

Ecological Mitigation and Enhancement Plan

Land Adjacent to Church Barn Farm, Horsemere Lane, Clymping, West Sussex, BN17 5QX.

Linda Rudd

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Guidelines

This assessment has been designed to meet:

- British Standard 42020 (2013) 'Biodiversity – Code of Practice for Planning and Development'.

Proportionality

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

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

The desk studies and field surveys undertaken to provide a preliminary ecological appraisal (PEA) might in some cases be all that is necessary.

(BS 42020, 2013)

In consequence of the scale and intensity of the proposed development, this plan-led report is considered adequate and proportionate. It communicates all relevant information necessary to determine a planning application or support the recommendations for further surveys.

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1.0 Introduction and Context

1.1 Background

Arbtech Consulting Ltd was commissioned by Linda Rudd to produce an Ecological Mitigation and Enhancement Plan (EMEP) for the proposed development at Land Adjacent to Church Barn Farm, Horsemere Green Lane, Clymping, West Sussex, BN17 5QX (hereafter referred to as the site).

The site has not been subject to historic ecological assessment by Arbtech Consulting Ltd. or any other consultancy, to the knowledge of the author.

1.2 Project Description

Proposals for the site comprise the conversion of a grass paddock into a site for the storage of caravans. Proposals aim to provide a maximum of 46 caravan storage spaces, to include a space with disabled accessibility, along with four parking spaces for owners to use when tending to their caravans. A proposed development plan is provided in **Figure 1** below.

1.3 Site Location

The site is located at National Grid Reference TQ 00201 02447 and comprises an area of approximately 0.32ha. The site comprises a paddock dominated by heavily managed grassland and a bare ground track providing access from Horsemere Green Lane. The location of the site is shown in **Figure 2** below.

1.4 Scope of this Report

Current legislation in addition to national and local planning policy (See **Appendix 2**) detail requirements to ensure a net gain in biodiversity is achieved as a result of development. This report therefore aims to provide an ecological mitigation and enhancement plan showing ecological enhancement opportunities for the site as to demonstrate a net gain in biodiversity as a result of the proposed development.

Furthermore, the Arun District Council Ecology Officer has reviewed and commented on the proposed plans. It has been agreed that due to the low ecological value of the site, an Extended Phase 1 Habitat Survey would be disproportionate. However, the Ecology Officer has requested that ecological mitigation and enhancement is undertaken for the site to ensure a net gain in biodiversity is demonstrated as a result of the proposed development. Specifically, the Ecology Officer is seeking mitigation and enhancement of benefit to bats, reptiles, nesting birds, and hedgehogs potentially present within the wider landscape.

As above, the scope of this report is to provide a mitigation and enhancement plan to demonstrate a net gain in biodiversity at the site as to comply with current wildlife legislation and planning policy and to fulfil requirements stipulated through comments by the Arun District Council Ecology Officer. The report aims to provide site specific and proportionate mitigation and enhancement recommendations to improve the intrinsic biodiversity value of the site within the framework of the proposed development.

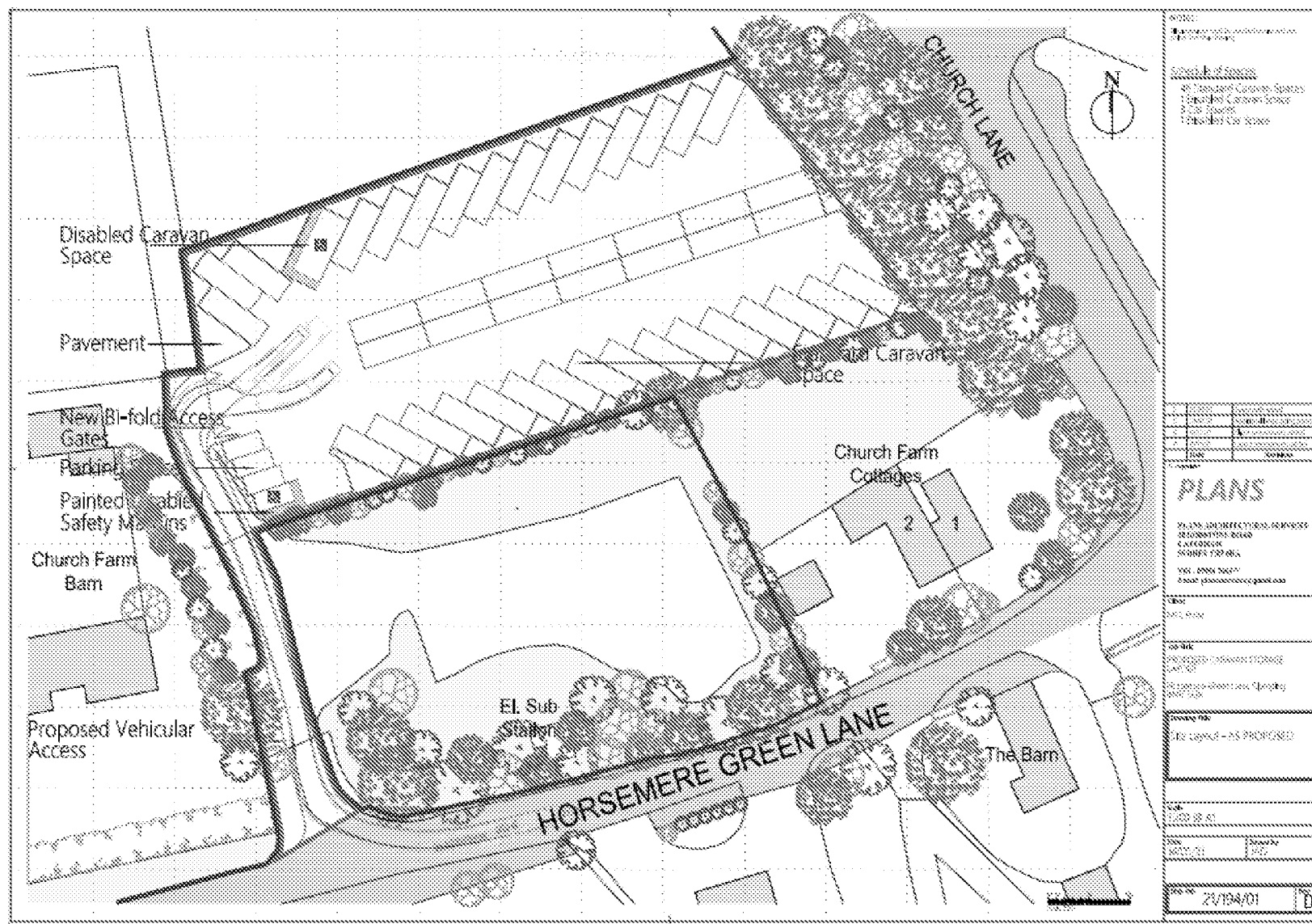




Figure 2: The location of the site in the context of the wider environment.

2.0 Ecological Baseline Conditions

Requirements for an Extended Phase 1 Habitat Survey were determined to be disproportionate. As a result, the ecological baseline conditions of the site have been determined through a desk study. The desk study included a 1km radius review of statutory designated sites and notable/ priority habitats on the Magic.gov.uk database. An assessment of the surrounding landscape structure was also completed using aerial images from Google Earth and OS maps. Furthermore, a review of the design and access statement pertaining to the proposed development (NJA Town Planning Ltd, 2021) which includes site photographs was undertaken.

2.1 Designated Sites

A review of the Magic.gov.uk database indicates that the site is not subject to any statutory designations. Furthermore, no statutory designated sites are located within 1km of the site.

2.2 Wider Landscape

A review of aerial photographs, the magic.gov.uk database and OS maps has been undertaken. Collated, habitats of potential high value within the wider landscape are described below:

The site is located within a rural area of West Sussex to the west of Littlehampton. The landscape within 1km of the site is dominated by open agricultural land, an industrial estate, and residential dwellings and their associated gardens within the village of Climping. As such, the landscape within 1km of the site is likely to contain a limited coverage of habitats of high ecological value. However, the landscape within 1km does contain small and isolated pockets of priority habitat including deciduous woodland and floodplain grazing marsh. Furthermore, agricultural boundary features including hedgerows and unmanaged field margins are likely to be of ecological value. Although these habitats are likely to be connected to the site for highly mobile protected and/or notable species groups such as bats, birds and badgers via continuous vegetated habitats such as hedgerows and field margins, connectivity to on-site habitats for less mobile protected and/or notable species groups such as reptiles and amphibians is likely to be limited due to separation by suboptimal habitat limiting dispersal including managed agricultural land and urban infrastructure including tarmac roads, buildings and an industrial estate.

2.3 The Site

A review of aerial photographs and the design and access statement which includes photographs of the site indicates that the site is characterised by a heavily managed grassland paddock. Notably, the grassland is maintained to a short sward length of approximately 10mm and presents a limited and homogenous habitat structure. Given this, the grassland is likely to comprise a highly limited species diversity and is likely to be of limited ecological value. It is noted that mature vegetation including trees encloses the site on the east and south boundaries. This vegetation is likely to provide some ecological opportunities, albeit limited in extent. The general character of the site is shown on the photographs in **Figure 3**.



Figure 3: Photographs showing the general character of the site. Note the dominance of heavily managed grassland likely to be of limited ecological value. Photographs taken from the Design and Access Statement (NJA Town Panning Ltd, 2021).

3.0 Ecological Mitigation and Enhancement

Recommended ecological mitigation and enhancement of the site are detailed in **Table 1** below. The mitigation and enhancement prescriptions include site-specific prescriptions as to provide suitable and achievable gains in biodiversity as a result of the proposed development. Recommended enhancements are illustrated on the Ecological Enhancement Plan in **Appendix 1**.

Table 1: Mitigation and Enhancement Recommendations

Mitigation and Enhancement Prescriptions	Specification
Mitigation - Reptiles	The site currently appears unsuitable to support reptiles. This is due to the homogenous grassland structure and resulting likelihood of limited species diversity. As a result, the grassland is suboptimal to support reptiles due to exposure to predation and a lack of foraging and refuge opportunities. However, the site is enclosed by mature vegetation to the south and west which is connected to continuous roadside vegetation; the presence of reptiles within this vegetation is possible. As such, it is recommended that the grassland dominating the site is retained at the current short sward length of approximately 10mm at all times prior to development works to ensure the site remains suboptimal for reptiles to prevent potential colonisation from the wider landscape.
Mitigation – Nesting birds	The grassland dominating the site does not provide any nesting opportunities for birds. However, mature vegetation enclosing the south and west boundaries contains trees which are likely to provide nesting opportunities for common species of breeding birds. In line with current development proposals, the development area is restricted to areas of grassland only and as such no impacts to nesting birds are anticipated. However, should the proposals change and any peripheral mature vegetation subsequently require removal, there is potential for active bird nests to be destroyed. As such, should any mature vegetation including trees require removal to facilitate the development, works should be undertaken outside the core nesting period for breeding birds between 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the trees by a suitably qualified ecologist for active nests should be undertaken immediately prior to the commencement of works. Any active nests assessed to be impacted will need to be retained until the young have fledged.
Mitigation - Wildlife sensitive lighting strategy	Any proposed external lighting will be installed in accordance with current guidance issued by the Bat Conservation Trust and Institute of Lighting Professionals: <i>Guidance Note 08/18: Bats and Artificial lighting in the UK</i> (BCT & ILP 2018). The below strategy utilises light prescriptions detailed within this guidance to limit impacts of artificial lighting on bats and other light sensitive species potentially utilising retained habitats on and directly adjacent to the site including badgers and hedgehogs. In particular, the lighting strategy seeks to influence the lighting design so that impacts can be avoided to key habitats of value including: • The bird, bat and hedgehog enhancements; and • Retained trees and shrubs adjacent to the site. The following lighting design prescriptions are considered suitable for the type and scale of the Development to minimise the impacts of artificial lighting on site or within the public realm on bats and other light sensitive species. Lighting design prescriptions recommended for the Site comprise: • Reducing the operating time of any installed public realm lighting and levels of illuminance provided via:

	Part-night operation – turning off lights between certain hours e.g. midnight and 06:00. • Avoiding light spill via: The use of directional lighting by using luminaires with rear shields and an upwards lighting ratio of zero; and Consideration to the height and spacing between lighting columns where practicable. Examples include stud LED or footpath lighting¹. • Light type: Use of lamps that minimise UV emissions or use UV filters to reduce the attractiveness of the lamp to invertebrates; Use high-pressure sodium or LED lamps, ideally warm white as this has a low relative attractiveness of invertebrates² Installing lighting systems that deliver no greater than a 3lux average illuminance, with a maximum horizontal illuminance of 0.6 uniformity (subject to appropriate maintenance factors).
Enhancements - hedgehogs	Habitats located on and directly adjacent to the site are likely to provide foraging, commuting and hibernation opportunities for hedgehogs. As such, connectivity between the site and adjacent habitats will be enhanced as a result of the proposed development for commuting hedgehogs. All newly installed fencing must provide gaps for hedgehogs to move freely between habitats on site and adjacent areas. Gaps measuring a minimum of 13cm x 13cm every 10m should be included as to ensure hedgehogs can travel freely between the site and adjacent habitats. Guidance on the construction of suitable hedgehog holes in fencing can be found here: https://www.wildlifetrusts.org/actions/how-create-hedgehog-hole Furthermore, a single hedgehog house will be installed on site adjacent to the peripheral mature vegetation. The recommended location of the hedgehog house is shown on the plan in Appendix 1. A hedgehog house suitable for the site can be found here: https://www.nhbs.com/hedgehog-house
Enhancement - birds	Two bird boxes are recommended to be installed on site upon mature trees located adjacent to the south site boundary. The recommended locations are shown on the plan in Appendix 1. <i>Habitat Boxes:</i> • The recommended bird boxes will be constructed of woodcrete/woodstone. Boxes of this construction are known to have minimal maintenance and a lifespan of 25 years plus. • 2x Woodstone Nest Box – with 28mm entrance holes on the new building to attract tree sparrows <i>Passer montanus</i>, blue tits <i>Cyanistes caeruleus</i>, coal tits <i>Periparus ater</i>, great tits <i>Parus major</i> and crested tits <i>Lophophanes cristatus</i> are proposed, as shown in Figure 4. • Bird boxes should be positioned approximately 3m above ground level where they will be sheltered from prevailing wind, rain and strong sunlight.

¹ Stone, E.L. (2013) Bats and lighting: Overview of current evidence and mitigation

² Eisenbels, G. (2006) Artificial night lighting and insects: attraction of insects to streetlamps in a rural setting in Germany. In *Ecological consequences of artificial night lighting* (eds Fitch, C. & Longcore, T.), pp. 281-304. Island Press, Washington.



Figure 4: Woodstone Nest Box (image credit arkwildlife.co.uk)

Enhancements - Bats

Two bat boxes are recommended to be installed on site upon mature trees located adjacent to the south site boundary. The recommended locations are shown on the plan in **Appendix 1**.

Habitat Boxes:

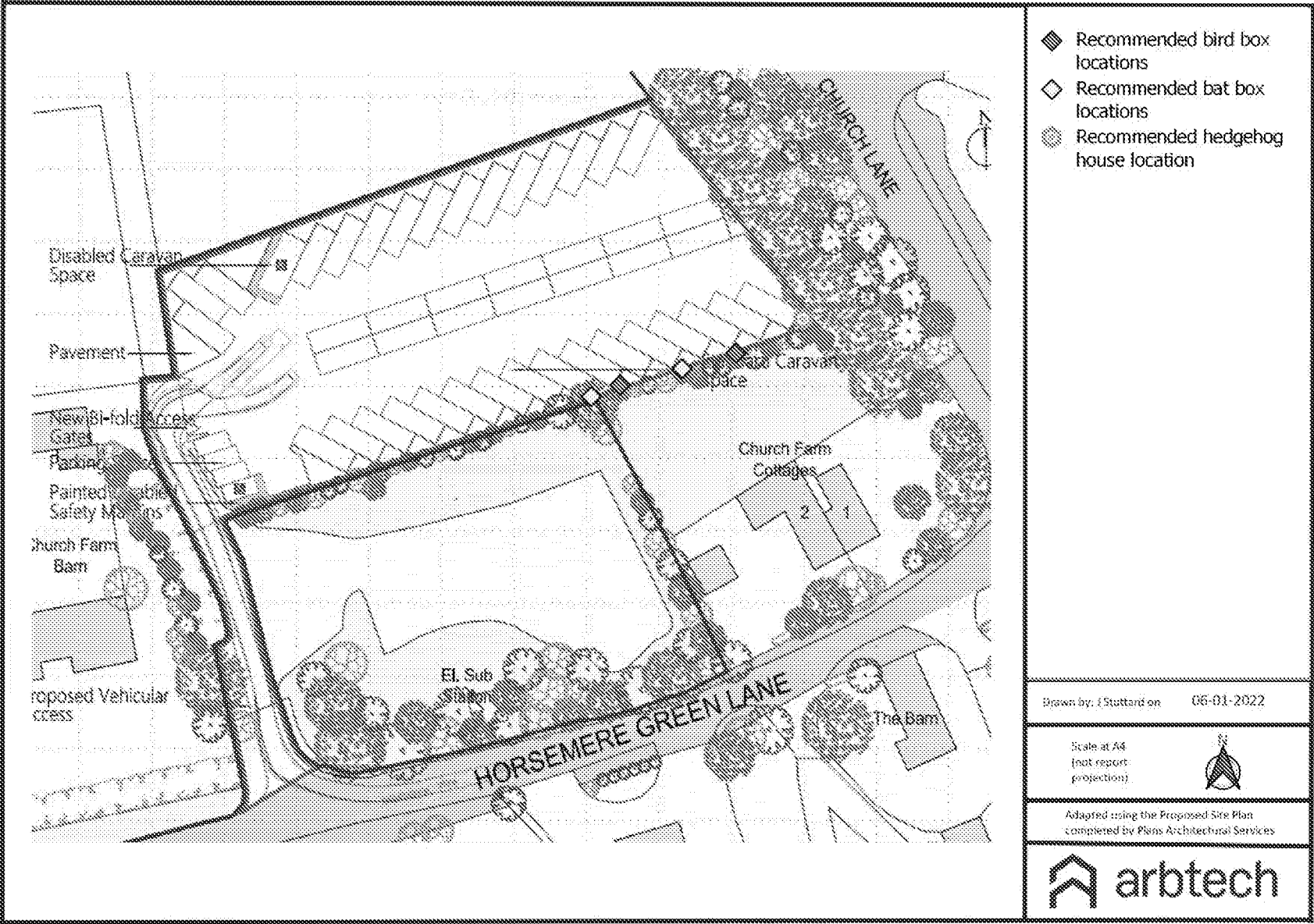
- The recommended bat boxes will be constructed of woodcrete/woodstone. Boxes of this construction are known to have minimal maintenance and a lifespan of 25 years plus
- 2x Vivara Pro Woodstone Bat Boxes are recommended, as shown in **Figure 5**. This bat box type is suitable to support a range of species including common pipistrelles *Pipistrellus pipistrellus* and soprano pipistrelles *Pipistrellus pygmaeus* which are likely to be present in the local area.

	• Bat boxes should be positioned 3-5m above ground level facing in a south or south-westerly direction with a clear flight path to and from the entrance, away from artificial light.  Figure 5: Vivara Pro Woodstone Bat Box (image credit arkwildlife.co.uk)
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Appendix 1: Ecological Enhancement Plan



Appendix 2: Legislation and Planning Policy

LEGAL PROTECTION

The ***Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019*** came into force when Britain left the European Union on 31st January 2020. It covered amendments relevant to this survey to:

Wildlife and Countryside Act 1981: England and Wales (x1 amendment)

Conservation of Habitats and Species Regulations 2017 (x29 amendments)

National and European Legislation Afforded to Habitats

International Statutory Designations

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

Under the Habitats Directive Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe. Over 1,000 animal and plant species, as well as 200 habitat types, listed in the directive's annexes are protected in various ways:

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

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

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

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

SACs and SPAs up to 12 nautical miles from the coast (i.e. 'territorial waters') are afforded protection in the UK under the Conservation of Habitats and Species Regulations 2017 which consolidate all amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994.

The Conservation of Offshore Marine Habitats and Species Regulations 2017 consolidate and update the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007. The 2017 Regulations introduce amendments which transfer responsibility for European nature conservation in the Welsh offshore region to Welsh Ministers. This gives Welsh Ministers similar powers in Welsh offshore waters to those currently exercised by Scottish Ministers in Scottish offshore waters. These regulations transpose into national law Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive), and elements of Council Directive 2009/147/EC on the conservation of wild birds (Wild Birds Directive) in the UK offshore area. They came into force on 30th November 2017. These regulations apply to the UK's offshore marine area which covers waters beyond 12 nautical miles, within British

Fishery Limits and the seabed within the UK Continental Shelf Designated Area. The Conservation of Habitats and Species Regulations 2017 form the legal basis for the implementation of the Habitats and Birds Directives in terrestrial areas and territorial waters out to 12nm in England and Wales (including the inshore marine area) and to a limited extent in Scotland and Northern Ireland.

Ramsar sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention covers all aspects of wetland conservation and recognises the importance of wetland ecosystems in relation to global biodiversity conservation. The Convention refers to wetlands as “*areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres*”. However, they may also include riparian and coastal zones. Ramsar sites are statutorily protected under the Wildlife & Countryside Act 1981 (as amended 01.04.1996) with further protection provided by the Countryside and Rights of Way (CROW) Act 2000. Policy statements have been issued by the Government in England and Wales highlighting the special status of Ramsar sites. The Government in England and Wales has issued policy statements which ensure that Ramsar sites are afforded the same protection as areas designated under the EC Birds and Habitats Directives as part of the Natura 2000 network (e.g. SACs & SPAs). Further provisions for the protection and management of SSSIs have been introduced by the Nature Conservation (Scotland) Act 2004.

National Statutory Designations

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

Local Statutory Designations

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

Non- Statutory Designations

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

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

The Hedgerow Regulations 1997

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

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

National and European Legislation Afforded to Species

The Habitats Directive

The EC Habitats Directive aims to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore wild species listed on the Annexes to the Directive at a favourable conservation status, introducing robust protection for those species of European importance. The Directive is transposed into UK law by The Conservation of Habitats and Species Regulations 2017 (the Conservation Regulations) and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended). This has been amended by the ***Conservation of Habitats and Species Regulations (amendment) (EU Exit) Regulations (2019)*** which continue the same provision for European protected species, licensing requirements and protected sites after the UK leaves the EU.

The following notes are relevant for all species protected under the EC Habitats Directive:

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

The Habitats Regulations do not define the act of 'migration' and, therefore, as a precaution, it is recommended that short distance movement of animals for e.g. foraging, breeding or dispersal purposes are also considered.

In order to obtain a European Protected Species Licence (EPSL), the application must demonstrate that it meets all of the following three 'tests':

- The action(s) are necessary for the purpose of preserving public health or safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment;
- There is no satisfactory alternative; and
- The action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

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

The Wildlife and Countryside Act (WCA) 1981 (as amended) implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention 1979, implemented 1982) and implements the species protection requirements of EC Birds Directive 2009/147/EC on the conservation of wild birds in Great Britain (the birds Directive). The WCA 1981 has been subject to a number of amendments, the most important of which are through the Countryside and Rights of Way (CROW) Act (2000).

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

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

Badgers

Badgers *Meles meles* are protected under The Protection of Badgers Act 1992 which makes it an offence to:

- Wilfully kill, injure, take, or attempt to kill, injure or take a badger
- Cruelly ill-treat a badger, including use of tongs and digging
- Possess or control a dead badger or any part thereof
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when it is occupying a badger sett
- Intentionally or recklessly cause a dog to enter a badger sett
- Sell or offers for sale, possesses or has under his control, a live badger

Effects on development works:

A development licence will be required from the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for any development works likely to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agencies to define what would constitute a licensable activity. It is no possible to obtain a licence to translocate badgers.

Birds

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

- Intentionally (or recklessly in Scotland) kill, injure or take any wild bird
- Intentionally (or recklessly in Scotland) take, damage or destroy (or, in Scotland, otherwise interfere with) the nest of any wild bird while it is in use or being built
- Intentionally take or destroy an egg of any wild bird
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof.
- Intentionally or recklessly obstruct or prevent any wild bird from using its nest (Scotland only)

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

This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young
- Intentional or reckless disturbance of dependent young of such a bird
- In Scotland only, intentional or reckless disturbance whilst lekking
- In Scotland only, intentional or reckless harassment

Effects on development works:

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

Schedule 1 birds are additionally protected against disturbance during the nesting season. Thus, it will be necessary to ensure that no potentially disturbing works are undertaken in the vicinity of the nest. The most effective way to avoid disturbance is to postpone works until the young have fledged. If this is not feasible, it may be possible to maintain an appropriate buffer zone or standoff around the nest.

Amphibians and Reptiles

The sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita*, pool frog *Pelophylax lessonae* and great crested newt *Triturus cristatus* receive full protection under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

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

With the exception of the pool frog, these species are also listed on Schedule 5 of the WCA and they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection
- Selling, offering or exposing for sale, possession or transporting for purpose of sale.

Other native species of reptiles are protected solely under Schedule 5, Section 9(1) & (5) of the WCA, i.e. the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis*. It is prohibited to:

- Intentionally or recklessly kill or injure these species.

Effects on development works:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely to affect the breeding sites or resting places amphibian and reptile species protected under Habitats Regulations. A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow derogation from the relevant legislation, but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the WCA.

Bats

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

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

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

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

Effects on development works:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works are likely to affect a bat roost or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Wild Mammals (Protection Act) 1996

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it an offence to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

To avoid possible contravention, due care and attention should be taken when carrying out works (for example operations near burrows or nests) with the potential to affect any wild mammal in this way, regardless of whether they are legally protected through other conservation legislation or not.

Legislation Afforded to Plants

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

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

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)

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

Effects on development works:

A European Protected Species Licence (EPSL) will be required from the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for works which are likely to affect species of plants listed on Schedule 5 of the Conservation of Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Invasive Species

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

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

Effects on development works:

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

Injurious weeds

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

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

Effects on development works:

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

NATIONAL PLANNING POLICY (ENGLAND)

National Planning Policy Framework 2021

The National Planning Policy Framework promotes sustainable development. The Framework specifies the need for protection of designated sites and priority habitats and species. An emphasis is also made on the need for ecological infrastructure through protection, restoration and re-creation. The protection and recovery of priority species (considered likely to be those listed as species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006) is also listed as a requirement of planning policy.

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

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

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

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

Local Planning Policy

Local Planning Policy

Arun District Council Local Plan 2018

The Arun District Council Local Plan is the key document outlining the long-term spatial vision for the district. The Local Plan outlines long-term spatial vision from its original adoption in 2011 until 2031. The Local Plan includes policies which relate to biodiversity and nature conservation which are relevant to this report. Such policies are detailed below:

Policy ENV DM5: 'Development and Biodiversity' States:

"Development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site. They shall also however incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not). Development schemes shall also be appropriately designed to facilitate the emergence of new habitats through the creation of links between habitat areas and open spaces. Together, these provide a network of green spaces which serve to reconnect isolated sites and facilitate species movement. Where there is evidence of a protected species on a proposed development site, planning applications shall include a detailed survey of the subject species, with details of measures to be incorporated into the development scheme to avoid loss of the species. This involves consideration of any impacts that will affect the species directly or indirectly, whether within the application site or in an area outside of the site, which may be indirectly affected by the proposals. All surveys

shall be carried out at an appropriate time of year and shall be undertaken by a qualified and, where appropriate, suitably licensed person. All developments shall have regard to Natural England's standing advice for protected species."

EUROPEAN PROTECTED SPECIES POLICIES

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

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

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