

**LAND ADJACENT TO 1 NORTHWAY ROAD,
WICK, LITTLEHAMPTON**

PRELIMINARY ECOLOGICAL ASSESSMENT

A Report to: John White

Report No: RT-MME-119568

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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 Peter Wilson Architects, on behalf of John White, to carry out an initial ecological appraisal of land adjacent to 1 Northway Road in Wick, Littlehampton. 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 European statutory sites within 5 km of the survey area, no UK statutory sites within 2 km and no non-statutory sites within 1 km. The desk study also provided records of protected/notable species, including bats, hedgehog, water vole, amphibians, reptiles, birds, invertebrates and plants.

The walkover survey was undertaken on 5th May 2015 by Rebecca Samson, Senior Ecological Consultant. The surveyed site is a small area of unmanaged land surrounded by residential gardens and housing. The site comprises a mosaic of habitats including ephemeral/short perennial vegetation, tall ruderal, debris piles, scattered trees and overgrown scrub and introduced shrub. A small concrete shed is located in the north-eastern corner of the survey area. A well-managed grassland verge delineates Northway Road along the northern boundary.

The key ecological features on site in relation to the works proposed are the semi-mature and mature scattered trees which are of intrinsic value. Also of consideration is the potential presence of protected/notable species (herpetofauna, nesting birds and foraging terrestrial mammals).

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:** The development proposals should be designed to retain semi-mature and mature trees where possible. Any trees 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 Nesting Birds:** Vegetation clearance should be undertaken outside the nesting bird season.
- R4 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.
- R5 Foraging/Commuting Bats:** Bats are likely to use the site boundaries for foraging and commuting. Therefore, any lighting, either temporary or permanent, along the site boundaries should be kept to a minimum and directed away from these boundary features to maintain 'dark' areas and corridors. The lighting strategy for any future development of the site should involve the use of low level and directional lighting, such as bollard lighting, to help to minimise light spill.
- R6 Herpetofauna:** The clearance of suitable reptile and amphibian habitat (scrub and debris piles) should be undertaken under the supervision of an experienced ecologist. This will involve the clearance of vegetation in a directional manner to allow any herpetofauna to disperse and careful removal of any hibernacula. This should be completed when reptiles and amphibians are active. This is weather dependent but generally extends between March and October inclusive.

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1. INTRODUCTION

1.1 PROJECT BACKGROUND

In April 2015 Peter Wilson Architects, on behalf of John White, commissioned Middlemarch Environmental Ltd to undertake an initial ecological appraisal of the site of a proposed development at land adjacent to 1 Northway Road in Wick, Littlehampton. This assessment is required to inform a planning application associated with a residential development. There are currently no defined proposals for the site.

To assess the existing ecological interest of the site an ecological desk study was carried out, and a walkover survey was undertaken on 5th May 2015.

1.2 SITE DESCRIPTION AND CONTEXT

The development site is located in Wick, Littlehampton, West Sussex, centred at National Grid Reference TQ 027 035. The site is irregular in shape and measures approximately 0.06 ha in size.

The surveyed site is a small area of unmanaged land surrounded by residential gardens and housing. The site comprises a mosaic of habitats including ephemeral/short perennial vegetation, several debris piles, scattered trees and overgrown scrub and introduced shrub. A small concrete shed is located in the north-eastern corner of the survey area. A well-managed grassland verge delineates Northway Road along the northern boundary.

The site is bound to the north by Northway Road and by residential properties and gardens on all other sides. The wider landscape is a mixture of residential and industrial development with several areas of open green space, including recreation grounds, public parks and allotments.

1.3 DOCUMENTATION PROVIDED

There are currently no defined proposals documented for the site.

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 in proximity to 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 desk study included a search for European statutory nature conservation sites within a 5 km radius of the site (extended to 10 km for any statutory site designated for bats), UK statutory sites within a 2 km radius and non-statutory sites and protected/notable species records within a 1 km radius.

The data collected from the 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 also included a review of relevant local planning policy with regard to biodiversity and nature conservation (see Appendix 2).

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

A review of information indicates that there are no European statutory sites within 5 km of the survey area, no UK statutory sites within 2 km and no non-statutory sites within 1 km.

Although no Sites of Special Scientific Interest (SSSI) are located within the search radius, the survey area falls within a SSSI Impact Risk Zone. It is unclear which SSSI this relates to, however the closest SSSI is Climping Beach located 2.35 km south.

3.3 PROTECTED / NOTABLE SPECIES

Table 3.2 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.

Please Note: There are no specific Species Action Plans for Sussex. The Sussex Biodiversity Action Plan consists of: Local Biodiversity Opportunity Areas map to prioritise areas for action; targets for maintaining, restoring and creating Biodiversity Action Plan habitats; and partnerships of organisations working together to conserve biodiversity. This in turn incorporates action for priority species.

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	2007	100 m south	#	N/A	ECH 4, WCA 5, WCA 6
Bat species <i>Chiroptera</i>	1	2009	250 m east	#	N/A	#
Common pipistrelle <i>Pipistrellus pipistrellus</i>	4	2012	560 m east	-	N/A	ECH 4, WCA 5, WCA 6
Serotine bat <i>Eptesicus serotinus</i>	1	2010	610 m south-east	-	N/A	ECH 4, WCA 5, WCA 6
Mammals-other						
Hedgehog <i>Erinaceus europaeus</i>	4	2014	250 m east	✓	N/A	WCA 6
Water vole <i>Arvicola amphibius</i>	1	2013	880 m north	✓	N/A	WCA 5
Amphibians						
Common toad <i>Bufo bufo</i>	2	2009	250 m east	✓	N/A	WCA 5 S9(5)
Reptiles						
Common lizard <i>Zootoca vivipara</i>	5	2009	250 m east	✓	N/A	WCA 5 S9(1) WCA 5 S9(5)
Grass snake <i>Natrix natrix</i>	1	1991	270 m north	✓	N/A	WCA 5 S9(1) WCA 5 S9(5)

Table 3.2: 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
Slow worm <i>Anguis fragilis</i>	7	2010	660 m west	✓	N/A	WCA 5 S9(1) WCA 5 S9(5)
Birds						
Kingfisher <i>Alcedo atthis</i>	8	1999	Potentially within a 1 km radius*	-	N/A	WCA1i
Barn owl <i>Tyto alba</i>	13	2012	870 m west	-	N/A	WCA1i
Peregrine falcon <i>Falco peregrinus</i>	4	2007	920 m south-west	-	N/A	WCA1i
Bittern <i>Botaurus stellaris</i>	1	1970	Potentially within a 1 km radius*	✓	N/A	WCA1i
Cetti's warbler <i>Cettia cetti</i>	8	2010	Potentially within a 1 km radius*	-	N/A	WCA1i
Firecrest <i>Regulus ignicapilla</i>	2	1997	Potentially within a 1 km radius*	-	N/A	WCA1i
Hobby <i>Falco subbuteo</i>	10	2013	Potentially within a 1 km radius*	-	N/A	WCA1i
Little ringed plover <i>Charadrius dubius</i>	1	2011	Potentially within a 1 km radius*	-	N/A	WCA1i
Quail <i>Coturnix coturnix</i>	1	1987	Potentially within a 1 km radius*	-	N/A	WCA1i
Key: #Species dependent 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. 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. Species of Principal Importance: Species of Principal Importance for Nature Conservation in England. Local BAP: Sussex 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 3.2: (cont.) Summary of Protected/Notable Species Records Within 1 km of Survey Area

In addition the desk study provided records of the following notable species:

Birds

Records of lapwing *Vanellus vanellus*, curlew *Numenius arquata*, grey partridge *Perdix perdix*, corn bunting *Emberiza calandra*, yellow wagtail *Motacilla flava*, tree sparrow *Passer montanus*, wood warbler *Phylloscopus sibilatrix* and lesser spotted woodpecker *Dendrocopos minor* were provided. These species are listed as Species of Principal Importance. Several RSPB Amber listed species were also identified including swift *Apus apus*, house martin *Delichon urbica* and swallow *Hirundo rustica*.

Invertebrates

Records of shrill carder bee *Bombus (Thoracobombus) sylvarum*, long horned bee *Eucera (Eucera) longicornis*, white letter hairstreak butterfly *Satyrus w-album*, brown hairstreak butterfly *Thecla betulae* and small heath butterfly *Coenonympha pamphilus* were identified. These species are listed as Species of Principal Importance. Records of 19 moths listed as Species of Principal Importance were also identified including white ermine *Spilosoma lubricipeda*, spinach *Eulithis mellinata* and mottled rustic *Caradrina morpheus*.

In addition numerous invertebrates listed on the Sussex Rare Species Inventory were provided, including spiders, beetles, true fly's, true bugs, bees, moths and crickets.

Plants

Records of cornflower *Centaurea cyanus*, corn buttercup *Ranunculus arvensis*, wild candytuft *Iberis amara*, fine-leaved sandwort *Minuartia hybrida*, marsh stitchwort *Stellaria palustris* and borer's saltmarsh-grass *Puccinellia fasciculata* were identified. These species are listed as Species of Principal Importance.

In addition several lichens and flowering plants listed on the Sussex Rare Species Inventory were provided, these included early meadow grass *Poa infirma*, smooth rupture wort *Herniaria glabra* and lichen *Hymenelia prevostii*.

3.4 INVASIVE SPECIES

Table 3.3 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
Tree cornered garlic <i>Allium triquetrum</i>	2	2009	830 m south	WCA9
Nuttall's waterweed <i>Elodea nuttallii</i>	2	2010	100 m south	WCA9
Montbretia <i>Crocsmia x crocosmiiflora</i>	1	2006	Potentially within a 1 km radius*	WCA9
Japanese knotweed <i>Fallopia japonica</i>	2	2009	Potentially within a 1 km radius*	WCA9
Indian balsam <i>Impatiens glandulifera</i>	2	2006	Potentially within a 1 km radius*	WCA9
Yellow archangel <i>Lamium galeobdolon</i> subsp. <i>argentatum</i>	1	2010	Potentially within a 1 km radius*	WCA9
Wall cotoneaster <i>Cotoneaster horizontalis</i>	1	2006	Potentially within a 1 km radius*	WCA9
Key: WCA9: Schedule 9 of Wildlife and Countryside Act 1981 (as amended). Invasive, non-native, plants and animals.				

Table 3.3: 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 C119568-01) 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 5th May 2015 by Rebecca Samson (Senior Ecological Consultant). Table 4.1 details the weather conditions at the time of the survey.

Parameter	Condition
Temperature (°C)	11
Cloud (%)	40
Wind (Beaufort)	F5-6
Precipitation	Light showers

Table 4.1: Weather Conditions During Field Survey

4.2 SURVEY CONSTRAINTS AND LIMITATIONS

No constraints were experienced during the field survey.

4.3 HABITATS

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

- Amenity grassland;
- Bare ground;
- Buildings;
- Dense scrub;
- Ephemeral/short perennial vegetation;
- Fencing and wall;
- Introduced shrub
- Other habitat: debris piles;
- Scattered trees.

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

Amenity grassland

A well-managed amenity grassland grass verge was located alongside Northway Road. Dominant species recorded included daisy *Bellis perennis*, dandelion *Taraxacum officinale* agg., ribwort plantain *Plantago lanceolata* and cock's-foot *Dactylis glomerata*.

Bare ground

An area of bare ground was located in the north of the survey area. This area had been recently cleared and comprised soil with some ivy *Hedera helix*.

Buildings

A small shed of concrete construction with a corrugated asbestos roof was located in the north of the survey. A thin covering of ivy was located on the outside of the shed.

Dense scrub

Dense scrub was located in the south of the site. This was dominated by bramble *Rubus fruticosus* agg. with sycamore *Acer pseudoplatanus* (saplings), nettle and lords and ladies *Arum maculatum*.

Ephemeral/short perennial

Common throughout the site were colonising species occupying recently disturbed ground. Species recorded included lord's and ladies, nettle, dock *Rumex* sp, white dead nettle *Lamium album*, dandelion, lesser celandine *Ranunculus ficaria*, perennial rye grass *Lolium perenne*, and cock's-foot.

Fencing and wall

Wooden fencing surrounded the site measuring 2 m high. A small section of brick wall (2 m high) was also located along the western boundary. The fencing and wall were predominantly in good condition. Ivy was recorded climbing the western and southern boundary fences.

Introduced shrub

Butterfly-bush *Buddleia davidii* measuring approximately 3-4 m in height was located along the southern boundary. Boxleaf honeysuckle *Lonicera nitida* was also located in this area. A *Mahonia aquifolium* bush was recorded on the grass verge external to the wooden fencing of the site.

Other habitat: Debris piles

Two debris piles containing a mixture of soil, rubble, wire and rubbish were located in the north of the survey area. Nettle was also recorded within this habitat. These piles measured 2m high x 7m long x 2m width and 1.5m high x 5m long x 3.5m wide.

Scattered trees

A number of trees ranging in age from young to mature were scattered across the site. Sycamore saplings were also recorded throughout the survey area. Several semi-mature to mature silver birches (c.9-11 m) were recorded in the centre of the site, as well as along the northern boundary. A number of these specimens contained a medium covering of ivy. A number of young to semi-mature cherry trees (c.7.8 m) were also recorded between the birches, some of which had a thin to medium ivy covering. In the west of the site was a semi-mature holly (c.7 m), a young sycamore (c.8 m) and a semi mature pine (c.10 m). The pine had a thin ivy covering. A semi-mature sycamore (c.9 m) was also located in the south. The trees generally appeared to be in good condition.

Tall herb/ ruderal

Dominant throughout the site were colonising species occupying recently disturbed ground. Species recorded included nettle, elder *Sambucus nigra*, dock *Rumex* sp, white dead nettle *Lamium album*, dandelion and sycamore (saplings).

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: blackbird *Turdus merula*, blue tit *Cyanistes caeruleus* and magpie *Pica pica*.

4.5 INVASIVE PLANT SPECIES

No invasive plant species were recorded on site during the field survey.

5. DISCUSSIONS AND CONCLUSIONS

5.1 SUMMARY OF PROPOSALS

It is understood that the site is to be redeveloped to provide residential housing. There are currently no defined proposals for the site.

5.2 NATURE CONSERVATION SITES

The desk study exercise identified no European statutory sites within 5 km of the survey area, no UK statutory sites within 2 km and no non-statutory sites within 1 km. The site is not located within 10 km of a statutory site designated for bats. The significance of these sites to the proposed development is discussed below.

SSSI Impact Risk Zones

Although no Sites of Special Scientific Interest (SSSI) are located within the search radius, the survey area falls within a SSSI Impact Risk Zone. It is unclear which SSSI this relates to, however the closest SSSI is Climping Beach located 2.35 km south. Residential planning proposals are not listed as a category of concern and therefore no impacts upon SSSIs are anticipated as a result of the development.

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.

Scattered trees

The semi-mature and mature trees on site are of intrinsic value as they cannot be easily replaced in the short to medium term. Scattered trees are a notable consideration and should be retained where possible. Recommendations are provided within Section 6.2.

Remaining habitats

The remaining habitats on site are not Habitats of Principal Importance or listed on the Local BAP. The habitats are also well represented locally, have low-species diversity or can easily be replaced within the new development. These habitats are therefore not a notable consideration in relation to the proposed works.

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
Scattered trees	-	-	Habitat loss

Table 5.1: Summary of Potential Impacts on Notable 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 seven records of bats within a 1 km radius of the survey area. The closest record was located 100 m south. The building on site was considered sub-optimal to support roosting bats due to its draughty nature and lack of roosting locations. The ivy on the building elevation was too thin to provide roosting habitat for bats however in time, this may develop into a suitable feature. Additionally, no bat droppings were found within the building.

A number of the trees onsite had a thin-medium ivy covering, at present this appeared too thin to provide roosting habitat for bats, however in time this may develop into a suitable roosting feature.

The scattered trees and scrub provide suitable foraging habitat for bats and are connected to suitable habitat in the surroundings (residential gardens). Loss of these habitats and use of excessive lighting has the potential to adversely impact foraging bat species. As such a recommendation regarding foraging and commuting bats is made within Section 6.3.

Badger

The desk study provided no records of badger within a 1 km radius of the survey area. The site is considered sub-optimal for sett creation however it provides some suitable foraging habitat, albeit across small areas. The fencing around the site was predominantly intact reducing the likelihood of badger passing through the site. Nevertheless a precautionary recommendation is made within Section 6.3.

Hedgehog

The desk study provided four records of hedgehog within a 1 km radius of the survey area. The closest record was located 250 m east. The scrub and rubble piles provide suitable foraging and refuge habitat for hedgehog. The fencing around the site was predominantly intact reducing the likelihood of hedgehog utilising the site. Nevertheless a precautionary recommendation is made within Section 6.3. Sympathetic landscape design should also be considered post-development (please refer to Section 6.2).

Water vole

The desk study provided a single record of water vole located 880 m north of the survey area. No aquatic habitat is located on or immediately adjacent to the survey area. Water vole are therefore not a notable consideration in relation to the development of the site.

Amphibians

The desk study provided two records of common toad located within a 1 km radius of the survey area. The closest record was located 250 m east. No records of great crested newt were provided.

The debris piles and scrub provide suitable habitat for amphibians during the terrestrial phase of their life cycle. No suitable breeding habitat is present on site and reference to Ordnance Survey mapped data and aerial imagery indicates that there are no ponds located within a 500 m radius of the survey area. Given the lack of breeding habitat in the vicinity and the relatively small areas of suitable terrestrial habitat on site, the risk of amphibians being present is considered low.

Reptiles

The desk study provided records of grass snake, slow worm and common lizard within a 1 km radius of the survey area. The closest record was located 250 m east. The scrub and debris piles provide suitable habitat for reptiles providing opportunities for foraging, refuge and hibernation. The surrounding residential gardens may also provide some suitable habitat however this is not connected to any significant areas of optimal habitat. Given the small size and relatively isolated nature of the site, the risk of reptiles being present is considered low. Nevertheless a precautionary recommendation regarding vegetation clearance is made within Section 6.2.

Birds

The desk study provided records of nine birds listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). These species are unlikely to nest on site because it does not fall within their specific breeding ranges and/or contain their specific habitat requirements.

A number of common bird species were recorded on site during the field survey. The scattered trees and scrub provide suitable nesting habitat for a variety of bird species. If works are undertaken during the nesting

season then there is potential to directly impact nesting birds. A recommendation has been made in Section 6.3. However, taking into consideration the presence of alternative nesting and foraging habitat within the surrounding area, no long term impact on this species group is anticipated as a result of the proposals. Nevertheless, as some losses are likely to occur, potential enhancement recommendations are provided within Section 6.2

Terrestrial invertebrates

The desk study provided records of numerous notable invertebrates including Species of Principal Importance. The site provides suitable habitat for some of these species, however due to the small size of the site and the presence of alternative habitat within the surroundings, no long term impacts upon this species group is anticipated as a result of any development. Nevertheless habitat enhancement recommendations are provided within Section 6.2.

Plants

The desk study provided records of numerous plant species considered notable within a 1 km radius. No notable plant species were recorded on site during the field survey which was undertaken at a suitable time of year for botanical assessments.

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: otter *Lutra lutra*, white-clawed crayfish *Austropotamobius pallipes*, pine marten *Martes martes*, polecat *Mustela putorius*, harvest mouse *Micromys minutus* and hazel dormouse *Muscardinus avellanarius*.

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	#	N/A	Loss of suitable habitat, disturbance through increases in lighting
Badger	-	N/A	Direct harm/injury, habitat loss
Hedgehog	✓	N/A	Direct harm/injury, habitat loss
Herpetofauna	#	N/A	Direct harm/injury, habitat loss
Birds	#	N/A	Direct harm/injury, habitat loss
#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 invasive plant species were recorded on site during the field survey which was undertaken at a suitable time of year for botanical assessments.

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 regarding nature conservation site.

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
 - nectar-rich species to attract bees and butterflies
 - wildflower grassland margins to attract butterfly species
 - 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:** The development proposals should be designed to retain semi-mature and mature trees where possible. Any trees that are removed should be mitigated within the landscaping design, through the inclusion of appropriate native or wildlife attracting species of adequate size. Any trees 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.

6.3 PROTECTED / NOTABLE SPECIES

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

- R3 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.
- R4 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.

- R5 Foraging/Commuting Bats:** Bats are likely to use the site boundaries for foraging and commuting. Therefore, any lighting, either temporary or permanent, along the site boundaries should be kept to a minimum and directed away from these boundary features to maintain 'dark' areas and corridors. The lighting strategy for any future development of the site should involve the use of low level and directional lighting, such as bollard lighting, to help to minimise light spill.
- R6 Herpetofauna:** The clearance of suitable reptile and amphibian habitat (scrub and debris piles) should be undertaken under the supervision of an experienced ecologist. This will involve the clearance of vegetation in a directional manner to allow any herpetofauna to disperse and careful removal of any hibernacula. This should be completed when reptiles and amphibians are active. This is weather dependent but generally extends between March and October inclusive.

6.4 INVASIVE PLANT SPECIES

There are no recommendations made regarding invasive plant species.

7. DRAWINGS

Drawing C119568-01 – Phase 1 Habitat Map



Legend

Site boundary	Amenity grassland
Scattered tree	Bare ground
Fence	Building
Wall	Dense scrub
	Ephemeral
	Introduced shrub
	Other habitat: debris piles
	Tall ruderal

Project Land Adjacent to 1 Northway Road,
Wick, Littlehampton

Drawing Preliminary Ecological Assessment

Client John White

Drawing Number C119568-01 Revision 00

Scale @ A4 1:250 Date May 2015

Approved By SB Drawn By LM

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C119568-01

8. PHOTOGRAPHS



Plate 1: Concrete shed



Plate 2: Dense scrub

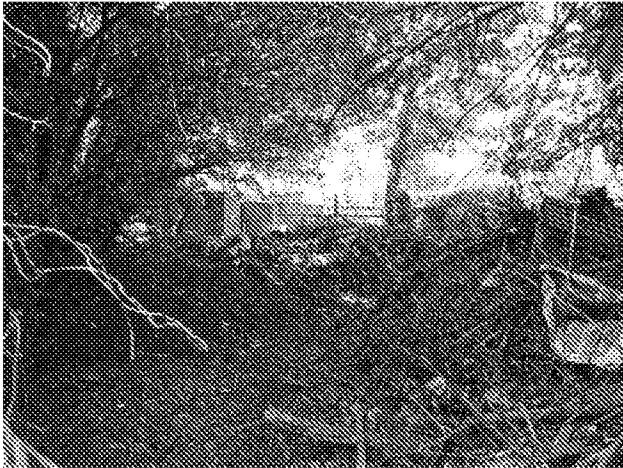


Plate 3: Debris piles



Plate 4: Tree with ivy covering

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APPENDICES

APPENDIX 1: Summary of Statutory Nature Conservation Sites

APPENDIX 2: Overview of Relevant Legislation and Policy

APPENDIX 1

Summary of Statutory Nature Conservation Sites

European Statutory Sites within a 5 km radius

Site Check Report Report generated on Tue May 19 2015

You selected the location: Centroid Grid Ref: TQ027035

The following features have been found in your search area:

Ramsar Sites (England)

No Features found

Special Areas of Conservation (England)

No Features found

Special Protection Areas (England)

No Features found

UK Statutory Sites within a 2 km radius

Site Check Report Report generated on Tue May 19 2015

You selected the location: Centroid Grid Ref: TQ027035

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

Sites of Special Scientific Interest (England)

No Features found

SSSI Impact Risk Zones – to assess planning applications for likely impacts on SSSIs/SACs/SPAs & Ramsar sites (England)

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

Infrastructure

Pylons and overhead cables. Airports, helipads and other aviation proposals.

Wind & Solar Energy

Solar schemes with footprint > 0.5ha, all wind turbines.

Quarry

Rural Non Residential

Residential

Rural Residential

Air Pollution

Pig & Poultry Units.

Combustion

Waste

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

Composting

Discharges

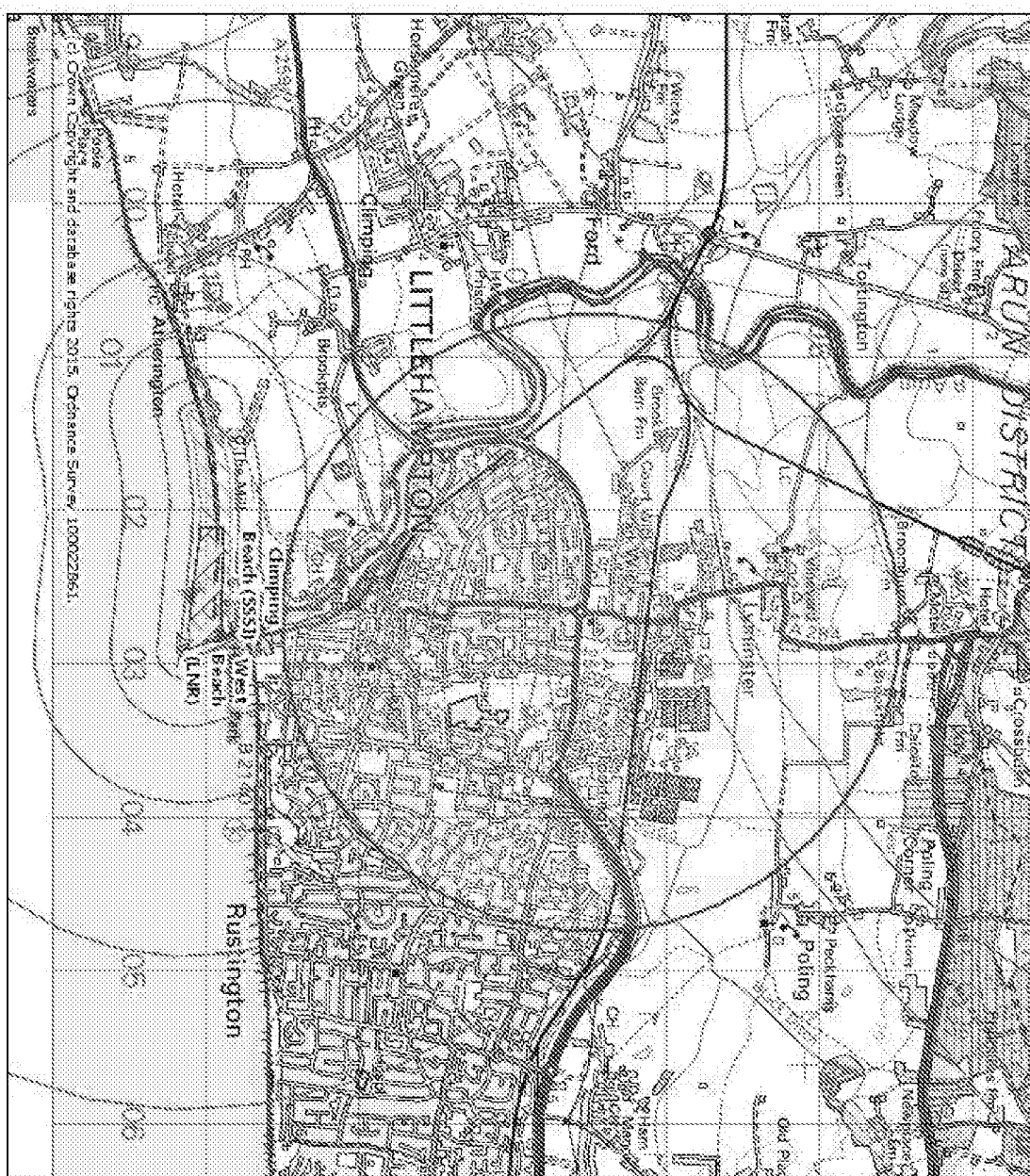
Any discharge of water or liquid waste that is more than 20,000 litres/day. The water needs to either be discharged to ground (ie to seep away) or to surface water, such as a beck or stream. Discharges to mains sewer are excluded.

Water Supply

Guidance

[/Metadata_for_magic/SSSI IRZ User Guidance v2.1 MAGIC 09March2015.pdf](#)

UK Statutory Sites within 2 km



☒ Local Nature Reserves (England)

☐ National Nature Reserves (England)

☒ Sites of Special Scientific Interest (England)

☐ SSSI Impact Risk Zones - to assess planning applications for likely impacts on SSSIs/SAC/SPAs & Ramsar sites (England)

☐ Ancient and Semi-Natural Woodland

☐ Ancient Replanted Woodland

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RRelease = OSRelease
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min = 28510
max = 509000
max = 187500
Map produced by MAGIC on 13 May 2015.
One might wonder with the data suppliers and the map
must not be reproduced without their permission. Some
information in MAGIC is a snapshot of the information
that is being maintained or constantly updated by the
originating organisation. Please refer to the metadata for
details as information may be illustrative or representative
rather than definitive at this stage.

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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. It anticipated that the new plan will be adopted in September 2015.

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*.

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.

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 not known 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.

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.

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.