



## Preliminary Ecological Appraisal

Formerly the Deighton Centre, Deighton Road, Huddersfield HD2 1JP

Duncan Roberts

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## Industry Guidelines and Standards

This report has been written with due consideration to:

- Chartered Institute of Ecology and Environmental Management (2017). Guidelines for Preliminary Ecological Appraisal. 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2018). Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. Version 1.1. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2017). Guidelines on Ecological Report Writing. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2020). Guidelines for Accessing, Using and Sharing Biodiversity Data in the UK. 2nd Edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- British Standard 42020 (2013). Biodiversity – Code of Practice for Planning and Development.
- British Standard 8683:2021 (2021). Process for Designing and Implementing Biodiversity Net Gain.

## Proportionality

The work involved in preparing and implementing all ecological surveys, impact assessments and measures for avoidance, mitigation, compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development. Consequently, the decision-maker should only request supporting information and conservation measures that are relevant, necessary and material to the application in question. Similarly, the decision-maker and their consultees should ensure that any comments and advice made over an application are also proportionate.

This approach is enshrined in Government planning guidance, for example, paragraph 174 of the National Planning Policy Framework for England.

The desk studies and field surveys undertaken to provide a Preliminary Ecological Appraisal (PEA) might in some cases be all that is necessary.

(BS 42020, 2013)

## Executive Summary

Arbtech Consulting Limited was instructed by Duncan Roberts to undertake a Preliminary Ecological Appraisal (PEA) at Formerly the Deighton Centre, Deighton Road, Huddersfield HD2 1JP (hereafter referred to as “the site”). The survey was required to inform a planning application for an erection of a 132 place Social, Emotion and Mental Health school, ages 5-18 (hereafter referred to as “the proposed development”).

The following is work you will need to commission to obtain planning permission and to comply with legislation. Further information, along with opportunities for biodiversity enhancement, are outlined in Table 4 of this report.

<b>Feature</b>	<b>Foreseen impacts</b>	<b>Recommendations</b> <i>Measures required to adhere to guidance, legislation and planning policies.</i>
Designated sites	No impacts to designated sites are anticipated due to the distance of the proposed development from such sites (where known) as well as the semi urban location of the site with surrounding physical barriers.	Best practice measures to minimise the possibility of pollution and tree damage must be implemented during construction.
Habitats and flora	<p>As it stands no plans have been produced indicating the location of the development.</p> <p>No direct impacts to any notable habitats are anticipated as a result of the proposed development. However, due to the proximity of the site to deciduous and ancient woodland, indirect effects such as pollution or tree damage could occur during construction.</p> <p>The proposed development will result in the loss of areas of managed and unmanaged grassland in addition to areas of scrub. This is likely to have a minimal impact on biodiversity due to the relatively low ecological value of these habitats and their semi isolated nature on the site.</p>	<p>Best practice measures to minimise the possibility of pollution and tree damage must be implemented during construction.</p> <p>The Local Planning Authority (LPA) may request a Arboricultural Assessment to determine impacts on trees.</p>
Amphibians	Areas of unmanaged grassland and scrub will likely be removed during construction. The loss of such habitats is likely to be inconsequential to local amphibian populations owing to their low value and the presence of more extensive habitat locally. However, site clearance could result in the death or injury of common amphibians, if present.	A precautionary working method will be implemented for common amphibians during construction.
Reptiles	Areas of unmanaged grassland will likely be removed during construction. The loss of such habitats is likely to be inconsequential to local reptile populations owing to their low value, semi isolated nature and the presence of more extensive habitat locally. However,	Owing to the nature of the proposed development and the low potential for impacts to reptiles, further surveys are considered to be disproportionate. A precautionary working method will be implemented during construction.

	site clearance could result in the death or injury of reptiles, if present.	
Foraging and commuting bats	<p>It is anticipated that the proposed development will not result in the removal of any habitats which could be used by foraging or commuting bats.</p> <p>The proposed development may include the use of lighting which could spill on to bat roosting, foraging or commuting habitat and deter bats from using these areas.</p>	A low impact lighting strategy will be adopted for the site during and post-development.
Badger	It is anticipated that the woodland areas will not be impacted by any development. It is likely that areas of scrub and unmanaged grassland will be removed during construction. The loss of such habitats could result in a reduction in badger habitat and could result in the fragmentation of the local landscape. Furthermore, construction activities could result in the death or injury of badgers, if present.	Owing to the nature of the proposed development and the low potential for impacts to badgers, further badger surveys are considered to be disproportionate. A precautionary working method will be implemented during construction.
Hedgehog	Areas of grassland and scrub will likely be removed during construction. The loss of such habitats is likely to be inconsequential to local hedgehog populations owing to their low value and the presence of more extensive habitat locally. However, construction activities could result in the death or injury of hedgehogs, if present.	A precautionary working method will be implemented during construction.
Birds	<p>Areas of scrub will likely be removed during construction. The loss of such habitats is likely to be inconsequential to local bird populations owing to their low value and the presence of more extensive habitat locally.</p> <p>However, the proposed development could result in the destruction or the disturbance and subsequent abandonment of active bird nests.</p>	Works should be undertaken outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the tree/vegetation should be undertaken immediately, by qualified ecologist, prior to the commencement of work. All active nests will need to be retained until the young have fledged.

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## 1.0 Introduction and Context

### 1.1 Background

Arbtech Consulting Limited was instructed by Duncan Roberts to undertake a Preliminary Ecological Appraisal (PEA) at Formerly the Deighton Centre, Deighton Road, Huddersfield HD2 1JP (hereafter referred to as “the site”). The survey was required to inform a planning application for an erection of a 132 place Social, Emotion and Mental Health school, ages 5-18 (hereafter referred to as “the proposed development”).

A plan showing the proposed development will be provided in Appendix 1 when available.

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.

No previous ecology reports have been produced for this site by Arbtech Consulting Ltd or, to the author’s knowledge, by any other consultancy.

### 1.2 Site Context

The site is located at National Grid Reference SE 1619 0156 and has an area of approximately 5.2ha comprising a sports pitch, hard standing parking and grassland. It is surrounded by residential areas with patches of woodlands to the north and south. A site location plan is provided in Appendix 2.

### 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 possible ecological constraints as a result of the proposed development and summarises the requirements for further surveys and mitigation measures to inform subsequent mitigation proposals, achieve planning or other statutory consent and to comply with wildlife legislation.

To achieve this, the following steps have been taken:

- A desk study has been carried out.
- A field survey has been undertaken to record baseline information on the site and surrounding area including habitat types and their suitability for notable or protected species.
- Invasive plant and animal species (such as those listed on Schedule 9 of the Wildlife & Countryside Act) have been identified.
- Potential impacts on features of value, as a result of the proposed development, have been identified.
- Recommendations for further surveys and mitigation have been made.
- Opportunities for the enhancement of the site for biodiversity have been set out.

## 2.0 Methodology

### 2.1 Desk Study

The desk study included a review of the magic.gov.uk database for statutory designated sites within a 2km radius of the site. Landscape value and the presence of notable habitats as well as granted European Protected Species Licence (EPSL) and notable species records held on magic.gov.uk database has also been considered where these are within influencing distance of the site.

### 2.2 Field Survey

The survey was undertaken by Elen Griffin BSc (Hons), MRSB, Ecological Consultant on 1<sup>st</sup> November 2022.

An extended habitat survey was undertaken, following the methodology set out in *Phase 1 Habitat Survey Methodology* (JNCC, 2010) All land parcels are described and mapped and, where appropriate, target notes provide supplementary information on habitat conditions, features too small to map to scale, species composition, structure and management. Botanical species lists were compiled with reference to the DAFOR scale (D = Dominant; A = Abundant, F = Frequent, O = Occasional, R = Rare).

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.

### 2.3 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. This is based on suitability of the habitats on the site and in the wider landscape and the ecology and biology of species as currently understood.

A biological records data search has not been undertaken. However, given the location of the site, the nature of the habitats present and the assessed suitability of the site for protected or notable species, it is not anticipated that the purchase of biological records data will add any significant weight or alter the conclusions and recommendations outlined in this report.

The survey was completed during the sub-optimal survey period limiting the identification of ground flora species.

These limitations have been taken into account during the evaluation of the site and requirement for further surveys and mitigation.



### 3.0 Results and Evaluation

#### 3.1 Designated Sites

No statutory designated sites were identified within 2km of the site.

#### 3.2 Field Survey Results

The results of the field survey are illustrated in Appendix 3. The weather conditions recorded at the time of the survey are shown in Table 1.

*Table 1: Weather conditions during the survey*

Date: 01/11/2022	
Temperature	12°C
Humidity	78%
Cloud Cover	10%
Wind	10mph
Rain	None

#### Habitats and Flora

The following habitats are present within and adjacent to the site:



- Other woodland; mixed; mainly broadleaved (w1h5)
- Mixed scrub with ruderal shrub (h3h,17)
- Developed land; sealed surface (u1b)
- Modified grassland (g4)
- Modified grassland (g4,80)

A description and photograph of each habitat is provided in Table 2.




No protected or non-native invasive plant species (as listed under Schedules 8 or 9 of the Wildlife and Countryside Act 1981) were identified on the site.

*Table 2: Description and photographs of habitats within and adjacent to the site*

<i>Habitat type</i>	<i>Habitat description</i>	<i>Photograph</i>
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<p>Other woodland; mixed; mainly broadleaved (w1h5)</p>	<p>Areas of mixed woodland make up the northern boundaries of the site which extend along the eastern boundaries. Some clearings are present throughout the woodland areas used as public footpaths around and into the site.</p> <p>Species identified oak, mountain ash, silver birch, field maple, common holly, black alder and horse chestnut.</p> <p>Most trees appeared to be semi mature with no notable veteran trees present within the immediate vicinity of the site boundary.</p>	
<p>Mixed scrub with ruderal shrub (h3h,17)</p>	<p>A number of areas of mixed scrub are present around the site particularly around the boundaries of the woodland areas.</p> <p>Species identified within the mixed areas include bramble, guelder rose, dog rose, ivy, butterfly bush and yellow starthistle</p>	



		
Developed land; sealed surface (u1b)	A mix of access roads, pavements and parking areas are still present on the site with the majority of them concentrated towards the western boundaries of the site.	 

Modified grassland (g4)	<p>The majority of the site is made up of large areas of modified grassland utilised as playing areas and are currently accessed by members of the public of dog walking etc. The grassland is dominated by annual bluegrass with creeping buttercup, white clover, common dandelion, colonial bentgrass and ribwort plantain are also present in the grassland areas.</p> <p>These areas are still heavily managed and kept to a short sward.</p>	
Unmanaged modified grassland (g4,80) – as noted with the use of target noted	<p>Areas of unmanaged modified grassland are present along the 'top plateau' section towards to western boundary of the site. The areas have been left to grow to height with some areas over 45cm and are now rank and tussocky</p> <p>Species identified within these areas include; colonial bentgrass, drooping sedge, creeping thistle, bitter dock, switchgrass,</p>	

## Fauna

An assessment of the suitability of the site for protected or notable species is provided in Table 3.

Table 3: Assessment of the suitability of the site for protected or notable species

Species	Assessment of suitability
Amphibians	<p>No ponds or suitable breeding habitat for GCN was noted or site or within 500m of the site.</p> <p>The areas of managed modified grassland along with the areas of hard standing are considered to be unsuitable for amphibians due to a lack of structural diversity.</p> <p>The woodland areas around the boundaries are likely to provide some suitable hibernation habitat for amphibians due to the likely presence of deadwood.</p> <p>The unmanaged grassland and areas of mixed scrub are likely to provide some foraging habitats for common amphibians.</p> <p>The woodland areas along the northern boundary of the site will provide some connectivity to the wider environment via more extensive wooded areas. There is limited connectivity between the southern boundaries of the and the wider environment due to the presence of man made barriers such as main roads, housing estates, fencing and walls.</p>

Reptiles	<p>Areas of unmanaged grassland and scrub may provide some suitable habitat for reptiles, a number of small mammal trails were also noted within the unmanaged grassland areas which could provide foraging opportunities for reptiles.</p> <p>The areas of woodland may provide some connectivity to the wider environment however the areas are disturbed by members of the public and dogs which could deter reptiles from utilising the areas for dispersal. There is limited connectivity along the southern boundaries of the site due to the presence of man made barriers.</p>
Badgers	<p>No evidence of badgers was noted on or within 30m of the site.</p> <p>The grassland areas along with the boundary woodland areas may provide some suitable sett excavation habitat for badgers if present within the area.</p> <p>The unmanaged grassland areas along with the woodland areas could provide some suitable foraging habitat for badgers</p> <p>The woodland to the north of the site may provide some suitable connective habitat between the site and the wider environment and may contain active badger setts.</p>
Bats	<p>The woodland areas around the site boundaries could provide suitable foraging and commuting habitats for bats. No trees with suitable roosting features were noted on the site or within close proximity of the site.</p> <p>The building on site was not assessed for its suitability for bats.</p>
Hazel Dormouse	<p>No suitable habitat for dormouse was identified on the site.</p> <p>There is considered to be a lack of complexity with the woodland structure and lack of hedgerows and nut/fruit/flowering species which are required for the complex lifecycle of the dormouse.</p> <p>In addition, the site lies outside of the dormouse natural and introduced range.</p>
Hedgehog	<p>The woodland areas surrounding the site will provide suitable foraging and commuting habitats along with hibernation habitats.</p> <p>The unmanaged grassland areas along with the areas of mixed scrub may also provide foraging and commuting habitat for hedgehogs.</p> <p>Hedgehogs are known to use green areas within urban environments and the areas of woodland will provide suitable connective habitat between the site and the wider environment.</p>
Riparian mammals	<p>No water courses are present on or directly adjacent from the site.</p> <p>No suitable habitat for riparian mammals was noted on the site therefore riparian mammals are likely absent from the site.</p>
Birds	<p>The site is considered to provide suitable habitat for common garden birds. Birds could utilise the wooded areas along with the areas of scrub.</p> <p>The site is unlikely to support wintering waterfowl due to its location and management.</p> <p>The site is considered unsuitable for schedule 1 birds.</p>
Invertebrates	<p>The habitats on site are common and widespread and unlikely to support rarer invertebrate species. Overall, the site is considered unlikely to support large communities or notable species of invertebrates due to the semi urban location of the site along with the managed nature of large areas. The woodland areas to the north may provide more suitable habitat for invertebrates.</p>

## **4.0 Conclusions, Impacts and Recommendations**

### ***4.1 Informative Guidelines***

A summary of the relevant legislation and planning policies is provided in Appendix 4.

### **Likelihood of the Presence of Protected Species**

Where physical evidence of the presence of protected species is indeterminate during the survey, the habitats on site are evaluated as to their likelihood to provide sheltering, roosting, foraging, basking or nesting habitat.

Where this report supports a planning application, the ecological interest of the study area (i.e. the area covered by the desk study and field survey) and the proposed development has also been evaluated in terms of the planning policies relating to biodiversity.

### ***4.2 Evaluation***

Taking the desk study and field survey results into account, Table 4 presents an evaluation of the ecological value of the site and also details any ecological constraints identified in relation to the proposed development which will comprise an erection of a new school.

Table 4: Evaluation of the site and any ecological constraints

<b>Ref</b>	<b>Summary of Survey Findings</b>	<b>Foreseen Impacts</b>	<b>Recommendations</b> <i>Measures required to adhere to guidance, legislation and planning policies.</i>	<b>Biodiversity Enhancements</b> <i>The Local Planning Authority has a duty to ask for enhancements under the NPPF (2021)</i>
Designated sites	<p>There are no statutory designated sites within 2km of the site.</p> <p>The presence of non-statutory designated sites within 2km of the site cannot be established without data from the local records centre.</p>	No impacts to designated sites are anticipated due to the distance of the proposed development from such sites (where known) as well as the semi urban location of the site with surrounding physical barriers.	Best practice measures to minimise the possibility of pollution and tree damage must be implemented during construction.	None.
Habitats and flora	<p>There are no notable habitats within the site however woodland habitats are present directly adjacent to the site and encroach onto the site boundary in places. Some of the aforementioned woodland is also designated as ancient woodland.</p> <p>Other habitats within the site are common and widespread and</p>	<p>As it stands no plans have been produced indicating the location of the development.</p> <p>No direct impacts to any notable habitats are anticipated as a result of the proposed development. However, due to the proximity of the site to deciduous and ancient woodland, indirect effects such as pollution or tree damage could occur during construction.</p> <p>The proposed development will result in the loss of areas of managed and unmanaged grassland in addition to areas of scrub. This is likely to have a minimal impact on biodiversity due to the relatively low ecological value of these habitats and their semi isolated nature on the site.</p>	<p>Best practice measures to minimise the possibility of pollution and tree damage must be implemented during construction.</p> <p>The Local Planning Authority (LPA) may request a Arboricultural Assessment to determine impacts on trees.</p>	Habitat creation and enhancement opportunities will be detailed within the BNG assessment.

	have low ecological value. No protected or notable plant species were recorded during the survey.+			
Amphibians	No ponds were noted on or within 500m of the site. The areas of unmanaged grassland, scrub and the boundary woodland areas may provide some suitable terrestrial habitat for common amphibians.	Areas of unmanaged grassland and scrub will likely be removed during construction. The loss of such habitats is likely to be inconsequential to local amphibian populations owing to their low value and the presence of more extensive habitat locally. However, site clearance could result in the death or injury of common amphibians, if present.	<p>A precautionary working method will be implemented for common amphibians during construction, including the following measures:</p> <ul style="list-style-type: none"> <li>• Site clearance will be undertaken outside of the amphibian hibernation season (November to February) insofar as is possible.</li> <li>• A staged approach will be adopted for vegetation clearance, whereby the vegetation will be strimmed to 15cm and left overnight to allow any amphibians to disperse. The vegetation can then be cleared to ground level and must be maintained at this level for the duration of construction to deter amphibians from the working area.</li> <li>• Any rubble piles will be dismantled by hand and debris and brash will be stored on pallets or removed from the site to prevent amphibians from utilising these areas.</li> <li>• Best practice pollution prevention measures will be implemented to minimise impacts to retained habitats that amphibians could use.</li> <li>• Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.</li> <li>• If any common amphibians are found in the working area these should be moved by hand to a vegetated area along the site boundaries or in retained habitats away from disturbance.</li> <li>• In the unlikely event that a great crested newt is identified, works must cease and advice must be sought from a suitably qualified ecologist.</li> </ul>	<p>The following habitat creation and enhancement opportunities could be incorporated into the proposed development which would be beneficial for amphibians:</p> <ul style="list-style-type: none"> <li>• The creation of a wildlife pond for wildlife to include native plant species and no fish.</li> <li>• Creation of amphibian refugia and hibernacula using debris and brash from site clearance.</li> <li>• Planting of native scrub and grassland to increase foraging opportunities.</li> </ul>
Reptiles	No evidence of reptiles was noted during the site visit.	Areas of unmanaged grassland will likely be removed during construction. The loss of such habitats is likely to be inconsequential to local	Owing to the nature of the proposed development and the low potential for impacts to reptiles, further surveys are considered to be disproportionate. A precautionary working	The following habitat creation and enhancement opportunities could be



	<p>Areas of unmanaged grassland and adjacent scrub may provide a small amount of suitable habitat for basking and foraging reptiles. However the areas of suitable habitat are fairly isolated due to the presence of barriers such as building and hard standing and the managed grassland areas.</p>	<p>reptile populations owing to their low value, semi isolated nature and the presence of more extensive habitat locally. However, site clearance could result in the death or injury of reptiles, if present.</p>	<p>method will be implemented during construction, including the following measures:</p> <ul style="list-style-type: none"> <li>• A toolbox talk will be given to contractors regarding the possible presence of reptiles at the site.</li> <li>• A staged approach will be adopted for vegetation clearance, whereby the vegetation will be strimmed to 15cm and left overnight to allow any reptiles to disperse. The vegetation can then be cleared to ground level and must be maintained at this level for the duration of construction to deter reptiles from the working area.</li> <li>• Any rubble piles will be dismantled by hand and debris and brash will be stored on pallets or removed from the site to prevent reptiles from utilising these areas.</li> <li>• Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.</li> <li>• In the unlikely event that a reptile is identified, works must cease and advice must be sought from a suitably qualified ecologist.</li> </ul>	<p>incorporated into the proposed development which would be beneficial for reptiles:</p> <ul style="list-style-type: none"> <li>• The creation of a wildlife pond for wildlife to include native plant species and no fish.</li> <li>• Creation of reptile refugia and hibernacula using debris and brash from site clearance.</li> <li>• Planting of native scrub and grassland to increase foraging opportunities.</li> <li>• The creation of basking areas such as rock piles or areas of cleared ground with shelter nearby.</li> </ul>
Foraging and commuting bats	<p>The boundary trees/woodland areas could be used by local bat populations for foraging and commuting. These could also be used by bats dispersing from nearby roosts outside of the site.</p>	<p>It is anticipated that the proposed development will not result in the removal of any habitats which could be used by foraging or commuting bats.</p> <p>The proposed development may include the use of lighting which could spill on to bat roosting, foraging or commuting habitat and deter bats from using these areas.</p>	<p>A low impact lighting strategy will be adopted for the site during and post-development, which will include the following measures:</p> <ul style="list-style-type: none"> <li>• Use narrow spectrum light sources to lower the range of species affected by lighting.</li> <li>• Use light sources that emit minimal ultra-violet light.</li> <li>• Avoid white and blue wavelengths of the light spectrum to reduce insect attraction and where white light sources are required in order to manage the blue shortwave length content they should be of a warm / neutral colour temperature &lt;4,200 kelvin.</li> </ul>	<p>None.</p>

			<ul style="list-style-type: none"> <li>Not use bare bulbs and any light pointing upwards. The spread of light will be kept in line with or below the horizontal.</li> </ul> <p>Light spill will be reduced via the use of low-level lighting used in conjunction with hoods, cowls, louvers and shields. Lights will also be directional to ensure that light is directed to the intended areas only.</p> <p>External lighting will be on PIR sensors that are sensitive to large objects only (so that they are not triggered by passing bats) and will be set to the shortest time duration to reduce the amount of time the lights are on.</p> <p>Wall lights and security lights will be 'dimmable' and set to the lowest light intensity settings. There are several products on the market that allow the control of the light intensity and the duration that the lights are on. All lighting on the developed site will make use of the most up to date technology available.</p>	
Badger	Woodland areas around the boundaries may provide some suitable connective habitat between the site and wider environment. Areas of unmanaged grassland and scrub may provide some suitable foraging habitat for badgers.	It is anticipated that the woodland areas will not be impacted by any development. It is likely that areas of scrub and unmanaged grassland will be removed during construction. The loss of such habitats could result in a reduction in badger habitat and could result in the fragmentation of the local landscape. Furthermore, construction activities could result in the death or injury of badgers, if present.	<p>Owing to the nature of the proposed development and the low potential for impacts to badgers, further badger surveys are considered to be disproportionate. A precautionary working method will be implemented during construction, including the following measures:</p> <ul style="list-style-type: none"> <li>A toolbox talk will be given to contractors regarding the possible presence of badgers at the site.</li> <li>Heras fencing will be erected around the working area to prevent encroachment into retained habitats where badger setts could be present.</li> <li>Any excavations will be covered overnight, or a ramp will be installed to enable any trapped animals to escape.</li> <li>The use of night-time lighting will be avoided, or sensitive lighting design will be implemented to avoid light spill on to retained habitats which badgers could use.</li> </ul>	<p>The following habitat creation and enhancement opportunities could be incorporated into the proposed development which would be beneficial for badgers:</p> <ul style="list-style-type: none"> <li>Planting fruit bearing trees and species-rich grassland to increase foraging opportunities.</li> </ul>

			<ul style="list-style-type: none"> <li>Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.</li> <li>In the unlikely event that a badger sett is identified, works must cease and advice must be sought from a suitably qualified ecologist.</li> </ul>	
Hazel dormouse	<p>No suitable habitat for dormouse was identified on the site.</p> <p>There is considered to be a lack of complexity with the woodland structure and lack of hedgerows and nut/fruit/flowering species which are required for the complex lifecycle of the dormouse.</p>	No impacts are anticipated on hazel dormice as a result of the proposed development.	None.	None.
Hedgehog	<p>Hedgehogs are known to use green areas in semi urban environments. The grassland areas along with the areas of scrub may provide some suitable foraging and commuting habitat for hedgehogs.</p> <p>In addition the boundary woodland areas may provide some suitable hibernating habitat</p>	Areas of grassland and scrub will likely be removed during construction. The loss of such habitats is likely to be inconsequential to local hedgehog populations owing to their low value and the presence of more extensive habitat locally. However, construction activities could result in the death or injury of hedgehogs, if present.	<p>A precautionary working method will be implemented during construction, including the following measures:</p> <ul style="list-style-type: none"> <li>Site clearance will be undertaken outside of the hedgehog hibernation season (November to March) insofar as is possible.</li> <li>A toolbox talk will be given to contractors regarding the possible presence of hedgehogs at the site.</li> <li>Heras fencing will be erected around the working area to prevent encroachment into retained habitats where hedgehogs could be present.</li> <li>Any excavations will be covered overnight, or a ramp will be installed to enable any trapped animals to escape.</li> <li>The use of night-time lighting will be avoided, or sensitive lighting design will be implemented to avoid light spill on to retained habitats which hedgehogs could use.</li> </ul>	<p>The following habitat creation and enhancement opportunities could be incorporated into the proposed development which would be beneficial for hedgehogs:</p> <ul style="list-style-type: none"> <li>Planting fruit bearing trees and species-rich grassland to increase foraging opportunities.</li> <li>Creation of brash piles or installation of hedgehog houses in shady areas.</li> <li>Installation of gaps under boundary</li> </ul>

	in addition for commuting and foraging habitat.		<ul style="list-style-type: none"> <li>Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.</li> <li>If a hedgehog is found then this should be moved by gloved hand to an undisturbed and sheltered area of the site or adjacent land.</li> </ul>	fencing to enable hedgehogs to move freely through the site.
Riparian mammals	No riparian habitat on or directly adjacent to the site.	No impacts are anticipated on otters as a result of the proposed development.	None.	None.
Birds	The wooded areas will likely provide suitable nesting and foraging habitat for common birds. No evidence of nests were noted around the site boundaries. The areas of scrub may provide some suitable foraging habitat for common birds.	<p>Areas of scrub will likely be removed during construction. The loss of such habitats is likely to be inconsequential to local bird populations owing to their low value and the presence of more extensive habitat locally.</p> <p>However, the proposed development could result in the destruction or the disturbance and subsequent abandonment of active bird nests.</p>	Works should be undertaken outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the tree/vegetation should be undertaken immediately, by qualified ecologist, prior to the commencement of work. All active nests will need to be retained until the young have fledged.	<p>The installation of a minimum of eight bird boxes on mature trees around the site boundaries or on new buildings will provide additional nesting habitat for birds e.g.</p> <p>Schwegler No 17 Swift Nest Box (buildings)</p> <p>Schwegler 1SP Sparrow Terrace (buildings)</p> <p>Schwegler 1B Nest Boxes (trees)</p> <p>Schwegler 2H Robin Boxes (trees)</p> <p>Woodstone Nest Box (buildings or trees)</p> <p>Or a similar alternative brand.</p> <p>Tree boxes should be positioned approximately 3m above ground level where they will be sheltered from prevailing wind, rain and strong sunlight. Small-hole boxes are best placed approximately 1-3m above ground on an area of the tree trunk where foliage will not obscure the entrance hole.</p> <p>Swift and sparrow boxes should be positioned at the</p>

				eaves of a building and can be incorporated into the fabric of the building during construction.
Invertebrates	The woodland areas to the north may provide more suitable habitat for invertebrates. Overall, the site is considered unlikely to support large communities or notable species of invertebrates due to the semi urban location of the site along with the managed nature of large areas.	No impacts are anticipated on notable species or populations of invertebrates as a result of the proposed development as it is anticipated that the woodland areas will not be impacted by the development.	None.	<p>The following habitat creation and enhancement opportunities could be incorporated into the proposed development which would be beneficial for invertebrates:</p> <ul style="list-style-type: none"> <li>• Native tree, hedgerow and shrub planting.</li> <li>• Creation of wildflower grassland.</li> <li>• The creation of a wildlife pond for wildlife.</li> <li>• A green roof on new buildings.</li> <li>• Retention of deadwood on the site.</li> </ul>

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### **Appendix 1: Proposed Development Plan**

Not available at the time of writing this report.

Appendix 2: Site Location Plan





Appendix 3: Habitat Survey Plan



## Appendix 4: Legislation and Planning Policy

### LEGAL PROTECTION

#### 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 (the Wild Birds Directive) respectively. Both form part of the wider Natura 2000 network across Europe.

Under the Habitats Directive Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe. Over 1000 animal and plant species, as well as 200 habitat types, listed in the directive's annexes are protected in various ways:

**Annex II species** (about 900): core areas of their habitat are designated as Sites of Community importance (SCIs) and included in the Natura 2000 network. These sites must be managed in accordance with the ecological needs of the species.

**Annex IV species** (over 400, including many Annex II species): a strict protection regime must be applied across their entire natural range, both within and outside Natura 2000 sites.

**Annex V species** (over 90): their exploitation and taking in the wild is compatible with maintaining them in a favourable conservation status.

SPAs are classified under Article 2 of the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds both for rare bird species (as listed on Annex I) and for important migratory species.

The Conservation of Habitats and Species Regulations 2017 (as amended) form the legal basis for the implementation of the Habitats and Birds Directives in terrestrial areas and territorial waters out to 12 nautical miles in England and Wales (including the inshore marine area) and to a limited extent in Scotland and Northern Ireland.

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 01.04.1996) 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). Further provisions for the protection and management of SSSIs have been introduced by the Nature Conservation (Scotland) Act 2004.

***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.

***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 Conservation of Habitats and Species Regulations 2017 (as amended)***

The Conservation of Habitats and Species Regulations 2017 (as amended) aims to promote the maintenance of biodiversity by requiring the Secretary of State to take measures to maintain or restore wild species listed within the Regulations at a favourable conservation status.

The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild population of the species concerned.

### ***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 1979, implemented 1982) 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).

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 1992 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 (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for any development works likely to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agencies to define what would constitute a licensable activity. It is no 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 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.

### ***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 reptiles 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 Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely 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 likely to affect habitats known to support water voles, the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) 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 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:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely 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:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works are likely 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.

### ***Hazel Dormice***

Hazel dormice *Muscardinus avellanarius* are fully protected 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

Dormice are also 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:

Works which are liable to affect a dormice habitat or an operation which are likely to result in an illegal level of disturbance to the species will require a European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales (NB: Hazel Dormouse are entirely absent from Scotland)). The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

### ***White Clawed Crayfish***

There is a considerable amount of legislation in place in an attempt to protect the White-clawed crayfish *Austropotamobius pallipes*. This species is listed under the European Union's (EU) Habitat and Species Directive and is listed under Schedule 5 of the Wildlife and Countryside Act (1981). This makes it an offence to:

- Protected against intentional or reckless taking

- Protected against selling, offering or advertising for sale, possessing or transporting for the purpose of sale

It is also classified as Endangered in the IUCN Red List of Endangered Species. As a result of this and other relevant crayfish legislation such as the Prohibition of Keeping of Live Fish (Crayfish) Order 1996, a series of licences are needed for working with White-clawed and non-native crayfish. These are:

- A licence to handle crayfish (therefore survey work) in England
- A licence for the keeping of crayfish in England and Wales with an exemption for Signal crayfish (England).
- People in the post-code areas listed with crayfish present prior to 1996 do not need to apply for consent for crayfish already established. It does not, however, allow any new stocking of non-native crayfish into waterbodies. Consent for trapping of non-native crayfish for control or consumption is most likely to be granted in Thames and Anglian regions in the areas with "go area" postcodes.
- Harvesting of crayfish is prohibited in much of England and in any part of Scotland and Wales.

Effects on development works:

The relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will need to be consulted about development which could impact on a watercourse or wetland known to support white clawed crayfish. Conservation licences for the capture and translocation of crayfish can be issued 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 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 the works.

#### **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:

A European Protected Species Licence (EPSL) will be required from the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for works which are likely 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 landowner 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*

Effects on development works:

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)**

### ***Environment Act 2021***

The Environment Act 2021 (EA 2021) received Royal Assent on 9 November 2021 and is expected to become fully mandated within the next couple of years. The Act principally creates a post Brexit framework to protect and enhance the natural environment. Through amendments to the Town and Country Planning Act 1990, the Act will require all planning permissions in England (subject to exemptions which is likely to include householder applications) to be granted subject to a new general pre-commencement condition that requires approval of a biodiversity net gain plan. This will ensure the delivery of a minimum of 10% measurable biodiversity net gain. The principal tool to calculate this will be the Defra Biodiversity 3.0 Metric. Works to enhance habitats can be carried out either onsite or offsite or through the purchase of 'biodiversity credits' from the Secretary of State. However, this flexibility may be removed (subject to regulations) if the onsite habitat is 'irreplaceable'. Both onsite and offsite enhancements must be maintained for at least 30 years after completion of a development (which period may be amended).

### ***National Planning Policy Framework 2021***

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 species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006) 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; measurable gains in biodiversity in and around developments are incorporated; 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 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.

## **LOCAL PLANNING POLICY**

### ***Kirklees Local Plan Strategy and Policies 2019***

The Kirklees Local Plan Strategy and Policies can be viewed here: <https://www.kirklees.gov.uk/beta/planning-policy/pdf/local-plan-strategy-and-policies.pdf>

The following planning policies have implications in relation to biodiversity and the proposed development:

- Policy LP30 Biodiversity & Geodiversity

The council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, Habitats and Species of Principal Importance and the Kirklees Wildlife Habitat Network.

Development proposals will be required to: (i) result in no significant loss or harm to biodiversity in Kirklees through avoidance, adequate mitigation

or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement;

(ii) minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist;

(iii) safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale unless the loss of the site and its functional role within the network can be fully maintained or compensated for in the long term;

(iv) establish additional ecological links to the Kirklees Wildlife Habitat Network where opportunities exist; and

(iv) incorporate biodiversity enhancement measures to reflect the priority habitats and species identified for the relevant Kirklees Biodiversity Opportunity Zone.

#### EUROPEAN PROTECTED SPECIES POLICIES

In December 2016 Natural England officially introduced the four licensing policies throughout England. The four policies seek to achieve better outcomes for European Protected Species (EPS) and reduce unnecessary costs, delays and uncertainty that can be inherent in the current standard EPS licensing system. The policies are summarised as follows:

- Policy 1; provides greater flexibility in exclusion and relocation activities, where there is investment in habitat provision;
- Policy 2; provides greater flexibility in the location of compensatory habitat;
- Policy 3; provides greater flexibility on exclusion measures where this will allow EPS to use temporary habitat; and,
- Policy 4; provides a reduced survey effort in circumstances where the impacts of development can be confidently predicted.

The four policies have been designed to have a net benefit for EPS by improving populations overall and not just protecting individuals within development sites. Most notably Natural England now recognises that the Habitats Regulations legal framework now applies to 'local populations' of EPS and not individuals/site populations.