

Preliminary Ecological Appraisal

Park Gates Cottage

Hapton, Burnley

November 2023

Prepared for: Mr Owen

Report prepared by: Verity Webster BSc (Hons) MSc CEcol CMIEM



EXECUTIVE SUMMARY

- On 30th August 2023 a Preliminary Ecological Appraisal was undertaken at Park Gates Cottage, Hambledon Road, Hapton, Burnley. The site comprises a house, outbuildings, driveway, modified grassland, trees and shrubs.
- Ecological constraints relate to the following:

Bats

- The cottage is considered to have high suitability for bats whilst one of the outbuildings is considered to have low suitability for bats. Further survey work in the spring and summer months will be necessary to determine the presence or absence of a bat roost.

Avoidance mitigation for other species

- Avoidance mitigation is proposed for nesting birds, hedgehog and common toad.

Enhancement

- The proposals provide the opportunity to significantly enhance the site for wildlife and recommendations for this have been made, including native species planting and the installation of bird and bat boxes.



1 Introduction

1.1 Application Site

- 1.1.1. This report details a Preliminary Ecological Appraisal of Park Gates Cottage, Hambledon Road, Hapton, Burnley, BB11 5QW. Ordnance Survey grid reference (centre of site): SD79493067.
- 1.1.2. Mr Owen commissioned Verity Webster Ltd to undertake a Preliminary Ecological Appraisal to inform the planning application.

1.2 Objectives

- 1.2.1 The objectives of the Preliminary Ecological Appraisal are to determine:
 - The potential for protected species and/or habitats of importance within and surrounding the site.
 - The presence of any designated sites within the surrounding area, or if the site is designated.
 - How the proposed works might impact protected species and/or habitats of importance.
 - How the proposed works might impact designated sites within the surrounding area.
 - How any impacts might be avoided, mitigated and/or ameliorated, including recommendations for further survey work if required.
 - Potential for enhancement of the site for protected species, habitats of conservation interest and overall biodiversity.

1.3 Proposals

- 1.3.1 The proposals comprise the demolition of the existing dwelling and construction of a replacement on adjacent land, with associated access and landscape.

1.4 Ecologist

- 1.4.1 The Ecological Assessment was undertaken by Verity Webster. Verity is a Chartered Ecologist and a full member of the Chartered Institute of Ecology and Environmental Management.
- 1.4.2 Verity has worked as an ecological consultant for over 15 years. She has undertaken Ecological Assessments and protected species surveys for a large variety of projects and schemes, producing the required impact assessment and subsequent mitigation schemes and method statements when necessary.



2 Site Location and Description

2.1 Site Location

- 2.1.1 The survey site is located in a rural location in Hapton, Burnley approximately 250m southeast of Hapton Village. Part of a wider farm complex the survey site is surrounded by open countryside encompassing grazed pasture, arable land and woodland with scattered waterbodies. The A679 Accrington Road runs southwest to northeast approximately 200 to the northwest. See Figures 1 and 2.

2.2 Site Description

- 2.2.1 The survey site is roughly triangular in shape and comprises a detached cottage to the north of the site, which is rectangular, and to the south of this are two outbuildings, one rectangular (outbuilding A) and one square (outbuilding B). A small garden of modified grassland and shrubs lies adjacent to the east of the cottage. An access track runs north to south beyond this and a small, triangular area of modified grassland lies to the east of the site. The habitats are described in Section 6.1.

- 2.2.2 See UK Habitat Classification Plan, Figure 4.

The Cottage

- 2.2.3 The cottage, a rectangular stone structure, oriented north to south, can be divided into three sections. The main body of the house is the northernmost section and comprises a two-storey stone structure that has been extended such that the northern half has a lower roof apex than the southern half. Both halves have a pitched, heavy slate roof. There are gables to the north and south. There are no soffits or fascias. There is a loft void that runs the length of the cottage which is approximately 1.5m to the apex. The slates are lined with bitumen felt. There is a wood-frame porch on the east elevation. Attached to the south of the main body of the cottage is a single-storey extension with a pitched, slate roof. Attached to the south of this is a small outdoor toilet which has a flat, concrete roof. The whole building has been painted. The windows and doors are wooden.

Outbuilding A

- 2.2.4 Located to the south of the cottage is a long, rectangular outbuilding, oriented north to south. This structure is constructed of wooden beams and clad in metal and wooden boarding. It is open to the east and used for storage.

Outbuilding B

- 2.2.5 The outbuilding is located to the south of Outbuilding A. This is a brick and stone structure with wooden slat upper walls. The roof is corrugated metal. This structure is also open to the east and is used for storage of machinery.



The northeast elevation of Outbuilding 1



The west elevation of the cottage



The south elevation of the cottage



The east elevation of the cottage



Figure 1: Ordnance survey map showing the location of the proposed development site.

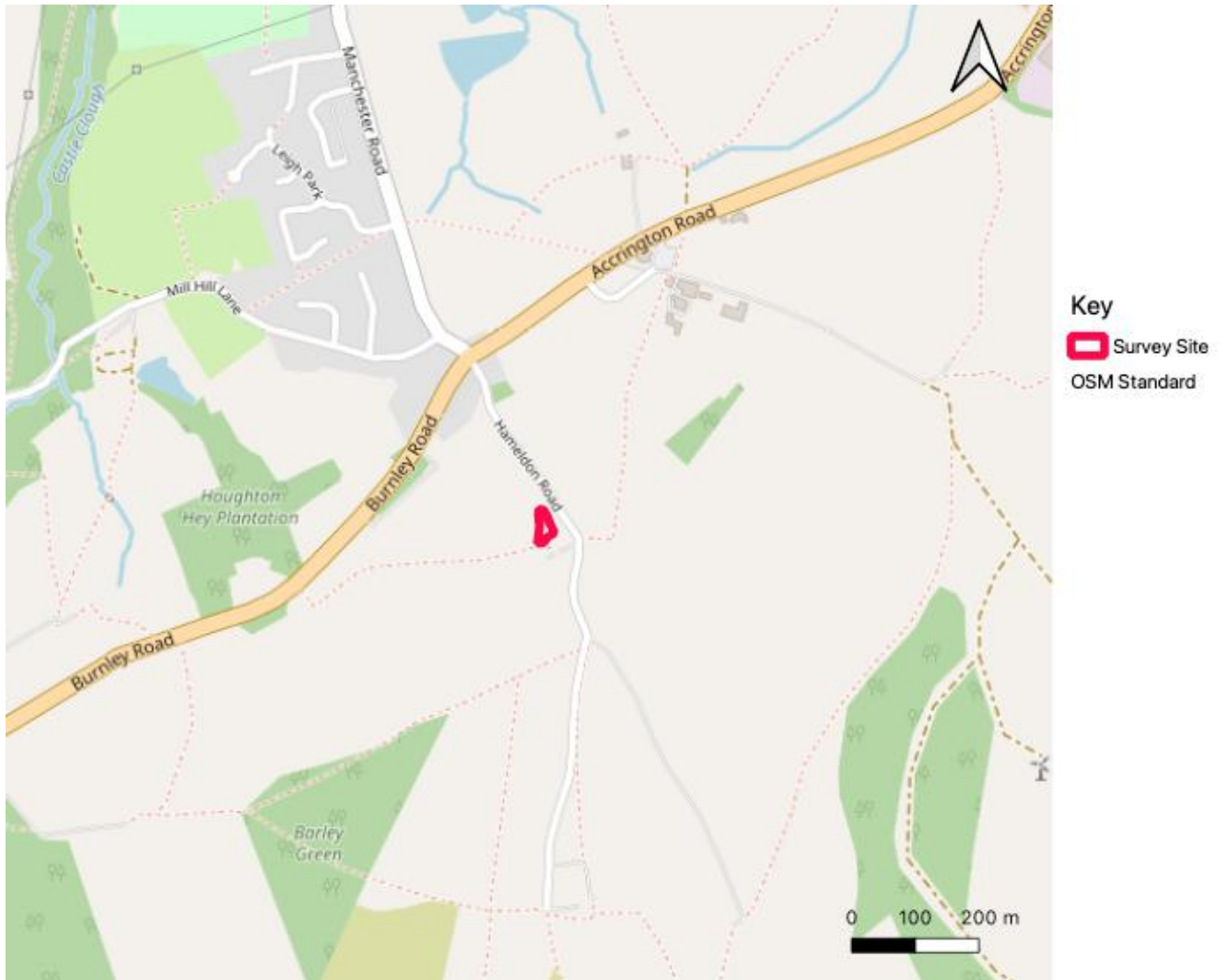




Figure 2: Aerial image showing the proposed development site and immediate surroundings





3 Legislation

Relevant legislation is listed here. For full details, refer to Appendix A.

3.1 Bats

3.1.1 All UK bats receive full protection under the Wildlife and Countryside Act 1981 and are also protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).

3.1.2 This makes it an offence to:

- Capture, injure or kill any bat,
- Disturb a bat of any species,
- Damage or destroy a breeding site or resting place of a bat (ie. The roost)
- Possess any bat, or part of a bat
- Offer for sale or trade any bat, or part of a bat

3.2 Badger

3.2.1 Under the Badger Act 1992, it is an offence to:

- Take, injure or kill a badger, or attempt to do so
- Cruelly ill-treat a badger
- Interfere with a badger sett including:
 - Damaging a badger sett or any part of it
 - Destroying a sett
 - Obstructing access to, or entry to a sett
 - Causing a dog to enter a sett; or
 - Disturbing a badger whilst it is occupying a sett.

3.3 Reptiles

3.3.1 Smooth snake and sand lizard receive full protection under the Wildlife and Countryside Act 1981 and are also protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).

3.3.2 This makes it an offence to:

- Capture, injure or kill one of these species,
- Disturb these species,
- Damage or destroy a breeding site or resting place of these species.
- Possess one of these species, or part of one
- Offer for sale or trade one of these species, or part of one

3.3.3 Common lizard, adder, grass snake and slow-worm are partially protected under the Wildlife and Countryside Act 1981. This makes it an offence to:

- Kill or injure one of these species.
- Offer for sale or trade one of these species, or part of these animals.

3.4 Amphibians

3.4.1 Great crested newts receive full protection under the Wildlife and Countryside Act 1981 and are also protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).

3.4.2 This makes it an offence to:

- Capture, injure or kill one of these species,
- Disturb these species,



- Damage or destroy a breeding site or resting place of these species.
- Possess a great crested newt, or part of this animal
- Offer for sale or trade a great crested newt, or part of this animal.

3.4.3 Common lizard, adder, grass snake and slow-worm are partially protected under the Wildlife and Countryside Act 1981. This makes it an offence to:

- Kill or injure one of these species.
- Offer for sale or trade one of these species, or part of these animals.

3.4.4 Common toad, common frog, palmate newt and smooth newt are protected from sale or trade only.

3.5 Barn Owl

3.5.1 The Wildlife and Countryside Act 1981 consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive) in Great Britain (NB Council Directive 79/409/EEC has now been replaced by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version)).

3.5.2 The Act makes it an offence (with exception to species listed in Schedule 2) 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 (also [take, damage or destroy the nest of a wild bird included in Schedule ZA1] under the Natural Environment and Rural Communities Act 2006), or
- take or destroy an egg of any wild bird.

Schedule 1 Birds

3.5.3 In addition to the above, special penalties are available for offences related to birds listed on Schedule 1. Barn owl is included on this schedule.

3.5.4 It is an offence to disturb any Schedule 1 bird at the nest, or to disturb their dependent young.

3.6 Section 41 Habitats and Species of Principal Importance

3.6.1 Section 41 Habitats and Species of Principal Importance (NERC Act 2006) are a material consideration for planners. The list is derived from the UK Biodiversity Action Plan list and supports species and habitats of conservation concern.

3.6.2 Species relevant to this report include hedgehog and common toad.

3.7 Designated Sites

3.7.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.

3.7.2 Statutory sites can be designated under UK legislation (the Wildlife and Countryside Act 1981), European Law (the Habitats Regulations 2017) or International law (Ramsar Convention).

3.7.3 Non-statutory sites can be designated by the Local Planning Authority, and different counties have different ways of designating local wildlife sites. Examples are Local Wildlife Sites and Biological Heritage Sites.



3.8 Planning Policy and Legislation

3.8.1 Under the NERC Act 2006, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site before they make a decision on the planning permission.

3.8.2 The National Planning Policy Framework (NPPF, 2021) encourages Local Planning Authorities to conserve and enhance biodiversity.

Chapter 15, Para 174 of NPPF states: *"The planning system should contribute to and enhance the natural and local environment by:*

- a) ***protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils...***
- d) ***minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"***.

Para 175 states: *"Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."*

Para 179 identifies that plans should do the following to protect and enhance biodiversity and geodiversity:

- a) ***"Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and***
- b) ***Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and peruse opportunities for securing measurable net gains for biodiversity."***

Para 180 states that *"when determining planning applications, local authorities should apply the following principles:*

- a) ***if significant harm to biodiversity from a development cannot be avoided...,adequately mitigated, or, as a last resort compensated for, then planning permission should be refused"***

3.8.3 The local planning authority has a responsibility, therefore, to obtain all information regarding the potential for protected species on a site prior to making a decision about a proposal.



4 Survey Methodology

4.1 Desk Study

4.1.1 The following data sources used to establish background information about protected species and their likely presence in the locality:

- Magic Map, Natural England (2018)
- Bing Maps (2019)
- Biological records data from Lancashire Environment Record Network (LERN) (2023)

4.1.2 Online mapping facilities, including MAGIC (Defra 2015), Google earth (for aerial mapping) and Ordnance Survey maps for the area were consulted to assess the site in relation to the surrounding landscape and any statutory and non-statutory designated sites.

4.1.3 Records data from LERN includes records of protected species and habitats of conservation interest within 2km of the survey site.

4.2 Site Survey

4.2.1 The survey site, was walked in daylight on 30th August 2023, and during the visits the habitat was assessed for potential for protected species. The surveyor searched for signs of the presence of protected species where appropriate, including pathways, burrows / nests / resting places, scratch markings, footprints and droppings etc. The presence of all animals and birds, if seen or heard, was recorded.

4.2.2 Habitats on site were assessed and described in accordance with UK Habitat Classification (UK Hab Ltd, 2023) and a list of conspicuous species recorded.

4.2.3 Consideration is also given to the surrounding landscape with respect to protected species including badger, bats, birds, amphibians and reptiles.

Preliminary Roost Assessment

4.2.4 As part of the daytime bat walkover a preliminary Roost Assessment, that is an internal and external inspection of the structures on site was undertaken during daylight to determine the suitability for bats and establish, if possible, whether bats are using the structures or have been in the past. This work was undertaken following the original good practice guidance (Collins, 2016) and updated to meet the latest good practice guidance (Collins, 2023).

4.2.5 The house and garage were inspected to look for bats and signs of the presence of bats, including:

- Droppings.
- Feeding remains including moth and butterfly wings.
- Staining from urine or oils near crevices or holes or on timber (such as roof beams), walls, chimney breasts etc.
- Scratch marks on walls and timber.
- Squeaking or chattering calls.



- 4.2.6 As a result of the external preliminary roost assessment, the structure on site was characterised as having 'negligible', 'low', 'medium' or 'high' suitability for bats. It may also be possible to confirm the presence of a roost.
- 4.2.7 Buildings or structures typically characterised as having suitability at the following levels:
- **None:** No habitat features on site likely to be used by any roosting bats at any time of year.
 - **Negligible suitability:** No obvious habitat features likely to be used by roosting bats. Modern or newly-built well-sealed structures may fall into this category. Structures that are metal clad with metal internal beams might have negligible potential if there are no favourable roosting spaces. Structures may also be unfavourable due to the level of disrepair, being subject to poor weather conditions.
 - **Low suitability:** Structures will have sub-optimal roost features with limited potential for roosting bats. Features may be used by single bats opportunistically, but do not provide enough space, shelter, protection, appropriate conditions and/or suitable surrounding habitat to be used on a regular basis by large numbers of bats.
 - **Medium suitability:** Structures may have a few features with potential for bats, that provide enough space, shelter, protection and other suitable conditions, or several features with limited potential for bats. It may also be that a potentially suitable structure is situated in an area with habitat that has an only low potential for foraging and commuting bats.
 - **High suitability:** Structures support at least one or more features that provide opportunities for roosting bats such that they might be used regularly, for longer periods by larger numbers of bats. These may be external features, such as lifted weatherboard or crevices in brick or stonework, or internal, such as large loft spaces with potential access. Barns, with open doorways and windows with wooden rafters and beams, may fall into this category. If a structure is close to good habitats, such as a waterway, marshland or woodland, this also increases the potential for roosting bats.
 - **Confirmed roost presence:** It is evident as a result of signs from inspection, such as droppings, or sight of bats, that a roost exists within the building. It is not always possible to ascertain the presence or absence of a roost even if some signs, such as droppings or feeding remains are found.

4.3 Survey Limitations

- 4.3.1 The survey work was undertaken in August 2023. At this time of year bats are likely to be present in summer roost sites, but may have started to leave, or have left to occupy transitional roosts for the autumn period. Evidence of bats using external features of buildings are less likely to be present due to the likelihood of it being washed away by the weather. Inside buildings evidence is more likely to be found if bats are using the interior of the structure with regularity and evidence is protected from the weather. Only part of the loft space of the cottage was accessible due to health and safety concerns about the strength of the floor and beams.



- 4.3.2 Species such as reptiles and amphibians are active at this time of the year, although an assessment of the likelihood of presence is based upon the habitat present and not sightings of animals.
- 4.3.3 The majority of higher plants are visible in August, but some species are more conspicuous or only present at some times of the year, and some species may have been missed. The species list constructed is not comprehensive.

5 Findings: Surrounding Designated Sites

- 5.0.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.
- 5.0.2 The protection over European designated sites (or Natura 2000) sites and Ramsar sites require any potential direct and indirect impacts are assessed within at least a 5km radius of the survey site.
- 5.0.3 The protection over UK statutory sites (Sites of Special Scientific Interest and Local Nature Reserves) requires that any potential direct and indirect impacts from a development are assessed within at least a 2km radius of the survey site.
- 5.0.4 Any potential direct or indirect impacts upon non-statutory sites are assessed within 1km of the survey site.

Statutory Sites

- 5.0.5 The protection over UK statutory sites (Sites of Special Scientific Interest) requires that any potential direct and indirect impacts from a development are assessed within at least a 2km radius of the survey site, whilst the protection over European designated sites (or Natura 2000) sites and Ramsar sites require any potential direct and indirect impacts are assessed within at least a 5km radius of the survey site.
- 5.0.6 There is one UK designated site within 2km; Lowerhouse Lodges (LNR) which is situated approximately 2km to the northeast of the survey site.
- 5.0.7 Lowerhouse Lodges is designated because it supports swamp and marsh vegetation, riverside habitats, plantations, wet willow woodland, scrub, tall herb and hay meadow.

Assessment

Lowerhouse Lodges

- 5.0.8 Lowerhouse Lodges, located 2km to the northeast of the survey site is considered very unlikely to be significantly impacted directly or indirectly by the proposals. The habitats within the survey site are dissimilar from those found within the LNR and there are no direct habitat links to



the LNR from the site.

Non-statutory sites

5.0.9 There are three Biological Heritage Sites (BHS) within 1km of the survey site:

- Houghton Hey Plantation: This site is located approximately 330m to the west of the survey site. This BHS comprises woodland following a stream, supporting a variety of ground flora.
- Thornybank Clough: This site lies approximately 530m to the southeast of the survey site. This BHS comprises a mosaic of species-rich grassland, woodland and scrub.
- Castle Clough: This site lies approximately 800m to the west of the survey site. This BHS supports woodland that has ground flora resembling ancient woodland.

Assessment

5.0.10 Direct and indirect impacts upon the BHSs are unlikely as the survey site is sufficiently distanced from these woodland sites and the habitat within the survey site is dissimilar to that found within the Biological Heritage Sites.

Statutory Site Designations

Local Nature Reserve (LNR) Local Nature Reserves (LNRs) are a statutory designation made under Section 21 of the National Parks and Access to the Countryside Act 1949 by principal local authorities. LNRs are areas of natural space for people and wildlife. They can be designated on the basis of wildlife and biodiversity, or for geological reasons.

Non-statutory Site Designations

Biological Heritage Sites (BHS) Biological Heritage Sites in Lancashire are identified within the county using a set of published guidelines. Their selection is based on the most important, distinctive and threatened species and habitats within a national, regional and local context. Local Wildlife Sites are locally valuable areas and are often corridors for wildlife forming key components of ecological networks. They are non-statutory designations, but are a material consideration within the planning process.



6 Findings: Habitat Survey

6.1 Habitat Assessment

Data Search

- 6.1.2 The data from LERN does not contain any records of protected plants or species of conservation concern within 1km of the survey site. This is likely due to a lack of survey effort rather than an absence of species of interest, especially given the presence of Sites of Biological Importance within the vicinity.

Survey Site

- 6.1.3 The survey site comprises modified grassland, trees, shrubs and hedgerows.
- 6.1.4 The UK Hab classifications are as follows:
- Modified Grassland g4, secondary codes 11 (scattered trees), 66 (frequently mown)
 - Hard standing/sealed surface (driveway) u1b
 - Building u1b5
- 6.1.5 Refer to the UK Habitat Classification Plan below for Target Note (TN) references for habitat descriptions and other interest features.

Modified grassland

- 6.1.6 The modified grassland (TN1) on site is composed of common and widespread species including rye grass (*Lolium perenne*), Yorkshire fog (*Holcus lanatus*), dandelion (*Taraxacum* agg.) and white clover (*Trifolium repens*). The species-poor grassland is highly maintained.
- 6.1.7 Shrubs and trees present near the cottage (TN2) comprise holly (*Ilex aquifolium*), sycamore (*Acer pseudoplatanus*), buddlia (*Buddleia davidii*), and elder (*Sambucus nigra*).

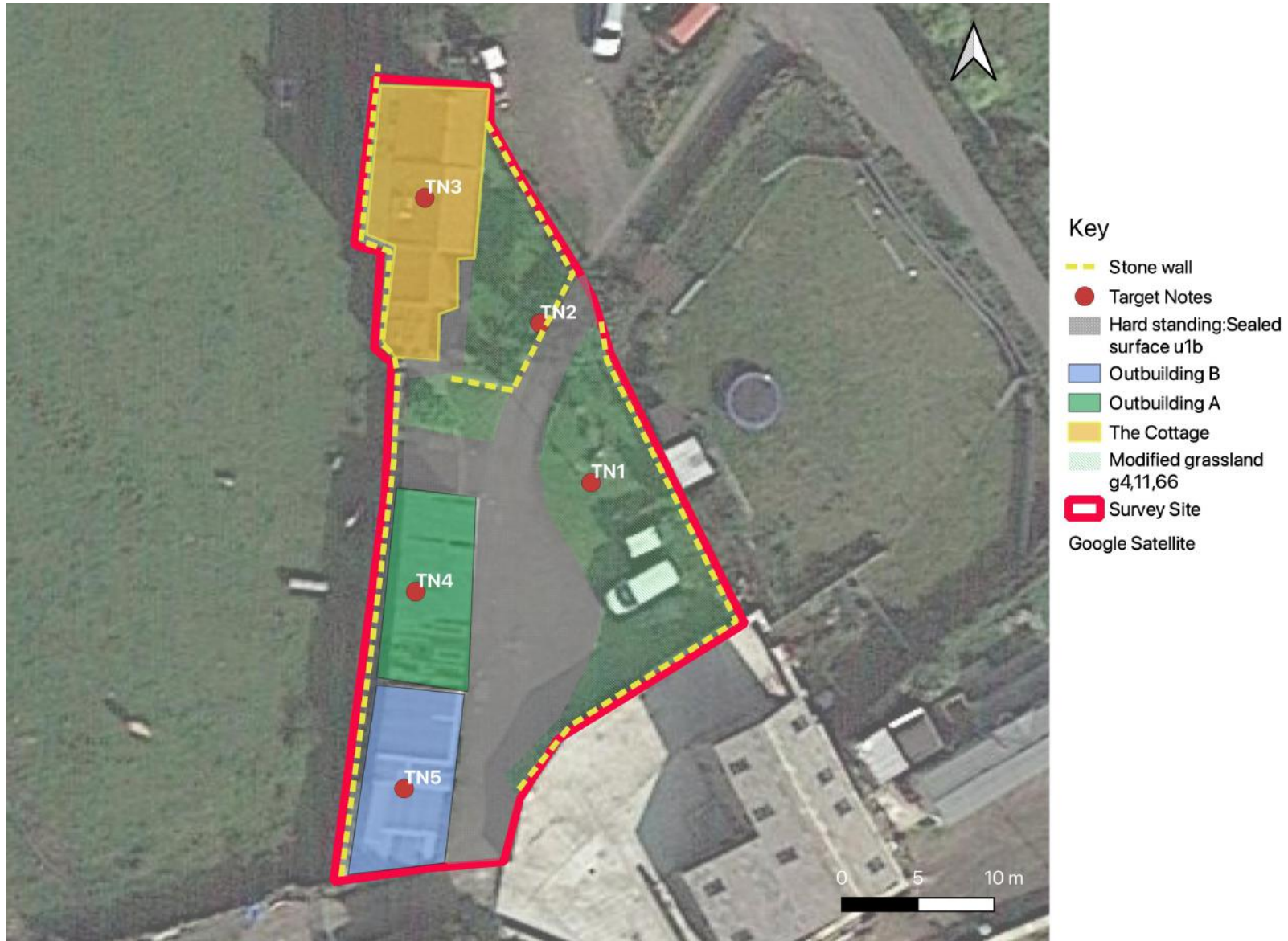


Modified grassland on site (TN1)

Assessment

- 6.1.8 The habitats present are common and composed of common and widespread plant species.
- 6.1.9 **The proposals are considered very unlikely to have a negative impact upon plant species or habitats of interest within the locality. The loss of a small area of modified grassland and common shrubs is not considered to be of significance.**
- 6.1.10 **The proposals provide the opportunity to significantly enhance the site for wildlife and recommendations for this have been made.**

Figure 4: The Survey Site – UK Habitat Classification Plan



Target Notes

TN1 - Modified grassland

TN2 - Trees and shrubs

TN3 – The Cottage with high suitability for bats

TN4 – Outbuilding A with negligible suitability for bats

TN5 - Outbuilding B with low suitability for bats



7 Findings: Protected Species

Mammals

7.1 Bats

Potential for Bats

- 7.1.1 At a landscape level, the area surrounding the survey site is very good for bats. Refer to Figure 2.
- 7.1.2 A mix of surrounding habitat types including grassland, woodland, tree lines, waterways and waterbodies will support a variety of bat species including widespread species such as common and soprano pipistrelle bat (*Pipistrellus pipistrellus* and *Pipistrellus pygmaeus* respectively). Species that favour open habitats such as Leisler's (*Nyctalus leisleri*) and noctule bat (*Nyctalus noctula*) would also be expected, especially as these bats travel some distance to forage. Species that favour wooded habitat, such as brown long-eared bat (*Plecotus auritus*), Natterer's bat (*Myotis nattereri*), whiskered bat (*Myotis mystacinus*) and Brandt's bat (*Myotis brandtii*) may also be present.

Data Search

- 7.1.3 Data from LERN include records of just two bat species within 2km of the survey site; common pipistrelle (*Pipistrellus pipistrellus*) and *Myotis* bat species. There are only records of common pipistrelle within 1km.
- 7.1.4 There is just one known roost sites within 1km, a common pipistrelle hibernation roost.
- 7.1.5 The lack of records is likely to reflect low recorder effort in the locality rather than an absence of species since the habitat is considered likely to support a larger range of species.



The Conservation Status of Bats in the Area

7.1.6 The conservation status of bats in the area is shown in Table 1.

Table 1: *The Conservation Status of Bats in the area at a Local, County and Regional Level*

Species	Local	County	Regional
<i>Common pipistrelle</i>	<i>Likely to be common in the area. There are records of this species in the area (10km).</i>	<i>Common and widespread Frequently recorded.</i>	<i>Common and widespread Frequently recorded across the Northwest</i>
<i>Soprano pipistrelle</i>	<i>Likely to be present due to the presence of riparian habitat.</i>	<i>Widespread. Frequently recorded.</i>	<i>Common and widespread Frequently recorded across the Northwest</i>
<i>Nathusius's pipistrelle</i>	<i>Likely to be rare in the area.</i>	<i>Infrequently recorded, but this may be due to low survey effort. Not yet recorded breeding in the county.</i>	<i>Rare across the northwest. A migratory species.</i>
<i>Brown long-eared bat</i>	<i>Likely to be in the area. There is a recent record of this species within 10km of the site.</i>	<i>Common and widespread Frequently recorded.</i>	<i>Common and widespread Frequently recorded across the Northwest.</i>
<i>Natterer's bat</i>	<i>Likely to be in the area, although this species favours woodland habitat, which is infrequent in the landscape.</i>	<i>Frequently recorded</i>	<i>Widespread and scattered across the Northwest.</i>
<i>Noctule</i>	<i>Present</i>	<i>Widespread and frequently recorded.</i>	<i>Common and widespread. Frequently recorded in the Northwest.</i>
<i>Whiskered bat</i>	<i>Present but likely rare</i>	<i>Present</i>	<i>Widespread.</i>
<i>Brandt's bat</i>	<i>Rare / absent</i>	<i>Present</i>	<i>Widespread.</i>
<i>Alcathoe's bat</i>	<i>Unknown</i>	<i>Unknown</i>	<i>Widespread. Likely under-recorded.</i>
<i>Daubenton's</i>	<i>Presence is likely due to the riparian habitat present.</i>	<i>Widespread, frequently recorded near water.</i>	<i>Widespread</i>
<i>Serotine</i>	<i>Rare / absent</i>	<i>Unknown</i>	<i>Restricted to south and southwest Britain, rarely recorded in the northwest.</i>
<i>Leislars</i>	<i>Rare</i>	<i>Unknown</i>	<i>Rare, but widespread in Britain. Present in the northwest.</i>
<i>Barbastelle</i>	<i>Unlikely to be present in the area. This species is a woodland-specialist and there is a lack of this habitat present.</i>	<i>Unknown</i>	<i>Present south of a line from North Wales to the Wash.</i>



Ground Level Tree Assessment

- 7.1.7 The trees on site that may be impacted either directly or indirectly were assessed from the ground to determine the presence or absence of Potential Roost Features (PRFs) and their potential for bats based on this presence absences determined.
- 7.1.8 None of the trees on site contain potential roost features. This is because they are immature and lack rot holes, flaking bark and other features that may provide PRFs.

Preliminary Roost Assessment

The Cottage

- 7.1.9 **The Cottage (TN3) is considered to have high suitability for bats.**
- 7.1.10 Externally, the walls of the house are in good condition. However, there are numerous crevices and gaps between the slates where they are raised or have shifted. The slates are covered beneath with roofing felt and the gaps between the slates and the roof materials have suitability for crevice-roosting bats such as pipistrelle species and whiskered bat. Due to the high number of potential roost sites in the roof structure and the good quality of the surrounding habitat the building has high suitability for bats.
- 7.1.11 **Further survey work in the spring and summer months to determine the presence or absence of a bat roost will be necessary.**
- 7.1.12 Internally the loft space of the building is relatively small, too small for bats such as brown long-eared bat to fly prior to leaving a roost. No evidence of bats was found in the loft space, but due to health and safety concerns, it was not fully inspected.

Outbuilding A

- 7.1.13 **Outbuilding A (TN4) is considered to have negligible suitability for bats.**
- 7.1.14 The walls of the structure are single skin and do not provide any potential roost opportunities. Similarly, the roof is single skin and the gaps between the roof sheets and wooden frame are minimal and unlikely to be sufficient to provide roosting space. The metal sheets will also fluctuate widely in temperature, which would be unfavourable for roosting bats.
- 7.1.15 The space is open to the east, which would allow bats to enter with east and bats may forage in the space from time to time. No evidence of bats was found during the inspection.



Outbuilding B

7.1.16 **Outbuilding B (TN5) is considered to have low suitability for bats.**

7.1.17 The stone walls externally contain many crevices and gaps, whilst these are few internally. These gaps may provide suitable roost space for bats. The external walls are exposed to the weather, however, as the landscape to the west is open and this may reduce the use of the features. This renders the spaces unsuitable for hibernation as the temperature and humidity would be widely fluctuating.

7.1.18 The single-skin corrugated roofing has negligible suitability for bats, as do the wood panel walls.

7.1.19 Further survey work in the spring and summer months will be necessary to determine the presence or absence of a roost.



Showing crevices and gaps under the slates on the east elevation of the cottage



Showing the interior of outbuilding B



Crevices in the interior wall of outbuilding B

Habitat for foraging and commuting bats.

- 7.1.20 The modified grassland has very limited suitability for foraging bats due to the limited area and there are no substantial linear vegetated features that may be favoured by commuting bats, although the walls may provide a form of structural corridor.
- 7.1.21 Negative impacts on foraging and commuting bats are considered unlikely.

7.2 Badger

Data Search

- 7.2.1 Data from LERN includes numerous records of badger (*Meles meles*) within 2km of the survey site.

Survey and Assessment

- 7.2.2 The habitat in the wider area, including the pasture and woodland, has suitability for badger, which may be present in the locality.
- 7.2.3 The survey site has some suitability for foraging badger, which favour grassland to feed, but the small area of habitat renders this unlikely, since the space is walled and there are farm dogs.
- 7.2.4 No evidence of badger (setts, tracks, latrines, snuffle holes) was found within the survey site. This species is considered unlikely to be present within or immediately surrounding the site and the proposals are unlikely to impact this species.
- 7.2.5 **No further survey work or mitigation for badger is recommended.**



7.3 Hedgehog

Data Search

- 7.3.1 Data from LERN includes records of hedgehog (*Erinaceus europaeus*) within 2km of the survey site.

Survey and Assessment

- 7.3.2 Hedgehog are a Species of Principal Importance under the NERC Act, 2006 (also known as UK Biodiversity Action Plan species).
- 7.3.3 The survey site, comprising modified grassland with shrubs, and connectivity to adjacent gardens and areas of pasture provides suitable habitat for foraging and sheltering hedgehog.
- 7.3.4 Hedgehog are considered likely to be present in the area.
- 7.3.5 **Although the proposals are unlikely to have a significant negative impact upon populations of this species, precautionary measures to ensure the protection of hedgehog during works are proposed.**

7.4 Reptiles

Data Search

- 7.4.1 The data from LERN does not include any records of reptiles within 2km of the survey site.

Survey and Assessment

- 7.4.2 The records for reptiles in the northwest are generally low. Reptiles are of very low distribution and found at low density even in ideal habitats such as rough grassland with scrub.
- 7.4.3 The habitat within the survey site, comprising managed modified grassland with few shrubs and walled boundaries is unfavourable for reptiles, which prefer longer, tussocky grassland with patches of dense cover.
- 7.4.4 **The survey site is considered very unlikely to support reptiles and no further survey work for this species group is considered necessary.**



7.5 Amphibians

Great crested newt

Data Search

- 7.5.1 The data from LERN does not include any records of great crested newt (*Triturus cristatus*) within 2km of the survey site.

Survey and Assessment

- 7.5.2 Great crested newt, which have the highest protection of all amphibians under UK and EU law, favour still water bodies, such as ponds with good vegetation. They breed in ponds, but spend much of the year terrestrially, within habitat such as rough grassland and woodland, which provides good foraging and hibernacula. Great crested newts are known to travel, usually, within a 250m radius of breeding ponds, but can travel up to 500m.
- 7.5.3 According to the relevant Ordnance Survey and aerial maps there are no waterbodies within 250m of the survey site and the closest waterbody lies approximately 570m to the northwest beyond Burnley Road, which is likely to provide a significant barrier to the movement of amphibians.
- 7.5.4 The habitat on site comprising highly maintained modified grassland with few shrubs is suboptimal for great crested newts which favour rough grassland and woodland with hibernacula.
- 7.5.5 **The proposals are considered very unlikely to impact this species and no further survey work or mitigation is considered necessary.**

Common Toad

Data Search

- 7.5.6 Data from LERN include records of common toad (*Bufo bufo*) within 2k of the survey site.

Survey and Assessment

- 7.5.7 Common toad are a Species of Principal Importance under the NERC Act, 2006 (also known as UK BAP species).
- 7.5.8 The highly maintained grassland within the survey site with a few shrubs provides some limited potential habitat for common toad. Common toad are a mobile species and will regularly travel long distances to reach breeding ponds; they may travel across the site regularly.
- 7.5.9 **The proposals for the site are not expected to impact upon populations of this species, but precautionary measures are proposed during works to avoid unnecessary harm to individual animals.**



7.6 Nesting Birds

Data Search

- 7.6.1 Data from LERN includes records of 61 bird species within 2km of the survey site. Of these, 5 are listed on Schedule 1 of the Wildlife and Countryside Act, 1981; kingfisher (*Alcedo atthis*), little ringed plover (*Charadrius dubius*), peregrine (*Falco peregrinus*), redwing (*Turdus illacus*) and fieldfare (*Turdus pilaris*).
- 7.6.2 These species are unlikely to nest on site either because the habitat present is unfavourable or because, as is the case for redwing and fieldfare, they are winter visitors. Fieldfare and redwing may be found foraging within adjacent farmland in the winter months.
- 7.6.3 The records data also include species listed on Schedule 41 of the NERC Act (2006) within 1km of the survey site; curlew (*Numenius arquata*), house sparrow (*Passer domesticus*), lapwing (*Vanellus vanellus*), skylark (*Aluda arvensis*), reed bunting (*Emberiza schoeniculus*), tree sparrow (*Passer montanus*), grey partridge (*Peridix peridix*) and ring ouzel (*Turdus torquatus*). Of these species, house sparrow may be found on site, whilst skylark and curlew may be found on surrounding farmland.

Survey and Assessment

- 7.6.4 Carrion crow (*Corvus corone*) was recorded on site during the survey were recorded on site during the survey. No evidence of barn owl or other bird species was recorded in the cottage, outbuilding A or outbuilding B.
- 7.6.5 However, passerine birds, including those of conservation concern may nest on site in the spring and summer months, both in vegetation and within holes and crevices of the cottage roof and the walls of outbuilding B.
- 7.6.6 **Avoidance mitigation will be necessary to prevent harm and unnecessary disturbance to nesting birds during works.**
- 7.6.7 **The proposals provide the opportunity to enhance the site for nesting birds and recommendations for this have been made.**



***Birds of Conservation Concern (BoCC):** These lists indicate the population status of birds in the UK, Channel Islands and the Isle of Man.

- BoCC Red list: Includes species globally threatened, a historical population decline in the UK, a severe 9at least 50% decline in the UK breeding population over the last 25 years or long-term period. A severe (at least 50%) contraction of the UK breeding range over the last 25 years or the longer term.
- Amber list: Includes species with unfavourable conservation status in Europe, a historical population decline, moderate (25-50%) decline in the UK breeding population over the last 25 years, moderate (25-50%) contraction in UK breeding or non-breeding range, rare breeders (1-300 breeding pairs in UK), rare non breeders, localised rare breeders or non-breeders, internationally important breeders or non-breeders.

7.7 Invertebrates

Data Search

- 7.7.1 Data from LERN includes records of one butterfly species and two moth species listed on Schedule 41 of the NERC Act (2006); small heath butterfly (*Coenonympha pamphilius*), white ermine moth (*Spilosoma lubricipeda*) and buff ermine moth (*Spilosoma lutea*).
- 7.7.2 Small heath butterfly is also a Local Biodiversity Action Plan Species. The data include records of one other species listed on the Local BAP; ringlet butterfly (*Aphantopus hyperantus*). Two additional species previously recorded are listed as representative of Biological Heritage Sites; green hairstreak butterfly (*Callophrys rubi*) and speckled wood butterfly (*Pararge aegeria*).
- 7.7.3 The lack of records of any other invertebrate species is likely a reflection of the lack of survey and recording than the absence of species.

Survey and Assessment

- 7.7.4 The habitat within the survey site is composed of common and widespread plant species and will support common and widespread invertebrates. No invertebrates that are rare and/or protected are expected on site.
- 7.7.5 Of the butterfly and moth species previously recorded, buff ermine and white ermine are the most likely to be found on or near the site as this species are associated with gardens and hedgerows, the caterpillars commonly feeding on common nettle. Small heath is unlikely to be present on site as the habitat is unsuitable; this species favours heathland and sparse grasses in dry areas such as road verges. Ringlet, green hairstreak and speckled wood are most often associated with woodland rides and scrubby grasslands. These species are unlikely to be found on site, but cannot be entirely ruled out.
- 7.7.6 Given the habitats that are present on site, it is possible that Section 41 species white and buff ermine moth may be present, but the site is unlikely to be of importance to sustain a viable population.



7.7.7 The site is likely to support a range of common and widespread invertebrates, but the works are unlikely to have any significant detrimental effect on local populations.

7.7.8 **No further survey or mitigation is recommended.**

7.8 Other protected species and habitats.

7.8.1 Other protected species, including red squirrel (*Sciurus vulgaris*) and white-clawed crayfish (*Austropotamobius pallipes*) are not expected on or near the site as the area is outside the distribution range of red squirrel and there is no suitable habitat for white-clawed crayfish.

8 Conclusion

8.0.1 The land at Park Gates Cottage comprises a cottage, two outbuildings, hard standing, modified grassland and scattered trees and shrubs.

8.0.2 The habitats on site are common and widespread. The loss of a small area of modified grassland is not considered likely to be of significance to local flora.

8.0.3 The house has high suitability for bats, whilst outbuilding B is considered to have low suitability for bats and recommendations are made for further survey work in the spring and summer months to determine the presence or absence of a roost.

8.0.4 Avoidance mitigation is proposed for hedgehog, common toad and nesting birds.

8.0.5 The proposals provide the opportunity to enhance the site for wildlife and recommendations for this have been made.



9 Recommendations

9.1 Bats

9.1.1 The cottage is considered to have high suitability for bats, whilst outbuilding 2 is considered to have low suitability for bats. In order to determine the presence or absence of a bat roost, further survey work in the spring/summer will be necessary. In accordance with the latest good practice guidelines it is proposed that:

- For the cottage: Three dusk emergence surveys are undertaken to determine the presence or absence of bats between May – August.
- For outbuilding B: A single dusk emergence survey is undertaken to determine the presence or absence of bats between May – August.

9.2 Hedgehog and Common Toad

9.2.1 There is potential for hedgehog and common toad to be present on site. In order to reduce the risk of harm to these species during works, the following is recommended:

- Any works to remove vegetation is undertaken by hand with care, whilst checking for wildlife. This is especially important around the site boundaries and where vegetation is more dense.
- If hedgehog or common toad are found during works, they can be picked up and moved to a safe place away from the area of works where there is vegetative cover.

9.3 Nesting Birds

9.3.1 Birds may nest in the shrubs, trees and buildings within the site and adjacent to site in the spring and summer months. In order to prevent disturbance and/or harm to nesting birds, if vegetation works are necessary, it is recommended that:

- Initial and heavy construction works are timed to avoid the bird breeding season (breeding season: March – September).
- If this is not possible, a suitably qualified ecologist should check the vegetation on site to determine the presence / absence of nesting birds prior to the start of any works.
- If birds are found actively nesting on site, the nest and surrounding vegetation (5m) must be left undisturbed until the young have fledged.



9.4 Enhancement for Biodiversity

9.4.1 The proposals provide the opportunity to retain and enhance the existing biodiversity.

Native species planting

9.4.2 It is proposed that native species are used for planting plans, for example planting of native species hedgerow around the site boundary. Species that could be used include hawthorn (*Crataegus monogyna*), hazel (*Corylus avellana*), guelder rose (*Viburnum opulus*), rowan (*Prunus aucuparia*), holly (*Ilex aquifolium*), dog rose (*Rosa canina*) and honeysuckle (*Lonicera periclymenum*).

Breeding Birds and Roosting Bats

9.4.3 Enhancement for nesting birds and roosting bats can be achieved through provision of bird nest boxes and bat boxes.

Provision of Bat Boxes

9.4.4 It is recommended that:

- At least four crevice-roost sites for roosting bats are integrated into the newly constructed dwelling.
- These could be in the form of bat roost slates, to allow bats to enter a space in the roof, between the slates and the lining. See Appendix B. However, it is imperative that bitumen roofing felt (not breathable roofing membrane) is used beneath these spaces as bats get caught in the fibre of breathable roofing membrane.
- Alternatively, bat boxes could be attached externally to the building, or integrated into the stonework – see the examples below. There are many alternatives at NHBS.com.

Provision of Bird Boxes

9.4.5 To retain the existing functionality of the site for nesting birds and to improve this, it is recommended that:

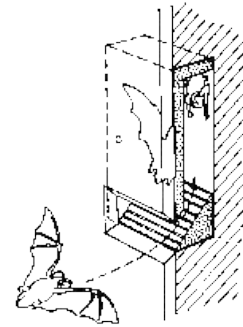
- At least four bird boxes are integrated into the newly constructed dwelling or installed on trees or posts around the site. Boxes should be a mix of 28mm holes, 32mm holes and open nest boxes. For example, the Vivara Pro Seville Woodstone Nest Box would provide suitable nesting habitat for passerine birds. The 2H Schwegler Robin Box is suitable for open-box nesting species such as robin and wren. The boxes are made of woodcrete and are very durable so do not require regular replacement. These are examples and there are many alternatives to choose from.



Bat and Bird Boxes

1FE Schwegler bat access panel

This box is durable and does not require cleaning.



Beaumaris Woodstone Bat Box

This box is durable and does not require cleaning.

All bat boxes are available from NHBS Ltd

Vivara Pro Seville Woodstone Nest Box



2H Schwegler Robin Box



10 References

- Bing Maps (Accessed 2023) <https://www.bing.com/maps/>
- Butcher, B., Carey, P., Edmonds, R., Norton, L. and Treweek, J. (2023). UK Habitat Classification V2.0 – Advance publication of selected Habitat Definitions at <http://ukhab.org>
- CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. Chartered Institute of Ecology and Environmental Management.
- Collins, J. (ed.) (2023) Bat Surveys for Professional Ecologists: Good Practice Guidelines (4th edition). The Bat Conservation Trust, London. ISBN-978-1-7395126-0-6
- Eaton, M.A., Aebischer, N.J., Brown, A., Hearn, R.D., Lock, L., Musgrove, A.J., Noble, D.G., Stroud, D.A., & Gregory, R.D. (2015). Birds of Conservation Concern 4: the population status of birds in the UK, Channel Islands and Isle of Man. *British Birds*, 108: 708-746.
- Google maps (Accessed 2023) <https://www.google.co.uk/maps>
- MAGIC Map (Accessed 2023) <http://www.magic.gov.uk/MagicMap.aspx>. DEFRA.
- Natural England (Accessed 2000) Method Statement Template for Great Crested Newt Mitigation Licence. <https://www.gov.uk/government/publications/great-crested-newts-apply-for-a-mitigation-licence>
- NBN (2019) National Biodiversity Network.
- UKHab Ltd (2023). UK Habitat Classification Version 2.0 (at <https://www.ukhab.org>)



• APPENDIX A: Wildlife Legislation and Planning Policy

1.0 UK AND EU LEGISLATION

KEY LEGISLATION

- In the UK, the following legislation relates to wildlife and habitats:
- Wildlife and Countryside Act 1981 (as amended)
 - The Countryside and Rights of Way Act (CROW), 2000
 - The Badger Act 1992
 - The Natural Environment and Rural Communities Act (NERC, 2006)
 - Conservation of Habitats and Species Regulations 2017 (as amended).
 - The Hedgerow Regulations (1997)

1.1 WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

1.1.1 The Wildlife and Countryside Act 1981 consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive) in Great Britain (NB Council Directive 79/409/EEC has now been replaced by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version)).

BIRDS

1.1.2 The Act makes it an offence (with exception to species listed in Schedule 2) 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 (also [take, damage or destroy the nest of a wild bird included in Schedule ZA1] under the Natural Environment and Rural Communities Act 2006), or
- take or destroy an egg of any wild bird.

Schedule 1 birds

1.1.3 Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young, for example Barn Owl and Red Kite.

Areas of Special Protection for Birds

1.1.4 The Secretary of State may also designate Areas of Special Protection (subject to exceptions) to provide further protection to birds.

Other offences

1.1.5 The Act also prohibits certain methods of killing, injuring, or taking birds, restricts the sale and possession of captive bred birds, and sets standards for keeping birds in captivity.

OTHER ANIMALS

1.1.6 The Act makes it an offence (subject to exceptions) to intentionally ([or recklessly] - only under the Nature Conservation (Scotland) Act 2004) kill, injure or take any wild animal listed on Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places. The Act also prohibits certain methods of killing, injuring, or taking wild animals.

1.1.7 For animals listed in Schedule 5 of the act, it is an offence under:

- Section 9(1) to kill, injure or take the animal by any method
- Section 9(2) to possess or control a dead or live animal (or part of derivative).
- Section 9(4)(a) to cause damage to, destruction of, obstruction of access to any structure or place used by a scheduled animal for shelter or protection.
- Section 9(4)(b) to disturb any animal on the schedule occupying such as structure or place.
- Section 9(4)(c) to obstruct access to any structure or place which any such animal uses for shelter or protection.
- Section 9(5)(a) to sell, offer or expose for sale, possess or transport for the purpose of sale, any live or dead wild animal, or part or derivative of an animal included in Schedule 5.
- Section 9(5)(b) to publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.



Species that receive FULL PROTECTION under the act:

- All UK bats
- Otter
- Water vole
- Dormouse
- Red squirrel
- Wildcat
- Reptiles – Smooth snake and sand lizard
- Amphibians – Great crested newt, Natterjack toad, Pool frog
- Invertebrates – some including, but not restricted to Swallowtail butterfly, Marsh fritillary butterfly, Large copper butterfly, Heath fritillary butterfly, Large blue butterfly, Barberry carpet moth, Rainbow leaf beetle, Violet click beetle, Medicinal leech.

Species that protected from intentional KILLING, INJURY and SALE only:

- Reptiles – widespread species; Common lizard, Slow-worm, Grass snake and Adder.

Species protected from TAKING and SALE only:

- Atlantic stream (white-clawed) crayfish

Species protected from SALE only:

- Common toad
- Common frog
- Palmate newt
- Smooth newt
- Invertebrates – Some including 18 butterflies such as Chalk hill blue butterfly, Adonis blue butterfly, Large tortoiseshell butterfly.

Vascular Plants, Bryophytes, Lichens and Fungi (PLANTS)

1.1.8 For any vascular plant, bryophyte, lichen or fungi listed in Schedule 8 of the Act, it makes it an offence under:

- Section 13(1)(a) to intentionally pick, uproot or destroy plants in Schedule 8.
- Section 13(1)(b) to undertake unauthorised intentional uprooting of any wild plant not included in Schedule 8.
- Section 13(2)(a) to sell, offer for sale, possess or transport for the purpose of sale any plant (live or dead, part or derivatives) on Schedule 8.
- Section 13(2)(b) to publish or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.

1.1.9 Species with protection under Schedule 8 include, but are not restricted to:

1.1.10 Bluebell, Wood calamint, Rock cinquefoil, Early spider orchid, Spring gentian, Stinking goosefoot, Small hare's-ear, Alpine copper moss (*Mielichhoferia mielichoferi*), Goblin lights lichen (*Catolechia wahlenbergii*).

Non-Native Species

1.1.11 Species listed in Schedule 9 of the Act are non-native species, which the establishment of in the wild may be detrimental to native wildlife. Species listed in Schedule 9 include Japanese knotweed, Himalayan Balsam and Giant hogweed.

1.1.12 For species listed in Schedule 9 of the act it is an offence:

- Under Section 14(1) if any person releases or allows to escape into the wild any animal which—
 - (a) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or
 - (b) is included in Part I of Schedule 9,
- Under Section 14ZA (1) to sell, offers or exposes for sale, or has in his possession or transports for the purposes of sale an animal or plant to which this section 14 applies, or anything from which such an animal or plant can be reproduced or propagated.
- Under Section 14ZA (2) to publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell an animal or plant to which this section applies, or anything from which such an animal or plant can be reproduced or propagated.



1.1.13 Section 14ZB gives the Secretary of State the power to issue codes of practice, or approve a code of practice issued by others, relating to non-native animal and plant species. It is intended that the codes will be used to provide recommendations, advice and information on how to stop the damage caused by non-native animals and plants.

1.2 SITES OF SPECIAL SCIENTIFIC INTEREST (SSSIs) AND OTHER PROTECTED AREAS

1.2.1 Sections 28 to 33 of Part 2 of the Wildlife and Countryside Act detail the law regarding SSSIs. Sections 34 to 53 deal with other protected areas within Great Britain.

- The Act provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs) – these sites are identified for their flora, fauna, geological or physiographical features – by the country conservation bodies in England (Natural England) and Wales (Natural Resources Wales).
- The Act also contains measures for the protection and management of SSSIs.
- The Act provides for the making of Limestone Pavement Orders, which prohibit the disturbance and removal of limestone from such designated areas
- The Act provides means for the designation of Marine Nature Reserves.
- The Act prohibits the undertaking of agricultural or forestry operations on land within National Parks which has been either moor or heath for 20 years, without consent from the relevant planning authority.

1.3 THE COUNTRYSIDE AND RIGHTS OF WAY (CROW) ACT 2000

1.3.1 The Countryside and Rights of Way Act 2000 strengthened the Wildlife and Countryside Act 1981 in the following ways:

Schedule 12

1.3.2 Schedule 12 of the Act amends the species provisions of the Wildlife and Countryside Act 1981 and strengthens the legal protection of species by:

- Providing provisions to make certain offences 'arrestable'
- Changing the term 'intentional' to 'reckless' with regard to disturbance offences, such that ignorance of the law is no longer a defence.
- Conferring greater powers to police and wildlife inspectors for entering premises and obtaining wildlife tissue samples for DNA analysis, and;
- Enabling heavier penalties on conviction of wildlife offences.

Schedule 9

1.3.3 Schedule 9 of the Act amends SSSI provisions of the Wildlife and Countryside Act 1981, including provision to change SSSIs and providing increased powers for their protection and management, placement of a duty on public bodies to further the conservation and enhancement of SSSIs and increases in penalties on convictions where the provisions are breached.

1.4 THE BADGER ACT 1992

1.4.1 Under the Badger Act 1992, it is an offence to:

- Section 1 – Take, injure or kill a badger, or attempt to do so
- Section 2 – Cruelly ill-treat a badger, inclusive of digging for a badger
- Section 3 – Interfere with a badger sett. A person is guilty of an offence if, except as permitted by or under this Act, he interferes with a badger sett by doing any of the following things—
 - (a)damaging a badger sett or any part of it;
 - (b)destroying a badger sett;
 - (c)obstructing access to, or any entrance of, a badger sett;
 - (d)causing a dog to enter a badger sett; or
 - (e)disturbing a badger when it is occupying a badger sett,
- Section 4 – To sell or possess a live badger.
- Section 5 – To mark or ring a badger unless under licence to do so.

1.5 THE HEDGEROWS REGULATIONS, 1997



1.5.1 The Hedgerows Regulations, 1997 ensure the protection from damage or destruction of 'important' hedgerows. Criteria within the regulations determine the importance.

1.6 THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 (as amended)

1.6.1 In addition to the Wildlife and Countryside Act 1984, certain species have additional protection under European Law.

1.6.2 The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs) consolidate the amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994 in England and Wales. The Regulations transpose the Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora (EC Habitats Directive) into UK law.

1.6.3 The Habitats Regulations 2010 provide protection for 'European Protected Species' and protection and designation for 'European Protected Sites'.

Schedule 2: European Protected Species of Animals

- All UK bats
- Dormice
- Otter
- Large blue butterfly
- Wild cat
- Sand lizard
- Smooth snake
- Great crested newt
- Natterjack toad
- Fishers estuarine moth
- Lesser whirlpool ram'- horn snail
- Sturgeon
- Marine turtles
- All dolphins, porpoises and whales.

1.6.4 For species listed in Schedule 2, Under Part 3 Regulation 41(1) it is an offence to

- (a) deliberately capture, injure or kill any wild animal of a European protected species,
- (b) deliberately disturb a wild animal of any such species,
- (c) deliberately take or destroy the eggs of such an animal, or
- (d) damage or destroy a breeding site or resting place of such an animal,

1.6.5 Under Part 3 Regulation 41 (2) For the purposes of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely—

- (a) to impair their ability—
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
- (b) to affect significantly the local distribution or abundance of the species to which they belong.

Under Part 3 Regulation 41.(3) It is an offence for any person—

- (a) to be in possession of, or to control,
- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange any animal in Schedule 2.

Schedule 5: European Protected Species of Plants

- Shore dock
- Killarney Fern
- Early Gentian
- Lady's-slipper
- Creeping marshwort
- Slender naiad
- Fen orchid
- Floating-leaved water plantain
- Yellow-marsh saxifrage.

1.6.6 For species listed in Schedule 2, Under Part 3 Regulation 45(1) It is an offence deliberately to pick, collect, cut, uproot or destroy a wild plant of a European protected species.

1.6.7 Under Part 3 Regulation 45(1) (2) It is an offence for any person

- (a) to be in possession of, or to control,



- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange any plant in Schedule 5

European Designated Sites

1.6.8 These include:

- Special Protection Areas – SPAs are classified in accordance with Article 4 of the EC Birds Directive for rare and vulnerable birds (as listed on Annex I of the Directive), and for regularly occurring migratory species
- Special Areas of Conservation – SACs are classified in accordance with Article 3 of the EC Habitats Directive. SACs are designated to establish a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive (as amended).

1.6.9 Natura 2000 is the name of the European Union-wide network of nature conservation sites established under the EC Habitats and Birds Directives. This network will comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). Marine Natura 2000 sites contribute to our ecologically coherent network of marine protected areas.

1.7 NATURAL ENVIRONMENT AND RURAL COMMUNITIES (NERC) ACT 2006

Planning Authorities: A Duty to Conserve Biodiversity

1.7.1 Under this legislation, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site *before* they make a decision on the planning permission.

1.7.2 Part 2, Section 40 confers on the planning authorities a duty to conserve biodiversity and states:

"Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of biodiversity"

Species of Principal Importance

1.7.3 Part 3, Section 41 requires the Secretary of State to "*publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of **principal importance** for the purpose of conserving biodiversity*".

1.7.4 This requirement lead to production of a list of species and habitats of Principal Importance, which should be a material consideration during the planning process.

1.8 DESIGNATED SITES OF CONSERVATION INTEREST

1.8.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.

Statutory Sites

1.8.2 Statutory sites can be designated under UK legislation (the Wildlife and Countryside Act 1981), European Law (the Habitats Regulations 2010) or International law (Ramsar Convention).

1.8.3 The designated sites are referred to under the relevant legislation above.

1.8.4 UK designated sites include Sites of Special Scientific Interest (SSSIs).

1.8.5 European designated sites include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).

1.8.6 Ramsar sites are wetlands of international importance designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971.

1.8.7 Local Nature Reserves (LNRs): Under the National Parks and Access to the Countryside Act 1949 LNRs may be declared by local authorities after consultation with the relevant statutory nature conservation agency. LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature.

1.8.8 National Nature Reserves (NNRs): are declared by the statutory country conservation agencies under the National Parks and Access to the Countryside Act 1949 and the Wildlife and Countryside Act 1981.

Non-Statutory Sites

1.8.9 Local authorities for any given area may designate certain areas as being of local conservation interest. The criteria for inclusion, and the level of protection provided, if any, may vary between areas. Most individual counties have a similar scheme, although they do vary.



1.8.10 These sites, which may be given various titles such as 'Listed Wildlife Sites' (LWS), 'Local Nature Conservation Sites' (LNCS), 'Sites of Importance for Nature Conservation' (SINCs), 'Biological Heritage Sites' (BHS) or 'Sites of Nature Conservation Importance' (SNCIs), together with statutory designations, are defined in local and structure plans under the Town and Country Planning system and are a material consideration when planning applications are being determined.

2.0 Plans and Policies

In the UK, the following plans and policies relate to wildlife and habitats:

- o National Planning Policy Framework (NPPF, 2021)
- o The Natural Environment White Paper 'The Natural Choice: Securing the Value of Nature'
- o Biodiversity – The UK Action Plan (1994, and subsequent revisions)
- o Local Biodiversity Action Plans where applicable
- o Neighbourhood plans where applicable

NATIONAL PLANNING POLICY FRAMEWORK

2.1.1 In March 2012 the Government introduced the National Planning Policy Framework (NPPF). This was revised in 2021

Chapter 15: Conserving and Enhancing the Natural Environment

Chapter 15, Para 174 of NPPF states: "The planning system should contribute to and enhance the natural and local environment by:

- b) **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils....**
- e) **minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".**

Para 175 states: "Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."

Para 179 identifies that plans should do the following to protect and enhance biodiversity and geodiversity:

- c) **"Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and**
- d) **Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and peruse opportunities for securing measurable net gains for biodiversity."**

Para 180 states that "when determining planning applications, local authorities should apply the following principles:

- b) **if significant harm to biodiversity from a development cannot be avoided...,adequately mitigated, or, as a last resort compensated for, then planning permission should be refused"**
- c) **Development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;**
- d) **Development result in the loss of deterioration of irreplaceable habitats (such as ancient woodland or ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensatory strategy exists; and**
- e) **Development whos primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.**

Para 182 states "the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined."

2.2 ODPM CIRCULAR 06/2005: BIODIVERSITY AND GEOLOGICAL CONSERVATION

2.2.1 This document, to be read in conjunction with NPPF provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It makes it clear that it is the intention of the government that local authorities and developers consider protected species at the earliest possible stage in the planning process. Any planning application that is likely to



affect protected species should come with details of the surveys which have been undertaken and should include, if necessary, recommendations for mitigation. Applications which do not include sufficient data should be rejected.

2.3 The Natural Environment White paper

- 2.3.1 The Natural Environment White Paper 'The Natural Choice: Securing the Value of Nature' states that 'We want to create a resilient and coherent ecological network at national and local levels across England... To make this happen the government will put in place a clear institutional framework to support nature restoration. This means: establishing Local Nature Partnerships... Creating new Nature Improvement Areas (NIAs) and strengthening support through the planning system.'

Biodiversity Offsetting

- 2.3.2 Biodiversity offsetting is described in the Natural Environment White Paper as 'conservation activities designed to deliver biodiversity benefits in compensation for losses in a measurable way. Good developments incorporate biodiversity considerations in their design but are still likely to result in some biodiversity loss. One way to compensate for this loss is by offsetting: the developer secures compensatory habitats elsewhere.'
- 2.3.3 The level of biodiversity offsetting required could be determined by means of assessments undertaken in accordance with the Department for Environment, Food and Rural Affairs (DEFRA) metric contained in Biodiversity Offsetting Pilots published in March 2012 as applied in the Defra offsetting pilot projects. Biodiversity offsetting could be delivered by developers in partnership with various partners including conservation organisations, local landowners and the borough council.

2.4 Biodiversity Action Plan (Local or UK)

UK Biodiversity Action Plan

- 2.4.1 Biodiversity: The UK Action Plan outlines how the UK plans to address biodiversity conservation in response to the Rio Convention on Biological Diversity (1992). In 2004 a UK Biodiversity Steering Group was formed and discussions resulted in the publication of 'Biodiversity: the UK Steering Group Report – meeting the Rio challenge', which established a framework and criteria for identifying species and habitats of conservation concern. From this list, action plans for 391 species and 45 broad habitat types were prepared. In 2007, the UK List of Priority Species and Habitats was reviewed and the revised list identifies 1149 species and 65 habitats requiring conservation action.
- 2.4.2 These species are now listed in Section 41 of the NERC Act, 2006 and referred to as Habitats and Species of Principal Importance (HPI or SPI).
- 2.4.3 Outcome 3 of the Government's Biodiversity 2020 strategy (DEFRA, 2011) contains an ambition to ensure that "By 2020, we will see an overall improvement in the status of our wildlife and will have prevented further human-induced extinctions of known threatened species". Protecting and enhancing England's Species and Habitats of Principal Importance is key to delivering this outcome.

Local Biodiversity Action Plans

- 2.4.4 Local Biodiversity Action Plans (LBAPs) are a means for delivering UK Biodiversity Action Plan targets at a local level. LBAPs were launched in 1997 by a partnership of conservation groups, government agencies and local authorities. They set out a framework for nature conservation in the specified area. This framework includes priority species and habitats and sets targets to maintain and enhance their conservation status.

2.5 Other Species Lists of Species of Conservation Concern

- 2.5.1 Species lists of Species of Conservation Concern also considered within this assessment are as follows:

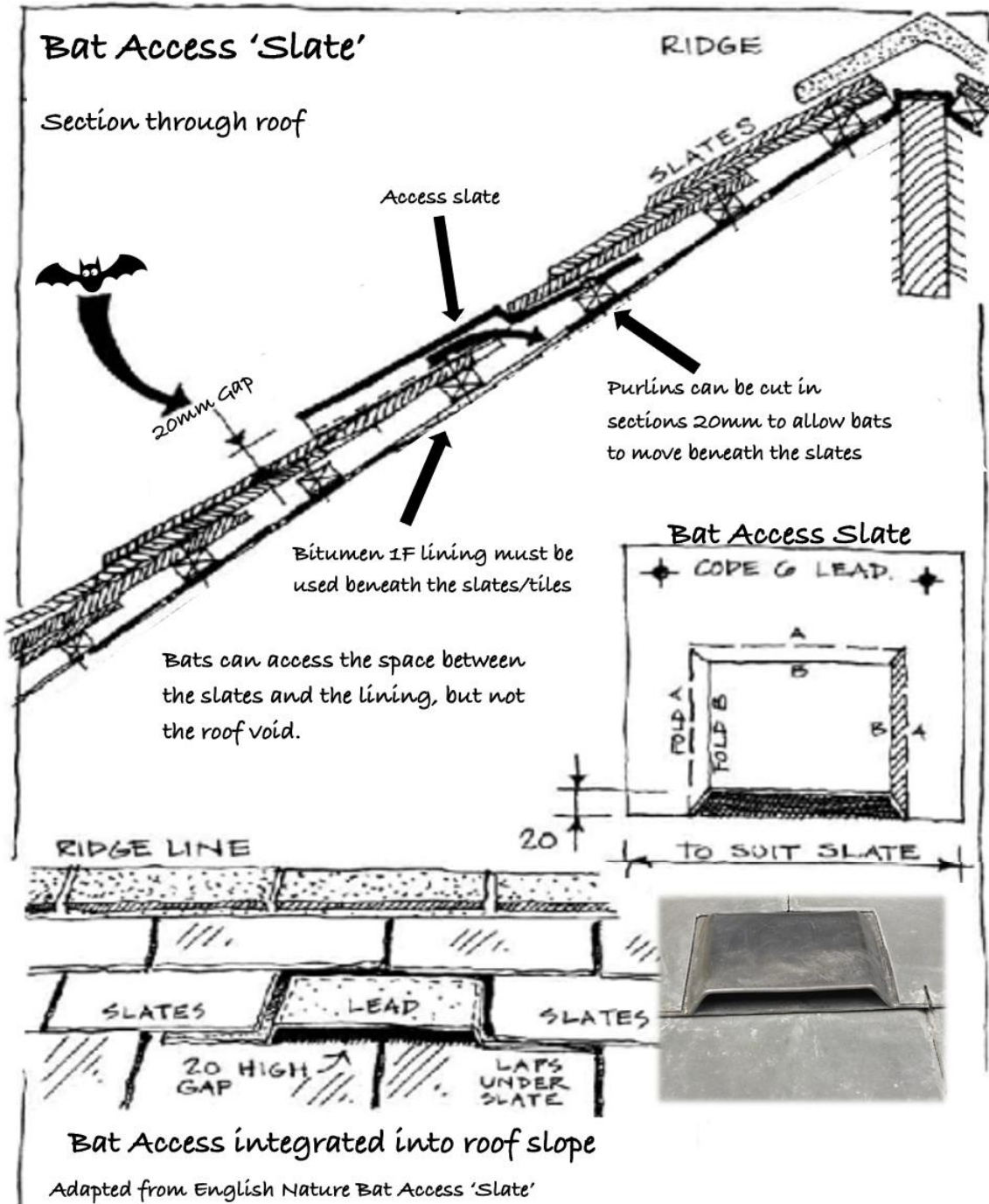


- Birds of Conservation Concern: Based on an assessment of the conservation status of British birds. Following an assessment of data on population and trends against established criteria, there are red, amber and green lists of BoCC. The latest review was BOCC 4 (Eaton et al, 2015)

Red Data Book Species: In 1999 the Species Status Assessment project (JNCC) assigned conservation status to the UK flora and fauna using the internationally approved IUCN Red Data Book criteria and categories. The reviews were published in a series of data sheets and assigned a conservation status to each species.



• APPENDIX B: Bat Access Slate



Bat Access integrated into roof slope

Adapted from English Nature Bat Access 'Slate'
Detail 1B