RIVERDALE ECOLOGY

Preliminary Ecological Appraisal

Badwell Ash Village Hall, Badwell Ash, Suffolk

March 2024

Registered Office

60 Norwich Road

Stoke Holy Cross

Norwich, NR14 8NX

Norwich Office

Office 14, Ber Street Central

125 Ber Street

Norwich, NR1 3EY

RIVERDALE ECOLOGY

Report For: Locus Planning Limited

11 Charing Cross

Norwich

Norfolk, NR2 4AX

Report Version	Author	Reviewed By	Comments	Date
FINAL	Danny Thomas CEcol MCIEEM	Dr A Thomas PhD	FINAL ISSUE	22/03/2024

Contents

Appendices

Executive Summary

Riverdale Ecology Ltd were commissioned by Locus Planning Limited to carry out a Preliminary Ecological Appraisal (PEA) of a potential development site comprising amenity land adjacent to Badwell Ash Village Hall, The Street, Badwell Ash, Suffolk, IP31 3DG; situated around Ordnance Survey Grid Reference TL 98983 69165. The appraisal was carried out in order to inform a planning application for a community project to upgrade the Badwell Ash Parish recreational facilities.

The Application Site is located in the centre of Badwell Ash, a rural village in Suffolk within the administrative area for Mid-Suffolk Council.

The site comprises Badwell Ash Village Hall and the adjacent car park, alongside part of the amenity grassland recreational area. The habitats within the site typically comprise species-poor amenity grassland maintained as a recreational park with some limited patchy scrub bounded by trees.

The wider landscape surrounding Badwell Ash village is generally arable farmland with an extensive network of field hedgerows interconnecting pockets of semi-natural broadleaved woodland.

Plans for the site comprise the expansion of the carpark and construction of two Multi Use Sports Arenas (MUGA) which are hardstanding surfaces enclosed by metal fencing that provide opportunities for a number of different sports, usually a combination of football and basketball, with other hard-court sports such as tennis also possible.

The intrinsic value of the habitats on-site within a defined geographic context is generally considered to be of negligible importance. The development area only supports species-poor amenity grassland which has very little value for wildlife and is common and widespread existing locally in both larger area and higher quality to the site. The loss of the proposed area of amenity grassland within the site would be unlikely to affect the overall assemblage of species or the conservation status of any individual species.

The following ecological constraints have been identified within the site:

- Bats are sensitive to artificial lighting, which can disrupt the normal 24-hour pattern of light and dark and is likely to affect the natural behaviour of bats. Bright light may reduce social flight activity or restrict access to foraging areas causing bats to move away from the light area. Lighting can be particularly harmful if used near high value foraging and commuting habitat such as woodland edges, hedgerows, treelines or rivers.
- The site could support hedgehogs which are vulnerable to impacts from construction activities at the site.

Mitigation measures recommended include:

- It is recommended that directional lighting is used to avoid illuminating habitat which could be utilised by bats. Of particular importance for this development site is to avoid light spill across the native hedgerow and trees on the site boundary and the which are likely to provide opportunities for roosting, commuting, and foraging for bats locally.
- Small passerine nest boxes should be installed on trees adjacent to the development site to provide suitable nesting habitat for a range of common garden bird species and provide replacement nesting habitat for the scrub already cleared at the site. A combination of at least 5 No. standard hole-fronted and open-fronted boxes would provide a variety of nesting locations for common and widespread garden species including blue tit, great tit, robin, blackbird, wren and chaffinch.
- There is no additional nesting habitat to be cleared to accommodate the MUGA or carpark areas. However, as a standard precautionary rule, any clearance of suitable nesting vegetation such as scrub, trees or hedgerow should be undertaken outside of the bird nesting season (from 1st March to the 31st August, inclusive) where appropriate.
- Consideration should be given to hedgehogs during construction any excavations should be filled at the end of the day or covered at night to prevent entrapment of hedgehogs and other wildlife. Excavations should also be angled at either end or provide a ramp to allow animals to escape if they do become trapped.

Possible opportunities to enhance the wildlife potential, appropriate to this site, in line with NPPF policies to achieve NET GAIN in biodiversity through planning include:

- Additional tree planting and hazel scrub or mixed scrub established around the wider recreation area would provide valuable habitat for wildlife and represents higher value habitat than the species poor amenity grassland within the development area.
- Provision of standalone bat boxes on mature trees adjacent to the site would provide roost sites for a range of bat species with good links to the wider landscape. A combination of at least 3 No. Schwegler woodcrete boxes 1FF, 2F and 2FN or equivalent would provide suitable permanent roosting conditions for many of the species recorded in the local area, alongside 3-6 No. wooden Kent bat boxes to provide additional roosting opportunities in more 'natural' artificial roost features.
- A house sparrow box should be installed on the existing village hall building. Integrated boxes produced by birdbrickhouses or Schwegler would be the most appropriate option. An externally mounted house sparrow terrace should be fitted to the northeast gable just below the eaves. Any exterior boxes must be affixed securely to deter removal or tampering.

1 Introduction

1.1 Background to Commission

Riverdale Ecology Ltd were commissioned by Locus Planning Limited to carry out a Preliminary Ecological Appraisal (PEA) of a potential development site comprising amenity land adjacent to Badwell Ash Village Hall, The Street, Badwell Ash, Suffolk, IP31 3DG; situated around Ordnance Survey Grid Reference TL 98983 69165. The appraisal was carried out in order to inform a planning application for a community project to upgrade the Badwell Ash Parish recreational facilities.

1.2 Scope of Report

The purpose of this PEA report is to establish the current biodiversity value of the site, to identify any potential ecological constraints or ecological impacts associated with the proposed development and provide recommendations for additional survey work to further evaluate any impacts that may risk contravention of legislation or policy relating to protected species and nature conservation. Where necessary, avoidance, mitigation/compensation and/or enhancement measures have been recommended to ensure compliance. It is based on the following information sources:

- A desk study of the site and within a 2km surrounding radius; and
- A Phase 1 Habitat Survey (JNCC, 2010) of the site boundary and immediate surrounds to map habitats and identify features with potential to support protected or otherwise notable species.

This report has been prepared with reference to best practice as published by the Chartered Institute for Ecology and Environmental Management (CIEEM, 2017) and to British Standard 42020:2013 (BSI, 2013). This report provides recommendations for enhancement of the site for biodiversity in line with the National Planning Policy Framework (DLUHC, 2023) and best practice guidelines.

The survey, assessment and report were conducted and written by Danny Thomas CEcol, MCIEEM, Principal Ecologist at Riverdale Ecology Ltd. Danny has over 20 years' experience within ecological consultancy and as such is suitably qualified to undertake habitat surveys and protected species assessments. He is a Chartered Ecologist and has a BSc (Hons) in Ecology with Biology and an MSc in Environmental Sciences from the University of East Anglia. He holds current Natural England survey licences for great crested newts, bats, dormice and water vole and has a Schedule 1 licence for several protected bird species including barn owl and Cetti's warbler.

1.3 Site Description and Context

The Application Site is located in the centre of Badwell Ash, a rural village in Suffolk within the administrative area for Mid-Suffolk Council.

The site comprises Badwell Ash Village Hall and the adjacent car park, alongside part of the amenity grassland recreational area. The habitats within the site typically comprise species-poor amenity grassland maintained as a recreational park with some limited patchy scrub bounded by trees.

The wider landscape surrounding Badwell Ash village is generally arable farmland with an extensive network of field hedgerows interconnecting pockets of semi-natural broadleaved woodland.

Plans of the site are included in Appendix 1 and Photographs are included in Appendix 2.

1.4 Project Overview

Plans for the site comprise the expansion of the carpark and construction of two Multi Use Sports Arenas (MUGA) which are hardstanding surfaces enclosed by metal fencing that provide opportunities for a number of different sports, usually a combination of football and basketball, with other hard-court sports such as tennis also possible.

1.5 Relevant Legislation and Planning Policy

The following key pieces of nature conservation legislation are relevant to this appraisal:

- The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (commonly referred to as the Habitats Regulations);
- Wildlife and Countryside Act 1981 (as amended);
- The Environment Act 2021; and
- Natural Environment and Rural Communities (NERC) Act 2006.

The National Planning Policy Framework (Department for Levelling Up, Housing and Communities, 2023) requires local authorities to avoid and minimise impacts on biodiversity and, where possible, to provide net gains in biodiversity when taking planning decisions:

"The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and minimising impacts on, and providing net gains in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures." (Paragraph 180 (d))

To protect and enhance biodiversity and geodiversity, plans should:

"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 steppingstones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation"; and,

"Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity." (NPPF Paragraph 185)

When determining planning applications, local planning authorities should apply the following principles:

"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."

"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 reasons and a suitable compensation strategy exists"; and,

"Developments 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." (NPPF Paragraph 186 (a, c & d))

A summary of relevant legislation and planning policy is provided in Appendix 3.

2 Methodology

2.1 Desk Study

A desk study was carried out to determine if any Statutory[1] land designations occur within 2km of the site; these were identified using the Multi-Agency Geographic Information for the Countryside website (www.magic.gov.uk).

Aerial photographs were reviewed to identify any habitats surrounding the site or wildlife corridors connecting the site to other habitats. Ordnance Survey maps, aerial photographs and the MAGIC website were used to identify the presence of water bodies within 250m of the site in order to establish if the land within the site could be used as terrestrial habitat for great crested newts. This species can use suitable terrestrial habitat up to 500m from a breeding pond although Natural England research report ENRR574 suggests that newts are likely to travel no more than 250m from ponds where suitable habitats for foraging, refuge and hibernation exist in immediate proximity (Cresswell, W. & Whitworth, R. 2004). The 250m zone was considered an appropriate distance for this assessment based on the small and relatively isolated nature of the site.

Information relating to the location of non-Statutory[2] wildlife sites and records of protected[3] or otherwise notable[4] species within the site and up to 2km from the site boundary was obtained from Suffolk Biodiversity Information Service (SBIS).

The status of species is taken directly from the relevant legislation, UK Biodiversity Action Plan (UK BAP, 2009), local (Suffolk) BAP or the list of Birds of Conservation Concern 5 (Stanbury et al., 2021). The red and amber lists of Birds of Conservation Concern refer to bird species of particular conservation concern for a number of reasons. In general terms, red list species are globally threatened showing severe recent declines in population. Amber list species are species either with unfavourable conservation status or those species showing moderate recent declines in population; they may also include particularly localised species.

2.2 Extended Phase 1 Habitat Survey

A habitat survey of the site was carried out including any boundary features of interest. Habitats were described and mapped broadly in accordance with standard Phase 1 Habitat survey methodology (JNCC, 2010). Habitats were also assessed against Habitat of Principal Importance (HPI) criteria as set out by the JNCC (http://jncc.defra.gov.uk/page-5706).

Scientific names are given for vascular plant species only, following their first mention, thereafter common names only are used. Nomenclature for vascular plants follows Stace (2010). Incidental records of birds and other fauna noted during the course of the habitat survey were also compiled.

The presence of invasive or injurious plant species as defined by Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended) was also recorded.

2.3 Protected Species

The habitats were assessed for their potential to support legally protected species using a combination of the desk study information and field observations carried out during the habitat survey. The assessment was based on

1 **Statutory designations** include Special Areas of Conservation (SAC), Special Protection Areas (SPA), Ramsar sites, National Nature Reserves (NNR), Sites of Special Scientific Interest (SSSI) and Local Nature Reserves (LNR).
2 **Non-statutory sites** are designated by local authorities and protected through the planning process (e.g., County Wildlife Sites, Sites of Importance for Nature Conservation or Local Wildlife Sites).
3 **Legally protected species** include those listed in Schedules 1, 5 or 8 of the Wildlife and Countryside Act 1981; Schedule 2 of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019; or in the Protection of Badgers Act 1992 (as amended).
4 **Notable species** include Species of Principal Importance under the Natural Environment and Rural Communities Act 2006; Local Biodiversity Action Plan (LBAP) species; Birds of Conservation Concern (Eaton *et al.*, 2009); and/or Red Data Book/nationally notable species (JNCC, undated).

professional judgement and best practice survey guidance methodology for identifying field signs of protected species including but not limited to: badger (e.g. Roper, 2010); bats (Hundt, L. 2012, Collins, J. (ed) 2023, Mitchell-Jones, A. 2004, Andrews, H. 2018); hazel dormouse (English Nature, 2006); great crested newt (Langton et al, 2001; English Nature, 2001; Cresswell & Whitworth 2004); reptiles (Gent and Gibson, 2003); barn owl (Shawyer, 1998); and UK BAP Mammals (Cresswell et al, 2012). The potential for protected species presence was based on the following criteria:

- *Present* – Confirmed presence through first-hand survey evidence or recent verified records.
- *High Potential* – Local records highlight presence in the local vicinity. The site and immediate surrounds support good quality habitat or good connectivity to such habitat.
- *Moderate Potential* – Habitat within the site provides key elements for any species or species group although may be limited by factors including habitat area, isolation or disturbance. Desk study records highlight presence in proximity to site.
- *Low Potential* – On-site habitat is of low quality for any species or species group, lacking key elements and limited by factors including habitat fragmentation and habitat area. Few or absence of local records but within national distribution and thus cannot be completely discounted.
- *Negligible Potential* – Habitats within the site are very poor quality or completely absent for any species or species group. Desk study records are absent, the site is outside of the normal range of the species or species group and the surrounding habitat is unlikely to support wider populations. Presence cannot be completely ruled out, but it is considered 'reasonably unlikely' to support any species or species group.

The findings of this assessment establish any requirement for targeted protected species surveys that may be required to achieve compliance with relevant legislation. Surveys may be required where a site is judged to be of low suitability for a particular species or species group, alternatively it may be more appropriate to ensure compliance with protected species legislation through precautionary measures prior to and during construction.

Specific features within the site with potential to support protected species such as buildings and trees which may support bat roosts, waterbodies which may support water vole, otters and white-clawed crayfish and ponds which may support great crested newts will be superficially assessed to determine potential but further surveys may be required if potential is identified.

2.4 Preliminary (Ground Level) Tree Bat Roost Assessment

A Preliminary Roost Assessment (PRA) survey of any trees within the site boundary was undertaken in accordance with best practice guidelines for assessing roost potential of trees (Collins, J. (ed.) 2023; Hundt, L. 2012, Andrews, H. 2018).

The survey comprised a systematic and detailed inspection of the exterior of the tree from ground level to search for Potential Roost Features (PRFs) which could be utilised by bats for roosting. The survey comprised a description of the physical characteristics of the tree alongside identification of any PRFs or evidence of roosting bats. PRFs found in trees include woodpecker holes; rot holes; vertical or horizontal cracks or splits in limbs; partially detached or loose bark; epicormic growth; enclosed gaps between overlapping stems or branches; and dense ivy with stem diameter in excess of 50mm.

2.5 Site Evaluation

An evaluation of the site was carried out in general accordance with guidance issued by the Chartered Institute of Ecology and Environmental Management (CIEEM, 2019) which ranks the nature conservation value of a site according to a geographic scale of reference: International/ European, National, Regional, Metropolitan, County, vice-county or other local authority-wide area, or of value at the Local scale or just within the context of the site.

In evaluating the nature conservation value of the site, the following factors were considered: nature conservation designations, rarity, naturalness, fragility, connectivity and relevant nature conservation aims and objectives for a given area as contained in national and local biodiversity action plans and planning policies.

2.6 Survey and Assessment Limitations

The data and conclusions presented here are an evidence-based assessment of the current status of the application site and should not be taken as providing a full and definitive survey of any protected species group. The results of this ecological assessment have allowed an evaluation of the likely ecological constraints to the proposed development and are considered sufficient to inform the need for further ecological survey and mitigation measures.

Ecological surveys are limited by factors which affect the presence of plants and animals such as the time of year, migration patterns and behaviour. Therefore, the absence of evidence of any particular species should not be taken as conclusive proof that the species is not present or that it will not be present in the future.

3 Results

3.1 Desk Study

Statutory Sites for Nature Conservation

There is one nationally designated Site of Special Scientific Interest (SSSI) within 2km of the site:

The Gardens, Great Ashfield SSSI

The Gardens, Great Ashfield SSSI is located approximately 1.1km to the southeast of the site. The SSSI consists of four floristically rich ancient meadows in one of the remaining examples of unimproved calcareous clay and neutral grassland in Suffolk. It is traditionally managed by a combination of grazing and cutting for hay and supports a wide variety of grasses and herbs including a population of Common Twayblade *Listera ovata*.

The grass sward is dominated by Quaking Grass *Briza media*, Crested Dog's Tail *Cynosurus cristatus*, Red Fescue *Festuca rubra* and Glaucous Sedge *Carex flacca*. The herb flora is exceptionally rich and contains many species characteristic of this type of grassland, notably Green-winged Orchid *Orchis morio* and Bee Orchid *Ophrys apifera*. Other species include Meadow Saxifrage *Saxifraga granulata*, Pepper Saxifrage *Silaum silaus*, Adder's Tongue Fern *Ophioglossum vulgatum*, Ox-eye Daisy *Leucanthemum vulgare* and Sulphur Clover *Trifolium ochroleucon*. Of additional interest is the presence of a Black Poplar *Populus nigra*, possibly a hybrid, which is present on the western boundary.

Non-Statutory Sites for Nature Conservation

There are three non-statutory County Wildlife Sites (CWS) within 2km of the site boundary, these are discussed in detail in Table 1 below:

Table 1: Non-Statutory Sites within 2km of Site Boundary.

Site Name	Distance from site and Orientation	Reason for Designation
Mid-Suffolk 67: Parker's Grove CWS	1.6km South	This small woodland which is set amidst arable fields is listed in Natural England's Ancient Woodland Inventory. A dense hedge encloses the wood and provides additional and valuable nesting habitat for woodland birds. Oak *Quercus robur* and ash *Fraxinus excelsior* standards dominate the tree canopy of Parker's Grove. The understorey is composed of neglected hazel *Corylus avellana* coppice with occasional hawthorn *Crataegus monogyna* and elder *Sambucus nigra*. The woodland floor is colonised by a dense growth of dog's mercury *Mercurialis perennis* interspersed with attractive wildflowers. Parker's Grove is a good example of a typical neglected coppice with standards woodland

Site Name	Distance from site and Orientation	Reason for Designation
Mid-Suffolk 68: Brown's Wood CWS	1.8km South	Brown's Wood, located amidst large arable fields, is an important feature in the landscape. It is linked to nearby Parker's Grove by a public footpath which runs along the margins of both woods. A ditch, possibly medieval in origin surrounds this small woodland, which is dominated by ash and oak. Brown's Wood, which is listed in Natural England's Inventory of Ancient Woodland, has a rather open structure due to a sparse shrub layer composed mainly of hazel coppice and hawthorn. The woodland floor is also sparsely vegetated and, where present, the ground flora is dominated largely by dog's mercury.
Mid-Suffolk 95: Stowlangtoft and Langham Thicks CWS	1.95km West	Stowlangtoft and Langham Thicks is an area of ancient woodland which lies to the east of Kiln Lane and the Stowlangtoft Estate and is listed in the Inventory of Ancient Woodland compiled by Natural England. The Thicks is an ash/field maple *Acer campestre* wood with abundant oak standards and an understorey of dense hazel coppice. Planted Scots pines *Pinus sylvestris* are scattered throughout. A public footpath runs through the wood. The northeast section is coppiced where there is also an area of rough grassland. There are several maintained rides and glades of varying widths. The site is located close to a number of other ancient woods, several of which have been designated as Sites of Special Scientific Interest, for example Stanton Woods and Bangrove Wood. A tall species rich hedgerow links the northern woods to the southern woods and there is connectivity to further woodland to the south and east outside the CWS boundary. There are hedgerows linking the wood to the surrounding arable fields.

The proposed development site is not subject to any statutory or non-statutory nature conservation designations. The site also does not contain equivalent habitat that could be considered as functionally linked to any nature conservation sites. Furthermore, the site is not located in proximity to any statutory or non-statutory designated site where the development could result in direct impacts to any designated site. Any impacts resulting from the proposed development are anticipated to be localised and are not expected to extend beyond the redline site boundary and so will not directly affect any statutory or non-statutory sites.

3.2 Habitat Survey

Summary

The habitat survey was carried out on 2nd February 2024 in appropriate weather conditions.

The Application Site comprises the existing building and hardstanding carpark of Badwell Ash Village Hall and an area of amenity grassland adjacent to the west side of the hall which is a fairly typical playing field supporting species-poor grassland. There are a couple of small patches of scrub which had been recently cleared at the time of the survey and a line of trees bounding the playing field. A small pond is situated in the northwest corner of the site.

A Phase 1 Habitat Plan is included in Appendix 1.

Buildings and Hardstanding

The majority of the site boundary comprises the existing village hall and hardstanding car park which wraps around the northeast and southeast sides of the hall. No works relevant to the planning application are anticipated to be carried out to the building or the existing car park.

Amenity Grassland

To the northwest and southwest of the hall is a recreation area comprising a large expanse of amenity grassland maintained as a football pitch (Appendix 2, Photographs 1 & 2). The grassland is typical of improved amenity grassland; it is species-poor and regularly mown between spring and autumn. The sward is dominated by perennial ryegrass *Lolium perenne*, with abundant red fescue *Festuca rubra*. Yorkshire fog *Holcus lanatus* and bent grass *Agrostis spp*. are occasionally present and there are also localised patches of hairy sedge *Carex hirta* on the northern edge of the playing field behind the football goal.

Flowering forbs are infrequent across the majority of the sward, but occasional common species are present and there is greater diversity close to the treeline. Species encountered include hawkweed *Hieracium spp*., ribwort plantain *Plantago lanceolata*, yarrow *Achillea millefolium*, common daisy *Bellis perennis*, common field speedwell *Veronica persica*, creeping buttercup *Ranunculus repens*, dove's foot cranesbill *Geranium molle*, common chickweed *Stellaria media*, ground ivy *Glechoma hederacea*, spear thistle *Cirsium vulgare* and cow parsley *Anthriscus sylvestris*.

Scrub

There is a patch of recently cleared bramble *Rubus fruticosus* scrub within the redline boundary adjacent to the village hall (Appendix 2, Photograph 3). The removal of the scrub has apparently been carried out as part of general site maintenance and has been undertaken outside of the nesting season but is within the development footprint for the carpark extension. Although the scrub has been removed, it is included within the Biodiversity Net Gain (BNG) calculations in accordance with Town and Country Planning Act 1990 90A paragraph 6(b)[5].

A line of patchy scrub is also present within and adjacent to a dry ditch which demarks the northern boundary of the site (Appendix 2, Photograph 5).

Individual Trees/Woodland

The edges of the recreation area are demarked by lines of mature deciduous trees (Appendix 2, Photograph 4). There is also a small patch of woodland in the southwest corner of the site.

Tall herb and nettles

Beneath the treeline adjacent to the village hall there is a ground flora of tall herbs including nettles *Urtica dioica* and patchy low growing bramble.

Offsite habitats

There are four ponds located within 250m of the Application Site boundary.

5 *If as a result of activities on the land, the biodiversity value of the onsite habitat is lower than it would otherwise have been, the pre-development biodiversity value of the onsite habitat is to be taken to be its biodiversity value immediately before the carrying on of the activities.*

3.3 Protected Species

Bats

There were 14 individual records comprising only four species of bats within 2km of the site returned in the SBIS data search. Species recorded included Natterer's bat, common pipistrelle, serotine and brown long-eared bat. However, it is considered that the low number of records is a result of low reporting or under recording locally rather than actually a low number of bats. Species such as common pipistrelle, soprano pipistrelle, Natterer's bat and brown long-eared bat will certainly be widespread in the local area where suitable habitat exists for them.

The Village Hall building has very low or negligible potential to support roosting bats. Furthermore, the building itself will not be directly affected by the works and the scope of the development is not likely to affect roosting bats even if they were present in the building.

The trees within the redline boundary generally do not exhibit any Potential Roost Features which could support roosting bats. There are no trees to be removed to accommodate the MUGA or the carpark extension and none are likely to require any major arboricultural works that could possibly affect roost bats.

The habitats within the recreation area do provide valuable foraging habitat for bats, with the treelines and woodland areas of particular value for foraging and commuting. All the existing trees will be retained thus maintaining the foraging value. The MUGA is not anticipated to have any lighting and will be only available for use in daylight hours.

Great Crested Newts

There was only one record of great crested newt returned in the SBIS data search within 2km of the site. The record originates from a pond approximately 1.6km northwest from the site. The site is located in the Natural England District Level Licence Amber Zone.

There are four ponds located within 250m of the Application Site boundary, but Pond 4 is located over 275m from the actual development area.

Pond 1 is located directly adjacent to the northwest corner of the recreation area. The pond is small and rather overshaded with a lot of detritus and leaf litter within it. The water level is relatively low and probably dries out regularly and the water quality is poor. The Habitat Suitability Index (HSI) scored 0.44, placing the pond in the poor habitat suitability for great crested newts, and it is considered relatively unlikely to be a breeding pond for great crested newts.

Pond 2 is located approximately 110m to the northeast of the site. The pond is located in a very new housing development. A review of the ecology report for the project highlighted a lack of habitat suitability for great crested newts and although the pond habitat has improved in the interim, development has only recently finished at the site and the pond is highly unlikely to have been recently colonised.

Pond 3 is located in a private garden approximately 180m northeast of the site and has no obvious habitat connectivity with the site.

The habitats within the development area comprise only amenity grassland which has no value as habitat for great crested newts. The grassland provides no credible foraging habitat and no opportunities as terrestrial refuge habitat for great crested newts.

It is considered unlikely that great crested newts are present locally due to the absence of suitable breeding ponds. Furthermore, the proposed development is small and localised within habitat which provides no credible opportunities for great crested newts. As such it is reasonable to conclude that the proposed works will have no impact on great crested newts.

Birds

There were extensive records of bird species returned by SBIS, comprising many common species as well as species of conservation concern and Schedule 1 listed species including barn owl.

In general, the habitats within the recreation area are likely to support a typical assemblage of common or widespread species with some potential to support red or amber listed species of conservation concern including song thrush and dunnock. However, the amenity grassland provides no opportunities for nesting and only limited foraging opportunities for ground foraging species such as starling, blackbird and robin or other species that would exploit the earthworms as forage.

Bird species recorded within the recreation area and nearby during the PEA site visit included song thrush, robin, wren, blackbird, woodpigeon, chaffinch, house sparrow, dunnock, blue tit, great tit and goldfinch.

No nesting habitat is anticipated to be lost to construct the MUGA or the carpark. The small area of bramble scrub which was removed prior to the site visit may have accommodated an occasional nesting bird such as robin, blackbird or wren.

Reptiles

There were no records of any reptile species returned by SBIS within 2km of the Application Site.

The amenity grassland within the site has no value for reptiles and they are unlikely to be affected by the proposed construction of the MUGA and carpark extension.

Badgers

There were no records of badgers returned by SBIS within 2km of the site.

No setts or other evidence of badger activity were identified within the Application site or up to 30m from the site boundary during the site survey.

As such it is reasonable to conclude that badgers will not be affected by the proposed development at the site.

Other protected species

There were records of water vole and European otter returned by SBIS within 2km of the site.

However, the site does not contain any suitable aquatic habitat which could support these species.

NERC Act SPI /Local or National BAP Species

The SBIS data search returned approximately 30 individual records for European hedgehog, which is a Species of Principal Importance. Hedgehogs are likely to utilise the habitats within the site, which provides foraging habitat in the amenity grassland which is particularly used to forage for earthworms. However, the loss of the small area of amenity grassland for the MUGA and carpark is not likely to significantly affect the distribution or population of hedgehogs locally.

4 Discussion and Recommendations

4.1 Nature Conservation Evaluation

The intrinsic value of the habitats on-site within a defined geographic context is generally considered to be of negligible importance. The development area only supports species-poor amenity grassland which has very little value for wildlife and is common and widespread existing locally in both larger area and higher quality to the site. The loss of the proposed area of amenity grassland within the site would be unlikely to affect the overall assemblage of species or the conservation status of any individual species.

4.2 Further Surveys

No further surveys are recommended.

4.3 Constraints and Mitigation/Compensation

Bats

Bats are sensitive to artificial lighting, which can disrupt the normal 24-hour pattern of light and dark and is likely to affect the natural behaviour of bats. Bright light may reduce social flight activity or restrict access to foraging areas causing bats to move away from the light area. Studies have shown that in extreme cases continuous lighting can sometimes create barriers which some bat species will not cross. Lighting can be particularly harmful if used near high value foraging and commuting habitat such as woodland edges, hedgerows, treelines or rivers.

It is recommended that directional lighting is used to avoid illuminating habitat that could be utilised by bats. Of particular importance for this development site is to avoid light spill across the habitat features that provide opportunities for commuting and foraging bats such as the treelines and woodland edge adjacent to the MUGAs. External lighting in the vicinity of the MUGAs should be avoided entirely or must be managed carefully and designed to avoid excessive light spill, which could disrupt bats.

Great Crested Newts

Babergh and Mid-Suffolk Councils have a Local Policy that requires a Method Statement for great crested newts for sites within DLL Amber Zones. Although the site is located within the DLL Amber Zone for great crested newts, the habitat within the development area is amenity grassland with no credible value for great crested newts. As such a method statement is not considered necessary for this project despite the presence of a nearby pond.

Birds

There is no additional nesting habitat to be cleared to accommodate the MUGA or carpark areas. However, as a standard precautionary rule, any clearance of suitable nesting vegetation such as scrub, trees or hedgerow should be undertaken outside of the bird nesting season (from 1st March to the 31st August, inclusive) where appropriate. If this is not possible a detailed inspection for nesting birds should be carried out by a suitably qualified ecologist no more than 48 hours prior to removal of vegetation capable of supporting nesting birds. Any active nests found must be retained with an appropriate buffer until young birds have fledged, and the nest is no longer in use.

Small passerine nest boxes should be installed on trees adjacent to the development site to provide suitable nesting habitat for a range of common garden bird species and provide replacement nesting habitat for the scrub already cleared at the site. A combination of at least 5 No. standard hole-fronted and open-fronted boxes would provide a variety of nesting locations for common and widespread garden species including blue tit, great tit, robin, blackbird, wren and chaffinch.

Hedgehogs

Consideration should be given to hedgehogs during construction any excavations should be filled at the end of the day or covered at night to prevent entrapment of hedgehogs and other wildlife. Excavations should also be angled at either end or provide a ramp to allow animals to escape if they do become trapped.

4.4 Biodiversity Net Gain (BNG)

The design of the site must consider the requirement under the Environment Act 2021 to incorporate a mandatory 10% Biodiversity Net Gain demonstrable through the DEFRA metric. This requirement is due to be included in Schedule 7A of the Town and Country Planning Act 1990 as introduced by Schedule 14 of the Environment Act 2021, once published by DEFRA's Secretary of State. This will become mandatory for small sites on 2nd April 2024.

It should be noted that the latest iteration of the DEFRA Metric has updated the algorithms from the earlier versions and the calculations appear to vastly overinflate the value of amenity grassland and other low value baseline habitats. The grassland within the Application Site is very low value with low species diversity and the calculation of 0.6 habitat units for the loss of 580m^2 of amenity grassland defies logic and has no justification in terms of actual habitat opportunities for wildlife which this type of amenity grassland offers.

Achieving 10% net increase in linear habitat (hedgerow/treelines) is likely to be fairly straightforward within the site, requiring at least 22m of new hedgerow planting or lines of trees. Native hedgerow planting could be achieved adjacent to the carpark or as a screen separating the MUGA and carpark area from the remaining recreation area to the south.

4.5 Ecological Enhancement

The National Planning Policy Framework (NPPF) encourages developers to incorporate habitat enhancement measures into development projects with the aim of providing tangible benefits for wildlife and achieving biodiversity gains within an individual site. Where opportunities exist, an individual development may provide enhancements to biodiversity which contribute to wildlife and habitat connectivity in the wider area. Enhancements act to improve the quality of the habitat for the flora and fauna on and within the vicinity of the site, although these enhancements may also provide aesthetic appeal.

Possible opportunities to enhance the wildlife potential, appropriate to this site, are provided below. It is important that any measures adopted be clearly demonstrated to the Planning Authority through inclusion in design plans and accompanying documentation.

- Additional tree planting and hazel scrub or mixed scrub established around the wider recreation area would provide valuable habitat for wildlife and represents higher value habitat than the species poor amenity grassland within the development area.
- Provision of standalone bat boxes on mature trees adjacent to the site would provide roost sites for a range of bat species with good links to the wider landscape. A combination of at least 3 No. Schwegler woodcrete boxes 1FF, 2F and 2FN or equivalent would provide suitable permanent roosting conditions for many of the species recorded in the local area, alongside 3-6 No. wooden Kent bat boxes to provide additional roosting opportunities in more 'natural' artificial roost features.
- A house sparrow box should be installed on the existing village hall building. Integrated boxes produced by birdbrickhouses or Schwegler would be the most appropriate option. An externally mounted house sparrow terrace should be fitted to the northeast gable just below the eaves. Any exterior boxes must be affixed securely to deter removal or tampering.

5 References

Andrews, H. (2018) Bat Roosts in Trees: A guide to identification and assessment for tree-care and ecology professionals. Pelagic Publishing. Exeter.

British Standards Institution (2013). Biodiversity. Code of practice for planning and development: 42020. BSI. London

CIEEM (2019) *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal, 3rd edition.* Chartered Institute of Ecology and Environmental Management, Winchester.

CIEEM. (2017). *Guidelines for Preliminary Ecological Appraisal*. Chartered Institute of Ecology and Environmental Management, Winchester.

Collins, J. (ed.) (2023) *Bat Surveys for Professional Ecologists: Good Practice Guidelines* (4th edition). The Bat Conservation Trust, London.

Cresswell, W. & Whitworth, R. (2004), *'An assessment of the efficiency of capture techniques and the value of different habitats for the great crested newt Triturus cristatus'*. English Nature Research Report (ENRR) Number 576. Natural England. Peterborough.

English Nature (2001) Great Crested Newt Mitigation Guidelines. Natural England. Peterborough

English Nature (2006). *The Dormouse Conservation Handbook*. 2nd Edition. Natural England. Peterborough.

Hundt, L (2012) Bat Surveys: Good Practice Guidelines, 2nd Edition. Bat Conservation Trust, London.

Gent, T. and Gibson, S. (2003). *Herpetofauna Workers Manual*. JNCC. Peterborough.

Joint Nature Conservation Committee (2003). *Handbook for Phase 1 Habitat Survey - a Technique for Environmental Audit* (revised reprint). Joint Nature Conservation Committee, Peterborough.

Langton, T.E.S., Beckett, C.L., and Foster, J.P. (2001), Great Crested Newt Conservation. Handbook, Froglife, Halesworth.

MAGIC (2015). *Multi-Agency Geographic Information for the Countryside*. [On-line]. Available from www.magic.gov.uk

Mitchell-Jones, A.J. & McLeish, A.P. (2004) *The Bat Workers' Manual 3rd Edition*. Joint Nature Conservation Committee, Peterborough.

Oldham R.S., Keeble J., Swan M.J.S. & Jeffcote M. (2000). *Evaluating the suitability of habitat for the Great Crested Newt (Triturus cristatus).* Herpetological Journal 10, 4, 143-155.

Roper, T.J. (2010). *Badger*. Harper Collins.

Stace, C.A. (2010). *New Flora of the British Isles* (3rd Ed.). Cambridge University Press, Cambridge.

Stanbury, A., Eaton, M., Aebischer, N., Balmer, D., Brown, A., Douse, A., Lindley, P., McCulloch, N., Noble, D., and Win I. (2021) *The status of our bird populations: the fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of Man and second IUCN Red List assessment of extinction risk for Great Britain. British Birds 114: 723-747.* Available online at https://www.bto.org/sites/default/files/publications/bocc-5-a5-4pp-single-pages.pdf .

Appendix 1: Site Plans

Figure 1: Phase 1 Habitat Plan

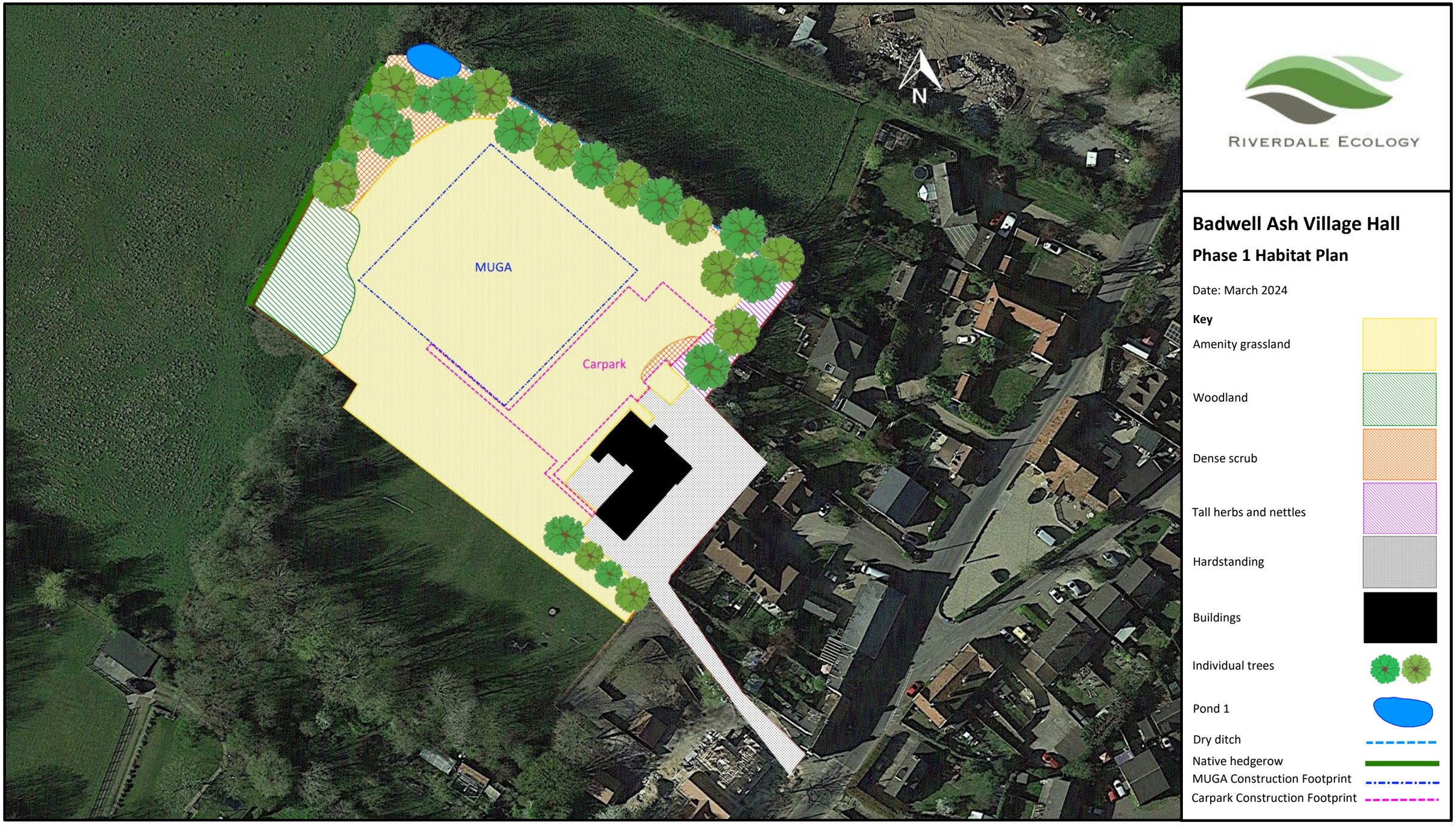
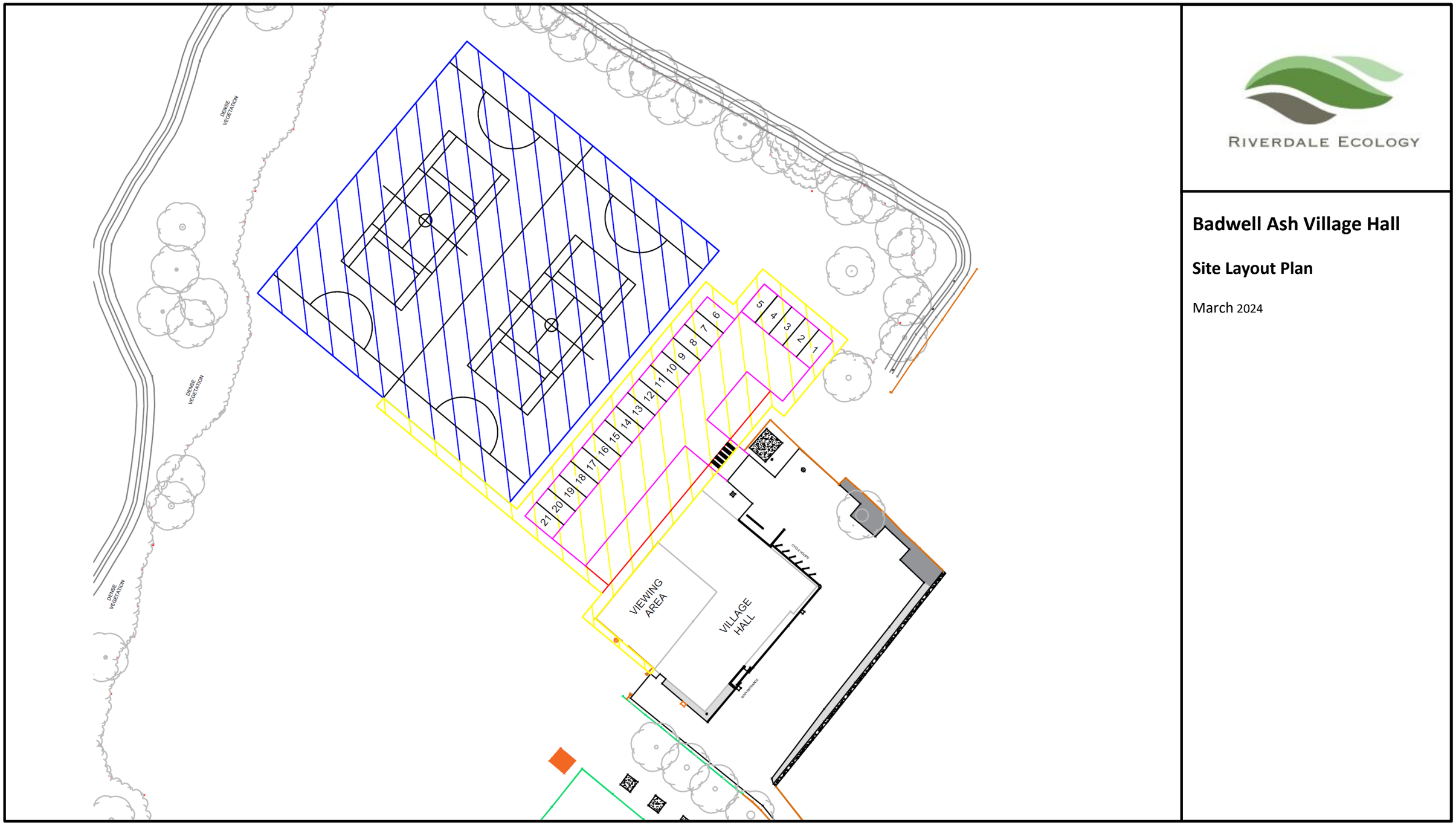


Figure 2: Site Layout Plan



RIVERDALE ECOLOGY

Badwell Ash Village Hall

Site Layout Plan

March 2024

Appendix 2: Photographs

Photograph 1.
View across the MUGA site towards northwest corner.

Photograph 2.
View south across the MUGA site.

Photograph 3.
Cleared bramble scrub adjacent to the village hall within the footprint of the carpark extension.

Photograph 4.
Line of trees along northern edge of recreation area.

Photograph 5.
Bramble scrub along the northern boundary of the recreation area.

Photograph 6.
Pond 1 adjacent to the site.

Appendix 3: Legislation

Relevant Legislation

Please note: This section contains key details of legislation and planning policy applicable in England and Wales only (i.e. not including the Isle of Man, Scotland, Northern Ireland, the Republic of Ireland or the Channel Islands) and does not provide full details. It is provided for general guidance only. While every effort has been made to ensure accuracy, this section should not be relied upon as a definitive statement of the law. Further information can be obtained from the relevant authorities.

National Legislation: Biodiversity

The Environment Act 2021

The Environment Act (2021) is the biggest UK environmental legislation to be passed by government in over a decade. Its aim is to ensure our natural world still received appropriate protection despite the UK exit from the EU and sets out how the government will better protect and restore the environment in the future. The Act sets clear statutory targets for the recovery of the natural world in four priority areas: air quality, biodiversity, water and waste, and includes an important new target to reverse the decline in species abundance by the end of 2030. It sets in law new tools to help meet those targets, which will aim to halt species decline upward towards a Nature-positive 2030.

The most important element of The Environment Act with relation to wildlife and ecology is the requirement under the Act to provide demonstrable Biodiversity Net Gain through planning. Statutory BNG delivery became mandatory in January 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers are required to deliver a net gain of 10% in natural habitat quality or quantity. This means that the development should result in more or better-quality natural habitat than existed before the project, and in doing so make a significant contribution to nature's recovery.

Planning permission cannot legally be granted without this provision to meet the 10% BNG target.

National Legislation: Species

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

The Conservation of Habitats and Species Regulations (Amendment) (EU Exit) Regulations 2019 provides safeguards for European Protected Sites and Species (as listed in the Habitats Directive) and was transferred directly into UK law, thereby continuing the same provision for European protected species, licensing requirements, and protected areas after leaving the European Union.

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 interpret the Birds Directive and Habitats Directive into English and Welsh law with appropriate amendments introduced following the removal of the UK from the European Union in January 2021.

Explanatory notes relating to species protected under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (which includes smooth snake, sand lizard, great crested newt and natterjack toad, all bat species, otter, dormouse and some plant species) are given below and consider the case in England only, with Natural England given as the appropriate nature conservation body. **These should be read in conjunction with the relevant species sections that follow.**

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

- The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 does not define the act of 'migration' and therefore, as a precaution, it is recommended that short distance movement of animals for e.g. foraging, breeding or dispersal purposes, are also considered.
- In order to obtain a European Protected Species Mitigation (EPSM) licence, the application must demonstrate that it meets the following three 'tests':
    (i) the action(s) is(are) necessary for the purpose of preserving public health or safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment;
    (ii) that there is no satisfactory alternative; and
    (iii) that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

The Wildlife and Countryside Act 1981 (as amended)

The Wildlife and Countryside Act 1981 (as amended) is a fundamental piece of national legislation which implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and implements the species protection obligations of Council Directive 2009/147/EC (formerly 79/409/EEC) on the conservation of wild birds (EC Birds Directive) in Great Britain. Various amendments have been made to the Wildlife & Countryside Act 1981 including the Countryside and Rights of Way (CRoW) Act (2000).

Other Legislation

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

- Deer Act 1991
- Countryside and Rights of Way (CRoW) Act 2000
- Natural Environment & Rural Communities (NERC) Act 2006
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996.

Species and species groups that are protected or otherwise regulated under the aforementioned domestic and European legislation, and that are most likely to be affected by development activities, include herpetofauna (amphibians and reptiles), badger, bats, birds, dormouse, invasive plant species, otter, plants, red squirrel, water vole and white clawed crayfish.

Wild Mammals (Protection) Act 1996

Under the Wild Mammals (Protection) Act 1996 all wild mammals are protected against intentional acts of cruelty under the above legislation. It is an offence to:

- Mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

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

Bats

All species of bat are fully protected under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 which prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (e.g. all bats)
- Deliberate disturbance of bat species as:
    a) to impair their ability:

(i) to survive, breed, or reproduce, or to rear or nurture young;

(ii) to hibernate or migrate

b) to affect significantly the local distribution or abundance of the species

- Damage or destruction of a breeding site or resting place
- Keeping, transporting, selling, exchanging or offering for sale whether live or dead or of any part thereof.

Bats are also protected under the Wildlife and Countryside Act 1981 (as amended) through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

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

Implication for development works

For works liable to affect a bat roost or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate), a European Protected Species Mitigation (EPSM) Licence, issued by the relevant countryside agency (e.g. Natural England), will be required. The licence is to allow derogation from the relevant legislation and to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Though there is no current case law the legislation may also be interpreted such that, in certain circumstances, important foraging areas and/or commuting routes can be regarded as being afforded de facto protection, for example, where it can be proven that removal of such features may have a major impact to maintaining the viability of a bat roost[6].

Birds

With certain exceptions, all wild birds, their nests and eggs are protected under Sections 1-8 of the Wildlife and Countryside Act 1981 (as amended). Among other things, this makes it an offence to:

- Intentionally kill, injure or take any wild bird;
- Intentionally take, damage or destroy the nest of any wild bird while it is in use or being built;
- Intentionally take or destroy an egg of any wild bird;
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof.

Certain species of bird, for example the barn owl, black redstart, hobby, bittern and kingfisher receive additional special protection under Schedule 1 of the Act and Annex 1 of the European Community Directive on the Conservation of Wild Birds (2009/147/EC). This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young;
- Intentional or reckless disturbance of dependent young of such a bird.

Implication for development works

Works should be planned to avoid the possibility of killing or injuring any wild bird, or damaging or destroying their nests, in order to avoid breaching the Wildlife and Countryside Act 1981 (as amended). To reduce the likelihood of nest destruction in particular,

6 Garland & Markham (2008) Is important bat foraging and commuting habitat legally protected? Mammal News, No. 150. The Mammal Society, Southampton.

work should be undertaken outside the main bird breeding season (March to September[7]). Where this is not achievable any areas of habitat suitable for birds must be thoroughly checked for nests prior to vegetation clearance.

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

Herpetofauna (Amphibians and Reptiles)

Through their inclusion EPS under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, the sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita* and great crested newt *Triturus cristatus* receive full protection. The pool frog *Pelophylax lessonae* is also afforded full protection under the same legislation. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of species listed on Schedule 2
- Deliberate disturbance of any Schedule 2 species as:
    a) to impair their ability:
        (i) to survive, breed, or reproduce, or to rear or nurture young;
        (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate
    b) to affect significantly the local distribution or abundance of the species
- Deliberate taking or destroying of the eggs of a Schedule 2 species
- Damage or destruction of a breeding site or resting place
- Keeping, transporting, selling, exchanging or offering for sale whether live or dead or of any part thereof.

With the exception of the pool frog, these species are also currently listed on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Under this Act, they are additionally protected from:

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

Other native species of herpetofauna are protected solely under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). Species such as the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis* are listed in respect to Section 9(1) & (5). For these species, it is prohibited to:

- Intentionally (or recklessly in Scotland) kill or injure these species
- Sell, offer or expose for sale, possess or transport for purpose of sale these species, or any part thereof.

Common frog *Rana temporaria*, common toad *Bufo bufo*, smooth newt *Lissotriton vulgaris* and palmate newt *L. helveticus* are listed in respect to Section 9(5) only which affords them protection against:

- Sale, offering or exposing for sale, possession or transport for the purpose of sale.

Implication for development works

A European Protected Species Mitigation (EPSM) Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect the breeding sites or resting places of those amphibian and reptile species protected under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (sand lizard, smooth snake, natterjack toad, great crested newt and pool frog). A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow

7 It should be noted that this is the main breeding period. Breeding activity may occur out of this period (depending on the particular species and geographical location of the site) and as such due care and attention should be given when undertaking potentially disturbing works at any time of year.

derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the Wildlife and Countryside Act 1981 (as amended).

Badger

Badgers *Meles meles* receive protection under The Protection of Badgers Act 1992 which consolidates the previous Badger Acts of 1973 and 1991. Under the Act it an offence to:

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

Implication for development works

A Development Licence is required from the relevant countryside agency (e.g. Natural England, Natural Resources Wales or Scottish Natural Heritage) for any development works liable to affect an active badger sett, or to disturb badgers whilst in the sett. In Wales, the Welsh Government is responsible for issuing licences in relation to agricultural and forestry operations or works to maintain or improve any existing watercourse or drainage works, or to construct new works required for the drainage of land, including works of defence against seawater or tidal water.

Depending on the nature of the works and the specifics of the sett and its environment, badgers could be disturbed by work near the sett even if there is no direct interference or damage to the sett itself. The countryside agencies have issued guidelines on what constitutes a licensable activity. N.B. there is no provision in law for the capture of badgers for development purposes and therefore it is not possible to obtain a licence to translocate badgers from one area to another.

Invasive Plant Species

Certain species of plant, including Japanese knotweed *Fallopia japonica*, giant hogweed *Heracleum mantegazzianum* and Himalayan balsam *Impatiens glandulifera* are listed on Part II of Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) in respect to Section 14(2). Such species are generally non-natives whose establishment or spread in the wild may be detrimental to native wildlife. Inclusion on Part II of Schedule 9 therefore makes it an offence to plant or otherwise cause these species to grow in the wild.

Implication for development works

Although it is not an offence to have these plants on your land, it is an offence to cause these species to grow in the wild. Therefore, if they are present on site and development activities (for example movement of spoil, disposal of cut waste or vehicular movements) have the potential to cause the further spread of these species to new areas, it will be necessary to ensure appropriate measures to prevent this prior to the commencement of works.

International and National Legislation: Habitats

Statutory Designations: International

Special Protection Areas (SPAs) and Special Areas of Conservation (SACs)

Special Protection Areas (SPAs), together with Special Areas of Conservation (SACs) form the Natura 2000 network in Europe (National Site Network in the UK). The Government was obliged to identify and classify SPAs under the EC Birds Directive (Council Directive 2009/147/EC (formerly 79/409/EEC)) on the Conservation of Wild Birds) and these sites have been retained within UK law despite the removal of the UK from the European Union via The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

- ***Special Protection Areas*** are areas of the most important habitat for rare (listed on Annex I of the Directive) and migratory birds within the UK and Europe. Protection afforded SPAs in terrestrial areas and territorial marine waters out to 12 nautical miles (nm) is given by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) provide a mechanism for the designation and protection of SPAs in UK offshore waters (from 12-200 nautical miles (nm)).
- ***Special Areas of Conservation*** are areas which have been identified as best representing the range and variety of key habitats and rare (non-bird) species listed on Annexes I and II of the Directive. The Government is still obliged to identify and designate SACs under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 whereby the EC Habitats Directive (Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora) was incorporated fully into the UK legislation despite the removal of the UK from the European Union. SACs in terrestrial areas and territorial marine waters out to 12 nm are protected under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) provide a mechanism for the designation and protection of SACs in UK offshore waters (from 12-200 nm).

Ramsar sites

Ramsar sites are designated under the Convention on Wetlands of International Importance. The Convention provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources, in particular it recognises wetlands as ecosystems that are globally important for biodiversity conservation. Wetlands can include areas of marsh, fen, peatland or water and may be natural or artificial, permanent or temporary. Wetlands may also incorporate riparian and coastal zones adjacent to the wetlands. Ramsar sites are underpinned through prior notification as Sites of Special Scientific Interest (SSSIs) and as such receive statutory protection under the Wildlife & Countryside Act 1981 (as amended) with further protection provided by the Countryside and Rights of Way (CRoW) Act 2000. Policy statements have been issued by the Government in England and Wales highlighting the special status of Ramsar sites. This effectively extends the level of protection to that afforded to sites which have been designated under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. (e.g. SACs & SPAs).

Statutory Designations: National

Sites of Special Scientific Interest (SSSIs) and National Nature Reserves (NNR)

Sites of Special Scientific Interest are nationally important areas of special scientific interest, designated for their flora, fauna, or geological or physiographical features, under the National Sites and Access to the Countryside Act 1949 and latterly the Wildlife & Countryside Act 1981 (as amended). National Nature Reserves are declared by the countryside agencies under the same legislation. As well as underpinning other national designations the system also provides statutory protection for terrestrial and coastal sites which are important within a European context (National Site Network) and globally (such as Wetlands of International Importance). See subsequent sections for details of these designations. Improved provisions for the protection and management of SSSIs have been introduced by the Countryside and Rights of Way Act 2000 (in England and Wales).

Statutory Designations: County

Local Nature Reserves (LNRs)

LNRs are statutory sites of lower conservation value designated under national legislation. LNR designation is declared for sites holding special wildlife or geological interest at a local level and are managed for nature conservation and provide opportunities for research and education and enjoyment of nature.

Non-Statutory Designations

Non-statutory sites designated under local legislation are areas considered to be of local conservation interest. These may be designated by local authorities as ***Local Wildlife Sites (LWS)***, also known as ***County Wildlife Sites (CWS), Local Nature Conservation Sites (LNCS), Sites of Biological Importance (SBIs)*** or ***Sites of Importance for Nature Conservation (SINCs)***. May vary between counties.

Together with the statutory designations, these 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. The criteria for designation and the level of protection afforded to these sites through local planning policies and development frameworks may vary between counties.

National Planning Policy

The National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) was updated, and the latest version adopted in December 2023. It lays out the key national planning policy concerning wildlife, biodiversity and nature conservation. The NPPF emphasises the need for suitable development and specifies the need for protection of designated sites and priority habitats and priority species. An emphasis is also made for the need for ecological networks via preservation, restoration and re-creation. The protection and recovery of Priority Habitats and Priority Species – those formerly listed as UK Biodiversity Action Plan priority species – is also listed as a requirement of planning policy. The NPPF includes a requirement a requirement to provide **net gain** in biodiversity in all planning applications.

In determining a planning application, planning authorities should aim to conserve and enhance biodiversity by ensuring that:

- Designated sites are protected from adverse harm;
- Planning permission is refused where significant harm from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for;
- Opportunities to incorporate biodiversity in and around developments are required and a net gain in biodiversity through enhancement during development is now expected;
- Planning permission is refused for development resulting in the loss or deterioration of irreplaceable habitats including aged or veteran trees and also ancient woodland; and
- Protection should be given to biodiversity within areas designated for their landscape value to include National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.

The Natural Environment and Rural Communities (NERC) Act 2006, (as amended)

The Natural Environment and Rural Communities (NERC) Act came into force on 1st October 2006. Section 40 of the Act requires all public bodies to have regard to biodiversity conservation when carrying out their functions. The Act includes a list of habitats and species of 'principal importance for the conservation of biodiversity' in England. They are referred to in this report as ***Species of Principal Importance and Habitats*** or ***Principal Importance***. Local Authorities are required to consider the needs of these habitats and species when making decisions such as on planning application. A developer must show that their protection has been adequately addressed within a development proposal.

Local Planning Authority's planning policy

The Local Planning Authority has policies relating to biodiversity conservation. For details, please see the planning website for the relevant authority.

Regional and Local BAPs

Many local authorities in the UK have also produced a local Biodiversity Action Plan (LBAP) at the County or District level. For details, please see the planning website for the relevant authority.

The Hedgerow Regulations 1997

The Hedgerow Regulations 1997 are intended to protect 'important' countryside hedgerows from destruction or damage by controlling their removal through a system of notification. A hedgerow is considered important if it:

- has existed for 30 years or more; and
- satisfies at least one of the criteria listed in Part II of Schedule 1 of the Regulations.

Schedule 1 criteria are related to the presence of protected plants and animals, or a high diversity of woody species and other qualifying features, e.g. connectivity to other hedgerows, woodlands or ponds, and the presence of standard trees.

Under the Regulations, it is a criminal offence to remove or destroy certain hedgerows without permission from the local planning authority. Countryside hedgerows are defined as those on or adjoining:

- common land;
- village greens;
- SSSIs (including all NNRs, SPAs and SACs);
- LNRs, and;
- land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys are covered by these regulations.

Garden hedgerows, e.g. within or marking the boundary of the curtilage of a dwelling-house, are exempt from The Hedgerow Regulations.