Land at Handy Cross, High Wycombe Ecological Appraisal

Prepared for Capital Constructions

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TURNSTONE ECOLOGY LIMITED

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SURVEY AND REPORT VALIDITY

It is important that planning decisions are based on up-to-date ecological reports and survey data. However, it is difficult to set a specific timeframe over which reports or survey data should be considered valid, as this will vary in different circumstances. In some cases there will be specific guidance on this (such as for the age of data which may be used to support an EPS licence application) but in circumstances where such advice does not already exist, the Chartered Institute of Ecology and Environmental Management (CIEEM) has provided the general advice set out below.

Age of Data / Survey / Report	*Validity*
Less than 12 months	Likely to be valid in most cases.
12-18 months	Likely to be valid in most cases with the following exceptions: • Where a site may offer existing or new features which could be utilised by a mobile species within a short timeframe; • Where a mobile species is present on site or in the wider area, and can create new features of relevance to the assessment; • Where country-specific or species-specific guidance dictates otherwise.
18 months to 3 years	A professional ecologist will need to undertake a site visit and then review the validity of the report. Some or all of the other ecological surveys updated.
Protected Species Licensing	Licence applications usually only possible using data less than 2 years old

The likelihood of surveys needing to be updated increases with time and is greater for mobile species or in circumstances where the habitat or its management has changed significantly since the surveys were undertaken. Factors to be considered include (but are not limited to):

- Whether the site supports, or may support, a mobile species which could have moved on to site, or changed its distribution within a site;
- Whether there have been significant changes to the habitats present (and/or the ecological conditions/functions/ecosystem functioning upon which they are dependent) since the surveys were undertaken, including through changes to site management;
- Whether the local distribution of a species in the wider area around a site has changed (or knowledge of it increased), increasing the likelihood of its presence.

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1 INTRODUCTION

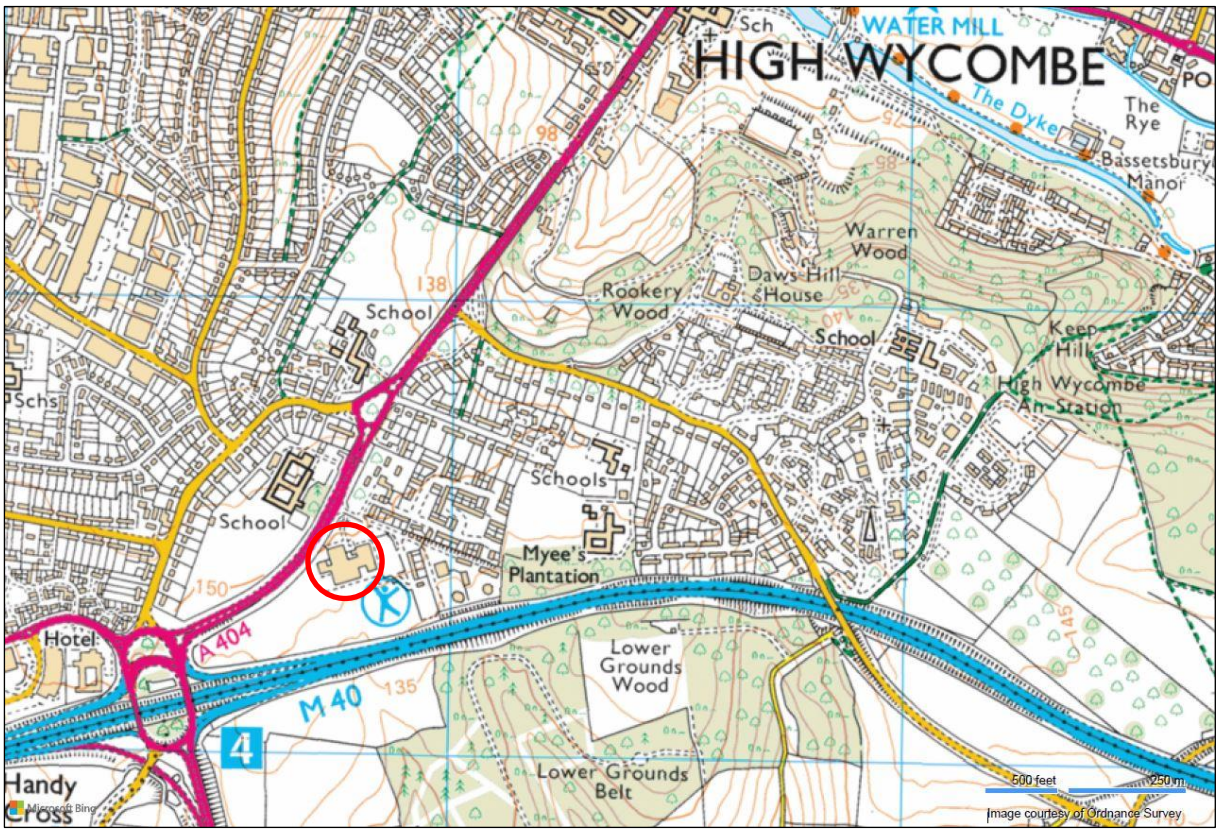
1.1 Purpose of Report

This Ecological Appraisal has been completed in connection with the redevelopment of land at Handy Cross, High Wycombe, HP11 1UP (OS Grid Reference SU 8577 9143). The location of the proposed development site is shown in *Figures 1 and 2* below and the proposed development plans are fully detailed in *Section 4*.

A site survey was carried out on 17th May 2021 by Turnstone Ecology Ltd and consisted of a Phase 1 Habitat Survey and protected species habitat suitability assessment.

This report details survey and assessment methodology and the results of a desk-based study and on-site surveys. It also provides an assessment of potential ecological impacts and appropriate mitigation to offset any ecological impacts associated with the proposal and to satisfy national and local planning policies.

Figure 1. Location of proposed development (red circle)



1.2 Ecological Context

The proposed development site consists of tarmac and concrete roads and vehicular (van) parking areas. Habitats on site also include an amenity grassland area, a hardstanding tiled area, buildings (mobile office units), embankments of bare earth and hardcore, areas of ruderal vegetation and immature scattered trees and shrubs. The site is completely enclosed with closeboard fencing.

The site is split into two sections, north and south, which are accessed from a main gateway from the road to the east and a pedestrian gate to the south, respectively. There are roads all around the site, edged by pavement to the south and vegetated verge to the north.

The wider area is dominated by High Wycombe to the north and arable fields with stands of woodland south of the M40. The M40 itself is located approximately 140m south of the site.

Figure 2. Overview of the proposed development site

2 METHODS

2.1 Desk-based Study

Information relating to designated sites, sites where European Protected Species (EPS) Licences have been granted between 2009 and 2019 and historic records of protected species within 2 km of the proposed development site were updated for this report and obtained from Magic (www.magic.gov.uk) and other freely available information on the internet, such as planning portals.

A data request through the local biological records centre was not undertaken as the site is small, the habitats that will be impacted are limited and it is very unlikely that the records obtained would impact the site assessment and mitigation proposed.

Any species-specific historic records are detailed within the relevant species accounts in the *Results* section.

2.2 Phase 1 Habitat Survey

The survey methods were based on the Phase 1 Habitat Survey approach (Joint Nature Conservation Committee 2003), which is a standardised method to survey main habitat types. Plant nomenclature in this report follows Rose (*Revised Edition 2006*) for native, naturalised and garden varieties of vascular plant. Introduced species and garden varieties are not always identified.

2.3 Protected Fauna Survey and Assessment

The habitats on site were assessed for suitability for protected fauna that occur in the region and obvious signs and incidental sightings of protected species were noted where present. Taking into consideration the geographical region and habitat types on and adjacent to site, the protected species and species groups that could be encountered are listed below.

- Badger
- Bat species
- Nesting birds
- Great Crested Newts
- Reptile species

Details of initial survey methods for each relevant species are given below.

2.3.1 Badger

Where access allowed a comprehensive assessment was carried out to identify areas that are used by Badgers (*Meles meles*) for foraging and sett digging. Signs of Badgers including setts, foraging signs, paths and latrines, were recorded where present.

2.3.2 Bats

Habitats within and immediately adjacent to site were assessed for their suitability for use by foraging or commuting bats. Areas of particular interest vary between species, but generally include sheltered areas and those habitats with good numbers of insects, such as woodland, scrub, hedges, watercourses, ponds, lakes and more species-rich or rough grassland.

A detailed inspection was made of the buildings to be affected by the proposals for any evidence of bat use, such as live or dead bats, droppings, scratch marks, staining and prey remains, and in some cases the absence of cobwebs. Large quantities of cobwebs at access points tend to be suggestive of no bat use, although this evidence is not conclusive.

Buildings are categorised according to their suitability for roosting bats as follows (taken from Bat Survey Guidelines, 3rd Edition) [1]:

Negligible – Habitat features on site with very low suitability to be used by roosting bats.

Low – A structure with one or more potential roost sites that could be used by individual bats opportunistically. However, these potential roost sites do not provide enough space, shelter, protection, appropriate conditions and/or suitable surrounding habitat to be used on a regular basis or by larger numbers of bats (*i.e.* unlikely to be suitable for maternity or hibernation).

Moderate – A structure or tree with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat but unlikely to support a roost of high conservation status (with respect to roost type only).

High – A structure or tree with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat. They could be suitable for maternity roosts or hibernation sites.

Confirmed – Roosting bats confirmed as being present, either by the discovery of live or dead bats, droppings, prey remains, scratching or fur-staining.

2.3.3 Nesting birds

Habitat that might be used by nesting birds was identified and actively nesting birds or evidence of nesting birds noted where present.

[1] Bat Conservation Trust (2016). *Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edition)*. Bat Conservation Trust, London.

Different bird species use buildings, trees and shrubs, undergrowth or even open fields for nesting and suitability of the site for use by a range of nesting bird species was considered.

2.3.4 Great Crested Newt

The suitability of any aquatic and terrestrial habitat on the site, and in the immediate vicinity, was assessed for suitability for use by Great Crested Newts (*Triturus cristatus*). Great Crested Newts are known to travel up to 500m between breeding ponds and suitable terrestrial habitat, however, are only likely to travel up to 250m away from a breeding pond if there is suitable terrestrial habitat within that distance. Therefore, a desk-based search was undertaken for any ponds up to 250m from the site using OS maps and aerial imagery. The terrestrial habitat between the site and these ponds, and therefore connectivity to the site, was also considered.

2.3.5 Reptiles

The site was assessed for suitability for use by widespread species of reptiles, with particular attention paid to those features that could be used as basking areas (*e.g.* south-facing slopes), hibernation sites (*e.g.* banks, walls, piles of hardcore) and opportunities for foraging (*e.g.* rough grassland and scrub). The site was assessed for its suitability for the commoner reptile species which have broadly similar habitat requirements, but more specific requirements include those shown below (Beebee & Griffiths 2000).

- Common Lizards (*Zootoca vivipara*) use a variety of habitats from woodland glades to walls and pastures, although one habitat they use is brownfield sites;
- Slow-worms (*Anguis fragilis*) use similar habitats to Common Lizards, and are often found in rank grassland, gardens and derelict land;
- Grass Snakes (*Natrix natrix*) have broadly similar requirements to Common Lizards but with a greater reliance on ponds and wetlands, where they prey on amphibians;
- Adder (*Vipera berus*) use a range of fairly open habitats with some cover but are most often found in dry heath.

2.4 Constraints

There were no constraints to the survey.

2.5 Criteria for Assessment

The scientific value of habitats for nature conservation is assessed according to widely accepted criteria of which the most important are naturalness, extent, rarity, and diversity.

The assessment of impacts is based on the principles within Chartered Institute of Ecology and Environmental Management (CIEEM) Environmental Impact Assessment (EIA) Guidance (2018)

which assesses the impacts of the proposal on ecological receptors taking into consideration extent, duration, reversibility, timing, frequency and certainty.

Mitigation and enhancement are designed to reduce the level of impact upon receptors and provide ecological enhancement in order to meet current legislation and planning policy. The information below has therefore been considered during assessment.

- Criteria that have been developed to assist in the identification of statutory Sites of Special Scientific Interest (SSSIs) (JNCC 2013)
- Habitats and species of Principal Importance included under Section 41 (England) and Section 42 (Wales) of the Natural Environment and Rural Communities (NERC) Act 2006
- The legal status of habitats and species according to The Conservation of Habitats and Species Regulations 2017 (as amended)
- CIEEM Guidelines (2018) for assessing the value of ecological receptors within a defined geographical context using the following categories: international (*i.e.* Europe); UK and national (England); regional; county; Unitary Authority; local or parish; and zone of influence. Receptors are identified as 'important' at these levels, or as 'not important'
- Species protected by European directives
- Species protected by the *Wildlife and Countryside Act 1981* (as amended)
- Other species listed as scarce or notable in literature issued by conservation organisations or learned societies *e.g.* vascular plant species listed in Stewart *et al.* (1994) and Red and Amber List Birds of Conservation Concern (Eaton et al. 2015)
- Local Wildlife Site selection criteria
- National Policy Planning Framework (NPPF), 2019
- BS42020:2013 – Biodiversity Code of practice for planning and development
- Protected species handbooks and best practice guidelines
- The Buckinghamshire Biodiversity Action Plan (BAP) includes 14 priority habitats: Lowland Wood Pastures and Parkland; Traditional Orchards; Hedgerows; Ponds; Lowland Heathland; Lowland Dry Acid Grassland; Lowland Meadows; Lowland Calcareous Grassland; Purple Moorgrass & Rush Pastures; Lowland Fens; Reedbed; Coastal & Floodplain Grazing Marsh; Native Woodland; Water Framework Directive Watercourses.

3 RESULTS

3.1 Desk Study

3.1.1 Statutory Designated Sites

There are two statutory designated sites within 2 km of the development:

- The Chilterns Area of Outstanding Natural Beauty (AONB) is approximately 180m south of the proposed development site at its closest point. It is designated for its characteristic landscape, with rounded chalk hills and an important diversity of habitats, including Beech and Bluebell woodlands.
- Chairborough Road Local Nature Reserve (LNR) is approximately 1.1 km north-west of the proposed development site at its closest point. It is designated for having a diverse mix of woodland, scrub and chalk grassland supporting a wide range of species in an urban area.

3.1.2 European Protected Species Licence Sites

The following Natural England EPS mitigation licence were granted for development sites within 2 km of the proposed development between 2009 and 2019:

- 2014-2289-EPS-MIT was granted in 2014 for a site approximately 950m north-east of the proposed development site for the damage and destruction of a resting place of Soprano Pipistrelle (*Pipistrellus pygmaeus*) bats.
- 2014-2289-EPS-MIT-1 and 2014-2289-EPS-MIT-2 were granted for the same purposes as above.
- 2015-10535-EPS-MIT was granted in 2015 for a site approximately 1.2 km east of the proposed development site for the destruction of a resting place of Common Pipistrelle (*Pipistrellus pipistrellus*) and Soprano Pipistrelle bats.

3.2 Ecological Surveys

Phase 1 habitat types that were recorded within and immediately adjacent to the proposed development sites are listed below and can be seen in *Figure 2*.

- Hardstanding and buildings
- Bare ground
- Ruderals
- Amenity Grassland
- Scattered trees and shrubs

The site or immediately adjacent areas contain habitat suitable for the protected species listed below.

- Badger
- Nesting birds

- Reptiles

3.3 Phase 1 Habitat Survey

The development site comprises hardstanding, temporary buildings, bare ground, ruderal vegetation, amenity grassland, and scattered young trees and shrubs.

3.3.1 Hardstanding and buildings

Hardstanding dominates the site and includes tarmac and concrete roads and parking areas, paved areas, embankments with broken concrete and hardcore and a tiled area (*Plates 1-6*). There are two buildings (mobile units) on the paved area that serve as offices (*Plate 3*).

Plate 1. Hardstanding road and parking area (looking north)

Plate 2. Concrete parking area (looking east)

Plate 3. Paved area with mobile units (looking north)

Plate 4. Van parking (looking south)

Plate 5. Loose hardcore embankments (looking south)

Plate 6. Tiled area and surrounding loose hardcore (looking east)

3.3.2 Bare ground

There is a small area of bare ground to the west of the site, in the northern section (*Plate 7*). There is a larger area of bare ground around the southern end of the site (*Plates 8 and 9*)

Plate 7. Bare earth to the west of the site (looking south)

Plate 8. Bare ground areas to the south of the site (looking west)

Plate 9. Bare ground areas to the south of the site (looking east)

3.3.3 Ruderals

There are scattered areas of ruderal vegetation across the site, growing along other cover types and at the edges. Ruderal species include: Mouse-ear (*Cerastium fontanum*), Clover (*Trifolium sp.*), Black Medic (*Medicago lupulina*), Creeping Cinquefoil (*Potentilla reptans*), Greater Plantain (*Plantago major*), Ribwort Plantain (*Plantago lanceolata*), Daisy (*Bellis perennis*), Common Vetch (*Vicia sativa*),

Speedwell (*Veronica sp.*), Buttercup (*Ranunculus sp.*), Poppy (*Papaveroideae sp.*), Dark Columbine (*Aquilegia atrata*), Forget-me-not (*Myosotis arvensis*), Cowslip (*Primula veris*), Yarrow (*Achillea millefolium*), Blue Fieldmadder (*Sherardia arvensis*), Herb Robert (*Geranium robertianum*), Cranesbill (*Geranium sp.*), Purple Toadflax (*Linaria purpurea*), Rosebay Willowherb (*Chamaenerion angustifolium*), Willowherb (*Epilobium sp.*), Cow Parsley (*Anthriscus sylvestris*), Hogweed (*Heracleum sphondylium*), Umbellifer (*Apiaceae sp.*), Ground Elder (*Aegopodium podagraria*), Dandelion (*Taraxacum agg.*), Cat's-ear (*Hypochaeris radicata*), Hawkbit (*Leontodon sp.*), Hawk's beard (*Crepis sp.*), Bristly Oxtongue (*Helminthotheca echioides*), Common Ragwort (*Jacobea vulgaris*), White Comfrey (*Symphytum officinale*), Ground Ivy (*Glechoma hederacea*), Common Nettle (*Urtica dioica*), Red Dead-nettle (*Lamium purpureum*), White Dead-nettle (*Lamium alba*), Thistle (*Cirsium sp.*), Sow Thistle (*Sonchus sp.*), Teasel (*Dipascus fullonum*), Acanthus (*Acanthus sp.*), Broad-leaved Dock (*Rumex obtusifolius*), Cleavers (*Gallium aparine*), Mugwort (*Artemisia vulgaris*), Garlic Mustard (*Alliaria petiolata*), Great Mullein (*Verbascum thapsus*), Bindweed (*Convolvulus sp.*), Clematis (*Clematis sp.*) and Spanish/Hybrid Bluebell (*Hyacinthoides hispanica/Hyacinthoides hispanica x non-scripta*).

Plate 10. Area of ruderal vegetation to the north of the site (looking north)

Plate 11. Area of ruderal vegetation in the centre of the site (looking north-east)

Plate 12. Area of ruderal vegetation at the south of the site (looking south)

3.3.4 Amenity Grassland

There is an area of amenity grassland that dominates the southern section of the site and a smaller area around the mobile units in the northern section. Grass species include Annual Meadow Grass (*Poa annua*), Perennial Rye-grass (*Lolium perenne*) and False Oat-grass (*Arrhenatherum elatius*) and ruderals detailed in *Section 3.3.3* were present. The grass in both sections is slightly outgrown and in the southern section the grassland is slightly rougher and there is debris in amongst it.

Plate 13. Amenity grassland in the southern section of the site (looking east)

Plate 14. Amenity grassland around the mobiles at the north of the site (looking west)

3.3.5 Scattered Trees and Shrubs

There are a number of scattered small trees and shrubs across the site, species include: Prunus (*Prunus sp.*), Field Maple (*Acer campestre*), Hazel (*Corylus avellana*), Willow (*Salix sp.*), Ash (*Fraxinus excelsior*), Hawthorn (*Cratageus monogyna*), Birch (*Betula sp.*), Alder (*Alnus glutinosa*), Buddleia (*Buddleja davidii*), Japanese Barberry (*Berberis thunbergii*), Bramble (*Rubus fruticosus*) and Dog-rose (*Rosa canina*).

There is also Small-leaved Cotoneaster (*Cotoneaster microphyllus*), an invasive Schedule 9 plant.

Plate 15. Example of small trees on site

Plate 16. Example of shrubs on site

Plate 17. Small-leaved Cotoneaster to the north of the mobile units

3.4 Protected Fauna

3.4.1 Badger

There is no current evidence of Badger on or adjacent to the site. There is very little suitable habitat for Badger on site, but the grassland areas have some potential for foraging and commuting. The site is surrounded by closeboard fencing and road within an urban location, decreasing the likelihood of them being present.

3.4.2 Bats

There are records of Common Pipistrelle, Soprano Pipistrelle and Daubenton's (*Myotis daubentonii*) within 2 km of the proposed development site.

There are no potential roosting features on site. Habitats on site are of low suitability for commuting and foraging bats with extensive street lighting around the site boundaries.

3.4.3 Birds

The scattered trees and shrubs have limited suitability for use by nesting birds and there was evidence of use during the surveys, including birds foraging on the ground and flying into shrubs. The grassland is unsuitable for ground nesting species due to its small size.

3.4.4 Great Crested Newt

There are no apparent Great Crested Newt records within 2 km of the proposed development site and no ponds were identified within 500m of the site using available mapping. The habitats on site have extremely limited suitability for commuting Great Crested Newts and the urban location of the site makes their presence very unlikely.

3.4.5 Reptiles

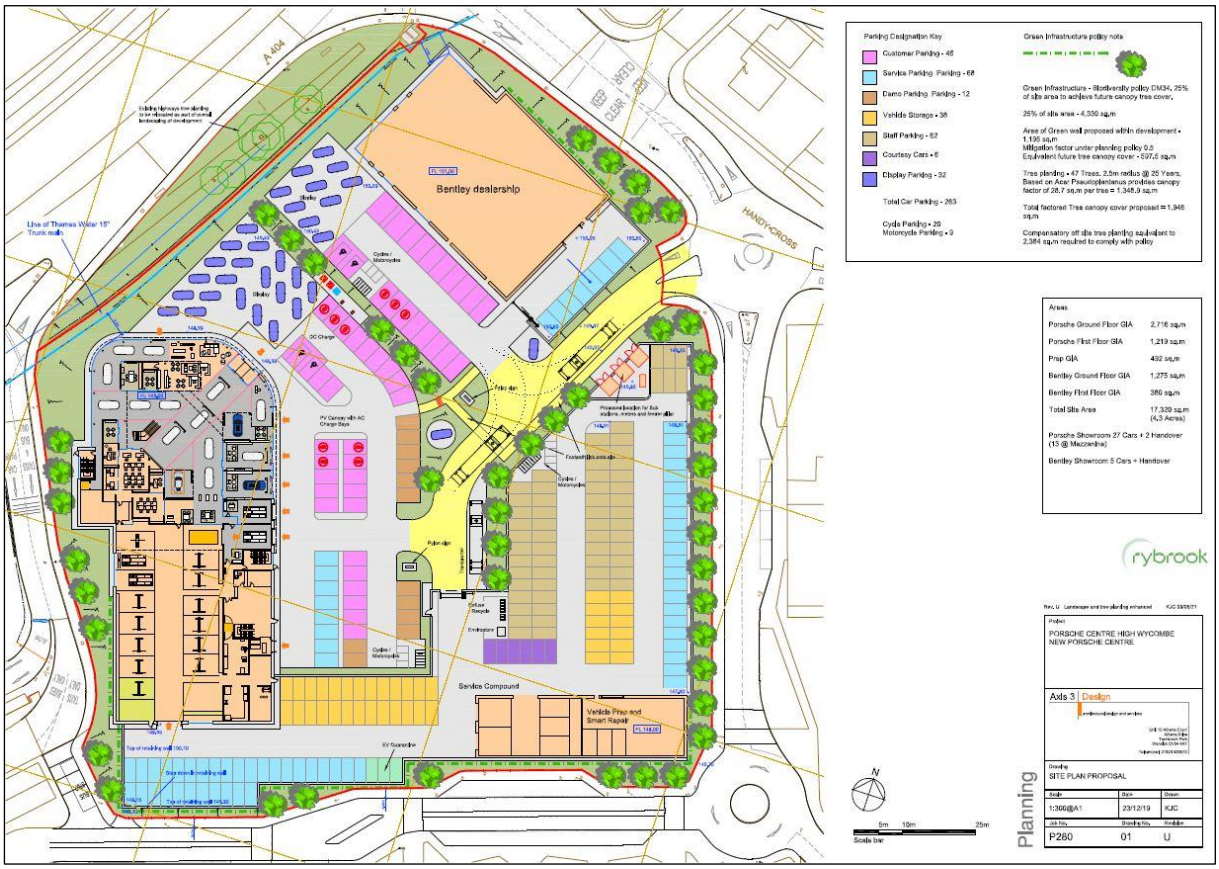
The habitats on site have limited suitability for commuting and foraging reptiles. Debris around the site provide appropriate cover and basking locations, however, these were checked during the survey and no evidence of reptiles was found.

4 EVALUATION

4.1 Summary of Proposals

The proposed works involve the construction of two car dealerships and a workshop, along with car parking spaces and associated landscaping across the site (*Figure 4*). This will impact areas of hardstanding, temporary buildings, bare ground, ruderal vegetation, amenity grassland and scattered young trees and shrubs.

Figure 4. The proposed development plan (see corresponding planning documents for full-sized map)



4.2 Designated Sites

4.2.1 Statutory Sites

The proposed development site is located within 2 km of two statutory designated sites: The Chilterns Area of Outstanding Natural Beauty Chairborough Road Local Nature Reserve. The distance and amount of urban area between the sites and the proposed development make it extremely unlikely that there will be significant negative impacts on the designated sites as a result of the proposed development.

4.3 Habitats

4.3.1 General

The proposed development will directly affect hardstanding, temporary buildings, bare ground, ruderal vegetation, amenity grassland and scattered young trees and shrubs. The extent and quality of the habitats on site renders them of limited ecological importance. In order to protect habitats of note and maintain and increase biodiversity of the site, the following mitigation measures and safe working methods will need to be incorporated into the proposals.

4.3.2 Mitigation and enhancement

Small-leaved Cotoneaster, a schedule 9 invasive plants species, is present on site. As a schedule 9 species it must be removed from site and destroyed with all care taken to prevent it spreading. Treatment of schedule 9 plants should follow government guidelines and can include spraying with chemicals, burying, burning or sending to an authorised landfill site. See https://www.gov.uk/guidance/prevent-the-spread-of-harmful-invasive-and-non-native-plants.

Tree planting is included in the proposals. This includes 47 trees planted on site and off-site compensatory tree planting. Tree planting should consist of a native species mix, of species found in the local area. Mulchings or weed suppressing mats should be used to aid good establishment of woody species. Plants should be 80 – 100 cm bare root whips (1 + 1), planted between November and March and staked and protected with a bio-degradable tree guards to prevent pest damage. This will provide compensation for the loss of the scattered trees and shrubs around site.

All new trees will be monitored for a minimum of 5 years to check establishment and if die-back or failure to establish occurs then re-planting will be required. Re-planting will replace the original species and be of a similar size. Once established, the tree guards should be removed.

Three insect boxes installed on trees or buildings around the site would also help to enhance biodiversity on site.

4.4 Protected Fauna

4.4.1 General

There are habitats with limited suitability for use by Badger, nesting birds and reptiles.

4.4.2 Badger

No evidence of Badger was found on or adjacent to the proposed development site during the survey. The grassland provides limited opportunities for commuting and foraging. The closeboard fencing around the site and urban location makes Badger presence less likely.

The loss of a relatively small area of improved grassland in the centre of a field is unlikely to have a significant negative impact on Badgers and based on there being no definitive evidence on the site itself at the time of survey, it is unlikely that Badgers are using this area to any significant extent. To ensure foraging Badgers do not become trapped within any excavation works these should either not be left uncovered overnight or ways of escape for Badgers provided (wooden planks or graded earth banks).

4.4.3 Bats

There are records of Common Pipistrelle, Soprano Pipistrelle and Daubenton's bats within 2 km of the proposed development site. The areas that will be impacted are of low suitability for use by foraging or commuting bats.

Best practice should be followed with regard to external lighting design, as outlined in Bat Conservation Trust Bats and Lighting in the UK guidance (2018). This includes:

- No metal halide lamps;
- Lighting will be directed to where needed and spillage will be avoided e.g. lighting directed only into doorways and luminaire designed appropriately, including the use of hoods, cowls, shields etc to avoid spillage;
- Downward-facing wall-mounted lighting should be used to keep light spill below 3m from ground level;
- Only light areas which need to be lit, and use the minimal level of lighting required to comply with guidance such as Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light (2005);
- Use movement sensors or timers; and
- No lamps greater than 150W for security lighting.

In order to enhance the site for bats a minimum of two bat tubes (e.g. Schwegler 1FR or similar) should be built into and/or erected on the southern sides of the new buildings, at least 3m above ground level.

4.4.4 Birds

The scattered trees and shrubs provide suitable habitat to support nesting birds. The areas of grassland are too small to support ground nesting species.

Any changes to suitable nesting bird habitat (*i.e.* the scattered trees and shrubs) will be completed outside of the breeding bird season (March to August inclusive) or after a pre-works survey/search by a suitably experienced ecologist.

To enhance the site for birds three bird boxes, suitable for species such as sparrow or starling, should be built into northern or eastern sides of the new buildings, at least 2m above ground level.

4.4.5 Great Crested Newt

There are no apparent records of Great Crested Newts within 2 km of the site and no ponds identified within 500m. The habitats on site have very low suitability for commuting Great Crested Newts. Taking this into consideration it is unlikely that Great Crested Newts will be affected by the proposed developments and no specific measures are required.

4.4.6 Reptiles

The habitats on site have limited suitability for commuting and basking reptiles, however no reptiles were found when searching the potential basking locations and as such their presence on site is considered unlikely. To ensure no wildlife is at risk the following guidelines should be adhered to:

- No open excavations to be left overnight (i.e. back filled or covered);
- No excavated material to be stored within 5m of the site boundaries and all building materials to be stored a minimum of 5m away from site boundaries and raised on pallets; and
- In the event of a reptile being found during works when an ecologist is not present, all work must stop immediately. An ecologist should be contacted, and an appropriated course of action agreed before works continue.

5 LEGAL PROTECTION

This section briefly describes the legal protection afforded to the protected species referred to in this report. It is for information only and is not intended to be comprehensive or to replace specialised legal advice. It is not intended to replace the text of the legislation but summarises the salient points.

5.1 Badger

Badger is protected in Britain under the *Protection of Badgers Act 1992* and *Schedule 6* of the *Wildlife and Countryside Act 1981* (as amended).

The legislation affords protection to Badgers and Badger setts, and makes it a criminal offence to:

- wilfully kill, injure, take, possess or cruelly ill-treat a Badger, or to attempt to do so;
- interfere with a sett by damaging or destroying it;
- to obstruct access to, or any entrance of, a Badger sett; or
- to disturb a Badger when it is occupying a sett.

5.2 Bats

All species of British bat are protected by *The Wildlife and Countryside Act 1981* (as amended) extended by the *Countryside and Rights of Way Act 2000*. This legislation makes it an offence to:

- intentionally kill, injure or take a bat;
- possess or control a bat;
- intentionally or recklessly damage, destroy or obstruct access to a bat roost; and
- intentionally or recklessly disturb a bat whilst is occupies a bat roost.

Bats are also European Protected Species listed on *Schedule 2* of the *Conservation of Habitats and Species Regulations 2017* under *Regulation 41*. This legislation makes it an offence to:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats in such a way as to be likely to (a) impair their ability to: (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; and
- damage or destroy a breeding site or resting place of a bat; and
- possess, control, transport, sell, exchange a bat, or offer a bat for sale or exchange.

All bat roosting sites receive legal protection even when bats are not present.

Where it is necessary to carry out an action that could result in an offence under the *Conservation of Habitats and Species Regulations 2010 (SI 2010/490)* it is possible to apply for a European Protected Species (EPS) licence from Natural England (NE). Three tests must be satisfied before this licence (to permit otherwise prohibited acts) can be issued:

- Regulation 53(2)(e) states that licences may be granted 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."
- Regulation 53(9)(a) states that a licence may not be granted unless "there is no satisfactory alternative".
- Regulation 53(9) (b) states that a licence cannot be issued unless the action proposed "will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range".

5.3 Nesting Birds

All species of bird are protected under *Section 1* of the *Wildlife and Countryside Act 1981* (as amended). The protection was extended by the CRoW Act.

The legislation makes it an offence to intentionally:

- kill, injure or take any wild bird;
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- take or destroy an egg of any wild bird.

Certain species of bird are listed on *Schedule 1* of the *Wildlife and Countryside Act 1981* (as amended) and receive protection under *Sections 1(4)* and *1(5)* of the Act. The protection was extended by the CRoW Act. The legislation confers special penalties where the above-mentioned offences are committed for any such bird and also make it an offence to intentionally or recklessly:

- disturb any such bird, whilst building its nest or it is in or near a nest containing dependant young; or
- disturb the dependant young of such a bird.

5.4 Great Crested Newt

Great Crested Newt is listed on *Schedule 5* of the *Wildlife and Countryside Act 1981* (as amended), and receive full protection under *Section 9*. These species are also listed as European Protected Species on *Schedule 2* of the *Conservation of Habitats and Species Regulations 2017* which gives them full protection under *Regulation 41*. Protection was extended by the *Countryside and Rights of Way Act 2000* (the CRoW Act).

Under the above legislation, it is an offence to:

- kill, injure or take an individual of such a species;
- possess any part of such species either alive or dead;
- intentionally or recklessly damage, destroy or obstruct access to any place or structure used by such species for shelter, rest, protection or breeding;
- intentionally or recklessly disturb such a species whilst using any place of shelter or protection; or

- sell or attempt to sell any such species.

The Great Crested Newt is included as a Priority Species in the UK Biodiversity Action Plan (UKBAP) and also as a species of principal importance for the conservation of biological diversity in England under *Section 74* of the CRoW Act.

5.5 Common Reptile Species

Common Lizard, Grass Snake, Slow-worm and Adder are listed under *Schedule 5* of the *Wildlife and Countryside Act 1981* (as amended), in respect of *Section 9(5)* and part of *Section 9(1)*. This protection was extended by the CRoW Act.

Under the above legislation, it is an offence to:

- intentionally or deliberately kill or injure any individual of such a species; or
- sell or attempt to sell any part of the species alive or dead.