

**LAND AT NEW ROAD/BROOK LANE,
RUSTINGTON, WEST SUSSEX**

PRELIMINARY ECOLOGICAL ASSESSMENT

A Report to: Blue Sky Planning

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REPORT VERIFICATION AND DECLARATION OF COMPLIANCE

This study has been undertaken in accordance with British Standard 42020:2013 "Biodiversity, Code of practice for planning and development".

Report Version	Date	Completed by:	Checked by:	Approved by:
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The information which we have prepared is true, and has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

DISCLAIMER

The contents of this report are the responsibility of Middlemarch Environmental Ltd. It should be noted that, whilst every effort is made to meet the client's brief, no site investigation can ensure complete assessment or prediction of the natural environment.

Middlemarch Environmental Ltd accepts no responsibility or liability for any use that is made of this document other than by the client for the purposes for which it was originally commissioned and prepared.

VALIDITY OF DATA

The findings of this study are valid for a period of 24 months from the date of survey. If works have not commenced by this date, an updated site visit should be carried out by a suitably qualified ecologist to assess any changes in the habitats present on site, and to inform a review of the conclusions and recommendations made.

NON-TECHNICAL SUMMARY

Middlemarch Environmental Ltd was commissioned by Blue Sky Planning to carry out an initial ecological appraisal at the site of a proposed development at New Road/Brook Lane in Rustington, West Sussex. To fulfil this brief an ecological desk study and a walkover survey (in accordance with Phase 1 Habitat Survey methodology) were undertaken.

The ecological desk study identified no nature conservation sites with statutory or non-statutory protection within a 1 km radius of the survey area. The desk study also provided records of protected and notable species including bats, badger, brown hare, water vole, amphibians, reptiles, birds, invertebrates and plants.

The walkover survey was undertaken on 23rd October 2014 by Maral Miri, Senior Ecological Consultant. At the time of the survey the site was dominated by unmanaged semi-improved grassland with tall ruderal vegetation. A narrow strip of plantation woodland formed the northern boundary whilst a small area of semi-natural broadleaved woodland was located in the south of the site. A ditch was also located along the southern boundary of the site.

The key ecological features on site in relation to the works proposed are the areas of woodland which are of intrinsic value due to their maturity. This habitat also provides suitable nesting opportunities for birds. The survey revealed the presence of water vole within the ditch on site which also provides potential breeding habitat for great crested newts. This feature is also a valuable wildlife corridor for foraging and commuting bats to utilise. In addition the mosaic of grassland and tall ruderal habitats on site are suitable to support reptiles.

In order to ensure compliance with wildlife legislation and relevant planning policy, the following recommendations are made:

- R1 Habitat Loss and Enhancement:** Biodiversity enhancement measures should be incorporated into the landscaping scheme of any proposed works to maximise the ecological value of the site.
- R2 Trees/ Woodland:** The development should be designed to retain as much woodland as possible. Any trees/woodland on site, or overhanging the site, which are not to be removed as a part of any proposed works should be protected in accordance with British Standard 5837: 2012 "Trees in relation to design, demolition and construction - recommendations". Protection should be installed on site prior to the commencement of any works on site.
- R3 Standing water:** All works should be undertaken in accordance with best practice, e.g. the Environment Agency's Pollution Prevention Guidelines, to ensure that the watercourse within and immediately adjacent to the survey area is not adversely impacted by the proposed works.
- R4 Foraging bats:** The areas of woodland at the site periphery as well as the ditch along the southern boundary provide suitable foraging and commuting routes for bats. Therefore any lighting, either temporary or permanent, along the boundaries should be kept to a minimum so that there is no increase in the illumination of these areas. A suitable buffer zone should be retained along the southern boundary and linear soft landscaping incorporated along the remaining boundaries.
- R5 Great crested newt:** A great crested newt presence / absence survey should be undertaken for all the suitable ponds within 500 m of the new development. Great crested newt surveys could be undertaken between mid-March and mid-June in suitable weather conditions.
- R6 Reptiles:** A reptile survey should be undertaken of suitable habitats within the proposed development site. Reptile surveys can be completed in suitable weather conditions between March and October inclusive.
- R7 Water Vole:** A water vole survey of the Black Ditch should be undertaken. Water vole surveys can be completed between March and October inclusive. An enhancement strategy should also be compiled to protect water voles from indirect impacts arising as a result of the new development and enhance their existing habitat through the inclusion of suitable buffer zones and additional terrestrial/riparian planting.
- R8 Nesting Birds:** Vegetation clearance should be undertaken outside the nesting bird season.
- R9 Terrestrial Mammals including Badger and Hedgehog:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120 mm must be covered at the end of each work day to prevent animals entering/becoming trapped.

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1. INTRODUCTION

1.1 PROJECT BACKGROUND

In October 2014 Blue Sky Planning commissioned Middlemarch Environmental Ltd to undertake an initial ecological appraisal of the site of a proposed development at New Road/Brook Lane, Rustington in West Sussex. This assessment is required to inform a planning application associated with the construction of a new commercial building with associated car parking and soft landscaping.

To assess the existing ecological interest of the site an ecological desk study was carried out, and a walkover survey was undertaken on 23rd October 2014.

1.2 SITE DESCRIPTION AND CONTEXT

The site under consideration is an irregular shaped parcel of land located within the Parish Council of Rustington within the District of Arun in West Sussex. The site measures approximately 2.5 hectares in size and is centred at National Grid Reference TQ 0517 0344.

The site is dominated by areas of rank semi-improved grassland with tall ruderal vegetation. A narrow strip of plantation woodland forms the northern boundary whilst a small area of semi-natural broadleaved woodland is located in the south of the site. A ditch is located along the southern boundary of the site. The topography of the site is generally flat.

The northern boundary of the survey area is demarcated by New Road (A259), a major trunk road from Littlehampton to Worthing. A spur road off New Road, called Brook Lane, enters the western quarter of the site and leads to Brook Lane Caravan Park. The southern boundary is delineated by Black Ditch, beyond which in the eastern section of the site is an active railway track.

The wider landscape is dominated by residential and industrial development with Rustington Golf course and open fields to the north and grass fields to the east and west.

1.3 DOCUMENTATION PROVIDED

The conclusions and recommendations made in this report are based on information provided by the client regarding the scope of the project. Documentation made available by the client is listed in Table 1.1.

Document Name / Drawing Number	Author
Unit A Lease: Plan I: 1117-LA-01 Rev A	Add Architects Ltd

Table 1.1: Documentation Provided by Client

'Unit A Lease: Plan I is provided within Chapter 7 of the report.

2. METHODOLOGIES

2.1 DESK STUDY

An ecological desk study was undertaken to determine the presence of any designated nature conservation sites and protected species that have been recorded within a 1 km radius of the site. This involved contacting appropriate statutory and non-statutory organisations which hold ecological data relating to the survey area. Middlemarch Environmental Ltd then assimilated and reviewed the desk study data provided by these organisations.

The consultees for the desk study were:

- Natural England - *MAGIC* website for statutory conservation sites; and,
- Sussex Biodiversity Record Centre.

The data collected from these consultees is discussed in Chapter 3. Selected raw data are provided in Appendix 1. In compliance with the terms and conditions relating to its commercial use, the full desk study data is not provided within this report.

The desk study data also included a review of relevant local planning policy with regard to biodiversity and nature conservation.

2.2 PHASE 1 HABITAT SURVEY

The walkover survey was conducted following the Phase 1 Habitat Survey methodology of the Joint Nature Conservation Committee (JNCC, 2010) and the Institute of Environmental Assessment (IEA, 1995). Phase 1 Habitat Survey is a standard technique for classifying and mapping British habitats. The aim is to provide a record of habitats that are present on site. During the survey, the presence, or potential presence, of protected species was noted.

Whilst every effort is made to notify the client of any plant species listed on Schedule 9 of the Wildlife and Countryside Act (1981, as amended) present on site, it should be noted that this is not a specific survey for these species.

Data recorded during the field survey are discussed in Chapter 4.

3. DESK STUDY RESULTS

3.1 INTRODUCTION

All relevant ecological data provided by the consultees was reviewed and the results from these investigations are summarised in Sections 3.2 and 3.3. Selected data are provided in Appendix 1.

3.2 NATURE CONSERVATION SITES

Reference to the Multi Agency Geographical Information for the Countryside (MAGIC) website and the data provided by the local biological records centre indicates that no statutory nature conservation sites and no non-statutory nature conservation sites occur within a 1 km radius of the survey area.

Whilst no Site of Special Scientific Interest (SSSI) occur within a 1 km radius of the survey area, the site falls within a SSSI Impact Risk Zone. However due to the nature of the planning proposal (non-residential), it does not pose a risk to the SSSI.

3.3 PROTECTED / NOTABLE SPECIES

Table 3.1 and the following text provide a summary of protected and notable species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Species of Principal Importance?	Local BAP?	Legislation / Conservation Status
Mammals-bats						
Pipistrelle species <i>Pipistrellus</i> sp.	1	1998	120 m south-east	#	#	ECH 4, WCA 5, WCA 6
Mammals-other						
Brown hare <i>Lepus europeus</i>	1	2010	Within a 1 km radius*	✓	✓	-
Water vole <i>Arvicola amphibius</i>	1	2011	950 m north-east	✓	✓	WCA 5
Amphibians						
Common toad <i>Bufo bufo</i>	1	2014	480 m west	✓	-	WCA 5 S9(5)
Reptiles						
Slow worm <i>Anguis fragilis</i>	1	1993	Potentially within a 1 km radius*	✓	-	WCA 5 S9(1) WCA 5 S9(5)
Common lizard <i>Zootoca vivipara</i>	1	1986	Potentially within a 1 km radius*	✓	-	WCA 5 S9(1) WCA 5 S9(5)
Birds						
Hobby <i>Falco subbuteo</i>	2	2009	980 m north-west	-	-	WCA1i
Barn owl <i>Tyto alba</i>	6	2011	980 m north-west	-	-	WCA1i
Kingfisher <i>Alcedo atthis</i>	2	2011	130 m north-west	-	-	WCA1i

Table 3.1: Summary of Protected/Notable Species Records Within 1 km of Survey Area (Cont.)

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Species of Principal Importance?	Local BAP?	Legislation / Conservation Status
Cetti's warbler <i>Cettia cetti</i>	2	2011	1000 m north-west	-	-	WCA1i
Lapwing <i>Vanellus vanellus</i>	13	2008	630 m north-west	✓	-	-
Lesser spotted woodpecker <i>Dendrocopos minor</i>	5	1991	Potentially within a 1 km radius*	✓	-	-
Wood warbler <i>Phylloscopus sibilatrix</i>	2	1998	Potentially within a 1 km radius*	✓	-	-
Willow tit <i>Parus montanus</i>	1	1983	Potentially within a 1 km radius*	✓	-	-
Tree sparrow <i>Passer montanus</i>	1	1978	Potentially within a 1 km radius*	✓	-	-
Corn bunting <i>Emberiza calandra</i>	4	2006	880 m north	✓	-	-
Terrestrial invertebrates						
Stag beetle <i>Lucanus cervus</i>	1	2012	380 m south	✓	✓	ECH 2, WCA 5 S9(5)
White letter hairstreak butterfly <i>Satyrion w-album</i>	2	1996	470 m east	✓	-	WCA 5 S9(5)
Blue adonis butterfly <i>Polyommatus bellargus</i>	1	1996	770 m east	-	-	WCA 5 S9(5)
Plants						
Cornflower <i>Centaurea cyanus</i>	1	2011	650 m south-east	✓	-	-
Red helleborine <i>Cephalanthera rubra</i>	1	1921	Potentially within a 1 km radius*	✓	-	WCA 8
Key: #Species dependent ECH 2: Annex II of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest whose conservation requires the designation of Special Areas of Conservation. ECH 4: Annex IV of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest in need of strict protection. ECH 5: Annex V of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest whose taking in the wild and exploitation may be subject to management measures PBA: Protection of Badgers Act 1992. WCA 1i: Schedule 1 Part 1 of Wildlife and Countryside Act 1981 (as amended). Birds protected by special penalties at all times. WCA 5: Schedule 5 of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). WCA 5 S9(1): Schedule 5 Section 9(1) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to intentional killing, injury or taking. WCA 5 S9(5): Schedule 5 Section 9(5) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to selling, offering for sale, processing or transporting for purpose of sale, or advertising for sale, any live or dead animal, or any part of, or anything derived from, such animal. WCA 6: Schedule 6 of Wildlife and Countryside Act 1981 (as amended). Animals which may not be killed or taken by certain methods. WCA 8: Schedule 8 of Wildlife and Countryside Act 1981 (as amended). Protected plants and fungi. Species of Principal Importance: Species of Principal Importance for Nature Conservation in England. Local BAP: Sussex Local Biodiversity Action Plan Note. This table does not include reference to the Berne Convention (Convention on the Conservation of European Wildlife and Natural Habitats), the Bonn Convention on the Conservation of Migratory Species of Wild Animals or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).						

Table 3.1: (Cont.) Summary of Protected/Notable Species Records Within 1 km of Survey Area

The desk study also provided records of numerous notable species:

Invertebrates

A record of rust-blotch cosmet moth *Mompha lacteella* was identified. This moth is listed on the Sussex Rare Species Inventory.

Plants

Records of the following flowering species were identified:

- Arum *Arum italicum* subsp. *neglectum* and hoary cinquefoil *Potentilla argentea* (IUCN 2001: Near Threatened);
- Wall bedstraw *Galium parisiense* and rye brome *Bromus secalinus* (IUCN 2001: Vulnerable);
- Cornfield knotgrass *Polygonum rurivagum*, long-spiked glasswort *Salicornia dolichostachya*, welsh poppy *Meconopsis cambrica*, stinking hellebore *Helleborus foetidus*, box *Buxus sempervirens*, clustered clover *Trifolium glomeratum*, musk stork's-bill *Erodium moschatum*, corn parsley *Petroselinum segetum* and royal fern *Osmunda regalis* (Sussex Rare Species Inventory).

In addition the desk study identified seven species of lichen listed on the Sussex Rare Species Inventory, these included sea ivory *Ramalina siliquosa*, *Usnea flammea* and *Solenopsora candicans*.

3.4 INVASIVE SPECIES

Table 3.2 provides a summary of invasive species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Legislation / Conservation Status
Nuttall's waterweed <i>Elodea nuttallii</i>	1	2006	Potentially within a 1 km radius*	WCA9
Wall cotoneaster <i>Cotoneaster horizontalis</i>	2	2011	Potentially within a 1 km radius*	WCA9
Japanese knotweed <i>Fallopia japonica</i>	3	2009	Potentially within a 1 km radius*	WCA9
Yellow archangel <i>Lamium galeobdolon</i> subsp. <i>argentatum</i>	1	2011	Potentially within a 1 km radius*	WCA9
Montbretia <i>Crocasmia x crocosmiiflora</i>	3	2010	Potentially within a 1 km radius*	WCA9
Three cornered garlic <i>Allium triquetrum</i>	2	2006	100 m south-west	WCA9
Key: WCA9: Schedule 9 of Wildlife and Countryside Act 1981 (as amended). Invasive, non-native, plants and animals.				

Table 3.2: Summary of Invasive Species Records Within 1 km of Survey Area

4. PHASE 1 HABITAT SURVEY

4.1 INTRODUCTION

The results of the Phase 1 Habitat Survey are presented in the following sections. An annotated Phase 1 Habitat Survey Drawing (Drawing C117420-01-01) is provided in Chapter 7. This drawing illustrates the location and extent of all habitat types recorded on site. Any notable features or features too small to map are detailed using target notes. Photographs taken during the field survey are presented in Chapter 8.

The survey was carried out on 23rd October 2014 by Maral Miri, Senior Ecological Consultant (CEnv, MCIEEM). Table 4.1 details the weather conditions at the time of the survey.

Parameter	Condition
Temperature (°C)	12
Cloud (%)	100
Wind (Beaufort)	F1
Precipitation	Occasional light rain

Table 4.1: Weather Conditions During Field Survey

4.2 SURVEY CONSTRAINTS AND LIMITATIONS

Late October is not an optimal time for completing botanical assessments, however, given the nature of the habitats present, this was not considered to be a significant constraint to a robust initial site assessment.

The area of semi-natural woodland to the south could not be fully accessed due to the presence of a ditch and an active railway line to the south.

4.3 HABITATS

The following habitat types were recorded on site during the field survey:

- Hardstanding;
- Plantation woodland;
- Semi-improved grassland;
- Semi-natural broad-leaved woodland; and,
- Standing water;
- Tall ruderal vegetation;

These habitats are described below. They are ordered alphabetically, not in order of ecological importance.

Hardstanding

Brook Lane dissects the site in the north-western section of the site (Plate 5).

Plantation woodland

A narrow strip of plantation woodland, typical of the Highways Agency planting, forms the northern boundary of the site (Plate 6). The semi-mature trees are in good condition and dominated by field maple *Acer campestre* with other frequent species including oak *Quercus* sp., hawthorn *Crataegus* sp., alder *Alnus* sp., cherry *Prunus* sp. and sycamore *Acer pseudoplatanus*.

A line of semi-mature planted trees also delineates both sides of Brook Lane. Similarly, the dominant species are field maple and oak with occasional sycamore, hawthorn, cherry, ash *Fraxinus excelsior* and bramble.

Semi-improved grassland

Small areas form the verges of New Road and contain thistle *Cirsium* sp, rye grass *Lolium* sp., fescue *Festuca* sp., cock's-foot *Dactylis glomerata*, ribwort *Plantago* sp., timothy *Phleum pratense*, dove's-foot cranes-bill *Geranium molle* and yarrow *Achillea millefolium*.

A large semi-improved grass field is located to the east of Brook Lane (Plate 7). Species recorded in this area of rank grassland include meadow grass *Poa* sp., rush *Juncus* sp., speedwell *Veronica* sp., daisy *Bellis perennis*, horsetail *Equisetum* sp., hawkbit, common couch *Elytrigia repens* and fescue.

Semi-natural broad-leaved woodland

Located to the south of the existing ditch and to the north of the active railway track is a sparse, small area of woodland containing mature sycamore, ash and willow *Salix* sp. trees (Plate 8). The understory is non-existent with a ground flora of ivy *Hedera helix*.

Standing water

A ditch is located along the southern boundary of the field to the west of Brook Lane (Plate 3). This ditch is then culverted and flows under Brook Lane and continues along the southern boundary of the field to the east of Brook Lane. The ditch measures approximately 3- 4 m wide with an unknown depth; the water quality is good (Plate 1). The western section of the ditch has an 80 % coverage of common reed (Plate 2) whilst the section of the ditch to the east has soft vegetated banks at an angle of 45°. Common reed is rare with some sections partially shaded by willow *Salix* sp. scrub. The stream is wider in the east with some sections infested by duckweed *Lemna* sp. Some fly tipping in the water was evident close to the culvert.

Tall ruderal vegetation

The land to the west of Brook Lane is dominated by tall ruderal vegetation, comprising rosebay willowherb *Chamerion angustifolium* and nettle *Urtica dioica* with occasional teasel *Dipsacus* sp., common reed *Phragmites australis* and rush species (Plate 9). Tall ruderal vegetation is also found in small patches within the areas of semi-improved grassland to the east of Brook Lane.

4.4 FAUNA

During the survey field signs of faunal species were recorded. The time of year at which the survey is undertaken will affect species or field signs directly recorded during the survey.

Birds

The following bird species were observed on site during the field survey: wren *Troglodytes troglodytes*, blackbird *Turdus merula* and gull *Larus* sp.

Mammals

Whilst on site during the field survey rabbits *Oryctolagus cuniculus* were sighted and several water vole latrines were found along both sides of the ditch (Plate 4). This assessment however does not constitute a full water vole survey.

4.5 INVASIVE PLANT SPECIES

No invasive plant species were recorded during the field survey however the semi-natural woodland could not be closely inspected due to access constraints.

5. DISCUSSIONS AND CONCLUSIONS

5.1 SUMMARY OF PROPOSALS

It is understood that the construction of a new commercial building with associated car parking and soft landscaping is proposed.

5.2 NATURE CONSERVATION SITES

The desk study exercise identified no statutory or non-statutory nature conservation sites within a 1 km radius of the survey area. As such, nature conservation sites will not be discussed any further in this report.

5.3 HABITATS

The ecological importance of the habitats present on site is determined by their presence on the list of Habitats of Principal Importance in England and on the Local BAP. It also takes into account the intrinsic value of the habitat. Those habitats which are considered to be of intrinsic importance and have the potential to be impacted by the site proposals are highlighted as notable considerations.

A discussion of the implications of the site proposals with regard to the habitats present on site is provided in the text below. A separate discussion of the value of the habitats on site to protected or notable species is provided in Section 5.4.

Semi-natural broadleaved woodland

This habitat is included within the Local BAP however it does not meet the criteria of the Habitat of Principal Importance (Lowland mixed deciduous woodland) due to its small size and poor canopy layer. The woodland on site is of intrinsic value due to the presence of mature specimens. It is understood that the woodland will be retained and as such a recommendation regarding protection of this habitat is made within Section 6.2.

Plantation woodland

Plantation woodland is included within the Local BAP. The woodland is of intrinsic value due to the presence of semi-mature specimens which cannot be easily replaced in the short to medium term. Small areas of the woodland may be removed to facilitate the development and as such a recommendation is provided within Section 6.2.

Standing water

The ditch on site is considered to be a notable habitat (Habitat of Principal Importance) and acts as a wildlife corridor. It is understood that the ditch will be retained as part of the proposals. Recommendations regarding the implementation of appropriate pollution control measures are made in Section 6.2.

Semi-improved grassland and tall ruderal vegetation

The remaining habitats on site are not considered notable (Habitats of Principal Importance or Local BAP habitats). They are also well represented locally, have low-species diversity or can easily be replaced within the new development.

Habitats considered to be of relevance to the proposed development are summarised in Table 5.1.

Habitat Type	Habitat of Principal Importance?	Local BAP Habitat?	Summary of Potential Impacts
Plantation woodland	-	✓	Likely partial habitat loss
Standing water	✓	-	Indirect impacts e.g. pollution/run-off
Semi-improved grassland	-	-	Habitat loss

Table 5.1: Summary of Potential Impacts on Habitats

5.4 PROTECTED/NOTABLE SPECIES

The following paragraphs consider the likely impact of the site proposals on protected or notable species. This is based on those species highlighted in the desk study exercise (Chapter 3) and other species for which potentially suitable habitat occurs within or adjacent to the survey area.

Mammals

Bats

The desk study provided a single record of pipistrelle bat located 120 m south east of the survey area. The site contained no buildings which bats may use as a roost. Similarly, the trees on site were in good condition with no notable cracks or crevices that bats could use for roosting. The mosaic of habitats on site provide suitable foraging opportunities for bats. The ditch and woodland edges also provide linear commuting features for bats to utilise. Potential loss of foraging habitat and increases in lighting at night time as a result of the proposed development could adversely impact foraging and commuting bats. Bats are therefore a notable consideration and recommendations are made within Section 6.2 and 6.3.

Badger

The desk study provided no records of badger within a 1 km radius of the survey area. Whilst the site provides suitable sett building habitat for badgers, no evidence of this species was recorded on site during the field survey. As the site remains suitable for badger and it is likely that they may pass through the site, a precautionary recommendation is made within Section 6.3.

Hedgehog

The desk study provided no records of hedgehog within a 1 km radius of the survey area. The mosaic of habitats on site provide suitable refuge and foraging opportunities for hedgehog. To prevent any impact during the construction phase a recommendation in relation to foraging mammals is made within Section 6.3. Sympathetic development design could also be used to ensure the area remains suitable post development (Section 6.2).

Brown hare

The desk study provided a single record of brown hare within a 1 km radius of the survey area. Brown hares live in exposed habitats including open grassland and arable fields. Although the survey area contains suitable habitat (grassland), the site is bounded by a road to the north and development to the south, limiting connectivity to open areas of arable land. Brown hares are therefore not deemed to be a notable consideration in relation to the proposed development.

Hazel dormouse

The desk study provided no records of hazel dormouse within a 1 km radius of the survey area. Dormouse can be found in deciduous woodland, hedgerows and dense scrub. The areas of woodland on site are considered sub-optimal to support dormouse due to lack of understorey and are poorly connected to areas of suitable habitat e.g. large blocks of woodland. Dormouse is therefore not a notable consideration in relation to the proposals.

Water vole

The desk study provided a single record of water vole located 950 m north-east of the survey area. A number of water vole latrines were noted along the ditch confirming the presence of this species (this however does not constitute a full water vole survey). Whilst it is understood that the ditch will not be directly impacted by the development, due to the proximity of the development to this habitat, indirect adverse impacts are likely. Therefore, recommendations have been made within Section 6.3.

Otter

The desk study provided no records of otter within a 1 km radius of the survey area. The ditch on site is considered sub-optimal for otters. Otter is therefore not a notable consideration in relation to the proposed development.

Amphibians

The desk study provided a single record of common toad located 480 m west of the survey area. The ditch on site is considered suitable for breeding amphibians including great crested newts. In addition the rank grassland, tall ruderal vegetation and woodland edges provide suitable habitat for amphibians during the terrestrial phase of their life cycle. Reference to Ordnance Survey mapped data and aerial imagery indicates

that five ponds are located within 500 m radius of the survey area. Although four of these ponds are separated by the A259 road providing a barrier to dispersal, one of the ponds (located 490 m west) is potentially connected to the site via the railway line.

It is understood that the proposals will result in the loss of suitable terrestrial habitat, which has the potential to directly impact on amphibians if present. Amphibians (including great crested newt) are therefore a notable consideration in relation to the proposals and a recommendation has been made within Section 6.3.

Reptiles

The desk study provided records of slow worm and common lizard potentially located within a 1 km radius of the survey area.

A reptile survey of the land immediately to the east of the proposed development site was carried out in September 2013 (PJC Consultancy 2013). The report concluded that the majority of the site consisted of managed tall ruderal and grassland mosaic with the vegetation on site appeared to have been mowed. The reptile surveys confirmed the likely absence of reptiles from within the surveyed areas (PJC Consultancy 2013).

The rank grassland, tall ruderal vegetation, scrub and woodland provide a suitable mosaic of habitat for reptile species, providing opportunities for basking, foraging and refuge/hibernation. The ditch also provides a food source for grass snake. The loss of these habitats could directly impact reptiles and as such they are a notable consideration in relation to the proposals. A recommendation regarding further survey works is made within Section 6.3.

Birds

The desk study provided records of hobby, barn owl, kingfisher and cetti's warbler which are protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). These species are unlikely to nest on site as the development site does not contain their specific habitat requirements.

A number of common bird species were recorded on site during the field survey. The areas of woodland on site provide suitable habitat for a variety of bird species. Should the vegetation clearance works be undertaken during bird nesting season there is potential to impact upon nesting birds. The ditch is also suitable for nesting species such as reed warbler, however it is understood that the ditch will not be directly impacted by the works. Due to the limited extent of suitable nesting habitat to be removed and the abundance of alternative nesting and foraging habitat within the surrounding area, no long term impact upon birds is anticipated. Nevertheless recommendations and potential habitat enhancement measures are provide within Sections 6.2 and 6.3.

Invertebrates

Terrestrial invertebrates

The desk study provided one record of stag beetle located 380 m south of the survey area.

Additionally the desk study provided records of white letter hairstreak butterfly and adonis butterfly. Elm and horse-shoe vetch (the sole foodplants for these species) were absent from the survey area. As such these species are unlikely to be present on site. Whilst site provides suitable habitat for a range of common invertebrate species, due to the abundance of alternative habitat within the local vicinity, the proposals are likely to have a negligible impact upon this species group. Nevertheless, potential habitat enhancement measures are proposed within Section 6.2.

Aquatic invertebrates

The desk study provided no records of white-clawed crayfish within a 1 km radius of the survey area. The ditch on site is considered sub-optimal for this species. White-clawed crayfish is therefore not a notable consideration in relation to the proposed development.

Plants

The desk study provided records of numerous plant species considered notable within a 1 km radius of the survey area. No notable plant species were recorded during the field survey.

Other Species

The following protected species are not considered to be material considerations due to the lack of desk study records and absence of suitable habitats within the development site and its surroundings:

- Polecat;
- Pine martin; and,
- Red squirrel.

Summary

Species considered to be of relevance to the proposed development are summarised in Table 5.2.

Species / Species Group	Species of Principal Importance?	Local BAP Species?	Summary of Potential Impacts
Bats	#	#	Partial loss of suitable habitat, disturbance through increases in lighting
Badger	-	-	Loss of suitable habitat, direct harm or injury
Hedgehog	✓	-	Loss of suitable habitat, direct harm or injury
Water vole	✓	✓	Indirect impacts e.g. habitat quality
Amphibians (including great crested newt)	#	#	Loss of suitable habitat, direct harm or injury
Reptiles	✓	-	Loss of suitable habitat, direct harm or injury
Birds	#	#	Partial loss of suitable habitat, direct harm or injury
#Species dependent			

Table 5.2: Summary of Potential Impacts on Notable Species

5.5 INVASIVE PLANT SPECIES

The desk study provided numerous records of invasive plant species within a 1 km radius of the survey area. No such species were recorded on site during the field survey however the area of semi-natural woodland in the south-east of the site could not be fully inspected due to access constraints. It is understood that this area of woodland will remain unaffected by the development, however if the proposals change a pre-works walkover of the area will be required.

A summary of legislation and policy relevant to the ecology of the site is included in Appendix 2.

6. RECOMMENDATIONS

All recommendations provided in this section are based on Middlemarch Environmental Ltd's current understanding of the site proposals, correct at the time the report was compiled. Should the proposals alter, the conclusions and recommendations made in the report should be reviewed to ensure that they remain appropriate.

6.1 NATURE CONSERVATION SITES

There are no recommendations made regarding nature conservation sites.

6.2 HABITATS

The following recommendations are made regarding the habitats present on site:

R1 Habitat Loss and Enhancement: In accordance with the provision of Chapter 11 of the National Planning Policy Framework (Conserving and Enhancing the Natural Environment) and Local Planning Policy, biodiversity enhancement measures should be incorporated into the landscaping scheme of any proposed works to maximise the ecological value of the site. This will involve, for example:

- Planting of habitats which will be of value to wildlife, such as:
 - native seed/fruit bearing species for mammals and birds
 - nectar-rich species to attract bees and butterflies
 - species which attract night flying insects which will be of value to foraging bats, for example: evening primrose *Oenothera biennis*, goldenrod *Solidago virgaurea*, honeysuckle *Lonicera periclymenum* and fleabane *Pulicaria dysenterica*.
- Provision of nesting/roosting habitat, such as installation of nest boxes for species such as house sparrow, dense scrub or native thicket for species such as song thrush, and bat boxes for species such as pipistrelle.
- Inclusion of hedgehog passes under fences.

R2 Trees/ Woodland: The development should be designed to retain as much woodland as possible. Any trees/woodland on site, or overhanging the site, which are not to be removed as a part of any proposed works should be protected in accordance with British Standard 5837: 2012 "Trees in relation to design, demolition and construction - recommendations". Protection should be installed on site prior to the commencement of any works on site.

R3 Standing water (Black Ditch): All works should be undertaken in accordance with best practice, Environment Agency's Pollution Prevention Guidelines, to ensure that the watercourse within the survey area is not adversely impacted by the proposed works.

6.3 PROTECTED / NOTABLE SPECIES

To ensure compliance with wildlife legislation and relevant planning policy, the following recommendations are made:

R4 Foraging bats: The areas of woodland at the site periphery as well as the ditch and associated vegetated habitat provide suitable foraging and commuting routes for bats. Therefore any lighting, either temporary or permanent, along the boundaries should be kept to a minimum so that there is no increase in the illumination of these areas. A suitable buffer zone should be retained along the southern boundary and linear soft landscaping incorporated along the remaining boundaries.

R5 Great crested newt: It is recommended that a great crested newt presence / absence survey is undertaken for all the suitable ponds within 500 m of the new development. Great crested newt surveys could be undertaken between mid-March and mid-June in suitable weather conditions. If the presence of great crested newts is confirmed through further surveys, a Natural England European Protected Species Licence may be required to allow the proposed works.

R6 Reptiles: A reptile survey should be undertaken of suitable habitats within the proposed development site. Reptile surveys can be completed in suitable weather conditions between April and September (inclusive).

- R7 Water Vole:** A water vole survey of the Black Ditch should be undertaken. Water vole surveys can be completed between March and October inclusive. An enhancement strategy should also be compiled to protect water voles from indirect impacts arising as a result of the new development and enhance their existing habitat through the inclusion of suitable buffer zones and additional terrestrial/riparian planting.
- R8 Nesting Birds:** Vegetation clearance should be undertaken outside the nesting bird season. The nesting bird season is weather dependent but generally extends between March and September inclusive. If this is not possible then any vegetation to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing. If birds are found to be nesting any works which may affect them would have to be delayed until the young have fledged and the nest has been abandoned naturally.
- R9 Terrestrial Mammals including Badger and Hedgehog:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120 mm must be covered at the end of each work day to prevent animals entering/becoming trapped.

6.4 INVASIVE PLANT SPECIES

No recommendations are made regarding invasive plant species.

7. DRAWINGS

Drawing C117420 -01-01 - Phase 1 Habitat Map

Architects Ltd Drawing 1117-LA-01 Rev A – Unit A Lease: Plan I



C117420-01-01

Legend

Site boundary

Wet ditch

Broadleaved plantation woodland

Hardstanding

Neutral semi-improved grassland

Semi-natural broadleaved woodland

Tall ruderal

Project

Land adjacent to New Road and Brook Lane, Rustington, West Sussex

Drawing

Preliminary Ecological Assessment

Client

Blue Sky Planning

Drawing Number

C117420-01-01

Revision

00

Scale @ A3

1:1,200

Date

October 2014

Approved By

MM

Drawn By

RP

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ARUN DISTRICT COUNCIL A/11/17/OUT

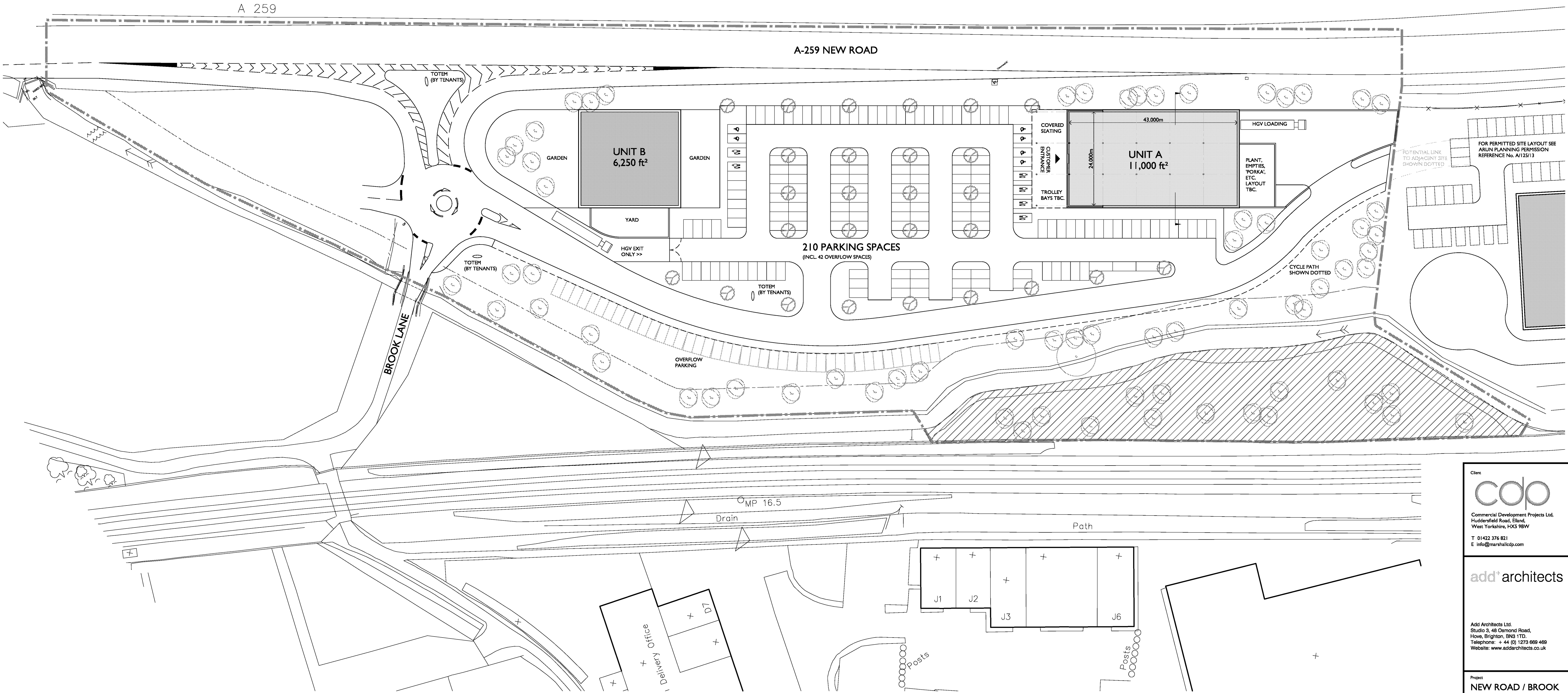
PRELIMINARY2
19/11/14

0 10m 25m 50m 100m



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Revision, Date
-



AERIAL VIEW FROM THE WEST

 SITE PLAN, 1:500@A1, 1:1000@A3

VIEW FROM A-259, TRAVELLING EAST

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Project
**NEW ROAD / BROOK
LANE, RUSTINGTON,
LITTLEHAMPTON,
WEST SUSSEX.**

Drawing Title
**PLANNING:
SITE PLAN**

Scale AS SHOWN	Drawn by DB
Date OCT. 2014	Checked by HD
Drawing Number 1117-P-11	Revision -

8. PHOTOGRAPHS



Plate 1: Vegetation within the Black Ditch



Plate 2: Black Ditch covered with common reed



Plate 3: Black Ditch located to the north of the active railway line



Plate 4: Water vole latrine located along the Black Ditch



Plate 5: Brook Lane



Plate 6: Roadside plantation woodland



**Plate 7: Rank semi-improved grassland
dominating the development site**



**Plate 8: Semi-natural broadleaved woodland to
the south of the site**



**Plate 9: Tall ruderal vegetation to the west of
Brook Lane**

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APPENDICES

APPENDIX 1: Summary of Statutory Nature Conservation Sites Within 1 km

APPENDIX 2: Overview of Relevant Legislation and Policy

APPENDIX 1

Summary of Statutory Nature Conservation Sites Within 1 km

Site Check Report Report generated on Wed Nov 12 2014

You selected the location: Centroid Grid Ref: TQ051035

The following features have been found in your search area:

Ancient Woodland (England)

No Features found

Local Nature Reserves (England)

No Features found

National Nature Reserves (England)

No Features found

Ramsar Sites (England)

No Features found

Sites of Special Scientific Interest (England)

No Features found

Special Areas of Conservation (England)

No Features found

Special Protection Areas (England)

No Features found

SSSI Impact Risk Zones (England) - For use by Local Planning Authorities to assess planning applications for likely impacts on SSSIs

1. DOES PLANNING PROPOSAL FALL INTO ONE OR MORE OF THE CATEGORIES BELOW?

2. IF YES, CHECK THE CORRESPONDING DESCRIPTION(S) BELOW. LPA SHOULD CONSULT NATURAL ENGLAND ON LIKELY RISKS FROM THE FOLLOWING:

All Planning Applications

Airport

Airports, helipads and other aviation proposals, including new roads etc.

Infrastructure

Pylons and overhead cables.

Wind & Solar Energy

Solar schemes with footprint > 0.5ha. All wind turbines.

Quarry

Non Residential

Residential

Rural Residential

Air Pollution

Pig & Poultry Units.

Combustion

Waste

Landfill. Incl: inert landfill, non-hazardous landfill, hazardous landfill.

Composting

Discharges

Any discharge of water or liquid waste that is more than 20m³/day. The water needs to either be discharged to ground (ie to seep away) or to surface water, such as a beck or stream. Discharges to mains sewer are excluded.

Guidance

[/Metadata_for_magic/SSSI IRZ metadata Magic Oct 2014 update.pdf](#)

Land adjacent to New Road



☐	Local Nature Reserves (England)
☐	National Nature Reserves (England)
☐	Ramsar Sites (England)
☒	Sites of Special Scientific Interest (England)
☐	SSSI Impact Risk Zones (England) - For use by Local Planning Authorities to assess planning applications for likely impacts on SSSIs
☐	Special Areas of Conservation (England)
☐	Special Protection Areas (England)
☐	Ancient and Semi-Natural Woodland
☐	Ancient Replanted Woodland

Project name: OCEAN-36
 version #: 0020003
 serial #: 1137200
 source #: 0009400
 year #: 1008000

Map produced by SHARIC on 12 November 2014.
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APPENDIX 2

Overview of Relevant Legislation and Policy

This section provides an overview of the framework of legislation and policy which underpins nature conservation and is a material consideration in the planning process in England.

GENERAL BIODIVERSITY LEGISLATION AND POLICY

Conservation of Habitats and Species Regulations 2010, as amended (Habitats Regulations 2010, as amended)

The Habitats Regulations 2010 consolidate and update the Conservation (Natural Habitats, &c.) Regulations 1994 and all its various amendments. The Habitats Regulations 2010 are the principal means by which the EEC Council Directive 92/43 (The Habitats Directive) as amended is transposed into English and Welsh law.

The Habitats Regulations 2010 place duty upon the relevant authority of government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria are, in conjunction with the European Commission, designated as Sites of Community Importance, which are subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. The regulations also place a duty upon the government to maintain a register of European protected sites designated as a result of EC Directive 79/409/EEC on the Conservation of Wild Birds (The Birds Directive). These sites are termed Special Protection Areas (SPA) and, in conjunction with SACs, form a network of sites known as Natura 2000. The Habitats Directive introduces for the first time for protected areas, the precautionary principle; that is that projects can only be permitted having ascertained no adverse effect on the integrity of the site. Projects may still be permitted if there are no alternatives, and there are imperative reasons of overriding public interest.

The Habitats Regulations 2010 also provide for the protection of individual species of fauna and flora of European conservation concern listed in Schedules 2 and 5 respectively. Schedule 2 includes species such as otter and great crested newt for which the UK population represents a significant proportion of the total European population. It is an offence to deliberately kill, injure, disturb or trade these species. Schedule 5 plant species are protected from unlawful destruction, uprooting or trade under the regulations.

The Habitats Regulations 2010 were amended in August 2012 to ensure clearer transposition of the provisions of Articles 2, 3, 4(4) (second sentence) and Article 10 of the Wild Birds Directive, by giving additional and specific duties to relevant bodies. A number of amendments were also made to transpose more clearly certain elements of the Habitats Directive.

The Wildlife and Countryside Act (WCA) 1981 (as amended)

The WCA, as amended, consolidates and amends pre-existing national wildlife legislation in order to implement the Bern Convention and the Birds Directive. It complements the Habitat Regulations 2010 (as amended), offering protection to a wider range of species. The Act also provides for the designation and protection of national conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSIs).

Schedules of the act provide lists of protected species, both flora and fauna, and detail the possible offences that apply to these species. All relevant species specific legislation is detailed later in this Appendix.

The Countryside and Rights of Way (CRoW) Act 2000

The CROW Act, introduced in England and Wales in 2000, amends and strengthens existing wildlife legislation detailed in the WCA. It places a duty on government departments and the National Assembly for Wales to have regard for biodiversity, and provides increased powers for the protection and maintenance of SSSIs. The Act also contains lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

The Natural Environment and Rural Communities (NERC) Act 2006

Section 40 of the NERC Act places a duty upon all local authorities and public bodies in England and Wales to promote and enhance biodiversity in all of their functions. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity. These lists superseded Section 74 of the CRoW Act 2000.

The Hedgerow Regulations 1997

The Hedgerow Regulations make provision for the identification of important hedgerows which may not be removed without permission from the Local Planning Authority.

UK Biodiversity Action Plan

The United Kingdom Biodiversity Action Plan (UK BAP), first published in 1994 and updated in 2007, was a government initiative designed to implement the requirements of the Convention of Biological Diversity to conserve and enhance species and habitats. The UK BAP contained a list of priority habitats and species of conservation concern in the UK, and outlined biodiversity initiatives designed to enhance their conservation status. Lists of Broad and Local habitats were also included. The priority habitats and species correlated with those listed on Section 41 and 42 of the NERC Act.

The UK BAP required that conservation of biodiversity was addressed at a County level through the production of Local BAPs. These were complementary to the UK BAP, however were targeted towards species of conservation concern characteristic of each area. In addition, a number of local authorities and large organisations have produced their own BAPs.

Species and Habitats of Material Consideration for Planning in England

In 2011, the government published the 'Biodiversity 2020: A strategy for England's wildlife and ecosystem services' to replace the previous England Biodiversity Strategy. In 2012 the UK BAP was replaced by the UK Post-2010 Biodiversity Framework.

Previous planning policy (and some supporting guidance which is still current, e.g. ODPM Circular 06/2005, now under revision), refers to UK BAP habitats and species as being a material consideration in the planning process. Equally many local plans refer to BAP priority habitats and species. Both remain as material considerations in the planning process but such habitats and species are now described as Species and Habitats of Principal Importance for Conservation in England, or simply priority habitats and priority species under the UK Post-2010 Biodiversity Framework. The list of habitats and species remains unchanged and is still derived from Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006. As was previously the case when it was a BAP priority species hen harrier continues to be regarded as a priority species although it does not appear on the Section 41 list.

NATIONAL PLANNING POLICY FRAMEWORK AND PRACTICE GUIDANCE

In early 2012, the National Planning Policy Framework (NPPF) replaced much previous planning policy guidance, including Planning Policy Statement 9: Biological and Geological Conservation. The government circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, which accompanied PPS9, still remains valid. A presumption towards sustainable development is at the heart of the NPPF. This presumption does not apply however where developments require appropriate assessment under the Birds or Habitats Directives.

Chapter 11, on conserving and enhancing the natural environment, sets out how the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and, where possible, provide net gains in biodiversity. Opportunities to incorporate biodiversity gains into a development should be encouraged.

If a proposed development would result in significant harm to the natural environment which cannot be avoided (through the use of an alternative site with less harmful impacts), mitigated or compensated for (as a last resort) then planning permission should be refused.

In March 2014 the Department for Communities and Local Government released guidance to support the National Planning Policy Framework (NPPF), known as the National Planning Practice Guidance (NPPG).

This has been produced to provide guidance for planners and communities which will help deliver high quality development and sustainable growth in England. The guidance includes a section entitled 'Natural Environment: Biodiversity, ecosystems and green infrastructure' which sets out information with respect to the following:

- the statutory basis for minimising impacts on biodiversity and providing net gains where possible;
- the local planning authority's requirements for planning for biodiversity;
- what local ecological networks are and how to identify and map them;

- the sources of ecological evidence;
- the legal obligations on local planning authorities and developers regarding statutory designated sites and protected species;
- the considerations for local (non-statutory) designated sites;
- definition of green infrastructure;
- where biodiversity should be taken into account in preparing a planning application;
- how development can enhance biodiversity;
- how policy is applied to avoid, mitigate or compensate for significant harm to biodiversity and how mitigation and compensation measures can be ensured; and,
- the consideration of ancient woodlands and veteran trees in planning decisions.

LOCAL PLANNING POLICY-ARUN DISTRICT

<http://www.arun.gov.uk/main.cfm?type=LOCALPLAN2&objectid=6221&searchtermredirect=planning%20policy>

New Local Plan 2014 – 2029

Once the Arun District Local Plan is adopted, all planning applications for development will be judged against its policies. It will replace the Current Local Plan 2003, however until this plan is adopted the Local Plan 2003 to 2011 will provide planning policy for the district.

Current Local Plan 2003

The Arun District Local Plan was adopted in April 2003 and covers the period up to 2011. It forms a statement of Arun District Council's planning policies which are used as a basis for decision making in planning applications. The key aim of the plan is to apply the principles of sustainable development in assessing development proposals, striking the balance between the need for development and the protection of scarce resources. Policies and proposals within the plan seek to guide development to meet needs, such as economic regeneration and housing, and ensure the provision of appropriate infrastructure, whilst protecting precious resources such as the countryside, open spaces and sites important for nature conservation.

From 27 September 2007, some of the policies in the Local Plan ceased to have effect. The remaining policies continue to be a part of the development plan and are known as 'Saved Policies'. The following policies are of relevance to ecology:

Policy GEN2 'Built-up Area Boundary' - Development or redevelopment will be permitted within the built-up area boundaries (as defined on the Proposals Map, see web resource detailed above), subject to the other policies in this plan. Outside the built-up area boundaries, development or redevelopment will not be permitted unless it is consistent with other Local Plan policies.

Policy GEN3 'Protection of the Countryside' - Outside the Built-up Area, as defined on the Proposals Map (see web resource detailed above), the countryside will be safeguarded for its own sake. Development will not be permitted unless:

- i) It meets the operational needs of agriculture, forestry, the extraction of minerals or the deposit of waste; or
- ii) For quiet, informal recreation; or
- iii) For the diversification of the rural economy; or
- iv) For essential road schemes; or
- v) It is in accordance with a policy in Sections 2 and 3 of the plan referring to a specific use or type of development.

Permission will not be given for the extension of isolated groups of buildings or the consolidation of linear or sporadic development unless the proposal accords with criteria (i) to (iii) or (v).

Policy GEN23 'The Water Environment' - Development will not be permitted if it would have a direct or indirect unacceptable adverse impact on the water environment, notably in relation to rivers, ponds, wetlands, public access in river corridors and water related recreation. Where appropriate, the Council will support initiatives which seek to restore or enhance the water environment.

Policy GEN25 'Water Resources' - Development will only be permitted where the Local Planning Authority is satisfied that adequate water resources are available or will be provided in time to serve the development, and that provision is not considered detrimental to existing abstractions, river flows, water quality, fisheries, amenity or nature conservation.

Policy GEN28 'Trees and Woodland' - Development will not be permitted if it would damage or destroy one or more trees protected by a tree preservation order, identified as ancient woodland or in a conservation area unless: the removal of one or more trees would be in the interests of good Arboricultural practice; or the benefits of the proposed development outweigh the amenity value of the protected trees. Conditions may be used to ensure that, for any trees which are removed as part of the development, an equivalent number are planted on site.

Policy GEN29 'Nature Conservation across the District' - Development will only be permitted on sites which contain semi-natural habitats, features of nature conservation interest, or within wildlife corridors, where these can be largely retained and sympathetically incorporated into the scheme. Legal agreements may be used to offset the loss of, or impact on, any nature conservation resource present on the site prior to development.

Policy GEN33 'Light Pollution' - Planning permission will be permitted for proposals which involve outdoor lighting schemes subject to: no adverse impact on neighbouring uses or the wider landscape; light levels being the minimum required for security and working purposes; and minimising the potential glare and spillage. Where appropriate, the Local Planning Authority will seek to control the times of illumination.

Policy AREA1 'Areas of Special Character' - Within Areas of Special Character, as defined on the Proposals Map, planning permission will be granted subject to:

- i) The retention of buildings and other features such as boundary walls, hedges, trees, railings, open spaces, etc. which make positive contributions to the special character of the areas;
- ii) The maintenance of an appropriate mix of uses where this is an important element in the character of an area;
- iii) The development makes a positive contribution to the special character of these area, particularly with regard to the characteristics included in the descriptions for each area given in supplementary planning guidance.

Policy AREA13 'Sites of International Importance for Nature Conservation' - Proposals for development in, or likely to affect (directly or indirectly) a site of international importance for nature conservation will be subject to the most rigorous examination. Development not directly connected with or necessary to the management of the site which is likely to have an adverse effect on the site, will not be permitted unless: there is no alternative solution, there are reasons of public health or public safety, or there are benefits of primary importance to the environment.

Where such sites do not host a priority habitat or species, development will not be permitted unless there are imperative reasons of overriding public interest.

Where development is permitted, the use of conditions or planning obligations will be considered in order to avoid and minimise harm to the site, to enhance the site's nature conservation interest, and to secure any compensatory or mitigation measures and appropriate management that may be required.

Policy AREA14 'Sites of National Importance for Nature Conservation' - Proposals for development in, or likely to affect (directly or indirectly) Sites of Special Scientific Interest will be subject to special scrutiny. Where such development is likely to have an adverse effect, it will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site itself and the national policy to safeguard the national network of such sites.

Where the site concerned is a National Nature Reserve, a site identified by the Nature Conservation Review or Geological Conservation Review, particular regard will be paid to the national importance of that site.

Where development is permitted, harm to the nature conservation interest must be minimised. The use of conditions or planning agreements will be considered to ensure the protection and enhancement of the nature conservation interest, and to provide appropriate compensatory or mitigation measures and site management.

Policy AREA15 'Sites of Local Importance for Nature Conservation' - Proposals for development in, or likely to have an adverse effect (directly or indirectly) on a Local Nature Reserve, Site of Nature Conservation Importance (including ancient woodlands or wildlife corridors) or Regionally Important Geological/Geomorphological Site will not be permitted unless it can be demonstrated that reasons for the proposal outweigh the need to safeguard the nature conservation value of the site/feature. Where development is permitted which would damage the nature conservation value of the site/feature, such damage should be kept to a minimum.

Conditions or planning obligations will be used to secure necessary compensatory or mitigation measures, enhancement and site management.

Where appropriate, the Authority will consider the use of legal agreements to provide appropriate compensatory measures, enhancement and site management.

SPECIES SPECIFIC LEGISLATION

This section contains a summary of legislation with relation to the species present or potentially present in the survey area. The reader should refer to the original legislation for definitive interpretation.

Bats

Bats and the places they use for shelter or protection (i.e. roosts) receive European protection under The Conservation of Habitats and Species Regulations 2010, as amended (Habitats Regulations 2010, as amended). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that bats, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2010 (as amended), states that a person commits an offence if they:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats; or
- damage or destroy a bat roost (breeding site or resting place).

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2010 (as amended) for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead bats, part of a bat or anything derived from bats, which has been unlawfully taken from the wild.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to *intentionally* (rather than deliberately) kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to *intentionally or recklessly** damage or destroy, or *obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to *intentionally or recklessly** disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

*Reckless offences were added by the Countryside and Rights of Way (CROW) Act 2000.

As bats re-use the same roosts (breeding site or resting place) after periods of vacancy, legal opinion is that roosts are protected whether or not bats are present.

The following bat species are Species of Principal Importance for Nature Conservation in England:

Barbastelle Bat *Barbastella barbastellus*, Bechstein's Bat *Myotis bechsteinii*, Noctule Bat *Nyctalus noctula*, Soprano Pipistrelle *Pipistrellus pygmaeus*, Brown Long-eared Bat *Plecotus auritus*, Greater Horseshoe Bat *Rhinolophus ferrumequinum* and Lesser Horseshoe Bat *Rhinolophus hipposideros*.

Birds

The Conservation of Habitats and Species Regulations 2010 (as amended) places a duty on public bodies to take measures to preserve, maintain and re-establish habitat for wild birds.

Nesting and nest building birds are protected under the Wildlife and Countryside Act WCA 1981 (as amended).

Subject to the provisions of the act, if any person intentionally:

- kills, injures or takes any wild bird;
- takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- takes or destroys an egg of any wild bird, he shall be guilty of an offence.

Some species (listed in Schedule 1 of the WCA) are protected by special penalties. Subject to the provisions of the act, if any person intentionally or recklessly:

- disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturbs dependent young of such a bird, he shall be guilty of an offence.

Several bird species are Species of Principal Importance for Nature Conservation in England, making them capable of being material considerations in the planning process.

Great crested newt

Great crested newts (GCN) and the places they use for shelter or protection receive European protection under The Conservation of Habitats and Species Regulations 2010, as amended (Habitats Regulations 2010, as amended). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that GCN, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2010 (as amended), states that a person commits an offence if they:

- deliberately capture, injure or kill a GCN;
- deliberately disturb GCN;
- deliberately take or destroy eggs of a GCN; or
- damage or destroy a GCN breeding site or resting place.

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2010 (as amended) for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead GCN, part of a GCN or anything derived from GCN, which has been unlawfully taken from the wild. This legislation applies to all life stages of GCN.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to *intentionally* (rather than deliberately) kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to *intentionally or recklessly** damage or destroy, *or obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to *intentionally or recklessly** disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

*Reckless offences were added by the Countryside and Rights of Way (CROW) Act 2000.

The reader should refer to the original legislation for the definitive interpretation.

Common amphibians

Common frogs, common toad, smooth newt and palmate newt are protected in Britain under Schedule 5 of the Wildlife and Countryside Act (1981, as amended) with respect to sale only. They are also listed under Annex III of the Bern Convention 1979. Any exploitation of wild fauna specified in Appendix III shall be regulated in order to keep the populations out of danger. The convention seeks to prohibit the use of all indiscriminate means of capture and killing and the use of all means capable of causing local disappearance of, or serious disturbance to, populations of a species.

Common toad is listed as a Species of Principal Importance for Nature Conservation in England.

Reptiles

All of the UK's native reptiles are protected by law. The two rarest species – sand lizard (*Lacerta agilis*) and smooth snake (*Coronella austriaca*) – benefit from the greatest protection; however these two species are unlikely to occur on site. Common lizard (*Zootoca vivipara*), slow-worm (*Anguis fragilis*), adder (*Vipera berus*) and grass snake (*Natrix natrix*) are protected under the Wildlife and Countryside Act 1981 as amended from intentional killing or injuring.

In England and Wales, this Act has been amended by the Countryside and Rights of Way Act 2000 (CRoW), which adds an extra offence, makes species offences arrestable, increases the time limits for some prosecutions and increases penalties. The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on Government Departments to have regard for the conservation of biodiversity and maintains lists of species and habitats which are of principal importance for the purposes of conserving biodiversity in England and Wales. All native reptile species are included on these lists.

This is a simplified description of the legislation. In particular, the offences mentioned here may be absolute, intentional, deliberate or reckless. Note that where it is predictable that reptiles are likely to be killed or injured by activities such as site clearance, this could legally constitute intentional killing or injuring.

Water vole

Water voles receive protection under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to:

- Intentionally kill, injure or take (capture) a water vole;
- Possess or control live or dead water voles or any derivatives;
- Intentionally or recklessly* damage, destroy or obstruct access to any structure or place which water voles use for shelter or protection;
- Intentionally or recklessly* disturb water voles whilst occupying a structure or place used for that purpose; or
- Sell, offer for sale or advertise for live or dead water voles.

*Reckless offences were added by the Countryside and Rights of Way (CRoW) Act 2000.

Water voles are listed as Species of Principal Importance on the UK Post-2010 Biodiversity Framework (2012), and as such are capable of becoming material considerations in the planning process.

Badger

Badgers and their setts are protected under the Protection of Badgers Act 1992. The Protection of Badgers Act 1992 is based primarily on the need to protect badgers from baiting and deliberate harm or injury, badgers are not protected for conservation reasons. The following are criminal offences:

- To intentionally or recklessly interfere with a sett. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it.
- To wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so.

A badger sett is defined in the legislation as:

- 'Any structure or place that displays signs indicating current use by a badger'.

'Current use' is not synonymous with current occupation and a sett is defined as such (and thus protected) as long as signs of current usage are present. Therefore, a sett is protected until such a time as the field signs deteriorate to such an extent that they no longer indicate 'current usage'.

Badger sett interference can result from a multitude of operations including excavation and coring, even if there is no direct damage to the sett, such as through the disturbance of badgers whilst occupying the sett. Any intentional or reckless work that results in the interference of badger setts is illegal without a licence from Natural England³⁰. In England a licence must be obtained from Natural England before any interference with a badger sett occurs.

Hedgehog

Hedgehogs receive some protection under Schedule 6 of the Wildlife and Countryside Act 1981 (as amended); this section of the Act lists animals which may not be killed or taken by certain methods, namely traps and nets, poisons, automatic weapons, electrical devices, smokes/gases and various others. Humane trapping for research purposes requires a licence.

Hedgehogs are a Species of Principal Importance for Nature Conservation in England and are thus capable of being material considerations in the planning process.