

# Construction Ecological Management Plan

Wyke Lodge, Peter Symonds College, Winchester, Hampshire

A Report To: TKLS Architects  
Report Number: RT-MME-158910-04  
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## Quality Assurance

Date	Version	Author	Checked by	Approved by
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## Declaration of Compliance

This study has been undertaken in accordance with British Standard 42020:2013 “Biodiversity, Code of Practice for Planning and Development”. The information which we have prepared is true, and has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management’s Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

## Disclaimer

The contents of this report are the responsibility of Middlemarch Environmental Ltd. It should be noted that, whilst every effort is made to meet the client’s brief, no site investigation can ensure complete assessment or prediction of the natural environment.

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# 1. Introduction

## 1.1 Project Background

In January 2024, TKLS Architects commissioned Middlemarch to produce a Construction Ecological Management Plan (CEcMP) associated with a proposed development at Wyke Lodge, Peter Symonds College, Winchester.

Middlemarch has previously carried out the following surveys and assessments for TKLS Architects at the site:

- Preliminary Ecological Appraisal (August 2023, Report RT-MME-158910-01 Rev A);
- Preliminary Bat Roost Assessment (August 2023, Report RT-MME-158910-02 Rev A);
- Dusk Emergence and Dawn Re-entry Bat Surveys and Bat DNA Analysis (August-September 2023, Report RT-MME-161428 Rev A);
- Report to Inform Habitat Regulations Assessment (October 2023, RT-MME-161862); and,
- Biodiversity Enhancement and Management Plan (December 2023, RT-MME-158910-03).

The overall aim of the CEMP is to minimise the potential impact of the construction phase of the development on the existing ecology of the site, and ensure works proceed in accordance with current wildlife legislation. It is designed specifically for implementation during the construction phase of the proposed development. This report contains the following information:

- Chapter 2: Assessment of Impacts
- Chapter 3: General Control of Works
- Chapter 4: Avoidance and Mitigation
- Chapter 5: Drawings.

## 1.2 Site Description and Context

Table 1.1 provides a brief summary of the site and its surroundings.

Attribute	Description
Location	Wyke Lodge, Peter Symonds College, Bereweeke Rd, Winchester
National Grid Reference	SU 47563 30488
Site Area (ha)	0.19
Topography	Flat
Land Cover (on site)	The site is comprised mainly of Wyke Lodge, a garage, and annex building with associated hardstanding. Small pockets of amenity grassland surround the areas of hardstanding with scattered trees present along the northern and western boundaries. The trees along the northern boundary separate the site from the adjacent Bereweeke Road.

**Table 1.1: Summary of Site and Surroundings (Continues)**

Attribute	Description
Land Cover (site surrounds)	The wider landscape is dominated by the urban built environment of the town of Winchester with agricultural land and large pockets of woodlands located outside the town limits. Additional Peter Symonds College buildings, associated playing fields, and scattered trees surround the survey area. A railway line is located 250 m east with Winnall Moors Wildlife Reserve located an additional 750 m east including the River Itchen. The Royal Winchester Golf Club is 1.1 km south-west, and Barton Meadows is located 1.1 km north.

**Table 1.1: Summary of Site and Surroundings (Continued)**

### 1.3 Summary of Proposals

It is understood that the proposed development includes the demolition of the three buildings on site (Wyke Lodge, the annex, and the garages) to facilitate the development of a new two storey building. There are no plans to remove any of the trees surrounding the existing buildings.

Documentation made available by the client is listed in Table 1.2.

Document / Drawing Number	Author
220302 001 rev sk01 Existing Site Plan	TKLS Architects
220302 009 rev P03 Proposed Site Plan	TKLS Architects
220302 010 rev P02 Proposed Block Plan	TKLS Architects
Peter Symonds College Proposed Music School Winchester landscape plan 1 to 200 at Ao October 2023	TGD Landscape Ltd.
Proposed Music School Peter Symonds College Winchester Landscape Maintenance Plan Oct 2023	TGD Landscape Ltd.
5022977-RDG-XX-ST-D-E-900001-A-External Service Lighting Layout	Ridge and Partners LLP
5022977-RDG-XX-XX-T-E-300010---External Lighting Statement	Ridge and Partners LLP

**Table 1.2: Documentation Provided by Client**

## 2. Assessment of Impacts

### 2.1 Overview of Construction Activities and Impact Pathways

The following activities are likely to be required during the works:

- Use of site by construction vehicles;
- Use of site by personnel;
- Use of machinery;
- Vegetation clearance and groundworks;
- Use of lighting for work compounds; and,
- Storage of materials on site.

In the absence of mitigation, these activities have the potential to adversely affect ecological features via the following impact pathways:

- Direct loss or damage to habitats scheduled for retention, in the event that areas outside the construction zone are accessed by vehicles, machinery or people;
- Increased noise and/or visual disturbance from vehicles, people, machinery and lighting;
- Air, ground and water pollution on and adjacent to the site due to emissions from vehicles and machinery;
- Release of dust from machinery and stored materials; and
- Killing, injury or disturbance to fauna during vegetation clearance, building demolition and groundworks.

### 2.2 Summary of Potential Impacts in the Absence of Mitigation

Table 2.1 details the key ecological features identified during baseline surveys (refer to Section 1.1) and assesses the potential for adverse impacts in the absence of mitigation or control measures. Legislation relevant to the ecological features identified is provided in Appendix 1.

Ecological Feature	Source to inform baseline	Potential for Impacts?	Description/Justification
<b>Statutory Nature Conservation Sites</b>			
River Itchen SAC/SSSI	Desk study to inform PEA (Report RT-MME-158910 - 01 Rev A, 2023)	No	This SAC is located 1.2 km east of the site. Given the lack of habitat for qualifying species of the SAC and lack of hydrological connectivity between the SAC and the site, the proposed development will not result in a likely significant impact upon qualifying habitats and species. Including supporting habitats upon which qualifying species rely, or the delivery of the conservation objectives of the European site under consideration. For further detail, please refer to the Report to Inform Habitats Regulations Assessment: Stage 1 Screening (RT-MME-161862-01).

**Table 2.1: Summary of Potential Impacts on Ecological Features from Proposed Works (Cont.)**

Ecological Feature	Source to inform baseline	Potential for Impacts?	Description/Justification
<b>Non-statutory Nature Conservation Sites</b>			
Westgate School Woodland SINC	Desk study to inform PEA (Report RT-MME-158910 - 01 Rev A, 2023)	No	This SINC is located 810 m south-west of the proposed development and due to the temporary and small-scale nature of the works, along with the built-up nature of the intervening habitats, no adverse impacts are anticipated on this site.
Chilbolton Avenue Beech Strip SINC/RVEI	Desk study to inform PEA (Report RT-MME-158910 - 01 Rev A, 2023)	No	This SINC is located 980 m south-west of the proposed development and due to the temporary and small-scale nature of the works, along with the built-up nature of the intervening habitats, no adverse impacts are anticipated on this site.
<b>Habitats</b>			
Mixed woodland	PEA (Report RT-MME-158910 -01 Rev A, 2023)	Yes	The wooded areas surrounding the site, while not impacted directly, may suffer damage and/or losses during the demolition and construction phases of the proposed works. These area may also suffer degradation through lighting or inappropriate post-construction landscape management.
Other habitats (modified grassland and ruderal/ephemeral vegetation)	PEA (Report RT-MME-158910 -01 Rev A, 2023)	Yes	Loss of amenity grassland and ruderal/ephemeral vegetation habitats, to facilitate proposed development. Compensation and enhancement provided through creation of new habitats. See Biodiversity Enhancement and Management Plan (Report RT-MME-158910 -03, 2023) for further detail.
<b>Species</b>			
Bats	Dusk Emergence & Dawn Re-entry Bat Surveys (Report RT-MME-161428 Rev A, 2023)	Yes	Killing or injury of bat species; destruction of a bat roost; disturbance due to noise and vibration in proximity to roosts. Breach of wildlife legislation.
Terrestrial mammals (badger and hedgehog)	PEA (Report RT-MME-158910 -01 Rev A, 2023)	Yes	Killing or injury of terrestrial mammals during construction phase; loss/fragmentation of suitable foraging and refuge habitat; disturbance due to noise and vibration. Breach of wildlife legislation.
Birds	PEA (Report RT-MME-158910 -01 Rev A, 2023)	Yes	Loss of nesting and foraging habitat due to disturbance of trees and shrub during demolition and construction phase; killing or injury of nesting birds/destruction of a bird's nest during construction phase. Breach of wildlife legislation.

**Table 2.1: Summary of Potential Impacts on Ecological Features from Proposed Works (Cont.)**

Ecological Feature	Source inform baseline	to Potential for Impacts?	Description/Justification
Stag beetle	PEA (Report RT-MME-158910 -01 Rev A, 2023)	Yes	Loss of habitat during demolition and construction phase if dead wood is removed from wooded areas. Killing or injury of stag beetles during demolition and construction phase or as a result of inappropriate post construction landscape management. Breach of wildlife legislation.
Other species (amphibians, aquatic mammals, and reptiles)	PEA (Report RT-MME-158910 -01 Rev A, 2023)	No	Species/species groups scoped out due to a lack of recent desk study records, or an absence of sufficient suitable habitat on site and limited connectivity with suitable habitat in the wider landscape.

**Table 2.1: Summary of Potential Impacts on Ecological Features from Proposed Works (Cont.)**

Control measures to prevent and manage potentially adverse impacts on ecological features during the construction phase of the development are provided in Chapters 3 and 4.



## 3. General Control of Works

This section of the report provides information with respect to the methods that will be implemented during the construction phase, in order to ensure the protection of ecologically sensitive habitats within the site and to prevent significant adverse impacts on any protected/notable species present.

### 3.1 Ecological Management Team

The overall responsibility for ensuring construction works proceed in accordance with the CEcMP will lie with Peter Symonds College, TKLS Architects and the contractor.

Peter Symonds College, TKLS Architects and the contractor will appoint an Ecological Manager. The responsibilities of the Ecological Manager will include developing method statements and site protocols as required, providing guidance for the site team in dealing with environmental matters, and liaising with contractors/sub-contractors and any statutory or third party with an ecological interest in the scheme. The Ecological Manager will ensure that all site personnel are appropriately briefed on the ecological issues within the site. This will be undertaken through inclusion of ecological briefings within the 'toolbox' talks given to all staff as part of the site induction process.

A suitably qualified Ecological Clerk of Works will be appointed by Peter Symonds College, TKLS Architects and the contractor to advise and oversee construction activities where appropriate and ensure the site team and sub-contractors comply with site protocols and control/mitigation measures. Any failings will be reported to the Project Manager immediately, who will be responsible for ensuring that remedial action is implemented.

The Ecological Clerk of Works will be responsible to the Ecological Manager and will approve all method statements, in addition to ensuring that any relevant site ecological protocols are appended and that these controls are adhered to.

The ecological management team for this project is summarised in Table 3.1.

Role	Persons Responsible
Project Manager / Site Manager	Client and/or appointed contractor
Ecological Manager	Middlemarch (or any other ecological consultant appointed for the works)
Ecological Clerk of Works	Middlemarch (or any other ecological consultant appointed for the works)

**Table 3.1: Ecological Management Team**

### 3.2 Identification of Biodiversity Protection Zones

In order to categorise the site according to ecological risk and to identify areas where certain construction activities are prohibited or restricted, a traffic light system will be implemented. The site has been divided into Red, Amber and Green Zones, with Red Zones being those areas of highest biodiversity interest and of greatest risk from construction.

The areas of the site falling into each of the Biodiversity Protection Zones are detailed below and are shown on Drawing C158910-04-01 in Chapter 5.

### Red Zones / Features

Red Zones are defined as the most ecologically sensitive parts of the development site, or the areas most vulnerable to ecological damage. The following features on site are included in this category:

- Retained semi-natural mixed woodland; and,
- Wyke Lodge; Building 1 has been confirmed as a bat roost.

Red Zones are the areas that will be retained and protected throughout the development, and works will be subject to ongoing monitoring by the Ecological Clerk of the Works. No works can be undertaken within the Red Zones without prior consent from the Ecological Manager. In the case of Building 1 which will be demolished, no works can proceed until a bat licence has been granted by Natural England, following receipt of planning permission. Measures that will be implemented to ensure that Red Zones are protected are summarised in Chapter 4.

### Green Zones / Features

Green Zones are areas identified as having low ecological interest where breaches of wildlife legislation are unlikely to occur. They are of low intrinsic value, and do not offer any key habitat for notable or protected species.

- Amenity grassland;
- Ruderal/ephemeral vegetation
- Buildings 2 and 3,
- Hardstanding;
- Introduced shrub,
- Wall; and,
- Bare ground.

Works within Green Zones are permitted to proceed without supervision by the Ecological Clerk of Works, provided that ecological best practice is adhered to at all times. Should any ecological issues be identified, works will cease and the Ecological Clerk of Works will be contacted for advice.

## 3.3 Quality Control

### Site Inductions / Toolbox Talks

All personnel on site will receive a site induction prior to commencing any work activities. The site induction will highlight key issues, operations, times of year and areas in relation to ecology. The induction will include:

- Awareness of the Biodiversity Protection Zones Map (see Drawing C158910-04-01 in Chapter 5);
- Site activity method statements; and
- Protected species licences.

### Protected Species Licensing

A Natural England bat licence will be required before works to Building 1 can commence. A copy of the licence must be kept on site at all times. A toolbox talk and supervision will be carried out by

a bat licenced ecologist. All works relating to the Natural England bat licence must be signed off by the licenced bat ecologist.

#### Daily Record Sheets

The Ecological Clerk of Works will record activities and observations onto a record sheet during visits to the site.

#### Progress Report

The Ecological Manager will produce a monthly report based on the record sheets, highlighting any issues raised during the programme.

### Revisions to Scheme

Should the need to amend any details of the scheme arise, such as the proposed methods of working or the extent of the works, the proposed changes will be approved in writing by the Ecological Clerk of Works prior to implementation, and also by the Local Planning Authority if required.

## 4. Avoidance and Mitigation

### 4.1 Use of Protective Fencing/Barriers

All retained pockets of woodland, fallen dead wood and trees will be protected during construction by the installation of protective fencing in accordance with the requirements of British Standard 5837: 2012 2012 "Trees in relation to design, demolition and construction - recommendations". This will ensure no direct damage to the trees from the machinery or vehicles using the site, as well as ensuring no works take place within the root protection zones of these trees to void compaction of the roots. Protection will be installed on site prior to the commencement of works.

### 4.2 Site Compound and Storage of Materials

All areas to be used for site compounds / material storage will be agreed with the Ecological Clerk of Works and will be within habitats of negligible ecological value (ideally Green Zones). If any stored materials are left in situ for long periods of time, then they will be carefully dismantled by hand, to ensure that any species that have taken shelter here (e.g. hedgehogs) are not harmed. No storage of materials will be permitted in close proximity to the woodland areas.

### 4.3 Pollution Prevention

Environment Agency Pollution Prevention Guidelines were formerly withdrawn in December 2015, although do provide a useful framework for the design of working practices. Guidance on Pollution Prevention for Businesses is provided at <https://www.gov.uk/guidance/pollution-prevention-for-businesses>. These guidelines include details for the design of working practices to avoid pollution during construction and will be followed throughout the construction period.

No bulk storage of fuel and other liquids will be permitted on site. Fuels and other liquids which must be stored on site will be kept in bunded containers within habitats of negligible value. Spill kits will be available on site and procedures will be in place to deal with any incidents efficiently and quickly.

Refuelling of plant/machinery on site will be avoided. If refuelling is required, then it will be undertaken as far away from notable habitats as possible, over a drip tray.

Appropriate dust suppression measures will be put in place to reduce impacts to habitats and species outside of the works area. The 'Construction Dust Information Sheet' issued by the Health and Safety Executive (2020<sup>1</sup>) provides guidance on controlling construction dust and will be followed throughout the construction period.

### 4.4 Lighting

It is not anticipated that working at night would be necessary. However, if any security lighting or lighting at night is required, then it will be low level and directional, ensuring that there is no increase in illumination of key ecological features.

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<sup>1</sup> Health and Safety Executive (2020) *Construction Dust – Construction Information Sheet No 36 (Revision 3)*. March 2020.

## 4.5 Noise and Vibration

Reasonable measures will be taken to avoid significant increases in noise and vibration during the construction phase of the development. Any construction works on site will be carried out in accordance with British Standard 5228:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites<sup>2</sup>.

Engines of construction vehicles will be turned off when these vehicles are stationary to minimise noise and vibration disturbance.

## 4.6 Fire Prevention

During construction, fires will not be permitted on the site and the work force will be made aware of the risks of accidental fires on surrounding retained habitats.

## 4.7 Mitigation Measures for Notable Habitats

Retained trees, wooded areas and dead wood will be protected according to the measures outlined in Section 4.1. Where construction works require the loss, damage or management of sections of hedgerow, then vegetation clearance will need to be undertaken in accordance with specific species mitigation strategies outlined in Section 4.8 below.

## 4.8 Mitigation Measures for Protected and Notable Species

### Bats

#### Roosting bats

As a bat roost/resting place has been identified in Wyke Lodge, no unlicensed work can be undertaken which will contravene the legislation outlined in Appendix 1.

In order to reduce the impact of the works on roosting bats, the following mitigation measures will be implemented:

#### *Pre-Works Survey*

A pre-works survey will be carried out immediately prior to works commencing on site to ensure that the status of the site has not changed since the survey work was carried out. This will involve an external and internal daytime assessment.

#### *Toolbox Talk*

A 'toolbox talk' will be held with the contractors' team before any works are undertaken to ensure that the contractors are aware of the bat licence associated with the site. This will also include the adoption of appropriate methodologies included within the licence to ensure no harm to potential roosting bats occurs.

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<sup>2</sup> British Standards Institution (2009) *BS 5228-2:2009 Code of practice for noise and vibration control on construction and open sites*.

### *Bat Boxes*

At least three bat boxes will be installed at the site (Schwegler 2F or appropriate alternatives if there are issues with stock availability). The bat boxes will be erected on site within suitable mature trees. These are to provide a safe refuge to place any bats which are found during the ecological clerk of works. The exact number, location and species will be detailed within the bat licence documents.

### *Timing of Works*

As no maternity roosts were identified, works can be carried out at any time of year. Any bats present will be moved to a suitable alternate roosting location. Works must not start before N hour before sunrise. Works must stop a minimum of one hour prior to dusk emergence.

### *Weather Conditions*

Works will only be carried out under suitable weather conditions. If temperatures are below 5 degrees or it commences to rain, then works will cease.

### *Ecological Clerk of Works*

Where it is identified necessary (areas of Building 1 which have been identified as potential roost access points), a licensed bat worker will be on site during key areas of work to supervise the removal of roof materials.

### *Unexpected Bats*

If individual bats are discovered unexpectedly, including during periods of adverse weather, then the following steps must be taken:

- Awareness of the Biodiversity Protection Zones Map (see Drawing C158910-04-01 in Chapter 5);
- Do not expose the bat or cause it to fly out of the roost on its own accord.
- Where it is possible recover the individual gently with the materials.
- The bat must only be handled by a licensed bat worker unless it is in immediate danger.
- Wearing gloves at all times, the bat must be carefully placed in a lidded ventilated box with a piece of clean cloth and a small shallow container with some water. The box must be kept in a safe, quiet location.
- Care must be taken to avoid rousing the bat during transfer to a suitable location – which may be a suitable hibernation box or other alternative roost constructed, providing a safe, quiet environment with stable, suitable temperature and relatively high humidity, safe from further disturbance.

In the unlikely event that a bat becomes injured, any injured bats will be immediately taken into care (as directed by Bat Workers Manual, 2004).

### Foraging and commuting bats

In order to reduce the impact of the works on foraging and commuting bats, the following mitigation measures will be implemented:

- The trees scheduled for retention will be protected according to measures outlined in Section 4.1.
- Construction phase lighting, noise and vibration will be kept to a minimum, in line with the measures outlined in Sections 4.4 and 4.5.

## Birds

In order to avoid any breach of legislation with regard to nesting birds in general, the following measures will be implemented:

- Vegetation management/clearance and building demolition will be undertaken outside of the bird nesting season. The bird nesting season is weather dependent but generally extends between March and September inclusive (peak period March-August). If this is not possible, then any vegetation to be removed or disturbed or buildings to be demolished will be checked by an experienced ecologist for nesting birds immediately prior to works commencing. If birds are found to be nesting, any works which may affect them would have to be delayed until the young have fledged and the nest has been abandoned naturally, for example via the implementation of an appropriate buffer zone (species dependent) around the nest in which no disturbance is permitted until the nest is no longer in use.
- The pockets of woodland and trees to be retained will be protected according to measures outlined in Section 4.1.
- Noise and vibration will be kept to a minimum, in line with the measures outlined in Section 4.5.

## Terrestrial mammals (including badger and hedgehog)

In order to reduce the impact of the works on foraging and commuting mammals that may use the site, the following construction phase mitigation measures will be implemented:

- Any excavations which are left overnight will be covered or fitted with ramps to prevent harm to any terrestrial mammals which may pass through the site.
- Any open pipework with an outside diameter greater than 120 mm must be covered at the end of each workday to prevent terrestrial mammals entering/becoming trapped.
- Pollution prevention measures will be implemented as outlined in Section 4.3.
- Construction phase lighting, noise, and vibration will be kept to a minimum, in line with the measures outlined in Sections 4.4 and 4.5.

## Stag beetle

In order to reduce the impact of development on stag beetle, the following measures will be implemented:

- Any deadwood habitat on site will be retained on site where feasible. If retention is not possible the removal and relocation of any deadwood habitat within the red zones will be undertaken under the supervision of the Ecological Clerk of Works.
- Construction phase lighting, noise, and vibration will be kept to a minimum, in line with the measures outlined in Sections 4.4 and 4.5.

## 4.9 Control Measures for Non-Native Invasive Plant Species

No non-native invasive plant species were found during the assessments of the site. Vigilance should be maintained to ensure that no new invasive plant species have colonised the site in the interim.

## 4.10 Timing Restrictions

Table 4.1 details a master timetable of works constrained by timing restrictions in order to minimise the ecological impact of the works within Amber Zones.



Protected Species	Time of Year											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<i>Building demolition</i>												
Bats	Timing dependent on Natural England Licence											
Nesting birds	✓	✓	*	*	*	*	*	*	*	✓	✓	✓
<i>Clearance of above ground vegetation i.e., above 150 mm</i>												
Nesting birds	✓	✓	*	*	*	*	*	*	*	✓	✓	✓
<b>Key:</b> ✓ Suitable time for activity to be undertaken (subject to approval from Ecological Clerk of Works) * Possible time for activity to be undertaken. All vegetation clearance must proceed in accordance with methodologies detailed in Section 4.8. x: No works permitted.												

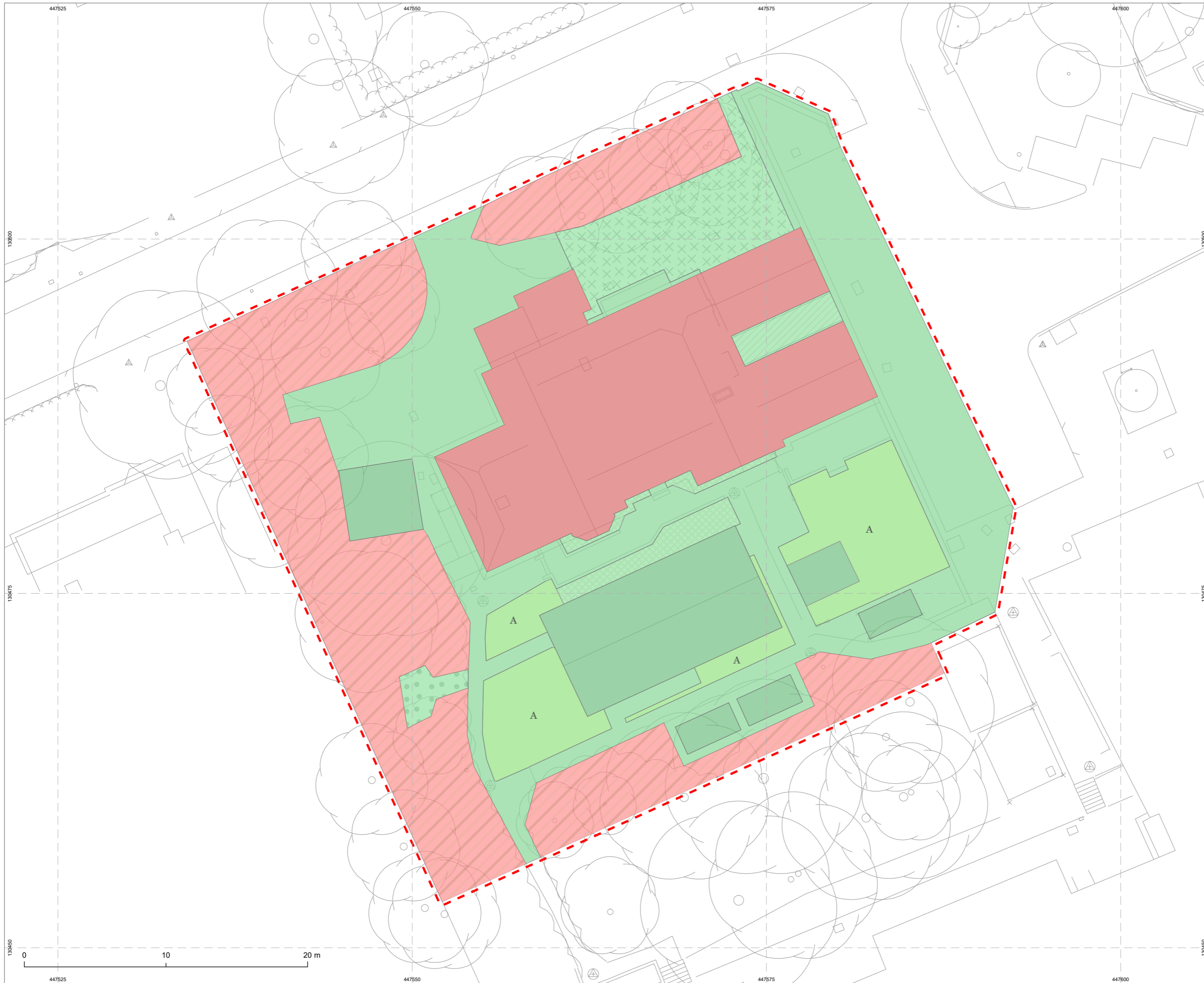
**Table 4.1: Master Timetable of Timing Restricted Work Activities**

## 4.11 Contingency Measures

Should any unexpected events occur, e.g. the discovery of unexpected species on site, work will cease and the Ecological Manager / Clerk of Works will be contacted to determine the most appropriate way to proceed.

## 5. Drawings

Drawing C158910-04-01 – Biodiversity Protection Zones



C158910-04-01

**Legend**

- - - Survey area
- Red zone
- Green zone
- Phase 1 habitats**
- A Amenity grassland
- Bare ground
- Building
- Ephemeral / short perennial
- Hardstanding
- Introduced shrub
- No access
- Plantation mixed woodland



Project **Wyke Lodge,  
Peter Symonds College, Winchester**

Drawing **Biodiversity Protection Zones**

Client **TKLS Architects**

Drawing Number <b>C158910-04-01</b>	Revision <b>00</b>
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Scale @ A3 <b>1:250</b>	Date <b>January 2024</b>
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Approved By <b>PB</b>	Drawn By <b>KB</b>
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# Appendix 1

## Summary of Relevant Wildlife Legislation

### Bats

Bats and the places they use for shelter or protection (i.e. roosts) receive legal protection under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017) and the Conservation of Habitats and Species Regulations (Amendment) (EU Exit) Regulations 2019 (Habitats Regulations 2019). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that bats, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2017, states that a person commits an offence if they:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats; or
- damage or destroy a bat roost (breeding site or resting place).

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2017 for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead bats, part of a bat or anything derived from bats, which has been unlawfully taken from the wild.

Changes have been made to parts of the Habitats Regulations 2017 so that they operate effectively from 1st January 2021. The changes are made by the Habitats Regulations 2019, which transfer functions from the European Commission to the appropriate authorities in England and Wales.

All other processes or terms in the 2017 Regulations remain unchanged and existing guidance is still relevant.

The obligations of a competent authority in the 2017 Regulations for the protection of species do not change. A competent authority is a public body, statutory undertaker, minister or department of government, or anyone holding public office.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to *intentionally* kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to *intentionally or recklessly\** damage or destroy, *or obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to *intentionally or recklessly\** disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

\*Reckless offences were added by the Countryside and Rights of Way (CRoW) Act 2000.

As bats re-use the same roosts (breeding site or resting place) after periods of vacancy, legal opinion is that roosts are protected whether or not bats are present.

The reader should refer to the original legislation for the definitive interpretation.

The following bat species are Species of Principal Importance for Nature Conservation in England: barbastelle bat *Barbastella barbastellus*, Bechstein's bat *Myotis bechsteinii*, noctule *Nyctalus noctula*, soprano pipistrelle *Pipistrellus pygmaeus*, brown long-eared bat *Plecotus auritus*, greater horseshoe bat *Rhinolophus ferrumequinum* and lesser horseshoe bat *Rhinolophus hipposideros*. Species of Principal Importance for Nature Conservation in England are material considerations in the planning process. The list of species is derived from Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006.

### Badger

Badgers and their setts are protected under the Protection of Badgers Act 1992. The Protection of Badgers Act 1992 is based primarily on the need to protect badgers from baiting and deliberate harm or injury, badgers are not protected for conservation reasons. The following are criminal offences:

- To intentionally or recklessly interfere with a sett. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it.
- To wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so.

A badger sett is defined in the legislation as:

- 'Any structure or place that displays signs indicating current use by a badger'.

'Current use' is not synonymous with current occupation and a sett is defined as such (and thus protected) as long as signs of current usage are present. Therefore, a sett is protected until such a time as the field signs deteriorate to such an extent that they no longer indicate 'current usage'.

Badger sett interference can result from a multitude of operations including excavation and coring, even if there is no direct damage to the sett, such as through the disturbance of badgers whilst occupying the sett. Any intentional or reckless work that results in the interference of badger setts is illegal without a licence from Natural England. In England a licence must be obtained from Natural England before any interference with a badger sett occurs.

The reader should refer to the original legislation for the definitive interpretation.

### Hedgehog

Hedgehogs receive some protection under Schedule 6 of the Wildlife and Countryside Act 1981 (as amended); this section of the Act lists animals which may not be killed or taken by certain methods, namely traps and nets, poisons, automatic weapons, electrical devices, smokes/gases and various others. Humane trapping for research purposes requires a licence.

Hedgehogs are a Species of Principal Importance for Nature Conservation in England and are thus capable of being material considerations in the planning process.

### Nesting Birds

The Conservation of Habitats and Species Regulations 2017, (Habitats Regulations 2017) and the Conservation of Habitats and Species Regulations (Amendment) (EU Exit) Regulations 2019 (Habitats Regulations 2019) places a duty on public bodies to take measures to preserve, maintain and re-establish habitat for wild birds.

Nesting and nest building birds are protected under the Wildlife and Countryside Act WCA 1981 (as amended).

Subject to the provisions of the act, if any person intentionally:

- kills, injures or takes any wild bird;
- takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- takes or destroys an egg of any wild bird, he shall be guilty of an offence.

Some species (listed in Schedule 1 of the WCA) are protected by special penalties. Subject to the provisions of the act, if any person intentionally or recklessly:

- disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturbs dependent young of such a bird, he shall be guilty of an offence.

Several bird species are Species of Principal Importance for Nature Conservation in England, making them capable of being material considerations in the planning process.

The reader should refer to the original legislation for the definitive interpretation.

### Stag beetle

The stag beetle is in decline globally. It is listed on Annex II of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (a list of animal and plant species of community interest whose conservation requires the designation of Special Areas of Conservation). Stag beetle also receives protection under Schedule 5 of the Wildlife and Countryside Act 1981, as amended, making the following activities illegal: selling, offering for sale, processing or transporting for purpose of sale, or advertising for sale, any live or dead animal, or any part of, or anything derived from, such animal. Stag beetle is also listed as a Species of Principal Importance for Nature Conservation in England.