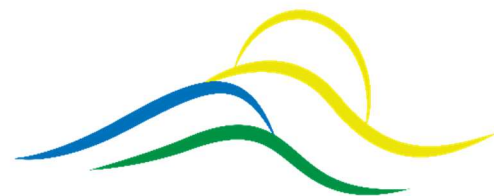


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South West Ecology

Ecology Assessment



Land East of Tower Road

Disclosure

The information, opinion, and advice which I have prepared and provided is true and has been prepared and provided in accordance with the CIEEM's Code of Professional Conduct and the British Standard for Biodiversity – Code of Practice for Planning and Development (2013). I confirm that the opinions expressed are my true and professional bona fide opinions.

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1.0 INTRODUCTION

SWE Limited was commissioned by STAGS to undertake an ecological appraisal of land to the east of Tower Road, Offwell, Honiton, Devon, EX14 9TP (OS Grid Ref: SY179999). The appraisal was undertaken in relation to Condition 6 of a planning permission which states as follows:

No development shall take place in relation to hedgerow removal until an ecological assessment report, of the section of hedgebanks affected by the construction of the passing bays and access improvements has been carried out, by a suitably qualified person and the findings and recommendations of such an assessment (including any necessary mitigation measures, together with a timetable for their implementation and monitoring) has been submitted to and approved in writing by the Local Planning Authority. Development shall then proceed in accordance with the approved details.

The development works consisted of the creation of two passing bays along Tower Road, one to the north which required the removal and re-instatement of a section of hedgebank, with the second to the west being created on roadside verge. In addition, c. 10 m of hedgebank was removed to create a visibility splay at the point of access (see Drawing No. P02 Rev P13).

Note: the above works had been completed during the winter period and prior to this ecological assessment. This assessment was based on the adjoining hedgebank and roadside verge in order to evaluate the habitats and associated species that may have been impacted by the works.

The location of the hedgebanks is shown in Figure 1.

Figure 1. Location of the hedgebanks impacted by the development. A – section of hedgebank removal and reinstatement; B – section of verge removal; C – section of hedgebank removal. GoogleEarth June 2022.



1.1 Report Purpose

The purpose of this report is:

- to report on the results of a hedgerow / habitat assessment;
- to identify ecological constraints that may have been present prior to the works;

- to identify mitigation measures which may have been required to ensure compliance with nature conservation legislation; and
- to identify appropriate enhancement and compensation measures in line with local and national planning policy.

This report was written in accordance with the guidance produced by the Chartered Institute of Ecology and Environmental Management (CIEEM) 2017¹.

1.2 Report Lifespan

In accordance with CIEEM guidance² this report, and the results of the ecological survey contained within, remains valid for 18 months.

1.3 Author

The author of this report, Dr S. Holloway, has over twenty years' professional experience of ecology, environmental management, and nature conservation in the private, public, and voluntary sectors. Dr Holloway is a full member of CIEEM and is a Chartered Environmentalist (CEnv).

All work was undertaken in accordance with CIEEM recommendations, the most up-to-date and relevant survey guidance available at the time, and in compliance with BS:42020:2013 Biodiversity. Code of Practice for Planning and Development.

¹ CIEEM (2017) *Guidelines on Ecological Report Writing*. Chartered Institute of Ecology and Environmental Management, Winchester.

² CIEEM. 2019. On the Lifespan of Ecological Reports and Surveys. Advice Note. April 2019.

2.0 RELEVANT LEGISLATION AND POLICY³

2.1 Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) transpose Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) into English law, making it an offence to deliberately capture, kill or disturb⁴ wild animals listed under Schedule 2 of the Regulations. It is also an offence to damage or destroy a breeding site or resting place of such an animal (even if the animal is not present at the time). Species include all bats and hazel dormouse.

The Habitats Regulations 2017 will continue to implement the Habitats Directive and certain elements of the Birds Directives in England. The Habitats Regulations 2010 have been amended ten times since they were last consolidated (in 2010).

2.2 Wildlife & Countryside Act 1981

The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act (CRoW) 2000 and the Natural Environment and Rural Communities Act (NERC) 2006, 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), making it an offence to:

- Intentionally kill, injure or take *any* wild bird or their eggs or nests (with certain exceptions) and disturb any bird species listed under Schedule 1 to the Act, or its dependent young while it is nesting;
- Intentionally kill, injure or take any wild animal listed under Schedule 5 to the Act e.g. all bat species and hazel dormouse;
- Intentionally or recklessly damage, destroy or obstruct any place used for shelter or protection by any wild animal listed under Schedule 5 to the Act; or

³ Please note that the summary of relevant legislation provided here is intended for general guidance only. The original legislation should be consulted for definitive information.

⁴ Disturbance, as defined by the Conservation of Habitats and Species Regulations 2010, includes in particular any action which impairs the ability of animals to survive, breed, rear their young, hibernate or migrate (where relevant); or which affects significantly the local distribution or abundance of the species.

- Intentionally or recklessly disturb certain Schedule 5 animal species while they occupy a place used for shelter or protection.

2.3 Natural Environment & Rural Communities (NERC) Act 2006

The NERC Act 2006 places a duty on authorities to have due regard for biodiversity and nature conservation during the course of their operations.

2.4 Hedgerow Regulations

Under the Hedgerows Regulations 1997 (Statutory Instrument (SI) No. 1160), it is illegal to remove most hedgerows (e.g. all those longer than 20 m and outside of a garden) without permission. The Hedgerows Regulations 1997 apply to any hedgerow growing in, or adjacent to, any common land, protected land, or land used for agriculture, forestry or the breeding or keeping of horses, ponies, or donkeys, if - (a) it has a continuous length of, or exceeding, 20 m; or (b) it has a continuous length of less than 20 m and, at each end, meets (whether by intersection or junction) another hedgerow. A person who intentionally or recklessly removes, or causes or permits another person to remove, a hedgerow in contravention of regulation 5(1) or (9) is guilty of an offence.

2.5 National Planning Policy Framework (NPPF)

The NPPF (2021) includes the Government's national planning policy guidance on the protection of biodiversity. The NPPF sets out the role that the planning system has to play in the protection of biodiversity in relation to the natural environment. The following section details the most relevant biodiversity guidance to the proposed Development.

Paragraph 174 states that "The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, sites for biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services;
- minimising impacts on and providing net gains for biodiversity...;

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

A) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

B) 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;

C) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁶³ and a suitable compensation strategy exists; and

D) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

2.6 Government Circular 06/20059

The Government Circular 06/20059 remains valid despite the cancellation of the former Planning Policy Statement 9 (PPS9) which it accompanied, and which was replaced by the NPPF. Of relevance to this site, the circular advises that potential effects of a development on priority habitats or species (i.e. Habitats and Species of Principal Importance – see below) are capable of being a material consideration in the preparation of regional spatial strategies and local development documents and the making of planning decisions.

2.7 Species and Habitats of Principal Importance

Hedgerows are a National Biodiversity Action Plan Priority Habitat. Through Section 41 of the Natural Environmental and Rural Communities Act, 2006, local planning authorities have a duty to consider habitats and species listed within the national biodiversity action plan (priority species and priority habitats) and local BAPs when considering a planning application. BAP

habitats and species are also a material consideration in the planning process under the National Planning Policy Framework (NPPF)⁵.

Section 41 of the Act requires the publication of a list of species which are of principal importance for the purpose of conserving biodiversity. The Section 41 list is used to guide authorities in implementing their duty to have regard to the conservation of biodiversity. The list includes hazel dormouse.

⁵ Department for Communities and Local Government. 2019. *National Planning Policy Framework*.

3.0 METHODOLOGY

3.1 Field Survey

Ecological survey was required having due regard to CIEEM recommendations and Defra guidance. The site was visited on the 2nd May 2023. The hedgebank was assessed following the methodology by Defra⁶.

All woody species (as listed on Schedule 3 of the Hedgerow Regulations) present within the adjacent sections of hedgebank were identified and noted. The herb layer was surveyed, and woodland species (as listed on Schedule 2 of the Hedgerow Regulations) were identified and recorded, any associated features were also noted, and the hedge was classified as either species-rich or species poor. The classification for ancient and/or species rich hedgerows is given as five or more woody species per 30 m stretch of hedgerow, plus 4 associated features. Note: this assessment only considered the ecological aspects of the hedgebank and did not look at criteria such as pre-1850 parish boundaries, archaeological features, or pre-1600 estate boundaries.

The verge habitat was assessed using standard Phase 1 Habitat Survey methodology.

3.2 Limitations

This report is based on the evidence recorded at the site at the time of the survey.

The scope of the habitat survey did not attempt to quantify the absolute number of plant species present within the site and did not include a survey for lower plants.

This ecological appraisal did not include a search for Tree Preservation Orders (TPO's) or Conservation Area status.

⁶ Defra. 2007. Hedgerow Survey Handbook. A Standard Procedure for Local Surveys in the UK. 2nd Edition.

4.0 RESULTS

The hedgebank consisted of an earth bank with a sparse shrub cover. The shrubs / trees had been flailed to a very low height (< 30 cm). Species included beech *Fagus sylvatica*, hawthorn *Crataegus monogyna*, hazel *Corylus avellana*, sycamore *Acer pseudoplatanus*, rowan *Sorbus aucuparia*, dog rose *Rosa canina* and bramble *Rubus fruticosus*. The ground flora primarily consisted of ivy *Hedera helix*, common nettle *Urtica dioica*, common cleavers *Galium aparine*, herb-Robert *Geranium robertianum*, male fern *Dryopteris filix-mas*, and lords and ladies *Arum maculatum*.

The hedgebank had negligible potential for hazel dormice or nesting birds. There were no features suitable for roosting bats.

The roadside verge was dominated by ruderals including creeping buttercup *Ranunculus repens*, broad-leaved dock *Rumex obtusifolius*, dandelion *Taraxacum officinale*, common nettle, common cleavers, and ground elder *Aegopodium podagraria*.

The verge had negligible potential to support protected species including reptiles.

Figure 2. The location of the hedgebank removal with hedgebank to the background, looking northwest.



Figure 3. The section of hedgebank removed and reinstated to the north. Looking northeast.



Figure 4. Location of the passing bay to the south. Looking northwest.



5.0 ASSESSMENT

The results of the field survey were assessed in accordance with current legislation and policy. A proportionate approach was taken in relating the findings to the works undertaken to the hedgebank and verge.

The hedgebank removal / reinstatement and verge removal works were undertaken in February 2023. This equated to a loss of c. 10 m of hedgebank, the translocation of 15 m of hedgebank, and the loss of c. 0.01 of ruderal habitat.

The hedgebank was not important under the Hedgerow Regulations, was defunct, species-poor and flailed to a very low height. It was unsuitable for protected species such as hazel dormouse and nesting birds. The roadside verge consisted of commonplace ruderal plants of negligible ecological value.

The loss of a short section of defunct hedgebank and ruderal habitat is not ecologically significant. The works undertaken were unlikely to have impacted on any protected species and as such no mitigation measures would have been required in relation to the works.

In accordance with local and nation planning policy the development must demonstrate biodiversity net gain. This will need to equate to a 10% biodiversity gain above that which has been lost (10 m of hedgebank and 0.01 ha of ruderal habitat).

Habitat enhancement can be conducted within the wider application site. This can include but not be limited to:

- A new hedgebank and / or hedgerow to the boundary of the site (approximately 170 m in length). Planting with native shrubs and trees including but not limited to beech, rowan, hawthorn, hazel, pedunculate oak, and holly.
- Planting of the translocated section of hedgebank with the above shrub and tree species.
- Allowing the retained hedgebank to develop. This would involve only cutting the shrubs and tree vegetation once every two to three years to allow the vegetation to grow to a height of c. 1.5 – 3 m.
- The planting of any available space, such as to the northwest and southwest banks which are next to the building, with native shrubs and trees – this could create c. 0.02 ha of native scrub.

The above measures, if complied with, would provide a significant increase in the biodiversity value of the site, and would represent >10% biodiversity net gain.

6.0 CLOSURE

This report has been prepared by SWE Limited with all reasonable skill, care, and diligence, and taking account of the manpower and resources devoted to it by agreement with the client. Information reported herein is based on the interpretation of data collected and has been accepted in good faith as being accurate and valid.

The information presented in this report provides guidance to reduce the risk of offences under UK law. However, SWE Ltd. is not a legal practice and disclaims any responsibility to the client and others for actions that lead to offences being caused, whether or not the guidance contained in this report is followed. Interpretation of UK legislation is presented in good faith; however, for the avoidance of doubt, I recommend that specialist legal advice is sought.

This report is for the exclusive use of STAGS; no warranties or guarantees are expressed or should be inferred by any third parties. This addendum may not be relied upon by other parties without written consent from SWE Ltd.

SWE Ltd. disclaims any responsibility to the client and others in respect of any matters outside the agreed scope of the work.

