



Preliminary Ecological Appraisal

Blackmoor House, Coach Hill Lane, Burley, New Forest, BH24 4HN

Ian Siddall

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Draft	1	Joe Slade BSc (Hons), Senior Consultant	27/01/2022
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Arbtech Consultant's Contact Details:

Joe Slade BSc (Hons)
Senior Consultant

Tel: 07872127684 **Email:** joeslade@arbtech.co.uk

<https://arbtech.co.uk>

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Industry Guidelines and Standards

This report has been written with due consideration to:

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

Proportionality

The work involved in preparing and implementing all ecological surveys, impact assessments and measures for avoidance, mitigation, compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development. Consequently, the decision-maker should only request supporting information and conservation measures that are relevant, necessary and material to the application in question. Similarly, the decision-maker and their consultees should ensure that any comments and advice made over an application are also proportionate.

This approach is enshrined in Government planning guidance, for example, paragraph 174 of the National Planning Policy Framework for England.

The desk studies and field surveys undertaken to provide a Preliminary Ecological Appraisal (PEA) might in some cases be all that is necessary.

(BS 42020, 2013)

Executive Summary

Arbtech Consulting Limited was instructed by Ian Siddall to undertake a Preliminary Ecological Appraisal (PEA) at Blackmoor House, Coach Hill Lane, Burley, New Forest, BH24 4HN (hereafter referred to as “the site”). The survey was carried out on 24 January 2022. The survey was required to inform a planning application for a new gate and driveway within the site boundary (hereafter referred to as “the proposed development”).

The following is work you will need to commission to obtain planning permission and to comply with legislation. Further information, along with opportunities for biodiversity enhancement, are outlined in Table 6 of this report.

Feature	Foreseen impacts	Recommendations <i>Measures required to adhere to guidance, legislation and planning policies.</i>
Designated sites	The proposed development is very small in scale and any impacts upon habitats such as woodland within the SSSI are considered to be inconsequential. There will be no likely significant effects on habitats or species which form the qualifying features of the SAC.	To mitigate for the small loss of land located within the New Forest SAC, the client has proposed to donate an area of owned land to the New Forest SAC. The area of land to be donated is located adjacent to the north east of the development site.
Habitats and flora	No direct impacts to any notable habitats will occur as a result of the proposed development. However, due to the proximity of the site to deciduous woodland, indirect effects such as pollution or tree damage could occur during construction.	A Construction Environmental Management Plan (CEMP) will be required, outlining best practice measures delineate the construction zone and to minimise the possibility of pollution and tree damage during construction.
Amphibians	No impacts are anticipated on amphibians as a result of the proposed development.	In the unlikely event that a great crested newt is identified, works must cease and advise must be sought from a suitably qualified ecologist.
Reptiles	No impacts are anticipated on reptiles as a result of the proposed development.	Given the size and possible impacts of the proposed development, further surveys are considered disproportionate. A precautionary working method will be implemented during construction.
Hedgehog	No impacts are anticipated on hedgehogs as a result of the proposed development.	A precautionary working method will be implemented during construction.
Birds	Nesting birds could be disturbed during the proposed development.	Works should be undertaken outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the vegetation should be undertaken immediately, by qualified ecologist, prior to the commencement of work. All active nests will need to be retained until the young have fledged.

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1.0 Introduction and Context

1.1 Background

Arbtech Consulting Limited was instructed by Ian Siddall to undertake a Preliminary Ecological Appraisal (PEA) at Blackmoor House, Coach Hill Lane, Burley, New Forest, BH24 4HN (hereafter referred to as “the site”). The survey was carried out on 24 January 2022. The survey was required to inform a planning application for a new gate and driveway within the site boundary (hereafter referred to as “the proposed development”). A plan showing the proposed development is provided in Appendix 1.

The aim of the PEA was to obtain data on existing ecological conditions, and to conduct a preliminary assessment of the likely significance of ecological impacts on the proposed development. No previous ecology reports have been produced for this site by Arbtech Consulting Ltd or, to the author’s knowledge, by any other consultancy.

1.2 Site Context

The site is located at National Grid Reference SU 2026 0457 and has an area of approximately 1ha comprising a dwelling, outbuildings, scattered trees and garden areas. Linear woodland is located on the northern boundary. A site location plan is provided in Appendix 2.

1.3 Scope of the Report

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

To achieve this, the following steps have been taken:

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

2.0 Methodology

2.1 Desk Study

The desk study included a 1km radius review of statutory designated sites and notable habitats as well as a 2km radius review of granted European Protected Species Licence (EPSL) and notable species records held on magic.gov.uk database. An assessment of the surrounding landscape structure was also completed using aerial images from Google Earth and OS maps.

2.2 Field Survey

The survey was undertaken by Joe Slade BSc (Hons) Natural England protected species licence numbers: [Bats] 2017-32515-CLS-CLS, [Great Crested Newts] 2016-26549-CLS-CLS) on 24 January 2022.

An extended habitat survey was undertaken, following the methodology set out in *Phase 1 Habitat Survey Methodology* (JNCC, 2010). All land parcels are described and mapped and, where appropriate, target notes provide supplementary information on habitat conditions, features too small to map to scale, species composition, structure and management.

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

2.3 Limitations

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

A biological records data search has not been undertaken. However, given the location of the site, the nature of the habitats present and the assessed suitability of the site for protected or notable species, it is not anticipated that the purchase of biological records data will add any significant weight or alter the conclusions and recommendations outlined in this report. The survey was completed during the sub-optimal survey period limiting the identification of ground flora species.

These limitations have been taken into account during the evaluation of the site and requirement for further surveys and mitigation.

3.0 Results and Evaluation

3.1 Desk Study Results

A summary of desk study results is provided below.

Designated Sites

Details of any statutory designated sites within a 1km radius of the site, including their reasons for notification, are provided in Table 1 below.

The site lies within the impact risk zone for The New Forest Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). All development types are considered as a possible risk with regard to this designation.

Table 1: Statutory designated sites within 1km radius of the site

Designated site name	Distance from site (approx.)	Reasons for notification from Natural England
The New Forest SSSI and SAC	Adjacent	The New Forest embraces the largest area of “unsown” vegetation in lowland England and includes the representation on a large scale of habitat formations formerly common but now fragmented and rare in lowland western Europe. They include lowland heath, valley and seepage step mire, or fen, and ancient pasture woodland, including riparian and bog woodland. Nowhere else do these habitats occur in combination and on so large a scale. There are about 4,600 hectares of pasture woodland and scrub dominated by oak, beech and holly; 11,800 hectares of heathland and associated grassland; 3,300 hectares of wet heath and valley mire-fen and also 8,400 hectares of plantations dating from various periods since the early 18th century. Within this matrix of habitats are a range of acid to neutral grasslands where the vegetation owes much to the local geology and continuous grazing, a situation which is uncommon in lowland England. Scattered around the New Forest and throughout the small pockets of enclosed farmland are a series of unimproved meadows which have similarities with these Open Forest grasslands.
The New Forest Ramsar Site	40m north	
The New Forest Special Protection Area	170m south east	Designated for the protection of various protected bird species.
Lymington River SSSI	390m south east	The New Forest streams are a geographically isolated type with no equivalent in lowland England. The Lymington River system is the largest in the New Forest, and the SSSI includes two contrasting tributaries: the Ober Water and Highland Water. The New Forest streams drain a catchment of base-poor (acidic) Tertiary sands and gravels overlying clay of the Barton series. The clay mainly occurs at the surface in the stream’s upper reaches where it is often clad with peat. These peat valley mires help moderate the rate at which the sands and gravels are drained, feeding the small headwater streams through often extensive flushes. In the upper reaches the meandering river channel with its gravelly bed may be confined by steep banks where it has cut into the clay. Peat and clay underlie much of the Ober Water downstream of its headwater, the Mill Lawn Brook, whilst the rest of the middle and lower Lymington system flows mainly over alluvium and gravels.

Landscape

A review of aerial photographs (Google Earth) the magic.gov.uk database and OS maps has been undertaken. Collated together, the value of the landscape in terms of biodiversity is described below:

The site is in a rural area of southern Hampshire. The landscape is dominated by connected areas of woodland and heathland, with the village of Burley extending adjacent to the south. Connected areas of woodland are located within the vicinity of the site, which could be used by wildlife for shelter, foraging and commuting. Scattered irrigation ditches and ponds around the area will provide abundant insect foraging for birds and bats.

Notable Habitats

Notable habitats within 1km are listed in Table 2.

Table 2: Notable habitats within 1km of the site

Habitats of principal importance	Closest distance from site
Coastal and floodplain grazing marsh	360m south east
Purple moor grass and rush pastures	430m north
Lowland dry acid grassland	80m west
Lowland heathland	150m north west
Ancient woodland	570m north west
Deciduous woodland	On site
National Forest Inventory woodland	On site
Wood-pasture and Parkland	90m north west
Lowland fens	550m east

3.2 Field Survey Results

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

Table 3: Weather conditions during the survey


Date: 24/01/2022	
Temperature	7°C
Humidity	70%
Cloud Cover	20%
Wind	2mph
Rain	None

Habitats and Flora

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

A description and photograph of each habitat is provided in Table 4.

Table 4: Description and photographs of habitats within and adjacent to the site

Habitat type	Habitat description	Photograph
(J4) Bare ground, hard standing	The development area consists of muddy bare ground. A road lies adjacent to the bare ground.	 <p>A photograph showing a muddy, bare ground area next to a wooden fence. In the background, there are trees and a building. The ground is covered with fallen brown leaves. A timestamp '24/01/2022 10:42:18' is visible in the bottom right corner.</p>
(A1.1.1) Deciduous woodland	Linear woodland lines the site boundary. Mature English oak and holly are dominant.	 <p>A photograph showing a wooden fence running along a road. The ground is covered with fallen brown leaves. In the background, there are trees and a building. A timestamp '24/01/2022 10:44:54' is visible in the bottom right corner.</p>

<p>(A1.3) Scattered trees</p>	<p>Some scattered trees are located adjacent to the linear woodland which lines the site boundary.</p>	
<p>(J2.4) Fence</p>	<p>A timber close-panel fence lines the site boundary.</p>	 <p>24/01/2022 10:48:43</p>

<p>(J3.6) Building</p>	<p>A carport is located within the development area. The building is a simple structure consisting of timber posts with a flat roof clad in corrugated metal sheeting.</p>	
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No protected or non-native invasive plant species were identified on the site.

Fauna

An assessment of the suitability of the site for protected or notable species is provided in Table 5.

Table 5: Assessment of the suitability of the site for protected or notable species

Species	Assessment of suitability
Amphibians	The woodland on site and the adjacent habitats provide suitable refuge for amphibians. No ponds are located on site. The nearest pond is located approximately 170m to the south east of the site.
Reptiles	The woodland on site and the adjacent habitats provide suitable refuge for reptiles.
Bats	No suitable roosting features were located on the building. Bats could forage on site and commute along the tree-lined boundary.
Badgers	Badgers could forage within the habitats on site. Active badger setts could be present nearby.
Hazel Dormouse	The woodland on site is linear and is not considered to be suitable for dormouse nesting.
Hedgehog	Hedgehogs could forage and could be present within the woodland.
Otter	No suitable habitat on site.
Water Vole	No suitable habitat on site.
Birds	Birds could nest within the trees on site.
Invertebrates	The habitats on site could support some protected species of invertebrates.

4.0 Conclusions, Impacts and Recommendations

4.1 Informative Guidelines

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

Likelihood of the Presence of Protected Species

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

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

4.2 Evaluation

Taking the desk study and field survey results into account, Table 6 presents an evaluation of the ecological value of the site and also details any ecological constraints identified in relation to the proposed development which will comprise a new gate and driveway within the site boundary.

Table 6: Evaluation of the site and any ecological constraints Text in the table is suggested based on common scenarios but adapt as necessary

Ref	Summary of Survey Findings	Foreseen impacts	Recommendations <i>Measures required to adhere to guidance, legislation and planning policies.</i>	Biodiversity Enhancements <i>The Local Planning Authority has a duty to ask for enhancements under the NPPF (2021)</i>
Designated sites	The site lies within the impact risk zone for The New Forest Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) and all development types are considered as a possible risk for these designations.	The proposed development is very small in scale and any impacts upon habitats such as woodland within the SSSI are considered to be inconsequential. There will be no likely significant effects on habitats or species which form the qualifying features of the SAC.	To mitigate for the small loss of land located within the New Forest SAC, the client has proposed to donate an area of owned land to the New Forest SAC. The area of land to be donated is located adjacent to the north east of the development site.	See 'Invertebrates' below for enhancement measures.
Habitats and flora	The site contains deciduous woodland which is listed as a habitat of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act (2006). Further notable habitats are present within 1km. Other habitats within the site are common and widespread and have low ecological value. No protected or notable plant species	No direct impacts to any notable habitats will occur as a result of the proposed development. However, due to the proximity of the site to deciduous woodland, indirect effects such as pollution or tree damage could occur during construction.	A Construction Environmental Management Plan (CEMP) will be required, outlining best practice measures delineate the construction zone and to minimise the possibility of pollution and tree damage during construction.	The following habitat creation and enhancement opportunities could be incorporated into the proposed development: <ul style="list-style-type: none"> • Native tree, hedgerow and shrub planting. Species-specific enhancement opportunities are detailed later in this table.

	were recorded during the survey.			
Amphibians	The nearest pond is situated approximately 170m to the south east of the site. Although the pond could support protected species of amphibians, there is limited connectivity between the site and the pond. Amphibians are highly unlikely to commute to the development site.	No impacts are anticipated on amphibians as a result of the proposed development.	In the unlikely event that a great crested newt is identified, works must cease and advice must be sought from a suitably qualified ecologist.	None.
Reptiles	Reptiles are unlikely to be present within the development area but may be present in adjacent woodland.	No impacts are anticipated on reptiles as a result of the proposed development.	<p>Given the size and possible impacts of the proposed development, further surveys are considered disproportionate. A precautionary working method will be implemented during construction, including the following measures:</p> <ul style="list-style-type: none"> • Site clearance will be undertaken outside of the reptile hibernation season (November to February) insofar as is possible. • A toolbox talk will be given to contractors regarding the possible presence of reptiles at the site. • Fencing will be erected around the working area to prevent encroachment into areas where reptiles could be present. • A pre-commencement inspection of the site will be undertaken for reptiles. • A staged approach will be adopted for vegetation clearance, whereby the vegetation will be trimmed to 15cm and left overnight to allow any reptiles to disperse. The vegetation can then be cleared to ground level and must be maintained at this level for the duration of construction to deter reptiles from the working area. 	<p>The following habitat creation and enhancement opportunities could be incorporated into the proposed development which would be beneficial for reptiles:</p> <ul style="list-style-type: none"> • Creation of reptile refugia and hibernacula using debris and brash from site clearance. • The creation of basking areas such as rock piles or areas of cleared ground with shelter nearby.

			<ul style="list-style-type: none"> Any rubble piles will be dismantled by hand and debris and brash will be stored on pallets or removed from the site to prevent reptiles from utilising these areas. Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations. In the unlikely event that a reptile is identified, works must cease and advice must be sought from a suitably qualified ecologist. 	
Bats	No bat roosting features were located on the building. An adjacent mature oak tree located on the site boundary has holes in the stem and lower branch which were closely inspected using a torch and ladder. The holes were found to be shallow and were not suitable for roosting bats. Bats could forage within the woodland located along the boundary.	No impacts are anticipated on bats as a result of the proposed development. No new lighting is proposed.	None.	None.
Badger	Badgers could forage on site and there may be active setts nearby.	No impacts are anticipated on badgers as a result of the proposed development.	None.	None.
Hazel dormouse	The linear woodland located on the site boundary is considered to be unsuitable for dormouse. There is limited dormouse foraging habitat	No impacts are anticipated on hazel dormice as a result of the proposed development.	None.	None.

	located within the site or adjacent habitats.			
Hedgehog	Hedgehogs could nest and forage on site.	No impacts are anticipated on hedgehogs as a result of the proposed development.	A precautionary working method will be implemented during construction, including the following measures: <ul style="list-style-type: none"> • A toolbox talk will be given to contractors regarding the possible presence of hedgehogs at the site. • A pre-commencement inspection of the site will be undertaken for hedgehogs. • Fencing will be erected around the working area to prevent encroachment into areas where hedgehogs could be present. • If any hedgehogs are found in the working area these should be moved by hand to a vegetated area along the site boundaries or in retained habitats away from disturbance. • Any excavations will be covered overnight, or a ramp will be installed to enable any trapped animals to escape. • The use of night-time lighting will be avoided, or sensitive lighting design will be implemented to avoid light spill on to retained habitats which hedgehogs could use. • Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations. 	None.
Otter	No suitable habitat.	None.	None.	None.
Water vole	No suitable habitat.	None.	None.	None.
Birds	Birds could nest within trees located on the site boundary.	Nesting birds could be disturbed during the proposed development.	Works should be undertaken outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the vegetation should be undertaken immediately, by qualified ecologist, prior to the commencement of work. All active nests will need to be retained until the young have fledged.	None.
Invertebrates	Protected species of invertebrates including stag beetle,	No impacts are anticipated on notable species or populations of invertebrates as a result of the proposed development.	None.	The following habitat creation and enhancement

	<p>could be present within the site.</p>			<p>opportunities could be incorporated into the proposed development which would be beneficial for invertebrates:</p> <ul style="list-style-type: none"> • Native tree, hedgerow and shrub planting. • Retention of deadwood on the site.
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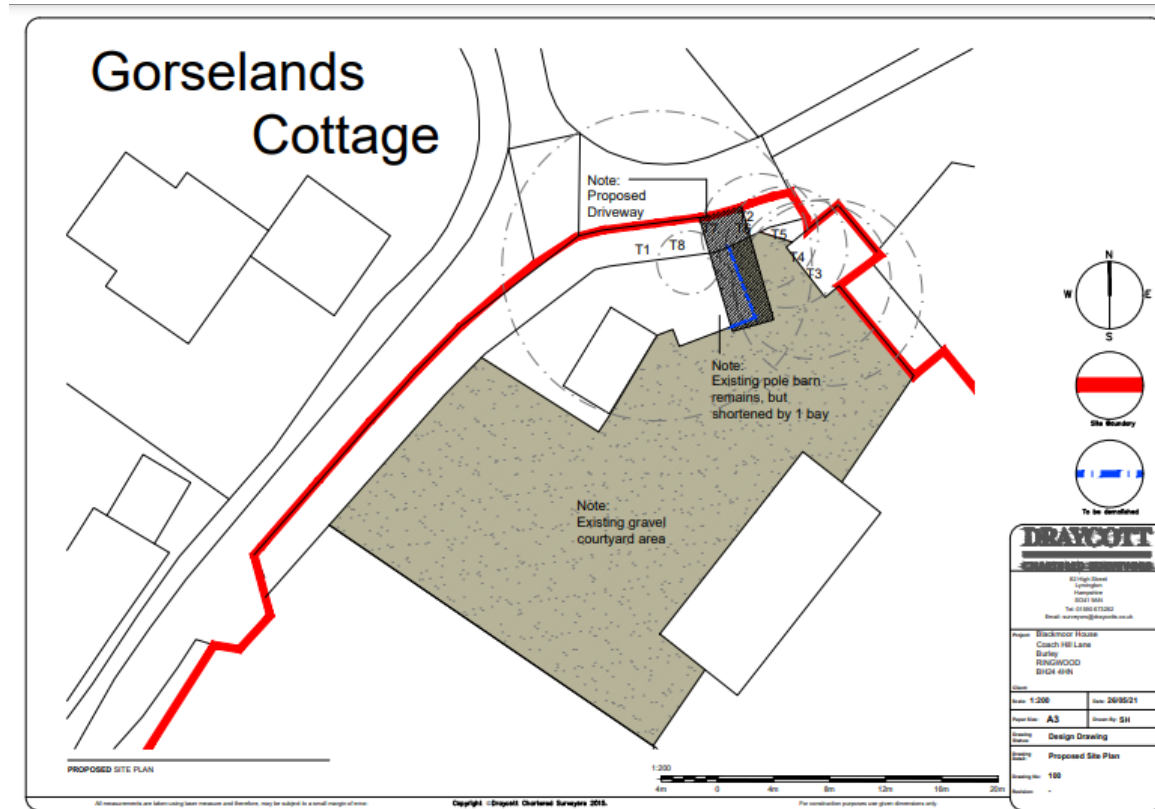
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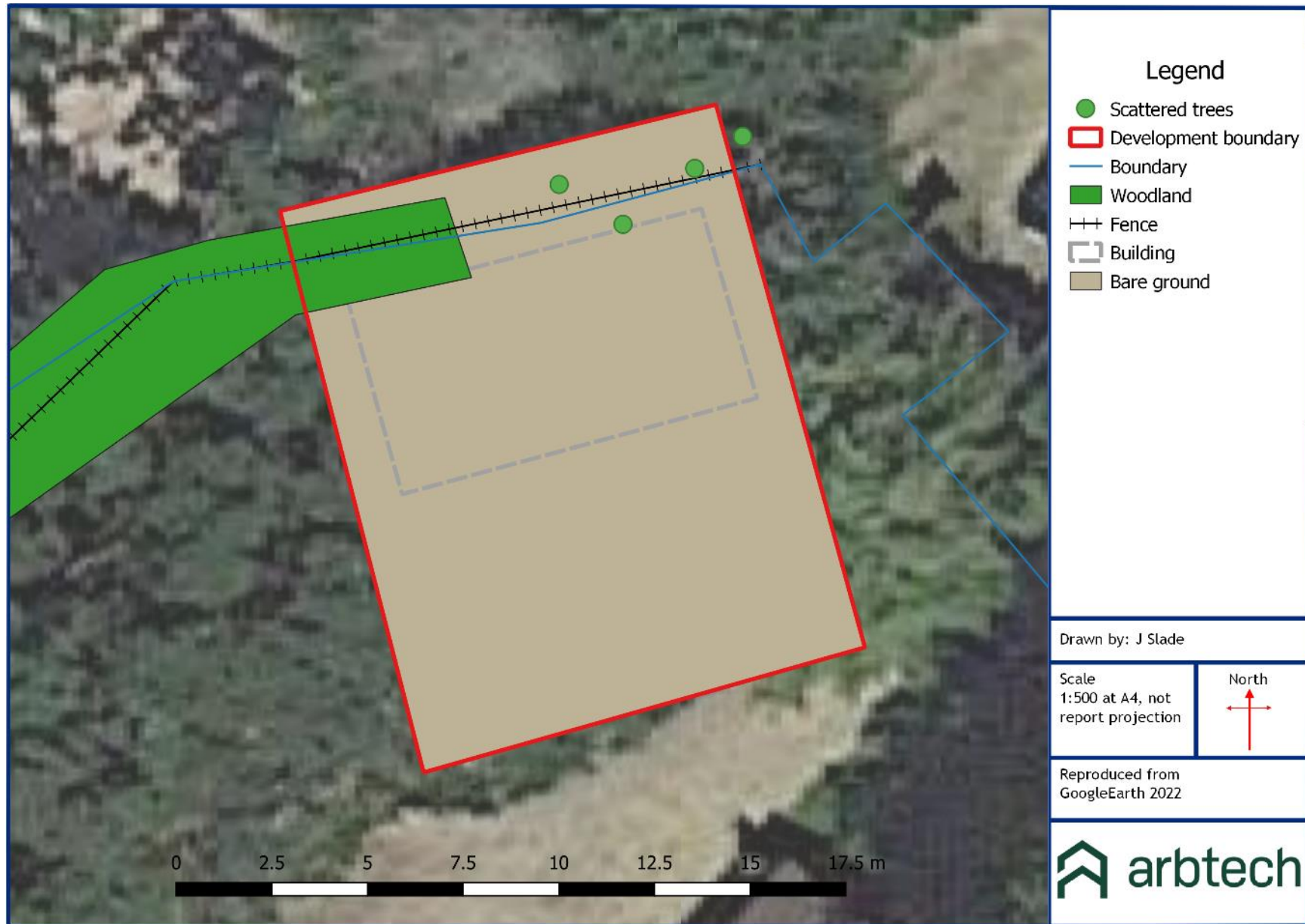
Appendix 1: Proposed Development Plan



Appendix 2: Site Location Plan



Appendix 3: Habitat Survey Plan



Appendix 4: Legislation and Planning Policy

LEGAL PROTECTION

The ***Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019*** came into force when Britain left the European Union on 31st January 2020. It covered amendments relevant to this survey to:

- Wildlife and Countryside Act 1981: England and Wales (x1 amendment)
- Conservation of Habitats and Species Regulations 2017 (x29 amendments)

National and European Legislation Afforded to Habitats

International Statutory Designations

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are sites of European importance and are designated under the EC Habitats Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (the Habitats Directive) and the EC Birds Directive 2009/147/EC on the conservation of wild birds respectively. Both form part of the wider Natura 2000 network across Europe.

Under the Habitats Directive Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe. Over 1,000 animal and plant species, as well as 200 habitat types, listed in the directive's annexes are protected in various ways:

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

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

Annex V species (over 90): Member States must ensure that their exploitation and taking in the wild is compatible with maintaining them in a favourable conservation status. SPAs are classified under Article 2 of the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds both for rare bird species (as listed on Annex I) and for important migratory species.

SACs and SPAs up to 12 nautical miles from the coast (i.e. 'territorial waters') are afforded protection in the UK under the Conservation of Habitats and Species Regulations 2017 which consolidate all amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994.

The Conservation of Offshore Marine Habitats and Species Regulations 2017 consolidate and update the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007. The 2017 Regulations introduce amendments which transfer responsibility for European nature conservation in the Welsh offshore region to Welsh Ministers. This gives Welsh Ministers similar powers in Welsh offshore waters to those currently exercised by Scottish Ministers in Scottish offshore waters. These regulations transpose into national law Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive), and elements of Council Directive

2009/147/EC on the conservation of wild birds (Wild Birds Directive) in the UK offshore area. They came into force on 30th November 2017. These regulations apply to the UK's offshore marine area which covers waters beyond 12 nautical miles, within British Fishery Limits and the seabed within the UK Continental Shelf Designated Area. The Conservation of Habitats and Species Regulations 2017 form the legal basis for the implementation of the Habitats and Birds Directives in terrestrial areas and territorial waters out to 12nm in England and Wales (including the inshore marine area) and to a limited extent in Scotland and Northern Ireland.

Ramsar sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention covers all aspects of wetland conservation and recognises the importance of wetland ecosystems in relation to global biodiversity conservation. The Convention refers to wetlands as “*areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres*”. However, they may also include riparian and coastal zones. Ramsar sites are statutorily protected under the Wildlife & Countryside Act 1981 (as amended 01.04.1996) with further protection provided by the Countryside and Rights of Way (CRoW) Act 2000. Policy statements have been issued by the Government in England and Wales highlighting the special status of Ramsar sites. The Government in England and Wales has issued policy statements which ensure that Ramsar sites are afforded the same protection as areas designated under the EC Birds and Habitats Directives as part of the Natura 2000 network (e.g. SACs & SPAs). Further provisions for the protection and management of SSSIs have been introduced by the Nature Conservation (Scotland) Act 2004.

National Statutory Designations

Sites of Special Scientific Interest (SSSI) are designated by nature conservation agencies in order to conserve key flora, fauna, geological or physio-geographical features within the UK. The original designations were under the National Parks and Access to the Countryside Act 1949 but SSSIs were then re-designated under the Wildlife & Countryside Act 1981 (as amended). As well as reinforcing other national designations (including National Nature Reserves), the system also provides statutory protection for terrestrial and coastal sites which are important within the European Natura 2000 network and globally.

Local Statutory Designations

Local authorities in consultation with the relevant nature conservation agency can declare Local Nature Reserves (LNRs) under the National Parks and Access to the Countryside Act 1949. LNRs are designated for flora, fauna or geological interest and are managed locally to retain these features and provide research, education and recreational opportunities.

Non- Statutory Designations

All non-statutorily designated sites are referred to as Local Wildlife Sites (LWS) and can be designated by the local authority for supporting local conservation interest. Combined with statutory designation, these sites are considered within Local Development Frameworks under the Town and Country Planning system and are a material consideration during the determination of planning applications. The protection afforded to these sites varies depending on the local authority involved.

Regionally Important Geological Sites (RIGs) are the most important geological and geomorphological areas outside of statutory designations. These sites are also a material consideration during the determination of planning applications.

The Hedgerow Regulations 1997

The Hedgerow Regulations 1997 are designed to protect 'important' countryside hedgerows. Importance is defined by whether the hedgerow (a) has existed for 30 years or more; or (b) satisfies at least one of the criteria listed in Part II of Schedule 1 of the Regulations.

Under the Regulations, it is against the law to remove or destroy hedgerows on or adjacent to common land, village greens, SSSIs (including all terrestrial SACs, NNRs and SPAs), LNRs, land used for agriculture or forestry and land used for the keeping or breeding of horses, ponies or donkeys without the permission of the local authority. Hedgerows 'within or marking the boundary of the curtilage of a dwelling-house' are excluded.

National and European Legislation Afforded to Species

The Habitats Directive

The EC Habitats Directive aims to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore wild species listed on the Annexes to the Directive at a favourable conservation status, introducing robust protection for those species of European importance. The Directive is transposed into UK law by The Conservation of Habitats and Species Regulations 2017 (the Conservation Regulations) and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended). This has been amended by the ***Conservation of Habitats and Species Regulations (amendment) (EU Exit) Regulations (2019)*** which continue the same provision for European protected species, licensing requirements and protected sites after the UK leaves the EU.

The following notes are relevant for all species protected under the EC Habitats Directive:

In the Directive, the term 'deliberate' is interpreted as being somewhat wider than intentional and may be thought of as including an element of recklessness.

The Habitats Regulations do not define the act of 'migration' and, therefore, as a precaution, it is recommended that short distance movement of animals for e.g. foraging, breeding or dispersal purposes are also considered.

In order to obtain a European Protected Species Licence (EPSL), the application must demonstrate that it meets all of the following three 'tests':

- The action(s) are necessary for the purpose of preserving public health or safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment;

- There is no satisfactory alternative; and
- The action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

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

The Wildlife and Countryside Act (WCA) 1981 (as amended) implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention 1979, implemented 1982) and implements the species protection requirements of EC Birds Directive 2009/147/EC on the conservation of wild birds in Great Britain (the birds Directive). The WCA 1981 has been subject to a number of amendments, the most important of which are through the Countryside and Rights of Way (CRoW) Act (2000).

Other legislative Acts affording protection to wildlife and their habitats include:

- Deer Act 1991
- Natural Environment & Rural Communities (NERC) Act 2006
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996

Badgers

Badgers *Meles meles* are protected under The Protection of Badgers Act 1992 which makes it an offence to:

- Wilfully kill, injure, take, or attempt to kill, injure or take a badger
- Cruelly ill-treat a badger, including use of tongs and digging
- Possess or control a dead badger or any part thereof
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when it is occupying a badger sett
- Intentionally or recklessly cause a dog to enter a badger sett
- Sell or offers for sale, possesses or has under his control, a live badger

Effects on development works:

A development licence will be required from the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for any development works likely to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agencies to define what would constitute a licensable activity. It is no possible to obtain a licence to translocate badgers.

Birds

With certain exceptions, all birds, their nests and eggs are protected under Sections 1-8 of the WCA. Among other things, this makes it an offence to:

- Intentionally (or recklessly in Scotland) kill, injure or take any wild bird
- Intentionally (or recklessly in Scotland) take, damage or destroy (or, in Scotland, otherwise interfere with) the nest of any wild bird while it is in use or being built
- Intentionally take or destroy an egg of any wild bird
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof.
- Intentionally or recklessly obstruct or prevent any wild bird from using its nest (Scotland only)

Certain species of bird, for example the barn owl, bittern and kingfisher receive additional protection under Schedule 1 of the WCA and Annex 1 of the European Community Directive on the Conservation of Wild Birds (2009/147/EC) and are commonly referred to as “Schedule 1” birds.

This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young
- Intentional or reckless disturbance of dependent young of such a bird
- In Scotland only, intentional or reckless disturbance whilst lekking
- In Scotland only, intentional or reckless harassment

Effects on development works:

Works should be planned to avoid the possibility of killing or injuring any wild bird or damaging or destroying their nests. The most effective way to reduce the likelihood of nest destruction in particular is to undertake work outside the main bird nesting season which typically runs from March to August. Where this is not feasible, it will be necessary to have any areas of suitable habitat thoroughly checked for nests prior to vegetation clearance.

Schedule 1 birds are additionally protected against disturbance during the nesting season. Thus, it will be necessary to ensure that no potentially disturbing works are undertaken in the vicinity of the nest. The most effective way to avoid disturbance is to postpone works until the young have fledged. If this is not feasible, it may be possible to maintain an appropriate buffer zone or standoff around the nest.

Amphibians and Reptiles

The sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita*, pool frog *Pelophylax lessonae* and great crested newt *Triturus cristatus* receive full protection under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

With the exception of the pool frog, these species are also listed on Schedule 5 of the WCA and they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection
- Selling, offering or exposing for sale, possession or transporting for purpose of sale.

Other native species of reptiles are protected solely under Schedule 5, Section 9(1) & (5) of the WCA, i.e. the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis*. It is prohibited to:

- Intentionally or recklessly kill or injure these species.

Effects on development works:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely to affect the breeding sites or resting places amphibian and reptile species protected under Habitats Regulations. A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow derogation from the relevant legislation, but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the WCA.

Water Voles

The water vole *Arvicola terrestris* is fully protected under Schedule 5 of the WCA. This makes it an offence to:

- Intentionally kill, injure or take (capture) water voles
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection
- Intentionally or recklessly disturb water voles while they are occupying a structure or place used for shelter or protection

Effects on development works:

If development works are likely to affect habitats known to support water voles, the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) must be consulted. It must be shown that means by which the proposal can be re-designed to avoid contravening the legislation have been fully explored e.g. the use of alternative sites, appropriate timing of works to avoid times of the year in which water voles are most vulnerable, and measures to ensure minimal habitat loss. Conservation licences for the capture and translocation of water voles may be issued by the relevant countryside agency for the purpose of development activities if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will then only be granted

to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of works.

Otters

Otters *Lutra lutra* are fully protected under the Conservation Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Otters are also currently protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely to affect otter breeding or resting places (often referred to as holts, couches or dens) or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, and rear young). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored

Bats

All species are fully protected by Habitats Regulations 2010 as they are listed on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (e.g. All bats)
- Deliberate disturbance of bat species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Bats are afforded the following additional protection through the WCA as they are included on Schedule 5:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works are likely to affect a bat roost or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Hazel Dormice

Hazel dormice *Muscardinus avellanarius* are fully protected under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
- To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
- To impair their ability to hibernate or migrate
- To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Dormice are also protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

Works which are liable to affect a dormice habitat or an operation which are likely to result in an illegal level of disturbance to the species will require a European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales (NB: Hazel Dormouse are entirely absent from Scotland)). The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

White Clawed Crayfish

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

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

It is also classified as Endangered in the IUCN Red List of Endangered Species. As a result of this and other relevant crayfish legislation such as the Prohibition of Keeping of Live Fish (Crayfish) Order 1996, a series of licences are needed for working with White-clawed and non-native crayfish. These are:

- A licence to handle crayfish (therefore survey work) in England
- A licence for the keeping of crayfish in England and Wales with an exemption for Signal crayfish (England).
- People in the post-code areas listed with crayfish present prior to 1996 do not need to apply for consent for crayfish already established. It does not, however, allow any new stocking of non-native crayfish into waterbodies. Consent for trapping of non-native crayfish for control or consumption is most likely to be granted in Thames and Anglian regions in the areas with "go area" postcodes.
- Harvesting of crayfish is prohibited in much of England and in any part of Scotland and Wales.

Effects on development works:

The relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will need to be consulted about development which could impact on a watercourse or wetland known to support white clawed crayfish. Conservation licences for the capture and translocation of crayfish can be issued if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of the works.

Wild Mammals (Protection Act) 1996

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it an offence to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

To avoid possible contravention, due care and attention should be taken when carrying out works (for example operations near burrows or nests) with the potential to affect any wild mammal in this way, regardless of whether they are legally protected through other conservation legislation or not.

Legislation Afforded to Plants

With certain exceptions, all wild plants are protected under the WCA. This makes it an offence for an 'unauthorised' person to intentionally (or recklessly in Scotland) uproot wild plants. An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.

Certain rare species of plant, for example some species of orchid, are also fully protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). This prohibits any person from:

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)
- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof

- In addition to the UK legislation outlined above, several plant species are fully protected under Schedule 5 of The Conservation of Habitats and Species Regulations 2010. These are species of European importance. Regulation 45 makes it an offence to:
- Deliberately pick, collect, cut, uproot or destroy a wild Schedule 5 species
- Be in possession of, or control, transport, sell or exchange, or offer for sale or exchange any wild live or dead Schedule 5 species or anything derived from such a plant.

Effects on development works:

A European Protected Species Licence (EPSL) will be required from the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for works which are likely to affect species of plants listed on Schedule 5 of the Conservation of Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Invasive Species

Part II of Schedule 9 of the WCA lists non-native invasive plant species for which it is a criminal offence in England and Wales to plant or cause to grow in the wild due to their impact on native wildlife. Species included (but not limited to):

- Japanese knotweed *Fallopia japonica*
- Giant hogweed *Heracleum mantegazzianum*
- Himalayan balsam *Impatiens glandulifera*

Effects on development works:

It is not an offence for plants listed in Part II of Schedule 9 of the WCA 1981 to be present on the development site, however, it is an offence to cause them to spread. Therefore, if any of the species are present on site and construction activities may result in further spread (e.g. earthworks, vehicle movements) then it will be necessary to design and implement appropriate mitigation prior to construction commencing.

Injurious weeds

Under the Weeds Act 1959 any landowner or occupier may be required prevent the spread of certain 'injurious weeds' including (but not limited to):

- Spear thistle *Cirsium vulgare*
- Creeping thistle *Cirsium arvense*
- Curled dock *Rumex crispus*
- Broad-leaved dock *Rumex obtusifolius*
- Common ragwort *Senecio jacobaea*

Effects on development works:

It is a criminal offence to fail to comply with a notice requiring such action to be taken. The Ragwort Control Act 2003 establishes a ragwort control code of practice as common ragwort is poisonous to horses and other livestock. This code provides best practice guidelines and is not legally binding.

NATIONAL PLANNING POLICY (ENGLAND)

National Planning Policy Framework 2021

The National Planning Policy Framework promotes sustainable development. The Framework specifies the need for protection of designated sites and priority habitats and species. An emphasis is also made on the need for ecological infrastructure through protection, restoration and re-creation. The protection and recovery of priority species (considered likely to be those listed as species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006) is also listed as a requirement of planning policy.

In determining a planning application, planning authorities should aim to conserve and enhance biodiversity by ensuring that: designated sites are protected from harm; there is appropriate mitigation or compensation where significant harm cannot be avoided; measurable gains in biodiversity in and around developments are incorporated; and planning permission is refused for development resulting in the loss or deterioration of irreplaceable habitats including aged or veteran trees and also ancient woodland.

The Natural Environment and Rural Communities Act 2006 and the Biodiversity Duty

Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, requires all public bodies to have regard to biodiversity conservation when carrying out their functions. This is commonly referred to as the 'biodiversity duty'.

Section 41 of the Act requires the Secretary of State to publish a list of habitats and species which are of 'principal importance for the conservation of biodiversity'. This list is intended to assist decision makers such as public bodies in implementing their duty under Section 40 of the Act. Under the Act these habitats and species are regarded as a material consideration in determining planning applications. A developer must show that their protection has been adequately addressed within a development proposal.

LOCAL PLANNING POLICY

Local Plan Name and Date Adopted

Detail any planning policies that could have implications for biodiversity.

Local BAP Name and Date Adopted

List any bat species covered under LBAP.

EUROPEAN PROTECTED SPECIES POLICIES

In December 2016 Natural England officially introduced the four licensing policies throughout England. The four policies seek to achieve better outcomes for European Protected Species (EPS) and reduce unnecessary costs, delays and uncertainty that can be inherent in the current standard EPS licensing system. The policies are summarised as follows:

- Policy 1; provides greater flexibility in exclusion and relocation activities, where there is investment in habitat provision;
- Policy 2; provides greater flexibility in the location of compensatory habitat;
- Policy 3; provides greater flexibility on exclusion measures where this will allow EPS to use temporary habitat; and,
- Policy 4; provides a reduced survey effort in circumstances where the impacts of development can be confidently predicted.

The four policies have been designed to have a net benefit for EPS by improving populations overall and not just protecting individuals within development sites. Most notably Natural England now recognises that the Habitats Regulations legal framework now applies to 'local populations' of EPS and not individuals/site populations.