



MORFE VALLEY ENVIRONMENTAL LTD  
ARBORICULTURAL AND ECOLOGICAL CONSULTANTS

# Phase 1 Survey Report

**Site:** 410 & 412 Birkby Road, Huddersfield HD2 2ND

**Client:** Stoneleigh Architecture

**Date of Survey:** 26<sup>th</sup> February 2021

**Prepared** *Redacted* Watkins B.Sc (Hons) AMSB MBES MCIEEM – Ecological Consultant

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**Signed:** *Redacted*

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## **Summary**

This is a summary of findings and recommendations. For full details please read the report in its entirety.

- The two properties at 410 & 412 Birkby road, Huddersfield are both circa. 2005 builds with well managed grounds, the grounds have 40 tree and hedge row plots as reported in the associated tree report BS5837 conducted and approved by Marfe Valley Arboriculture, the phase 1 survey conducted by More valley Environmental did not show any major risks to the surrounding habits, flora or fauna in light of the prosed plans that will not take place until post June 2021. The woodland to the north east of the properties is a woodland priority habitat network (England) High Spatial Priority.

## **1. Introduction**

This ecological survey was commissioned by Stoneleigh Architecture on behalf of Raj Handa.

The purpose of the survey was to assess the conservation value of the survey area, the likely presence of rare or protected species, to identify any features, habitats or species which would constitute potential constraints to any dwellings which might be located on the land identified for development, and to make recommendations for mitigation and/or further survey work, as appropriate.

### **1.1 Site Location**

The sites are located within West Birkby Huddersfield, just off Halifax road.  
The sites the final two properties off Prince Royd lane bordered by a small coppice of woodland.

### **1.2 Site Description**

The site is made up of 2 residential properties No 410 and 412 of which both are relatively new builds dating back to circa. 2005, with in west Birkby, Huddersfield. The properties have appx. 190m perimeter. To the west of the plots lies the local church, to the north east there is a small coppice of broadleaf woodland. To the north and the south are further residential plots of detached properties.

### **1.3 Proposed Development**

Reformat of both properties for internal reconstruction and/or complete replacement on original footings, second story build for the property 410 currently a bungalow.

## 2. Methods

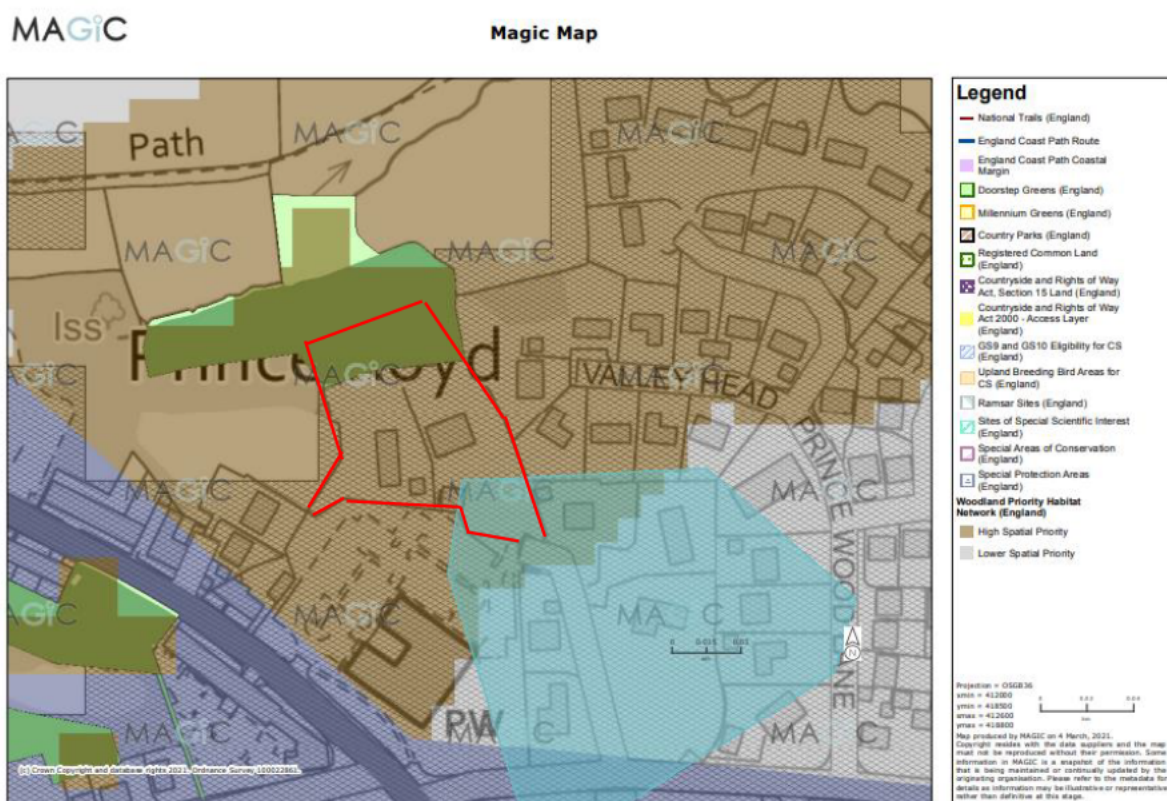
### 2.1 Data Search

A data search for sites designated for nature conservation or scientific interest (within 2km of the site) was undertaken using the Natural England website [www.natureonthemap.org.uk](http://www.natureonthemap.org.uk). Relevant notable species records within the 10km grid square containing the site was also compiled using the National Biodiversity Network website [www.nbn.org.uk](http://www.nbn.org.uk). Species records included are from the previous ten years.

#### 2.2.1 Designated sites

There are no sites designated for nature conservation within 2km of the survey site (source [www.natureonthemap.org.uk](http://www.natureonthemap.org.uk)).

Fig 1. The area for the proposed build is listed with in the Built-up areas 2011 (England and Wales) and woodland priority habitat network (England) High Spatial Priority



## Notable species records

Table 1. Relevant notable species records within a 2km radius (source [www.nbn.org.uk](http://www.nbn.org.uk)).

| Common name        | Scientific name                  | 2km radius | 500m radius |
|--------------------|----------------------------------|------------|-------------|
| European Otter     | <i>Lutra lutra</i>               | 1          | 0           |
| Common Pipistrelle | <i>Pipistrellus pipistrellus</i> | 2          | 1           |
| Palmate newt       | <i>Lissonotriton helveticus</i>  | 0          | 0           |

## 2.2 Site Survey Method

### Phase 1 Survey

The phase 1 survey was conducted in line with the JNCC and CIEEM guidelines for habitat surveying and reporting.

The area was surveyed by Gareth Watkins B.Sc (Hons) AMSB CIEEM BSEC with the use of the topological drawings to outline the property estate and identify and log the sites vegetation classification and any significant animal species present with in the locality to establish any potential habitat suitability or importance.

### 3. Site Survey Results

#### 3.1 Habitats.

##### 3.1.1 Scattered trees

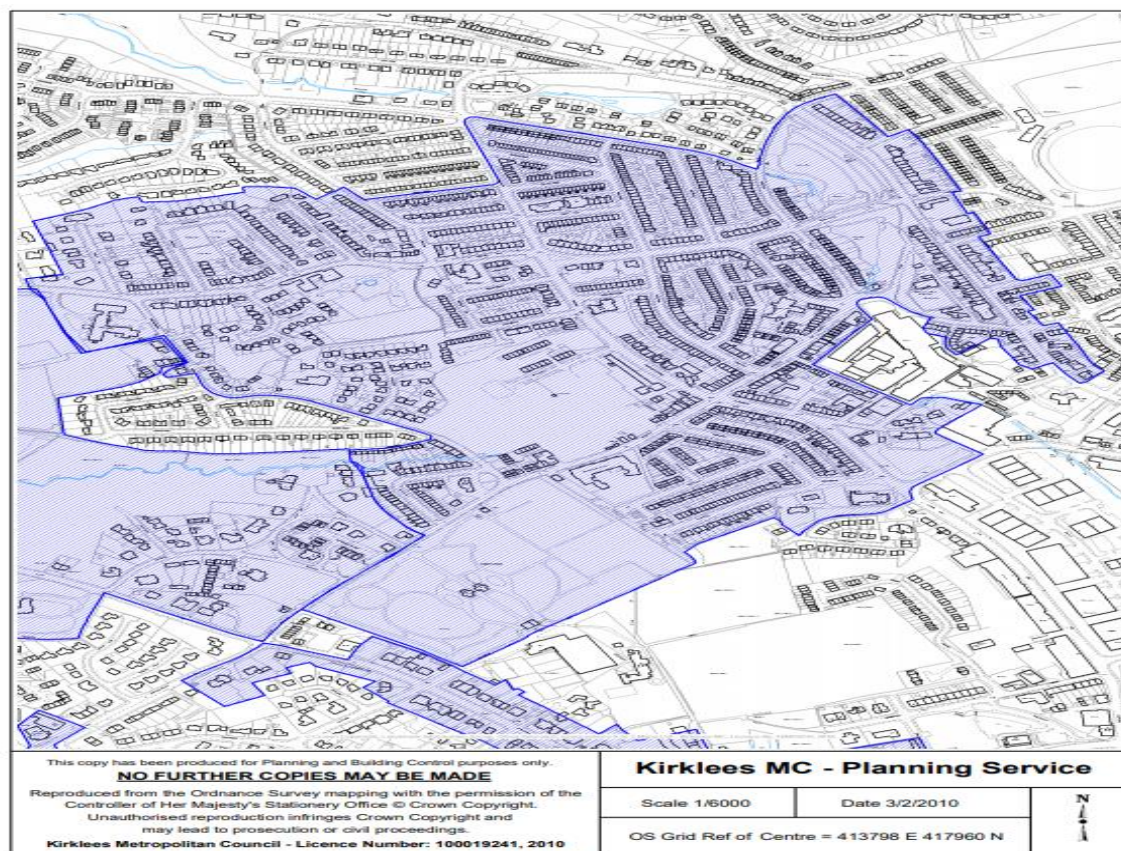
The proposed plots is made up of common and cultivated domestic species of trees and plants as listed below

Table 2. Vegetation classification

| Vegetation Layer | Common name         | Scientific name              |
|------------------|---------------------|------------------------------|
| Canopy Layer     | Dogwoods            | <i>Cornus spp.</i>           |
|                  | Sycamore            | <i>Acer pseudolantunus</i>   |
|                  | Hawthorn            | <i>Crataegus mynogyne</i>    |
|                  | Common Holly        | <i>Ilex aquifolium</i>       |
|                  | European Beech      | <i>Fagus sylvatica</i>       |
|                  | Common mountain ash | <i>Sorbus arcuparia</i>      |
| Shrub layer      | Redclaws            | <i>Escallonia spp.</i>       |
|                  | Elmleaf blackberry  | <i>Rubus ulmifolius</i>      |
|                  | Cherry Laurel       | <i>Prunus laurocerasus</i>   |
|                  | Japanese Laurel     | <i>Aucuba japonica</i>       |
|                  | Chinese Hawthorn    | <i>Photinia serratifolia</i> |
|                  | Weeping Fig         | <i>Ficus benjamina</i>       |
|                  | Privet              | <i>Ligustrum vulgaris</i>    |
| Ground layer     | Common snowdrop     | <i>Galanthus nivalis</i>     |
|                  | Dutch crocus        | <i>Crocus vernus</i>         |
|                  | Creeping buttercup  | <i>Ranunculus repens</i>     |
|                  | Wild parsnip        | <i>Pastinaca sativa</i>      |
|                  | Common primrose     | <i>Primula acaulis</i>       |
|                  | Winter creeper      | <i>Eunymous fortunei</i>     |

|  |                     |                                  |
|--|---------------------|----------------------------------|
|  | Broadleaf stonecrop | <i>Sedum spathulifolium</i>      |
|  | Daffodil            | <i>Narcissus pseudonarcissus</i> |
|  | Incense cedar       | <i>Celocedrus decurrens</i>      |
|  | Common sage         | <i>Salvia officinalis</i>        |
|  | Common boxwood      | <i>Buxus sempervirens</i>        |
|  | Japanese skimmia    | <i>Skimmia japonica</i>          |
|  | African lily        | <i>Agapanthus praecox</i>        |
|  | Wood avens          | <i>Geum urbanum</i>              |
|  | Delicate fern moss  | <i>Thuidium delicatulum</i>      |
|  | Common myrtle       | <i>Myrtus communis</i>           |
|  | Rye Grass           | <i>Lolium spp.</i>               |

**Fig. 2. Kirklees MC Conservation zones** (Birkby Road doesn't currently fall under the local authorities conservation zones, but is covered by the woodland priority habitat network (England) High Spatial Priority as previously stated)



**Fig 3. Huddersfield TPO and Trees within Conservation areas (showing woodland priority habitat network (England) High Spatial Priority)**



**Fig 4. Topographical plan of the site**



### 3.2 Species

#### 3.2.1 Reptiles and Amphibians

There are records of reptiles with in the 2km zonal range, but at very low levels and towards the out marking of the 2km radius of the assessed area.

#### 3.2.2 Badgers and mammals

There are no records of badger (*Meles meles*) within the same 2km grid square containing the survey site.

#### 3.2.3 Birds

There is potential for common bird species to nest within the trees and hedges on and surrounding the site, but no active nests were found during the survey within the site compounds.

#### 3.2.6 Plant species

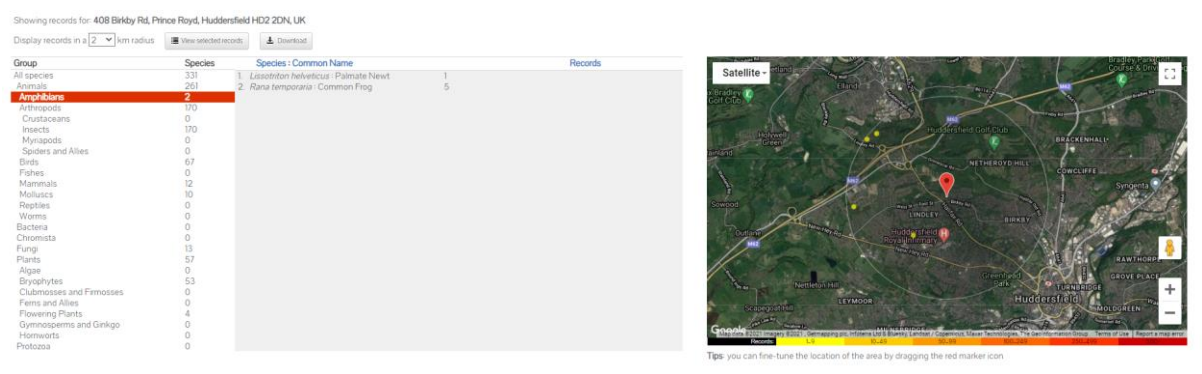
No legally protected plant species were noted on site from the NBN report.

### 3.3 Survey Constraints

The survey was conducted at a time of year when most plants can be identified, and full access around the site was available. Therefore, there were no obvious constraints to undertaking the survey.

### 3.4. Data Search Results

**3.4.1 Amphibians** – within a 2km radius amphibian sightings in the close vicinity have been low with only 6 amphibian sightings reported.



### 3.4.2 Mammals and Birds – Both mammal and bird sightings are widespread with reports of protected species animals in the area consisting of the following listed species below

| Common name          | Scientific name                  | 5km Radius | 2km radius | 500m radius |
|----------------------|----------------------------------|------------|------------|-------------|
| Eurasian Badger      | <i>Meles meles</i>               | 42         | 0          | 0           |
| Whiskered Bat        | <i>Myotis mystacinus</i>         | 1          | 0          | 0           |
| Noctule Bat          | <i>Nyctalus noctula</i>          | 2          | 0          | 0           |
| Common Pipistrelle   | <i>Pipistrellus pipistrellus</i> | 14         | 2          | 0           |
| Brown Long Eared Bat | <i>Plecotus auritus</i>          | 2          | 0          | 0           |

Showing records for: 408 Birkby Rd, Prince Royd, Huddersfield HD2 2DN, UK

Display records in a 2 km radius

| Group                  | Species | Species - Common Name | Records |
|------------------------|---------|-----------------------|---------|
| All species            | 331     |                       |         |
| Animals                | 251     |                       |         |
| Amphibians             | 2       |                       |         |
| Arthropods             | 170     |                       |         |
| Crustaceans            | 0       |                       |         |
| Insects                | 170     |                       |         |
| Myriapods              | 0       |                       |         |
| Spiders and Allies     | 0       |                       |         |
| Birds                  | 67      |                       |         |
| Fishes                 | 0       |                       |         |
| Mammals                | 12      |                       |         |
| Molluscs               | 0       |                       |         |
| Reptiles               | 0       |                       |         |
| Worms                  | 0       |                       |         |
| Bacteria               | 0       |                       |         |
| Chromista              | 0       |                       |         |
| Fungi                  | 13      |                       |         |
| Plants                 | 67      |                       |         |
| Algae                  | 0       |                       |         |
| Bryophytes             | 53      |                       |         |
| Cnidarians and Ferns   | 0       |                       |         |
| Ferns and Moss         | 0       |                       |         |
| Flowering Plants       | 4       |                       |         |
| Gymnosperms and Ginkgo | 0       |                       |         |
| Horsetails             | 0       |                       |         |
| Protists               | 0       |                       |         |

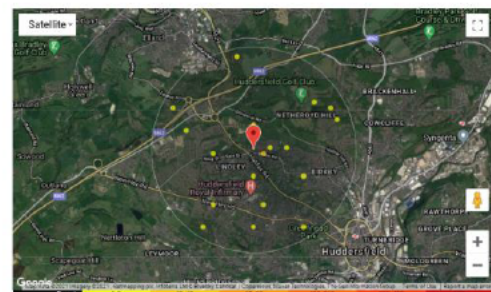


Tip: you can fine-tune the location of the area by dragging the red marker icon.

Showing records for: 408 Birkby Rd, Prince Royd, Huddersfield HD2 2DN, UK

Display records in a 2 km radius

| Group                  | Species | Species - Common Name | Records |
|------------------------|---------|-----------------------|---------|
| All species            | 331     |                       |         |
| Animals                | 251     |                       |         |
| Amphibians             | 2       |                       |         |
| Arthropods             | 170     |                       |         |
| Crustaceans            | 0       |                       |         |
| Insects                | 170     |                       |         |
| Myriapods              | 0       |                       |         |
| Spiders and Allies     | 0       |                       |         |
| Birds                  | 67      |                       |         |
| Fishes                 | 0       |                       |         |
| Mammals                | 12      |                       |         |
| Molluscs               | 0       |                       |         |
| Reptiles               | 0       |                       |         |
| Worms                  | 0       |                       |         |
| Bacteria               | 0       |                       |         |
| Chromista              | 0       |                       |         |
| Fungi                  | 13      |                       |         |
| Plants                 | 57      |                       |         |
| Algae                  | 0       |                       |         |
| Bryophytes             | 53      |                       |         |
| Cnidarians and Ferns   | 0       |                       |         |
| Ferns and Moss         | 0       |                       |         |
| Flowering Plants       | 4       |                       |         |
| Gymnosperms and Ginkgo | 0       |                       |         |
| Horsetails             | 0       |                       |         |
| Protists               | 0       |                       |         |



Tip: you can fine-tune the location of the area by dragging the red marker icon.

### 3.4.3 Reptiles

There have been no recorded sightings of reptiles within the area across a 2km radius of the site location and only singular counts reported within a 5km radius over the last 10 years.

Showing records for 408 Birkby Rd, Prince Royd, Huddersfield HD2 2DN, UK

Display records in a  km radius

| Group                   | Species | Species - Common Name | Records |
|-------------------------|---------|-----------------------|---------|
| All species             | 333     | (No species found)    |         |
| Animals                 | 261     |                       |         |
| Amphibians              | 2       |                       |         |
| Arthropods              | 170     |                       |         |
| Crustaceans             | 0       |                       |         |
| Insects                 | 170     |                       |         |
| Myriapods               | 0       |                       |         |
| Spiders and Allies      | 0       |                       |         |
| Birds                   | 67      |                       |         |
| Fishes                  | 0       |                       |         |
| Mammals                 | 12      |                       |         |
| Molluscs                | 10      |                       |         |
| Reptiles                | 0       |                       |         |
| Worms                   | 0       |                       |         |
| Bacteria                | 0       |                       |         |
| Chromista               | 0       |                       |         |
| Fungi                   | 13      |                       |         |
| Plants                  | 57      |                       |         |
| Algae                   | 0       |                       |         |
| Bryophytes              | 53      |                       |         |
| Clubmosses and Fimosses | 0       |                       |         |
| Ferns and Allies        | 0       |                       |         |
| Flowering Plants        | 4       |                       |         |
| Gymnosperms and Ginkgo  | 0       |                       |         |
| Horworts                | 0       |                       |         |
| Protozoa                | 0       |                       |         |



Tips: you can fine-tune the location of the area by dragging the red marker icon

## **4. Evaluation**

Please note that all conclusions and recommendations are based upon the current survey findings and on the proposal outlined in 1.3 above. If habitats within the site change then the potential for protected species to use the site may change accordingly and re-survey of the site may be necessary in the future.

### **4.1 Habitats**

The site holds potential habitats for most common UK species of mammals and birds, as listed in the NBN reports above.

But the proposed development of the properties will not cause any loss of habitat and there is no significant risk to wildlife in the area.

### **4.2 Species**

#### **4.2.1 Bats**

Bats are protected under Schedule 5 of the Wildlife and Countryside Act (1981) and Schedule 2 of the Conservation of Habitats and Species Regulations (2010) (see Section 6 for more details).

No evidence of bats was found, so no further action required

#### **4.2.2 Dormice**

Dormice are protected under Schedule 5 of the Wildlife and Countryside Act (1981) and Schedule 2 of the Conservation of Habitats and Species Regulations (2010) (see Section 6 for more details).

It is anticipated that there is negligible potential for dormice to be present within the site and is not anticipated to impact on dormice or habitat with the potential to support dormice. No further survey for dormice is recommended.

#### **4.2.3 Reptiles**

Common reptile species are protected under Schedule 5 of the Wildlife and Countryside Act (1981) from being killed or injured (see Section 6 for more details).

It is anticipated that there is negligible potential for reptiles to be present within the site and is not anticipated to impact on reptiles or habitats with the potential to support reptiles. No further survey for reptiles is recommended.

#### **4.2.4 Badgers**

Badgers are protected under the Badgers Act (1992) (see Section 6 for more details). Medium activity for badgers has been noted from the NBN Atlas report on 2km radius survey (42 occasions).

Although no evidence was seen during the survey. No further surveys required

#### **4.2.5 Birds**

There is potential for common bird species to nest with the laurel hedge and trees surrounding the site. Under the Wildlife and Countryside Act 1981 it is illegal to take, damage or destroy the nests of wild birds whilst being built or in use (see Section 6 for more details). However, it is not an offence to carry out work in areas that they use, outside of the nesting period. Therefore, it is recommended that any works which would result in the clearance of trees, scrub or hedgerows is carried out during the period between end of September and end of February to avoid the breeding season.

If works to remove areas of vegetation which could be used by nesting birds need to be carried out during the nesting period (March to September) a check should be made the day before the works are due to commence. Any birds nesting should be left to complete their breeding (i.e. until the young have fully fledged) before carrying out the vegetation removal.

#### **4.2.6 Amphibians**

Great Crested Newts are a protected species under Schedule 5 of the Wildlife and Countryside Act 1981, and under equivalent legislation in Northern Ireland. It is also a European Protected Species and as such it has additional protection in the UK under Regulation 39 of the Conservation (Natural Habitats etc.) Regulations 1994 (the Habitats Regulations), as amended by the Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007. It is anticipated that there is negligible potential for GCN to be present within the site and is not anticipated to impact on GCN or habitat with the potential to support GCN. No further survey for GCN is recommended

## **5. Wildlife and the Law**

### **5.1 European Protected Species**

The Bern Convention (The Convention on the conservation of European Wildlife and Natural Habitats) was adopted in 1979 and came into force in 1982. To implement this agreement, the European Community adopted the EC Habitats Directive.

The EC habitats directive has been transposed into UK legislation by the Wildlife and Countryside Act, 1981 (as amended) and the Conservation of Habitats and Species Regulations, 2010.

The Countryside and Rights of Way Act (CROW), 2000 strengthened the existing wildlife legislation in the UK. The UK has also signed The Bonn Convention (The Convention on the Conservation of Migratory Species of Wild Animals) and is therefore party to various agreements.

#### **5.1.1 Bats**

All 17 species of bats are protected under Schedules 5 and 6 of the Wildlife and Countryside Act 1981 (and as amended) and are also protected under Schedule 2 of the Conservation of Habitats and Species Regulations 2010. They are listed under Appendix III of the Bern Convention and Annex IV of the EC Habitats Directive. Bats and their habitats are also listed under Appendix II of The Bonn Convention and therefore the UK has an obligation to protect their habitat, including links to important feeding areas.

#### **5.1.2 Common Dormouse**

Dormice are classified as Lower Risk-near threatened by the IUCN (International Union for the Conservation of Nature and Natural Resources) Red List and Vulnerable in the UK. They are listed under Appendix III of the Bern Convention and Annex IV of the European Habitats & Species Directive.

In the UK they are protected under Schedule 5 of the Wildlife and Countryside Act, 1981 (and as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2010.

## **5.2 Legislation Relating to European Protected Species**

In relation to a development a person commits an offence if they—

- Deliberately captures, injures, or kills a European Protected Species
- Deliberately or recklessly disturbs wild animals of any such species in such a way as to be likely significantly to affect: (i) the ability of any significant group of animals to survive, breed, or rear or nurture their young; or (ii) the local distribution or abundance of that species;
- Damages or destroys a breeding site or resting place (even if unintentional or when the animal is not present)
- Intentionally or recklessly obstructs access to a structure or place used for protection or shelter
- This legislation applies, regardless of the life stage (including eggs).

A European Protected Species Licence is required to carry out any activity that would otherwise involve committing an offence.

### **5.3.1 Nesting Birds**

All wild birds are protected under part 1 of the Wildlife and Countryside Act, 1981.

Therefore, in the UK it is an offence to:

- Take, damage, or destroy the nest of any wild bird whilst it is being built or in use.
- Kill, injure, or take any wild bird
- Take or destroy the eggs of any wild bird to avoid committing an offence no works should be carried out on a structure/ feature that is being used by nesting birds. Nesting is deemed to be over when the young have fully fledged. Certain species which are listed in Schedule 1 of the Wildlife and Countryside Act receive special protection. In these cases, any form of intentional or reckless disturbance when they are nesting or rearing dependant young, constitutes an offence.

### **5.3.2 Reptiles**

Common lizard, slow worm, adder, and grass snake are all protected under Schedule 5 of the Wildlife and Countryside Act, 1981 against intentional injuring, killing, or selling. For development sites in England, Wales or Scotland, to avoid prosecution under the Wildlife and Countryside Act 1981 (as amended), wherever works will impact on slow worms, common lizards, adders and/or grass snakes there must be evidence that every reasonable effort was made to avoid breaking the law – including proof of adequate surveys and mitigation plans.

Mitigation measures should, ideally, be agreed with the relevant SNCO (in this case Natural England). Only the sand lizard and smooth snake are fully protected under the Wildlife and Countryside Act, 1981 (Section 9) and Regulation 9 of the Conservation of Habitats and Species Regulations 2010 against killing, injuring, capture, damaging or destroying a breeding or resting site, intentionally obstructing access to a place used for shelter, keeping, transporting, or selling.

This means that not only are the animals themselves protected but so are their habitats.

### **5.3.3 Badger**

Badgers are fully protected in the UK by the Protection of Badgers Act, 1992 and by Schedule 6 of the Wildlife and Countryside Act, 1981(as amended). This makes it an offence to:

- Wilfully kill, injure, take, possess, or cruelly treat a badger
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett.
- Disturb a badger while it is occupying a sett. Disturbance could include digging or scrub clearance within 30m of the sett, and therefore advice should be sought before carrying out such activities.

Badgers are mainly protected due to persecution in the past and are not rare, especially in England.

## **6.1 NPPF 2019 Section 15**

### **Conserving and enhancing the natural environment**

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

171. Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework 53; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.

172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks

53 Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality

and the Broads<sup>54</sup>. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development<sup>55</sup> other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

173. Within areas defined as Heritage Coast (and that do not already fall within one of the designated areas mentioned in paragraph 172), planning policies and decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character.

#### Habitats and biodiversity

174. To protect and enhance biodiversity and geodiversity, plans should:

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity<sup>56</sup>; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation<sup>57</sup>; and
- b) 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.

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

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts),

54 English National Parks and the Broads: UK Government Vision and Circular 2010 provides further guidance and information about their statutory purposes, management and other matters.

55 For the purposes of paragraphs 172 and 173, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

56 Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system.

57 Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.

adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>58</sup> and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

176. The following should be given the same protection as habitats sites:

a) potential Special Protection Areas and possible Special Areas of Conservation;

b) listed or proposed Ramsar sites<sup>59</sup>; and

c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

177. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

## Ground conditions and pollution

178. Planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any

58 For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

59 Potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites are sites on which Government has initiated public consultation on the scientific case for designation as a Special Protection Area, candidate Special Area of Conservation or Ramsar site.

proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

179. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life<sup>60</sup>;

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

181. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

182. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

183. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

60 See Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010).

## 7. References

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