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Preliminary Ecological Appraisal

**Land at L'Apache, Westergate Street, Woodgate,
Chichester, West Sussex**

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Report Summary

1. The Ecology Co-op has been commissioned by Henry Adams Ltd to undertake a Preliminary Ecological Appraisal at land at L'Apache, Westergate Street, Woodgate, Chichester, West Sussex. A site walkover survey was carried out on the 26 July 2018, to evaluate the site for habitats with potential suitability to support EU and UK protected/notable species. The purpose of this report is to record the findings of the survey and identify potential ecological constraints to the proposed construction of new residential dwellings on the land.
2. This survey was undertaken by Jess Burkitt BSc (Hons) GradCIEEM and Sophie Bradfield Bsc.
3. The site is made up of a large garden area comprising amenity grassland, with a scattered scrub-line along the southern and eastern boundaries of the site. The land is currently used as garden space.
4. The site has potential to support nesting birds. Therefore, it is important that any vegetation clearance is undertaken outside of the nesting bird season (1 March–31 August) unless a suitably qualified ecologist has first searched the features.
5. If any protected species are found during the proposed work, works must stop and an ecologist must be contacted immediately for advice.

This report has been prepared by The Ecology Co-operation Ltd, with all reasonable skill, care and diligence within the terms of the Contract with the client. This report only becomes the property of the client once payment for it has been received in full.

We disclaim responsibility to the client and others in respect of any matters outside the scope of the above.

This report is confidential to the client and we accept no responsibility of whatsoever nature to third parties to whom this report, or any part thereof, is made known. Any such party relies on the report at their own risk.



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1 INTRODUCTION

1.1 Purpose of the Report

The Ecology Co-op has been commissioned to undertake a Preliminary Ecological Appraisal (PEA) of land at L'Apache, Westergate Street, Woodgate, Chichester, West Sussex by Henry Adams Ltd. This report presents the findings of a walkover survey undertaken by Jess Burkitt a graduate member of the Chartered Institute for Ecology and Environmental Management (CIEEM) and Sophie Bradfield Bsc on the 26 July 2018. It provides details on the potential for any protected or notable species and/or habitats to be present at the site and provides an assessment of the potential ecological constraints to the two new proposed residential dwellings. Recommendations for further surveys that are likely to be required to inform a planning application and Ecological Impact Assessment (EclA) of the proposal are provided. Where appropriate, measures to avoid, mitigate and/or compensate for impacts are outlined.

1.2 Background

The site is located on Westergate Street in Woodgate, Chichester, West Sussex. The site is located in a semi-rural location with numerous residential dwellings to the west and agricultural land to the east. A railway line is located within close proximity of the site boundary to the south. Habitat comprises of scrub and rough grassland to the north of the site. The central grid reference for the site is SU940043.

The site itself comprises amenity grassland in the east with scattered scrub-lines along the eastern and southern boundaries of the site. There are a number of residential dwellings to the west of the site. Figure 1 indicates the boundary of the site.

The proposed development comprises the construction of two new residential dwellings.



Figure 1. An aerial image showing the location of the site. The approximate site boundary is outlined in red. Images produced courtesy of Google maps (Map data ©2018 Google)

1.3 Policy and Legislation

Legal protection applying to relevant bird, mammal, herpetofauna and invertebrate species and current nature conservation planning policy is outlined in Appendix 1 of this report.

2 METHODOLOGY

The methodology used for this survey are in accordance with the Guidelines for Preliminary Ecological Assessment (CIEEM 2017)¹.

2.1 Desk Study

A search for existing records of protected species, species of conservation concern and invasive non-native species was requested from the Sussex Biodiversity Record Centre (SxBRC) within a radius of 1km of the site.

A search of on-line mapping resources was undertaken to identify the location of any features of potential ecological interest including ponds within 500m (relevant to great crested newts *Triturus*

¹ CIEEM (2017) *Guidelines for Preliminary Ecological Appraisal, 2nd edition*. Chartered Institute of Ecology and Environmental Management, Winchester.



cristatus), watercourses (relevant to riparian mammals and crayfish) and connectivity to woodland, scrub, and hedgerow networks (relevant to bats, dormice) in the wider landscape around the site. The connectivity of the site to these features, buildings, and other semi-natural habitats such as grassland and heathland are also relevant to bats, great crested newts and reptiles.

The MAGIC website resource (www.magic.gov.uk) was used to identify the location of designated sites for nature conservation and European Protected Species (EPS) licences granted in relation to the survey site.

2.2 Field Survey

A site walkover survey was undertaken on 26 July 2018 during which the habitats contained within the site were described and evaluated. Since this site is relatively small-scale and contains limited semi-natural habitat diversity, it was not considered necessary to undertake comprehensive Phase 1 Habitat Mapping of the site. All habitat types contained within the site, together with the dominant botanical species and indicators of important habitat types, such as ancient woodland or unimproved grasslands, were simply listed and described.

Habitats and features at the site were evaluated for their potential to support legally protected species. In addition, observations of any important plant communities, bird assemblages or other potentially valuable ecological features were recorded.

Details of the preliminary survey methods for each legally protected species are given below. Any site-specific limitations to the survey, e.g. access constraints or seasonal constraints are set out in Section 3.12.

2.3 Badgers

Habitats within the site and surrounding areas were broadly assessed for their potential to support badgers. Any signs of badger activity, for example setts, footprints, latrines, well-worn paths, foraging marks, were recorded.

2.4 Bats

Bats can use a wide range of features for roosting purposes including loft spaces, cavity walls, loose tiles, mortice joints and cracks/gaps in a variety of built structures. They can also be found in trees with holes, splits, cracks, cavities, ivy and loose bark.

Trees, buildings and other structures were broadly assessed for their potential to support roosting bats, and further surveys are recommended as appropriate.

The potential for bats to use each feature, or group of features for roosting purposes was assessed as either negligible, low, moderate, or high, in accordance with the Bat Conservation Trust Survey



Guidelines (Collins, J.(ed.) (2016)². Any evidence confirming the presence of bats was clearly recorded, including photos and samples (e.g. droppings), where appropriate. Further surveys are recommended in the report where necessary.

2.5 Breeding Birds

The habitats contained within the site and adjacent areas were broadly assessed for their potential to support important bird species/assemblages and breeding birds. Any birds identified during the site visit were recorded. Special attention was paid to notable species such as red-listed Birds of Conservation Concern (Eaton *et al.* 2015)³ and those species afforded special protection on Schedule 1 of the Wildlife and Countryside Act (1981). Further surveys are recommended as appropriate.

2.6 Dormice

The site was broadly assessed for its potential to support hazel dormouse. This included use of on-line mapping resources to assess the surrounding area for connectivity to large blocks of woodland, scrub and extensive hedgerow networks. Further surveys are recommended as appropriate in accordance with best practice guidance (Bright *et al* 2006)⁴.

2.7 Great Crested Newt

A desk study was undertaken to identify ponds within 500m of the site. Where access permission was granted, or ponds could be viewed from public roads or footpaths, the ponds were assessed for their potential to support great crested newts using the Habitat Suitability Index (HSI) (Oldham *et al* 2000)⁵.

Further surveys are recommended as appropriate, in accordance with best practice guidance (English Nature 2001)⁶.

Any survey or access limitations are clearly set out in Section 3.12.

2.8 Reptiles

Habitats on the site were broadly assessed for their potential to support reptiles. Particular attention was paid to those features that provide suitable basking areas (e.g. south-facing slopes), hibernation sites (e.g. banks, walls, piles of rotting vegetation) and opportunities for foraging (rough grassland and

² Collins, J.(ed.) (2016) *Bat Surveys for Professional Ecologists: Good Practice Guidelines* (3rd edn). The Bat Conservation Trust, London.

³ Eaton, M., Aebischer, N., Brown, A., Hearn, R., Lock, Leigh., Musgrove, A., Noble, D., Stroud, D., Gregory, R. (2015) *Birds of Conservation Concern 4: the population status of birds in the UK, Channel Islands and Isle of Man*. British Birds 108, pp 708-746.

⁴ Bright, P., Morris, P. and Mitchell-Jones, T. (2006) *The dormouse conservation handbook 2nd Ed.* English Nature, Peterborough.

⁵ Oldham, R.S., Keeble, J., Swan, M.J.S. and Jeffcote, M. (2000) *Evaluating the suitability of habitat for the great crested newt (Triturus cristatus)*. *Herpetological Journal* 10, 143-155.

⁶ English Nature (2001) *Great Crested Newt Mitigation Guidelines*. English Nature, Peterborough.



scrub). The common lizard *Zootoca vivipara*, slow-worm *Anguis fragilis*, grass snake *Natrix natrix* and adder *Vipera berus* are widespread species that can be found in any of these habitats, whereas smooth snake *Coronella austriaca* and sand lizard *Lacerta agilis*, have much more restricted and isolated populations on lowland heathland and sand dunes.

2.9 Other Notable Species

The site habitats were broadly assessed for their potential to support species of principal importance for nature conservation (Section 41 NERC Act 2006) and other notable species. This includes mammals such as harvest mouse, hedgehog, brown hare and many bird species. The site was broadly assessed for its potential to support important invertebrate assemblages with particular attention paid to features such as standing dead-wood, wet flushes, bare earth banks and botanically rich areas.

3 BASELINE CONDITIONS

3.1 Designated Sites

There are no designated sites within the zone of influence and therefore, sites designated for nature conservation purposes outside of the zone of influence, are unlikely to be a consideration for the proposed development.

There are no granted EPS licences for mitigation projects within 1km of the site boundaries. The closest EPS licence to the site concerns common pipistrelle bats and it is located 1.4km away.

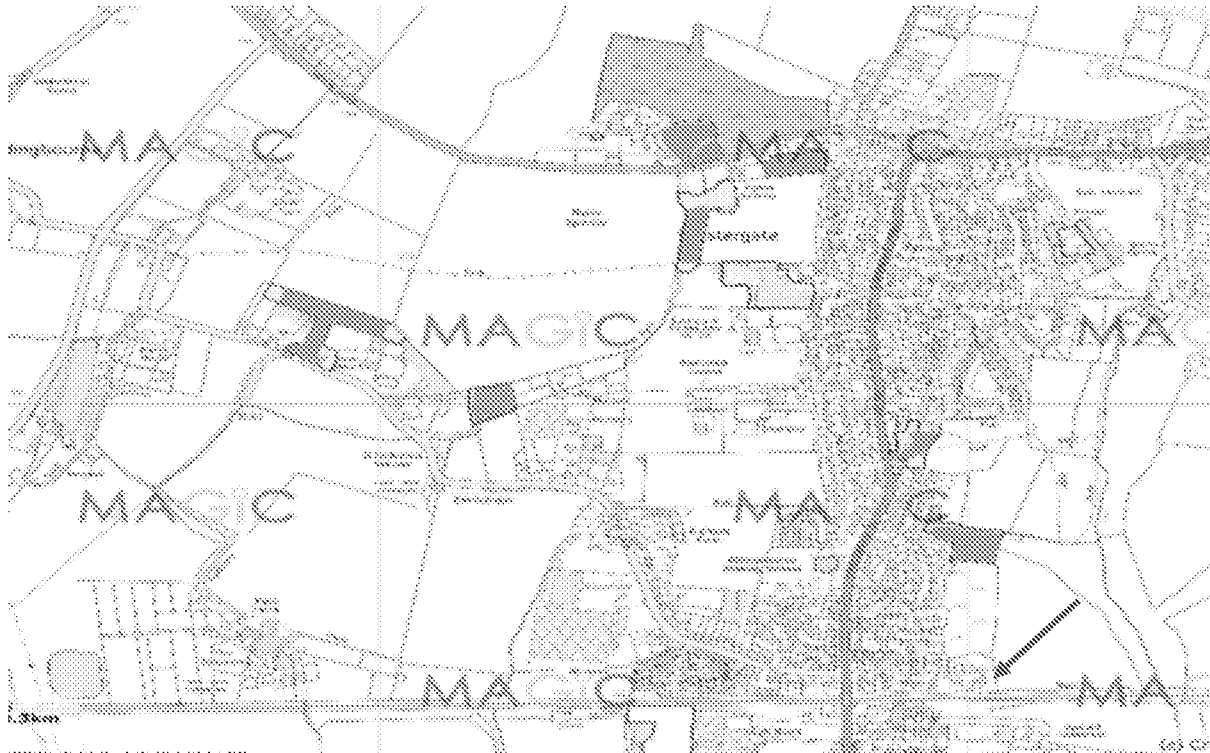


Figure 2. Parcels of woodland are shown in green on the above map. These comprise woodlands located within 2km of the proposed site (indicated by the red arrow). Images produced courtesy of Magic maps (<http://www.magic.gov.uk/>, contains public sector information licensed under the Open Government Licence v3.0).

3.2 Habitats

The majority of the site is made up of mown amenity grassland with scattered scrub-lines along the eastern and southern boundaries. The grassland comprises creeping buttercup *Trifolium repens*, Yorkshire fog *Holcus lanatus*, dandelion, docks *Rumex* spp., ragwort *Jacobaea vulgaris*, thistles *Cirsium* spp., yarrow *Achillea millefolium*, field bindweed *Convolvulus arvensis* and daisy *Bellis perennis*. The northern boundary comprises hazel *Corylus avellana*, ash *Fraxinus excelsior*, common nettle *Urtica dioica*, field maple *Acer campestre* and hawthorn *Crataegus monogyna*, which borders the broadleaved woodland to the north of the site. The southern boundary comprises a wooden fence-line with common nettle, rose bay willow herb *Chamaenerion angustifolium*, ragwort, brambles *Rubus fruticosus*, hedge bindweed *Calystegia sepium* and thistles. The eastern boundary of the site comprises a wooden fence-line with nettles, thistles, docks, hedge bindweed and hogweed *Heracleum sphondylium*. The western boundary of the site comprises an occupied residential dwelling with ruderal/disturbed land adjacent to the site. There is an area beside the residential dwelling comprising of ragwort, creeping thistle, common nettles, daisy, ornamental shrubs, brambles and small pile of bricks.

The area surrounding the existing residential dwelling comprises hard standing with some ornamental shrubs, leylandii, brambles, ivy, St John's-wort *Hypericum perforatum*, *Hydrangea* spp., rose *Rosa* spp. and elder *Sambucus nigra*.



Figure 3. The amenity grassland within the site.



Figure 4. The scattered scrub line along the eastern boundary of the site.



Figure 5. The southern boundary of the site.

3.3 Badgers

No signs of any badger activity were seen during the survey assessment, though there are habitats of value for this species within the site and surrounding landscape. It is likely that if any setts were situated within 30m of the site boundary, then some evidence of badger activity would have been observed.

Records of badgers are not provided by the record centre due to the sensitive nature of this information.

3.4 Bats

There are no trees within the proposed site with suitable features such as rot holes and cracks, suitable to support crevice dwelling bats. The boundary scrub has foraging potential for bats and there is a good connectivity to other suitable habitats within the surrounding landscape.

The Sussex Biodiversity Record Centre (SxBRC) provided 6 bat records in the search area comprising 3 identified species: common pipistrelle *Pipistrellus pipistrellus* (1 record), Western Barbastelle *Barbastellus barbastellus* (4 records) and *Pipistrelle spp.* (1 record). The closest of these was a pipistrelle bat recorded approximately 800m from the site, dated 2014.



3.5 Breeding Birds

The scattered scrub, saplings, and occasional tree have the potential to support a variety of common nesting birds.

SxBRC provided numerous bird records for the search area comprising a total of 139 species. Most of these species are relatively common and widespread, but the list includes 21 species of principal importance for conservation (S41 NERC Act 2007), and 25 species listed on Schedule 1 of the Wildlife and Countryside Act. In addition, 27 species are red-listed on the Birds of Conservation Concern.

3.6 Dormice

The site contains no woodland or hedgerows suitable for dormice; the species is therefore highly unlikely to be present. There are sparse scattered scrub-lines along the southern and eastern boundaries of the site; however, they consist mainly of nettles and hedge bindweed, which is not considered to be suitable habitat for dormice.

While no records of this species were provided by SxBRC, this species is known to be under-recorded and could occur in any suitable habitat.



Figure 6. The scattered nettles along the eastern boundary of the site.



3.7 Great Crested Newts and other Amphibians

There are no ponds within the site boundary or within 500m of the site. Great crested newts and other amphibians are therefore highly unlikely to be present at the site.

SxBRC provided 9 amphibian records in the search area. This included 3 records for great crested newt *Triturus cristatus*, 1 record for smooth newt *Lissotriton vulgaris*, 1 record for palmate newt *Lissotriton helvetica*, 3 records for common frog *Rana temporaria* and 1 record for common toad *Bufo bufo*. The closest record for great crested newt was 770m from the boundary of the site, dated May 2013.

3.8 Reptiles

The majority of the proposed site is short, mown, amenity grassland with scattered scrub lines along the boundaries that may offer cover for foraging reptiles. There is also suitable habitat in the surrounding area.

SxBRC provided 9 reptile records in the search area. This included 1 record for slow worm *Anguis fragilis*, 7 records for grass snake *Natrix Helvetica* and 1 record for adder *Vipera berus*. The closest of these records is for adder at 452m from the boundary of the site, dated July 1999.

3.9 Invasive Non-Native Species

No evidence of invasive non-native species was found during the walkover survey.

SxBRC provided 4 records of birds, 35 records of flowering plants, 1 record of invertebrates and 2 records of terrestrial mammals in the search area. The closest of these records was for Canada goose *Branta canadensis* at 1.2km from the boundary of the site, dated in April 2010.

3.10 Other Notable Species

SxBRC identified 1 record for European Water Vole *Arvicola amphibious* in 2004 and 9 records for West European Hedgehog *Erinaceus europaeus* in 2005, 2006 and 2015. The closest of these records was for hedgehog located at 263m from the nearest site boundary. There is limited suitable habitat within the proposed site that offers suitable cover for foraging hedgehogs. There are no waterbodies in close proximity to the site offering suitable habitat for European water voles.

3.11 Survey Limitations

An initial site assessment such as this is only able to act like a 'snapshot' to record any flora or fauna that is present at the time of the survey. It is therefore possible that some species may not have been present during the survey but may be evident at other times of the year. For this reason, habitats are assessed for their potential to support some species, even where no direct evidence (such as droppings) has been found.



4 ECOLOGICAL CONSTRAINTS AND OPPORTUNITIES

4.1 Designated Sites

The site is outside the zone of influence of all designated sites and based on this, and the small scale of the development, there are no identified mechanisms of impact on designated sites as a result of the proposed development.

4.2 Habitats

The proposed new residential dwellings will result in the loss of mown amenity grassland, bare ground, scattered scrub and ornamental shrubs. The broadleaved woodland and scrub to the north of the site offer suitable foraging and commuting habitat for bats; however, the woodland will not be directly affected by this project. The vegetation along the boundaries comprises suitable habitat for nesting birds.

4.3 Badgers

No signs of badger activity were identified during the assessment and no badger setts were situated on or near the proposed construction zone. No further mitigation for badgers is considered necessary; however, if any signs of digging by large animals is identified on or near to the site prior to construction, an ecologist should be contacted for advice.

4.4 Bats

The scattered scrub lines along the boundaries of the site have foraging potential for bats and there is good connectivity to woodland habitat in the surrounding area. There are no trees situated close to or within the construction zone that might support roosting bats.

As the site may be used by foraging and commuting bats, it is important that the potential for disturbance from artificial lights is considered. The proposed development should include an 'ecologically sensitive lighting scheme' in accordance with guidance produced by the Bat Conservation Trust (summarised in Appendix 3).

4.5 Breeding Birds

All the scrub and saplings contained within the site have potential to support a variety of common nesting birds. It will be essential for any future development to consider the nesting bird season: any vegetation removal and/or building demolition should be timed outside of the nesting bird season (typically 1 March to 31 August), unless features are first searched by a suitably qualified ecologist and no active nests are found.



4.6 Dormice

The proposed development does not result in significant impacts on the woodland and scrub habitats found within the surrounding area and there is no suitable habitat to support dormice within the site boundaries. Therefore, it is highly unlikely that dormice would be found on the site at any time.

4.7 Great Crested Newts

No further surveys are recommended with respect to great crested newts, as no waterbodies that might support breeding newts have been identified. It is considered extremely unlikely that this species would be found on the site at any time.

4.8 Reptiles

The majority of the site comprises short, mown amenity grassland, which is considered to be unsuitable habitat for reptiles. Therefore, no further surveys are recommended in this instance. However, it is important that the amenity grassland is kept mown short up until the commencement of construction to discourage reptiles from colonising the site.

In the unlikely event that a reptile is found on site, work should stop, and a suitably qualified ecologist contacted for advice.

4.9 Enhancement Opportunities

The proposed development represents an opportunity for habitat enhancement to benefit insects, birds and bats. Any planting scheme should include native shrub species and flowering species known to encourage insect diversity. Such enhancement measures are in line with the recommendations of the NPPF and as such would be considered favourably when determining the planning application.

In order to enhance roosting opportunities for bats, the developer is encouraged to consider including integral roosting opportunities within the proposed new buildings. For example, a 1FR Bat Tube could be installed in each of the new dwellings as it is installed on the external walls of buildings and only the entrance hole will be visible.

In order to enhance the site for nesting birds, a 1SP Schwegler Sparrow Terrace could be installed on the new residential buildings at least 2 metres above the ground.

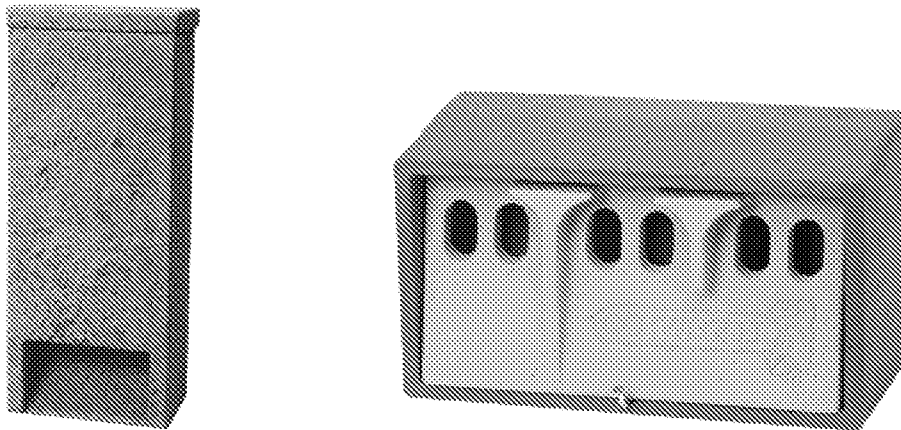


Figure 7. The 1 FR Bat Tube and 1SP Schwegler Sparrow Terrace.

4.10 Conclusions

The development would see the loss of amenity grassland, scattered scrub, ornamental trees and shrubs. However, there are opportunities to offset the impacts of developing the site through the creation and enhancement of new and existing habitats including bat roosting features and bird nesting features.

If any protected species are found during the proposed work, work should be stopped immediately, and an ecologist must be contacted immediately for advice.

Should you need any further advice on the information provided above, please do not hesitate to contact The Ecology Co-op, info@ecologyco-op.co.uk, www.ecologyco-op.co.uk, Office: 01798 861800.



APPENDIX 1 –Wildlife Legislation and National Planning Policy

Introduction

The following text is intended for general guidance only and does not constitute comprehensive professional legal advice. It provides a summary of the current legal protection afforded to wildlife in general and certain species. It includes current national planning policy relevant to nature conservation.

The ‘Birds Directive’, ‘Habitats Directive’ and ‘Natura 2000 Sites’.

The Council Directive 79/409/EEC on the Conservation of Wild Birds (“the Birds Directive”) sets a framework for the protection of wild birds. Under the directive, several provisions are made including the designation and protection of ‘Special Protection Areas’ (SPAs) – areas which support important bird populations, and the legal protection of rare or vulnerable species.

The Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the “Habitats Directive”) directs member states of the EU to take measures to maintain favourable conservation status of important habitats and species. This requires the designation of a series of sites which contain important populations of species listed on Annex II of the directive (for example Bechstein’s bat *Myotis bechsteinii*, Barbastelle bat *Barbastella barbastellus* and white-clawed crayfish *Austropotamobius pallipes*. Together with ‘Special Areas of Conservation’ (SPAs), designated under the Birds Directive, SACs form a network across Europe of protected areas known as the ‘Natura 2000 sites’.

Annex IV lists species in need of more strict protection, these are known as “European Protected Species (EPS)”. All bat species, common dormice *Muscardinus avellana*, otter *Lutra lutra* and great crested newts *Triturus cristatus* are examples of EPS that are regularly encountered during development projects.

The ‘Habitats Regulations’

The Conservation of Habitats and Species Regulations 2017 (the “Habitats Regulations”) is the principle means of transposing the Habitats Directive and the Birds Directive, and updates the Conservation (Natural Habitats, &c.) Regulations 1994 (“the 1994 regulations”) in England and Wales.

‘Natura 2000’ sites receive the highest level of protection under this regulation which requires that any activity within the zone of influence of these sites would be subject to a Habitats Regulations Assessment (HRA) by the competent authority (e.g. planning authority), leading to an Appropriate Assessment (AA) in cases where ‘likely significant effects on the integrity of the site are identified.

For European Protected Species, Regulation 41 makes it a criminal offence to;

- Deliberately capture, injure or kill any such animal;
- Deliberately disturb wild animals of such species;
- Deliberately take or destroy their eggs (where relevant);
- Damage or destroy a *breeding or resting place* of such an animal;
- Possess, control, sell or exchange any live or dead animal or plant, of such species;
- Deliberately pick, collect, cut, uproot or destroy a wild plant of such species.

The Habitats Directive and Habitats Regulations provide for the derogation from these prohibitions for



specific reasons provided certain conditions are met. An EPS licensing regime allows operations that would otherwise be unlawful acts to be carried out lawfully. Natural England is the licensing Authority and, in order to grant a license, ensures that three statutory conditions (sometimes referred to as the 'three derogation tests') are met:

- A licence can be granted for the purposes of “preserving public health or safety or for other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment” (Regulation 53 (2) (e).
- A licence can be granted if “there are no satisfactory alternatives” to the proposed action.
- A licence shall not be granted unless the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Wildlife and Countryside Act (1981) as amended.

This remains one of the most important pieces of wildlife legislation in the UK. There are various schedules to the Act protecting birds (Schedule 1), other animals including insects (Schedule 5), plants (Schedule 8), and control of invasive non-native species (Schedule 9).

Under the Wildlife and Countryside Act (WCA) 1981, all wild birds (with the exception of those listed on Schedule 2), their eggs and nests are protected by law and it is an offence to:

- Take, damage or destroy the nest of any wild bird while it is in use or being built.
- Take or destroy the egg of any wild bird.
- Disturb any bird listed on Schedule 1, while it is nest building, or at a nest with eggs or young, or disturb the dependant young of any such bird.

Schedule 5 lists all non-avian animals receiving protection to a varied degree. At its strongest, the Act makes it an offence to intentionally kill, injure or take any wild animal listed on Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturb animals while occupying such places. Examples of species with *full protection* include all EPS, common reptile species, water vole *Arvicola amphibius*, white-clawed crayfish *Austropotamobius pallipes* and Roman snail *Helix pomatia*. Other species are protected from sale, barter or exchange only, such as white letter hairstreak *Satyrion w-album*.

The Act makes it an offence to intentionally pick, uproot or destroy any plant or seed, and sell or possess any plant listed on Schedule 8. It is also an offence to intentionally uproot any wild plant not listed on Schedule 8 unless authorised [by the land owner]. Species on Schedules 5 and 8 are reviewed every 5 years when species can be added or removed.

Measures for the prevention of spreading non-native species which may be detrimental to native wildlife is included in the Act, which prohibits the release of animals or planting of plants into the wild of species listed on Schedule 9 (for example Japanese knotweed *Fallopia japonica*, Himalayan balsam *Impatiens glandifera*, New Zealand Pygmyweed *Crassula helmsii*).

The Wildlife and Countryside Act 1981 (as amended) also prohibits certain inhumane methods of traps and devices for the capture or killing of wild animals and certain additional methods such as fixed trap, poisoning with gas or smoke, or spot-lighting with vehicles for killing species listed on Schedule 6 of the Act (this includes all bat species, badger, otter, polecat, dormice, hedgehog and red squirrel).

Natural Environment and Rural Communities (NERC) Act (2006)

The NERC Act (2006) created the statutory nature conservation body Natural England, and places a



statutory duty on all public bodies, including planning authorities, under Section 40, to take, or promote the taking by others, steps to further the conservation of *habitats and species of principal importance for the conservation of biodiversity* in England (commonly referred to as the 'Biodiversity Duty'). This duty extends to all public bodies the biodiversity duty of Section 74 of the Countryside and Rights of Way (CROW) Act 2000, which placed a duty only on Government and Ministers. Section 41 of the NERC Act lists the habitats and species of principle importance. This includes a wide range of species from mosses, vascular plants, invertebrates through to mammals and birds. It originates from the priority species listed under the UK Biodiversity Action Plan (UK BAP) with some omissions and additions.

Protection of Badgers Act (1992)

The Badger *Meles meles* is afforded specific legal protection in Britain under the Protection of Badgers Act (1992), and Schedule 6 of the Wildlife and Countryside Act 1981 (as amended) (see above).

Under this legislation, it is a criminal offence to:

- intentionally kill, injure, take, possess, or cruelly ill-treat, a Badger, or to attempt to do so;
- interfere with a sett, by damaging or destroying it;
- to obstruct access to, or any entrance of, a Badger sett; or
- to disturb a Badger when it is occupying a sett.

A licence may be obtained from Natural England to permit certain prohibited actions for a number of defined reasons including interference of a sett for the purpose of development, provided that a certain number of conditions are met. Note that licenses are not normally granted for works affecting badgers between the end of November and the start of July.

National Planning Policy Framework

The National Planning Policy Framework (NPPF 2012) sets out the Government's view on how planners should balance nature conservation with development and helps ensure that Government meets its biodiversity commitments with regard to the operation of the planning system.

The NPPF states that the wider benefits of an ecosystem should be recognised, and the presence of a protected species is a material consideration for a development proposal (Circular 06/2005, 2005).

In accordance with the NPPF, it is important that developments should contribute to and enhance the natural and local environment by:

- Minimising impacts on existing biodiversity and habitats,
- Providing net gains in biodiversity and habitats, wherever possible,
- establishing coherent ecological networks that are more resilient to current and future pressures.

UK Post-2010 Biodiversity Framework

The UK Biodiversity Action Plan (UK BAP), first published in 1994, was the UK's response to the commitments of the Rio Convention on Biological Diversity (1992) until 2010, when the UK BAP was replaced by the UK Post-2010 Biodiversity Framework. This framework covers the period 2011 to 2020 and forms the UK government's response to the new strategic plan of the United Nations Convention on Biodiversity (CBD) published in 2010. This promotes a focus on individual countries delivering target



for protection for biodiversity through their own strategies.

The most recent biodiversity strategy for England, 'Biodiversity 2020: A strategy for England's wildlife and ecosystem services' was published by Defra (2011), and a progress update was provided in July 2013 (Defra 2013).

'Biodiversity 2020' builds on the Natural Environment White Paper for England – 'The Natural Choice', published on 7 June 2011, and sets out the strategic direction for biodiversity policy for the next decade.

Biodiversity 2020 deliberately avoids setting specific targets and actions for local areas and species because the Government believes that local people and organisations are best placed to decide how to implement the strategy in the most appropriate way for their local area or situation.

Birds of Conservation Concern (BoCC)

In 1996, the UK's leading non-governmental bird conservation organisations listed the conservation status of all bird species in the UK against a series of criteria relating to their population size, trends and relative importance to global conservation. The lists, known as the 'Red', 'Amber' and 'Green' lists (in order of decreasing concern) are used to inform key conservation policy and decisions. The lists are reviewed every 5 years and are a useful reference for determining the current importance of a particular site for birds. The most recent review was undertaken in 2015 (Eaton et al, 2015), which provides an up to date assessment of the conservation status of birds in the UK.

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APPENDIX 3 Reducing impacts of artificial light

Bright external lighting can have a detrimental impact upon foraging and commuting bat flight paths, but more importantly can also cause bats to remain in their roosts for longer. Artificial lighting can also cause significant impacts on other nocturnal species, most notably moths and other nocturnal insects. It can also result in disruption of the circadian rhythms of birds, reducing their fitness. Guidelines issued by the Bat Conservation Trust⁷ should be considered while designing the lighting scheme. This includes the following measures:

Do not:

- provide excessive lighting. Use only the minimum amount of light needed for the task.
- directly illuminate bat roosts or important areas for nesting birds

Avoid:

- installing lighting in ecologically sensitive areas such as: near ponds, lakes, rivers, areas of high conservation value; sites supporting particularly light-sensitive species of conservation significance (e.g. glow worms, rare moths, slow-flying bats) and habitat used by protected species.
- using reflective surfaces under lights.

Do:

- consider employing a competent lighting designer who will apply the principals of providing the right light, in the right place, at the right time and controlled by the right system.
- minimise the spread of light to at, or near horizontal and ensure that only the task area is lit. Flat cut-off lanterns or accessories should be used to shield or direct light to where it is required.
- consider the height of lighting columns. It should be noted that a lower mounting height is not always better. A lower mounting height can create more light-spill or require more columns. Column height should be carefully considered to balance task and mitigation measures.
- consider no lighting solutions where possible such as white lining, good signage, and LED cats eyes. For example, light only high-risk stretches of roads, such as crossings and junctions, allowing headlights to provide any necessary illumination at other times.
- use temporary close-boarded fencing until vegetation matures, to shield sensitive areas from lighting.
- limit the times that lights are on to provide some dark periods. The task being lit often varies, for example roads are less used after 23.00hrs and car parks are empty. A lighting designer can vary the lighting levels as the use of the area changes reducing lighting levels or perhaps even switching installations off after certain times. This use of adaptive lighting can tailor the installation to suit human health and safety as well as wildlife needs.

⁷ Bat Conservation Trust (2014) Artificial Lighting and Wildlife - Interim Guidance: Recommendations to help minimise the impact artificial lighting. Available at: http://www.bats.org.uk/pages/bats_and_lighting.html



Further reading:

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APPENDIX 4 - Chichester District Council - *Chichester District Council Local Plan 2014-2029*

Policy Number/Title	Policy Summary
Policy 40 (Sustainable design and construction)	The developer must evidence for dwellings and non-domestic buildings, that the development will protect and enhance the natural environment. The natural environment/biodiversity will be protected and where appropriate provisions should be made for green infrastructure and biodiversity areas.
Policy 44 (Development around the coast)	Development around the coast will be permitted outside of Settlement Boundaries as long as the following is considered: There are no harmful effects or net loss of nature conservation or areas of geological importance within the Chichester and Pagham Harbours and Medmerry Realignment.
Policy 45(Development in the countryside)	Outside Settlement Boundaries, development will be granted if it is small-scale and locally needed or cannot be added to existing settlements.
Policy 49 (Biodiversity)	Planning permission will be granted where it is demonstrated that: the biodiversity of the site is safeguarded, damage to protected species and habitats is mitigated, the proposal has incorporated features that enhance biodiversity as part of a good design and sustainable development, it enhances and manages the District's network of ecology, biodiversity and geological sites and the corridors which connect them.
Policy 50 (Development and disturbance of birds in Chichester and Langstone Harbours Special Protection Areas) AND Policy 51 (Development and disturbance of birds in Pagham Harbour Special Protection Area.)	Net increases in residential development which incorporates appropriate avoidance/mitigation measures will not require an appropriate assessment. These mitigation measures will include: • A contribution in accordance with the joint mitigation strategy outlined in Phase 3 of the Solent Disturbance and Mitigation Project, a developer provides package of measures associated with the proposed development designed to avoid any significant effects to the SPA or a combination of these measures. These measures need to be phased with development and managed continually. Some developments will require further examination and assessment.

End.
