



Habitat Management and Monitoring Plan

Barnsley Academy, Farm Road, Kendray, S70 3DL

United Learning Trust

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Guidelines

This assessment has been designed to meet:

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

Proportionality

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

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

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

(BS 42020, 2013)

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

Contents

1.0 Introduction and Context.....4

 1.1 Background4

 1.2 Project Description4

 1.3 Site Context4

 1.4 Scope of This Report.....4

2.0 Ecological Baseline Conditions Relevant to This Report6

 2.1 Habitats recorded on Site6

 2.2. Value to Protected/Notable Species6

 2.3 Scope for Mitigation and Enhancement7

3.0 Landscape and Ecology Management Plan.....7

 3.1 Mitigation7

 3.2 Enhancement.....9

4.0 Bibliography7

Appendix 1: Proposed Development Plan14

Appendix 2: Site Location Plan.....15

Appendix 3: Proposed Landscaping and Enhancements Plan.....16

Appendix 4: Legislation and Planning Policy17

1.1 Background

Arbtech Consulting Limited were commissioned by United Learning Trust to produce a Biodiversity Net Gain Mitigation Plan for the proposed development at Barnsley Academy, Farm Road, Kendray, S70 3DL (hereafter referred to as the application site).

The site has been subject to previous ecological assessment, comprising the following:

- A Preliminary Ecological Appraisal (PEA) (Arbtech. 2024)
- A Biodiversity Net Gain (BNG) Assessment (Arbtech. 2024)

1.2 Project Description

to inform a planning application with Barnsley Metropolitan Borough Council. The proposal is described as: Installation of 5nr Air Source Heat Pumps A proposed development plan is provided in **Appendix 1**.

1.3 Site Context

The site is located at National Grid Reference SE 36308 04481 and has an area of approximately 0.1ha. The site comprises a small area of land, situated within the grounds of Barnsley Academy. The parcel comprises a small area of grassland, that forms part of a wider area of recreational ground. The school itself is situated within a highly urbanised environment, been surrounded by residential development and a variety of urban infrastructure. The wider landscape comprises further urban development, with some agricultural land also present. A site location plan is provided in Appendix 2.

1.4 Scope of This Report

Following the submission of planning application 2024/0898. Of relevance to this report, Schedule 7A to the Town and Country Planning Act 1990:

Paragraph 13 of Schedule 7A:

“Planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

United Learning Trust

Barnsley Academy, Farm Road, Kendray, S70 3DL

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun. The Biodiversity Gain Plan should be in accordance with the Biodiversity Net Gain documents already submitted. For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development.”

Reason: To secure compliance with Schedule 7A to the Town and Country Planning Act 1990.”

2.0 Ecological Baseline Conditions Relevant to This Report

The baseline ecological conditions of relevance to this report were determined because of the previous ecological assessments undertaken at the site including the PEA and BNG Assessment (Elite Ecology, 2024).

2.1 Habitats recorded on Site.

The application site is characterised by modified grassland within the redline boundary.

2.2. Value to Protected/Notable Species

Given the type and extent of habitats recorded and the assessed connectivity between the site and the wider landscape, the site was assessed to provide opportunities for the following protected and/ or notable species:

- Commuting and foraging bats
- Common species of invertebrates
- Badgers
- Hedgehogs

The site is not considered suitable to support any other species.

Bats

There are no bat roosting habitats on site.

Low numbers of bats could utilise the grassland within the western parcel, with wooded areas located nearby, for foraging and commuting. These could also be used by bats dispersing from nearby roosts outside of the site and commuting around the area.

There is one bat European Protected Species License (EPSL) within 2km. The EPSL (2017-32557-EPS-BDX) is located 1km south of the site and relates to the damage and destruction of a breeding site and resting place for soprano pipistrelle.

Invertebrates

The site is considered to offer suitable habitat for pollinating insects in the form the modified grassland.

Badger

No setts or signs of badgers were found on site however, any commuting badgers present at time of works may be impacted.

Hedgehog

Hedgehogs are known to use gardens and areas of grassland within urban environments. As such, they may utilise the modified grassland within the western parcel. However, the site is surrounded by roads and footpaths, and high levels of lighting, resulting in high levels of disturbance at the site, which provides sub-optimal conditions for hedgehogs. However, it is possible that hedgehog may utilise the site occasionally.

2.3 Scope for Mitigation and Enhancement

As above, the site provides suitable opportunities to support protected and/ or notable species including common amphibians, foraging and commuting bats, badgers and hedgehogs. Although the site is not assessed to represent a significant resource for these species in the context of the wider landscape, their presence for transient periods cannot be discounted. As such, mitigation is considered necessary to reduce potential impacts to these species to an acceptable level during development activity. Furthermore, there is scope to provide ecological enhancement of the site through the provision of new landscaping, in addition to the provision of species-specific enhancements. The proposed landscaping plan includes the provision of high value habitats including tree planting. The provision of these habitats has been shown to demonstrate a significant net gain in Biodiversity through the BNG Assessment (Arbtech. 2024). The effective installation and subsequent management of these habitats alongside the provision of species-specific enhancements will ensure the long-term ecological value of the site is maintained post-development.

3.0 Landscape and Ecology Management Plan

3.1 Mitigation

Mitigation prescriptions to reduce adverse impacts to existing ecological features and biodiversity as identified through previous ecological assessment are detailed in **Table 1** below.

Table 1: Mitigation Prescriptions

Mitigation	Specification
Persons Responsible and Lines of Communication	It is recommended that a Development Biodiversity Champion is selected for the construction phase of the development. The Biodiversity Champion should be someone with significant influence during construction, such as the contract or project manager. The Development Biodiversity Champion is responsible for ensuring all actions outlined in this HMMP are implemented. Any queries with regards to the mitigation and enhancement prescriptions should be addressed to the project ecologist and communication should be retained between the Development Biodiversity Champion and project ecologist throughout the project. The project ecologist’s contact details are located on the title page of this report. It is recommended

	<p>that the Biodiversity Champion informs the project ecologist of the commencement of enhancement installation works and provides updates where necessary.</p> <p>Once the ecological enhancements have been installed, a Post-Development Biodiversity Champion should be allocated who has influence on site once the development is complete, such as a long-term maintenance contractor. The Post-Development Biodiversity Champion will be responsible for ensuring all recommended management is undertaken and any associated remedial measures are completed where necessary.</p>
<p>Post-development site visit by a Qualified Ecologist and monitoring</p>	<p>A post-development site visit by a qualified ecologist will be undertaken to confirm the successful installation of the biodiversity enhancements and proposed soft landscaping.</p> <p>A short report will be produced detailing the results of the site visit and any remediation recommendations, if necessary.</p> <p>A Monitoring Report must be provided to the Council within twenty working days of each monitoring report date. Monitoring report should be provided to the LPA at years 1, years 2, 3, 5 and every five years thereafter.</p>
<p>Wildlife Sensitive Lighting Strategy</p>	<p>Any proposed external lighting will be installed in accordance with current guidance issued by the Bat Conservation Trust and Institute of Lighting Professionals: <i>Guidance Note 08/18: Bats and Artificial lighting in the UK</i> (BCT & ILP 2018). The below strategy utilises light prescriptions detailed within this guidance to limit impacts of artificial lighting on bats and other light sensitive species potentially utilising retained habitats on and directly adjacent to the site including badgers and hedgehogs. In particular, the lighting strategy seeks to influence the lighting design so that impacts can be avoided to key habitats of value including:</p> <ul style="list-style-type: none"> • The species-specific habitat enhancements detailed below, predominantly tree planting. • Newly proposed landscaping including tree planting. • Retained habitats directly adjacent to the site such as areas of grassland and the line of trees to the west of the site. <p>The following lighting design prescriptions are considered suitable for the type and scale of the Development to minimise the impacts of artificial lighting on site or within the public realm on bats and other light sensitive species. Lighting design prescriptions recommended for the Site comprise:</p> <ul style="list-style-type: none"> • Reducing the operating time of any installed public realm lighting and levels of illuminance provided via: Part-night operation. Turning off lights between certain hours, for example between midnight and 06:00. The use of motion sensors will be avoided to ensure no unnecessary light spill occurs during night-time hours. Where the use of motion sensors cannot be avoided, lights must be set to be turned on for no longer than 1 minute. • Avoiding light spill via: The use of directional lighting by using luminaires with rear shields and an upwards lighting ratio of zero; and Consideration to the height and spacing between lighting columns where practicable. Examples include stud LED or footpath lighting. • Light type: Use of lamps that minimise UV emissions or use UV filters to reduce the attractiveness of the lamp to invertebrates.

	<p>Use high-pressure sodium or LED lamps, ideally warm white as this has a low relative attractiveness of invertebrates.</p> <p>Installing lighting systems that deliver no greater than a 3lux average illuminance, with a maximum horizontal illuminance of 0.6 uniformity (subject to appropriate maintenance factors); and</p> <p>The use of landscaping as to block light spill where appropriate.</p>
Precautionary methods of working – Badgers	<p>Basic precautionary mitigation during works is recommended:</p> <ul style="list-style-type: none"> • Any excavations will be covered overnight, or a ramp will be installed to enable any trapped animals to escape. • The use of night-time lighting will be avoided, or sensitive lighting design will be implemented to avoid light spill on to habitats which badgers could use. South and west boundaries. • Heras fencing will be erected around the working area to prevent encroachment into retained habitats where badger setts could be present. • Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations. • In the unlikely event that a badger sett is identified within 30m, works must cease and advice must be sought from a suitably qualified ecologist.
Precautionary methods of working – Hedgehog	<p>A precautionary working method will be implemented during construction, including the following measures:</p> <ul style="list-style-type: none"> • Site clearance will be undertaken outside of the hedgehog hibernation season (November to March) insofar as is possible. • Any excavations will be covered overnight, or a ramp will be installed to enable any trapped animals to escape. • The use of night-time lighting will be avoided, or sensitive lighting design will be implemented to avoid light spill on to retained habitats which hedgehogs could use. • Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations. • If any hedgehogs are found in the working area these should be allowed to disperse of their own accord or, if at immediate risk, should be moved by hand to a sheltered, vegetated area away from disturbance.

3.2 Habitat Creation

Enhancement of the site and subsequent management prescriptions to ensure the ongoing biodiversity value of the site post-construction are detailed in **Table 2** below.

Table 2: Habitat Creation Prescriptions

Ecological receptor	Specification
Tree planting	<p>Overview:</p> <p>Three small, scattered trees (0.0122 ha) will be planted within the wider ownership boundary with species yet to be decided due to the sites diverse range of tree species. Tree species must be native in order to achieve a moderate condition.</p> <p>The tree planting locations are shown in Appendix 3.</p>

Objectives:

- To create trees of moderate condition, or above, in accordance with the BNG Assessment.
- To plant trees that will provide pollinating, foraging, and refuge opportunities for protected and/ or notable species groups including amphibians, bats, birds, hedgehogs, invertebrates, and reptiles.
- Ensure that good horticultural practice is employed to encourage long-term health and vitality of all trees.
- Ensure well-balanced crowns and/ or natural shape by preventing over competition.

Creation Method:

- **Ground preparation and planting.**

Each tree should be panted within a hole three times as wide of the supplied pot and of a similar depth. Root balls should be soaked thoroughly in water before planting and root balls should be loosened to expose restricted roots before planting. The planted trees and shrubs should then be backfilled ensuring there are no air pockets around roots or any roosts protruding out of the ground. Species planted should ne native in order to achieve a

- **Timing**

It is best to prepare the land during the summer ready for planting between November and March. Planting trees and scrub before the new year helps ensure better rooting and subsequent establishment including faster growth during the first growing season.

Recommended management prescriptions over a minimum 30-year term:

Table 2.3: New tree planting management prescriptions.

Management	When	Rationale	BNG condition criteria compliance - Trees
At the end of each growing season all plant failures are to be 100% replaced	When required; checked annually in Autumn.	To maintain amenity and wildlife value.	A
If required, provision of stakes and guards. Guards to be left on for a minimum of	During planting.	Protect from damage	C

	<p>5 years</p> <hr/> <p>Stakes should be checked and any broken or damaged stakes during this time would be removed (as above) and replaced with ties re-fixed</p> <hr/> <p>When required; checked annually in Autumn.</p> <hr/> <p>Maintain protection</p> <p>C</p> <hr/> <p>Do not apply chemical fertilisers</p> <p>At all times.</p> <hr/> <p>The use of chemical fertilisers will encourage vigorous grasses and weeds to grow</p> <hr/> <p>Apply a light dressing of well-rotted manure</p> <p>Annually in the winter</p> <hr/> <p>Note the overuse of manure fertilisers will encourage vigorous grasses and weeds to grow.</p> <p>F</p>
Retained habitats	No habitat onsite is due to be retained.
Net Gain	The creation of three small offsite trees creates 0.04 units and results in an 11.47% net gain.
Monitoring	It is recommended that monitoring would follow standard landscaping proposals with monitoring and reporting in years 1, years 2, 3, 5 and every five years thereafter.

Provision of bat boxes

One bat box will be installed onto a tree within the bordering hedgerow, the approximate locations of which are shown on the plan in **Appendix 3**. Details of the proposed bat boxes to be installed are as follows:

- The recommended bat boxes will be constructed of woodcrete/ woodstone. Boxes of this construction are known to require minimal maintenance and have a lifespan of 25 years plus.
- Greenwood's Ecohabitats bat boxes will be utilised (or similar alternative) (<https://www.greenwoodsecohabitats.co.uk/shop>).
- The following types of bat boxes are recommended: Single Crevice Bat Boxes, Medium Hollow Bat Boxes, and three Crevice Bat Boxes. A total of seven will be installed (or similar specification), as shown in Figure 3. These bat box types are suitable to support a wide range of species including brown long-eared *Plecotus auritus*, noctules *Nyctalus noctula* and soprano pipistrelles *Pipistrellus pygmaeus*.
- The bat boxes will be positioned 3-5m above ground level facing a south elevation with a clear flight path to and from the entrance, away from artificial light and facing vegetated habitats.
- The proposed bat boxes are designed to require no management or maintenance. Furthermore, preventing physical disturbance of bat boxes will increase the chances of occupation by roosting bats. However, it is recommended that the bat boxes are inspected annually for a 30-year management term by the Post-Development Biodiversity Champion outside of the typical active season for bats (May to September inclusive). Bat boxes must be replaced like-for-like (insofar as is possible) if they are damaged, removed, or have fallen from their recommended location.

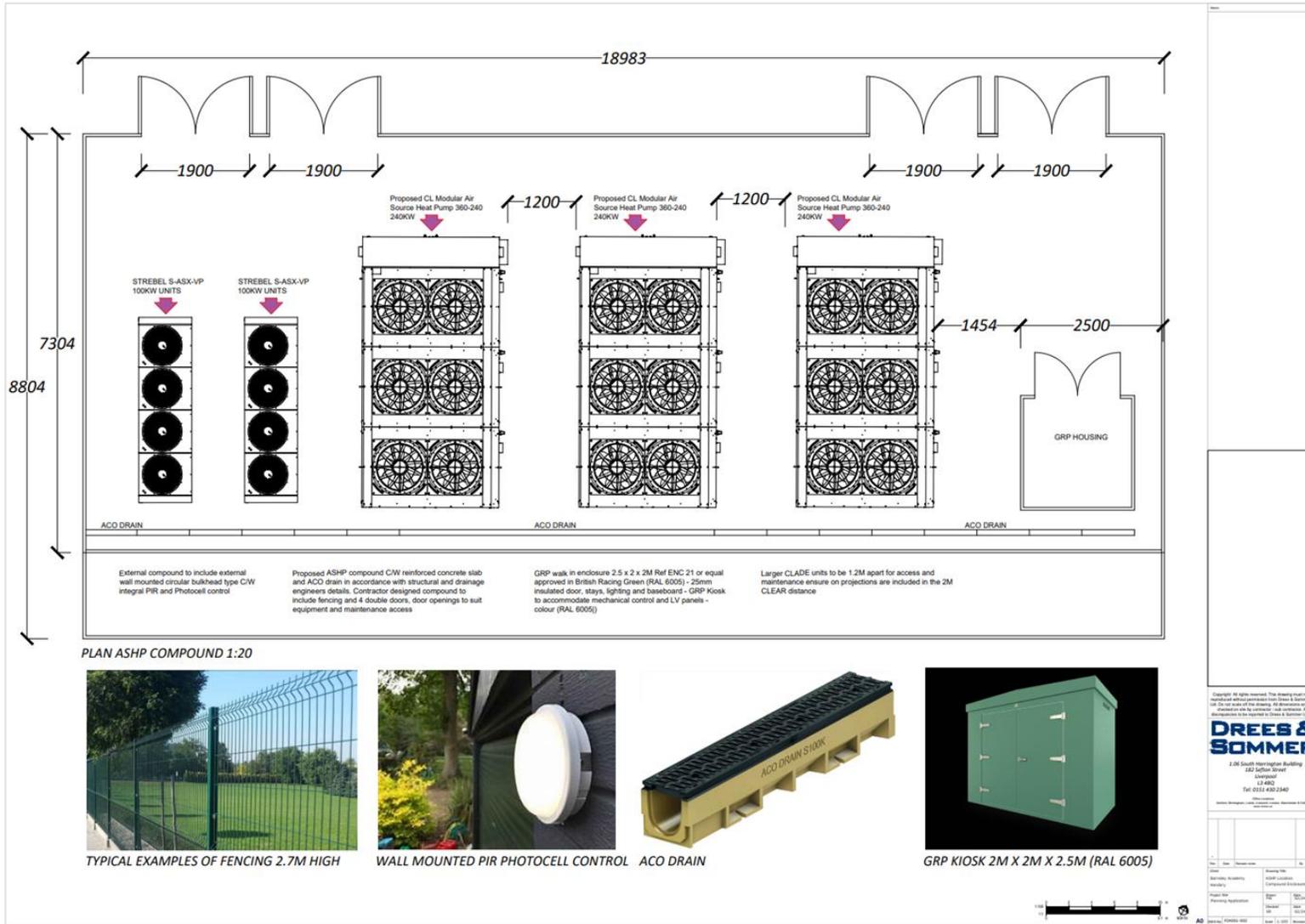


Figure 3: The single crevice bat box, medium hollow bat box, and three crevice bat boxes (image credit: <https://www.greenwoodsecohabitats.co.uk/>)

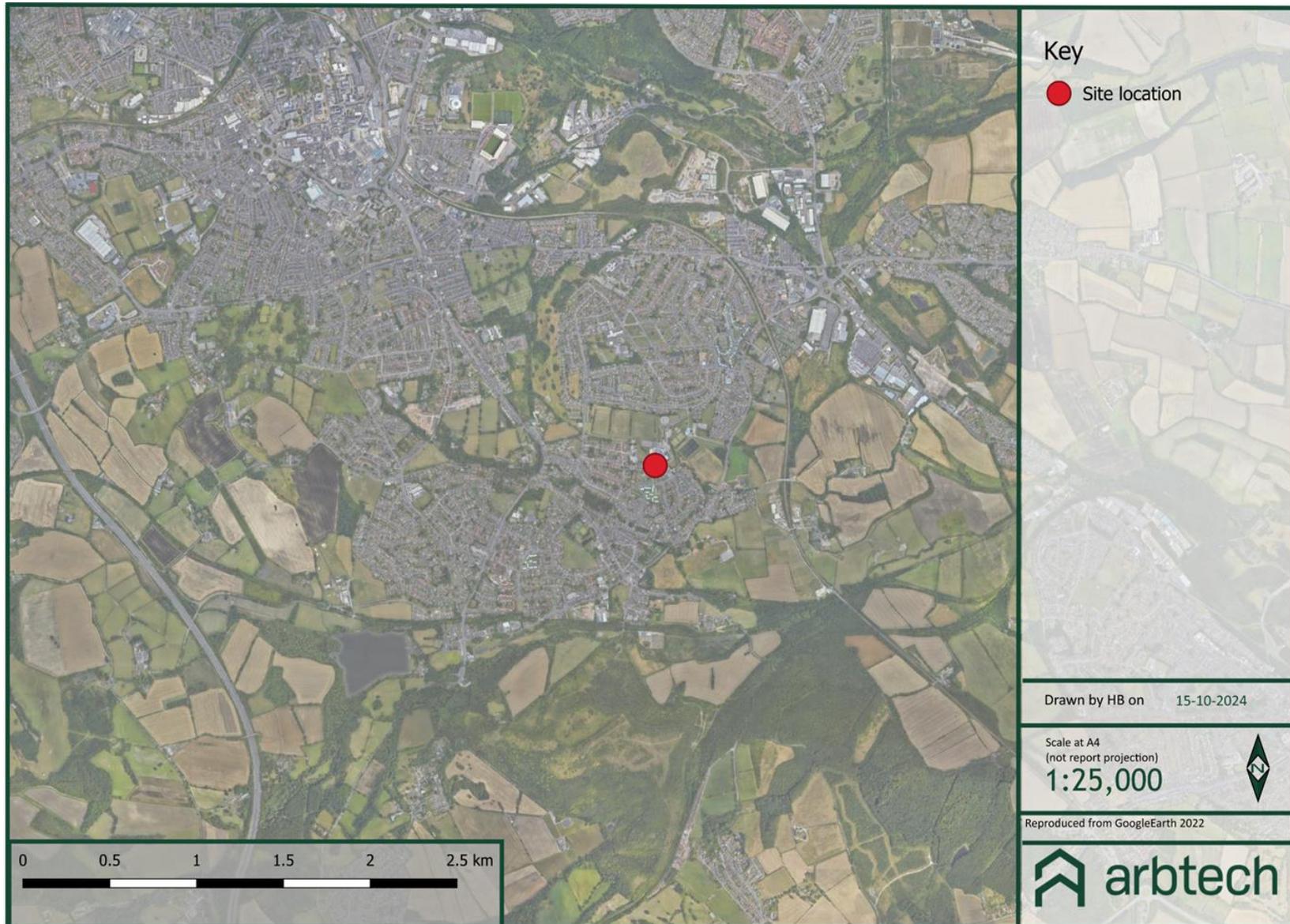
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Appendix 1: Proposed Development Plan



Appendix 2: Site Location Plan



Appendix 3: Proposed Landscaping and Enhancements Plan



Appendix 4: Legislation and Planning Policy

LEGAL PROTECTION

National and European Legislation Afforded to Habitats

International Statutory Designations

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

Under the Habitats Directive the Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe in order to conserve the 189 habitats and 788 species (non- bird) identified in Annexes I and II of the Directive (as amended).

SPAs are classified under Article 2 of the EC Birds Directive both for rare bird species (as listed on Annex I) and for important migratory species.

SACs and SPAs up to 12 nautical miles (nm) from the coast are afforded protection in the UK under the Conservation of Habitats and Species Regulations 2010 which consolidate all amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994. In Scotland, the requirements of Habitats Directive are implemented through a combination of the 1994 and the 2010 (reserved matters) Regulations. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) provide a means for designating and protecting SACs in UK offshore waters (from 12-200 nm).

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

National Statutory Designations

Sites of Special Scientific Interest (SSSI) are designated by nature conservation agencies in order to conserve key flora, fauna, geological or physio-geographical features within the UK. The original designations were under the National Parks and Access to the Countryside Act 1949 but SSSIs were then re-designated under the Wildlife & Countryside Act 1981 (as amended). As well as reinforcing other national designations (including National Nature Reserves), the system also provides statutory protection for terrestrial and coastal sites which are important within the European Natura 2000 network and globally. Further provisions for the protection and management of SSSIs have been introduced by the Countryside and Rights of Way Act 2000 (in England and Wales) and the Nature Conservation (Scotland) Act 2004.

Local Statutory Designations

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

Non- Statutory Designations

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

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

The Hedgerow Regulations 1997

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

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

National and European Legislation Afforded to Species

The EC Habitats Directive aims to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore wild species listed on the Annexes to the Directive at a favourable conservation status, introducing robust protection for those species of European importance. The Directive is transposed into UK law by The Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations) and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended). The following notes are relevant for all species protected under the EC Habitats Directive:

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

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

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

the action(s) are necessary for the purpose of preserving public health or safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment.

- There is no satisfactory alternative; and
- The action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.
-

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

The Wildlife and Countryside Act (WCA) 1981 (as amended) implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and implements the species protection requirements of EC Birds Directive 2009/147/EC on the conservation of wild birds in Great Britain (the birds Directive). The WCA 1981 has been subject to a number of amendments, the most important of which are through the Countryside and Rights of Way (CRoW) Act (2000) and Nature Conservation (Scotland) Act 2004.

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

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

Badgers

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

- Wilfully kill, injure, take, or attempt to kill, injure or take a badger.
- Cruelly ill-treat a badger, including use of tongs and digging
- Possess or control a dead badger or any part thereof.
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof.

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- Intentionally or recklessly disturb a badger when it is occupying a badger sett.
- Intentionally or recklessly cause a dog to enter a badger sett.
- Sell or offers for sale, possesses or has under his control, a live badger.

Effects on development works:

A development licence will be required from the relevant countryside agency for any development works liable to affect an active badger sett, or to disturb badgers whilst they occupy a set. Guidance has been issued by the countryside agencies to define what would constitute a licensable activity. It is no possible to obtain a licence to translocate badgers.

Birds

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

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

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

This affords them protection against:

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

Effects on development works:

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

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

Herpetofauna (Amphibians and reptiles)

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

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

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

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

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

- Intentionally or recklessly kill or injure these species.

Effects on development works:

A European Protected Species 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 amphibian and reptile species protected under Habitats Regulations. A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow derogation from the relevant legislation, but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

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

Water voles

The water vole *Arvicola terrestris* is fully protected under Schedule 5 of the WCA. This makes it an offence to:

- Intentionally kill, injure or take (capture) water voles.
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection.
- Intentionally or recklessly disturb water voles while they are occupying a structure or place used for shelter or protection.

Effects on development works:

If development works are liable to affect habitats known to support water voles, the relevant countryside agency must be consulted. It must be shown that means by which the proposal can be re-designed to avoid contravening the legislation have been fully explored e.g. the use of alternative sites, appropriate timing of works to avoid times of the year in which water voles are most vulnerable, and measures to ensure minimal habitat loss. Conservation licences for the capture and translocation of water voles may be issued by the relevant countryside agency (e.g. Natural England) for the purpose of development activities if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will then only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of works.

Otters

Otters *Lutra lutra* are fully protected under the Conservation Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

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

Otters are also currently protected under the WCA 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

Effects on development works:

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An EPSM Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect otter breeding or resting places (often referred to as holts, couches or dens) 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, and rear young). 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.

Bats

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

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

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

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

Effects on development works:

Works which are liable to affect a bat roost or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Dormice

Dormice *Muscardinus avellanarius* are fully protected under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

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

Dormice are also protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)

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- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

Works which are liable to affect a dormice habitat or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

White clawed crayfish

The white clawed crayfish *Austropotamobius pallipes* receives partial protection under Schedule 5 of the WCA in respect of Sections 9(1) and 9(5). This makes it an offence to:

- Intentionally take (capture) white-clawed crayfish.

Effects on development works:

The relevant countryside agency will need to be consulted about development which could impact on a watercourse or wetland known to support white clawed crayfish. Conservation licences for the capture and translocation of crayfish can be issued if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of the works.

Wild Mammals (Protection Act) 1996

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

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

Legislation afforded to Plants.

With certain exceptions, all wild plants are protected under the WCA. This makes it an offence for an 'unauthorised' person to intentionally (or recklessly in Scotland) uproot wild plants.

An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.

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

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)
- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof

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

Effects on development works:

An EPSM licence will be required from the relevant countryside agency for works which are liable to affect species of plants listed on Schedule 5 of the Conservation of Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Invasive Species

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

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

Effects on development works:

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

Injurious weeds

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

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

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

NATIONAL PLANNING POLICY (ENGLAND)

The National Planning Policy Framework promotes sustainable development. The Framework specifies the need for protection of designated sites and priority habitats and species. An emphasis is also made on the need for ecological infrastructure through protection, restoration and re-creation. The protection and recovery of priority species (considered likely to be those listed as UK Biodiversity Action Plan priority species) is also listed as a requirement of planning policy.

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

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

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

Section 41 of the Act (Section 42 in Wales) requires the Secretary of State to publish a list of habitats and species which are of 'principal importance for the conservation of biodiversity.' This list is intended to assist decision makers such as public bodies in implementing their duty under Section 40 of the Act. Under the Act these habitats and species are regarded as a material consideration in determining planning applications. A developer must show that their protection has been adequately addressed within a development proposal.

LOCAL PLANNING POLICY

LOCAL PLANNING POLICY – Barnsley Local Plan

Policy BIO1 Biodiversity and Geodiversity

Development will be expected to conserve and enhance the biodiversity and geological features of the borough by:

- Protecting and improving habitats, species, sites of ecological value and sites of geological value with particular regard to designated wildlife and geological sites of international, national and local significance, ancient woodland and species and habitats of principal importance identified via Section 41 of the Natural Environment & Rural Communities Act 2006 (for list of the species and habitats of principal importance) and in the Barnsley Biodiversity Action Plan.
- Maximising biodiversity and geodiversity opportunities in and around new developments.
- Conserving and enhancing the form, local character and distinctiveness of the boroughs natural assets such as the river corridors of the Don, the Dearne and Dove as natural floodplains and important strategic wildlife corridors. Proposals will be expected to have followed the national mitigation hierarchy (avoid, mitigate, compensate) which is used to evaluate the impacts of a development on biodiversity interest.
- Protecting ancient and veteran trees where identified.
- Encouraging provision of biodiversity enhancements.

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Development which may harm a biodiversity or geological feature or habitat, including ancient woodland and aged or veteran trees found outside ancient woodland, will not be permitted unless effective mitigation and/or compensatory measures can be ensured.

Development which adversely effects a European Site will not be permitted unless there is no alternative option and there are imperative reasons of overriding public interest (IROPI).

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

A European Protected Species Licence (EPSL) issued by Natural England will be required for works likely 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 efficiency/success to be monitored. 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 roost (Garland & Markham, 2008).

There are 17 species of bat breeding in England and Natural England issues licences under Regulation 55 of the Habitats Regulations to allow you to work within the law.

Licences are issued for specific purposes stated in the Regulations, if the following three tests are met:

- The purpose of the work meets one of those listed in the Habitats Regulations (see below);
- That there is no satisfactory alternative;
- That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range

The Habitats Regulations permits licences to be issued for a specific set of purposes including:

- 1. include preserving public health or public safety or other imperative reasons of over-riding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;**
2. scientific and educational purposes,
3. ringing or marking
4. conserving wild animals

Development works fall under the first purpose and Natural England issues bat mitigation licences for developments.

EUROPEAN PROTECTED SPECIES POLICIES

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

- Policy 1; provides greater flexibility in exclusion and relocation activities, where there is investment in habitat provision;
- Policy 2; provides greater flexibility in the location of compensatory habitat;

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- Policy 3; provides greater flexibility on exclusion measures where this will allow EPS to use temporary habitat; and,
- Policy 4; provides a reduced survey effort in circumstances where the impacts of development can be confidently predicted.

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