

# Preliminary Ecological Appraisal

## The Edge House

Blackstone Edge Old Road, Littleborough

September 2022

Prepared for: Mr Muldowney

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## EXECUTIVE SUMMARY

- On 15<sup>th</sup> August 2022 a Preliminary Ecological Appraisal was undertaken on land at The Edge House, Blackstone Edge Old Road, Littleborough.
- The site comprises a field of modified (improved) grassland bounded by tree lines and tall ruderal vegetation.
- Ecological constraints relate to the tree lines, which provide suitability as a habitat corridor for bats, badger, hedgehog, common toad and nesting birds.

### *Habitats*

- The majority of the site is composed of modified (improved) grassland which is of little conservation value. The site is bounded to the south by a tree line of sycamore and ash. To the northeast the site lies adjacent to woodland, whilst to the northwest and southeast the site borders the gardens of adjacent properties.

### *Protected Species*

- The site boundaries provide suitable habitat for foraging and commuting bats. Measures are proposed to avoid any potential negative impacts during works and to reinforce boundary planting and avoid light spill around the boundaries to maintain these dark corridors for bats and other wildlife.
- The site also provides suitable habitat around the boundaries for hedgehog, common toad, nesting birds and common reptiles. Avoidance mitigation is recommended to take into consideration the presence of these species/groups.
- The presence of badger in the locality cannot be ruled out and so avoidance mitigation is recommended for this species also, which may move across the site upon occasion.

### *Biodiversity Enhancement*

- The proposals provide the opportunity to enhance the site for wildlife and recommendations for this have been made.

*Verity Webster*

Ecology and Protected Species Consultancy



# 1 Introduction

## 1.1 Application Site

- 1.1.1. This report details a Preliminary Ecological Appraisal of at The Edge House, Blackstone Edge Old Road, Littleborough, Rochdale. Ordnance Survey grid reference (centre of site): SD 94701673.
- 1.1.2. Mr Muldowney commissioned Verity Webster Ltd to undertake a Preliminary Ecological Appraisal to inform the planning application.

## 1.2 Objectives

- 1.2.1 The objectives of the Preliminary Ecological Appraisal are to determine:
- The potential for protected species and/or habitats of importance within and surrounding the site.
  - The presence of any designated sites within the surrounding area, or if the site is designated.
  - How the proposed works might impact protected species and/or habitats of importance.
  - How the proposed works might impact designated sites within the surrounding area.
  - How any impacts might be avoided, mitigated and/or ameliorated, including recommendations for further survey work if required.
  - Potential for enhancement of the site for protected species, habitats of conservation interest and overall biodiversity.

## 1.3 Proposals

- 1.3.1 The proposals for the site comprise the development of the site for a residential property.

## 1.4 Ecologist

- 1.4.1 The Ecological Assessment was undertaken by Verity Webster. Verity is a Chartered Ecologist and a full member of the Chartered Institute of Ecology and Environmental Management.
- 1.4.2 Verity has worked as an ecological consultant for over 15 years. She has undertaken Ecological Assessments and protected species surveys for a large variety of projects and schemes, producing the required impact assessment and subsequent mitigation schemes and method statements when necessary.



## 2 Site Location and Description

### 2.1 Site Location

- 2.1.1 The survey site is located in a semi-rural location in Littleborough, approximately 800m northwest of the centre of the town. The A58 road runs southwest to northeast approximately 70m to the northwest of the site. The Rochdale Canal runs south to north approximately 325m to the west, and beyond this a railway line takes a similar route. The River Roch weaves south to north approximately 480m to the west.
- 2.1.2 Houses with gardens lie to the northwest, south and southwest of the site, whilst open countryside extends to the northeast and beyond the housing to the south and north. The open countryside comprises a matrix of arable and pasture land divided by low stone walls and linear plots of woodland following the valleys along which streams flow.



Figure 1: Ordnance survey map showing the location of the proposed development site.





Figure 2: Aerial image showing the proposed development site and immediate surroundings





## 2.2 Site Description

- 2.2.1 The majority of the site is composed of managed, modified (improved) grassland which is of little conservation value. The site is bounded to the south by a tree line of sycamore and ash. To the northeast the site lies adjacent to woodland, whilst to the northwest, southeast and south of the site borders the gardens of adjacent properties.
- 2.2.2 Blackstone Old Edge Road runs along the southern boundary. A low stone wall also runs along this boundary.



*The survey site looking south along the northeast boundary*



*The survey site looking south towards the southern tree line*



*The survey site looking north*



*Looking northwest along the southern boundary*



**Figure 3: The Development Boundary**





### 3 Legislation

Relevant legislation is listed here. For full details, refer to Appendix A.

#### 3.1 Bats

3.1.1 All UK bats receive full protection under the Wildlife and Countryside Act 1981 and are also protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).

3.1.2 This makes it an offence to:

- Capture, injure or kill any bat,
- Disturb a bat of any species,
- Damage or destroy a breeding site or resting place of a bat (ie. The roost)
- Possess any bat, or part of a bat
- Offer for sale or trade any bat, or part of a bat

#### 3.2 Badger

3.2.1 Under the Badger Act 1992, it is an offence to:

- Take, injure or kill a badger, or attempt to do so
- Cruelly ill-treat a badger
- Interfere with a badger sett including:
  - Damaging a badger sett or any part of it
  - Destroying a sett
  - Obstructing access to, or entry to a sett
  - Causing a dog to enter a sett; or
  - Disturbing a badger whilst it is occupying a sett.

#### 3.3 Reptiles

3.3.1 Smooth snake and sand lizard receive full protection under the Wildlife and Countryside Act 1981 and are also protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).

3.3.2 This makes it an offence to:

- Capture, injure or kill one of these species,
- Disturb these species,
- Damage or destroy a breeding site or resting place of these species.
- Possess one of these species, or part of one
- Offer for sale or trade one of these species, or part of one

3.3.3 Common lizard, adder, grass snake and slow-worm are partially protected under the Wildlife and Countryside Act 1981. This makes it an offence to:

- Kill or injure one of these species.
- Offer for sale or trade one of these species, or part of these animals.

#### 3.4 Amphibians

3.4.1 Great crested newts receive full protection under the Wildlife and Countryside Act 1981 and are also protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).

3.4.2 This makes it an offence to:

- Capture, injure or kill one of these species,
- Disturb these species,



- Damage or destroy a breeding site or resting place of these species.
- Possess a great crested newt, or part of this animal
- Offer for sale or trade a great crested newt, or part of this animal.

3.4.3 Common lizard, adder, grass snake and slow-worm are partially protected under the Wildlife and Countryside Act 1981. This makes it an offence to:

- Kill or injure one of these species.
- Offer for sale or trade one of these species, or part of these animals.

3.4.4 Common toad, common frog, palmate newt and smooth newt are protected from sale or trade only.

### 3.5 Section 41 Habitats and Species of Principal Importance

3.5.1 Section 41 Habitats and Species of Principal Importance (NERC Act 2006) are a material consideration for planners. The list is derived from the UK Biodiversity Action Plan list and supports species and habitats of conservation concern.

3.5.2 Species relevant to this report include hedgehog and common toad.

### 3.6 Designated Sites

3.6.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.

3.6.2 Statutory sites can be designated under UK legislation (the Wildlife and Countryside Act 1981), European Law (the Habitats Regulations 2017) or International law (Ramsar Convention).

3.6.3 Non-statutory sites can be designated by the Local Planning Authority, and different counties have different ways of designating local wildlife sites. Examples are Local Wildlife Sites and Biological Heritage Sites.

### 3.7 Planning Policy and Legislation

3.7.1 Under the NERC Act 2006, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site before they make a decision on the planning permission.

3.7.2 The National Planning Policy Framework (NPPF, 2021) encourages Local Planning Authorities to conserve and enhance biodiversity.

Chapter 15, Para 174 of NPPF states: *"The planning system should contribute to and enhance the natural and local environment by:*

- a) **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils....**
- d) **minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".**

Para 175 states: *"Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."*

Para 179 identifies that plans should do the following to protect and enhance biodiversity and geodiversity:

- a) **"Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for**



***biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and***

- b) *Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and peruse opportunities for securing measurable net gains for biodiversity.***

Para 180 states that "when determining planning applications, local authorities should apply the following principles:

- a) *if significant harm to biodiversity from a development cannot be avoided...,adequately mitigated, or, as a last resort compensated for, then planning permission should be refused"***

3.7.3 The local planning authority has a responsibility, therefore, to obtain all information regarding the potential for protected species on a site prior to making a decision about a proposal.



## 4 Survey Methodology

### 4.1 Desk Study

4.1.1 The following data sources used to establish background information about protected species and their likely presence in the locality:

- Magic Map, Natural England (2018)
- Bing Maps (2019)
- Biological records data from Greater Manchester Ecology Unit (GMEU) (2022)

4.1.2 Online mapping facilities, including MAGIC (Defra 2015), Google earth (for aerial mapping) and Ordnance Survey maps for the area were consulted to assess the site in relation to the surrounding landscape and any statutory and non-statutory designated sites.

4.1.3 Records data from GMEU includes records of protected species and habitats of conservation interest within 1km of the survey site.

### 4.2 Site Survey

4.2.1 The survey site, comprising the development site and a 30m buffer (where access allowed), was walked in daylight on 20<sup>th</sup> July 2022, and during the visits the habitat was assessed for potential for protected species. The surveyor searched for signs of the presence of protected species where appropriate, including pathways, burrows / nests / resting places, scratch markings, footprints and droppings etc. The presence of all animals and birds, if seen or heard, was recorded. Habitats on site were assessed and described.

#### *Preliminary Roost Assessment*

4.2.2 A general appraisal of their suitability of trees on site for bats was undertaken across the site. A detailed Preliminary Roost Assessment of the trees to record Potential Roost Features was undertaken if they have been identified for removal or may be significantly indirectly impacted (ie immediate surrounding conditions altered) as a result of the proposed works.

4.2.3 Potential Roost Features include:

- Rot holes, including butt-rot
- Woodpecker holes
- Branch scars and rips
- Cankers with cavities
- Horizontal cracks and splits such as hazard beams
- Flaking or partially-detached bark
- Holes between double-leaders
- Dense ivy
- Bird, bat or dormouse boxes.

4.2.4 The signs and condition of the PRFs were assessed, including assessment of the following factors:

- Presence of bats



- Presence of droppings
- The dust / debris present
- Whether the interior is smooth or rough, damp, wet etc.
- Presence of association species (woodlice and dusky slug)

4.2.5 As a result of the preliminary roost assessment, the trees(s) and the PRFs are categorised as to whether or not the features were likely to be, or are confirmed bat roosts or not.

4.2.6 Further survey is recommended depending upon the findings.

### Suitability of trees for bats

4.2.7 Trees were assessed as having low, moderate or high suitability for bats as follows:

- **Negligible suitability:** Lack any Potential Roost Features (PRFs)
- **Low suitability:** Have one or a small number of PRFs that are superficial and unlikely to be roost sites. Precautionary methods of work will be required prior to felling / tree works.
- **Moderate suitability:** Have one or more PRFs that require further assessment. Inspection of PRFs from the ground or by climbing will be necessary in order to categorise the features.
- **High suitability:** Have one or more PRFs that appear likely to provide suitable roost opportunities. Inspection of PRFs from the ground or by climbing will be necessary in order to categorise the features.

## 4.3 Survey Limitations

4.3.1 The survey work was undertaken in August 2022. At this time of year most wildlife is active. Bats are likely to be accommodating summer roost sites. Evidence of bats using external features of trees or buildings may be present, unless it has been washed away by the weather.

4.3.2 The majority of higher plants are visible in August 2022, but some species are more conspicuous at some times of the year than others, so some species may have been missed.



## 5 Findings: Surrounding Designated Sites

- 5.0.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.
- 5.0.2 The protection over European designated sites (or Natura 2000) sites and Ramsar sites require any potential direct and indirect impacts are assessed within at least a 5km radius of the survey site.
- 5.0.3 The protection over UK statutory sites (Sites of Special Scientific Interest and Local Nature Reserves) requires that any potential direct and indirect impacts from a development are assessed within at least a 2km radius of the survey site.
- 5.0.4 Any potential direct or indirect impacts upon non-statutory sites are assessed within 1km of the survey site.

### Statutory Sites

- 5.0.5 The protection over UK statutory sites (Sites of Special Scientific Interest) requires that any potential direct and indirect impacts from a development are assessed within at least a 2km radius of the survey site, whilst the protection over European designated sites (or Natura 2000) sites and Ramsar sites require any potential direct and indirect impacts are assessed within at least a 5km radius of the survey site.
- 5.0.6 There are two UK and EU designated sites within 2km of the survey site:
  - Rochdale Canal Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC).
  - South Pennine Moors SSSI, SAC and Special Protection Area (SPA).

### The Rochdale Canal SSSI and SAC

- 5.0.7 The Rochdale Canal SSSI and SPA lies approximately 1.1km to the southwest of the survey site at the closest point, as the stretch of the canal that runs within closer proximity is not designated.
- 5.0.8 The Rochdale Canal SAC is designated due to the presence of one Annex II species; Floating water-plantain (*Luronium natans*).
- 5.0.9 The SSSI citation describes the extensive colonies of nationally scarce species and also describes the notable assemblage of pondweeds (*Potamogeton* spp.). There is also a rich invertebrate assemblage associated with the canal.

### The South Pennine Moors SSSI and SAC and South Pennine Moors Phase 2 SPA

- 5.0.10 The South Pennine Moors SSSI, SAC and Phase 2 SPA cover largely the same area and lie approximately 900m to the southeast of the survey site at the closest point.
- 5.0.11 The SAC is designated primarily for the following Annex I habitats present: European dry heaths,



blanket bogs and old sessile oak woods with *Ilex* and *Blenchnum* in the British Isles. Other Annex I habitats that are present as a qualifying feature include Northern Atlantic wet heaths with *Erica tetralix* and transition mires and quaking bogs.

- 5.0.12 The SSSI citation also details this valuable floristic assemblage as well as the breeding bird assemblage that also allows the site to be designated as an SPA.
- 5.0.13 The site qualifies as an SPA under Article 4.1 by supporting nationally important breeding populations of merlin (*Falco columbarius*) and golden plover (*Pluvialis apricaria*). The site also qualifies under Article 4.2 for supporting in summer a diverse assemblage of breeding migratory birds including golden plover, lapwing (*Vanellus vanellus*), dunlin (*Calidris alpina*), snipe (*Gallinago gallinago*), curlew (*Numenius arquata*), redshank (*Tringa totanus*), common sandpiper (*Actitis hypoleucos*), short-eared owl (*Asio flammeus*), winchat (*Saxicola rubetra*), wheatear (*Oenanthe oenanthe*), ring ouzel (*Turdus torquatus*) and twite (*Carduelis flavirostris*).

### Non-statutory sites

- 5.0.14 There is one Site of Biological Importance (SBI) within 1km:
- Rochdale Canal (Scowcroft to Warland). This stretch of the canal runs approximately 325m to the west of the survey site. It is designated due to the presence of floating water plantain and the presence of nine species of pondweed. Other aquatic flora is also of interest. Stonework along the canal provide a substrate for submerged colonies of freshwater sponge. White-clawed crayfish is also present.

### Assessment

- 5.0.15 The survey site contains habitats dissimilar from those associated with the designated sites and no species of interest associated with the designated sites, for example, breeding birds, are expected within the survey site. The survey does not directly connect with the canal by any watercourse and is considered sufficiently distanced from the designated areas that any indirect impact as a result of dust, for example, is unlikely.
- 5.0.16 Overall, no direct or indirect negative impacts upon designated sites are anticipated.

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### Statutory Site Designations

**Site of Special Scientific Interest (SSSI)** A Site of Special Scientific Interest (SSSI) is the land notified as an SSSI under the Wildlife and Countryside Act (1981), as amended. SSSI are designated for wildlife and natural features (including geological features) in England. They support characteristic, rare and endangered species, habitats and natural features.

**Special Area of Conservation (SAC).** Special Areas of Conservation are areas of land designated under the EU's Habitat Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora. The sites are designated on the basis of the presence of Annex I and II habitats or species of conservation interest.

**Special Protection Area (SPA).** A Special Protection area is land classified under Directive 79/409 on the Conservation of Wild Birds. They are classified for rare and vulnerable birds (as listed on Annex 1 of the Directive) and for regularly occurring migratory species.



### **Non-statutory Site Designations**

**Sites of Biological Interest (SBI):** Sites of Biological Interest are 'Local Wildlife Sites' in Greater Manchester. They are identified within the county using a set of published guidelines. Their selection is based on the most important, distinctive and threatened species and habitats within a national, regional and local context. Local Wildlife Sites are locally valuable areas and are often corridors for wildlife forming key components of ecological networks. They are non-statutory designations, but are a material consideration within the planning process.



## 6 Findings: Habitat Survey

### 6.1 Habitat Assessment

#### Data Search

- 6.1.2 The data from GMEU does not contain any records of protected species or species of conservation value in the locality.
- 6.1.3 The lack of records are likely to reflect a lack of recorders in the area rather than an absence of species, however.

#### Survey Site

- 6.1.4 The survey site is roughly rectangular and comprises a field of managed, modified (improved) grassland. The species present include rye grass (*Lolium pratense*), cock's-foot grass (*Dactylus glomerata*), fescue (*Festuca* sp.), crested dog's-tail (*Cynosurus cristatus*), broad-leaved dock (*Rumex obtusifolius*), meadow buttercup (*Ranunculus acris*) and creeping thistle (*Cirsium arvense*).
- 6.1.5 The southern boundary supports a spaced line of trees including mature black poplar (*Populus nigra*), hawthorn (*Crataegus monogyna*), immature sycamore (*Acer pseudoplatanus*) and immature ash (*Fraxinus excelsior*).
- 6.1.6 There is a line of 6 leylandii (*Cupressus x leylandii*) trees along the northeast boundary and a line of four leylandii that have been cut down. Beyond the fence line there lies woodland composed of ash, elm (*Ulmus glabra*), elder (*Sambucus nigra*) and oak (*Quercus* sp.). There are also a small number of immature ash on the southwest boundary.
- 6.1.7 The remaining boundary, which is fenced, is bordered by tall ruderal vegetation including common nettle (*Urtica dioica*), rosebay willowherb (*Chamaenerion angustifolium*) and occasional foxglove (*Digitalis purpurea*).

#### Appraisal of conservation importance and potential impact

- 6.1.8 The majority of the site, comprising managed modified grassland is of low conservation value. The habitats present are common and widespread. No plant species of conservation value, either rare or protected were recorded.
- 6.1.9 The mature and immature trees around the site have some intrinsic value to wildlife and will support a variety of native, widespread invertebrates, which in turn will support foraging birds and bats. It is proposed that these are retained and the boundaries of the site enhanced for wildlife through appropriate native-species planting.
- 6.1.10 **Overall, the proposals are considered very unlikely to have a negative impact upon flora in the locality and the proposals provide the opportunity to significantly enhance the site for wildlife. Recommendations for this have been made.**



## 7 Findings: Protected Species

### Mammals

#### 7.1 Bats

##### Potential for Bats

- 7.1.1 At a landscape level, the area surrounding the survey site is very good for bats. Refer to Figure 2.
- 7.1.2 Countryside extends in nearly all directions comprising a mix of arable and pasture land divided with scattered plots of woodland. Waterways are also present, including the Rochdale Canal and River Roch, as well as numerous streams and brooks. The habitat will support a variety of bat species including widespread species such as common and soprano pipistrelle bat (*Pipistrellus pipistrellus* and *Pipistrellus pygmaeus* respectively). Species that favour open habitats such as Leisler's (*Nyctalus leisleri*) and noctule bat (*Nyctalus noctula*) would also be expected, as would Daubenton's bat (*Myotis daubentonii*), which favours water over which to feed. Species that favour wooded habitat, such as brown long-eared bat (*Plecotus auritus*), Natterer's bat (*Myotis nattereri*), whiskered bat (*Myotis mystacinus*) and Brandt's bat (*Myotis brandtii*) are likely to be in the area, but not in abundance as there are no substantial areas of woodland within 5km.
- 7.1.3 The linear features (hedgerows, tree lines and waterways) provide good habitat links that are likely utilised by commuting bats and will facilitate the movement of bats through the landscape.

##### Data Search

- 7.1.4 Data from GMEU include records of a six bat species within 1km of the survey site; common pipistrelle (*Pipistrellus pipistrellus*), soprano pipistrelle (*Pipistrellus pygmaeus*), *Myotis* bat species, Daubenton's bat (*Myotis daubentonii*), and brown long-eared bat (*Plecotus auritus*).
- 7.1.5 There are records of six bat roosts within 1km, all of which are those of pipistrelle species. Two of these roosts are located in close proximity, just 60-65m to the north in the adjacent property.



### *The Conservation Status of Bats in the Area*

7.1.6 The conservation status of bats in the area is shown in Table 1.

**Table 1:** *The Conservation Status of Bats in the area at a Local, County and Regional Level*

| <b>Species</b>                 | <b>Local</b>                                                                                                           | <b>County</b>                                                                                             | <b>Regional</b>                                                              |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| <i>Common pipistrelle</i>      | Likely to be common in the area. There are records of this species in the area (10km).                                 | Common and widespread<br>Frequently recorded.                                                             | Common and widespread<br>Frequently recorded across the Northwest            |
| <i>Soprano pipistrelle</i>     | Likely to be present due to the presence of riparian habitat.                                                          | Widespread. Frequently recorded.                                                                          | Common and widespread<br>Frequently recorded across the Northwest            |
| <i>Nathusius's pipistrelle</i> | Likely to be rare in the area.                                                                                         | Infrequently recorded, but this may be due to low survey effort. Not yet recorded breeding in the county. | Rare across the northwest.<br>A migratory species.                           |
| <i>Brown long-eared bat</i>    | Likely to be in the area.<br>There is a recent record of this species within 10km of the site.                         | Common and widespread<br>Frequently recorded.                                                             | Common and widespread<br>Frequently recorded across the Northwest.           |
| <i>Natterer's bat</i>          | Likely to be in the area, although this species favours woodland habitat, which is infrequent in the landscape.        | Scattered distribution in the county.                                                                     | Widespread and scattered across the Northwest.                               |
| <i>Noctule</i>                 | Present                                                                                                                | Widespread and frequently recorded.                                                                       | Common and widespread.<br>Frequently recorded in the Northwest.              |
| <i>Whiskered bat</i>           | Present but likely rare                                                                                                | Present                                                                                                   | Widespread.                                                                  |
| <i>Brandt's bat</i>            | Rare / absent                                                                                                          | Present                                                                                                   | Widespread.                                                                  |
| <i>Alcathoe's bat</i>          | Unknown                                                                                                                | Unknown                                                                                                   | Widespread. Likely under-recorded.                                           |
| <i>Daubenton's</i>             | Presence is likely due to the riparian habitat present.                                                                | Widespread, frequently recorded near water.                                                               | Widespread                                                                   |
| <i>Serotine</i>                | Rare / absent                                                                                                          | Unknown                                                                                                   | Restricted to south and southwest Britain, rarely recorded in the northwest. |
| <i>Leislars</i>                | Rare                                                                                                                   | Unknown                                                                                                   | Rare, but widespread in Britain. Present in the northwest.                   |
| <i>Barbastelle</i>             | Unlikely to be present in the area. This species is a woodland-specialist and there is a lack of this habitat present. | Unknown                                                                                                   | Present south of a line from North Wales to the Wash.                        |



### Preliminary Roost Assessment

- 7.1.7 A bat roost assessment of the mature trees on site was undertaken in daylight on 15<sup>th</sup> August 2022.
- 7.1.8 The trees on site are considered to have negligible suitability for bats as they lack potential roost features such as rot holes, flaking bark or split limbs.
- 7.1.9 No impact upon roosting bats is anticipated.

### *Habitat for foraging and commuting bats.*

- 7.1.10 The majority of the survey site, comprising modified grassland, provides potential habitat for bats to forage, but is unlikely to be a significant feeding ground given the higher quality of habitat elsewhere, including pasture and waterways.
- 7.1.11 However, the vegetated linear boundaries of the site will provide good foraging opportunities for woodland-edge species, such as pipistrelle bats. The linear features will also act as habitat corridors, facilitating the movement of bats through the landscape.
- 7.1.12 Given the presence of bat roosts within close proximity to the site it is likely that the boundaries will be utilised by commuting and foraging pipistrelle species with regularity.
- 7.1.13 **These linear features will not be directly impacted by the proposals and so no further survey work is considered necessary. However, measures to avoid indirect impacts as a result of lighting is proposed. It is also proposed that the linear features are reinforced, improving the functionality of the site for commuting and foraging bats as well as other wildlife.**



## 7.2 Badger

### Data Search

- 7.2.1 Data from GMEU include one record of badger within 1km of the site.

### Survey and Assessment

- 7.2.2 The surrounding landscape, comprising pasture and arable land with tree lines and small plots of woodland has potential for badger, which are likely to be present in the area.
- 7.2.3 No evidence of the presence of badger, including latrines, pathways or setts were found on site, nor within adjacent vegetation inspected. Evidence around the site boundaries (latrines, pathways or hair in fencing) would be expected if badger were regularly using the site and present in the locality.
- 7.2.4 **The proposals are very unlikely to impact badger or their populations.**
- 7.2.5 However, it is possible that badger may travel through the site from time to time, and it is recommended that a pre-check of the site for evidence of badger is undertaken prior to the commencement of works in case this species moves onto the site.
- 7.2.6 **Measures to be undertaken during work to prevent harm to badgers that may travel through the site are recommended.**

## 7.3 Hedgehog

### Data Search

- 7.3.1 Data from GMEU contain any records of hedgehog (*Erinaceus europaeus*) within 1km of the survey site.

### Survey and Assessment

- 7.3.2 Hedgehog are a Species of Principal Importance under the NERC Act, 2006 (also known as UK BAP species).
- 7.3.3 The majority of the survey site, comprising managed modified grassland, provides good potential foraging habitat for hedgehog. Hedgehogs are a mobile species and are likely to be within adjacent habitat and the field margins, and may travel across the site from time to time.
- 7.3.4 **Precautionary measures to ensure the protection of hedgehog during works are proposed, along with proposals to enhance the ecological functionality of the site in the operational phase.**



## 7.4 Reptiles

### Data Search

- 7.4.1 The data from GMEU do not include any records or reptiles within 1km of the survey site.

### Survey and Assessment

- 7.4.2 The records for reptiles in the northwest are generally low. Reptiles are of very low distribution and found at low density even in ideal habitats such as rough grassland with scrub.
- 7.4.3 The habitat within the survey site is potentially suitable for reptiles, comprising managed grassland, although reptiles prefer rougher grassland with areas of cover.
- 7.4.4 Reptiles are not expected to be present on site at any density, but some species, such as grass snake (*Natrix natrix*) may move into the site from time to time, and other species, such as common lizard (*Zootoca vivipara*) may be present in the edge habitat in low numbers.
- 7.4.5 **The proposals are very unlikely to have any impact on reptiles in the locality. However, precautionary measures are recommended during works to minimise the risk of harm to individual animals.**

## 7.5 Amphibians

### Great crested newt

#### Data Search

- 7.5.1 The data from GMEU do not include any records of great crested newt within 1km of the survey site.

#### Survey and Assessment

- 7.5.2 Great crested newt (*Triturus cristatus*), which have the highest protection of all amphibians under UK and EU law, favour still water bodies, such as ponds with good vegetation. They breed in ponds, but spend much of the year terrestrially, within habitat such as rough grassland and woodland, which provides good foraging and hibernacula. Great crested newts are known to travel, usually, within a 250m radius of breeding ponds, but can travel up to 500m.
- 7.5.3 There are no waterbodies within 250m; the closest waterbody is approximately 270m to the southwest of the site.
- 7.5.4 Given the lack of suitable waterbodies within the vicinity of the site, great crested newt is considered unlikely to be present in the locality.
- 7.5.5 **The proposals are considered very unlikely to be of significance to this species. For this reason, no further survey work or mitigation is considered necessary.**



## Common Toad

### Data Search

- 7.1.1 Data from GMEU do not include any records of common toad (*Bufo bufo*) within 1km of the survey site.

### Survey and Assessment

- 7.1.2 Common toad are a Species of Principal Importance under the NERC Act, 2006 (also known as UK BAP species).
- 7.1.3 The managed grassland on site provides potentially suitable foraging habitat for common toads and common toad are a mobile species and will regularly travel long distances to reach breeding ponds. They may travel across the site regularly.
- 7.1.4 **The proposals for the site are not expected to impact upon populations of this species. Indeed, the proposals will improve the terrestrial habitat for this amphibian. However, precautionary measures are proposed during works to avoid unnecessary harm to individual common toad.**

## 7.2 Nesting Birds

### Data Search

- 7.2.1 Data from GMEU includes records of 5 bird species within 2km of the survey site, including three species on Schedule 1 of the Wildlife and Countryside act; barn owl (*Tyto alba*), hobby (*Falco subbuteo*) and kingfisher (*Alcedo atthis*).
- 7.2.2 Hobby hunt over woodland and heathland where there is plenty of prey and are unlikely to regularly forage over or breed within the survey site. Kingfisher breed on river banks and are also very unlikely to be present on site, whilst barn owl are likely to be in the area and may forage on site.

### Survey and Assessment

- 7.2.3 Four bird species were recorded on site during the survey: tree sparrow, blackbird (*Turdus merula*), carrion crow (*Corvus corone*), wood pigeon (*Columba palumbus*) and magpie (*Pica pica*). Wood pigeon is on the amber list of BoCC.
- 7.2.4 Birds will nest in the trees around the site boundaries in the spring and summer months, this includes species listed on the red and amber list of BoCC such as wood pigeon or song thrush (*Turdus philomelos*). The site boundaries will not be directly impacted by the proposals however, and the planting of additional woodland and grassland is considered likely to be of benefit to the local bird population long-term.
- 7.2.5 Barn owl are likely to forage over the site from time to time, but there are no structures evident that might provide roosting or nesting opportunities. Given that the grassland on site is



managed, it is likely to provide little prey for barn owl, aside from around boundaries and the land is considered unlikely to provide important foraging habitat.

- 7.2.6 The proposals provide the opportunity to enhance the site for nesting birds including barn owl and recommendations for this have been made.

- 7.2.7 **Avoidance mitigation is proposed to minimise the risk of indirect harm to nesting birds during works as a result of noise, vibration or accidental damage of boundary vegetation.**

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**\*Birds of Conservation Concern (BoCC):** These lists indicate the population status of birds in the UK, Channel Islands and the Isle of Man.

- BoCC Red list: Includes species globally threatened, a historical population decline in the UK, a severe 9at least 50% decline in the UK breeding population over the last 25 years or long-term period. A severe (at least 50%) contraction of the UK breeding range over the last 25 years or the longer term.
- Amber list: Includes species with unfavourable conservation status in Europe, a historical population decline, moderate (25-50%) decline in the UK breeding population over the last 25 years, moderate (25-50%) contraction in UK breeding or non-breeding range, rare breeders (1-300 breeding pairs in UK), rare non breeders, localised rare breeders or non-breeders, internationally important breeders or non-breeders.

### 7.3 Invertebrates

#### Data Search

- 7.3.1 Data from GMEU include records of two invertebrates listed on Section 41 of the NERC Act, 2006 as Species of Principal Importance; wall butterfly (*Lasiommata megera*) and small heath butterfly (*Coenonympha pamphilus*). Small heath favours a variety of habitats including moorland and woodland rides, whilst the wall favours open grassland where the turf is broken, such as on derelict land and railway embankments. These species are unlikely to be present within the survey site.

#### Survey and Assessment

- 7.3.2 The majority of the survey site, comprising highly managed arable land has very limited suitability for invertebrates, composed common and widespread habitat types supporting common and widespread species. These will support common and widespread invertebrates. No invertebrates that are rare and/or protected are expected on site.
- 7.3.3 **The proposed development will not be of significance to populations of common and widespread invertebrates in the locality, which may be represented in limited numbers.**
- 7.3.4 **For this reason, no further survey or mitigation is recommended.**
- 7.3.5 The proposals provide the opportunity to enhance the site for invertebrates and recommendations for this have been made.



#### 7.4 Other protected species and habitats.

- 7.4.1 Other protected species, including red squirrel (*Sciurus vulgaris*), water vole (*Arvicola amphibius*) and otter (*Lutra lutra*) are not expected on or near the site as there is no suitable habitat.

## 8 Conclusion

- 9.0.1 The land at The Edge House comprises managed, modified grassland with tree lines and ruderal vegetation around the boundaries.

#### Habitats

- 9.0.2 Loss of an area of modified grassland is not considered to be of conservation significance and the proposals provide the opportunity to improve the habitat biodiversity of the site.

#### Species

- 9.0.3 The site boundaries provide suitable habitat for foraging and commuting bats. Measures are proposed to avoid any potential negative impacts during works and to reinforce boundary planting and avoid light spill around the boundaries to maintain these dark corridors for bats and other wildlife.
- 9.0.4 The site also provides suitable habitat for hedgehog, common toad, nesting birds and common reptiles. Avoidance mitigation is recommended to take into consideration the presence of these species/groups.
- 9.0.5 The presence of badger in the locality cannot be ruled out and so avoidance mitigation is recommended for this species also, which may move across the site upon occasion.

#### Biodiversity Enhancement

- 9.0.6 The proposals provide the opportunity to enhance the site for wildlife and recommendations for this have been made.



## 9 Recommendations

### 10.1 Mature Trees

10.1.1 The trees around the site boundaries have intrinsic value for wildlife. Measures to protect these habitats from accidental damage should be implemented during works:

- It is recommended that heras fencing is used to protect the areas, ensuring the protection includes the root protection zones.

### 10.2 Bats

10.2.1 Bats are likely to forage and commute along the site boundaries spring, summer and autumn.

10.2.2 In order to minimise the impact of lighting on commuting and foraging bats, the following is recommended:

- Lighting during the construction and operational phase will be directed to avoid the tree-lined boundaries.
- Baffles will be used to avoid spillage of light into the sky and into areas toward the site boundaries.
- Lighting installed during the operational phase will be High or Low Pressure Sodium or LED. These forms of lighting have a lower UV output, which reduces the attraction of insects. Outside lighting should be on a timer to minimise light pollution.

### 10.3 Badger

10.3.1 Badgers are likely to be present within the locality and must be considered during works.

10.3.2 It is therefore recommended that during works:

- Large holes or ditches should be covered overnight to prevent mammals falling into them. If this is not possible, then a plank or similar should be left in the hole to allow badgers and other wildlife to climb out.
- Heras fencing around the boundaries, used to protect vegetation, will provide a temporary barrier to the movement of badger into the site.



## 10.4 Reptiles and Amphibians

10.4.1 There is potential for reptiles to be present in small numbers around the site boundaries. In order to reduce the risk of harm to individual reptiles and amphibians during works, the following is recommended:

- Materials on site are stored on pallets to prevent reptiles and amphibians hiding in them.
- No machinery or materials are stored within 10m of the vegetated boundaries.
- Care should be taken when clearing vegetation. If any wildlife is found, for example common toad, they can be moved to a safe place away from the area of works where there is vegetative cover.

## 10.5 Hedgehog

10.5.1 There is potential for hedgehog to be present on site upon occasion. In order to reduce the risk of harm to these species during works, the following is recommended:

- Any works to remove vegetation is undertaken by hand with care, whilst checking for wildlife. This is especially important around the site boundaries and when vegetation within the hedgerow is removed for access.
- If hedgehog are found during works, they can be picked up and moved to a safe place away from the area of works where there is vegetative cover.

## 10.6 Nesting Birds

10.6.1 Birds may nest in the trees and shrubs on site in the spring and summer months. In order to prevent disturbance and/or harm to nesting birds, if vegetation works are necessary, it is recommended that:

- Any vegetation works are undertaken in the winter months (October – February).
- If heavy machinery is required on site in the bird breeding season (breeding season: March – September), this must be stored as far away from boundary trees and shrubs as possible (at least 10m away), to minimise the risk of disturbance.
- If this is not possible, a suitably qualified ecologist should check the vegetation on site to determine the presence / absence of nesting birds prior to the start of any works.
- If birds are found actively nesting on site, the nest and surrounding vegetation (5m) must be left undisturbed until the young have fledged.



## 10.7 Biodiversity and Enhancement

10.7.1 The existing biodiversity and ecological functionality of the site for wildlife will be retained and significantly enhanced as part of the proposals.

### Hedgerow

10.7.2 The benefits of planting hedgerows across the site include:

- Their function as a barrier.
- Acting as a screen and acting as a filter for noise and air pollution.
- Providing valuable habitat for wildlife and connectivity between different areas. Native species producing berries will provide dense protective cover and food sources for passerine birds.
- Improving wellbeing by providing structural green space.

10.7.3 In order to achieve this:

- Planting of hedgerow along the southwest and northwest boundaries is proposed. Only native species should be planted including hawthorn (*Crataegus monogyna*), hazel (*Corylus avellana*), elder (*Sambucus nigra*), holly (*Ilex aquifolium*), guelder rose (*Viburnum opulus*), elm (*Ulmus glabra* and/or *minor*), rowan (*Prunus aucuparia*), dog-rose (*Rosa canina*) and honeysuckle (*Lonicera periclymenum*). Using all the above species will allow the new hedgerow to meet the criteria for a species rich hedgerow.

### Standard Trees

10.7.4 The benefits of retaining standard trees include:

- Acting as acting as a filter for noise and air pollution.
- Providing valuable habitat for a large variety wildlife including invertebrates, birds, mammals and amphibians. Some animals prefer interior woodland, which will be much improved with the expansion of the woodland to the west, and some animals prefer woodland edge habitat, which will also be greatly extended.
- Improving wellbeing by providing structural green space.
- The mature trees function as a habitat for a range of species. A single oak tree can support over 280 species of invertebrates. Mature trees also contain micro-habitat, such as flaking bark and wounds that take years to form.

10.7.5 In order to maintain and improve this functionality:



- The tree line along the southeast boundary will be retained and protected.
- Hedgerows planted will include standard trees.
- Additional native species trees will be planted.

### **Wildflower Meadow**

10.7.6 To compensate for the loss of an area of modified grassland, it is proposed that wildflower meadow is created on site.

10.7.7 The benefits of creating a wildflower meadow on site include:

- Their function as habitat for a wide range of species, including invertebrates, birds and bats. Native species wildflowers are better for pollinators, such as bees and butterflies.
- Providing valuable habitat for wildlife and connectivity between different areas.

10.7.8 Improving wellbeing by providing lower structural green space and interest.

- Native wildflower meadow, a mix of annual and perennial herbs and grasses, will be sown in large areas. This will provide habitat for invertebrates and subsequently a wide range of other species including small mammals (hedgehog, bats), birds and amphibians.
- Providing a strip of longer grassland meadow adjacent to the existing and newly planted hedgerows will provide a mosaic of habitat, creating a 'safe' places for birds and animals.





### Breeding Birds and Roosting Bats

- 10.7.9 In addition to creation of habitats, additional enhancement for nesting birds and roosting bats can be achieved through provision of bird nest boxes and bat boxes.

### Provision of Bird and Bat Boxes

- 10.7.10 Bird and bat boxes will increase the capacity of the site to support these species groups.

- 10.10.10 Schwegler bat boxes 1FF could be installed on posts or mature trees along the site boundary. Bark boxes would also be appropriate to install on each of the mature trees on the southeast boundary. These could be a mixture of three types shown below (available from Bark Boxes [www.barkboxes.co.uk](http://www.barkboxes.co.uk)).



*Schwegler 1FF bat box*

- 10.10.11 Alternatively, bat boxes could be integrated into the new building, for example the Ibstock Enclosed Bat Box 'C' or the Habibat Bat Box for rendering.

- 10.10.12 The bat boxes should be installed as high on buildings and can be positioned at any orientation except for north.

- 10.10.13 Note that these are recommendations only, there are numerous options for integrated external bird and bat boxes available at NHBS.com.

- 10.10.14 Single Schwegler bird boxes 1MR could be installed on mature trees or on the new building. Ideally the bird boxes will be at 3-4m and below the bat boxes. Installing bird and bat boxes on the same trees minimises the risk of competition. The bird boxes should be placed on the east or west side of the trees.



*Schwegler 1MR Bird Nest Box*



*Habibat Bat Box*



*Ibstock Enclosed Bat Box 'C'*



*Tree sparrow/pied fly catcher bird bark box*



*Large twin crevice bark bat box*



10.10.17 Given that barn owl are known to be present in the area, it would be of benefit if a barn owl box was included in the scheme. These can be installed on poles such as telegraph poles at the site boundaries close to trees, but with flight access.



*Barn owl box*



*Barn owl box installed on telegraph pole*

#### Barn Owl Box Specification

10.10.18 Barn owl boxes can be purchased or constructed by hand. The boxes should be erected on poles within a minimum diameter of 150mm (for example telegraph poles) at a height of approximately 4.5m and NOT less than 4m above ground.

10.10.19 The nest boxes must have a floor area of at least 600mm x 600mm. The entrance hole must be 100mm x 130mm and the depth of the internal floor to the entrance hole not less than 540mm. The external platform should be at least 0.125m<sup>2</sup>.

10.10.20 Wood used should be softwood ply and FSC approved. The top of the box should be covered with heavy duty roofing felt and all joints of the roof and box sealed to prevent water ingress.



### Provision of the Hedgehog Highway / Amphibian Access

- 10.10.21 Any fencing around the site will be raised approximately 13cm above the ground in places to allow movement of wildlife beneath.



## 11 References

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## • APPENDIX A: Wildlife Legislation and Planning Policy

### 1.0 UK AND EU LEGISLATION

#### KEY LEGISLATION

- In the UK, the following legislation relates to wildlife and habitats:
- Wildlife and Countryside Act 1981 (as amended)
  - The Countryside and Rights of Way Act (CROW), 2000
  - The Badger Act 1992
  - The Natural Environment and Rural Communities Act (NERC, 2006)
  - Conservation of Habitats and Species Regulations 2017 (as amended).
  - The Hedgerow Regulations (1997)

#### 1.1 WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

- 1.1.1 The Wildlife and Countryside Act 1981 consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive) in Great Britain (NB Council Directive 79/409/EEC has now been replaced by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version)).

##### BIRDS

- 1.1.2 The Act makes it an offence (with exception to species listed in Schedule 2) to intentionally:

- kill, injure, or take any wild bird,
- take, damage or destroy the nest of any wild bird while that nest is in use or being built (also [take, damage or destroy the nest of a wild bird included in Schedule ZA1] under the Natural Environment and Rural Communities Act 2006), or
- take or destroy an egg of any wild bird.

##### Schedule 1 birds

- 1.1.3 Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young, for example Barn Owl and Red Kite.

##### Areas of Special Protection for Birds

- 1.1.4 The Secretary of State may also designate Areas of Special Protection (subject to exceptions) to provide further protection to birds.

##### Other offences

- 1.1.5 The Act also prohibits certain methods of killing, injuring, or taking birds, restricts the sale and possession of captive bred birds, and sets standards for keeping birds in captivity.

#### OTHER ANIMALS

- 1.1.6 The Act makes it an offence (subject to exceptions) to intentionally ([or recklessly] - only under the Nature Conservation (Scotland) Act 2004) kill, injure or take any wild animal listed on Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places. The Act also prohibits certain methods of killing, injuring, or taking wild animals.

- 1.1.7 For animals listed in Schedule 5 of the act, it is an offence under:

- Section 9(1) to kill, injure or take the animal by any method
- Section 9(2) to possess or control a dead or live animal (or part or derivative).
- Section 9(4)(a) to cause damage to, destruction of, obstruction of access to any structure or place used by a scheduled animal for shelter or protection.
- Section 9(4)(b) to disturb any animal on the schedule occupying such as structure or place.
- Section 9(4)(c) to obstruct access to any structure or place which any such animal uses for shelter or protection.
- Section 9(5)(a) to sell, offer or expose for sale, possess or transport for the purpose of sale, any live or dead wild animal, or part or derivative of an animal included in Schedule 5.
- Section 9(5)(b) to publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.



Species that receive FULL PROTECTION under the act:

- All UK bats
- Otter
- Water vole
- Dormouse
- Red squirrel
- Wildcat
- Reptiles – Smooth snake and sand lizard
- Amphibians – Great crested newt, Natterjack toad, Pool frog
- Invertebrates – some including, but not restricted to Swallowtail butterfly, Marsh fritillary butterfly, Large copper butterfly, Heath fritillary butterfly, Large blue butterfly, Barberry carpet moth, Rainbow leaf beetle, Violet click beetle, Medicinal leech.

Species that protected from intentional KILLING, INJURY and SALE only:

- Reptiles – widespread species; Common lizard, Slow-worm, Grass snake and Adder.

Species protected from TAKING and SALE only:

- Atlantic stream (white-clawed) crayfish

Species protected from SALE only:

- Common toad
- Common frog
- Palmate newt
- Smooth newt
- Invertebrates – Some including 18 butterflies such as Chalk hill blue butterfly, Adonis blue butterfly, Large tortoiseshell butterfly.

Vascular Plants, Bryophytes, Lichens and Fungi (PLANTS)

1.1.8 For any vascular plant, bryophyte, lichen or fungi listed in Schedule 8 of the Act, it makes it an offence under:

- Section 13(1)(a) to Intentionally pick, uproot or destroy plants in Schedule 8.
- Section 13(1)(b) to undertake unauthorised intentional uprooting of any wild plant not included in Schedule 8.
- Section 13(2)(a) to sell, offer for sale, possess or transport for the purpose of sale any plant (live or dead, part or derivatives) on Schedule 8.
- Section 13(2)(b) to publish or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.

1.1.9 Species with protection under Schedule 8 include, but are not restricted to:

1.1.10 Bluebell, Wood calamint, Rock cinquefoil, Early spider orchid, Spring gentian, Stinking goosefoot, Small hare's-ear, Alpine copper moss (*Mielichhoferia mielichoferi*), Goblin lights lichen (*Catolechia wahlenbergii*).

Non-Native Species

1.1.11 Species listed in Schedule 9 of the Act are non-native species, which the establishment of in the wild may be detrimental to native wildlife. Species listed in Schedule 9 include Japanese knotweed, Himalayan Balsam and Giant hogweed.

1.1.12 For species listed in Schedule 9 of the act it is an offence:

- Under Section 14(1) if any person releases or allows to escape into the wild any animal which—

(a) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or

(b) is included in Part I of Schedule 9,

- Under Section 14ZA (1) to sell, offers or exposes for sale, or has in his possession or transports for the purposes of sale an animal or plant to which this section 14 applies, or anything from which such an animal or plant can be reproduced or propagated.
- Under Section 14ZA (2) to publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell an animal or plant to which this section applies, or anything from which such an animal or plant can be reproduced or propagated.



1.1.13 Section 14ZB gives the Secretary of State the power to issue codes of practice, or approve a code of practice issued by others, relating to non-native animal and plant species. It is intended that the codes will be used to provide recommendations, advice and information on how to stop the damage caused by non-native animals and plants.

## 1.2 SITES OF SPECIAL SCIENTIFIC INTEREST (SSSIs) AND OTHER PROTECTED AREAS

1.2.1 Sections 28 to 33 of Part 2 of the Wildlife and Countryside Act detail the law regarding SSSIs. Sections 34 to 53 deal with other protected areas within Great Britain.

- The Act provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs) – these sites are identified for their flora, fauna, geological or physiographical features – by the country conservation bodies in England (Natural England) and Wales (Natural Resources Wales).
- The Act also contains measures for the protection and management of SSSIs.
- The Act provides for the making of Limestone Pavement Orders, which prohibit the disturbance and removal of limestone from such designated areas
- The Act provides means for the designation of Marine Nature Reserves.
- The Act prohibits the undertaking of agricultural or forestry operations on land within National Parks which has been either moor or heath for 20 years, without consent from the relevant planning authority.

## 1.3 THE COUNTRYSIDE AND RIGHTS OF WAY (CROW) ACT 2000

1.3.1 The Countryside and Rights of Way Act 2000 strengthened the Wildlife and Countryside Act 1981 in the following ways:

### Schedule 12

1.3.2 Schedule 12 of the Act amends the species provisions of the Wildlife and Countryside Act 1981 and strengthens the legal protection of species by:

- Providing provisions to make certain offences 'arrestable'
- Changing the term 'intentional' to 'reckless' with regard to disturbance offences, such that ignorance of the law is no longer a defence.
- Conferring greater powers to police and wildlife inspectors for entering premises and obtaining wildlife tissue samples for DNA analysis, and;
- Enabling heavier penalties on conviction of wildlife offences.

### Schedule 9

1.3.3 Schedule 9 of the Act amends SSSI provisions of the Wildlife and Countryside Act 1981, including provision to change SSSIs and providing increased powers for their protection and management, placement of a duty on public bodies to further the conservation and enhancement of SSSIs and increases in penalties on convictions where the provisions are breached.

## 1.4 THE BADGER ACT 1992

1.4.1 Under the Badger Act 1992, it is an offence to:

- Section 1 – Take, injure or kill a badger, or attempt to do so
- Section 2 – Cruelly ill-treat a badger, inclusive of digging for a badger
- Section 3 – Interfere with a badger sett. A person is guilty of an offence if, except as permitted by or under this Act, he interferes with a badger sett by doing any of the following things—
  - (a)damaging a badger sett or any part of it;
  - (b)destroying a badger sett;
  - (c)obstructing access to, or any entrance of, a badger sett;
  - (d)causing a dog to enter a badger sett; or
  - (e)disturbing a badger when it is occupying a badger sett,
- Section 4 – To sell or possess a live badger.
- Section 5 – To mark or ring a badger unless under licence to do so.

## 1.5 THE HEDGEROWS REGULATIONS, 1997



1.5.1 The Hedgerows Regulations, 1997 ensure the protection from damage or destruction of 'important' hedgerows. Criteria within the regulations determine the importance.

#### 1.6 THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 (as amended)

1.6.1 In addition to the Wildlife and Countryside Act 1984, certain species have additional protection under European Law.

1.6.2 The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs) consolidate the amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994 in England and Wales. The Regulations transpose the Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora (EC Habitats Directive) into UK law.

1.6.3 The Habitats Regulations 2010 provide protection for 'European Protected Species' and protection and designation for 'European Protected Sites'.

##### Schedule 2: European Protected Species of Animals

- All UK bats
- Dormice
- Otter
- Large blue butterfly
- Wild cat
- Sand lizard
- Smooth snake
- Great crested newt
- Natterjack toad
- Fishers estuarine moth
- Lesser whirlpool ram's horn snail
- Sturgeon
- Marine turtles
- All dolphins, porpoises and whales.

1.6.4 For species listed in Schedule 2, Under Part 3 Regulation 41(1) it is an offence to

- (a) deliberately capture, injure or kill any wild animal of a European protected species,
- (b) deliberately disturb a wild animal of any such species,
- (c) deliberately take or destroy the eggs of such an animal, or
- (d) damage or destroy a breeding site or resting place of such an animal,

1.6.5 Under Part 3 Regulation 41 (2) For the purposes of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely—

- (a) to impair their ability—
  - (i) to survive, to breed or reproduce, or to rear or nurture their young, or
  - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
- (b) to affect significantly the local distribution or abundance of the species to which they belong.

Under Part 3 Regulation 41.(3) It is an offence for any person—

- (a) to be in possession of, or to control,
- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange any animal in Schedule 2.

##### Schedule 5: European Protected Species of Plants

- Shore dock
- Killarney Fern
- Early Gentian
- Lady's-slipper
- Creeping marshwort
- Slender naiad
- Fen orchid
- Floating-leaved water plantain
- Yellow-marsh saxifrage.

1.6.6 For species listed in Schedule 2, Under Part 3 Regulation 45(1) It is an offence deliberately to pick, collect, cut, uproot or destroy a wild plant of a European protected species.

1.6.7 Under Part 3 Regulation 45(1) (2) It is an offence for any person

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



- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange any plant in Schedule 5

#### European Designated Sites

1.6.8 These include:

- Special Protection Areas – SPAs are classified in accordance with Article 4 of the EC Birds Directive for rare and vulnerable birds (as listed on Annex I of the Directive), and for regularly occurring migratory species
- Special Areas of Conservation – SACs are classified in accordance with Article 3 of the EC Habitats Directive. SACs are designated to establish a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive (as amended).

1.6.9 Natura 2000 is the name of the European Union-wide network of nature conservation sites established under the EC Habitats and Birds Directives. This network will comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). Marine Natura 2000 sites contribute to our ecologically coherent network of marine protected areas.

### 1.7 NATURAL ENVIRONMENT AND RURAL COMMUNITIES (NERC) ACT 2006

#### Planning Authorities: A Duty to Conserve Biodiversity

1.7.1 Under this legislation, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site *before* they make a decision on the planning permission.

1.7.2 Part 2, Section 40 confers on the planning authorities a duty to conserve biodiversity and states:

*"Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of biodiversity"*

#### Species of Principal Importance

1.7.3 Part 3, Section 41 requires the Secretary of State to "publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of **principal importance** for the purpose of conserving biodiversity".

1.7.4 This requirement lead to production of a list of species and habitats of Principal Importance, which should be a material consideration during the planning process.

### 1.8 DESIGNATED SITES OF CONSERVATION INTEREST

1.8.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.

#### Statutory Sites

1.8.2 Statutory sites can be designated under UK legislation (the Wildlife and Countryside Act 1981), European Law (the Habitats Regulations 2010) or International law (Ramsar Convention).

1.8.3 The designated sites are referred to under the relevant legislation above.

1.8.4 UK designated sites include Sites of Special Scientific Interest (SSSIs).

1.8.5 European designated sites include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).

1.8.6 Ramsar sites are wetlands of international importance designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971.

1.8.7 Local Nature Reserves (LNRs): Under the National Parks and Access to the Countryside Act 1949 LNRs may be declared by local authorities after consultation with the relevant statutory nature conservation agency. LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature.

1.8.8 National Nature Reserves (NNRs): are declared by the statutory country conservation agencies under the National Parks and Access to the Countryside Act 1949 and the Wildlife and Countryside Act 1981.

#### Non-Statutory Sites

1.8.9 Local authorities for any given area may designate certain areas as being of local conservation interest. The criteria for inclusion, and the level of protection provided, if any, may vary between areas. Most individual counties have a similar scheme, although they do vary.



- 1.8.10 These sites, which may be given various titles such as 'Listed Wildlife Sites' (LWS), 'Local Nature Conservation Sites' (LNCS), 'Sites of Importance for Nature Conservation' (SINCs), 'Biological Heritage Sites' (BHS) or 'Sites of Nature Conservation Importance' (SNCIs), together with statutory designations, are defined in local and structure plans under the Town and Country Planning system and are a material consideration when planning applications are being determined.

## 2.0 Plans and Policies

In the UK, the following plans and policies relate to wildlife and habitats:

- o National Planning Policy Framework (NPPF, 2021)
- o The Natural Environment White Paper 'The Natural Choice: Securing the Value of Nature'
- o Biodiversity – The UK Action Plan (1994, and subsequent revisions)
- o Local Biodiversity Action Plans where applicable
- o Neighbourhood plans where applicable

### NATIONAL PLANNING POLICY FRAMEWORK

- 2.1.1 In March 2012 the Government introduced the National Planning Policy Framework (NPPF). This was revised in 2021

#### Chapter 15: Conserving and Enhancing the Natural Environment

Chapter 15, Para 174 of NPPF states: "The planning system should contribute to and enhance the natural and local environment by:

- b) **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils....**
- e) **minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".**

Para 175 states: "Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."

Para 179 identifies that plans should do the following to protect and enhance biodiversity and geodiversity:

- c) **"Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and**
- d) **Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity."**

Para 180 states that "when determining planning applications, local authorities should apply the following principles:

- b) **if significant harm to biodiversity from a development cannot be avoided...,adequately mitigated, or, as a last resort compensated for, then planning permission should be refused"**
- c) **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;**
- d) **Development result in the loss of deterioration of irreplaceable habitats (such as ancient woodland or ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensatory strategy exists; and**
- e) **Development whos primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.**

Para 182 states "the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined."

## 2.2 ODPM CIRCULAR 06/2005: BIODIVERSITY AND GEOLOGICAL CONSERVATION

- 2.2.1 This document, to be read in conjunction with NPPF provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It makes it clear that it is the intention of the government that local authorities and developers consider protected species at the earliest possible stage in the planning process. Any planning application that is likely to



affect protected species should come with details of the surveys which have been undertaken and should include, if necessary, recommendations for mitigation. Applications which do not include sufficient data should be rejected.

## 2.3 The Natural Environment White paper

- 2.3.1 The Natural Environment White Paper 'The Natural Choice: Securing the Value of Nature' states that 'We want to create a resilient and coherent ecological network at national and local levels across England... To make this happen the government will put in place a clear institutional framework to support nature restoration. This means: establishing Local Nature Partnerships... Creating new Nature Improvement Areas (NIAs) and strengthening support through the planning system.'

### Biodiversity Offsetting

- 2.3.2 Biodiversity offsetting is described in the Natural Environment White Paper as 'conservation activities designed to deliver biodiversity benefits in compensation for losses in a measurable way. Good developments incorporate biodiversity considerations in their design but are still likely to result in some biodiversity loss. One way to compensate for this loss is by offsetting: the developer secures compensatory habitats elsewhere.'
- 2.3.3 The level of biodiversity offsetting required could be determined by means of assessments undertaken in accordance with the Department for Environment, Food and Rural Affairs (DEFRA) metric contained in Biodiversity Offsetting Pilots published in March 2012 as applied in the Defra offsetting pilot projects. Biodiversity offsetting could be delivered by developers in partnership with various partners including conservation organisations, local landowners and the borough council.

## 2.4 Biodiversity Action Plan (Local or UK)

### UK Biodiversity Action Plan

- 2.4.1 Biodiversity: The UK Action Plan outlines how the UK plans to address biodiversity conservation in response to the Rio Convention on Biological Diversity (1992). In 2004 a UK Biodiversity Steering Group was formed and discussions resulted in the publication of 'Biodiversity: the UK Steering Group Report – meeting the Rio challenge', which established a framework and criteria for identifying species and habitats of conservation concern. From this list, action plans for 391 species and 45 broad habitat types were prepared. In 2007, the UK List of Priority Species and Habitats was reviewed and the revised list identifies 1149 species and 65 habitats requiring conservation action.
- 2.4.2 These species are now listed in Section 41 of the NERC Act, 2006 and referred to as Habitats and Species of Principal Importance (HPI or SPI).
- 2.4.3 Outcome 3 of the Government's Biodiversity 2020 strategy (DEFRA, 2011) contains an ambition to ensure that "By 2020, we will see an overall improvement in the status of our wildlife and will have prevented further human-induced extinctions of known threatened species". Protecting and enhancing England's Species and Habitats of Principal Importance is key to delivering this outcome.

### Local Biodiversity Action Plans

- 2.4.4 Local Biodiversity Action Plans (LBAPs) are a means for delivering UK Biodiversity Action Plan targets at a local level. LBAPs were launched in 1997 by a partnership of conservation groups, government agencies and local authorities. They set out a framework for nature conservation in the specified area. This framework includes priority species and habitats and sets targets to maintain and enhance their conservation status.

## 2.5 Other Species Lists of Species of Conservation Concern

- 2.5.1 Species lists of Species of Conservation Concern also considered within this assessment are as follows:



- Birds of Conservation Concern: Based on an assessment of the conservation status of British birds. Following an assessment of data on population and trends against established criteria, there are red, amber and green lists of BoCC. The latest review was BOCC 4 (Eaton et al, 2015)

Red Data Book Species: In 1999 the Species Status Assessment project (JNCC) assigned conservation status to the UK flora and fauna using the internationally approved IUCN Red Data Book criteria and categories. The reviews were published in a series of data sheets and assigned a conservation status to each species.