

Ethos Environmental Planning



Ecological Appraisal

The Lillies, Yapton Road, Barnham

May 2015

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1.0 INTRODUCTION

This ecological appraisal produced by Ethos Environmental Planning (Ethos) relates to land at The Lillies, off Yapton Road, Barnham (grid reference SU963 040) – see figure 1. The total area surveyed was 1.12 hectares and consists of a former caravan park, with several static caravans and buildings remaining and hard standing where caravans were previously located. The remainder of the site is made up of semi-improved grassland surrounded by hedgerows.

1.1 Aims and objectives of the appraisal

The ecological appraisal has been informed by guidelines provided in the ‘*CIEEM Guidelines for Ecological Report Writing, 2015*’. Further guidance in relation to surveys for protected species is detailed in the relevant sections within this report. The survey has the following objectives:

- to identify the existing habitats on site;
- to assess the potential and presence of notable species;
- to establish baseline conditions and determine the importance of ecological features present (or those that could be present) within the specified area;
- to establish any requirements for further surveys or licensing;
- to identify key constraints to the project and make recommendations for design options to avoid significant effects on important ecological features/resources.

1.2 Site location

The site is located at The Lillies, off Yapton Road in the town of Barnham in West Sussex, as shown in figure 1.

Figure 1 Site location



1.3 Development Proposals

The development proposals for the site includes demolition of the built structures and development of the site for residential use.

1.4 Structure of the report

The following is included within this report:

- Legislative and planning context.
- Methodology;
- Background data search;
- Phase 1 habitat survey;
- Assessment for protected species; and
- Conclusions and Recommendations.

2.0 LEGISLATIVE AND POLICY CONTEXT

This section provides a summary of the legislative and planning context which has been used to inform the ecological assessment and subsequent recommendations made in this report. Appendix 1 sets out further details in relation to the most relevant legislation and policy.

2.1 Legislation

The Habitats Directive (together with the Birds Directive) forms the cornerstone of Europe's nature conservation policy. It is built around two pillars: the Natura 2000 network of protected sites and the strict system of species protection. All in all the directive protects over 1,000 animals and plant species and over 200 "habitat types" (e.g. special types of forests, meadows, wetlands, etc.), which are of European importance.

The Wildlife and Countryside Act 1981 (as amended) is a key piece of national legislation which implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and implements the species protection obligations of Council Directive 2009/147/EC (formerly 79/409/EEC) on the Conservation of Wild Birds (EC Birds Directive) in Great Britain.

Badgers and their setts are protected under the **Protection of Badgers Act 1992** as amended by the Hunting Act 2004.

The **Natural Environment and Rural Communities Act 2006** (the NERC act) places a duty on all public authorities, including local planning authorities, to consider biodiversity in their work. Local planning authorities are to ensure that there is no net loss of biodiversity on a site, no net loss in habitat connectivity and aims to enhance biodiversity.

The **Hedgerows Regulations 1997** protect 'important hedgerows' from being removed (uprooted or destroyed). Hedgerows are protected if they are at least 30 years old and meet at least one of the criteria listed in part II of schedule 1.

Specific legislation related to different species such as bats, birds and reptiles is outlined in appendix 1.

2.2 Policy

2.2.1 National Policy

The **National Planning Policy Framework (NPPF)** aims to minimise impacts on biodiversity and provide net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including the establishment of coherent ecological networks more resilient to current and future pressures.

The **UK Biodiversity Action Plan (UK BAP)** sets out a programme for conserving the UK's biodiversity. It led to the production of 436 action plans between 1995 and 1999 to help many of the UK's most threatened species and habitats to recover. A review of the UK BAP priority

list in 2007 led to the identification of 1,150 species and 65 habitats that meet the BAP criteria at UK level.

2.2.1 Local Policy

The **Arun District Local Plan (2003)** includes the following local policy related to Nature Conservation:

POLICY GEN30 PROTECTION OF SPECIES

Development will not be permitted which would adversely affect, directly or indirectly, animal and plant species protected by law. Where development is permitted, the developer will be required to take steps to secure the protection of such animals and plants.

Reason: To protect the District's diversity of flora and fauna.

Explanation: The presence of a protected species is a material consideration when a Local Planning Authority is considering a development proposal. This relates to any species protected by law, e.g. badgers and bats.

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.

Reason: To protect undesignated sites from the harmful effects of development, in order to retain their value as a biodiversity resource.

Explanation: Biodiversity is an important resource, found throughout the District - not just in the countryside or within designated sites. Arun District Council has produced its own Biodiversity Action Plan, describing actions to be taken by many of the Council's departments concerning a range of habitats and species. In addition, the Sussex Biodiversity Action Plan, produced by the Sussex Biodiversity Partnership, sets out targets for specific habitats and species in the counties.

3.0 METHODOLOGY

3.1 Phase 1 habitat survey

The phase 1 habitat survey and mapping has drawn on guidance provided in the *Handbook for Phase 1 Habitat Survey - a technique for environmental audit (JNCC 2010)*. An initial field survey was undertaken on the 11th May by the survey team. The survey incorporated detailed assessment of the land within the development boundary, including a description and mapping of all key features and habitat types. The survey was carried out to identify the range of habitats within the site and, where possible, the predominant and notable species of flora, however as it was early in the survey season it was not possible to make a full species list.

3.2 Background data search

The background data search is drawn from two sources. The first is a previous survey of the site in 2012 (JPC Ecology 2012) and the second is a background data search requested by JPC Ecology in the same year. The data search was carried out by Sussex Biodiversity Record Centre for notable sites and species within a 1km radius of the site. It is considered that these data are still pertinent to this report.

3.3 Personnel

All surveys were led by Jim Phillips, BSc (Hons), MA, MCIEEM, who was assisted by Rachel Godden, BSc (Hons), ACIEEM.

Jim is a Director of Ethos and a qualified and experienced ecologist with over eight year's field work experience and a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM). Rachel is a qualified ecologist with three years' experience of practical field ecology and an associate member of CIEEM.

The survey team have worked together on numerous similar projects and have a complimentary range of skills and experience which are considered to have provided a robust ecological appraisal of the site.

3.4 Limitations

There were no limitation to undertaking the survey.

4.2 Notable Species

Bats: records of long eared bat *Plecotus sp.*, pipistrelle *Pipistrellus sp.*, and serotine *Eptesicus serotinus*.

Mammals: European water vole *Arvicola amphibious*.

Reptiles: grass snake *Natrix*, slow worm *Anguis fragilis*, common lizard *Zootoca vivipara* and adder *Vipera berus*.

Amphibians: great crested newt *Triturus cristatus* 1.49km east of the site

4.3 Previous Survey

4.3.1 Habitats

A phase 1 habitat survey was carried out by JPC Planning in 2012 and the following habitats were identified:

Amenity grass: close mown with low botanical value, and used for camping.

Built structures: static caravans, shower/toilet block and sheds.

Hard-standing: gravel, paving and tarmac.

Hedgerows: species-poor hedgerows with privet, hawthorn, elder and bramble. A few mature trees within the hedgerows including ash, pine and hawthorn.

Scattered trees: immature trees including willow and apple trees across the centre of the site.

It was concluded that the majority of habitats on site were of low ecological value, with the hedgerows being the key feature with ecological and aesthetic value.

4.3.2 Protected species

The survey by JPC Planning in 2012 included a general assessment for protected species and the following conclusions were made:

Bats: the wider landscape (including hedgerows, fields and residential areas) had some potential for bats. The majority of habitats found within the site had limited potential for foraging bats, particularly the hard-standing and short-mown amenity grassland, however the hedgerows at the site boundaries had some potential. An external inspection of the caravans, chalets, toilet block and garage found low potential for roosting bats. An external inspection of the two outbuildings found limited features suitable for roosting bats, such as loose wooden fascia and wooden panels, however an internal inspection found no evidence of bats. Overall, it was concluded that the site had low potential for bats and no further survey was recommended.

Badger: no evidence of badger was found on site and no further survey was recommended.

Reptiles: the site was dominated by habitats with very low potential for reptiles, including hard standing and close mown amenity grass. No further survey was recommended.

Breeding birds: it was concluded that the hedgerows and trees could provide nesting sites for breeding birds, however as these are being retained within the development proposals, it was concluded that the development would not have a negative impact. The amenity grassland and hard-standing had negligible value for breeding birds. It was recommended that no further survey was required, but any site clearance should avoid the bird nesting season (March-August inclusive).

Great crested newt: the habitats on site had negligible potential for this species and no further survey was recommended.

Riparian mammals: the habitats on site had negligible potential for riparian mammals and no further survey was recommended.

4.4 Relevance of the background data search

4.4.1 Notable Sites

The site lies within 1km of an orchard and two small patches of ancient woodland. It was assessed that the habitats found within these notable sites differ greatly from those found within the development site and therefore the proposed development will not have a negative impact.

4.4.2 Notable species

The data search returned few records of protected species within 1km of the site, most notably records of common reptile species and great crested newt. These should be taken into consideration during the preliminary appraisal.

5.0 PHASE 1 HABITAT SURVEY

5.1 General site description

The site is located to the south of Yapton Road in the south of the town of Barnham, West Sussex. The site is a former caravan park which is dominated by hard standing and poor semi-improved grassland and bordered by hedgerows. There are also several built structures, including three static caravans, shower/toilet block and three out-buildings. The wider environment is made up of farmland fields, hedgerows and urban habitats.

5.2 Habitat description

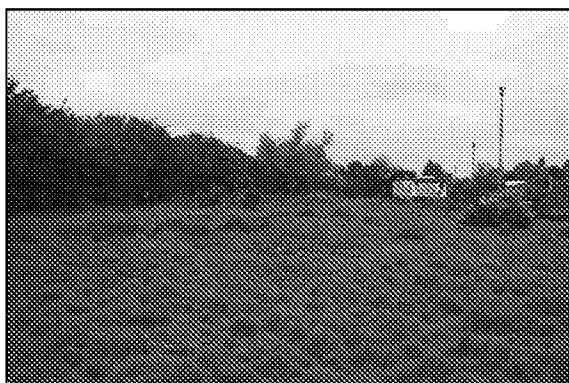
Figure 3 shows the key habitats using the phase 1 habitat classifications. The key features described within this section are:

- Semi-improved grassland
- Hedgerows
- Buildings
- Hard standing
- Dense scrub

Figure 3 Phase 1 habitat map



5.2.1 Semi-improved grassland



Photograph 1



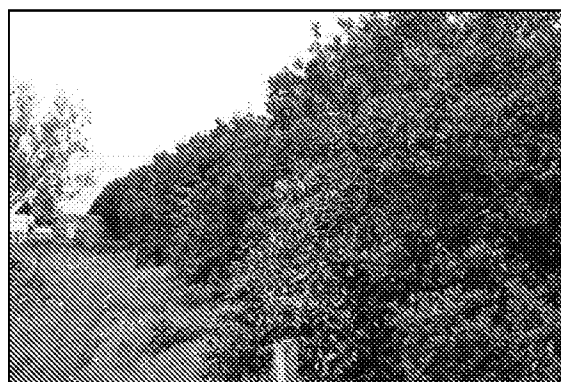
Photograph 2

The largest habitat on site was semi-improved grassland with poor botanical diversity. There was a lot of rubbish and debris scattered across this habitat.

5.2.2 Hedgerows



Photograph 3



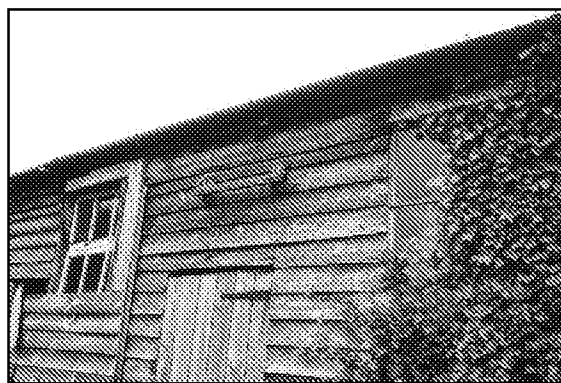
Photograph 4

Hedgerows border the site on all sides. The eastern, western and northern hedgerows had similar structures and species composition and were classified as mature, species-poor. Species found within these hedgerows included hawthorn, elder, privet, willow, apple, bramble, ivy and common nettle. The southern boundary hedgerow (species-poor with trees) had greater aesthetic and ecological value as it contained some mature trees including ash, pine and hawthorn and a dry ditch was located off site to the south of this hedgerow. The hedgerows have some potential for nesting birds.

5.2.3 Buildings



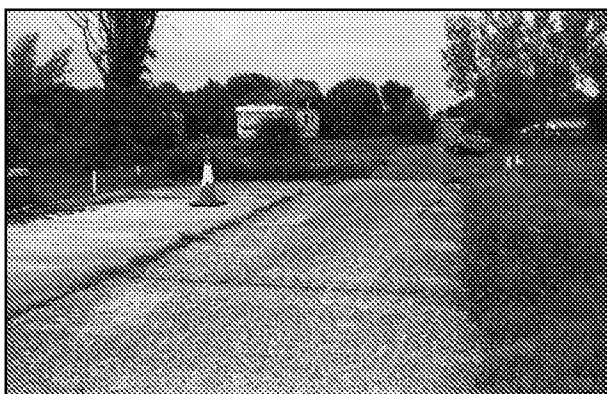
Photograph 5



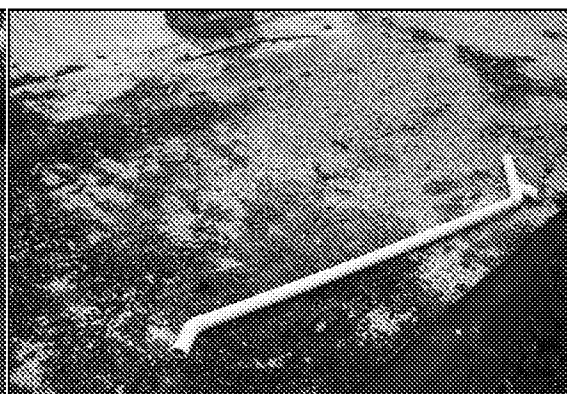
Photograph 6

There are a number of built structures across the site, including static caravans, shower block, and sheds. The site was previously used as a caravan and camping park and since its closure the buildings are not in regular use. A bird nest was found in one of the barns, but no other evidence of protected species was found in any of the buildings. The suitability of the buildings for roosting bats is discussed in more detail in Section 6.

5.2.4 Hard standing



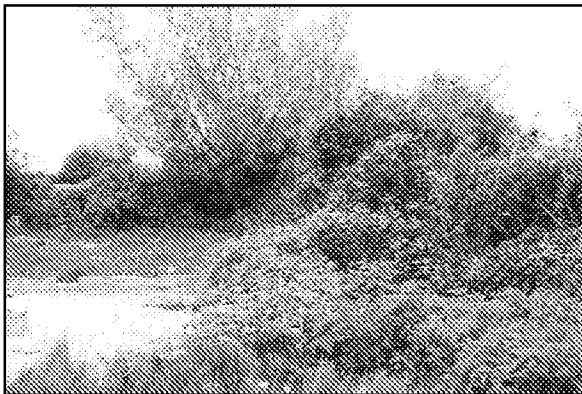
Photograph 7



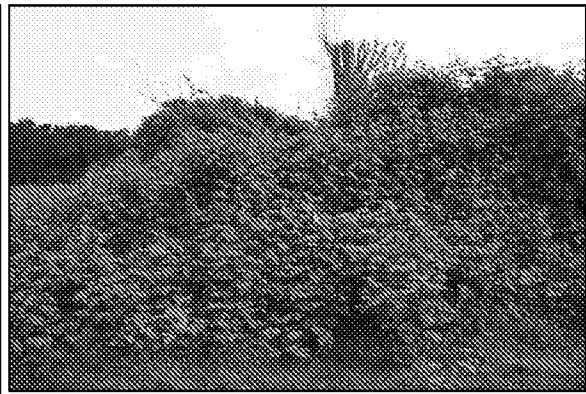
Photograph 8

A large proportion of the site was made up of different types of hard-standing, including paving, concrete and tarmac. There are many rectangular patches of concrete set within the semi-improved grass, and these were previously used as foundations/bases for cabins and caravans which have since been removed. Some grass species had started to colonise in cracks in the concrete, but otherwise there was no vegetation and overall, it was assessed that this habitat has negligible ecological value.

5.2.5 Dense scrub



Photograph 9



Photograph 10

A strip of dense scrub was located in the centre of the site, running from east to west. This habitat was dominated by bramble, with other species including willow *Salix sp.*, common nettle, ivy and buddleia. Although botanically poor, it was assessed that this habitat had some potential for nesting birds.

6.0 GENERAL ASSESSMENT FOR PROTECTED SPECIES

The background data search and phase 1 habitat assessment have been used to inform the initial assessment for protected species outlined in the following sections.

6.1 Methodology

The following section provides details on the methodologies used for assessing protected species during the surveys.

6.1.1 Badger (and other terrestrial mammals)

The survey for badgers included a search of the development site for any evidence of badgers, including setts, foraging signs (snuffle holes), runs and latrines.

6.1.2 Hazel Dormouse

The survey included an assessment of the potential of the site for hazel dormice, focusing on the connectivity of the habitat and the species composition of any hedgerows. At this preliminary stage, no detailed surveys have been undertaken.

6.1.3 Reptiles

The survey included an assessment of the potential of the site for reptiles and the need for further surveys. A large amount of debris and refugia was scattered across the site, and this was lifted during the survey to check for the presence of reptiles. (The weather conditions during the survey were suitable for reptile surveys.)

6.1.4 Amphibians

The habitats on site were assessed for their potential to support amphibian species, including great crested newts (GCN) *Triturus cristatus*. Surveys for GCN were informed by the *Great Crested Newt Conservation Handbook*, Froglife 2001. The site was examined for suitable waterbodies and for breeding terrestrial habitat. Terrestrial habitats providing sufficiently structured vegetation in which amphibians may forage or hibernate over winter were also surveyed for. In addition to the on site assessment, a desktop analysis of ponds within 500 metres of the site was undertaken, to identify any potential breeding ponds which may require further survey. Ponds within 500metres of the site were mapped on GIS with a topographic base map.

6.1.5 Birds

The survey included an assessment of the potential of the site for breeding birds and the need for further surveys.

6.1.6 Bats

The methodology for the bat survey has been informed by the Bat Conservation Trust *Bat Surveys Good Practice Guidelines 2012*. The habitats on site were assessed for their suitability for foraging and commuting bats and the buildings were assessed for their potential for roosting bats. Again, at this preliminary stage, no detailed surveys have been undertaken.

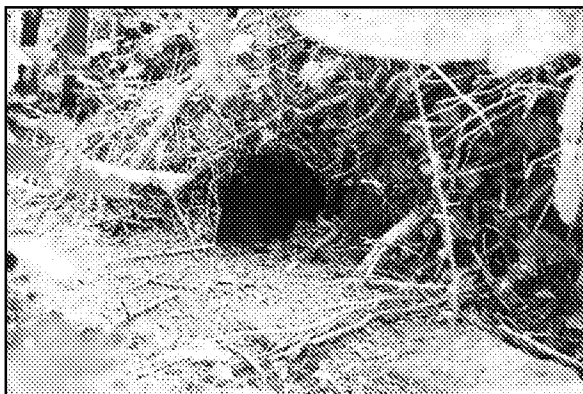
6.1.7 Invertebrates

Due to the many invertebrate groups that exist, the often large differences in invertebrate diversity between habitats and the many survey techniques available, invertebrate surveys are highly specific to the site in question. Therefore, an assessment of the potential site for invertebrates was undertaken, including the need for any targeted surveys.

6.2 Survey Results

6.2.1 Badger

No evidence of badger *Meles* was found during the survey. A faint mammal trail was observed in the semi-improved grassland in the south of the site and a single mammal hole was found in the southern hedgerow. The hole was round in shape and there was no bedding or large spoil heaps around it. A thorough search of the surrounding area was carried out; no other holes were found and no evidence of badger (such as latrines/snuffle holes) was found. There was a strong odour of fox *Vulpes vulpes* across the southern part of the site and it was assessed that the mammal trails and hole was most likely to be made by fox. Overall, it was assessed that the potential for the presence of badger on site is '**low**' and no further surveys are required.



Photograph 11: mammal hole in southern boundary



Photograph 12: faint mammal trail in south of the site

6.2.2 Dormouse

No evidence of hazel dormouse was found during the survey and it was assessed that the hedgerows on site lacked the structure and species composition favoured by this species. There are no records of hazel dormice within 1km of the site and overall it was assessed that there was '**low**' potential for the presence of hazel dormouse on site. No further surveys are required.

6.2.3 Reptiles

Much of the site is made up with hard standing which is unsuitable for reptiles. Previous surveys from 2012 found that the grassland was close mown as amenity grassland and concluded that there was negligible potential for reptiles. Since the caravan park has ceased operations, the grassland has not been managed as intensely, as such, the potential for reptiles has increased marginally. There was a lot of debris scattered around the grassland providing potential refugia for reptiles, however all of these were checked and no reptiles were found. It is assessed that in its current state, there is '**low**' potential for reptiles, however if the site is left unmanaged it will become much more suitable for reptiles. It is recommended that the grassland should be cut regularly and maintained short to prevent it becoming attractive to reptiles. If this is carried out then no further surveys would be required. However, if the site is left unmaintained, then further surveys would be required.



Photograph 13: debris scattered around site



Photograph 14: debris scattered around site

6.2.4 Amphibians

There are no water bodies on site and therefore there is no breeding habitat on site for great crested newts. There is a limited amount of terrestrial habitat on site, including the hedgerows and a rubble heap. There was also a large amount of debris across the site which provides potential refugia for amphibians. During the survey, all of the debris was lifted to check for amphibians and one juvenile common newt was found under a piece of wooden panelling. A desk-top survey found two ponds within 500metres of the site, as shown in figure 4. Pond 2 is located on the edge of the 500m buffer and is separated from the site by a main road. It was assessed that any potential amphibians using Pond 2 are very unlikely to enter the development site and no further surveys of this pond are required. Pond 1 is located 70m east of the site within a Nursery and it was not possible to gain access. The data search only returned one record of great crested newt which was located 1.49km east of the site, from 2002. The land to the west of the site was surveyed for protected species in 2013 and found no evidence of great crested newts. It was assessed that in its current state the site has limited terrestrial habitat for amphibian species, however if left unmanaged then the potential for amphibians will increase. It is recommended that the grassland should be cut regularly and maintained short to prevent it becoming more suitable for amphibians. If this is carried out then no further surveys would be required. However, if the site is left unmaintained, then further surveys would be required.

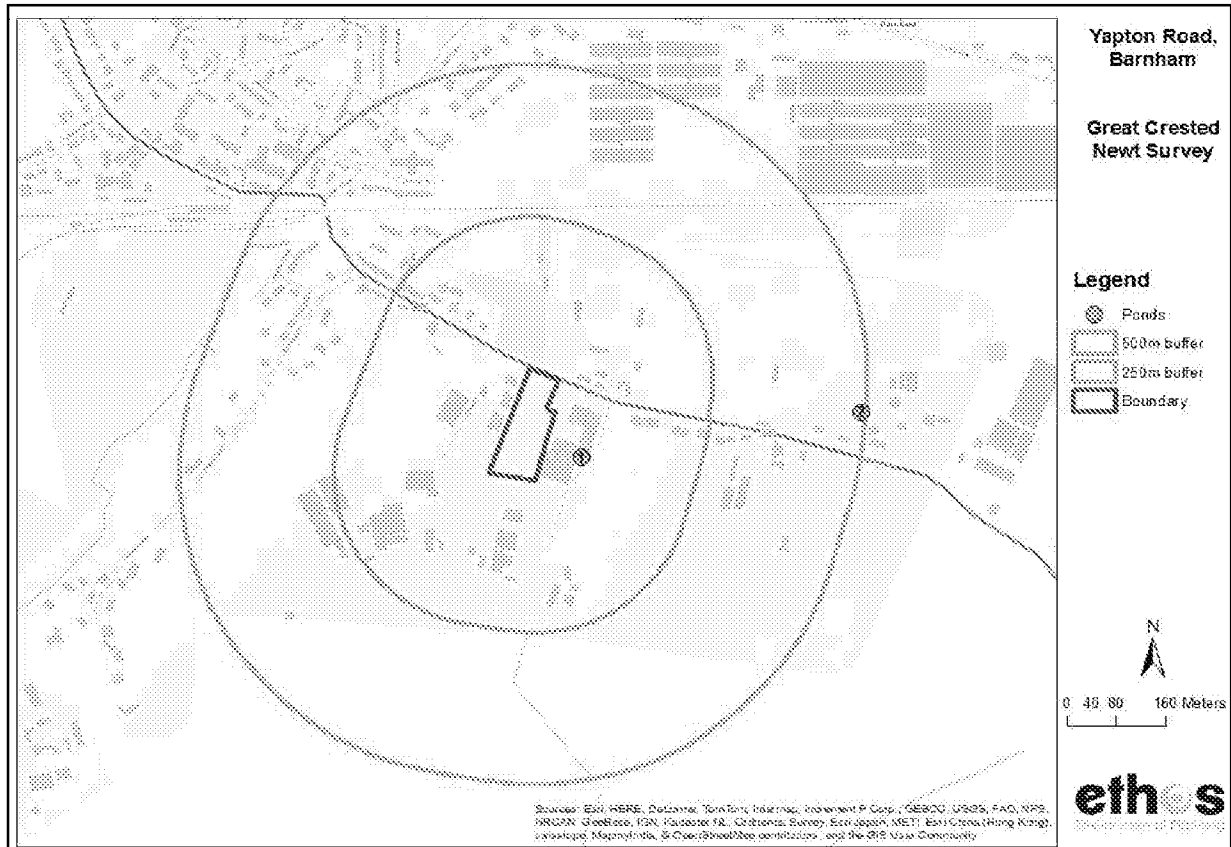


Photograph 15: juvenile common newt



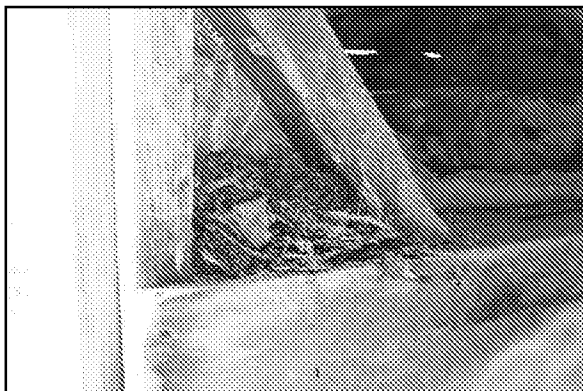
Photograph 16: rubble pile

Figure 4 Ponds within 500metres of the site



6.2.5 Birds

The hedgerows on site provide potential nest sites for a variety of bird species, however as the hedgerows are being retained, it was assessed that no further surveys are required. During the buildings inspection, a bird nest was found within one of the outbuildings and it is recommended that any demolition of buildings should take place outside of the breeding bird season (March-August inclusive) or be subject to a pre-demolition check by a suitably qualified ecologist. Further recommendations to protect and enhance the site for breeding birds are made in Section 7.



Photograph 17: bird nest in outbuilding

6.2.6 Bats

It was assessed that the hedgerows are the key habitats on site for bats as they provide potential foraging and commuting habitat. The semi-improved grassland has some limited potential for foraging bats, but the hard-standing has negligible value. The wider environment is made up of fields, hedgerows and urban habitats including buildings, gardens, roads and a railway line. The data search returned records of three bat species within 1km of the site. Overall, it was assessed that the site had 'low-moderate' potential for foraging bats.

Static caravans

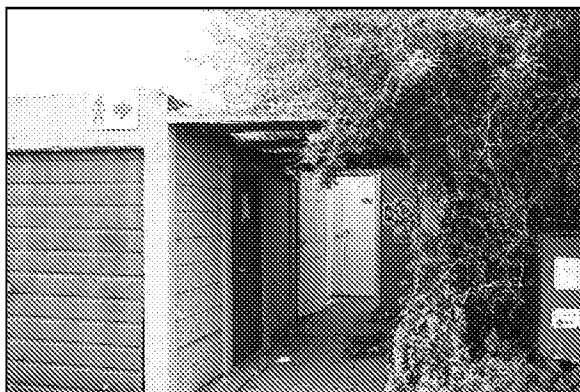
There were four static caravans remaining on site and it was assessed that all had '**negligible**' potential for bats, with no possible entry points and no features suitable for roosting bats.



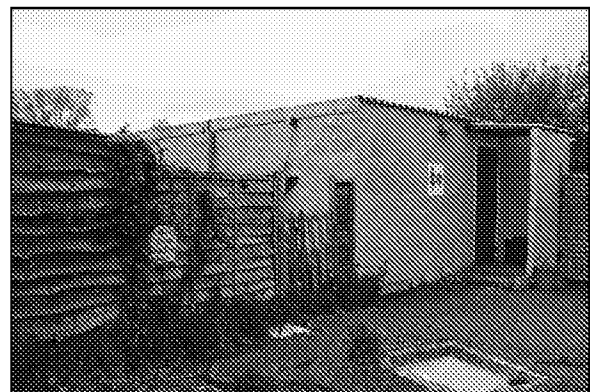
Photograph 18

Toilet/shower Block

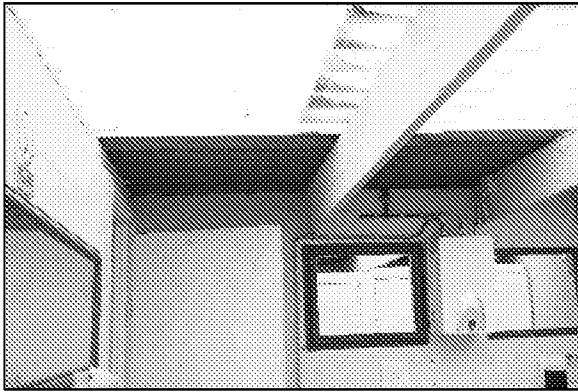
The toilet/shower block was located within the centre of the site, and consisted of a single storey building with breezeblock walls and a clear, corrugated-plastic flat roof. Although there were potential entry points (including through the open doorway) due to the clear roof, there were extremely high light levels within all parts of the building which rendered it unsuitable for roosting bats. No evidence of bats was found within the building and it was assessed that the toilet/shower block had '**negligible**' potential for roosting bats and no further surveys are required.



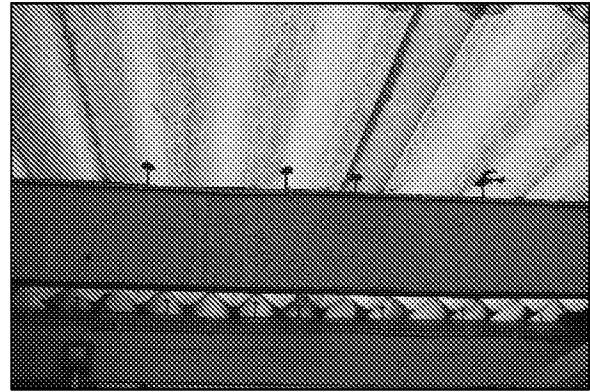
Photograph 19



Photograph 20



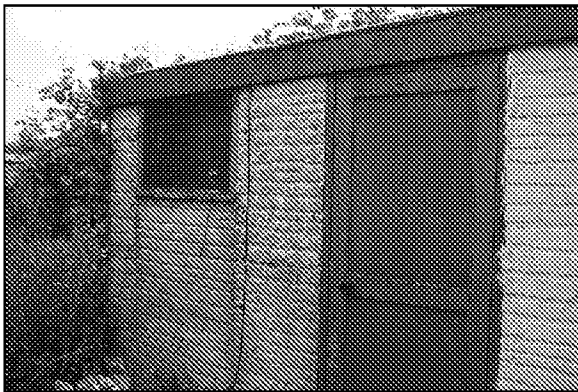
Photograph 21



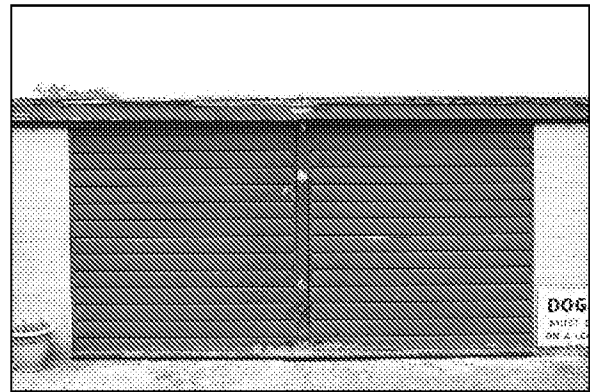
Photograph 22

Outbuildings - garage

The garages was a brick-built, single storey building with a flat roof, wooden soffits and large metal door. The brickwork was in good condition with no gaps or potential entry points, and although the wooden soffits were in poorer condition, there were also no gaps. Overall, it was assessed that the garages have ‘negligible’ potential for roosting bats and no further surveys are required.



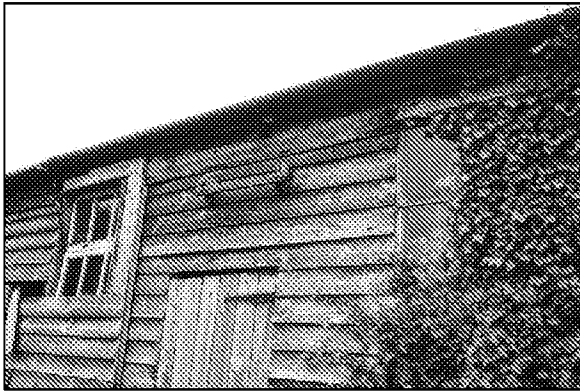
Photograph 23



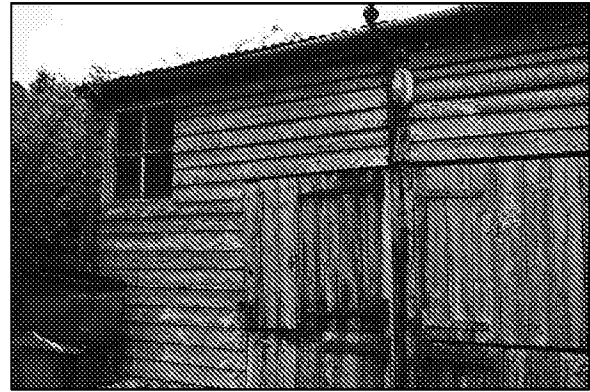
Photograph 24

Outbuildings – shed

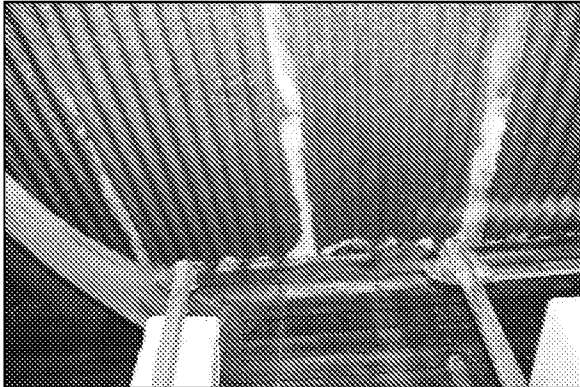
This was a single storey building with the design of a stable, but currently being used as a storage shed. The walls were made of wooden panels and were in average condition, with some gaps. The doors did not close properly and were fitted poorly, with gaps and potential access points. There was a mono-pitched/skillion roof made of corrugated metal and in some areas there were wooden panels laid beneath the corrugated metal. One of these wooden panels had lifted away from the corrugated metal (as shown in photo 28) and this had some potential for crevice-dwelling bats. The southern end of the shed had a covering of ivy over the roof and walls. A thorough search of the interior of the shed found no evidence of bats. The roof and walls of the shed were heavily cobwebbed, indicating that bats had not been flying around in the shed recently. Overall, it was assessed that the shed had ‘low’ potential for bats. Due to the lack of evidence of bats and heavily cobwebbing it is assessed that further survey is not required, however a precautionary approach (detailed in section 7) should be used when demolishing the building.



Photograph 25



Photograph 26



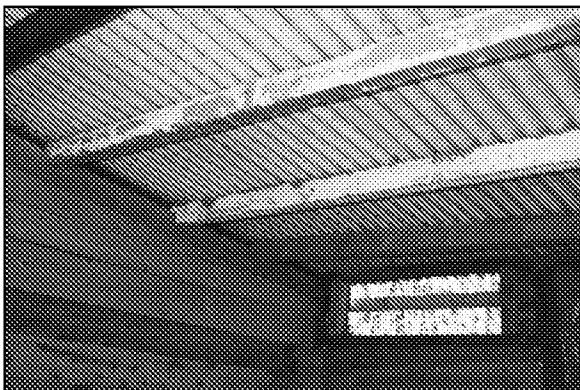
Photograph 27



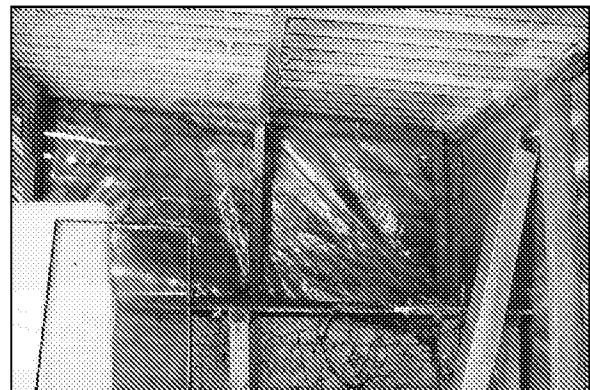
Photograph 28

Outbuildings – storage shed

This was a single storey building currently in use as a store. The walls were composed of wooden panels which were in good condition. Several windows were located around the building, resulting in moderate light levels. There was a gently sloping pitched roof made of corrugated asbestos with wooden rafters and a wooden ridge pole. The western end of the building had a layer of clear plastic sheeting covering it and preventing access. A thorough search of the interior of the building found no evidence of bats, and overall it was assessed that the building had 'low' potential for roosting bats. No further surveys are required, however a precautionary approach (detailed in section 7) should be used when demolishing the building.



Photograph 29



Photograph 30



Photograph 31



Photograph 32

6.2.7 Invertebrates

It was assessed that the semi-improved grassland has some limited potential for invertebrate species but the hedgerows are the key habitat. As the hedgerows are being retained within the development proposals no further surveys are required, however recommendations should be put in place to enhance the site for invertebrates.

6.2.8 Hedgehog

It was assessed that there is some potential foraging habitat for hedgehogs on site, particularly the semi-improved grassland and hedgerows, and the hedgerows provide potential nesting sites. No evidence of hedgehog was found on site and the data search did not return any records of this species. The development proposals include the retention of the hedgerows, which are likely to be the key habitat feature for this species. Overall, it was assessed that the site has '**moderate**' potential for the presence of hedgehogs and although no further surveys are required, recommendations should be put in place to enhance the site for this species.

7.0 SUMMARY AND RECOMMENDATIONS

7.1 Habitats

The habitats recorded on site were assessed as being of ‘**low-moderate**’ conservation value. The hedgerows were assessed as being the most important ecological feature, and as these are being retained within the development proposals the impact of the development is considered to be low. The majority of the site is made up of semi-improved grassland with low value for biodiversity and hard standing which has negligible value. It is, therefore, possible that development of the site may increase the ecological value. It is recommended that a buffer is retained between the hedgerows and any proposed development.

7.2 Protected species

The following recommendations are made to protect and enhance the site for wildlife:

- **Birds:** Demolition of any built structures and vegetation clearance should take place outside of the bird nesting season, but if this is not possible, a pre-demolition/pre-clearance inspection for breeding birds should be undertaken by a suitably qualified contractor. It is recommended that a two clusters of three bird boxes suitable for house sparrow are installed onto the new buildings and two nest boxes suitable for blue tit should be installed into mature trees in the hedgerows.
- **Bats:** Although no evidence of bats was found and the buildings were assessed to have low-negligible potential for bats, a precautionary approach is recommended. Demolition of the buildings must take place during the bat inactive season (October – April inclusive). Prior to demolition the buildings must be inspected by a licensed bat worker and if no bats are found, a soft strip of the buildings should be carried out and supervised by the bat worker. It is recommended that three bat boxes are installed on the new dwellings and nectar-rich plants are included in any proposed planting to increase the potential for bat prey items on site.
- **Badger:** no evidence of badgers (sett, snuffle holes and mammal trails) was identified. No further surveys are required.
- **Great crested newts:** limited suitable terrestrial habitat on site for amphibians and one juvenile common newt found during the survey. No further surveys are required, however it is recommended that the grassland should be maintained short to prevent the site becoming more suitable for amphibian species. If the site is left to become overgrown, then it will become much more suitable, and in this instance further surveys would be required.
- **Reptiles:** limited suitable habitat on site for reptiles and no evidence of reptiles during the survey. No further surveys are required, however it is recommended that the grassland should be maintained short to prevent the site becoming more suitable for reptile species. If the site is left to become overgrown, then it will become much more suitable for reptiles, and in this instance further surveys would be required.

- **Hazel dormice:** no suitable habitat on site and no evidence of this species. No further surveys are required.
- **Hedgehog:** No evidence of hedgehog on site and no further surveys required. It is recommended that any development includes the use of permeable barriers to allow free movement between gardens for foraging hedgehogs.
- **Invertebrates:** some suitable habitat on site but no further surveys required. It is recommended that any new planting should include the use of native species and lawns be sewn with a nectar-rich mix such as Emorsgate Seeds EL1 Flowering Lawn Mixture which will enhance the site for a range of pollinators.

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APPENDIX 1 LEGISLATION AND POLICY DETAILS

A1.1 Legislation - Species

This section outlines the key legislation related to the habitats and species considered within this survey report.

Bats

All British bats are protected under Section 9 Schedule 5 of the Wildlife and Countryside Act 1981 and amendments. In addition, they are protected under the Berne Convention, they are given migratory species protection within the Bonn Convention Agreement, and are protected under Schedule 2 of the EC Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (Habitats Directive).

Regulation 41 of The Conservation of Habitats and Species Regulation 2010 makes it an offence to deliberately capture or kill bats, to deliberately disturb a bat, damage or destroy a breeding site or resting site of any bat. It is an offence to disturb any bat roosting site. Presence of bats does not necessarily mean that development cannot go ahead, but that with suitable, approved mitigation, exemptions can be granted from the protection afforded to bats under regulation 41 by means of a licence. Natural England (NE) is the appropriate authority for determining licence applications for works associated with developments affecting bats, including demolition of their roost sites. In cases where licences are required, certain conditions have to be met to satisfy Natural England. Before the Statutory Nature Conservation Organisation (SNCO), in this case NE, can issue a licence to permit otherwise prohibited acts three tests have to be satisfied. These are:

1. Regulation 53(2)(e) states that licenses may be granted by SNCO to *‘preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.*
2. Regulation 42(10)(a) states that a license may not be granted unless SNCO is satisfied *‘that there is no satisfactory alternative’.*
3. Regulation 42(10)(b) states that a license cannot be issued unless SNCO is satisfied that the action proposed *‘will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range’.*

In order to meet the tests, SNCO usually expects the planning position to be fully resolved as this is necessary to satisfy tests 1 and 2. Full planning permission, if applicable, will need to have been granted and any conditions relating to bats fully discharged. For test 3, the licensing body seek advice from Natural England. As well as consulting with Natural England, the licensing body may also seek information from the local authority before they will determine

any licence application. The licence application process may take two months before a licence is issued.

Reptiles

All reptile species in Great Britain receive some legal protection from legislation in the Wildlife and Countryside Act 1981. More recently, further protection was afforded in Great Britain to species listed in the Habitat Regulations 1994. Both the Wildlife and Countryside Act 1981 and Habitat Regulations 1994 provide mechanisms to protect species, their habitats and sites occupied by the species. Native reptile species fit into two bands of protection:

European protected species receive all elements of protection in Section 9 of the Wildlife and Countryside Act 1981 and the Habitat Regulations 1994. Native species that receive this protection are:

- Sand lizards (*Lacerta agilis*)
- Smooth snakes (*Coronella austriaca*)

This legislation prohibits the following on any of the above species:

- Deliberately or intentionally killing and capturing (taking) or intentional injuring.
- Deliberately disturbing
- Deliberately taking or destroying eggs
- Damaging or destroying a breeding site or resting place or intentionally damaging a place used for shelter or protection.
- Intentionally obstructing access to a place used for shelter; and keeping, transporting, selling or exchanging; offering for sale or advertising.

Species that receive protection against intentional killing, injuring and sale only:

- Slow-worm (*Anguis fragilis*)
- Common lizard (*Lacerta vivipara*)
- Adder (*Vipera berus*)
- Grass snake (*Naatrix natrix*)

Both the Wildlife and Countryside Act 1981 and the Habitat Regulations 1994 apply to all life stages of the protected species: eggs and spawn, larvae, juveniles and adults are all protected.

Badgers

The Protection of Badgers Act 1992 is based primarily on the need to protect badgers from baiting and deliberate harm or injury. It also contains restrictions that apply more widely and it is important for developers to know how this may affect their work. All the following are criminal offences:

- to willfully kill, injure, take, possess or cruelly ill-treat a badger;
- to attempt to do so; or

- to intentionally or recklessly interfere with a sett.

Sett interference includes damaging or destroying a sett, obstructing access to a sett, and disturbing a badger whilst it is occupying a sett. It is not illegal, and therefore a licence is not required, to carry out disturbing activities in the vicinity of a sett if no badger is disturbed and the sett is not damaged or obstructed.

Development should not be permitted unless it is possible to take steps to ensure the survival of the badgers in their existing range and at the same population status, with provision of adequate alternative habitats if setts and foraging areas are destroyed. Natural England will normally only issue a licence after detailed planning permission has been granted, where applicable, so that there is no conflict with the planning process.

Before the planning application is determined, the local planning authority should request a detailed ecological survey/report and developers should be prepared to provide the following information:

- The numbers and status of badger setts and foraging areas that are affected by the proposal;
- the impact that the proposal is likely to have on badgers and what can be done by way of mitigation;
- judgment on whether the impact is necessary or acceptable; and
- a recommendation on whether a licence will be required.

Planning Permission and badger licensing are separate legal functions. Thus receiving planning permission from the Local Authority is no guarantee that development operations will not breach the Protection of Badgers Act 1992. Similarly planning permission does not guarantee that a badger licence will be granted.

Birds

All wild birds are protected under the Wildlife and Countryside Act 1981 (as amended) and cannot be killed or taken, their nests and eggs taken, damaged or destroyed, it also prohibits or controls certain methods of killing or taking except under licence. Other activities that are prohibited include possession and sale. Activities such as killing or taking birds (including relocating) which would otherwise be illegal can be carried out under licence where there is suitable justification and the issue cannot be resolved by alternative means.

Specially protected or Schedule 1 birds receive full protection under the Wildlife and Countryside Act 1981 (as amended). Part I birds are protected at all times, Part II during the close season only. In addition to the protection from killing or taking that all birds, their nests and eggs have under the Act, Schedule 1 birds and their young must not be disturbed at the nest.

Hazel Dormouse

They are protected under both the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Dormice and their breeding sites and

resting places are fully protected. Without a licence it is an offence for anyone to deliberately disturb, capture, injure or kill them. It is also an offence to damage or destroy their breeding or resting places, to disturb or obstruct access to any place used by them for shelter. It is also an offence to possess, or sell a wild dormouse.

Great Crested Newts

Great crested newts are fully protected under UK and European legislation:

- Bern Convention 1979: Appendix III
- Wildlife & Countryside Act (as Amended) 1981: Schedule 5
- EC Habitats Directive 1992: Annex II and IV
- Conservation (Natural Habitats etc.) Regulations 1994: Schedule 2
- Countryside Rights of Way Act 2000 (CRoW 2000)

Because great crested newts are listed on Schedule 5 of the Wildlife & Countryside Act 1981, Section 9(1) of the Act makes it an offence to intentionally kill, injure or take great crested newts. Section 9(2) makes it an offence to possess or control a live or dead great crested newt or any part or thing derived from them. Section 9(4) makes it an offence to intentionally damage, destroy, obstruct access to, any structure or place which great crested newts use for shelter or protection. It is also an offence to intentionally disturb them while occupying a structure or place which it uses for that purpose. Section 9(5) makes it an offence to sell, offer or expose for sale, or possess or transport for the purpose of sale, any live or dead great crested newt or any part or thing derived from them. It is also an offence to publish or cause to be published any advertisement likely to be understood as conveying that great crested newts, or parts or derived things of them are bought, sold or are intended to be. Section 9 applies to all stages in their life cycle.

Their inclusion on Schedule 2 of the Conservation Regulations 1994 affords great crested newts extra protection by also making it an offence under Regulation 39(1) to deliberately capture, kill or disturb great crested newts or to deliberately take or destroy their eggs, or damage or destroy a breeding site or resting place. Regulation 39(2) makes it an offence to keep, or transport, or exchange great crested newts or any part or thing derived from them. Paragraphs 39(1) and 39(2) apply to all stages of their life cycle.

A1.2 Policy considerations

This section considers key policies that are relevant to ecology and development of the site.

National Planning Policy

NPPF policy 109: Conserving and enhancing the natural environment

The planning system should contribute to and enhance the natural and local environment by:

- *protecting and enhancing valued landscapes, geological conservation interests and soils;*
- *recognising the wider benefits of ecosystem services;*

- *minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- *preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and*
- *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*