



**Proposed Security Fence and Associated Facilities,
Darton, Longfields**
**Construction Environmental Management Plan:
Biodiversity**

Prepared on behalf of

North Gawber Colliery Football Club

Final Report

29 January 2026

Proposed Security Fence and Associated Facilities, Darton, Longfields

Construction Environmental Management Plan: Biodiversity

Document Control

Client: North Gawber Colliery Football Club

Date: 29 January 2026

Status: Final report

Report Prepared for Issue by: Elizabeth Davies BSc (Hons) MCIEEM
Edavies@lizecology.com
07507 422197

Disclaimer

This report has been prepared, and is only valid for the named client, for the project described. The information which we have prepared and provided is in accordance with CIEEM's Code of Professional Conduct. Liz Ecology confirms that the opinions expressed are our true and professional bona fide opinions. The report is in accordance with the agreement under which our services were performed.

Liz Ecology accepts no responsibility or liability for the consequences of this document being used for a purpose other than the purpose which it was commissioned. This report does not constitute legal advice. If a legal opinion is required, the advice of a qualified legal professional should be sought.

The content of the report may, in part, be based upon information provided by others and on the assumption that all relevant information has been provided by those parties from whom it has been requested. Information obtained from any third party has not been independently verified by Liz Ecology unless otherwise stated in the report.

Provided no significant changes are made to the proposals or on the site subsequent to the report's issue; this report can be considered valid for 18 months from the date of issue, in line with CIEEM's Advice Note on The Lifespan of Ecological Reports and Surveys (2019).

As part of membership to our professional body (CIEEM) we are required to provide our biological results to applicable biological record centres. As such, it is our intention to supply biological data collected as part of this assessment to the relevant centre unless directly instructed in writing not to do so by the client.

Proposed Security Fence and Associated Facilities, Darton, Longfields

Construction Environmental Management Plan: Biodiversity

NON-TECHNICAL SUMMARY

1. This report outlines the measures which must be implemented during construction as a Construction Environmental Management Plan (CEMP). The report has been produced by Liz Ecology Ltd on behalf of North Gawber Colliery Football Club. The site is located at the Proposed Security Fence and Associated Facilities, Darton, Longfields. The proposal for the site is for the construction of security fences and associated facilities for football pitches.
2. The aim of the CEMP is to establish how to safeguard protected species and habitats within and adjacent to the development during the construction phase of the development. It will also ensure that clarification is provided for who is responsible for ensuring that the environmental protection measures are implemented.
3. The CEMP will include measures to avoid and minimise impacts on protected species in close proximity to the works, including foraging bats, badger, reptiles, nesting birds and hedgehog.
4. This CEMP is restricted to the potential impacts of the construction phase on ecology and biodiversity and does not extend to any other potential environmental impacts.
5. A series of general management prescriptions to prevent impacts are presented in section 4. Specific mitigation is presented within section 5.

Proposed Security Fence and Associated Facilities, Darton, Longfields

Construction Environmental Management Plan: Biodiversity

Contents

NON-TECHNICAL SUMMARY..... 1

1. INTRODUCTION..... 1

2. BASELINE INFORMATION 2

Modified Grassland 2

3. ROLES AND RESPONSIBILITIES 3

4. GENERAL PRESCRIPTIVE MEASURES..... 4

 Toolbox Talk 4

 Ground Construction Works 4

 Location of Construction and Plant Machinery 4

 Vehicle Use and Access 4

 Chemical Contamination 5

 Site Waste Management 5

5. SPECIFIC MITIGATION MEASURES 7

6. CONCLUSIONS..... 9

7. REFERENCES 10

APPENDICES

- Appendix 1 Site Plan
- Appendix 2 Proposed Site Plan
- Appendix 3 Legislation

1. INTRODUCTION

- 1.1 This report outlines the measures which must be implemented during construction as a Construction Environmental Management Plan (CEMP). The report has been produced by Liz Ecology Ltd on behalf of North Gawber Colliery Football Club. The site is located at Proposed Security Fence and Associated Facilities, Darton, Longfields (Grid reference: SE 30919 10262).
- 1.2 The proposals for the site are for proposed security fences and associated facilities for football pitches.
- 1.3 This CEMP strategy will cover the prescriptive mitigation required to prevent impacts to the habitats and species present during construction. The plan will be undertaken by appointed contractors and will include measures to avoid and minimise impacts on habitats in close proximity to the works. The CEMP strategy also outlines measures to mitigate impacts to nesting birds and bats. Enhancement measures for areas of retained/created habitat have also been provided.
- 1.4 As a condition of the planning permission pre-commencement Condition 6 states:
- 1.5 *“Prior to the commencement of development, a Construction Environmental Management Plan - Biodiversity (CEMP-B) shall be submitted to and improved in writing by the Local Planning Authority. The CEMP-B shall include, but not necessarily be limited to, the following:*
- *Risk assessment of potentially damaging construction activities;*
 - *Identification of 'biodiversity protection zones';*
 - *An Invasive Non Native Species (INNS) protocol to ensure INNS are not spread in the wild;*
 - *Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);*
 - *The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);*
 - *Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period;*
 - *Responsible persons and lines of communication;*
 - *The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person(s).*
- 1.6 Reason: In the interests of Biodiversity and in accordance with Local Plan Policy BIO1: Biodiversity and Geodiversity and the adopted Biodiversity and Geodiversity and the adopted Biodiversity and Geodiversity SPD.”
- 1.7 A series of general management prescriptions to prevent impacts are presented in section 4. Specific mitigation is presented within section 5.

2. BASELINE INFORMATION

- 2.1 The development site is approximately 2.095ha and consists of modified grassland. Immediately adjacent to the site there is a strip of woodland and the River Dearne. There is a footpath between the site and the River Dearne.
- 2.2 The site is located within the village of Darton, northwest of Barnsley, east of Kexborough and west of Mapplewell. It is an area of designated greenbelt which extends to a more rural landscape. The site offers limited foraging habitat for aerial species, including bats and birds. The habitat immediately adjacent to the site offers foraging and commuting habitat for both bats and birds.
- 2.3 The following were recorded on site, and are described below:
- Modified grassland.

Modified Grassland

- 2.4 Much of the site consists of modified grassland. The grassland is managed with a short sward length. Species include perennial rye grass, ribwort plantain, white clover, dandelion, red fescue and creeping thistle. %
- 2.5 The grassland is a short sward length across the whole area, with physical damage more than 5%, bare ground approximately 30%, scrub and bracken less than 20% and an absence of invasive, non-native species. There were approximately 3-4 species per m².
- 2.6 This has a distinctiveness of low, and condition assessment is not required.

3. ROLES AND RESPONSIBILITIES

- 3.1 The measures outlined within this report should be considered with input from other environmental disciplines' mitigation and construction best practice measures. Where conflicting, the relevant professionals will be consulted to resolve the discrepancy pragmatically.
- 3.2 The implementation of the CEMP is the responsibility of North Gawber Colliery Football Club, who will be responsible for ensuring that appointed contractors and all site staff are aware of the ecological constraints and the distribution of the CEMP document accordingly.
- 3.3 It is anticipated that Liz Ecology Ltd will be appointed Ecological Clerk of Works (ECoW) during the construction phase. If Liz Ecology Ltd is not appointed as ECoW another suitably qualified ecologist will be appointed as ECoW and follow the recommendations in this document. Reference is made within this document as to when the ECoW would need to be present in order to implement mitigation.
- 3.4 The appointed Site Manager will be responsible for the day-to-day implementation of the CEMP and ensuring that site staff and contractors adhere to the measures set out within the CEMP. The Site Manager will also be responsible for identifying when the ECoW is required in relation to the outlined ecological mitigation measures.

4. GENERAL PRESCRIPTIVE MEASURES

4.1 This section details the general site prescriptions to be adhered to throughout the construction phase, which are not specific to any one ecological feature within the development area.

Toolbox Talk

4.2 The site manager, and other supervisors as deemed appropriate will be given a toolbox talk by the appointed ECoW.

4.3 The toolbox talk will comprise:

- The legal protection afforded to protected species;
- The precautionary methods of working, outlined in this document;
- Contractors will be made aware of methods of identification for protected and invasive species; and
- The procedures to follow in the event that any protected species are discovered during the works.

Ground Construction Works

4.4 Any exposed areas of soil during the works should be covered by a geotextile membrane whilst not being worked in, to minimise risk of erosion and dust pollution.

4.5 If soil is imported on to the development area, a record should be made as to where the imported soil is distributed, and these areas checked annually between May and September by the ECoW. The ECoW will search for invasive species, such as Japanese knotweed (*Fallopia japonica*), Himalayan balsam (*Impatiens glandulifera*) and giant hogweed (*Heracleum mantegazzianum*).

Location of Construction and Plant Machinery

4.6 A refuelling area will be established which must have spill kits provided and drip trays available and in place.

4.7 All general material will be carefully stored within the site compound. Any loose materials are to be covered with a geotextile membrane to prevent them from emitting particulate pollution.

Vehicle Use and Access

4.8 Vehicle access is to be using existing road infrastructure from the existing road network. Vehicles will be parked on hardstanding where possible, to prevent damage to flora and fauna.

4.9 Washing of vehicles is to be undertaken in designated areas which are linked to foul water drainage. Vehicles are also to be regularly inspected for cleaning. This is especially important for vehicles used for making cement.

- 4.10 Refuelling of vehicles is to ideally be undertaken within the site compound on an impermeable surface. Under no circumstances is refuelling of any vehicles or machinery to occur within the exclusion zones.

Chemical Contamination

- 4.11 All chemicals are to be stored within the site compound to minimise the risk of any potential contamination. Under no circumstances are chemicals to be stored within close proximity to the protected sites or the River.
- 4.12 Should any chemical spills occur then these should be traced, recorded and addressed in compliance with COSHH. A spill kit will be maintained on site at all times in order to react promptly to any chemical spills which may occur.
- 4.13 Should any drums be damaged or leaking then these should be removed from the site immediately and disposed of in an appropriate manner.
- 4.14 In the unlikely event of a pollution incident, actions which could be necessary include:
- Any litter, such as vegetation debris, equipment or materials, should be physically removed from the waterways and immediate surrounding habitat as soon as possible;
 - The Environment Agency should be contacted to report the incident and for further advice. The current incident hotline is 0800 80 70 60;
 - In the first instance the pollution should be contained at source in order to minimise potential spread into the pollution pathways;
 - Should pollution have already reached the watercourses then it may be necessary to deploy booms within the watercourses in order to contain the pollution in the first instance. Further measures may then be necessary depending on the level of the pollution incident.; and
 - Working methods will be reviewed, and may require amendments to prevent any future pollution or litter issues.
- 4.15 For further information on dealing with chemical spills and incidents reference should be made to PPG21 'Dealing with Spills'. A copy of this guidance should be kept on site during the construction works.

Site Waste Management

- 4.16 The Site Manager and any appointed contractors will ensure the proper removal and safe disposal of all waste materials arising from the proposed works. The Site Manager will also ensure safe disposal of all surplus construction material off site.

Dust Pollution

- 4.17 Measures are to be taken to avoid dust entering the surrounding habitats. This can include installation of a geo-textile fabric on any Heras fencing marking site boundaries and exclusion zones. Any piles of sand, soil, or other small particle materials should be kept damp on days of

strong winds, and/or covered with geo-textile fabric to prevent the amount of dust and debris leaving the site as outlined above.

Light Pollution and Noise Pollution

- 4.18 Both light and noise pollution impacts to bat species is likely and measures to prevent these impacts are outlined in section 5 below.

Evacuations and trenches

- 4.19 All evacuations and trenches will either be covered at night or include an escape ramp to prevent nocturnal species such as badger and hedgehog from becoming trapped. This could be in the form of a roughened plank of wood or scaffold board. The trenches/pits will be inspected each morning to ensure no protected species have been trapped. If protected species are found to be trapped in the pits an ECoW will be called to site, and measures will be taken to ensure the welfare of the trapped animal.

Contractor materials and hazardous waste

- 4.20 All chemicals and hazardous materials and waste will be stored in-line with best practice guidelines, ensuring they are secure and cannot be accessed by roaming animals. No materials will be stored within root protection zones.

Sympathetic working practices:

- 4.21 Avoiding creating potential refuges. Amphibians and reptiles will use stacked materials such as wood, stone, boards or metal sheets as refugia. The site will be kept tidy, with all materials stored off the ground (e.g. on pallets), where possible.
- 4.22 Materials will be stored away from areas of retained vegetation which are considered suitable for reptiles and amphibians.
- 4.23 Staff should demonstrate awareness of protected species when working and moving materials. Should an animal be found a Suitably Qualified Ecologist (SQE) must be contacted for advice.
- 4.24 The areas subject to clearance will be minimal, with enough clearance of habitat to ensure the works can be completed, but no additional habitat will be removed. This will be determined by the SQE and the site manager as part of the ECoW. This will ensure the habitat can recolonise the area quickly after the works are completed.

5. SPECIFIC MITIGATION MEASURES

5.1 This section details the construction phase mitigation measures for specific ecological features.

Species

Bats – foraging and commuting

5.2 Where feasible works will be undertaken during daylight hours only, to prevent the need for construction lighting. If construction lighting is required, this will be directional to limit the light spill, and will be switched on for limited periods of time to provide dark periods, allowing bats to continue foraging and commuting across the site.

5.3 To minimise indirect impacts from lighting associated with the proposed development it is recommended that artificial lighting is only directed where necessary for health and safety reasons. The following measures should be required, if possible while complying with health and safety, and will comply with Guidance Note 08/18 Bats and Artificial Lighting in the UK.

- LED lighting will be used, and light levels will be kept as low as possible. Metal halide, fluorescent sources will not be used.
- Lighting will be directed to where it is needed and away from the adjacent woodland and other boundary features.
- Only luminaires with an upward light ratio of 0% and with good optical control will be used, luminaires will always be mounted on the horizontal, i.e., no upward tilt.
- Light sources will emit minimal ultra-violet light, peak higher than 550nm and be of a warm white spectrum (ideally <2700 Kelvin).

Badger

5.4 General good working practices for badger will be adhered to, including any trenches dug during works to be left open overnight must either have a sloping end or a ramp to allow badger to escape. Any pipes over 200mm in diameter should be capped off at night to prevent animals entering. Materials such as netting must not be left on site.

5.5 A gap should be maintained below the site gate (or side section of fence) to maintain an overland link between the two watercourses.

Amphibians/ Reptiles

5.6 Care should be taken when removing rubbish piles and piles of garden waste from site.

5.7 During the works there is potential to find common reptiles and amphibians. If reptiles or amphibians are found during the works a SQE will be contacted immediately.

5.8 If great crested newt are found a SQE will be contacted immediately. They are distinguishable from other newt species by their larger size (up to 17cm in length), and bright orange bellies with large blotchy dark spots.

- 5.9 Vegetation clearance will be undertaken in a directional manner, clearing in a linear direction to ensure any animals are pushed towards areas of retained habitat.

Nesting birds

- 5.10 In order to avoid impacts to nesting birds present on site, the following precautions will be carried out:
- Any habitat management/removal both during and post-construction should be undertaken outside the breeding bird season (March to September inclusive) or following a precautionary nesting bird survey by a SQE to ensure compliance with legal obligations.
 - If habitat management/removal occurs during the breeding bird season, then the ECoW will remain on site to check all potential nesting areas for birds before works are to be undertaken on site.
 - If active bird nests are identified during the survey, a buffer zone should be set up by the SQE around the nest until all young birds have fledged and left the area.

Invasive Species

- 5.11 Himalayan balsam was recorded in the vicinity of the site, along the access track. As such mitigation measures and precautions will be required to ensure the Himalayan Balsam is not spread offsite as a result of the proposed construction works. These include:
- All contractors will receive a toolbox talk detailing the identification of Himalayan Balsam. Himalayan balsam seedlings can be identified at most times of the year. March – June seedlings can be identified by their pinkish stems, leaf shape and short root structure. From July – September they can also be identified by their flowers and height. In winter areas of Himalayan balsam can be identified by their remains.
 - The Himalayan balsam is currently present off-site, and as such no direct management of the existing Himalayan balsam will be conducted. All vehicles tracking to/from site carry a risk of brushing against Himalayan balsam along the River corridor. As such all vehicles will be escorted to/from site by a banksman, who will guide the vehicles to ensure they remain a safe distance from all Himalayan balsam and do not let any fragments of Himalayan balsam/seed pods get onto the vehicles and taken off site. A boundary fence along the access track is recommended, if there is permission from the landowner to install this.
 - Warning signs will be put up on site to warn about the presence of Himalayan Balsam outside the site boundary.

6. CONCLUSIONS

- 6.1 The developer (North Gawber Colliery Football Club) will be responsible for ensuring that the Site Manager is aware of the mitigation detailed within this report, and that the mitigation is carried out accordingly. The Site Manager is responsible for making sure that the ECoW is contacted when there are any potential risks to protected species or habitats of ecological value.
- 6.2 The ECoW will also be contacted for advice on the installation/creation of the ecological enhancements throughout the course of the construction phase.
- 6.3 Provided that the mitigation measures recommended in this report are adhered to the development will accord to current legislation for protected and notable species, and will prevent the spread of invasive non-native species.
- 6.4 Precautionary practices to protect statutorily protected species throughout the construction phase will be implemented.

7. REFERENCES

Bat Conservation Trust and Institution of Lighting Professionals (2018) *Guidance Note 08/18 Bats and Artificial Lighting in the UK. Bats and the built environment series.*

CIEEM (2017) *Guidelines for Preliminary Ecological Appraisal, 2nd edition.* Chartered Institute of Ecology and Environmental Management, Winchester

CIEEM (2018) *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. Version 1.1.* Chartered Institute of Ecology and Environmental Management, Winchester.

Collins, J (ed) (2016), *Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd Edition).* The Bat Conservation Trust, London.

Department for Communities and Local Government (2005), *Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System.*

Joint Nature Conservation Committee (2010), *Handbook for Phase I Habitat Survey.* JNCC.

Ministry of Housing, Communities and Local Government (2021) *National Planning Policy Framework.*

Multi-Agency Geographical Information for the Countryside (MAGIC) Website

Appendix I: Site Boundary



Appendix II: Proposed Site Plan



Appendix III: Legislation

Important notice: This section contains details of legislation and planning policy applicable in Britain only (i.e. not including the Isle of Man, Northern Ireland, the Republic of Ireland or the Channel Islands) and is provided for general guidance only. While every effort has been made to ensure accuracy, this section should not be relied upon as a definitive statement of the law.

A NATIONAL LEGISLATION AFFORDED TO SPECIES

The objective of the EC Habitats Directive¹ is to conserve the various species of plant and animal which are considered rare across Europe. The Directive is transposed into UK law by The Conservation of Habitats and Species Regulations (2017) (formerly The Conservation of Habitats and Species Regulations 2010 (as amended)) and The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended).

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

Since the passing of the Wildlife & Countryside Act 1981, various amendments have been made, details of which can be found on www.opsi.gov.uk. Key amendments have been made through the Countryside and Rights of Way (CRoW) Act (2000).

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

- Deer Act 1991;
- Countryside and Rights of Way (CRoW) Act 2000;
- Natural Environment & Rural Communities (NERC) Act 2006;
- Protection of Badgers Act 1992;
- Wild Mammals (Protection) Act 1996.

¹ Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora

Species and species groups that are protected or otherwise regulated under the aforementioned domestic and European legislation, and that are most likely to be affected by development activities, include herpetofauna (amphibians and reptiles), badger, bats, birds, dormouse, invasive plant species, otter, plants, red squirrel, water vole and white clawed crayfish.

Explanatory notes relating to species protected under The Conservation of Habitats and Species Regulations (2017) (which includes smooth snake, sand lizard, great crested newt and natterjack toad), all bat species, otter, dormouse and some plant species) are given below. These should be read in conjunction with the relevant species sections that follow.

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

The Conservation of Habitats and Species Regulations (2017) does not define the act of 'migration' and therefore, as a precaution, it is recommended that short distance movement of animals for e.g. foraging, breeding or dispersal purposes are also considered.

In order to obtain a European Protected Species Mitigation (EPSM) licence, the application must demonstrate that it meets all of the following three 'tests': i) the action(s) are necessary for the purpose of preserving public health or safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment; ii) that there is no satisfactory alternative and iii) that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

Bats

All species of bat are fully protected under The Conservation of Habitats and Species Regulations (2017) through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (e.g. all bats)
- Deliberate disturbance of bat species as:
 - to impair their ability:
 - to survive, breed, or reproduce, or to rear or nurture young;
 - to hibernate or migrate³
 - b) to affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place
- Keeping, transporting, selling, exchanging or offering for sale whether live or dead or of any part thereof.

Bats are also currently protected under the Wildlife and Countryside Act 1981 (as amended) through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

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

How is the legislation pertaining to bats liable to affect development works?

A European Protected Species Mitigation (EPSM) Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect a bat roost or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Though there is no case law to date, the legislation may also be interpreted such that, in certain circumstances, important foraging areas and/or commuting routes can be regarded as being afforded de facto protection, for example, where it can be proven that the continued usage of such areas is crucial to maintaining the integrity and long-term viability of a bat roost².

Birds

All wild birds, their nests and eggs are protected under Sections 1-8 of the Wildlife and Countryside Act 1981 (as amended). Among other things, this makes it an offence to:

- Intentionally kill, injure or take any wild bird;
- Intentionally take, damage or destroy the nest of any wild bird while it is in use or being built;
- Intentionally take or destroy an egg of any wild bird:
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof.

² Garland & Markham (2008) Is important bat foraging and commuting habitat legally protected? Mammal News, No. 150. The Mammal Society, Southampton.

Certain species of bird, for example the barn owl, black redstart, hobby, bittern and kingfisher receive additional special protection under Schedule 1 of the Act and Annex 1 of the European Community Directive on the Conservation of Wild Birds (2009/147/EC). This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young;
- Intentional or reckless disturbance of dependent young of such a bird.

How is the legislation pertaining to birds liable to affect development works?

To avoid contravention of the Wildlife and Countryside Act 1981 (as amended), works should be planned to avoid the possibility of killing or injuring any wild bird, or damaging or destroying their nests. The most effective way to reduce the likelihood of nest destruction in particular is to undertake work outside the main bird breeding season which typically runs from March to August³. Where this is not feasible, it will be necessary to have any areas of suitable habitat thoroughly checked for nests prior to vegetation clearance.

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

Herpetofauna (Amphibians and Reptiles)

The sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita* and great crested newt *Triturus cristatus* receive full protection under The Conservation of Habitats and Species Regulations (2017) through their inclusion on Schedule 2. The pool frog *Pelophylax lessonae* is also afforded full protection under the same legislation. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of species listed on Schedule 2
- Deliberate disturbance of any Schedule 2 species as:
 - to impair their ability:
 - (i) to survive, breed, or reproduce, or to rear or nurture young;

³ It should be noted that this is the main breeding period. Breeding activity may occur outwith this period (depending on the particular species and geographical location of the site) and thus due care and attention should be given when undertaking potentially disturbing works at any time of year.

- (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate
 - to affect significantly the local distribution or abundance of the species
- Deliberate taking or destroying of the eggs of a Schedule 2 species
- Damage or destruction of a breeding site or resting place
- Keeping, transporting, selling, exchanging or offering for sale whether live or dead or of any part thereof.

With the exception of the pool frog, these species are also currently listed on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Under this Act, they are additionally protected from:

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

Other native species of herpetofauna are protected solely under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). Species such as the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis* are listed in respect to Section 9(1) & (5). For these species, it is prohibited to:

- Intentionally (or recklessly in Scotland) kill or injure these species
- Sell, offer or expose for sale, possess or transport for purpose of sale these species, or any part thereof.

Common frog *Rana temporaria*, common toad *Bufo bufo*, smooth newt *Lissotriton vulgaris* and palmate newt *L. helveticus* are listed in respect to Section 9(5) only which affords them protection against sale, offering or exposing for sale, possession or transport for the purpose of sale.

How is the legislation pertaining to herpetofauna liable to affect development works?

A European Protected Species Mitigation (EPSM) Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect the breeding sites or resting places of those amphibian and reptile species protected under The Conservation Habitats and Species Regulations 2010 (as amended). A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the Wildlife and Countryside Act 1981 (as amended).

Wild Mammals (Protection) Act 1996

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it an offence to:

- Mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

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

B NATIONAL PLANNING POLICY

The National Planning Policy Framework (NPPF)

The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied in local-level policy and decision making. The National Planning Framework was re-issued in July 2018 and updated in February 2019, July 2021 and September 2023. Key points relevant to the Natural Environment are given below.

8. Re: Sustainable development. The NPPF recognizes "that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

These are the economic objective, the social objective, and the environmental objective; the full text of paragraph c) relating to this third objective reads as follows:

"to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy."

174.Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) Protecting and enhancing valued landscapes, sites of biodiversity ... (in a manner commensurate with the statutory status or identified quality in the development plan)

b) Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

d) minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

175. Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value.

176. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

177. permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and

c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

180. When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

181. The following should be given the same protection as habitats sites:

a) potential Special Protection Areas and possible Special Areas of Conservation;

b) listed or proposed Ramsar sites; and

c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

182. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”