

ECOLOGICAL APPRAISAL

**LAND ADJECENT TO 52 THE CROSSWAYS, CHANDLER'S FORD, EASTLEIGH
SO53 3BU**

APRIL 2023

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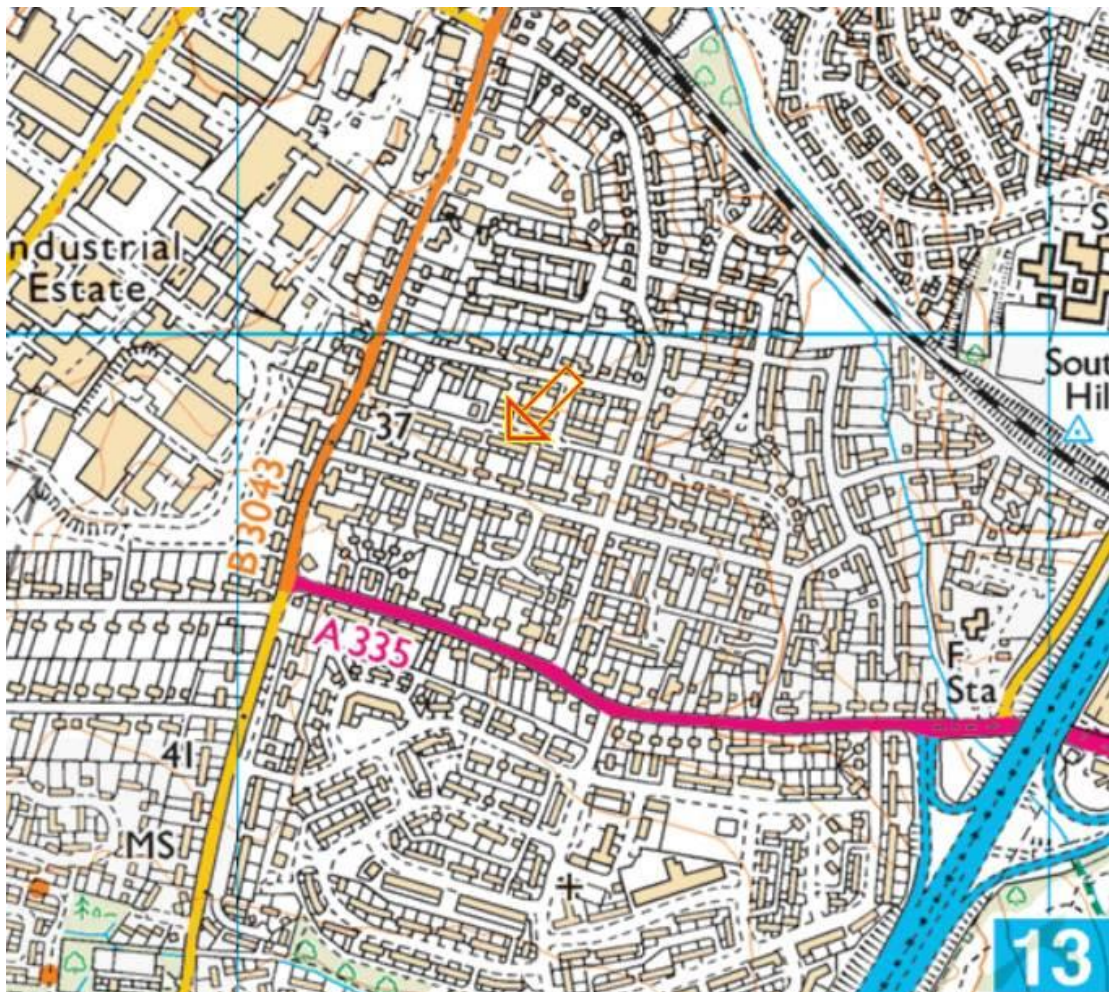
1.0 INTRODUCTION

1.1 Background

- 1.1.1 Aluco Ecology Ltd was commissioned to carry out an Ecological Assessment Land Adjacent to 52 The Crossways, Chandler's Ford, Eastleigh SO53 3BU, By the property Owner. The assessment undertaken reflects the scale of the proposed works within the site overall.
- 1.1.2 An 'Ecological Assessment' is the investigation of the likely ecological and nature conservation issues associated with the site and its potential development. The aim of an assessment is to:
- highlight any features of particular ecological value;
 - identify potential impacts to ecology as a result of the proposed works;
 - identify any ecological issues that may have legal or planning implications such as the presence of protected species;
 - recommend any further work (such as targeted protected species surveys) required in order to fully assess the value of the site, and therefore the potential ecological impacts of the proposals that may arise; and in this case further bat survey was recommended and completed.
- 1.1.3 The Government sets out its objectives for conserving and enhancing biodiversity in the National Planning Policy Framework. The Government's objectives for planning include an environmental objective 'to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.'
- 1.1.4 The Framework goes on to state that at the heart of the planning system is a presumption in favour of sustainable development. Planning Practice Guidance on the Natural Environment provides information on taking biodiversity into account in planning (see Section 15 of the revised NPPF).

1.2 Outline of the Scheme and Site Location

- 1.2.1 The site, situated adjacent to 52 The Crossways, Chandler's Ford, Eastleigh SO53 3BU, Grid reference SU433199 / SU4331019909 and shown at **Figure 1**, is situated on the east of Chandler's Ford. It consists of an area of land (c0.1ha) associated with the dwelling house No22 Keble Road.
- 1.2.2 It is proposed to demolish existing ancillary building and sheds and build a new dwelling property on the site. **Figure 2-3** below illustrates the scheme with full details within the design and access statement.



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Figure 1a: Location of the Site



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Figure 1b Location Plan

1.3 Relevant Legislation and Policy

- 1.3.1 The outcomes of this Ecological Assessment will be tested against relevant legislation and policy; namely the Conservation of Habitats & Species Regulations 2017 in relation to the protection of European sites (Special Protection Areas SPA, and Special Areas of Conservation SAC) and European protected species (eg bats, dormouse, great crested newts) (see **Technical Appendix 1**) and the Wildlife & Countryside Act 1981 (as amended) and Countryside & Rights of Way Act (CROW) 2000 for protected species and the designation and protection of SSSIs (see **Technical Appendix 1**). The Protection of Badgers Act 1992 gives protection to Badgers *Meles meles*.
- 1.3.2 In addition to the planning framework and the legislation outlined above, the local planning policies are the principal policies against which the outcomes of this ecological appraisal will be tested.
- 1.3.3 Under the Governments duty to conserve Biodiversity, through Section 41 of the Natural Environment and Rural Communities Act 2006 (NERC, 2006) a number of Biodiversity Action Plans (BAPs) have been prepared for habitats and species of conservation concern, including national BAPs and a Biodiversity Action Plan for Hampshire is considered in the general ecological site assessment.
- 1.3.4 Consideration should also be given to Environment Act 2021. A core element of this is Biodiversity Net gain through planned development. Local Planning Authorities are adopting the principals of demonstrated 'net gain' in planning decisions. (see **Technical Appendix 1**).

2.0 ASSESSMENT METHODOLOGY

2.1 Introduction

- 2.1.1 The methodology for this Assessment has regard to the Guidelines for Ecological Impact Assessment (EcIA) in the United Kingdom published by the Chartered Institute of Ecology and Environmental Management (CIEEM, 2018).

2.2 Site Survey Methodology

- 2.2.1 The first stage is a desk study of the site and associated Zone of Influence. This provides background information on the site and local environment in order to effectively target field survey and further desk research. The aims of the field survey are to record land-use and broad vegetation types present on the site and in the surrounding areas, and to evaluate the potential ecological value of the habitats and vegetation communities' present along with their potential to support protected species, species of principal importance, and any other notable species. Further details of the methodology used can be found in **Technical Appendix 3**. The assessment undertaken reflects the scale of the proposed works within the site overall.

3.0 BIOPHYSICAL CHANGES AND THE ZONE OF INFLUENCE

3.1 Introduction

3.1.1 In order to be able to target relevant ecological survey and assess the impacts of a proposed development, it is necessary to identify the activities that may result in biophysical changes from the development and the area these cover (i.e. the zone of influence). There are three stages of this development scheme that include activities that may have an impact on features of ecological value; namely site preparation, construction and operation / use.

3.1.2 **Figure 2** below shows the extent of the site.

3.2 Biophysical Changes associated with the Development Scheme – Determination of the Zone of Influence

3.2.1 The potential zone of influence of the proposal is determined from the predicted biophysical changes brought about by activities associated with construction and post-construction phases. Therefore, the zone is predicted to extend across the development footprint and locally around the along the development footprint. The gardens, mature planting and garden hedgerows are to be retained. Consequently, survey has been carried out within this zone.

3.3 Site Preparation / Construction Activities and Biophysical Changes

3.3.1 During the construction phase, it is predicted that site preparation activities will include some earthworks and earth stripping associated with the small areas of new building footprint and part dismantling of existing structures. This phase may affect habitat suitable for wildlife. Without appropriate mitigation, site clearance work may result in death or injury to protected species (if they are present), or damage to other features of ecological value. Construction could result in the loss of features of ecological value and/or the loss of habitat of protected species resulting in a net decrease in biodiversity.

3.3.2 The construction on the site has the potential to affect adjacent garden habitats, where present, through noise, air and run off pollution.

3.4 Predicted Operational Activities during Use Phase and Biophysical Changes

3.4.1 The operational phase will need to consider how protected species and species of conservation concern may use the site and zone of influence, and what effect the proposals may have on their conservation status locally.



Figure 2 Existing site Plan

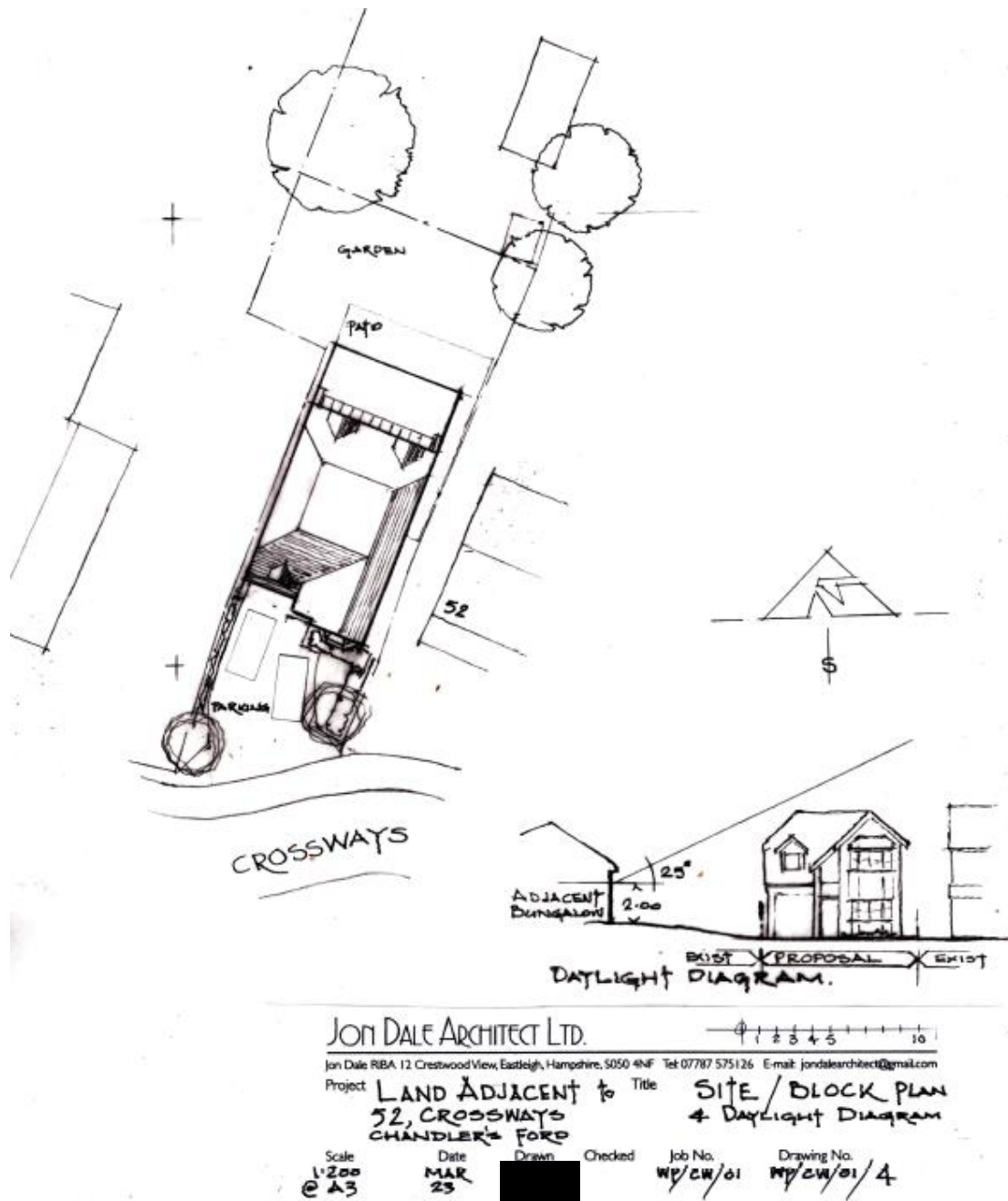


Figure 3 Proposed site plan



Figure 4 Proposed site elevations

4.0 BASELINE CONDITIONS WITHIN THE ZONE OF INFLUENCE

4.1 Introduction

- 4.1.1 The ecological baseline describes the site in the context of the characteristic habitats of the area, and includes descriptions of designated sites and ecological features present within the potential zone of influence of the proposed development. Survey of the site was undertaken in April 2023.

4.2 Designated Sites

Statutory Sites

- 4.2.1 Natural England has identified Natural Areas that are used to describe the broad natural associations across England. The site falls within the South Coast Plain & Hampshire Lowlands Natural Area:

'The landscape of the South Coast Plain and Hampshire Lowlands is split between the generally open, often featureless landscape of the coastal plain and the more varied landscape in the west. The Natural Area contains a number of nature conservation features. Although relatively small in extent, the south-facing slopes of Portsdown Hill support some high-quality chalk grassland, and the chalk rivers of the Itchen and Test flow through the Natural Area, supporting fine examples of threatened habitat and several key species. The floodplains of the Rivers Test and Itchen contain some botanically rich neutral grassland and elsewhere in the Natural Area fen and fen-meadows occur, especially where chalk springs arise at the foot of the downs.'

- 4.2.2 The nearest statutory Site of Special Scientific Interest (SSSI) The River Itchen is situated 260m east. The River Itchen is also a Special Area of Conservation (SAC). Feeding into the Solent and Southampton Water Special Area of Conservation (SAC) and Special Protection Area (SPA).

4.3 Habitats and Vegetation

Introduction

- 4.3.1 The zone of predicted influence consists of hard standing, gravel and some small highly maintained flower beds and lawn. The construction zone is almost entirely on existing building footprint lawn and hardstanding.
- 4.3.2 The site is further illustrated in **Photos 1-5** and **Figure 3a-d**.
- 4.3.3 The typical range of lawn grasses were present with Perennial Rye *Lolium perenne* dominating in many areas indicating past seeding, along with Red Fescue *Festuca rubra* Meadow Grass *Poa sp.* Cock's-foot *Dactylis glomerata*. The grassland lawn areas contained almost very few visible herbs at the time of survey with Dandelion *Taraxacum sp.*, White Clover *Trifolium repens* and Daisy *Bellis perennis*.



Photo 1: View North across side, most existing garden planting retained and incorporated into scheme



Photo 2: view north west side of garden, planting all retained



Photo 3: Existing east hedge and fence to be mostly



Photo 4: West side



Photo 5: East and Lawn areas , mostly retained.

Waterbodies

- 4.3.5 There are no known waterbodies are present on site, or noted from the site visit and OS mapping from the immediate area.

Flora

- 4.3.6 No rare or scarce species were recorded on site. The bordering garden hedgerows are mostly ornamental rather than native.

Evaluation of Vegetation and Habitats

- 4.3.7 The site has been evaluated based on survey visit In April 2023. The majority of the habitats over the south part of the site are considered to be species poor and are of negligible value within the zone of influence.

4.4 Protected Species & Species of Conservation Concern

Birds

- 4.4.1 Given the habitats present and location a number of commoner garden /woodland edge species are present around the site and will use some of the habitats on the site. During the survey a single species of conservation concern Dunnock and Wren were noted on site These species are Amber listed as a result of national population declines (Stanbury *et al*, 2021).
- 4.4.2 The structure of the habitats and low species diversity suggests the site is only likely to be of **Value within the Zone of Influence** for bird populations.

Bats

- 4.4.3 All bats and their roosts are protected under law (see **Technical Appendix 1 & 2**). The aim of this Bat Survey is to evaluate the potential suitability of the proposed development site in relation to bat use and bat roosts using the Bat Survey Guidelines (Bat Conservation Trust, 2016), which provide guidance on assessing and evaluating development sites and features for bat roost potential. The potential for structures to support roosting or breeding bats is evaluated under the protocol for the visual internal and external inspection (with the categories; Negligible, Low, Moderate, High or Confirmed Roost).
- 4.4.4 A brief data search has returned no local information from local European Protected Species (EPS) licence applications. The nearest being 695m south Non Breeding Common Pipistrelle roost, 700m south east Non Breeding Common Pipistrelle roost, and 1km north roosts of Common, Soprano Pipistrelle Pipistrelle and Serotine.
- 4.4.5 Survey to assess the site for bats and bat roosts was carried out in April 2023. This involved a survey for any roosting bats or signs which could indicate use of the building by bats and for potential roost sites and roost access points. Anthony Blunden MCIEEM CEnv (Natural England Licence number 2015-10884-CLS-CLS), principal ecologist of Aluco Ecology with over fifteen years survey experience, conducted the survey and reporting.
- 4.4.6 The site is generally flat and adjacent to a range of well-spaced residential houses in a rural area. The buildings of timber, with felt roof out building has timber-built shed style internal roof construction. The design and age of the building generally lacks suitable roosting opportunities within. There are no roof voids and very limited crevice opportunity in relation to the construction design.
- 4.4.7 All the surfaces were carefully inspected for the presence of bats and droppings. Much of the roof underside was open with little crevice potential due to the materials and construction methods. No evidence of bats was recorded to date. The low height, design and age of the building generally presents suitable roosting opportunities within the structure.
- 4.4.8 The buildings were evaluated using the Potential Suitability of Proposed Development Sites for Bats (including Buildings & Trees) methodology as per the Bat Survey guidelines (Bat Conservation Trust, 2016). The elements of the site subject to impacts from the proposals the existing out buildings were evaluated to date as having 'negligible' potential suitability for bats, with no evidence of bat use to date. Given the scheme design and potential impacts, no further survey is considered to be required.
- 4.4.9 The survey was carried out during a window of time and therefore the survey has provided restricted period of sites use. Since bats regularly move between different roost sites, particularly to satisfy their varying requirements at different times of the year and weather conditions. External building dropping evidence can be washed and blown away during the late autumn winter period, although internal evidence can remain for long periods.
- 4.4.10 Due to these survey limitations an assessment using professional judgement has been used to interpret the findings with a precautionary approach to the assessment of the

bat population utilising the building and to carrying out the proposed work. Timing a survey to co-inside with the bats presence in the building is not always possible or practical.

- 4.4.11 The garden habitats are considered to be of **Value within the Zone of Influence** to bat populations.



Photo 6/7 (front north aspect) no recorded Potential for roosts



Photo 8/9 Out building with single skin construction with no/very limited crevice opportunity. Felt overlap cobwebbed with no crevice behind as single sheet roof construction. No evidence recorded.



Photo 10/11 Open porch construction, No evidence recorded.



Photo 12/13 Felt Roof and cladding construction, No evidence recorded.



Photo 14/15 Felt Roof and cladding construction, No evidence recorded.



Photo 16/17 Building and nearby Cyprus tree. No evidence negligible potential.

Badgers

- 4.4.6 Signs of use of the site by Badger *Meles meles* were searched for during the site visit. Mammal runs were noted on the site. No evidence of active Badger Setts was noted on site or directly adjacent where access was possible.

Dormouse

- 4.4.7 The site is suburban with houses and gardens on three sides. The site is also poorly linked to any suitable habitat and existing garden hedgerows will be retained.

Reptiles & Amphibians

- 4.4.8 Slow-worm are recorded in the local area, and extremely small amounts suitable habitat for reptiles exists mostly on the boundaries of the site, which contains woody vegetation. The main building footprint has no suitable reptile habitat. The majority of the site habitats are very poor (maintained) garden habitat structure provide only limited habitat for reptiles and most suitable habitat will be retained.

5.0 BRIEF ASSESSMENT OF LIKELY IMPACTS AND OPPORTUNITIES FOR MITIGATION

5.1 Introduction

- 5.1.1 In view of the predicted activities and the resultant biophysical changes associated with the proposal, as described in Section 3, this section identifies the main potential ecological impacts within the predicted zone of influence, those considered potentially likely to arise in to provide focus for recommendations for mitigation and/or further survey work.

5.2 Protected Sites

- 5.2.1 The proposed development appears to fall just outside the 5,6 km European protected sites zone of influence in relation to Recreational Disturbance in the Solent and Southampton Water SPA and within the River Itchen and Solent and Southampton Water SAC in relation to Nutrient Neutrality and therefore mitigation is required. This is usually in the form of mitigation payment unless bespoke mitigation being provided.
- 5.2.2 Regard should also be had to potential for nutrient neutrality impacts and follow any guidance for development and potential for indirect impacts on the Solent Designated Sites or River Itchen. A nutrient neutrality assessment of future development proposals has been undertaken, and Eastleigh Borough Council has a nutrient offset scheme. Indirect impacts from run off into any adjacent surface water drains should be considered, particularly during construction and ongoing site use. Construction should have regard to pollution prevention guidelines (eg see gov.uk and Environment Agency guidance).

5.3 Habitats & Species on Site

Potential Impacts on Habitats and Vegetation

- 5.3.1 The scheme design has limited potential for impact on the ornamental hedgerows on the site. The remaining vegetation in the central area of the site is generally of low nature conservation value, being formal gardens and lawn. In addition, part of the footprint is over hardstanding.

Potential for Impacts on Protected Species and Species of Conservation Concern

- 5.3.2 There is potential for nesting bird species within woody vegetation and buildings on site. Without mitigation there is the potential for a development to affect the nests of birds, which would be contrary to Section 1 of the Wildlife & Countryside Act 1981 (as amended).
- 5.3.3 No works are thought to have any the potential to destroy and disturb any bat roosting. Mature garden planting and hedgerows will be retained so and local flight corridors and foraging will not be significantly affected.

- 5.3.4 No evidence of Badgers was noted on site, or Badger Setts to be impacted by the proposals, however they are likely to be present within the wider local area, and may forage on the site on occasion.
- 5.3.5 A small localised area of low potential reptile habitat (cut lawn and flowerbed) is present on site and is to be affected by the new property. Existing garden mature garden landscaping will be retained.

5.4 Mitigation and Enhancement for Ecological Features Affected by the Scheme

- 5.4.1 Although there was no evidence of Bats, Consideration should be given to any external lighting. Please refer to Institution of Lighting Professionals, Guidance Note 08/18 Bats and artificial lighting in the UK for further information. It is recommended that, subject to planning permission, demolition work should proceed with care as it is rarely the case that the presence of bats can be ruled out entirely. If any evidence of bats is found prior to or during demolition of the outbuilding / sunroom then all work must stop immediately. It is a legal requirement that Natural England is contacted for further advice. Should demolition not occur for more than one year, it is recommended that update/ re-survey is undertaken.
- 5.4.2 Although there was no evidence of active Badger Setts on the site, development of the site should have regard to the presence of Badgers and other mammals and animals moving through the site. Mitigation in the form of safe work practices should be employed to avoid impacts during construction. Any excavation works required within the development will be covered over night to prevent and animals, nocturnal mammals such as hedgehogs and badgers falling in and becoming trapped. Alternatively, a suitable ramp should be provided or the excavation battered to allow and trapped animals to escape.
- 5.4.3 There is very little potential reptile / amphibian habitat present that will be impacted by the construction. As this is such a small area, hand clearance of any likely areas will be sufficient to prevent the harm of any reptiles/amphibians present. A supervised destructive search of potential reptile habitats should take place during the active reptile season (April – early Oct).
- 5.4.4 Vegetation clearance should be undertaken outside the bird nesting season (ie between Sept-end Feb), cutting to 10cm above ground level in areas where reptile habitat is present. Small amounts of nesting bird habitat may be able to be cut during the active nesting season only where it is thoroughly checked by a qualified ecologist and the vegetation is not extensive. Contractors should as standard be made aware of the potential when works begin. One habitat pile will be created to enhance the site boundaries for reptiles and amphibians.
- 5.4.5 Landscaping of a new garden areas will be localised around the house. Existing mature planting is proposed to be retained. The existing planting should be supplemented to enhance biodiversity, through native locally sourced woody species, hedgerow enhancements, and provision of new wildflower grassland areas.

5.4.6 The development should aim to provide no net loss to biodiversity, and some biodiversity gain. The proposed development could increase biodiversity opportunities in the scheme and local area through the following measures:

- Provision of bird and bat boxes suitably located by an ecologist. Bird boxes should include House Sparrow, Swift given the location.
- A single bat roost until will be incorporated into the new building see Figure 5.
- Planting of native deciduous trees and shrubs as part of garden landscaping;
- Wildlife friendly planting (ie pollinator friendly species) to be created in landscaping borders;
- Provision of a pond/wetland feature in the gardens.



Figure 5a: new roosts - Scale 1:100 Bird (swift and House Sparrow) Nest Box  Bat roost unit 2fr type roost unit 

Figure 5c: Biodiversity enhancements

2fr Roost unit or similar



Woodcrete Sparrow Terrace



Vivara Pro WoodStone Swift Nest Box

6.0 CONCLUSIONS AND RECOMMENDATIONS

Compliance with legislation

- 6.1. Due to the potential presence of reptiles such as Slow-worm and breeding birds in garden vegetation, both protected by the provisions of the Wildlife and Countryside Act 1981, vegetation and building clearance associated with the development will be required to be carried out sensitively to ensure that reptiles are not harmed and bird nests are not impacted. The mitigation proposed will ensure that legal and policy provisions relating to protected species will be met.

CONCLUSIONS

- 6.2 An ecological appraisal of the site was undertaken in order to provide an indication of the potential for habitats and species of conservation concern to be present on site. The vegetation and habitats of the site are described, and potential for presence of protected and notable biodiversity. Options for mitigation and biodiversity gain are presented.

7.0 REFERENCES

Bat Conservation Trust (2016) Bat Survey Good Practice Guidelines Third Edition

BCT & ILP (2018) Guidance Note 08/18 Bats and Artificial Lighting in the UK, Bats and the Built Environment Series

CIEEM (2015) Guidelines for Ecological Report Writing

CIEEM (2019) Guidelines for Ecological Impact Assessment in the United Kingdom Second Edition

Government & Natural England (2022) Standing Advice for Protected Species from www.gov.uk

IEEM (2006). Guidelines for Ecological Impact Assessment in the United Kingdom

IEEM (2012) Guidelines for Preliminary Ecological Appraisal, Institute of Ecology and Environmental Management, Winchester.

Andrew Stanbury, Mark Eaton, Nicholas Aebischer, Dawn Balmer, Andy Brown, Andy Douse, Patrick Lindley, Neil McCulloch, David Noble and Ilka Win (2021) The status of our bird populations: the fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of Man and second IUCN Red List assessment of extinction risk for Great Britain. British Birds 114, December 2021 p723-747

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Technical Appendix 1
Wildlife & Countryside Act
Habitats Regulations and Schedule 2 Species
Natural Environment & Rural Communities Act 2006
Environment Act 2021

WILDLIFE & COUNTRYSIDE ACT 1981 (AS AMENDED)

The Wildlife and Countryside Act 1981 (as amended) (WCA) is the principle legislation in Britain for the protection and conservation of our wildlife and its habitats of national importance. The legislation adopts a habitat and species based approach to nature conservation. Habitats and some species are protected in designated Sites of Special Scientific Interest (SSSI). Other species are afforded some protection from harm or disturbance by way of inclusion in either Section 1 (birds), Schedule 1 (specially protected birds), Schedule 5 (specially protected animals) or Schedule 8 (specially protected plants).

Protection Afforded to SSSIs

The presence of an SSSI on or near to a development is a material consideration, and this is discussed further in planning policy (see National Planning Policy Framework)

Law Relating to Protected Species

The WCA provides protection to such species in Part 1 of the Act. These sections provide protection from intentionally:

- killing, injuring or taking any wild bird or taking, damaging or destroying the nest or eggs of a wild bird
- disturbing any wild bird in Schedule 1 whilst building, on or near a nest, or disturbing dependant young of such birds
- damaging, destroying or obstructing access to any structure or place of shelter or protection of a schedule 5 animal, or disturbs any such animal whilst it is occupying a structure or place it uses for that purpose
- killing, injuring or taking any animal listed in Schedule 5
- Having in procession or control any live or dead wild bird or egg, or any wild animal in Schedule 5, or trading in any animal under Schedule 5.
- Damage to plants listed in Schedule 8 or uprooting of wild plants unless an authorised person.

Exemption and licences for development can be obtained in certain circumstances. Protected species are also a material consideration in planning applications.

Disturbance & Recklessness

The Countryside and Rights of Way Act 2000 (CRoW Act 2000) adds to protected species legislation in the WCA. The lesser test of 'Recklessness' is added to the protection from disturbance in three circumstances. These are:

- disturbance to Schedule 1 birds and their nests, eggs and dependant young,
- disturbance to Schedule 5 animals in their place of shelter/protection, and
- disturbance to the places of shelter/protection of Schedule 5 animals.

This addition means that any person who deliberately takes an unacceptable risk or fails to notice an obvious risk falls under the Section irrespective of intention. The CRoW Act also provides greater protection to SSSIs from operations (and non-operations) of owners, occupiers and third party users of the SSSI.

For further information see: <https://www.legislation.gov.uk/ukpga/1981/69>

HABITAT REGULATIONS 2017

General

The Conservation of Habitats and Species Regulations 2017 ('The Habitat Regulations') consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

European Protected Species

Species listed under Annex II of the Habitats Directive were formally afforded protection by the Habitat Regulations. European protected species include the great crested newt, dormice and all species of bats. The provision relating to wild animal offences is reproduced below:

Protection of certain wild animals: offences

43.—(1) A person who—

- (a) deliberately captures, injures or kills any wild animal of a European protected species,
 - (b) deliberately disturbs wild animals of any such species,
 - (c) deliberately takes or destroys the eggs of such an animal, or
 - (d) damages or destroys a breeding site or resting place of such an animal,
- is guilty of an offence.

(2) For the purposes of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely—

- (a) to impair their ability—
 - (i) to survive, to breed or reproduce, or to rear or nurture their young; or
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate;

or

(b) to affect significantly the local distribution or abundance of the species to which they belong.

(3) It is an offence for any person—

(a) to be in possession of, or to control,

(b) to transport,

(c) to sell or exchange, or

(d) to offer for sale or exchange,

anything to which this paragraph applies.

(4) Paragraph (3) applies to—

(a) any live or dead animal or part of an animal—

(i) which has been taken from the wild, and

(ii) which is of a species or subspecies listed in Annex IV(a) to the Habitats Directive;

and

(b) anything derived from such an animal or any part of such an animal.

(5) Paragraphs (1) and (3) apply regardless of the stage of the life of the animal in question.

(6) Unless the contrary is shown, in any proceedings for an offence under paragraph (1) the animal in question is presumed to have been a wild animal.

(7) In any proceedings for an offence under paragraph (3), where it is alleged that an animal or a

part of an animal was taken from the wild, it is presumed, unless the contrary is shown, that that

animal or part of an animal was taken from the wild.

(8) A person guilty of an offence under this regulation is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine, or to both.

(9) Guidance as to the application of the offences in paragraph (1)(b) or (d) in relation to particular species of animals or particular activities may be published by—

(a) the appropriate authority; or

(b) the appropriate nature conservation body, with the approval of the appropriate authority.

(10) In proceedings for an offence under paragraph (1)(b) or (d), a court must take into account

any relevant guidance published under paragraph (9).

(11) In deciding upon the sentence for a person convicted of an offence under paragraph (1)(d),

the court must in particular have regard to whether that person could reasonably have avoided the

damage to or destruction of the breeding site or resting place concerned.

Section 44 provides certain defences to the above.

The granting of a licence under Part 5 Section 55 of the Habitat Regulations

In order to carry out a lawful operation (e.g. development work which has full planning permission) that may result in any of the offences above, it is necessary to obtain a licence from Natural England to allow the operation to proceed.

However, in accordance with the requirements of the Habitats Regulations, a licence can only be issued after the following conditions have been satisfied:

- *that there is no satisfactory alternative, and*

- *that the action authorized will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*
- *that the action is required in preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;*

Full planning permission is required to apply for a Natural England licence (where such a consent is necessary for the work to be carried out). In addition, a method statement which details the survey results, methodology of work to be undertaken, mitigation and compensation measures, must be submitted to Natural England with the licence application.

Plans and Projects & Designated Sites

The Regulations provide procedure whereby designated SAC or SPA and other European Protected Sites are afforded protection from plans and projects that may be likely to have a significant effect on the Features for which these sites are designated. Where a significant effect is considered likely in-combination with other projects an appropriate assessment is required to be undertaken. Details of this procedure can be found at Part 6 of the Act onwards, see link below.

For Full details of the 2017 Habitat Regulations see:

http://www.legislation.gov.uk/ukxi/2017/1012/pdfs/ukxi_20171012_en.pdf

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

This Act places a specific duty to conserve biodiversity on all public bodies, including Local Planning Authorities. In order to aid with this process Section 41 of the Act requires the Secretary of State to publish lists of living organisms and habitats which are of principal importance for the purpose of conserving biodiversity. These are the national Biodiversity Action Plan (BAP) lists, and BAP projects are also undertaken at a County, Borough or District level.

For further information see: <https://www.legislation.gov.uk/ukpga/2006/16/part/3>

ENVIRONMENT ACT 2021

Royal Assent 9 November 2021

The Environment Act 2021 has recently received Royal Assent and will introduce a number of nature conservation initiatives. These include Biodiversity Net Gain assessments. The following measures are part of the Act (see Gov.UK, 2021):

- Strengthened biodiversity duty;
- Biodiversity net gain to ensure developments deliver at least 10%+ increase in biodiversity;
- Local Nature Recovery Strategies to support a Nature Recovery Network;
- Duty upon Local Authorities to consult on street tree felling;
- Strengthen woodland protection enforcement measures;
- Conservation Covenants;

- Protected Site Strategies and Species Conservation Strategies to support the design and delivery of strategic approaches to deliver better outcomes for nature;
- Prohibit larger UK businesses from using commodities associated with wide-scale deforestation;
- Requires regulated businesses to establish a system of due diligence for each regulated commodity used in their supply chain, requires regulated businesses to report on their due diligence, introduces a due diligence enforcement system;
- Long-term targets to improve air quality, biodiversity, water, and waste reduction and resource efficiency;
- A target to halt the decline of nature by 2030; halt the decline of nature by 2030
- Environmental Improvement Plans, including interim targets;
- A cycle of environmental monitoring and reporting;
- Environmental Principles embedded in domestic policy making;
- Office for Environmental Protection to uphold environmental law;
- Air and Water pollution measures.

For further information see:

https://www.legislation.gov.uk/ukpga/2021/30/pdfs/ukpga_20210030_en.pdf

Biodiversity Net Gain under the Environment Act

Mandatory biodiversity net gain in England is likely to become law in 2023 (through amendments to the Town & Country Planning Act). The key measures include (see eg Gov.uk & Local.gov.uk):

- Minimum 10% gain required using Biodiversity Metric;
- Habitat secured for at least 30 years via obligations/ conservation covenant;
- Habitat can be delivered on-site, off-site or via statutory biodiversity credits;
- Creation of a national register for net gain delivery sites;
- Continued use of mitigation hierarchy - avoid, reduce, off-set (mitigation and compensation);
- Will apply to Nationally Significant Infrastructure Projects (NSIPs)
- Will not apply to marine development;
- Works alongside existing legal environmental and wildlife protections.

Technical Appendix 2

Local Planning Policy - Eastleigh Borough Council Adopted 2022

Policy DM11, Nature conservation

General Approach

1. The Council will work with statutory and voluntary agencies and developers, and will determine planning applications, to:
 - a. protect, conserve and enhance all:
 - i. international, national and local nature conservation designations; and
 - ii. networks of natural habitats and features, including the Local Ecological Network, Priority Biodiversity Areas and Priority Biodiversity Links, watercourses, wetland complexes, woodland trees, and trees and hedgerows important to biodiversity and local character; and facilitate their adaptation to climate change wherever possible;
 - b. assist in achieving national, county and local biodiversity targets as set out in Biodiversity Action Plans (BAPs);
 - c. seek a net gain of biodiversity on all development sites (including sites for redevelopment) through the protection, enhancement and connection of existing and provision of new habitats and features of nature conservation interest compatible with the native biodiversity characteristics of the Borough, having regard to local geodiversity and soils; and
 - d. contribute to major elements of the PfSH Green Infrastructure Strategy and other strategies for the provision and enhancement of multifunctional green infrastructure including green routes, ecological networks and biodiversity enhancements (see strategic policy S9).

International Designations

2. Development which is likely (either individually or in combination with other developments) to adversely affect the integrity of an international or European nature conservation site will not be permitted subject only to imperative reasons of overriding public interest and securing any necessary compensatory measures in the absence of alternative solutions. A 'project level' Habitat Regulations Assessment will be required where there are likely significant effects or uncertainty. Any mitigation measures required to ensure no adverse impact must be implemented at the appropriate time.
3. The Council will work with PfSH, Natural England, the Environment Agency and other wildlife organisations to develop and implement with developers a strategic approach to the protection and enhancement of international and European sites from the direct and indirect effects of development. Within Eastleigh Borough this will include:
 - a. implementing:
 - i. the Solent Recreation Mitigation Strategy (requiring contributions from residential developments within 5.6 kilometres of the Solent Special Protection Area to the Strategy); and
 - ii. the interim and any future New Forest Recreation Mitigation Strategy if

- required;
- or alternative agreed site specific measures to address recreational disturbance;
- b. preserving the water quality and flows within the Itchen and Hamble, Southampton Water and Solent;
- c. protecting the River Itchen SAC, in particular the maintenance and where appropriate restoration of habitats and qualifying species to favourable conservation status (as defined by article 1 of the Habitats Directive); and
- d. seek contributions towards measures set out in the Southern Damsely Conservation Strategy (or other strategy) specifically to deliver biodiversity net gain.

National and Local Designations

4. Development will not be permitted if it is likely (either individually or in combination with other developments) to have a direct or indirect adverse effect on a Site of Special Scientific Interest (SSSI), Site of Importance for Nature Conservation (SINC) or Local Nature Reserve (LNR) as shown on the policies map (or on a more recent plan provided by the Hampshire Biodiversity Information Centre) unless it can be demonstrated that:
 - a. there are no alternative solutions;
 - b. the adverse effects are unavoidable;
 - c. measures are taken to mitigate or, as a last resort, compensate for the adverse effects;
 - d. there is an overall biodiversity net gain; and
 - e. if there are any residual adverse effects which cannot be avoided, mitigated or compensated, the benefits of the development must clearly outweigh the adverse effects on the nature conservation value of the site and any broader impacts on national and local designations.

Priority habitats, protected and priority species and the local ecological network

5. Development will not be permitted if it is likely (either individually or in combination with other developments) to have a direct or indirect adverse effect on priority habitats, protected or priority species, or on the local ecological network unless it can be demonstrated that:
 - a. there are no alternative solutions;
 - b. the adverse effects are unavoidable;
 - c. measures are taken to mitigate or, as a last resort, compensate for the adverse effects;
 - d. there is an overall biodiversity net gain; and
 - e. if there are any residual adverse effects, the benefits of the development clearly outweigh the adverse effects on priority habitats, priority and protected species, and the local ecological network.

Irreplaceable habitats

6. Development will not be permitted if it results in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees), unless there are wholly exceptional reasons and a suitable compensation strategy

exists.

Buffers

7. Buffers free from development will be provided to designated sites to avoid/mitigate impacts, including recreational impact and impacts on edge habitats, and to maintain dark skies.

Surveys

8. Development will not be permitted unless it can be demonstrated that:
 - a. there have been thorough habitat and species surveys;
 - b. the great crested newt strategic survey and strategy have been considered in all developments within 500m of a great crested newt pond; and
 - c. the strategic bat trapping survey has been considered in all developments within the locality of a woodland or connected habitat networks.

Technical Appendix 3

Ecological Appraisal Method

Introduction

The methodology for this appraisal is based on the Guidelines for Ecological Impact Assessment (EcIA) in the United Kingdom published by the Institute of Ecology and Environmental Management (IEEM June 2006). Regardless of whether a statutory Environmental Impact Assessment is required, these guidelines provide a robust framework for ecological assessment at any scale.

Desk Study

The first stage of the appraisal is a desk study of the proposed development site and associated Zone of Influence. This provides background information on the site and local environment so as to more effectively target field survey and further desk research.

The Multi Agency Geographical Information for the Countryside (MAGIC) database and Natural England's 'Nature on the Map' are interrogated for information regarding nationally or internationally designated sites within 1km or 5km of the site respectively. The National Biodiversity Network (NBN) data base is interrogated primarily for any relevant local protected species records within the area. The NBN provides access to a substantial volume of biodiversity data for the UK. Although rarely site specific, it does provide valuable information on the local occurrence of protected species.

Where appropriate, the local environmental Record Centre is approached to provide information regarding locally identified sites and records of protected and/or notable species within and around 1km of the site and European Protected species within 5km of the site.

Site Survey Methodology

The aims of the survey are to record land-use and broad vegetation types present on the site and in the surrounding areas, and to evaluate the habitats and vegetation communities ecological value along with the potential to support protected species, species of principal importance, and any other notable species.

Where relevant, habitat immediately adjacent to the site is also assessed as this can have a bearing on the possible presence of protected species on the site and the ecology of adjacent areas can be affected by development nearby.

Habitats and Vegetation

Habitats and vegetation communities are recorded on a broad scale by visually noting contrasting land uses, vegetation zones and landscape features, such as hedgerows and trees. Dominant plant species are recorded in each of the areas identified, as are any notable plant species, such as protected species and habitats or notifiable weeds.

Protected Species

Many plant and animal species are legally protected in the UK. Some, such as bats, badger, water vole and great crested-newt are commonly encountered on development sites. Protected species law is a serious consideration for developers and land owners, as failure to confirm

their presence during initial project conception can later lead to serious programming delays and their associated costs and to prevent any infringement of the law.

Case law has established (*Regina vs. The Cornwall County Council ex parte Hardy* 2001) that “It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted.

For the most regularly encountered protected species, a brief summary of methods follows:

Bats

Bats use buildings and trees for roosting and breeding, and so the potential for any of these features on site to support bats was considered, as was the site’s potential for providing bat foraging habitat. The survey for signs of residence by bat species consisted of a slow, methodical search both internally and externally for actual roosting bats and their signs which could indicate the presence of a bat roost including:

- Bat droppings – e.g. on floors, stored articles, walls, beams, tiles, windowsills entry/exit points, etc. These can be used to aid species identification.
- Dark staining at well-used roost sites (e.g. ridge boards and timber joints, etc.) or entry/exit points.
- Wear marks at bat roost sites and entry/exit points. This can be a polishing and smoothing of rough wood surfaces and masonry or slight scuffing of very smooth wooden surfaces.
- Urine spots or streaking in the vicinity of bat roosts and entry/exit points.
- Similarly, the presence of spider webs at a potential roost can often indicate their absence at that time, but requires careful interpretation combined with other evidence.

All internal spaces of the building were searched for any roosting bats or signs to indicate their use by bats, including gaps at the roof timber frame joints. External surfaces of the building were also examined for evidence of use of any potential bat access points. This survey was achieved using a strong torch in dark internal areas, endoscope for inaccessible spaces, binoculars and, where appropriate, a ladder to examine the buildings externally.

The potential to support bat roosts either in the summer (nursery) or winter (hibernation) based previous experience of bat occupancy at other sites and upon the presence of suitable roost sites and access points was also considered. In particular, the potential for roost sites which are hidden from view is noted.

Evaluation

The aim of this Bat Survey is to evaluate the potential suitability of the proposed development site in relation to bat use and bat roosts using the Bat survey guidelines (Bat Conservation Trust (2016) *Bat Surveys Good Practice Guidelines* 3rd Edition), which provides guidance on assessing and evaluating development sites and features for bat roost potential. The potential for structures to support roosting or breeding bats is evaluated under the protocol for the visual internal and external inspection (Negligible, Low, Moderate or High).

Survey Constraints and Limitations

Lack of bat evidence cannot always be taken to mean the lack of use by bats as signs of bats can be easily washed off by wind or rain; droppings are hard to see where rubble and other floor debris may obscure them; low numbers of droppings can easily be missed especially where they may become damp and deteriorate; evidence of bats may not be apparent where bats roost out of view, such as in tree and wall cavities, etc.

The survey was carried out during a brief window of time and, therefore, the survey has provided only a snapshot of the site use. Since bats regularly move between different roost sites, particularly to satisfy their varying requirements at different times of the year, a bat survey often concentrates upon searching for signs to indicate the presence of roosting bats at any time of the year. Due to these survey limitations an assessment using professional judgement has been used to interpret the findings and the potential for supporting bats and is used to guide any recommendations for precautionary approaches to carrying out the proposed work.

Badgers

The site and its boundaries were systematically searched for the presence of Badgers *Meles meles*, in particular badger setts, on or near (30-40m) of the site. The area was also assessed for the presence of badger foraging activity and territorial behaviour. Such signs include foraging trails, foraging scrapes in short grass, which are commonly known as 'snuffle holes' (shallow scrapes in soft ground or even turf rolling created by foraging for ground-dwelling invertebrates such as worms and grubs), footprints, hairs caught under fences, sett entrances, and latrine sites.

Dormice

The presence of Dormouse on or near the site was considered during the survey, principally through habitat suitability, combined with data on occurrence within the area. Where suitable habitat occurs, further survey for feeding signs on hazel nuts and honeysuckle where it occurs along with searches for arboreal nests. If a site is considered suitable, further survey may be recommended.

Other Mammals

Consideration is also given to the potential for habitats to support other legally protected mammals and those of nature conservation importance. Where any water bodies occur on or near to the site species including Water Vole *Arvicola terrestris* and Otter *Lutra lutra* are considered. Depending upon the geographic location consideration is also given to species such as Red Squirrel .

Breeding Birds

Any notable bird species seen during the survey are recorded. The type and quality of breeding, foraging and roosting habitats available for birds is also considered and interpreted with particular reference to protected or more notable bird species.

Consideration is given to any features which could support nesting birds, (Buildings and other structures, and areas of vegetation) that will be cleared or disturbed as a result of the development.

Reptiles

Any areas of habitat considered suitable for supporting reptiles were noted (for example, areas of rough grassland and scrub, banks, burrows, and rubble piles, compost heaps).

Great Crested Newt

Due to declines in numbers predominantly due to habitat loss and restricted European range, Great Crested Newts *Triturus cristatus* are protected under Section 9 of the Wildlife and Countryside Act, 1981 (as amended) and Regulation 39 of the Conservation (Natural Habitats &c) Regulations 1994, which protects Great Crested Newts from harm, injury and deliberate capture, killing, disturbance, damage and destruction of eggs, breeding site or resting place. This includes deliberate or reckless damage or disturbance.

Survey was by habitat suitability (the occurrence of suitable ponds and terrestrial habitat) combined with knowledge on their distribution from biological records for the area. If a site is considered suitable, further survey is usually required if an impact is considered likely.

Invertebrates

A very small proportion of invertebrates are afforded legal protection under the Wildlife and Countryside Act 1981 (as amended), although a relatively high number of invertebrates are included within the UK and local BAPs, and many more species are identified as being Nationally Scarce. Most invertebrates require specialist knowledge in order to identify them, although some groups, including butterflies and dragonflies, can be readily identified by generalists. Therefore, apart from recording any species of these readily identifiable groups, the survey concentrated on recording the presence of any key habitats of nature conservation importance considered suitable for supporting more scarce and restricted invertebrates, for example bare ground, dead wood and botanically rich habitats.

Survey Constraints and Limitations

Walkover surveys are carried out during a brief window of time. And therefore, the survey will provide only a snapshot of the range of plants and animals that might be present. However, professional judgement is used to interpret the habitat features recorded, and their likely value for supporting protected and notable species, including species of principal importance. Where timing is likely to significantly affect the results of a survey, further survey work is often recommended. Survey can also be restricted through land access, especially land adjacent to the site.

Assessment Guidelines

Introduction

The IEEM guidelines (2006) provide three principal reasons for an ecological feature being valued and therefore included within the EcIA: biodiversity value, social/community value, and economic value.

The evaluation and assessment undertaken assigns one of a number of value labels based on a geographic scale as follows:

- International
- National
- Regional
- County
- District
- Local (Parish)
- Within the zone of influence

Value is determined with reference to the following factors:

- level of designation (sites) or biodiversity-based protection (legal and policy);
- biodiversity value (e.g. inclusion in Biodiversity Action Plans, rarity, position in ecosystem, assemblages and communities, size and diversity);
- social and economic value;
- legal issues (eg protected sites).

All impacts of the scheme on features of local importance or greater are assessed in the impact assessment stage

Assessment of Likely Impacts

The ecological impact assessment methodology used is based on the following considerations.

Characterisation of Likely Impacts

The potential impacts identified as a result of the proposals are characterised according to the following parameters:

- Positive or negative
- Magnitude (and extent if not synonymous)
- Duration
- Reversibility
- Timing and frequency

Significance of Impact

A significant impact on a valued ecological feature (whether negative or positive) is defined in IEEM's guidelines as an impact on the integrity of a defined site or ecosystem, and/or the conservation status of habitats or species within a given geographical area. These terms are defined below.

Integrity

Integrity is defined as follows. *'The integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified.'* A site or ecosystem that achieves this is considered to be at favourable conservation status.

Conservation Status

For habitats, conservation status is determined by the sum of the influences acting on the habitat and its typical species, which may affect its long-term distribution, structure and functions as well as the long-term survival of its typical species within a given geographical area.

For species, conservation status is determined by the sum of the influences acting on the species, which may affect the long-term distribution and abundance of its populations within a given geographical area.

Impact Prediction

For guidance as to whether an impact is likely to result in an adverse effect on the integrity or conservation status of a feature, reference has been made to the conservation objectives for that feature where they are available, for example in habitat and species action plans. Otherwise professional judgement has been made based on available information.

The confidence in the prediction that an activity will give rise to a significant adverse impact on a valued ecological feature is given based on a four point scale:

- Certain (or near-certain);
- Probable;
- Unlikely; and
- Extremely unlikely

Drawing the Assessment Together

The above factors – value, integrity and conservations status of the feature, prediction and characterisation of the impact and overall significance of the impact is brought together in the final assessment. This is done without additional mitigation measures that may be proposed. An impact is then summarised as significant or not.

Mitigation, Compensation and Enhancement

Where impacts are characterised as significant mitigation or compensation may be offered to prevent, reduce or offset such impacts. In addition, enhancement measures may be built into a scheme to ensure that the scheme is compliant with the proactive measures outlined in the latest Government policy on nature conservation (PPGs).