LAND AT WILLOW MEAD,
WILDERN, HEDGE END

ECOLOGICAL CONSTRUCTION MANAGEMENT PLAN

JANUARY 2026

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1.0 INTRODUCTION

1.1 Background

1.1.1 The site has Planning Permission for Construction of 2No. semi-detached two-bedroom retirement bungalows. A detailed ecological assessment was provided with the Outline Application (see Aluco Ecology, 2025).

1.1.2 Planning permission for the site contains a condition directly related to the site's ecology during construction:

> No site clearance or construction works shall start until an Ecological Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. All works shall only take place in accordance with the approved management plan which shall include:
> a) a precautionary working method to protect nesting birds, bats and small mammals;
> b) safeguards to prevent any pollution from construction debris, fuel, oil, or sediment carried in runoff during construction entering the neighbouring pond as a result of the construction activities; and
> c) measures to prevent animals from being trapped in open trenches.

1.1.3 A detailed scheme for the site has been developed, and this is reproduced at **Figure 1** below. This document provides mitigation method statements for protected and notable habitats and species during construction providing necessary information for the planning condition. It does not provide detailed information on measures to prevent pollution from construction debris, fuel oil, or sediment carried in runoff during construction entering the neighbouring pond – this is covered in the Construction Environmental Management Plan (CEMP) for the scheme.

1.2 Legislation

1.2.1 A number of species are protected under legislation and policy; namely the Conservation of Habitats & Species Regulations 2017 (as amended) in relation to the European protected species (eg bats, Dormouse, Great Crested Newts) 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 (**Technical Appendix 1**). The Protection of Badgers Act 1992 gives protection to Badgers *Meles meles.*

1.3 Previous Survey Work

1.3.1 Ecological Appraisal survey work has been undertaken on site in 2023 (So Ecology, 2023 and 2025 (Aluco Ecology, 2025). In addition, Great Crested Newt survey work of off-site ponds within 250m of the site was undertaken in 2025 (Aluco Ecology, 2025a). This survey work has recorded the following baseline features to be considered during the construction process:

- Vegetation and Habitats – value in the zone of influence. The majority of the site is Bramble *Rubus fruticosus* agg. scrub, with some ruderal habitat around the margins. Off-site is a small pond, Merlins Garden Pond.
- Birds – value in the zone of influence. A small number of bird species were recorded in the local area, including the Wildlife & Countryside Act Schedule 1 species Firecrest *Regulus ignicapilla*, as well as Great Spotted Woodpecker *Dendrocopos major* were both noted north west of the site in trees around Tamarisk Road and Chiff Chaff *Phylloscopus collybita,* with no notable species recorded on site. Firecrest is considered unlikely to nest in close proximity to the site given the habitats present.
- Bats – value in the zone of influence. No potential roost features are present on site, with mature trees being outside the site boundary and no buildings present. The site is small but is linked to open space in the urban landscape, so provides some minor foraging habitat as part of the wider local resource.
- Badgers. No evidence of use of the site by Badgers *Meles meles* was noted.
- Other mammals. There is potential for use of the site by Hedgehog *Erinaceus europaeus* and Fox *Vulpes vulpes*, but there is very limited habitat on site for either.
- Reptiles. The site contains a small amount of potentially suitable reptile habitat, particularly around the edges to the Bramble scrub. However, a phase 2 reptile survey of the site in 2023 (So Ecology, 2023) did not record any evidence of reptile use of the site.
- Amphibians. Two ponds within proximity to the site were surveyed using eDNA survey in April 2025, both returned a negative result for Great Crested Newt

Triturus cristatus presence. On this basis Great Crested Newt are likely to be absent from the waterbodies and are unlikely to be present on the site.

2.0 DETAILS OF DEVELOPMENT

2.1 Introduction

2.1.1 **Figure 1** below shows the detailed Masterplan. The development is for the construction of two retirement bungalows (for over 55's only), as part of the wider retirement complex, at Willow Mead, Wildern Lane, Hedge End.

2.2 Biophysical Changes associated with the Development Scheme

Pre-Construction Site Clearance

2.2.1 Existing vegetation within the construction zone will be required to be removed and the ground re-profiled within the development area.

Construction

2.2.2 The construction of the development has the potential to affect protected species and ecological features, some of which are afforded protection under the legislation and policy outlined in Section 1 above. The following sections provide details for each relevant protected species group, to ensure that pre-construction works follows best practice and protected species are taken into account.

Operation

2.2.3 A detailed Landscape Strategy has been prepared for the site.



Figure 1a: Masterplan and Red Line Boundary (Solent Design, 2025)

3.0 CONSTRUCTION MITIGATION MEASURES

3.1 Introduction

3.1.1 The following construction method statements have been developed to ensure that the ecological receptors set out in the assessment (Aluco Ecology, 2025, 2025a) are considered and protected during the construction phase of the development. This relates to habitats and vegetation, birds, mammals, reptiles and amphibians. Prior to works commencing on site, the suitably qualified ecologist should make a site visit to confirm and review the site baseline and any changes relating to protected species. Where there are any significant changes to the baseline, the relevant method statement below will be reviewed having regard to: best practice for the relevant species group, any additional survey and licensing requirement, and seasonal timing. The most recent survey has been within the last 12 months and therefore it is considered unlikely that there have been significant changes to date, and the method statements below are considered suitable.

3.1.2 In addition to the method statements outlined below, a Construction Environmental Management Plan (CEMP) is prepared as part of the development, which addresses potential for indirect pollution on and off site, including potential pathways to adjacent habitats including Merlins Garden Pond.

3.2 Vegetation and Habitats

Potential Risks

3.2.1 The construction has the potential to provide the following risks to vegetation and habitats:

- Direct damage to any retained habitats, hedges and trees, through construction activities such as tracking of machines and damage to habitat;
- Direct damage to habitats associated with the above retained habitats, including grassland edges and tree line, through construction activities such as tracking of machines and damage to habitat;
- Indirect pollution events on retained habitats through surface water run off pollution, siltation, dust and airborne pollution and littering.

3.2.2 The following sections below provide detailed mitigation for ensuring that the vegetation and habitats on site are protected during the construction phase and that risks outlined above are addressed through the process to provide suitable avoidance, reduction and offsetting measures and safe biodiversity protection zones.

Retained Vegetation – Protection Areas

3.2.3 The site is directly adjacent to a garden hedgerow and to mature Oak trees. These boundaries will be marked to the edge of the works area and protective fencing to

relevant building standards will be erected at the edge of the works/retained habitat areas to ensure that habitats are retained in situ during construction. The grassland edge habitat at the base of these habitats will be retained in situ and protected by the site fencing. This includes an off site strip of vegetation along the southern edge of the site where the Oak trees are located. Tree protection fencing is shown at **Figure 3** below (see also James Fuller Arboriculture, 2025).

3.2.4 There should be no storage of materials, or equipment, or use of the retained hedge/boundary on the site by any construction activities.

Indirect Pollution Potential

3.2.5 Potential for indirect impacts to retained habitats and adjacent habitats should be avoided through best practice pollution prevention measures in construction. Best practice pollution prevention guidelines to be followed during the construction phase are set out in Government guidelines for best practice (see Gov.UK). This is further detailed in the CEMP.

Construction Area

3.2.6 The habitats over the construction area are to be removed according to protected species mitigation statements below. This includes:

- All woody vegetation within the construction zone, predominantly Bramble scrub and Willow saplings.
- ruderal vegetation areas within the construction zone.

New Habitats

3.2.7 The new gardens within the scheme will include planting of a range of shrubs and plants, including new lawns, hedges and woody boundary vegetation to supplement the existing habitats off site.

3.3 Mitigation Method Statement for Birds

Introduction

3.3.1 All birds and their nests are protected from harm under Section 1 of the Wildlife and Countryside Act 1981 (as amended) (see **Technical Appendix 1**). A strategy is provided below to ensure that the construction of the proposed development does not affect any nesting birds.

Potential Risks

3.3.2 The construction of this phase of the development has the potential to provide the following risks to birds:

- Direct damage to retained trees and hedgerows that may be used as nesting bird habitat through construction activities such as tracking of machines and damage to habitat;
- Damage to nesting bird habitat during the active nesting season where measures have not been undertaken to avoid impacts.

3.3.3 The following sections below provide detailed mitigation for ensuring that the nesting birds and habitats on site are protected during the construction phase and that risks outlined above are addressed through the process to provide suitable avoidance, reduction and offsetting measures.

Mitigation for Nesting Birds

3.3.4 All woody habitat not to be retained on site will be removed outside the nesting bird season where possible (which is considered to be early March-August). Vegetation clearance will be undertaken in the following way:

- All vegetation will be cleared during the period September-end February to just above ground level (c15cm) to remove nesting bird habitat but not disturb the ground;
- Vegetation clearance will be undertaken with supervision from an ecologist if considered necessary;
- It may be possible to sensitively undertake small amounts of vegetation works during the nesting bird season where such vegetation is able to be checked by a suitably qualified ecologist to determine no nesting birds are impacted.

Protection of Retained Habitats

3.3.5 Measures outlined above in relation to retained habitats should ensure that the habitats outside the works area is protected via fencing to ensure that construction activities do not impact on the features.

New Nesting Habitat

3.3.6 Two swift-bricks are recommended to be installed on the north easterly face of the new dwellings. See **Figure 2** and **Technical Appendix 2** below. Although the building is single storey so unlikely to attract Swift *Apus apus*, the features will provide nesting opportunities for other species, such as House Sparrow *Passer domestica.* Landscaping of the new gardens will provide some suburban habitat for bird species within the zone of influence.

3.4 Mitigation Method Statement for Bats

Introduction

3.4.1 All bats and their roosts are protected from harm under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Habitat Regulations 2017 (as amended) (see **Technical Appendix 1**

Potential Risks

3.4.2 The construction of this phase of the development has the potential to provide the following risks to bats:

- Potential for indirect impacts on retained habitat used by foraging and commuting bats;
- Potential impacts from lighting on retained trees or off-site buildings, and foraging/commuting routes.

3.4.3 The following sections below provide mitigation for ensuring that the bat populations and habitats on site are protected during the construction phase and that risks outlined above are addressed through the process to provide suitable avoidance, reduction and offsetting measures and safe biodiversity protection zones.

Foraging and Commuting Habitat

3.4.4 The design of the development allows for retained offsite boundary woody vegetation including the mature Oaks to be adjacent to the proposed gardens, which will continue to provide some green space around these features and links through the site.

3.4.5 The provision of new woody planting and garden landscaping will provide additional semi-natural habitats for commuting and foraging in the local area.

Construction Lighting

3.4.6 Any construction lighting should avoid lighting the off-site retained vegetation including Oak trees and any vegetation along the southern boundary, and be directed into the construction zone only.

New Roosting Habitat

3.3.7 Two in-built bat bricks are recommended to be installed on the southern face of the new dwelling. See **Figure 2** and **Technical Appendix 2** below

3.5 Mitigation Method Statements for Other Mammals

Introduction

3.5.1 Badgers and their Setts are protected from harm and disturbance under the Protection of Badgers Act 1992 (see **Technical Appendix 1**). No evidence of Badgers has been noted on site. Other mammals including Fox and Hedgehog are present in the zone of influence and may occur on site on occasion.

Potential Risks

3.5.2 The construction of this phase of the development has the potential to provide the following risks to terrestrial mammals:

- Direct damage to retained habitats that may be used by mammals;
- Damage to habitats associated with retained woody vegetation, including rough grassland edges through construction activities such as tracking of machines and damage to habitat;
- Potential indirect impacts through disturbance, and pollution events.

3.5.3 The following sections below provide mitigation for ensuring that the habitats of protected mammal species on site are protected during the construction phase and that risks outlined above are addressed through the process to provide suitable avoidance, reduction and offsetting measures and safe biodiversity protection zones.

Minimising secondary impacts to Mammals

3.5.4 It is expected that mammals may travel through the site during construction and therefore the following measures should be implemented to reduce the risk of secondary impacts to badgers:

- trenches in excess of one metre in depth should be covered or secured and a means of escape provided for any animal that does fall in (a suitable escape can be provided by wooden planks placed at a 45 degree angle);
- any temporarily exposed open pipe system should be capped in such a way as to prevent Badgers or other mammals gaining access;
- chemicals and fuels should be stored carefully and as far away from setts and badger/mammal paths as possible; and
- any security lighting (if required) should be directed away from any sett/fox earth protection zones and regularly used mammal paths.

Potential for Fox Earths

3.5.5 Foxes are present in the local area, although no Fox earths have been recorded on site. Where active Fox Earths are located within the construction zone or within 20m of it and likely to be significantly impacted, then the following guidelines will apply:

- Potential Fox Earths will be checked regularly for signs of use;
- Holes will be part, then fully soft blocked and monitored for a period of up to two weeks;
- Where monitoring and discouragement of use is applied successfully and no evidence of further use is made, the holes will be destructively searched;
- Where there is continued use of holes, the installation of one-way gates will be necessary with a further period of monitoring;
- Exclusion of Foxes from holes will only take place outside the breeding period (ie closure can occur during June – Jan depending upon local circumstances).

Hedgehog

3.5.6 Hedgehog *Erinaceus europaeus* have been recorded on site. Any pre-construction vegetation clearance where Hedgehogs may be present should have regard to their potential presence and be carried out sensitively. This can be combined with reptile mitigation work set out below. New boundary fencing should have regard to allowing access through the fencing, by providing a 'hedgehog highway' a small hole at the base of the fence (see link at **Technical Appendix 2** for details).

3.6 Mitigation Method Statement: Reptiles & Amphibians

Introduction

3.6.1 All reptiles are protected under the Wildlife & Countryside Act 1981 (as amended) (see **Technical Appendix 1**). The following strategy has been devised in order to follow best practice guidance (HGBI, 1998, Froglife, 1999).

3.6.2 Survey work has not recorded any reptiles on site, and Great Crested Newt survey work has not recorded presence within waterbodies adjacent to the site. However, suitable habitats exist on site for herpetofauna.

Potential Risks

3.6.3 The construction of this phase of the development has the potential to provide the following risks to reptiles & amphibians:

- Direct damage to reptiles through construction activities such as tracking of machines and damage to habitat;
- Damage to habitats associated with retained hedges and trees, including grassland edges through construction activities such as tracking of machines and damage to habitat;
- Potential indirect impacts on retained habitats.

3.6.4 The following sections below provide detailed mitigation for ensuring that reptiles & amphibians on site are protected during the construction phase and that risks outlined

above are addressed through the process to provide suitable avoidance, reduction and offsetting measures and safe biodiversity protection zones. This is provided as a precautionary measure, as although no reptiles nor Great Crested Newt have been recorded, some suitable habitat exists on site.

Retained Habitats

3.6.5 The southern site boundary contains an edge to retained habitat that is proposed to be protected by tree protection fencing and can be used as part of the mitigation strategy below. This will be incorporated as part of the garden with boundary woody planting. See **Figure 3**.

Mitigation Strategy

3.6.6 Small amounts of potential reptile habitat is to be impacted. A strategy has been devised to ensure that the development does not harm reptiles/amphibians. The strategy ensures that reptiles are protected in the long term:

- The main aim is to retain any reptile populations within the local area, and within retained habitat on the edge of southern boundary site, including public open space areas immediately off site adjacent to the footpath, and Merlins Garden Pond and surrounds further south west;
- The garden boundaries will be landscaped to provide new hedgerow and woody boundary habitat that will provide some limited edge habitat for herpetofauna;
- Prior to construction commencing, phases of the construction zone will be subject to a destructive search to the methods set out below, to ensure that reptiles and amphibians are not harmed;
- Any herpetofauna present within the works area will be translocated to the southern boundary of the site that is protected by tree protection fencing.

3.6.7 The construction zone includes predominantly Bramble dominated scrub. The translocation will be undertaken according to the following strategy:

- The existing vegetation within the works area and area to become garden habitat on the non-construction side of the tree protection fencing should be cut short regularly (but having regard to ground nesting birds) to ensure that the construction zone does not develop suitable reptile habitat;
- Given that the impacts on site are very localised a strategy involving habitat manipulation (phased vegetation works) followed by a supervised destructive search, is suitable to allow reptiles to move out of the works area and into suitable retained habitat that is adjacent;
- The areas of potential reptile habitat within the construction zone of the site will be sensitively strimmed to c10-15cm using hand tools, careful not to harm reptiles potentially present. Where trees and bushes and scrub are also to be

removed, due regard will be given to the mitigation strategy for nesting birds and other mammals;

- The cut area will be left for 24 hours minimum. Prior to works consideration will be given by the suitably qualified ecologist as to whether a second cut is recommended;
- A destructive search of the works area suitable reptile habitat will be undertaken, with a directional vegetation clearance and soil stripping under supervision by a suitably qualified ecologist. This will stop at the tree protection fencing to avoid impacts to the tree roosts;
- The reptile strategy will be undertaken outside of the hibernation period and during late March/April-October, depending upon weather conditions and other factors. Where potential reptile habitat is contained within the works area outside this period, no construction works will be undertaken in this habitat during this period.
- The reptile strategy will be detailed to conform to any mitigation requirements for other protected species.
- Great Crested Newt presence is considered not likely. However, under the Conservation of habitats and species regulations 2017 (as amended) and the wildlife and Countryside act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure, or kill Great Crested Newts; damage or destroy a breeding or resting place; intentionally or recklessly obstruct access to a resting or sheltering place. Planning permission for a development does not provide a defence against prosecution under this legislation. Should Great Crested Newts be found at any stage of the development works, then all works should cease, and a professional and/or suitably qualified and experienced ecologist (or Natural England) should be contacted for advice on any special precautions before continuing, including the need for a licence.
- When preparing the new garden habitats within the tree protection zone, all measures outlined in the arboricultural assessment (see James Fuller Arboriculture, 2025) will be adhered to. Works that disturb the ground such as shrub and tree planting should only be undertaken by hand tools, and any top soil stripping proposed and agreed through arboricultural methods (e.g. to provide a new lawn), should also follow the reptile mitigation strategy above).

Hand Searching

3.6.8 This is the careful searching and dismantling, by hand, of potential refuges and suitable habitat features. Hand searching may be done throughout the active season where weather conditions are suitable (e.g. not during very hot dry or cold weather). Hand searches are ineffective on large expanses of habitat and are suited to searching distinct habitat features, such as log piles and small areas of debris.

Destructive searches

3.6.9 This is the careful searching and dismantling of features including stumps of hedgerows, any rubbles piles on site, with ongoing supervision to check for animals as works progress. Destructive searching maybe undertaken throughout the active season, where weather conditions are suitable (e.g. not during very hot dry weather or cold weather) and is combined with hand searches.

4.0 SUMMARY

4.1 A detailed ecology mitigation strategy has been devised to ensure that biodiversity features are protected during construction of the approved scheme, with method statements for vegetation and habitats, nesting birds, bats, other mammals, reptiles and amphibians. An outline timetable of works and timing restrictions provided in the relevant method statements is provided at **Table 1** below.



Figure 2: Indicative Location of ▬ Bird and ▬ Bat Boxes (Elevation Plan: R & R Design Studio)

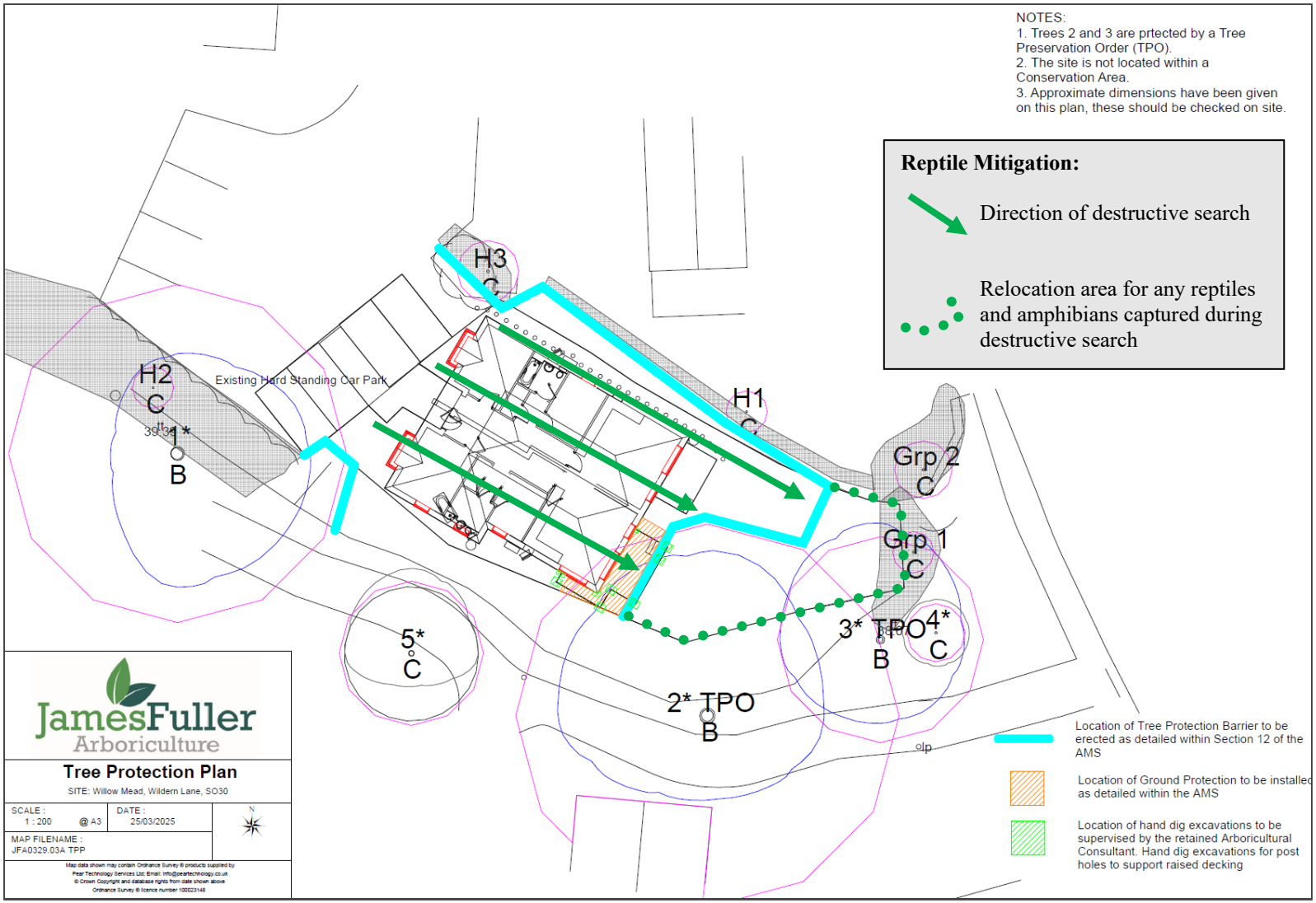

Figure 3: Tree Protection Fencing details plan (James Fuller Arboriculture, 2025) with location of receptor location for any herpetofauna recorded.

SUMMARY TIMETABLE

A timetable showing main construction mitigation work periods for ecology during a year is provided below at **Table 3** (but see method statements for detail).

Table 1: Summary of Anticipated Protected Species Mitigation Timescales During Construction

2026 start =	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S
Vegetation																					
Protect retained vegetation with fencing																					
Nesting Birds																					
Principal Cutting of woody vegetation period																					
Vegetation manipulation of potential ground nesting bird habitat																					
Erect Bird Boxes – when relevant property is built (see Fig. 5)																					
Bat Mitigation																					
Ensure any construction lighting is not impacting retained vegetation																					
Erect Bat Boxes – when relevant property is built (see Fig. 5)																					
Badgers & Foxes																					
Ongoing site monitoring for Badger/Fox																					
Fox earth exclusion measures																					
Reptiles & Amphibians																					
Grass cutting/manipulation																					
Monitor reptiles																					
Translocation																					
Destructive Search																					

5.0 REFERENCES

Aluco Ecology (2025) Land at Willow Mead, Wildern, Hedge End. Updated Ecological Appraisal March 2025.

Aluco Ecology (2025a) Land at Willow Mead, Wildern, Hedge End Great Crested Newt Survey. May 2025.

BCT & ILP (2023) Guidance Note 08/18 Bats and Artificial Lighting in the UK, Bats and the Built Environment Series.

Edgar, P., Foster, J. and Baker, J. (2010) Reptile Habitat Management Handbook. Amphibian and Reptile Conservation, Bournemouth.

Froglife, 1999. Froglife Advice Sheet 10. Reptile Survey. An introduction to planning, conducting and interpreting surveys for snake and lizard conservation. Froglife, Halesworth, Suffolk.

Gov.UK (2026) Standing Advice for Protected Species and Habitats.

Herptofauna Groups of the British Isles (HGBI) Guidelines (1998) "Evaluating Local Mitigation/Translocation Programmes: Maintaining Best Practice and Lawful Standards." HGBI Advisory notes for Amphibian and Reptile Groups (ARGs). HGBI, c/o Froglife, Halesworth, personal collection.

James Fuller Arboriculture (2025) Arboricultural Method Statement. Willow Mead. JFA0329

So Ecology (2023) Willow Mead, Wildern Lane, Hedge End, Ecological Impact Assessment. 02/05/2023.

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

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 is 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/uksi/2017/1012/pdfs/uksi_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 www.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;
- 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 www.gov.uk & www.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

Bat & Bird Box Mitigation Examples

Examples of Bird Nesting Opportunities for buildings

Swift Nesting Brick – It needs to be positioned near Apex or high up – position advised by ecologist. Design shown is from Ibstock Bricks. https://www.ibstockbrick.co.uk/kevington/eco-products/ ***see also:*** ***https://www.hampshireswifts.co.uk/post/when-is-an-s-brick-an-eaves-s-brick*** https://www.rspb.org.uk/globalassets/downloads/documents/conservation--sustainability/help-swifts/swift-bricks.pdf	

Examples of Bat Bricks/Mitigation for buildings

Schwegler Bat Roost Unit 2FR This Tube system meets the characteristic behavioural requirements of the types of bats that inhabit buildings. Made with Schwegler wood-concrete, the design maintains excellent climatic conditions inside the roost unit allowing the animals to either hang onto the wooden rear or onto the wood-concrete front. The box, once installed is maintenance free and self cleaning. The roost unit can be installed within any external walls (brick, block or panelling) either flush or beneath the wall surface (with suitable entrance ramp extension)	

Dimensions: height 47.5 x width 20 x depth 12.5 cm, Entrance: width 15 x height 2 cm, Weight: ca. 9,8 kg Within Brick, can also be placed within cavity with only entrance visible	   

Hedgehog Highways:

https://www.hedgehogstreet.org/help-hedgehogs/link-your-garden/