

# Land at Thomas Street, Lindley, Huddersfield

## Preliminary Ecological Appraisal & Potential Bat Roost Survey

*May 2023*



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Prepared for:



Report Ref: BEK-22034-1 (Rev B)

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## Project Quality Assurance Information Sheet

Site	Land At 21, Thomas Street, Lindley, Huddersfield
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**PROJECT NO:** 22034

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### REVISION STATUS / HISTORY

Rev	Date	Issue / Comment	Prepared	Checked
A	10 May 2022	Minor Amendment to Development Layout	C Edmondson	M Buckley
B	4 May 2023	Minor Amendment to Development Layout	A Molyneux	M Buckley

### GENERAL REPORT LIMITATIONS

BEK Enviro Limited (BEK) has prepared this report for the sole use of the client, showing reasonable skill and care, for the intended purposes as stated in the agreement under which this work was completed. The report may not be relied upon by any other party without the express agreement of the client and BEK. No other warranty, expressed or implied, is made as to the professional advice included in this report.

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No part of this report may be copied or duplicated without the express permission of BEK and the party for whom it was prepared. Where field investigations have been carried out, these have been restricted to a level of detail required to achieve the stated objectives of the work.

Unless explicitly agreed otherwise, in writing, this report has been prepared under BEK's limited standard Terms and Conditions as included within our proposal to the Client.

The report needs to be considered in the light of the BEK proposal and associated limitations of scope. The report needs to be read in full and isolated sections cannot be used without full reference to other elements of the report and any previous works referenced within the report.

## Guidelines

This assessment has been designed to meet:

- Chartered Institute of Ecology and Environmental Management ‘*Guidelines for Preliminary Ecological Appraisal*’ (2013);
- British Standard 42020 (2013) ‘Biodiversity – Code of Practice for Planning and Development’.
- The Bat Conservation Trust publication *Bat Surveys for Professional Ecologists – Good Practice Guidelines* (Collins, J. (Ed) 2016).
- National Planning Policy Framework 2021 (NPPF, Para 170(d) and Para 175(d))
- CIEEM, CIRIA, IEMA *Biodiversity net gain. Good practice principles for development. A practical guide.* CIRIA C776a. London, 2019.

## Summary

Carol Edmondson MSc MRSB, undertook a Preliminary Ecological Assessment at Land at 21, Thomas Street, Lindley, Huddersfield on 22/04/22. The aim of the assessment was to complete an extended Phase 1 Habitat Survey of the survey area (all land that will be impacted by the proposals) and to consider the value and suitability of the land and any structures to be affected by the development for protected wildlife species.

The site overall is of low conservation and wildlife value due to the condition of the site and the location in the landscape. No further surveys will be required, see recommendations for enhancements below.

Biodiversity enhancement as recommended at 4.3 and mitigation recommendations will need to be incorporated into any landscaping and building design.

## **Recommendations – This is work you will need to commission to obtain planning permission or comply with legislation.**

Ecological Factor	Recommendations
SSSI/RAMSAR IRZ	Pre-application consultation with Natural England regarding impacts to SSSI/RAMSAR sites
Bats	Lighting scheme in the final design to be in line with Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18 Bats and artificial lighting in the UK. See also Enhancement measures at 4.3
Birds	Any building works should be commenced outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the trees and scrub to be removed should be undertaken immediately prior to clearance. All active nests will need to be retained until the young have fledged. RAMS Method statement for site clearance to be followed. See also enhancements at 4.3
Amphibians and reptiles, European Hedgehog and other terrestrial mammals.	No further surveys required. A Reasonable Avoidance Measures (RAMS) approach should be adopted. Method statement at Appendix 4 to be strictly adhered to. Enhancement measures according to section 4.3

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## 1.0 INTRODUCTION AND CONTEXT

### 1.1 Background

BEK Enviro has been commissioned by Muller Property Group to undertake a Preliminary Ecological Appraisal (PEA) at 21 Thomas St Lindley, Huddersfield to support a planning application.

### 1.2 Site Context

The site is located at central National Grid Reference SE 11651 18283, currently a vacant plot of land with some trees to the west and north boundaries.

### 1.3 Scope of the report

This report describes the baseline ecological conditions at the site; evaluates habitats within the survey area in the context of the wider environment; and describes the suitability of those habitats for notable or protected species. It identifies significant ecological impacts as a result of the development proposals; summarises the requirements for further surveys and mitigation measures, to inform subsequent mitigation proposals, forms the baseline survey data for Biodiversity Net Gain calculations, achieve planning or other statutory consent, and to comply with wildlife legislation.

The aim of the PEA was to obtain data on existing ecological conditions, and to conduct a preliminary assessment of the likely significance of ecological impacts on the proposed development and establishing the baseline conditions for future monitoring and provide the baseline survey data for Biodiversity Net Gain calculations. To achieve this, the following steps were taken:

A desk study has been carried out, including:

- The desk study area (2km radius of site) and field survey area (generally 50m from the site boundary/proposed footprint and including the 'zone of influence' of the scheme) have been identified.
- A desk study has been carried out, including a search on MaGIC, and Google Earth websites.
- Baseline information on the site and surrounding area has been recorded through an 'Extended Phase 1 Habitat Survey', including a Phase 1 Habitat Survey (JNCC 2010) and recording further details in relation to notable or protected habitats and species
- The ecological features present within the survey area have been evaluated where possible (CIEEM, 2006).
- Invasive plant and animal species (such as those listed on Schedule 9 of the Wildlife & Countryside Act [WCA]) have been identified.
- Likely impacts on features of value, as a result of the development proposals, have been identified.
- Recommendations for further survey and assessment have been made.

A survey plan is presented in Appendix 1, the proposed Project Plan is included in Appendix 2, desk study results are provided in the Appendix 3, RAMS method statement at Appendix 4 and a summary of relevant legislation can be found in Appendix 5.

## 2.0 METHODOLOGY

### 2.1 Desk Study methodology

Existing biological records data relating to the site and a surrounding 2km radius (the study area) are required to conform to national guidelines and these can be supplied by West Yorkshire Ecological Records Service (WYER).

A review of the following information sources has been undertaken to inform the assessment:

- Landscape structure using aerial images from Google Earth and OS maps
- Designated sites, habitat and granted EPSL records held on Magic.gov.uk.

### 2.2 Site Survey methodology

The survey was undertaken by Carol Edmondson MSc MRSB (Natural England bat licence number: **2015-12195** CLS-CLS) on 22<sup>nd</sup> April 2022.

The methodology for the Phase 1 habitat survey is based on the best practice publication Phase 1 Habitat Survey Methodology (JNCC, 2010). All land parcels are described and mapped according to JNCC Phase 1 habitat classification (see site map in Appendix 1). Where appropriate, target notes provide supplementary information on habitat conditions, features too small to map to scale, species composition, structure and management.

During the survey, habitats were assessed for their suitability to support protected species, and field signs indicating their presence recorded. The assessment takes into consideration the findings of the desk study, the habitat conditions on site and in the context of the surrounding landscape, and the ecology of the protected species. The likelihood of the presence of protected species is ranked; the habitats on site are evaluated against their likelihood to provide suitable habitat for protected species.

The ecological value of the survey area has been assessed based on the Guidelines for Ecological Impact Assessment (CIEEM, 2018), using geographic frames of reference. The biodiversity value of any identified designated sites, habitat types and associated species assemblages has been considered. Botanical assemblages were assessed; the site was inspected for the presence of red listed (Stroh *et al*, 2014), NERC s.41 listed and LBAP listed species, alongside specially protected species listed under Schedule 8 of the Wildlife and Countryside Act (WCA) (1981) and/or Schedule 5 of the Conservation of Habitats and Species Regulations (2017). The site was also assessed in relation to the presence of invasive species listed under Schedule 9 (Part II) of the Wildlife and Countryside Act (1981) (as amended).

### 2.3 Breeding birds and other incidental observations

The surveyor also made note of any other ecological constraints observed during the survey, notably the likelihood of presence or signs of breeding birds, and the suitability of the site for barn owls *Tyto alba*.

### 2.4 Suitability Assessment

The likelihood of occurrence of protected species is ranked according to the criteria listed in Table 1. The habitats on site were evaluated as to their likelihood to provide sheltering, roosting, foraging, basking or nesting habitat.

**Table 1:** showing criteria considered when assessing the likelihood of occurrence of protected species

<b>Present</b>	Species are confirmed as present from the current survey or historical confirmed records.
<b>High</b>	Habitat and features of high quality for species/species assemblage. Species known to be present in wider landscape (desk study records). Good quality surrounding habitat and good connectivity.
<b>Moderate</b>	Habitat and features of moderate quality. The site in combination with surrounding land provides all habitat/ecological conditions required by the species/assemblage. Within known national distribution of species and local records in desk study area. Limiting factors to suitability, including small area of suitable habitat, some severance/poor connectivity with wider landscape, poor to moderate habitat suitability in local area.
<b>Low</b>	Habitats within the survey area poor quality. Few or no records from data search. Despite above, presence cannot be discounted as within national range, all required features/conditions present on site and in surrounding landscape. Limiting factors could include isolation, poor quality landscape, or disturbance.
<b>Negligible</b>	Very limited poor quality habitats and features. No local records from desk study; site on edge of, or outside, national range. Surrounding habitats considered unlikely to support species/species assemblage.

### 2.5 Limitations

It should be noted that whilst every effort has been made to describe the baseline conditions within the survey area, and evaluate these features, this report does not provide a complete characterisation of the site. This assessment provides a preliminary view of the likelihood of protected species being present.

Specific limitations:

- The survey was conducted outside the peak season for many species including bats, herpetofauna and breeding birds.
- Many flowering plants are dormant at this time of year making it unlikely to identify all species present on the site including some non-native invasive species.

The survey was carried out to the extent based on those areas visible and accessible, and the conclusions based on the range of evidence available at the time of the survey.

## 3.0 RESULTS AND EVALUATION

### 3.1 Desk Study Results

A summary of desk study results is provided below; full details are included in Appendix 3.

### 3.2 Designated sites & priority habitats

#### 3.2.1 National and internationally designated areas:

The site lies within the following designated areas:

- Impact Risk Zone (IRZ) for Elland Bypass Cutting Site of Special Scientific Interest (SSSI)

The Site proposals will not likely have any impact on the SSSI and due to the size of the development pre-application advice will not be required from Natural England regarding the impact of the development on the SSSI sites.

- Within the White Rose Community Forest designated zone.

#### 3.2.2 Biological Heritage Sites & Local Nature Reserves within 2km survey area (*Priority habitat in brackets*):

- No sites within the survey area (Local Biological Records Data may hold further information)

#### 3.2.3 Other Priority Habitats

- Ancient Replanted Deciduous Woodland lies 1470m north east of the site at Grimescar Woodland

### 3.3 Landscape

A review of the designated sites, aerial photographs (Figure 1), the Magic database and OS maps has been undertaken. Collated together, the site's local habitat is described below:

Located to the northwest of Huddersfield town the surrounding landscape is predominantly urban, with some deciduous woodland 300m to the north at Birchencliffe park and playing fields providing good habitat for birds and bats in the area. Whilst the ancient deciduous woodland, hedgerows, and open grassland habitats over 1400m away and open countryside stretching beyond to the northeast to Huddersfield golf club all provide good nesting and feeding habitat for birds, ample foraging habitat for bats; good quality terrestrial habitat for amphibians, reptiles and terrestrial mammals, the distance and urban habitat between the site and more open landscape precludes most species (except bats) from commuting to and from the site. The pond at Low Hills Park located 300m to the south is stocked with carp and other coarse fish, making it unsuitable for great crested newts, but possible foraging habitat for bats.



**Figure 1:** Aerial photo of site, showing landscape structure

**3.4 Protected species: Species Protected under Schedule 5 Section 9.1a of the Wildlife and Countryside Act 1981 (as amended) and Section 41 (S41) of the 2006 Natural Environment and Rural Communities (NERC) Act.**

**3.4.1 Bats**

A search of the magic database for granted European Protected Species Mitigation Licences (EPSMLs) within a 2km radius found 2 licenced sites 700m to the south, which include damage to a resting site for common pipistrelle *Pipistrellus pipistrellus* bats. This is evidence of the presence of these species within the proximity of the site, but does not exclude the presence of other bat species. These species of bat are known to roost in residential areas and buildings, foraging along hedgerows and under trees around urban areas and parks.

**3.4.2 Birds**

A search of the Magic database for Priority bird species within a 2000m radius returned records no records of BAP and IUCN red listed species.

**3.4.3 Great Crested Newts (GCN)**

A search of the MAGIC database returned no positive class licence results, or granted mitigation licences pertaining to GCN. No potential breeding habitat within the survey area.

**3.5 Field Survey Results**

The environmental variables recorded at the time of the survey:

Date: 22/04/22	
Temperature	16°C
Cloud Cover	25%
Wind	5km/h
Rain	0

### 3.5.1 Site Feature descriptions and photos

#### Site description

The site of the proposed development is an area of approx. 0.27ha mainly comprising of bare ground with sparse vegetation.

To the west boundary groups of immature trees dominate.

The site is typical of a cleared building site with remnant garden and landscape species, with some waste ground native flora, but is not sufficiently diverse to be classed as mosaic habitat.



Figure 2: Aerial view of the site taken from Google Earth Pro, 2022.

#### Target notes

Two raised linear features totalling approx. 80m<sup>2</sup>, dominated by grass species, and marked as TN1 on the map.

Red fescue *Festuca rubra* dominates (D)



Figure 3: View looking south across the site.

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**Target notes cont.**

In the NW corner was a small area of cotoneaster spp. Certain species in the cotoneaster family are listed under Schedule 9 of the Wildlife and Countryside Act 1981 as an invasive non-native species. 3 species are present on the site, likely remnant garden/landscaping specimens. Entire-leaved cotoneaster sp. *C.integrifolius* (or similar) & two similar spp. of *C.simonsii*.



Figure 4: TN2: Non-native shrubs in the NW corner of the site.

**Phase 1 Habitats**

Within the boundary the site comprises majority sparsely vegetated previously developed land (See survey plan at App.1). UKHABS code u1b6; 17 short ephemeral/short perennial, J1.3 Scattered non native shrub and sedum cultivars are also regenerating across the site, with evidence of past cutting.

**The sparse vegetation included the species listed below (all occasional unless otherwise stated):**

broadleaved dock *Rumex obtusifolius*  
 stinging nettle *Urtica dioica*, creeping buttercup *Ranunculus repens*, Rosebay willowherb *Chamerion angustifolium*, great willowherb *Epilobium hirsutum*, bramble species *Rubus spp.*, butterfly-bush *Buddleja davidii*, coltsfoot *Tussilago farfara*, wavy bittercress *Cardamine flexuosa*, common valarian (R) ragwort (R), common vetch *Vicia sativa*(R).  
 Grasses: Yorkshire fog *Holcus lanatus* (F), cocksfoot *Dactylis glomerata* (O)



Figure 5: Example of sparse vegetation across the site, with non-native scrub from prior landscaping regenerating in places.

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U1c, Artificial unvegetated, unsealed surface.  
Unvegetated areas totalling 470m<sup>2</sup>



Figure 6: Areas on the site with no vegetation e.g clay surface, solid concrete.

**Urban Trees** (Numbered on the survey map)

**Tree group 1:** 11 immature birch and 1 ash tree.

**Tree group 2.** 10 immature birch, and willow shrub

**Tree 3 & 4** Semi-mature single rowan trees.

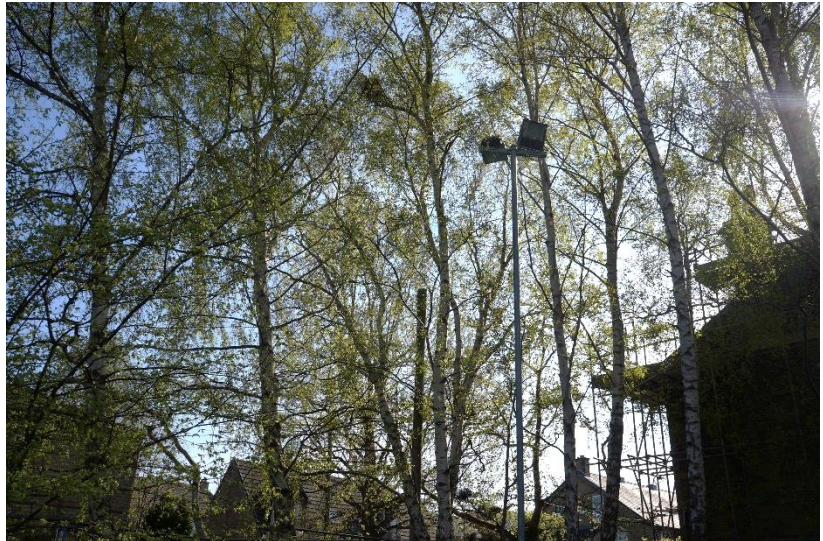


Figure 7: Tree group 2, tall but immature birch.



Figure 8: T4. Single rowan tree on the east boundary.

**Potential bat roosts in trees & breeding birds**

None of the trees described above had any potential bat roosting features, but have good bird nesting habitat as does the shrub under TG1. These may not be marked for removal, but if they are to be felled will require removing outside the bird nesting season, or hand searching immediately prior to removal by a suitably qualified ecologist.

Retaining the trees on site will also aid in attaining Biodiversity Net Gain on the site, as each tree removed will require replacing at a ratio determined by the LPA.



Figure 9: Non-native shrubs at TG1.

## 4.0 CONCLUSIONS, IMPACTS AND RECOMMENDATIONS

### 4.1 Informative guidelines

The habitats on site were evaluated as to their likelihood to provide sheltering, roosting, foraging, basking or nesting habitat. The likelihood of occupancy of protected species is ranked according to the criteria listed in Table 1.

Where this report supports a planning application, the ecological interest of the study area (including the survey area) and the proposed development has also been evaluated in terms of the planning policies relating to biodiversity. It will be clearly stated where a preliminary value can be given and where further information is required.

Appropriate justification for this assessment is provided in Section 2.3 and Table 1 of this report.

### 4.2 Evaluation

Taking the desk-based assessment and site survey results into account, the following value for roosting bats has been placed on each site survey feature.

**Table 4:** Evaluation of site

Ecological Factor	Survey assessment conclusions (with justification)	Foreseen impacts	Mitigation & Recommendations The following recommendations are valid for two years from the date of this report; if the development is delayed beyond this point, an update survey will be required.
Designated sites	The site is within a SSSI Impact zone.	The proposed development is not likely to impact the SSSI.	N/A
Notable habitats and plants	No priority habitats on site. Nearest deciduous woodland 230m north, outside the zone of influence.	No impact	N/A
Invasive Non-native species	Cotoneaster species were recorded on the site.	Spread of INNS to other sites.	All material to be disposed of according to the current regulations.
Bats	Negligible potential for roosting bats	No impact	No further surveys. Lighting scheme in the final design to be in line with Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18 Bats and artificial lighting in the UK. See also Enhancement measures at 4.3



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Birds	There is some habitat for nesting birds on the Site.	Active nests could be destroyed during vegetation removal. Breeding and foraging resources for local birds will be destroyed with the removal of vegetation.	Any tree and scrub removal should be undertaken outside the period 1st March to 31st August for nesting birds. If this timeframe cannot be avoided, a close inspection of the trees and scrub to be removed should be undertaken immediately prior to clearance by an ecologist. All active nests will need to be retained until the young have fledged.
Reptiles and amphibians	Minimal areas of terrestrial habitat on site e.g. shrub, leaf litter and tussocky grass.	The proposed development will result in the loss of small areas of terrestrial habitat for amphibians and reptiles. Any present during the works could be injured or killed.	No further surveys. A Reasonable Avoidance Measures (RAMS) approach should be adopted as described at Appendix 4.
Water voles/otters	No habitat for otter. No habitat for water voles.	Low potential to disturb water voles during the construction phase.	No further surveys.
Badgers, hare, hedgehog, red squirrel.	No badger tracks, latrines, snuffle holes or other signs of presence were recorded.	Negligible potential for impact on these species.	A Reasonable Avoidance Measures (RAMS) approach should be adopted as described at Appendix 4.

### 4.3 Biodiversity Enhancement

<p><b>Enhancements</b></p> <p><i>The Local Planning Authority has a duty to ask for enhancements under the NPPF and circular 06/2021: Biodiversity and Geological Conservation.</i></p>	<p>A wildflower meadow area and further native hedge and tree planting will be incorporated into the biodiversity enhancement plan for the site.</p> <p>Such areas offer habitat for invertebrates which in turn feed the local bird and bat population.</p> <p>A wildflower area requires much less maintenance than a lawned area, and enhances the visual aspect of a landscaping scheme. Advice on sourcing seed and maintenance is available at <a href="http://www.magnificentmeadows.org.uk/assets/pdfs/Mini-meadow.pdf">http://www.magnificentmeadows.org.uk/assets/pdfs/Mini-meadow.pdf</a></p> <p>Any landscape planting should include native pollinator friendly species, including night scented shrubs and fruit producing native species.</p> <p>Guidance can be found at: <a href="https://www.bumblebeeconservation.org/wp-content/uploads/2017/06/Buzzing-Communities-%E2%80%93-English-Proof-6_web_interactive-compressed_WEBSITE-VIEW.pdf">https://www.bumblebeeconservation.org/wp-content/uploads/2017/06/Buzzing-Communities-%E2%80%93-English-Proof-6_web_interactive-compressed_WEBSITE-VIEW.pdf</a></p> <p>Tree species for proposed landscaping will be a mix of native species which offer habitat for insects and autumn foraging for birds, and reflect the surrounding landscape.</p> <p>Suggested examples include:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Common Oak</td> <td>Quercus robur</td> </tr> <tr> <td>Rowan</td> <td>Sorbus aucuparia</td> </tr> <tr> <td>Bird Cherry</td> <td>Prunus padus</td> </tr> <tr> <td>Silver Birch</td> <td>Betula pendula</td> </tr> </table>	Common Oak	Quercus robur	Rowan	Sorbus aucuparia	Bird Cherry	Prunus padus	Silver Birch	Betula pendula
Common Oak	Quercus robur								
Rowan	Sorbus aucuparia								
Bird Cherry	Prunus padus								
Silver Birch	Betula pendula								

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Willow spp.	Salix spp.
Alder	Alnus glutinosa
Any introduced boundary hedgerows will include a mix of native species eg:	
Hawthorn	Craetagus montana
Hazel	Corylus avellana
Blackthorn	Prunus spinosa
Dog rose	Rosa canina agg.
Rowan	Sorbus aucuparia
Holly	Ilex aquifolium
Native honeysuckle	Lonicera spp.
Yew <i>Taxus baccata</i> offers an excellent evergreen alternative to non-native hedging species.	

- **Bats**

There is good foraging habitat in the area in the form of residential gardens, wet grasslands, hedges, drainage ditches & deciduous woodland in the immediate area.  
 The installation of a minimum 4 bat boxes or integrated bat bricks/tubes on the new building will provide additional roosting habitat for bats. for example (depending on the final design):

- [Build-In Woodstone Bat Access \(wildcare.co.uk\)](http://wildcare.co.uk)
- <https://www.wildcare.co.uk/soffit-bat-box.html>
- 1FF Schwegler Bat Box
- Greenwoods Ecohabitats
- <https://www.greenwoodsecohabitats.co.uk/bats>

Bat boxes should be positioned 3-5m above ground level facing in a south/south-westerly direction with a clear flight path to and from the entrance.

- **Birds**

Bird nesting boxes will be included in the building plans to add to the available nesting opportunities in the local area. For example:

- Schwegler 1SP Sparrow Terrace
- Schwegler 1B nest boxes
- Schwegler 2H Robin Boxes

At least 6 bird boxes to be located on the new building and must include a sparrow terrace. Nest boxes should be positioned approximately 3m above ground level where they will be sheltered from prevailing wind, rain and strong sunlight, away from any artificial lighting source.

- **Insects**

Bee hotels and bee bricks to be incorporated into building designs.

- **Hedgehogs**

Hedgehog numbers are rapidly declining across the UK; providing a refuge on site will help to protect hedgehogs from predators and loss of habitat in which they can shelter. It is

	<p>PLANNING ENGINEERS</p> <p>recommended that hedgehog homes are provided on the north elevations of the new buildings. They should be sited in a quiet a position out of prevailing wind in an area with some nearby cover, such as below hedgerow.</p> <p>(See <a href="https://www.hedgehoghighway.co.uk/news/">https://www.hedgehoghighway.co.uk/news/</a> for further information).</p> <ul style="list-style-type: none"> <li>• <b>Lighting</b></li> </ul> <p>Any external lighting should not be directed at any wildlife features of the building as this will cause disturbance.</p> <p><i>See Bat Conservation Trust Guidance note 8/18 Bats and artificial lighting in the UK</i></p>
<p><b>Biodiversity Net Gain (BNG)</b></p> <p><i>The NPPF updates of July 2021, 179b indicate that a measurable gain should be secured by means of the DEFRA BNG Metric.</i></p>	<p>BNG will need to be achieved by the implementation of all the above enhancement schemes, the inclusion of native specimen trees &amp; Sustainable Urban Drainage Systems (SUDS). Further guidance can be found at: <a href="https://www.bats.org.uk/our-work/landscapes-for-bats/landscape-and-urban-design">https://www.bats.org.uk/our-work/landscapes-for-bats/landscape-and-urban-design</a></p> <p>The final landscape design will need to utilise these schemes to meet the minimum biodiversity net gain requirement for planning (10%). A full net gain calculation can only be calculated once the full landscape design is complete.</p>

## 5.0 BIBLIOGRAPHY

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## Appendix I: Survey Plan

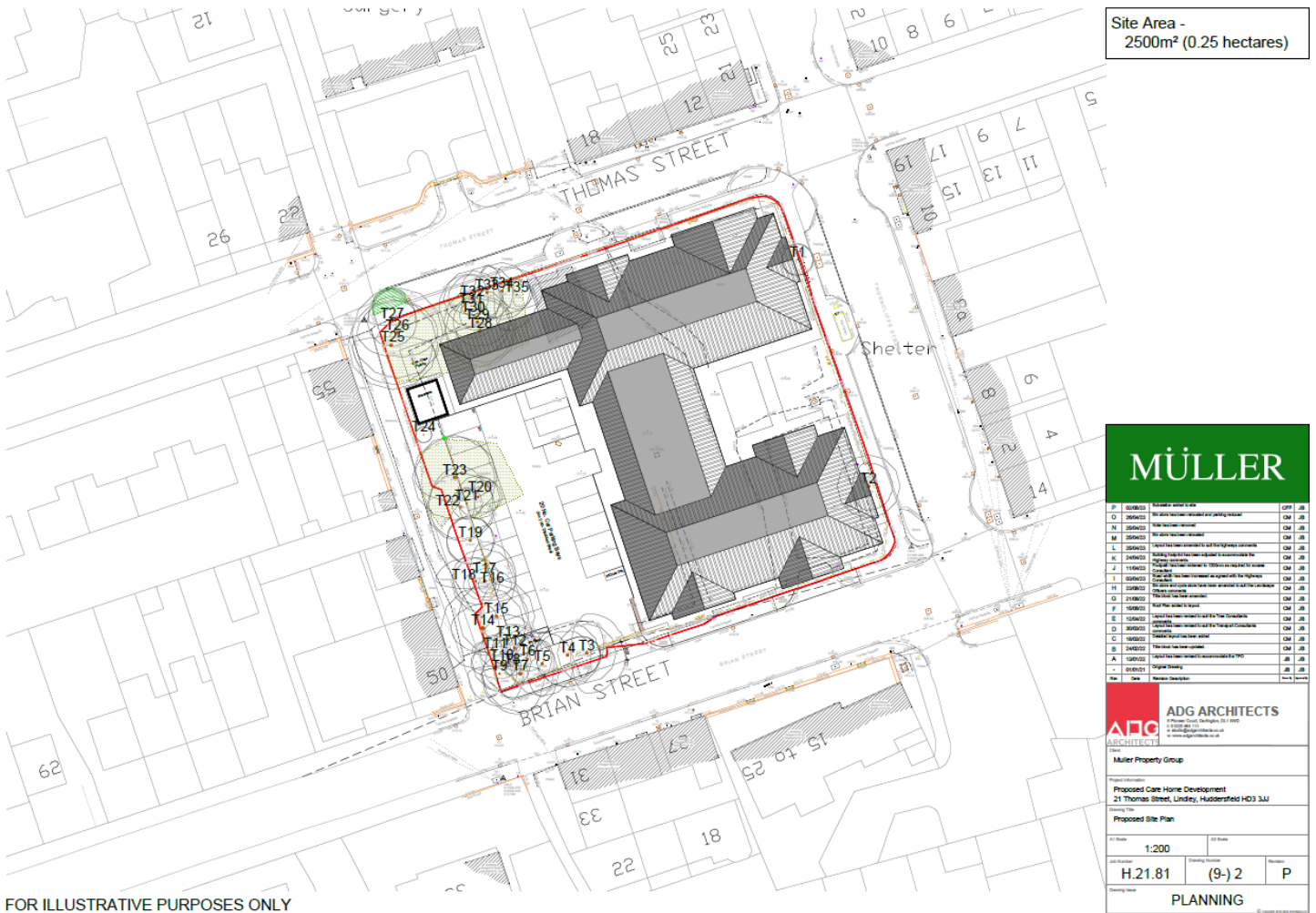
Extended Phase 1 survey map. 21 Thomas St Lindley, Huddersfield. 22.04.2022



Reproduced using Google Earth Pro, 2022

Drawn by CE

## Appendix 2: Proposed Site Plan

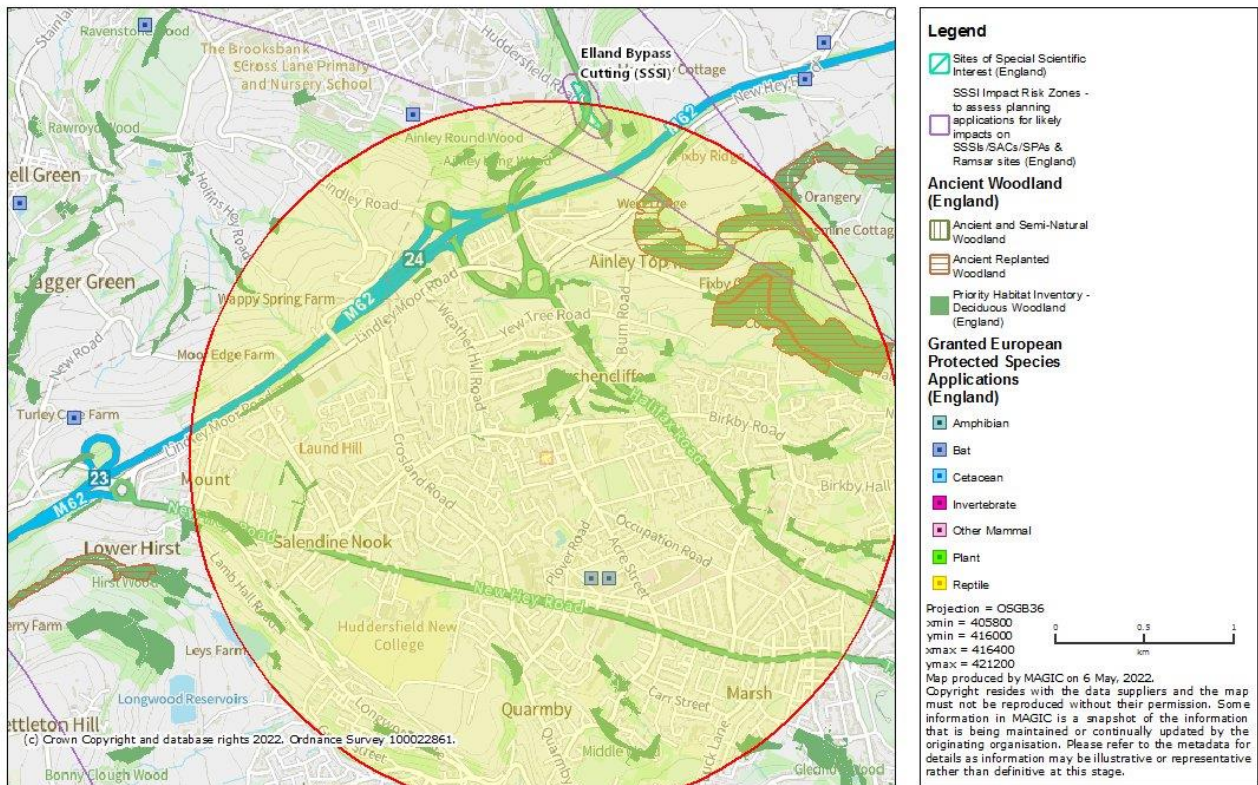


FOR ILLUSTRATIVE PURPOSES ONLY

### Appendix 3: Desk Study Information

Full historical records can be provided on request.

### MAGiC Land at 21 Thomas St, Huddersfield May 2022



## **Appendix 4: Reasonable Avoidance Measures (RAMS)**

### ***Method Statement for Reasonable Avoidance Measures***

**Reasonable Avoidance Measures (RAMS)** - Method Statement in relation to:

- Reptiles
- Great Crested Newt (*Triturus cristatus*) (GCN) and common amphibians
- Terrestrial Mammals e.g hedgehog, badger, hare
- Water Vole

### **Objectives of the Method Statement**

Some development related activities on the site, such as excavation creation and removal of materials from site in areas local to otherwise suitable terrestrial habitat, has the potential to affect common amphibian and reptiles, and some terrestrial mammals, whilst protected mammals are known in the extending area. Therefore, safeguards must be implemented to protect these species and the Method Statement below outlines measures to be implemented in order to ensure this objective is achieved. Following these methods reduces the likelihood of negative impacts.

### ***Timings – preferred timing of scrub clearance to minimise impact***

- **GCN** : When the GCN are found in their aquatic habitat and not in terrestrial habitat (core breeding season: March-May inclusive).
- **Nesting Birds**: Outside the key breeding season which is 1<sup>st</sup> March – 31<sup>st</sup> August inclusive
- **Mammals** : All year

### ***Before Any Works***

- Before any work commence at the site all contractors will be attend a ‘tool box’ talk by a suitably licenced ecologist of the potential for protected species to occur on site, what to look out for and what to do in the event that protected animals are found.
- Photograph(s) of relevant protected species will be displayed at the site office and/or kept by the contractor’s personal being for visual reference purposes.
- Contractors to ask any questions as required following toolbox talk, before signing the Toolbox Talk Audit Form.

### ***During Works***

- Clearance works within the site should only commence after a careful visual inspection (Hand Search) has been carried out by a suitably qualified and experienced ecologist has determined that no animals are present on site/targeted areas and is satisfied no animals are at risk.
- Habitat manipulation - vegetation that can support reptiles is to be reduced to a height of 150-200 mm, followed by a visual hand search. After the hand search the vegetation is then to be cut to ground level and raked bare.
- Habitat manipulation will encourage animals to temporarily move away/abandon the area.
- For the full duration of the work, vegetation will be kept at ground level.
- No works are to extend off site in the areas adjacent to the red line boundary.
- The impact of works on adjacent habitats will be avoided by the clear demarcation of the works area.
- All work must strictly be in accordance with all of the relevant Pollution Prevention Guidelines published by the Environment Agency which may include, but is not limited to, PPG1 (general), PPG5 (works in, near, or liable to affect watercourses) and PPG6 (work at construction & demolition sites). Contingency/emergency plan should be drawn up to address chemical spillage, drainage, collision, etc.
- Machinery and materials are to remain on bare ground and reasonable efforts must be made to avoid the compiling of accumulated piles. Materials that do require piling will be stored within areas of bare ground above ground level using pallets in order to prevent animals from seeking shelter beneath.
- Any excavated material stored overnight should be searched prior to being used as infill.
- Where open vertical-sided trenches are excavated it should be ensured that they are not left open overnight to avoid amphibians or small mammals falling into them and becoming trapped. If trenches cannot be back filled after the working day planks of 150-200 mm wide should be placed in them at a 45 degree diagonal angle to serve as an escape mechanism.
- Excavations should also be checked in the morning on a daily basis for the presence of any animals that may have fallen in during the night. In the event that a protected species is located in trenches then it/they should be left in situ and the ecologist promptly contacted to identify and provide further advice.

**If in the event a GCN/Water vole is found work must cease; the ecologist will be made aware of the finding and can then appraise the situation providing further advice.**

**Site staff must be made aware that if GCN /water vole are found there is a correct procedure in place to follow, and failure to halt works may result in committing an offence.**

**At no point should any person handle a water vole or suspected GCN. Unlicensed handling is illegal and untrained handling may cause the animal unnecessary stress and injury.**

**A Natural England Protected Species Mitigation Licence may be required following the discovery of any protected species on site.**

## **Appendix 5: Legislation and Planning Policy**

### **National and European Legislation Afforded to Habitats**

#### ***International Statutory Designations***

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are sites of European importance and are designated under the EC Habitats Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (the Habitats Directive) and the EC Birds Directive 2009/147/EC on the conservation of wild birds respectively. Both form part of the wider Natura 2000 network across Europe.

Under the Habitats Directive the, Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe in order to conserve the 189 habitats and 788 species (non- bird) identified in Annexes I and II of the Directive (as amended).

SPAs are classified under Article 2 of the EC Birds Directive both for rare bird species (as listed on Annex I) and for important migratory species.

SACs and SPAs up to 12 nautical miles (nm) from the coast are afforded protection in the UK under the Conservation of Habitats and Species Regulations 2010 which consolidate all amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994. In Scotland, the requirements of Habitats Directive are implemented through a combination of the 1994 and the 2010 (reserved matters) Regulations. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) provide a means for designating and protecting SACs in UK offshore waters (from 12-200 nm).

Ramsar sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention covers all aspects of wetland conservation and recognises the importance of wetland ecosystems in relation to global biodiversity conservation. The Convention refers to wetlands as “areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres” however they may also include riparian and coastal zones. Ramsar sites are statutorily protected 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. The Government in England and Wales has issued policy statements which ensure that Ramsar sites are afforded the same protection as areas designated under the EC Birds and Habitats Directives as part of the Natura 2000 network (e.g. SACs & SPAs).

#### ***National Statutory Designations***

Sites of Special Scientific Interest (SSSI) are designated by nature conservation agencies in order to conserve key flora, fauna, geological or physio-geographical features within the UK. The original designations were under the National Parks and Access to the Countryside Act 1949 but SSSIs were then re-designated under the Wildlife & Countryside Act 1981 (as amended). As well as reinforcing other national designations (including National Nature Reserves), the system also provides statutory protection for terrestrial and coastal sites which are important within the European Natura 2000 network and globally. Further provisions for the protection and management of SSSIs have been introduced by the Countryside and Rights of Way Act 2000 (in England and Wales) and the Nature Conservation (Scotland) Act 2004.

### **Local Statutory Designations**

Local authorities in consultation with the relevant nature conservation agency can declare Local Nature Reserves (LNRs) under the National Parks and Access to the Countryside Act 1949. LNRs are designated for flora, fauna or geological interest and are managed locally to retain these features and provide research, education and recreational opportunities.

### **Non- Statutory Designations**

All non-statutorily designated sites are referred to as Local Wildlife Sites (LWS) and can be designated by the local authority for supporting local conservation interest. Combined with statutory designation, these sites are considered within Local Development Frameworks under the Town and Country Planning system and are a material consideration during the determination of planning applications. The protection afforded to these sites varies depending on the local authority involved.

Regionally Important Geological Sites (RIGs) are the most important geological and geomorphological areas outside of statutory designations. These sites are also a material consideration during the determination of planning applications.

### **The Hedgerow Regulations 1997**

The Hedgerow Regulations 1997 are designed to protect 'important' countryside hedgerows. Importance is defined by whether the hedgerow (a) has existed for 30 years or more; or (b) satisfies at least one of the criteria listed in Part II of Schedule 1 of the Regulations.

Under the Regulations, it is against the law to remove or destroy hedgerows on or adjacent to common land, village greens, SSSIs (including all terrestrial SACs, NNRs and SPAs), LNRs, land used for agriculture or forestry and land used for the keeping or breeding of horses, ponies or donkeys without the permission of the local authority. Hedgerows 'within or marking the boundary of the curtilage of a dwelling-house' are excluded.

### **National and European Legislation Afforded to Species**

#### **The Habitats Directive**

The EC Habitats Directive aims to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore wild species listed on the Annexes to the Directive at a favourable conservation status, introducing robust protection for those species of European importance. The Directive is transposed into UK law by The Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations) and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended). The following notes are relevant for all species protected under the EC Habitats Directive:

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

The Habitats Regulations do 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 all of the following three 'tests':

the action(s) 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;

- There is no satisfactory alternative; and
- 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 (WCA) 1981 (as amended)**

The Wildlife and Countryside Act (WCA) 1981 (as amended) implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and implements the species protection requirements of EC Birds Directive 2009/147/EC on the conservation of wild birds in Great Britain (the birds Directive). The WCA 1981 has been subject to a number of amendments, the most important of which are through the Countryside and Rights of Way (CRoW) Act (2000) and Nature Conservation (Scotland) Act 2004.

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

- Deer Act 1991
- Natural Environment & Rural Communities (NERC) Act 2006
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996

### ***Badgers***

Badgers *Meles meles* are protected under The Protection of Badgers Act which makes it an offence to:

- Wilfully kill, injure, take, or 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

### **Effects on development works:**

A development licence will be required from the relevant countryside agency for any development works liable to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agency's to define what would constitute a licensable activity. It is not possible to obtain a licence to translocate badgers.

### ***Birds***

With certain exceptions, all birds, their nests and eggs are protected under Sections 1-8 of the WCA. Among other things, this makes it an offence to:

- Intentionally (or recklessly in Scotland) kill, injure or take any wild bird
- Intentionally (or recklessly in Scotland) take, damage or destroy (or, in Scotland, otherwise interfere with) 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.
- Intentionally or recklessly obstruct or prevent any wild bird from using its nest (Scotland only)

Certain species of bird, for example the barn owl, bittern and kingfisher receive additional protection under Schedule 1 of the WCA and Annex 1 of the European Community Directive on the Conservation of Wild Birds (2009/147/EC) and are commonly referred to as "Schedule 1" birds.

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
- In Scotland only, intentional or reckless disturbance whilst lekking
- In Scotland only, intentional or reckless harassment

#### Effects on development works:

Works should be planned to avoid the possibility of killing or injuring any wild bird, or damaging or destroying their nests. The most effective way to reduce the likelihood of nest destruction in particular is to undertake work outside the main bird nesting season which typically runs from March to August. Where this is not feasible, it will be necessary to have any areas of suitable habitat thoroughly checked for nests prior to vegetation clearance.

Schedule 1 birds are additionally protected against disturbance during the nesting season. Thus, it will 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 feasible, it may be possible to maintain an appropriate buffer zone or standoff around the nest.

#### **Herpetofauna (Amphibians and reptiles)**

The sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita*, pool frog *Pelophylax lessonae* and great crested newt *Triturus cristatus* receive full protection under Habitats Regulations through their inclusion on Schedule 2.

Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
  - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
  - To impair their ability to hibernate or migrate
  - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

With the exception of the pool frog, these species are also listed on Schedule 5 of the WCA and 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, Section 9(1) & (5) of the WCA, i.e. the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis*. It is prohibited to:

- Intentionally or recklessly kill or injure these species.

#### Effects on 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 amphibian and reptile species protected under Habitats Regulations. 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 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 WCA.

#### **Water voles**

The water vole *Arvicola terrestris* is fully protected under Schedule 5 of the WCA. This makes it an offence to:

- Intentionally kill, injure or take (capture) water voles
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection
- Intentionally or recklessly disturb water voles while they are occupying a structure or place used for shelter or protection

#### Effects on development works:

If development works are liable to affect habitats known to support water voles, the relevant countryside agency must be consulted. It must be shown that means by which the proposal can be re-designed to avoid contravening the legislation have been fully explored e.g. the use of alternative sites, appropriate timing of works to avoid times of the year in which water voles are most vulnerable, and measures to ensure minimal habitat loss. Conservation licences for the capture and translocation of water voles may be issued by the relevant countryside agency (e.g. Natural England) for the purpose of development activities if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will then only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of works.

#### **Otters**

Otters *Lutra lutra* are fully protected under the Conservation Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
  - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
  - To impair their ability to hibernate or migrate
  - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Otters are also currently protected under the WCA 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

#### Effects on development works:

An EPSM Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect otter breeding or resting places (often referred to as holts, couches or dens) 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, and rear young). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored

#### **Bats**

All species are fully protected by Habitats Regulations 2010 as they are listed on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (e.g. All bats)
- Deliberate disturbance of bat species in such a way as:
  - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
  - To impair their ability to hibernate or migrate
  - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Bats are afforded the following additional protection through the WCA as they are included on Schedule 5:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

#### Effects on development works:

Works which are liable to affect a bat roost or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

#### **Wild Mammals (Protection Act) 1996**

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it 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 burrows or nests) with the potential to affect any wild mammal in this way, regardless of whether they are legally protected through other conservation legislation or not.

#### Legislation afforded to Plants

With certain exceptions, all wild plants are protected under the WCA. This makes it an offence for an 'unauthorised' person to intentionally (or recklessly in Scotland) uproot wild plants. An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.

Certain rare species of plant, for example some species of orchid, are also fully protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). This prohibits any person from:

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)
- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof
- In addition to the UK legislation outlined above, several plant species are fully protected under Schedule 5 of The Conservation of Habitats and Species Regulations 2010. These are species of European importance. Regulation 45 makes it an offence to:
  - Deliberately pick, collect, cut, uproot or destroy a wild Schedule 5 species
  - Be in possession of, or control, transport, sell or exchange, or offer for sale or exchange any wild live or dead Schedule 5 species or anything derived from such a plant.

#### Effects on development works:

An EPSM licence will be required from the relevant countryside agency for works which are liable to affect species of plants listed on Schedule 5 of the Conservation of Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

#### **Invasive Species**

Part II of Schedule 9 of the WCA lists non-native invasive plant species for which it is a criminal offence in England and Wales to plant or cause to grow in the wild due to their impact on native wildlife. Species included (but not limited to):

- Japanese knotweed *Fallopia japonica*
- Giant hogweed *Heracleum mantegazzianum*
- Himalayan balsam *Impatiens glandulifera*

#### Effects on development works:

It is not an offence for plants listed in Part II of Schedule 9 of the WCA 1981 to be present on the development site however it is an offence to cause them to spread. Therefore, if any of the species are present on site and construction activities may result in further spread (e.g. earthworks, vehicle movements) then it will be necessary to design and implement appropriate mitigation prior to construction commencing.

#### **Injurious weeds**

Under the Weeds Act 1959 any land owner or occupier may be required prevent the spread of certain 'injurious weeds' including (but not limited to):

- Spear thistle *Cirsium vulgare*
- Creeping thistle *Cirsium arvense*
- Curled dock *Rumex crispus*
- Broad-leaved dock *Rumex obtusifolius*
- Common ragwort *Senecio jacobaea*

It is a criminal offence to fail to comply with a notice requiring such action to be taken. The Ragwort Control Act 2003 establishes a ragwort control code of practice as common ragwort is poisonous to horses and other livestock. This code provides best practice guidelines and is not legally binding.

#### **NATIONAL PLANNING POLICY (ENGLAND)**

##### **National Planning Policy Framework**

The National Planning Policy Framework promotes sustainable development. The Framework specifies the need for protection of designated sites and priority habitats and species. An emphasis is also made on the need for ecological infrastructure through protection, restoration and re-creation. The protection and recovery of priority species (considered likely to be those listed as UK Biodiversity Action Plan priority species) is also listed as a requirement of planning policy.

In determining a planning application, planning authorities should aim to conserve and enhance biodiversity by ensuring that: designated sites are protected from harm; there is appropriate mitigation or compensation where significant harm cannot be avoided; opportunities to incorporate biodiversity in and around developments are encouraged; and planning permission is refused for development resulting in the loss or deterioration of irreplaceable habitats including aged or veteran trees and also ancient woodland.

##### **The Natural Environment and Rural Communities Act 2006 and the Biodiversity Duty**

Section 40 of the Natural Environment and Rural Communities (NERC) Act, 2006, requires all public bodies to have regard to biodiversity conservation when carrying out their functions. This is commonly referred to as the 'biodiversity duty'.

Section 41 of the Act (Section 42 in Wales) requires the Secretary of State to publish a list of habitats and species which are of 'principal importance for the conservation of biodiversity.' This list is intended to assist decision makers such as public bodies in implementing their duty under Section 40 of the Act. Under the Act these habitats and species are regarded as a material consideration in determining planning applications. A developer must show that their protection has been adequately addressed within a development proposal.

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