

Aim of report

- 1.6 The aim of this CEMP-B is to ensure that the construction phase of the development takes place in accordance with the recommendations of the Ecological Appraisal report, including adherence to relevant wildlife legislation (for a summary of relevant legislation, see Appendix 1). It provides a mechanism to ensure the protection of habitats and species at the Site during the construction phase and to allow the delivery of the biodiversity net gain set out in the Ecological Appraisal report. This CEMP-B is based on the assessment of potential impacts of construction activities that was carried out within the Ecological Assessment, and also incorporates the ecological advice within the planning decision notice.

Site works to date

- 1.7 In order to meet the seasonal constraints for the clearance of vegetation suitable for nesting birds (as set out in the Ecological Appraisal report), some vegetation clearance was carried out at the Site in February 2021 (prior to the planning decision). West Oxfordshire District Council was informed of this work. In line with the Ecological Appraisal report, this vegetation clearance was carried out under a precautionary method statement to ensure that there would be no impacts on protected species. This included supervision of works by an Ecological Clerk of Works (ECoW) from BSG Ecology. For completeness, the method statement is included in Appendix 2.

¹ BSG Ecology (2020) *Owen Mumford Site at Windrush Industrial Park, Witney; Ecological Appraisal*. Report to Owen Mumford Ltd.

Structure of CEMP-B

- 1.8 This document includes a schedule of works which lists the nine separate ecology activities required during construction, followed by a series of method statements which sets out the detail of these activities. Figures showing the proposed locations of habitats and of wildlife features at the Site are provided in Appendices 3 and 4.

2 Schedule of Works

- 2.1 The following table sets out the proposed timing of the various activities described in this CEMP. Method statements on the following pages provide further details of these activities.

Table 1: Schedule of works.

Method Statement	Activity	Proposed Timing
Pre-construction phase		
1	Pre-construction vegetation management	Prior to start of construction
2	Protective fencing of retained grassland	Prior to start of construction
3	Pre-construction badger check	Between one and three months prior to start of construction
4	Nesting bird precautions during clearance of woody vegetation	Throughout clearance
5	Staff awareness of great crested newt	Throughout clearance and construction
Construction phase		
5	Staff awareness of great crested newt	Throughout clearance and construction
6	Badger and newt precautions during construction	Throughout construction
7	Annual mowing of retained grassland	Throughout construction
8	Construction of wildlife features	During construction
9	New habitat planting	During or following construction

3 Method Statement 1: Pre-construction vegetation management

Purpose

- 3.1 Mowing of grassland due for clearance in order to prevent it from becoming suitable for nesting birds (which would then be affected by or could delay) clearance works.

Timing

- 3.2 Mowing of grassland areas due for clearance should be carried at least once every three weeks during the bird breeding season (March to August inclusive) prior to the start of construction.
- 3.3 Alternatively, if construction is to start outside the bird breeding season (i.e. between September and February inclusive), no management is required.

Methods

- 3.4 Mowing can be carried out using any type of mower. Cutting to 50 mm or shorter is recommended.
- 3.5 Areas with woody stumps remaining from the previous clearance works should have stumps removed by a suitable mulcher machine.
- 3.6 If mowing is delayed by more than three weeks, within the bird breeding season (March to August inclusive) then the Site should be subject to a walkover check by a suitably experienced ecologist prior to mowing re-commencing.

Roles and responsibilities

- 3.7 Mowing is to be arranged by the Construction Manager or Site owner. If necessary, a walkover check is to be carried by a suitably experienced ecologist.

Checks and sign off

- 3.8 A record of mowing dates should be kept by the construction manager or Site owner. A record of any check visits by an ecologist should be made in the form of a summary email to the Site owner or construction manager.

4 Method Statement 2: Protective fencing of retained grassland

Purpose

- 4.1 Areas of grassland habitat to be retained in the proposed development will be fenced prior to the start of construction to prevent accidental encroachment or damage during construction. These areas are also known as 'biodiversity protection zones'.

Timing

- 4.2 Fencing is to be installed prior to the start of any turf stripping or construction works at the Site.

Method

- 4.3 All areas of retained habitat at the Site (indicated by an orange dotted line on the figure in Appendix 3) should be marked out on the ground by a professional surveyor, and Heras fencing should be installed along this line.
- 4.4 The fenced areas are to be retained undamaged throughout the construction phase, and will be incorporated, with appropriate habitat management (set out in the Landscape and Ecology Management Plan document), in the final development.
- 4.5 There should be no incursion of machines, personnel or materials, or storage of materials, in these areas during or after construction.
- 4.6 Management of these areas should be as set out under Method Statement 6. There should be no other management, such as mowing or 'tidying', apart from, if necessary, litter removal.

Roles and responsibilities

- 4.7 Marking out and fencing should be arranged by the Construction Manager. The construction manager should ensure that staff are aware they must not enter the fenced areas or move fences.

Checks and sign off

- 4.8 The Construction Manager should check the location of the Heras fence matches the marked lines and the boundary shown in Appendix 3.
- 4.9 The Construction Manager should check that the Heras fence is intact and in position every month during construction.

5 Method Statement 3: Pre-construction badger check

Purpose

- 5.1 A check survey to determine whether badgers have constructed any setts on or near the Site (which could be affected by, or delay) construction.
- 5.2 No setts have been found at the Site to date, but badgers can construct new setts in relatively short space of time, and therefore this pre-construction check is considered necessary.

Timing

- 5.3 Survey to be carried out between one and three months prior to the start of construction.

Methods

- 5.4 A badger survey of the Site will be carried out by a suitably experienced ecologist, as follows:
- The ecologist will search the Site, and, where possible, all areas within 30 metres of the Site boundary for any badger setts or other signs of badgers.
 - All habitat at the Site apart from hardstanding is considered suitable for sett building, so the ecologist will need to cover all areas of the Site.
 - If any badger setts are found, locations will be recorded by the ecologist via handheld GPS and marked on the ground.
 - The ecologist will present the results of the survey via an email report, with (if necessary) an accompanying figure.
- 5.5 If any badger setts are present on or near the Site, it may be necessary to apply for a licence from Natural England to allow sett closure and demolition. Works affecting badgers or active badger setts would be in breach of the Protection of Badger Act 1992. Since setts can only be closed between August and October, and the licencing process will take time to arrange, there is potential for the presence of badger setts to cause delays to construction work in their vicinity (typically within 30 m).

Roles and responsibilities

- 5.6 The Construction Manager will be responsible for instructing a suitably experienced ecologist to carry out the badger check, and with assistance from a suitably experienced ecologist, for applying for and implementing any necessary badger sett closure licences.

Outcome/signoff

- 5.7 If the ecologist is satisfied that no badger setts are present, an inspection record (email) will be provided to the Construction Manager.
- 5.8 If badger setts are present, the ecologist will advise the Construction Manager on any requirements for licensed closure, or non-licensed measures to protect badgers during construction (additional to those already specified in Method Statement 6).

6 Method Statement 4: Nesting bird precautions during clearance of woody vegetation

Purpose

- 6.1 To avoid impacts on nesting birds during any clearance of woody vegetation that may be necessary (although most or all of this vegetation was cleared in early 2021).

Timing and Method

- 6.2 Any woody vegetation above 45 cm in height that needs to be removed for the development should be cut outside the bird breeding season (i.e. outside March to August inclusive).
- 6.3 Alternatively, the vegetation can be cut during the bird breeding season if subject to check by a suitably qualified ecologist which shows nesting birds to be absent. If nesting birds are present, the ecologist will advise on a suitable exclusion zone. Works will not proceed within this zone until the nest is no longer active.
- 6.4 It may not be possible to thoroughly check very tall or dense vegetation, and the ecologist may require such vegetation to be retained until the end of the bird breeding season.

Roles and responsibilities

- 6.5 The Construction Manager will instruct a suitably experienced ecologist if woody vegetation above 45cm in height requires clearance within the bird breeding season.

Sign off

- 6.6 The ecologist will provide an inspection record (email) to the Construction Manager confirming the presence or absence of nesting, and any advice regarding proposed vegetation clearance.

7 Method Statement 5: Staff awareness of great crested newt

Purpose

- 7.1 To make clearance and construction staff familiar with the great crested newt, so that (in the unlikely event that this species is encountered at the Site) they recognise it and report it to the Construction Manager.

Background information on great crested newt at the Site

- 7.2 There is considered to be a very low risk that great crested newt is present at the Site, since this species breeds in ponds, and the only pond in proximity to the Site is of very recent construction. For this reason, West Oxfordshire District Council did not require a survey for this species in support of the planning application. However, the planning decision notice notes that:
- 7.3 *'anyone undertaking this development should be aware that [great crested newt] and their resting places are protected by at all times by the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended). Planning permission for development does not provide a defence against prosecution under this legislation or substitute the need to obtain a protected species licence if an offence is likely. If a [great crested newt] is discovered during the site preparation, enabling or construction phases, then all works must stop until the advice of a professional/suitability qualified ecologist and Natural England is obtained, including the need for a licence'.*
- 7.4 Therefore, this method statement requires staff undertaking clearance or construction works to understand what this specie looks like, and to inform the Construction Manager if they see this animal at the Site.
- 7.5 The council have also set out a series of precautionary measure to be adopted during construction, which are incorporated into Method Statement 6.

Timing

- 7.6 Staff awareness of this issue should be maintained by the Construction Manager throughout the clearance and construction phases.

Method

- 7.7 Staff awareness is to be achieved by:
- The Construction Manager is to mention this species to all new staff working at the Site, and direct them to, or provide them with a copy of the poster on the following page. They should ask staff to inform them if they see this species.
 - The Construction Manager is to place copies of the poster on the following page in prominent locations at the stie (e.g., in staff canteen, offices and/or reception areas within site cabins).
- 7.8 Any member of clearance or construction staff who thinks they may have found a great crested newt at the Site should report this to the Construction Manager. The Construction Manager should contact a suitably experienced ecologist top ask for further advice.
- 7.9 If this species if found to be present, works on some or all parts of the Site may need to halt and a licence may be required from Natural England to proceed.

Roles and responsibilities

- 7.10 Awareness raising is the role of the Construction Manager.

**HAVE YOU SEEN A
GREAT CRESTED NEWT
ON THIS SITE?**



**IF SO, PLEASE INFORM THE
CONSTRUCTION MANAGER
IMMEDIATELY**

8 Method Statement 6: Badger and newt precautions during construction

Purpose

- 8.1 Precautionary measures to prevent badgers or newts from becoming trapped in excavations and pipework during the construction phase.

Timing

- 8.2 These precautions apply to all works during the construction stage.

Methods

- 8.3 The following precautions should be taken at all times:
- Covering any trenches or other excavations overnight or providing ramps to prevent animals from becoming trapped.
 - Capping any open pipework to prevent entry by animals.
 - Storing building materials (such as bricks, stone, etc.) above ground on pallets to discourage great crested newts from using storage areas for shelter.
 - Any rubble or demolition materials should be stored in skips or similar containers rather than in piles on the ground, to discourage great crested newt from sheltering within them.

Roles and responsibilities

- 8.4 The Construction Manager should ensure that all new staff on the project (including contractors) are aware of, and instructed to follow, the above precautions.
- 8.5 It is the responsibility of the Construction Manager to ensure that the above precautions are being followed by all staff at the Site at all times.

Sign off

- 8.6 A weekly check of the Site for adherence to these procedures should be carried out by the Construction Manager.

9 Method Statement 7: Annual mowing of retained grassland

Purpose

- 9.1 To ensure that retained areas of grassland are kept in good ecological condition by preventing the encroachment of scrub.

Timing and Methods

- 9.2 The areas of grassland that are to be retained in the development (bounded by an orange dotted line in the Figure in Appendix 2), should be mown on one occasion each year, between August and September).
- 9.3 Any mowing or strimming method will be acceptable, so long as:
- The turf must not be mown shorter than 50 mm.
 - There should be no ground disturbance.
 - The arisings (i.e. grass clippings) should be removed from these areas and either removed from the Site for appropriate disposal or retained on the Site boundary in heaps to rot down.
 - There should be no mowing or cutting at any other time of the year.
- 9.4 It will be necessary to allow access through, or temporarily move parts of the Heras fences surrounding these areas of grassland to allow the annual mowing to take place.
- 9.5 There should be no use of herbicides, fertilisers or pesticides on these areas at any time.

Roles and responsibilities

- 9.6 It is the responsibility of the Construction Manager to instruct this mowing and to verify that it is being carried out in accordance with the above.

Sign off

- 9.7 The Construction Manager should make a record of the mowing date each year.

10 Method Statement 8: Construction of wildlife features

Purpose

- 10.1 To ensure that the wildlife features recommended in the Ecological Appraisal (BSG Ecology, 2021) (and specified in Condition 12 of the approved planning consent) are incorporated into the Site designs.
- 10.2 These features comprise boxes for nesting birds and roosting bats, and holes or gaps in fences and walls to allow access by hedgehog.

Timing

- 10.3 These features are to be installed during the construction stage.

Methods

Bird and bat boxes to be incorporated into the new building

- 10.4 The following boxes should be integrated into the fabric of the walls of the new building where possible. Alternative products suitable external attachment can be used if this is not feasible.
- **3 no. general purpose bird boxes for hole nesters (e.g. Schwegler Brick Nest Box² or similar).** Three such boxes should be incorporated into the walls of the factory building. The boxes should be installed at a height between 3 and 6 m in a north, east or west facing position. Proposed locations for these boxes are shown in Appendix 4. Alternatively, similar products can be hung externally (e.g. Schwegler No. 16 Bird Box³).
 - **5 no. swift boxes (e.g. Schwegler No. 16⁴ or similar).** Five boxes should be installed high up on the walls of the new factory building, more than 6 m above ground level and within 0.5 m of the roof edge. Proposed locations for these boxes are shown in Appendix 4. This product is incorporated into the fabric of the wall. Alternative products can be attached externally (e.g. Woodstone Swift Box⁵).
 - **2 no. bat boxes (e.g. Schwegler 1FR Bat Tube⁶ or similar).** Three bat tubes should be incorporated into the walls of the new building. At a minimum height of 4 metres. Suitable walls on the new building are limited by the proposed lighting scheme to the eastern side. Proposed locations for these boxes are shown in Appendix 4. Alternatively, similar products can be hung externally (e.g. Schwegler 1FF Bat Maternity Box⁷).

Bird and bat boxes to be installed on retained boundary trees

- 10.5 The following boxes should be hung on retained trees on the Site boundary. Tree locations should be verified on site by a suitably experienced ecologist prior to hanging.
- **2 no. general purpose bird boxes for hole nesters (e.g. Schwegler 2F⁸ or similar).** The boxes should be installed at a height between 3 and 6 m in a north, east or west facing position. Proposed locations for these boxes are shown in Appendix 4. This product is hung externally.
 - **3 no. general purpose bat boxes (Schwegler 2F⁹ or similar).** To be installed between 3 and 6 m above ground level, and ideally on the south-facing aspect of the trunk. Proposed locations for these boxes are shown in Appendix 4. This product is hung externally.

² Schwegler Brick Nest Box: <https://www.nhbs.com/schwegler-brick-nest-boxes>

³ Schwegler 2F bird box: <https://www.nhbs.com/2f-schwegler-bat-box-general-purpose>

⁴ Schwegler No. 16 bird box: <https://www.nhbs.com/no-16-schwegler-swift-box>

⁵ Woodstone Swift Box: <https://www.nhbs.com/woodstone-swift-nest-box>

⁶ Schwegler 1FR Bat Tube: <https://www.nhbs.com/1fr-schwegler-bat-tube>

⁷ Schwegler 1FF bat maternity box: <https://www.nhbs.com/1ff-schwegler-bat-box-with-built-in-wooden-rear-panel>

⁸ Schwegler 2F bird box: <https://www.nhbs.com/2f-schwegler-bat-box-general-purpose>

⁹ Schwegler 2F general purpose bat box: <https://www.nhbs.com/1ff-schwegler-bat-box-with-built-in-wooden-rear-panel>

- 10.6 Appropriate health and safety considerations should be employed when installing or hanging boxes, to ensure the safety of staff and other persons at the Site. In particular, suitable precautions should be made to ensure that the boxes cannot fall during or after installation. Additional fixings to those supplied by the manufacturer may be necessary to ensure this.

Hedgehog access points

- 10.7 A total of 10 hedgehog access points are to be provided within the perimeter fencing of the proposed development to allow access to hedgehogs to the development following completion of the development. These should comprise square or circular holes approximately 15 cm in height and width and placed periodically along the development boundary. Proposed locations for hedgehog holes are shown in Appendix 4. The hedgehog access points can be installed at any stage of the construction process.

Roles and responsibilities

- 10.8 The Project Manager will be responsible for instructing purchase and installation of bird and bat boxes. Tree locations should be verified by an ecologist, with a record of the advice (email) provided.

Outcome/signoff

- 10.9 A suitably experienced ecologist is to visit the Site after the bird and bat boxes have been installed, and the hedgehog access points incorporated, in order to confirm that their locations are suitable. Following this, an inspection record (email) will be provided to the Construction Manager.

11 Method statement 9: New habitat planting

Purpose

- 11.1 To ensure that new habitat planting at the Site is carried out in accordance with the Landscape and Ecology Management Plan.

Timing and Methods

- 11.2 Areas of new planting should be installed in line with the separate *Landscape and Ecology Management Plan* (LEMP) for the project. The areas of grassland that are to be retained in the development (bounded by an orange dotted line in the Figure in Appendix 2) should not be subject to any planting or ground disturbance.

Roles and responsibilities

- 11.3 It is the responsibility of the Construction Manager to instruct the landscaping work in line with LEMP.

Sign off

- 11.4 The Construction Manager should verify that the planting has been completed in accordance with the LEMP.

12 Appendices

Appendix 1: Summaries of Relevant Policy, Legislation and Other Instruments

Appendix 2: Winter vegetation clearance method statement (BSG Ecology, 2021)

Appendix 3: Proposed habitats plan

Appendix 4: Indicative locations for wildlife features

Appendix 1: Summaries of Relevant Policy, Legislation and Other Instruments

This section briefly summarises the legislation, policy and related issues that are relevant to the main text of the report. The following text does not constitute legal or planning advice.

Birds

- 12.1 All nesting birds are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) which makes it an offence to intentionally kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs. In addition to this, for some rarer species (listed on Schedule 1 of the Act), it is an offence to disturb them whilst they are nest building or at or near a nest with eggs or young, or to disturb the dependent young of such a bird.
- 12.2 The Conservation of Habitats and Species Regulations 2017 (as amended) places duties on competent authorities (including Local Authorities and National Park Authorities) in relation to wild bird habitat. These provisions relate back to Articles 1, 2 and 3 of the EC Directive on the conservation of wild birds (2009/147/EC, 'Birds Directive'¹⁰) (Regulation 10 (3)) requires that the objective is the 'preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom, including by means of the upkeep, management and creation of such habitat, as appropriate, having regard to the requirements of Article 2 of the new Wild Birds Directive...' Regulation 10 (7) states: 'In considering which measures may be appropriate for the purpose of security or contributing to the objective in [Regulation 10 (3)] Paragraph 3, appropriate account must be taken of economic and recreational requirements'.
- 12.3 In relation to the duties placed on competent authorities under the 2017 Regulations, Regulation 10 (8) states: 'So far as lies within their powers, a competent authority in exercising any function [including in relation to town and country planning] in or in relation to the United Kingdom must use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds (except habitats beyond the outer limits of the area to which the new Wild Birds Directive applies).'

Badger

- 12.4 Badger is protected under the Protection of Badgers Act 1992. It is not permitted to wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so; or 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. A badger sett is defined in the legislation as "a structure or place, which displays signs indicating current use by a badger".
- 12.5 ODPM Circular 06/2005¹¹ provides further guidance on statutory obligations towards badger within the planning system. Of particular note is paragraph 124, which states that "The likelihood of disturbing a badger sett, or adversely affecting badgers' foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions."
- 12.6 Natural England provides Standing Advice¹², which is capable of being a material consideration in planning decisions. Natural England recommends mitigation to avoid impacts on badger setts, which includes maintaining or creating new foraging areas and maintaining or creating access (commuting routes) between setts and foraging/watering areas.

¹⁰ 2009/147/EC Birds Directive (30 November 2009. European Parliament and the Council of the European Union.

¹¹ ODPM Circular 06/2005. *Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impacts within the Planning System* (2005). HMSO Norwich.

¹² <http://www.naturalengland.org.uk/ourwork/planningdevelopment/spatialplanning/standingadvice/specieslinks.aspx>

Wild mammals in general

- 12.7 The Wild Mammals (Protection) Act 1996 (as amended) makes provision for the protection of wild mammals from certain cruel acts, making it an offence for any person to intentionally cause suffering to any wild mammal. In the context of development sites, for example, this may apply to rabbits in their burrows.

European protected species – Applies to great crested newt

- 12.8 The Conservation of Habitats and Species Regulations 2017 (as amended) consolidates various amendments that have been made to the original (1994) Regulations which transposed the EC Habitats Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (Council Directive 92/43/EEC) into national law.
- 12.9 “European protected species” (EPS) of animal are those which are shown on Schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended). They are subject to the provisions of Regulation 43 of those Regulations. All EPS are also protected under the Wildlife and Countryside Act 1981 (as amended). Taken together, these pieces of legislation make it an offence to:
- a. Intentionally or deliberately capture, injure or kill any wild animal included amongst these species
 - b. Possess or control any live or dead specimens or any part of, or anything derived from a these species
 - c. deliberately disturb wild animals of any such species
 - d. deliberately take or destroy the eggs of such an animal, or
 - e. intentionally, deliberately or recklessly damage or destroy a breeding site or resting place of such an animal, or obstruct access to such a place
- 12.10 For the purposes of paragraph (c), disturbance of animals includes in particular any disturbance which is likely—
- a. to impair their ability—
 - i. to survive, to breed or reproduce, or to rear or nurture their young, or
 - ii. in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
 - b. to affect significantly the local distribution or abundance of the species to which they belong.
- 12.11 Although the law provides strict protection to these species, it also allows this protection to be set aside (derogated) through the issuing of licences. The licences in England are currently determined by Natural England (NE) for development works and by Natural Resources Wales in Wales. In accordance with the requirements of the Regulations (2017, as amended), a licence can only be issued where the following requirements are satisfied:
- a. The proposal is necessary ‘to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment’
 - b. ‘There is no satisfactory alternative’
 - c. The proposals ‘will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Definition of breeding sites and resting places

- 12.12 Guidance for all European Protected Species of animal, including bats and great crested newt, regarding the definition of breeding and of breeding and resting places is provided by The European Council (EC) which has prepared specific guidance in respect of the interpretation of various Articles of the EC Habitats Directive.¹³ Section II.3.4.b) provides definitions and examples of both breeding and resting places at paragraphs 57 and 59 respectively. This guidance states that 'The provision in Article 12(1)(d) [of the EC Habitats Directive] should therefore be understood as aiming to safeguard the ecological functionality of breeding sites and resting places.' Further the guidance states: 'It thus follows from Article 12(1)(d) that such breeding sites and resting places also need to be protected when they are not being used, but where there is a reasonably high probability that the species concerned will return to these sites and places. If for example a certain cave is used every year by a number of bats for hibernation (because the species has the habit of returning to the same winter roost every year), the functionality of this cave as a hibernating site should be protected in summer as well so that the bats can re-use it in winter. On the other hand, if a certain cave is used only occasionally for breeding or resting purposes, it is very likely that the site does not qualify as a breeding site or resting place.'

¹³ Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC. (February 2007), EC.

Appendix 2: Winter vegetation clearance method statement

Our ref: P20-501 Owen Mumford

12 February 2021

Jake Webb
Ridge LLP
(By email only)

Dear Jake

Re: Method statements for protected species

Background

The 'Site' is approximately 4.4 ha in extent and is located at the end of De Havilland Way within the Windrush Industrial Park to the west of Witney. The Site is predominantly grassland with areas of tall ruderal vegetation, scrub, and hardstanding (an asphalt road running through the Site). Surrounding the Site are warehouses within the industrial estate to the west and south, a grass sports field to the north and an area of semi-mature woodland (Deer Park Wood) and residential areas to the east.

Owen Mumford Ltd is proposing to develop a pharmaceutical factory at the Site. The current planning application is for this factory, along with associated road infrastructure, car parking and areas of landscaping. This planning application (Ref: 20/02391/FUL) was submitted to West Oxfordshire District Council (WODC) in August 2020 and validated on 16 September 2020. An Ecological Appraisal submitted on 17 August 2020 by BSG Ecology supported this application. This Ecological Appraisal has been re-issued three times (initially in October 2020 to incorporate the results of further surveys for bats and reptiles), and then subsequently on 27 November 2020 and 21 January 2021 to satisfy the comments of the WODC Assistant Biodiversity Officer Esther Frizell-Armitage¹ (WODC, 2020), and to add the latest results of the Biodiversity Net Gain calculation, informed by the most recent landscape layout for the Site².

The Ecological Appraisal report recommended that vegetation clearance of suitable scrub at the Site should occur following a precautionary method statement for dormouse (due to the low risk of this species being present), and that vegetation with potential to support nesting birds should be removed outside of the nesting bird season (March to August inclusive). It also recommended that a pre-construction survey of badger should take place, to ensure that no new badger setts have been created at the Site since the original survey took place.

In order to meet the seasonal constraints for the clearance of vegetation suitable for nesting birds as set out in the Ecological Appraisal, Owen Mumford Ltd. is planning to undertake vegetation clearance at the Site in February 2021. This letter sets out a series of precautionary measures for dormouse and nesting birds to ensure this can occur whilst remaining in line with UK legislation relating to wildlife. In addition, this letter includes a short section on the details of the pre-construction survey for badger.

¹ WODC, 2020. Ecology Response (email).

² BSG Ecology, 2021. Ecological Appraisal.

Method Statement 1: Hazel Dormouse

This method statement sets out the precautionary measures which will be in place to protect hazel dormouse *Muscardinus avellanarius*³ if they happen to be present at the Site during the clearance of suitable habitat in winter 2021. Suitable habitat at the Site consists of patches of dense continuous native scrub.

The Site contains scattered scrub within tussocky grassland, as well as semi-mature street trees with no understorey except for low-growing evergreen introduced shrubs (e.g. Cotoneaster and Buddleia). These areas are unsuitable for dormouse hibernation, and can be cleared to ground level over the winter period, using heavy machinery.

Of the dense scrub at the Site, two areas will be removed over the winter 2021 period. These are marked on the annotated arboricultural plan in Appendix 1. These areas of scrub are dominated by bramble, but the larger southern patch of scrub also includes some mature blackthorn. In these areas, the following measures will be taken to avoid the risk of impacts to dormouse:

- a) Areas of dense scrub will be subject to an initial check for dormouse hibernation nests by an Ecological Clerk of Works (ECoW) prior to any works being undertaken. On the first day of works, a licenced dormouse ecologist will be present to oversee the start of the clearance process and aid with the initial check of the habitats. On subsequent days, the ECoW will be suitably experienced or trained in searching for dormouse nests and feeding signs.
- b) Prior to any works starting on site, the ECoW will provide a short 'Toolbox Talk' to the vegetation clearance contractors, to summarise the legal protection afforded to dormouse, provide a short introduction to the ecology of the species, and explain the working methods to be followed during the scrub clearance process.
- c) In the areas of scrub shown in Appendix 1, plus a buffer of approximately 3 m (also indicated in Appendix 1), no heavy machinery (e.g. flails or mulchers) will be used. Instead, hand tools such as brushcutters and chainsaws will be required.
- d) Dense scrub habitat will be cut to approximately 150-300 mm in height to avoid any impacts to the ground layer. Scrub will be cut in strips, with the ECoW supervising and carrying out intermediate checks of the ground layer for dormouse nests prior to cutting.
- e) A cut to ground level of dense scrub can be completed in May once dormice are active. In the unlikely event that dormouse are present in low numbers, individuals will be able to disperse into surrounding suitable habitat (Deer Park Wood to the east of the Site).

Implementing the above would result in a negligible risk of committing an offence under the Habitat Regulations by killing/injury of dormice and therefore negate the requirement for an EPS derogation licence. If any signs of dormouse in the affected area are found, then works will stop immediately. Works will not continue until Natural England have been consulted or an appropriate licence obtained.

Method Statement 2: Nesting birds

To avoid impacts to nesting birds⁴ during the clearance of scrub, trees and introduced shrub at the Site, the following shall apply:

- a) All areas of suitable nesting bird habitat (i.e. dense or scattered scrub, trees or introduced shrub) will be removed outside of the nesting bird season (March to August inclusive). At this Site, the majority of this will be cleared before the end of February 2021.

³ Dormouse receives protection under the Conservation of Habitats and Species Regulations 2017 (as amended) and under the Wildlife & Countryside Act 1981 (as amended)

⁴ The nests of all wild bird species in the UK are protected from intentional damage or destruction whilst they are in use.

- b) If any areas cannot be cleared before March or after August, these areas will need to be subject to a pre-clearance check for nests by a suitably experienced ecologist. This will involve an ecologist arriving on Site early in the morning to watch for signs of nesting birds (e.g. adults bringing food or nesting material to nests or male birds singing to defend a territory).
- c) If an active nest is located, the tree or shrub in which it is located will be clearly marked up by the ecologist with coloured tape or similar, and a buffer of two metres of unimpacted habitat will be retained around the nest, to prevent any possibility of damage.
- d) Any active nests will need to remain in place until they have run their natural course (i.e. the chicks have fledged, or the nest has failed due to natural causes).
- e) Pre-clearance checks of vegetation are only possible in small areas of scrub which are not too dense. This is because it is often not possible to check these habitats thoroughly prior to clearance, and therefore the clearance process has the potential to destroy or damage the nest of a wild bird.

Method Statement 3: Badger

To confirm that badger setts are still absent from the site at the time of site clearance, the Site will be subject to a pre-construction check for badger *Meles meles*⁵. This will involve the following:

- a) An ecologist with experience in badger survey will search the Site, and, where possible, all habitats within 30 metres of the Site boundary for any badger setts which may have been created since the Phase 1 habitat survey of the Site in 2020.
- b) All habitat at the Site apart from hardstanding is considered suitable for sett building, so the ecologist will walk in a zig-zag route across the Site to check for any badger holes.
- c) If any badger setts are found, these will need to be clearly marked by the ecologist, and it may be necessary to apply for a badger class licence from Natural England, if the sett is to be destroyed or disturbed.
- d) During the construction phase, any open excavations will need to be left covered to avoid the possibility of badgers or other small mammals becoming trapped.

Method Statement 4: Hedgehog

To avoid any potential for impacts on hedgehog *Erinaceus europaeus* during the site clearance and construction phases of the development, the following measures will be taken:

- a) During the supervision of dense scrub removal for dormouse in winter 2021, the ECoW will also check for any habitat piles which hold any suitability for hibernating hedgehog. These piles will be left untouched until April 2021 when hedgehogs have emerged from hibernation.
- b) During the construction phase, any open excavations will need to be left covered to avoid the possibility of hedgehogs or other small mammals becoming trapped.

Method Statement 4: Protection of retained habitats

There are several areas of habitat within the Site which will be retained for the purposes of the Biodiversity Net Gain calculation for the Site (BSG Ecology, 2021). These are marked approximately on the plan in Appendix 1. The retained areas of habitat are primarily areas of grassland or tall ruderal vegetation. Small areas of dense scrub are also proposed to be retained and unimpacted. To protect these habitats during the vegetation clearance process in winter 2021, the following shall apply:

- a) The corners of these areas will be marked out indicatively with canes by the ECoW prior to the first morning of scrub clearance.

⁵ Badgers and their setts are protected in full under the Protection of Badgers Act 1992.

- b) In these areas, no heavy machinery should be used, and scattered scrub and grassland can be cut to ground level, but not rooted using brushcutters or light mowers. It is deemed appropriate that scattered scrub can be cut in these areas, since this will not influence the overall condition of the grassland or tall ruderal areas, but any dense scrub will need to remain untouched.
- c) Prior to the main construction phase of the development, these areas of retained habitat will need to be marked out accurately by a professional surveyor, and protected by fencing to avoid any potential for damage to these areas.

If the above mitigation is put in place, impacts on all protected species are considered unlikely from the vegetation clearance and construction phases of the development.

Other protected species

Great crested newt is considered likely absent from the Site, and therefore no precautionary measures for this species were recommended in the Ecological Appraisal report, or in this document.

And all species of reptile are considered likely absent from the Site. Reptiles were found to be absent from the Site during surveys in 2020. Therefore no precautionary measures for these species were recommended in the Ecological Appraisal report.

Yours Sincerely,



Joe Bishop

Ecologist

For and on behalf of BSG Ecology

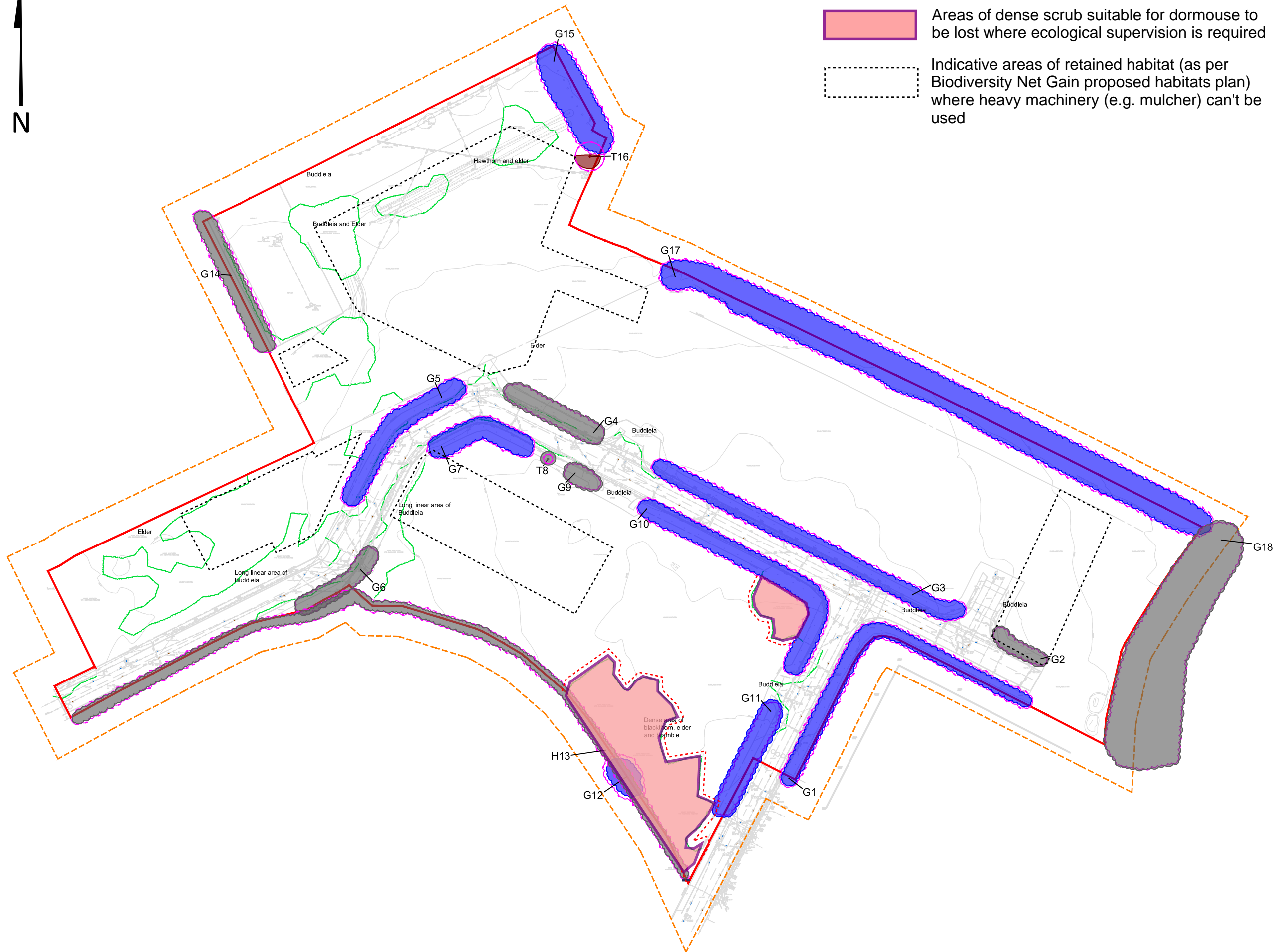
Appendix 1 – Annotated Arboricultural Plans showing Vegetation Clearance areas




- Approx. 3m buffer zone with no mulching
- Areas of dense scrub suitable for dormouse to be lost where ecological supervision is required
- Indicative areas of retained habitat (as per Biodiversity Net Gain proposed habitats plan) where heavy machinery (e.g. mulcher) can't be used

Legend:

- Site Boundary
- Survey Extents
- Category A Trees (Stem and Canopy Spread)
- Category B Trees (Stem and Canopy Spread)
- Category C Trees (Stem and Canopy Spread)
- Category U Trees (Stem and Canopy Spread)
- Root Protection Area



Notes:
- The position of G12, H13 and G18 remain indicative.



LOCKHART
GARRATT

TITLE: Tree Constraints Plan	
LAYOUT: Overview	
PROJECT/SITE: Land at Windrush Industrial Park, Witney	
CLIENT: Owen Mumford Ltd	
MAP REF: 4599/01/19-2479	
REVISION: v1	
DATE: 16/03/20	SCALE: 1:1250@A3
APPROVED BY: NB	PRODUCED BY: SW

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Appendix 3: Proposed habitats plan



- LEGEND
- Site boundary
 - Native hedgerow (moderate condition)
 - Amenity grassland (poor condition)
 - Sealed surface (condition N/A)
 - Sealed surface (condition N/A)
 - Introduced shrub (condition N/A)
 - Sustainable urban drainage (moderate condition)
 - Other neutral grassland (moderate condition)
 - Retained habitat
 - Mixed scrub (moderate condition)
 - Ruderal/ephemeral (moderate condition)
 - Modified grassland (moderate condition)

BSG | ecology

OFFICE: Oxford
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JOB REF: P20-501

PROJECT TITLE
OWEN MUMFORD, WITNEY

DRAWING TITLE
Figure 6: Proposed habitats plan (UK Habitat Classification) for Biodiversity Net Gain calculation

DATE: 14/01/2021 CHECKED: JoB SCALE: 1:1,350
DRAWN: KW APPROVED: TF VERSION: 1.0

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No dimensions are to be scaled from this drawing.
All dimensions are to be checked on site.
Area measurements for indicative purposes only.

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Sources: BSG Ecology survey data

C:\Users\Ksaly\Documents\BSGP20_501_Owen Mumford Witney\1.0\10_P20_501_Owen Mumford Witney\Figure 6 Net gain post.mxd

Appendix 4: Indicative locations for wildlife features

✕ 5 no. Swift box (e.g. Schwegler No. 16 or similar) on building

✕ 5 no. general purpose bird boxes (e.g. Schwegler Brick Box Type 26 on buildings and Schwegler 1B or similar on trees)

✕ 2 no. Bat tube (e.g. Schwegler 1FR or similar) on building

✕ 3 no. General purpose bat box on trees (e.g. Schwegler 2F or similar)

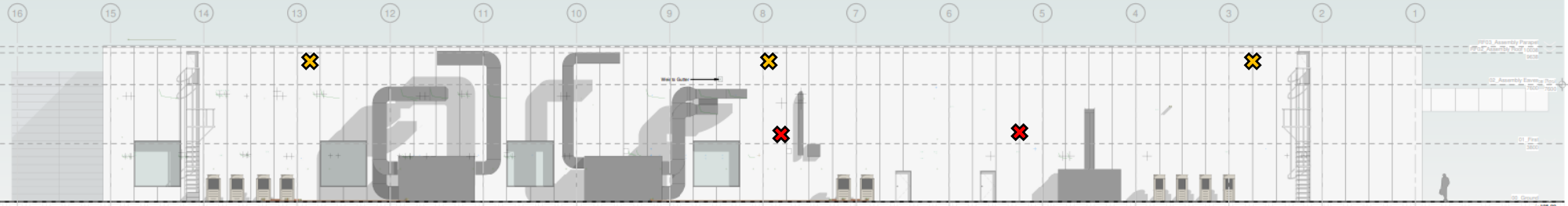
▲ Hedgehog gate



✕ Swift box (e.g. Schwegler No. 16 or similar)

✕ General purpose bird boxes (e.g. Schwegler Brick Box Type 26 on building)

✕ Bat tube (e.g. Schwegler 1FR or similar) on building



North Elevation
1 : 100

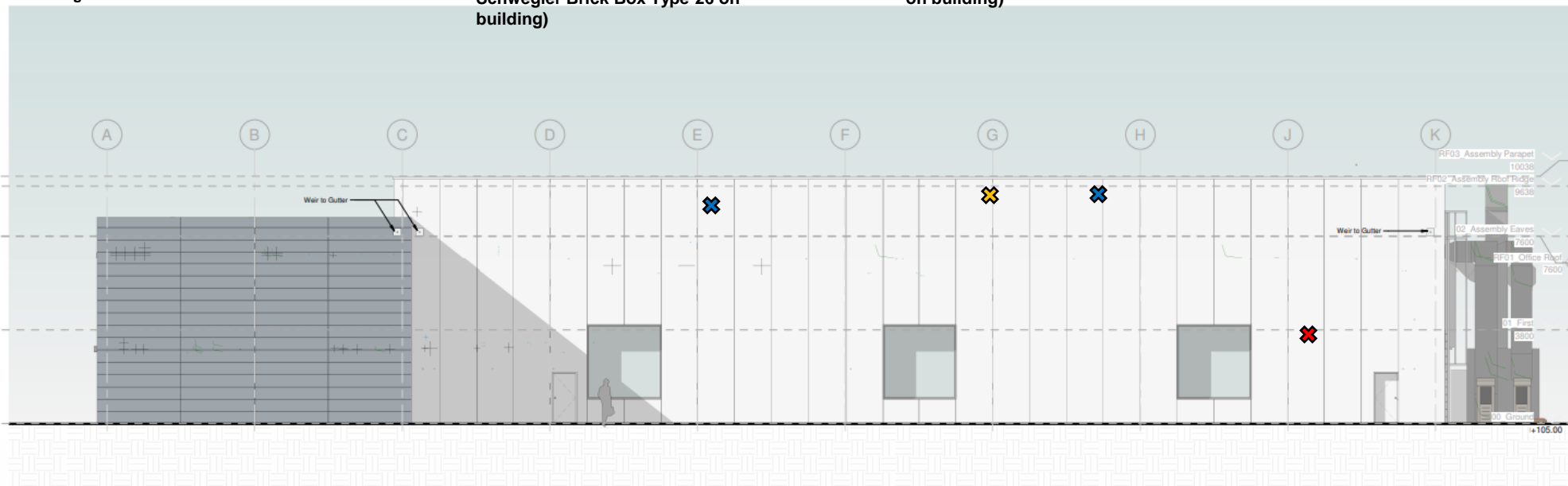


South Elevation
1 : 100

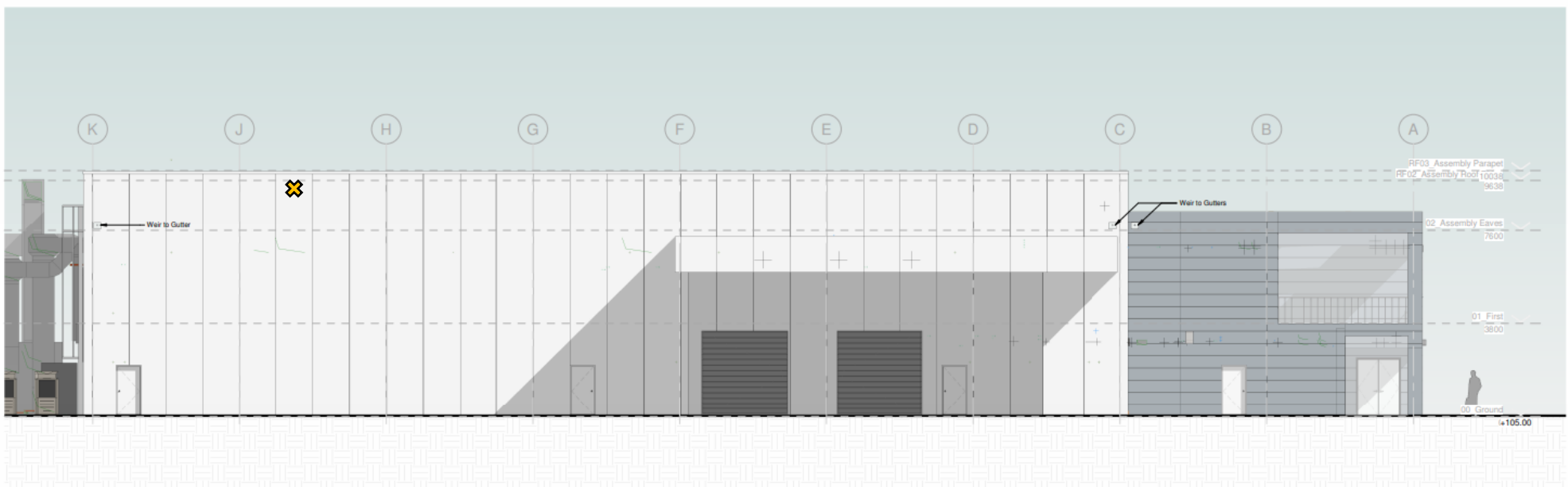
✕ Swift box (e.g. Schwegler No. 16 or similar) on building

✕ General purpose bird boxes (e.g. Schwegler Brick Box Type 26 on building)

✕ Bat tube (e.g. Schwegler 1FR or similar on building)



East Elevation
1 : 100



West Elevation