



Preliminary Ecological Appraisal Survey

1 Garage site on Kier Hardie Way IG11 9NU

Be First

Status	Issue	Name	Date
Draft	1	Fay Brotherhood BSc Hons MSc Consultant Ecologist	09/10/2020
Reviewed	1.1	Louise Sawrey BSc (Hons), Consultant	15/10/2020
Final	2	Fay Brotherhood BSc Hons MSc Consultant Ecologist	15/10/2020

Arbtech Consultant's Contact details:

Fay Brotherhood BSc (Hons) MSc
Consultant Ecologist

Tel: 07936932337 Email: faybrotherhood@arbtech.co.uk

Arbtech Consulting Ltd

<https://arbtech.co.uk>

Limitations and Copyright

Arbtech Consulting Limited has prepared this report for the sole use of the above-named client or their agents in accordance with our General Terms and Conditions, under which our services are performed. It is expressly stated that no other warranty, expressed or implied, is made as to the professional advice included in this report or any other services provided by us. This report may not be relied upon by any other party without the prior and express written agreement of Arbtech Consulting Limited. The assessments made assume that the sites and facilities will continue to be used for their current purpose without significant change. The conclusions and recommendations contained in this report are based upon information provided by third parties. Information obtained from third parties has not been independently verified by Arbtech Consulting Limited.

© This report is the copyright of Arbtech Consulting Limited. Any unauthorised reproduction or usage by any person other than the addressee is strictly prohibited.

Guidelines

This assessment has been designed to meet:

- Chartered Institute of Ecology and Environmental Management 'Guidelines for Preliminary Ecological Appraisal Second Edition, December 2017'; and
- 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 193 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, the low impact on ecological receptors identified through both the site survey and search of local biological records, and the passive interface with the mitigation hierarchy, 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.

Executive summary

Arbtech Consulting Ltd was commissioned by Be First to undertake a Preliminary Ecological Appraisal (PEA) at Garage site on Kier Hardie Way IG11 9NU. The survey was completed on 08/10/2020. The aim of the survey was to complete an extended Phase 1 Habitat Survey of the survey area (all land that will be impacted by the proposals).

The development proposals are for the reclamation of the site as part of a multi-site urban regeneration project. The project aims to find pockets of “problematic land” (e.g. contaminated, or high-water table) and find ways of bringing it back into use, whether that be for development or amenity. There are no solid plans for the site in place as yet, but the survey has been commissioned as part of their commitments to due diligence. A planning application is being prepared for submission to London Borough of Barking and Dagenham.

Recommendations - This is work you will need to commission (if any) to obtain planning permission or comply with legislation for other consent.

No further surveys are required. There are no ecological constraints to future development other than impacts from lighting and construction works to the trees and any protected species using them on the southern boundary. There is scope for biodiversity enhancements which are detailed on page in the conclusions, impacts and recommendations section on page 17.

Contents

1.0 Introduction and Context	5
1.1 Background	5
1.2 Site Context.....	5
1.3 Scope of the report	5
1.4 Project Description	6
2.0 Methodology	6
2.1 Desk Study methodology	6
2.2 Site Survey methodology	6
2.3 Suitability Assessment	6
2.4 Limitations – evaluation of the methodology	7
3.0 Results and Evaluation	8
3.1 Desk Study Results	8
3.2 Designated sites	8
3.3 Landscape	8
3.4 Historical records	11
3.5 Field Survey Results	12
3.6 Site descriptions and photos.....	13
3.7 Protected species evidence	15
4.0 Conclusions, Impacts and Recommendations	16
4.1 Informative guidelines	16
4.2 Evaluation	16
5.0 Bibliography	21
Appendix 1: Phase 1 Habitat Survey Map	23
Appendix 2: Proposed Site Plan	24
Appendix 3: Desk Study Information	25
Appendix 4: Legislation and Planning Policy	27

1.0 Introduction and Context

1.1 Background

Arbtech Consulting Ltd was commissioned by Be First to undertake a Preliminary Ecological Appraisal (PEA) at Garage site on Kier Hardie Way IG11 9NU. The survey was completed on 08/10/2020.

No previous reports have been produced for this site by Arbtech Consulting Ltd,

1.2 Site Context

The site is located at National Grid Reference TQ 46501 84065 and has an area of approximately 0.1ha. The site consists of an area of hardstanding with garage units spanning three boundaries. Just beyond the site boundaries are trees.

1.3 Scope of the report

This report describes the baseline ecological conditions at the site; evaluates habitats within the survey area in the context of the wider environment; and describes the suitability of those habitats for notable or protected species. It identifies significant ecological impacts as a result of the development proposals; summarises the requirements for further surveys and mitigation measures, to inform subsequent mitigation proposals, achieve Planning or other statutory consent, and to comply with wildlife legislation.

The aim of the PEA was to obtain data on existing ecological conditions, and to conduct a preliminary assessment of the likely significance of ecological impacts on the proposed development. Establishing the baseline conditions for future monitoring. To achieve this, the following steps were taken:

- The desk study area and field survey area (generally 50m from the site boundary/proposed footprint and including the 'zone of influence' of the scheme) have been identified
- A desk study has been carried out.
- Baseline information on the site and surrounding area has been recorded through an 'Extended Phase 1 Habitat Survey', including a Phase 1 Habitat Survey (JNCC 2010) and recording further details in relation to notable or protected habitats and species.
- The ecological features present within the survey area have been evaluated where possible (CIEEM, December 2017).
- Invasive plant and animal species (such as those listed on Schedule 9 of the Wildlife & Countryside Act) have been identified.
- Likely impacts on features of value, as a result of the development proposals, have been identified.
- Recommendations for further survey and assessment have been made.
- Recommendations for mitigation and opportunities for enhancement have been provided based on current information.

A survey plan is presented in Appendix 1, proposed plans in Appendix 2 (where available), desk study results in Appendix 3 and a summary of relevant legislation is presented in Appendix 4.

1.4 Project Description

The development proposals are for the reclamation of the site as part of a multi-site urban regeneration project. The project aims to find pockets of “problematic land” (e.g. contaminated, or high-water table) and find ways of bringing it back into use, whether that be for development or amenity. There are no solid plans for the site in place as yet, but the survey has been commissioned as part of their commitments to due diligence. A planning application is being prepared for submission to London Borough of Barking and Dagenham.

2.0 Methodology

2.1 Desk Study methodology

The desk study included a 2km radius review of statutory and non-statutory designated sites, Biodiversity Action Plan (BAP) Priority Habitats and granted EPSML records for bats held on Magic database. An assessment of the surrounding landscape structure was also completed using aerial images from Google Earth and OS maps.

Existing biological records relating to the site and a surrounding 2km radius are required to conform to national guidelines. The data search is confidential information that is not suitable for public release and has been analysed and summarised for presentation in this report.

2.2 Site Survey methodology

The survey was undertaken by Fay Brotherhood [Bats] (2018-33540-CLS-CLS Accredited Agent).

The methodology for the Phase 1 habitat survey is based on the best practice publication Phase 1 Habitat Survey Methodology (JNCC, 2010). All land parcels are described and mapped according to JNCC Phase 1 Habitat Classification. Where appropriate, target notes provide supplementary information on habitat conditions, features too small to map to scale, species composition, structure and management.

During the survey, habitats were assessed for their suitability to support protected species, and field signs indicating their presence recorded. The assessment takes into consideration the findings of the desk study, the habitat conditions on site and in the context of the surrounding landscape, and the ecology of the protected species. The likelihood of the presence of protected species is ranked; the habitats on site are evaluated against their likelihood to provide suitable habitat for protected species.

The ecological value of the survey area has been assessed based on the Guidelines for Ecological Impact Assessment (CIEEM, 2018), and the Handbook of Biodiversity Methods: Survey, Evaluation and Monitoring (Hill, 2005), using geographic frames of reference. The biodiversity value of any identified designated sites, habitat types and associated species assemblages has been considered. The distribution and extent of invasive species listed on Schedule 9 of the Wildlife and Countryside Act (1981 as amended 1996) were also noted throughout the survey area.

2.3 Suitability Assessment

The habitats on site were evaluated as to their likelihood to provide sheltering, roosting, foraging, basking or nesting habitat. The likelihood of the occurrence of protected species is ranked according to the criteria listed in Table 1 below.

Table 1: showing criteria considered when assessing the likelihood of occurrence of protected species

Present	Species are confirmed as present from the current survey or historical confirmed records.
High	Habitat and features of high quality for species/species assemblage. Species known to be present in wider landscape (desk study records). Good quality surrounding habitat and good connectivity.
Medium	Habitat and features of moderate quality. The site in combination with surrounding land provides all habitat/ecological conditions required by the species/assemblage. Within known national distribution of species and local records in desk study area. Limiting factors to suitability, including small area of suitable habitat, some severance/poor connectivity with wider landscape, poor to moderate habitat suitability in local area.
Low	Habitats within the survey area poor quality. Few or no records from data search. Despite above, presence cannot be discounted as within national range, all required features/conditions present on site and in surrounding landscape. Limiting factors could include isolation, poor quality landscape, or disturbance.
Negligible	Very limited poor-quality habitats and features. No local records from desk study; site on edge of, or outside, national range. Surrounding habitats considered unlikely to support species/species assemblage.

2.4 Limitations – evaluation of the methodology

It should be noted that whilst every effort has been made to describe the baseline conditions within the survey area, and evaluate these features, this report does not provide a complete characterisation of the site. This assessment provides a preliminary view of the likelihood of protected species being present. This is based on suitability of the habitats on the site and in the wider landscape, the ecology and biology of species as currently understood, and the known distribution of species as recovered during the searches of historical biological records.

The trees surrounding the site could not be assessed for bat roost potential as they are in other neighbour's land. No biological records data have been authorised by the client. These limitations have been taken into account during the evaluation and requirement for further surveys.

3.0 Results and Evaluation

3.1 Desk Study Results

A summary of desk study results are provided below, full details are included in Appendix 3.

3.2 Designated sites

Details of any statutory and non-statutory designated sites within a 2km radius of the survey site, including their reasons for notification, are provided in Table 2 below.

Table 2: Designated sites within 2km radius of the site

Designated Name	Site	Distance from Site (approx.)	Reasons for Notification from Natural England and/or BRD or LPA policy maps
Statutory Sites			
Mayesbrook Park South (LNR)		310m north	A nature reserve and a newly restored river landscape. The southern section of the park features two large lakes which are rich in wildlife. Habitats include adjacent recently planted woodland and rough grassland.
Parsloe's Park Squatts (LNR)		1500m north east	Small pockets of neutral and small pockets of acid grassland with historic hedge (part of Parsloes Manor) Ornamental use of trees and shrubs over most of the park with Rose beds in the grass area by the lake.
Ripple (LNR)		1340m south	The reserve is a tapestry of birch woodland, scrub and grassland. The dumping of fuel ash has created a soil that is very alkaline and therefore different to most soils in London (they are mostly acidic). This means that many plant species that can tolerate the soils of The Ripple struggle to grow elsewhere locally. Pyramidal and southern marsh orchids, grey club rush and wild basil are the most important of these. Other species include grey partridge and water vole.
Scrattons Ecopark and Extension (LNR)		1390m south east	Former marshland and allotments with small areas of recently planted woodland areas of open grass, leaving blocks of bramble and preserving existing shrubs and trees. The overall aim being to create a diverse range of habitats for plants, birds, insects and mammals.
Non-statutory Sites			
None known			

3.3 Landscape

A review of the designated sites, aerial photographs (Figure 1), the Magic database and OS maps has been undertaken. Collated together, the site's local habitat is described below:

The survey site is located in an urbanised area of East London, with high density housing being the dominant land use to the east, south and west, the Rippleside cemetery adjacent to the South, and railway lines 300m North and 400m South. There is a local nature reserve in Mayesbrook Park, 350m North, perpendicular to the northern railway. The nature reserve has two large lakes surrounded by semi-natural woodland and grassland, which could provide suitable habitats and foraging areas for amphibians, birds and bats. The railway could also act as an important commuting route and dark corridor around the area, linking the site to the nature reserve. A tree lined boundary runs from the south of the site along the eastern boundary of the cemetery, which may provide commuting and roosting opportunities. The adjacent Ripple cemetery, dating from 1886 is a local green space of significant scale and containing grassland, mature trees and the linear remnants of former field boundaries may provide habitat for local species.

Priority habitats within 2km of the site are listed in Table 3 below.

Table 3: Priority Habitat Inventory within 2km (Magic.gov.uk):

Habitat	Closest distance from site
Deciduous Woodland	1300m south
National Forest Inventory	900m south east
Coastal saltmarsh	1900m south west
Coastal and floodplain grazing marsh	1020m south east
Mudflats	1710m south west
Traditional Orchards	810m west



Figure 1: Aerial photo of site, showing landscape structure

3.4 Historical records

Greenspace Information for Greater London will need to be commissioned to provide biological records data for a 1km radius of the site. As the development is small-scale and there will be no impact on protected species, the BRD will not be required for the report.

Table 4: Historical records* within 1km of the site

Taxon Group	Common name	Scientific binomial	Number of records	Nearest record	Most recent year
No BRD authorised					

*Records from the past 10 years

** Schedule 1 and Local Biodiversity Action Plan species with a reasonable likelihood of being found on site.

A search of the magic database for granted European Protected Species Mitigation Licences (EPSMLs) within a 2km radius of the site and found no licenced sites.

Table 5: Granted EPSMLs within 2km of the site

Case reference of granted application	Approx. distance from site	Bat Species Effected	Licence Start Date:	Licence End Date:	Impacts allowed by licence
None					

3.5 Field Survey Results

The site of the proposed development is an area of garages and hard standing and is illustrated in the map in Appendix 1. The weather conditions recorded at the time of the survey are shown in Table 6.

Table 6: Weather conditions during the survey

Date: 09/10/2020	
Temperature	16°C
Humidity	65%
Cloud Cover	90%
Wind	0.1mph
Rain	None

3.6 Site descriptions and photos

A1.1.1 broadleaved semi-natural woodland

The southernmost corner of the site comprises a narrow belt of woodland that belongs to the adjacent cemetery. This extends southward along the cemetery's eastern boundary forming a major linear feature that may be of use as nesting habitat for birds and as a commuting route for local bats. Some of the trees may have bat roost potential. The trees are unlikely to be directly affected but building works and impact their root zones.

J4 bare ground (hard standing)

The site is dominated by tarmac hardstanding. Common urban ruderals are sparsely distributed along the edges.



J3.6 buildings

The garage units (indicated in red) are brick-built with wooden doors and corrugated metal roofs. There are areas of lead flashing that in places are lifted but are considered to offer a negligible habitat for bats, particularly in light of the fact there are roosting opportunities under missing tiles in neighbouring roofs.



J3.6 buildings

One of the garage units had been left open, revealing an internal structure with no suitable roost features for bats.

**J1.2 amenity grassland**

Immediately beyond the northern boundary is an area of amenity grassland that appears to be regularly mown and is dominated by a typical improved amenity assemblage that comprises Dandelion *Taraxacum agg.*, broadleaf plantain *Plantago major* and creeping buttercup *Ranunculus repens*.

A3.1 scattered broadleaved trees

There are several horse chestnut trees sited within this area of amenity grassland.



3.7 Protected species evidence

There was no evidence of protected species found anywhere on the site.

4.0 Conclusions, Impacts and Recommendations

4.1 Informative guidelines

Likelihood of the presence of protected species

Where physical evidence of the presence of protected species is indeterminate during the survey, the habitats on site are evaluated as to their likelihood to provide sheltering, roosting, foraging, basking or nesting habitat. The likelihood of occupancy of protected species is ranked according to the criteria listed in Table 1.

Where this report supports a planning application, the ecological interest of the study area (including the survey area) and the proposed development has also been evaluated in terms of the planning policies relating to biodiversity. It is clearly stated where a preliminary value can be given and where further information is required.

Appropriate justification for this assessment is provided in Section 2.3 and Table 1 of this report.

4.2 Evaluation

Taking the desk study and site survey results into account, the following conclusions for ecological factors has been reached.

Table 7: Evaluation of site

Ecological Factor	Survey assessment conclusions (with justification)	Foreseen impacts	Recommendations	Enhancements The Local Planning Authority has a duty to ask for enhancements under the NPPF (July 2018)
Designated sites	The site is not subject to any designation, and there are no designated sites nearby with the potential to be affected by future development.	The proposed development is not of a sufficient scale to have an impact on any nearby designated sites.	No further surveys.	Create a new urban greenspace to address the joint concerns of local biodiversity enhancement and urban recreational needs.
Notable habitats and plants	The wooded boundary belonging to the cemetery which may be impacted by future development.	Future development may cause damage to the root systems of the trees, thus causing a decline in habitat for any protected species and other wildlife that may utilise the tree lined boundary. New lighting schemes may illuminate it in a manner that makes it inhospitable for use by nocturnal species.	A full arboricultural assessment following the guidance of the British Standard BS5837:2012 Trees in relation to design, demolition, and construction – Recommendations is required, this should be undertaken by a suitably qualified and experienced arboricultural consultant. This will include a full survey of all of the trees along the site boundary and within influencing distance of the site, along with an arboricultural impact assessment, tree protection and arboricultural method statement.	Create “edge habitat” between the woodland and the rest of the site, comprising a graduation from woodland to wildflower meadow to amenity lawn, to include the lawn and trees presently sited to the immediate north of the site. This can be achieved cheaply without breaking up the tarmac by using meadow mats as wildflowers do not require high quality soils. The wildflower meadow should be cut once a year with cuttings removed. Amenity lawn areas should be managed as floral turf. Use of fertiliser and pesticide should be avoided and in the growing season cuts every 3-

				<p>4 weeks will encourage repeat flowering. Clippings should be removed.</p> <p>Ideally the site would create a sense of ecological continuity between it and Ripple cemetery, the flora of which should be investigated. If Ripple cemetery contains a relatively rich and locally characteristic flora, a liaison could be arranged whereby turf from the cemetery is used.</p>
Non-native invasive species	No non-native invasive species recorded on site.	N/A	No further surveys.	Remain vigilant during any future management of the site of the threat of colonisation by invasive species.
Bats	<p>The garage units have negligible habitat value for roosting bats. There are no suitable roosting features on the building.</p> <p>There may be roost features on the trees bordering the site.</p>	<p>There is a low likelihood that bats are roosting within this building and as such, there are not anticipated to be any impacts on bats as a result of any future works.</p> <p>Bats using any roost features in the adjacent trees could be disturbed by any development work that involves vibration and noise.</p>	<p>No further surveys.</p> <p>In the unlikely event that a bat or evidence of bats is discovered during the development all work must stop and a bat licenced ecologist contacted for further advice.</p> <p>Any new lighting should avoid illuminating the trees and any areas of habitat established to the south of the site.</p>	<p>Any new buildings on site should have new bat roosting provision installed into the fabric of the buildings in the form of bat tubes, bat tiles and/or bat lofts.</p> <p>If using bat tiles or bat lofts traditional bituminous roofing felt should be used rather than breathable membranes, which can entangle bats leading to fatality.</p> <p>Bat tubes should be positioned 3-5m above ground level facing in a south/south-westerly direction with a clear flight path to and from the entrance.</p> <p>Management of the site as greenspace would provide additional foraging resources for local bats.</p>

Birds	The site itself provides negligible habitat for barn owls or breeding birds but the trees to the south could host breeding birds.	Active nests could be disturbed during the development.	Works should be undertaken outside the period 1st March to 31st August. If this timeframe cannot be avoided, the trees should be checked for nests and a buffer zone created between the works and any nests until the young have fledged.	<p>Install three Schwegler bird boxes on any buildings on site e.g. Schwegler No 17 swift nest box Schwegler 1SP Sparrow Terrace</p> <p>Nest boxes should be positioned approximately 3m above ground level where they will be sheltered from prevailing wind, rain and strong sunlight.</p> <p>Swift nest boxes/nest cups should be positioned inside a building/covered area/outbuilding with open access for birds.</p> <p>Sparrow Terraces/nest boxes should be positioned at the eaves of the new building and can be incorporated into the fabric of the building during construction.</p>
Reptiles	No suitable habitat for common reptiles.	Future development of the site will have no impacts on common reptiles.	No further surveys.	Creating log, brash and rock piles along the site boundaries will create hibernacula and refugia for any common reptiles that may be present within the cemetery, providing access points are created through the boundary.

Amphibians	No suitable habitat on site for amphibians.	Future development of the site will have no impacts on common amphibians.	<p>No further surveys required.</p> <p>A precautionary method of working is considered adequate to reduce the small risk of harm or injury to common amphibians during development. All trenches will be backfilled before nightfall, or a ramp will be left to allow amphibians to easily exit. Any stored materials (that might act as temporary resting places) will be raised off the ground, e.g. on pallets.</p> <p>If a great crested newt is found during the development all work must immediately cease and a licensed ecologist contacted for advice.</p>	Establishing a wildlife pond would create additional habitat for amphibians and other species. Creating log, brash and rock piles along the site boundaries whilst ensuring there is access between the site and the cemetery will create hibernacula and refugia for common amphibians.
Other Terrestrial Mammals	Badgers No suitable habitat for badgers found on site e.g. foraging and refuge. It is not known if any badger setts are present within the cemetery.	Badgers No impacts anticipated.	Badgers No further surveys are required. However, the following recommendations are given in order to mitigate against potential harm to badgers during the development works. <ul style="list-style-type: none"> Any trenches dug should either be covered at night or have a rough sawn plank placed in them to act as a ramp for any wildlife which may fall in. Security lighting to be directed away from the undergrowth. Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations. 	Badgers Providing access between the site and the cemetery and planting fruit trees on the developed site will provide additional foraging resources for badgers.
	Water Vole No suitable habitat.	Water Vole Future development will have no impact on water voles.	Water Vole No further surveys.	Water Vole N/A
	Otter	Otter	Otter	Otter

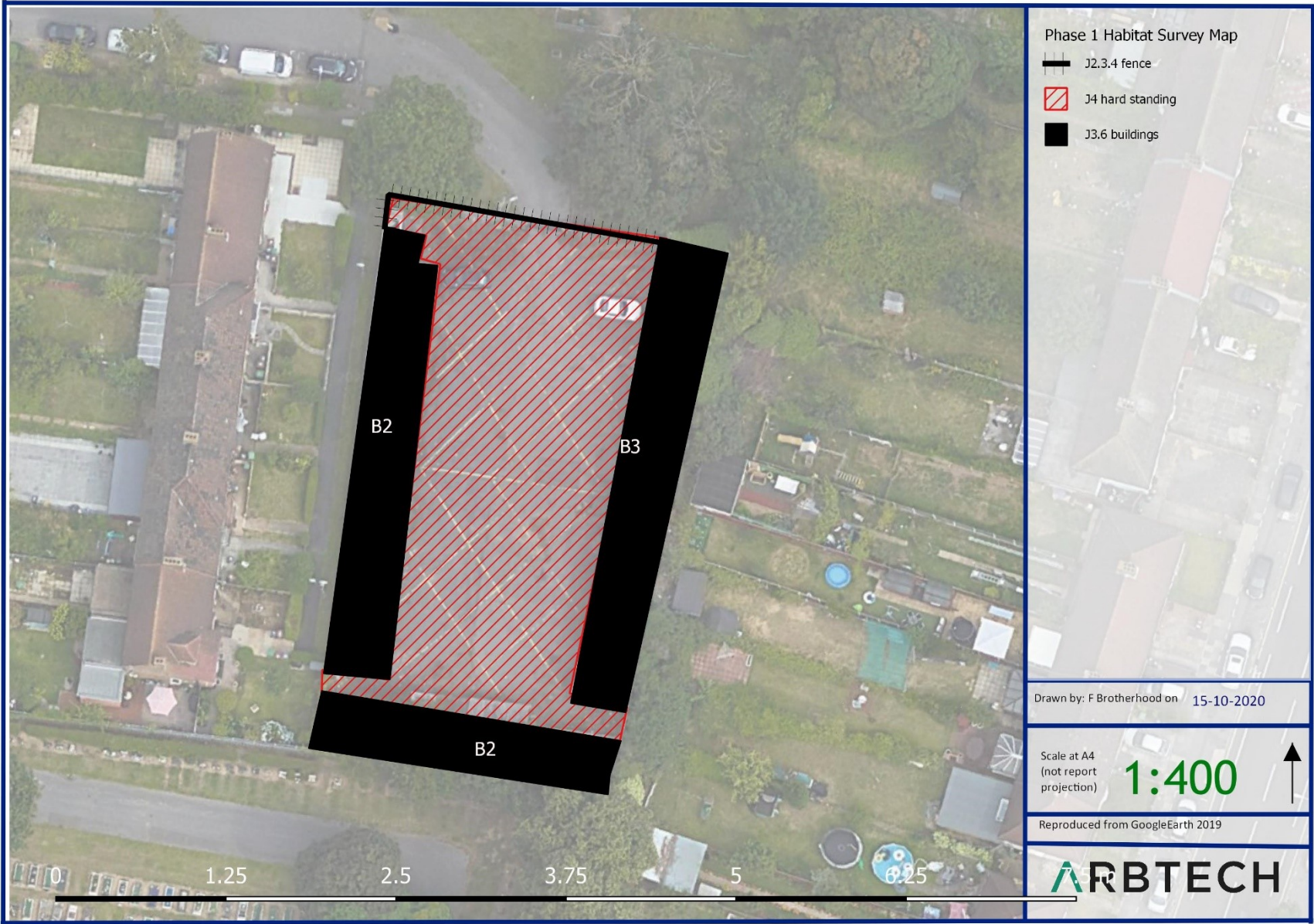
	No suitable habitat.	Future development will have no impact on otters.	No further surveys.	N/A
	Hedgehogs No suitable habitat for hedgehogs.	Hedgehogs Any hedgehogs present during works could be injured or killed.	Hedgehogs No further surveys are required. However, the following recommendations are given in order to mitigate against potential harm to hedgehogs during the development works. <ul style="list-style-type: none"> • Any trenches dug should either be covered at night or have a rough sawn plank placed in them to act as a ramp for any wildlife which may fall in. • Security lighting to be directed away from the undergrowth. • Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations. 	Hedgehogs Gaps should be created in the boundary between the site and the cemetery to provide commuting routes through the developed site for hedgehogs. Hedgehog houses should be incorporated into the developed site positioned beneath the southern boundary.

5.0 Bibliography

- British Trust for Ornithology (2016) www.bto.org/about-birds/nbnw/putting-up-a-nest-box
- BS 42020, Biodiversity – Code of practice for planning and development (2013) <http://www.eoebiodiversity.org/pdfs/BS42020.pdf>
- BS 42020, Biodiversity – Code of practice for planning and development (2013) <http://www.bsigroup.com/LocalFiles/en-GB/biodiversity/BS-42020-Smart-Guide.pdf>
- Cheffings, C. and Farrell, L. (eds.) (2005) The Vascular Plant Red Data List for Great Britain. Joint Nature Conservation Committee, Peterborough.
- CIEEM (2016) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal, 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester. http://www.cieem.net/data/files/Publications/EcIA_Guidelines_Terrestrial_Freshwater_and_Coastal_Jan_2016.pdf
- CIEEM (2017) Guidelines for Preliminary Ecological Appraisal Institute of Ecology
https://www.cieem.net/data/files/Publications/Guidelines_for_Preliminary_Ecological_Appraisal_Jan2018_1.pdf Collins, J. (ed.) (2016). Bat Surveys for Professional Ecologists — Good Practice Guidelines, 3rd edition, Bat Conservation Trust, London. <https://www.bats.org.uk/resources/guidance-for-professionals/bat-surveys-for-professional-ecologists-good-practice-guidelines-3rd-edition>
- Garland & Markham (2008) Is important bat foraging and commuting habitat legally protected?
<http://biodiversitybydesign.co.uk/cmsAdmin/uploads/protection-for-bat-habitat-sep-2007.pdf>
- Google Earth (2020) accessed on 18/10/2020.
- Gregory R.D., et al (2009). Birds of Conservation Concern 3: the population status of birds in the United Kingdom, Channel Islands and Isle of Man.
<https://www.bto.org/sites/default/files/u12/bocc3.pdf>
- HMSO: Wildlife and Countryside Act 1981 (as amended 01.04.1996) <http://jncc.defra.gov.uk/page-1377>
- HMSO: The Protection of Badgers Act 1992 (as amended) <http://www.legislation.gov.uk/ukpga/1992/51/contents>
- HMSO: Countryside & Rights of Way Act (2000) <http://jncc.defra.gov.uk/page-1378>
- HMSO: Natural Environmental and Rural Communities Act (2006) <http://www.legislation.gov.uk/ukpga/2006/16/contents>
- HMSO: The Conservation of Habitats and Species Regulations (2017) <http://www.legislation.gov.uk/uksi/2017/1012/contents/made>
- JNCC (2004) Bat Workers Manual, 3rd Edition. <http://jncc.defra.gov.uk/page-2861>
- Joint Nature Conservation Committee (2010). Handbook for Phase 1 habitat survey a technique for environmental audit.
http://jncc.defra.gov.uk/PDF/pub10_handbookforphase1habitatsurvey.pdf
- Magic database (2020) <http://www.magic.gov.uk/MagicMap.aspx> accessed on 08/10/2020.
- Mitchell-Jones, A.J. (2004). Bat Mitigation Guidelines. English Nature, Peterborough.
- National Planning Policy Framework, 2018
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf

- Natural England (2007). Badgers and Development a Guide to Best Practice and Licensing. Natural England. Bristol. <http://www.wildlifeco.co.uk/wp-content/uploads/2014/03/badgers-and-development.pdf>
- Oldham R.S., Keeble J., Swan M.J.S. & Jeffcote M. (2000) Evaluating the suitability of habitat for the Great Crested Newt (*Triturus cristatus*). *Herpetological Journal* 10(4), 143-155. <https://www.thebhs.org/publications/the-herpetological-journal/volume-10-number-4-october-2000/1617-03-evaluating-the-suitability-of-habitat-for-the-great-crested-newt-triturus-cristatus/file>
- Paul Edgar, Jim Foster and John Baker (2010). Reptile Habitat Management Handbook. Amphibian and Reptile Conservation, Bournemouth <http://downloads.gigl.org.uk/website/Reptile%20Habitat%20Management%20Handbook.pdf>
- Tom Langton, Catherine Beckett and Jim Foster (2001). Great Crested Newt Conservation Handbook. Froglife. Suffolk. http://www.froglife.org/wp-content/uploads/2013/06/GCN-Conservation-Handbook_compressed.pdf

Appendix 1: Phase 1 Habitat Survey Map



None yet available

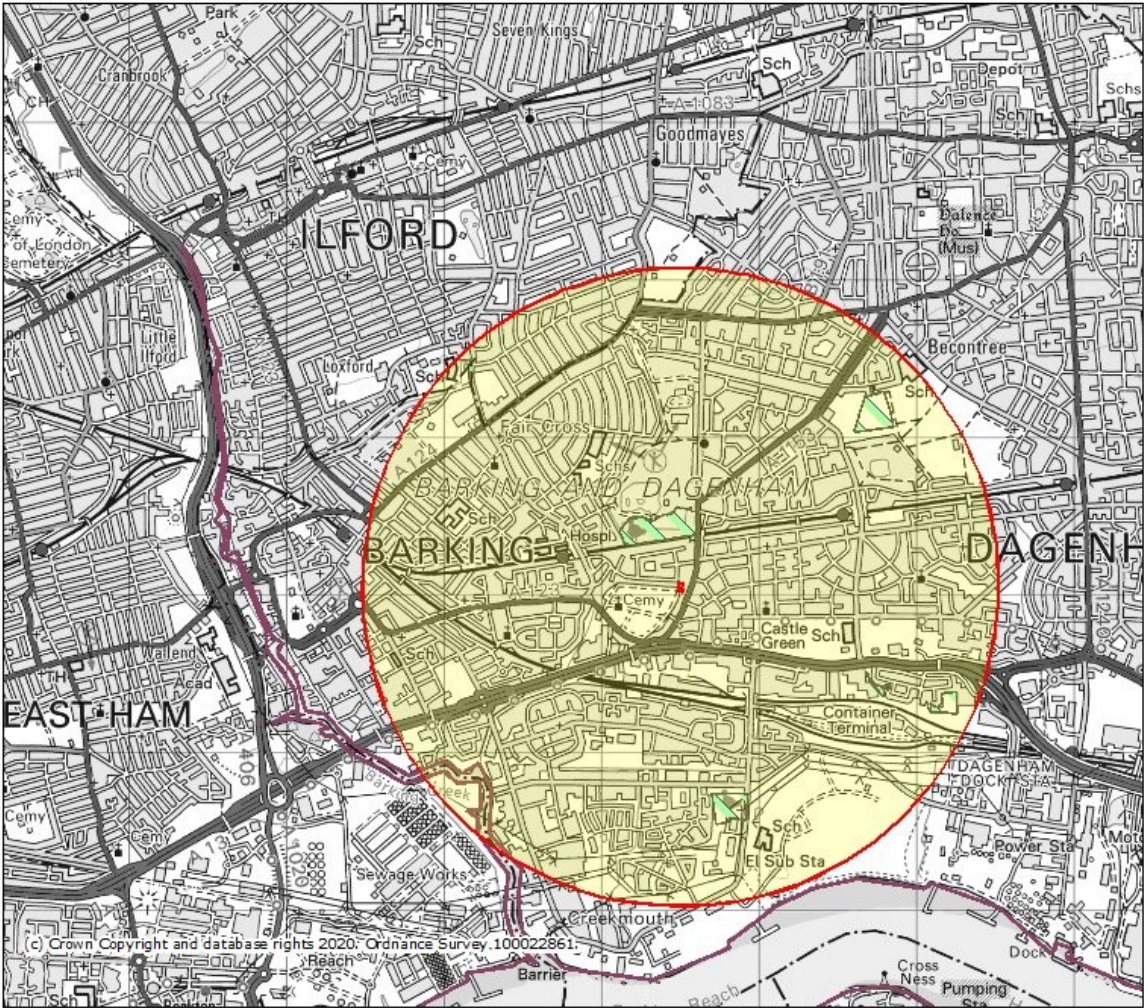
Appendix 2: Proposed Site Plan

Appendix 3: Desk Study Information

Full historical records can be provided on request.

MAGiC

Designated Sites



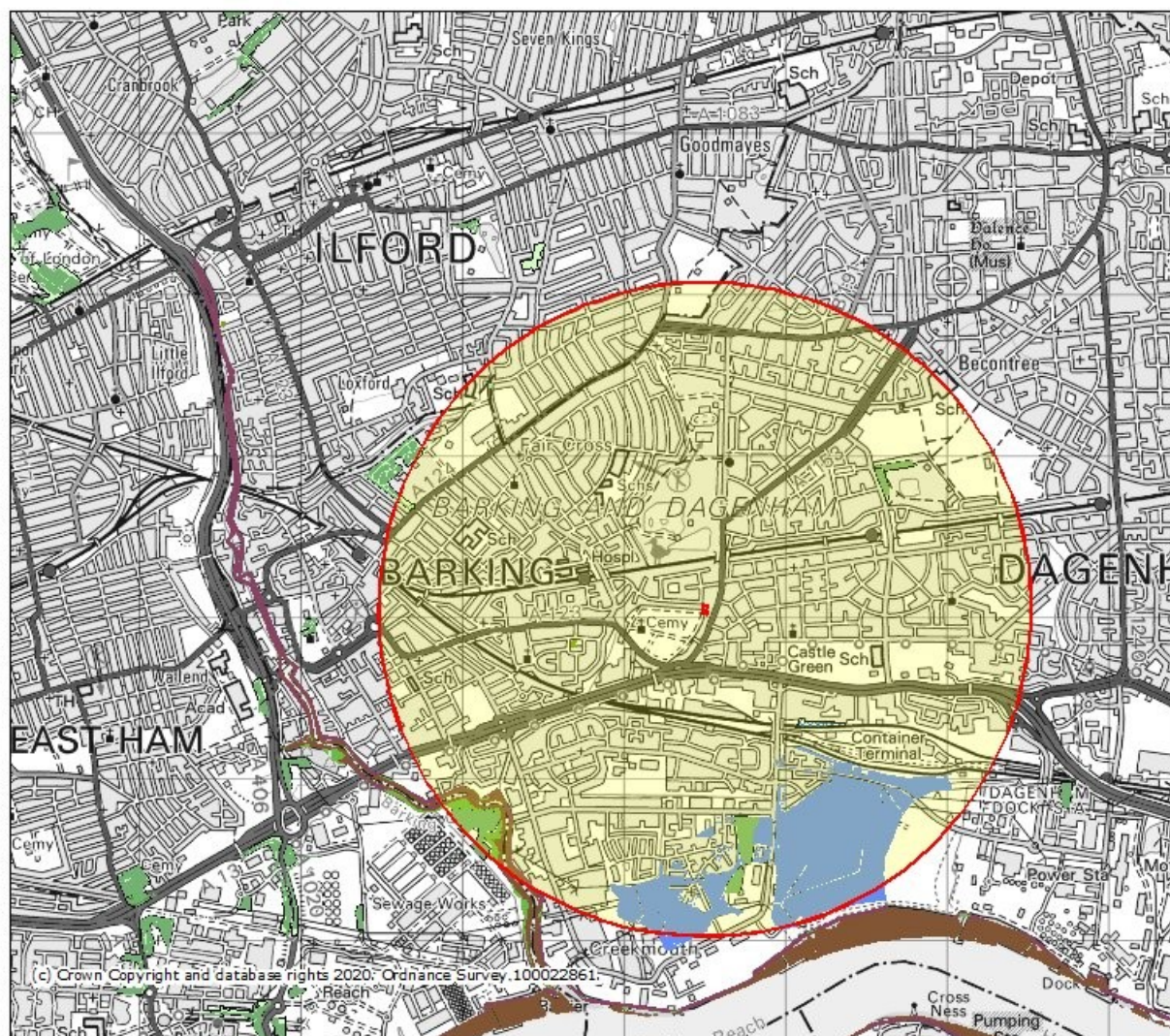
Legend

- Local Nature Reserves (England)
- Moorland Line (England)

Projection = OSGB36
xmin = 539700
ymin = 182000
xmax = 551900
ymax = 187100
Map produced by MAGIC on 7 October, 2020.
Copyright resides with the data suppliers and the map must not be reproduced without their permission. Some information in MAGIC is a snapshot of the information that is being maintained or continually updated by the originating organisation. Please refer to the metadata for details as information may be illustrative or representative rather than definitive at this stage.

MAGiC

Habitats



Legend

- | | |
|---|---|
| Priority Habitat Inventory - Coastal Saltmarsh (England) | Coppice with standards |
| Priority Habitat Inventory - Mudflats (England) | Failed |
| Priority Habitat Inventory - Coastal and Floodplain Grazing Marsh (England) | Felled |
| Priority Habitat Inventory - Deciduous Woodland (England) | Ground prep |
| | Low density |
| | Mixed mainly broadleaved |
| | Mixed mainly conifer |
| | Shrub |
| | Uncertain |
| | Windthrow |
| | Young trees |
| | Priority Habitat Inventory - Traditional Orchards (England) |
- National Forest Inventory (GB)**
- Assumed woodland
 - Broad leaved
 - Cloud / shadow
 - Conifer
 - Coppice

Projection = OSGB36

xmin = 539700

ymin = 182000

xmax = 551900

ymax = 187100

Map produced by MAGIC on 7 October, 2020.

Copyright resides with the data suppliers and the map must not be reproduced without their permission. Some information in MAGIC is a snapshot of the information that is being maintained or continually updated by the originating organisation. Please refer to the metadata for details as information may be illustrative or representative rather than definitive at this stage.

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 Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe. Over 1,000 animal and plant species, as well as 200 habitat types, listed in the directive's annexes are protected in various ways:

Annex II species (about 900): core areas of their habitat are designated as sites of Community importance (SCIs) and included in the Natura 2000 network. These sites must be managed in accordance with the ecological needs of the species.

Annex IV species (over 400, including many annex II species): a strict protection regime must be applied across their entire natural range within the EU, both within and outside Natura 2000 sites.

Annex V species (over 90): Member States must ensure that their exploitation and taking in the wild is compatible with maintaining them in a favourable conservation status.

SPAs are classified under Article 2 of the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds both for rare bird species (as listed on Annex I) and for important migratory species.

SACs and SPAs up to 12 nautical miles from the coast (i.e. 'territorial waters') are afforded protection in the UK under the Conservation of Habitats and Species Regulations 2017 which consolidate all amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994.

The Conservation of Offshore Marine Habitats and Species Regulations 2017 consolidate and update the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007. The 2017 Regulations introduce amendments which transfer responsibility for European nature conservation in the Welsh offshore region to Welsh Ministers. This gives Welsh Ministers similar powers in Welsh offshore waters to those currently exercised by Scottish Ministers in Scottish offshore waters. These regulations transpose into national law Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive), and elements of Council Directive 2009/147/EC on the conservation of wild birds (Wild Birds Directive) in the UK offshore area. They came into force on 30th November 2017. These regulations apply to the UK's offshore marine area which covers waters beyond 12 nautical miles, within British Fishery Limits and the seabed within the UK Continental Shelf Designated Area. The Conservation of Habitats and Species Regulations 2017 form the legal basis for the implementation of the Habitats and Birds Directives in terrestrial areas and territorial waters out to 12nm in England and Wales (including the inshore marine area) and to a limited extent in Scotland and Northern Ireland.

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 01.04.1996) 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). Further provisions for the protection and management of SSSIs have been introduced by the Nature Conservation (Scotland) Act 2004.

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.

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 Habitats Directive

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 2017 (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 1979, implemented 1982) 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 meles* are protected under The Protection of Badgers Act 1992 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
- 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 (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for any development works likely to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agency's 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.

Reptiles (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 reptiles 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 (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely 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 likely to affect habitats known to support water voles, the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) 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 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:

An EPSM Licence issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely 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:

An EPSM Licence issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works are likely 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

Hazel 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)
- 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 issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales (NB: Hazel Dormouse are entirely absent from Scotland)). The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

White clawed crayfish

There is a considerable amount of legislation in place in an attempt to protect the White-clawed crayfish *Austropotamobius pallipes*. This species is listed under the European Union's (EU) Habitat and Species Directive and is listed under Schedule 5 of the Wildlife and Countryside Act (1981). This makes it an offence to:

- Protected against intentional or reckless taking
- Protected against selling, offering or advertising for sale, possessing or transporting for the purpose of sale

It is also classified as Endangered in the IUCN Red List of Endangered Species. As a result of this and other relevant crayfish legislation such as the Prohibition of Keeping of Live Fish (Crayfish) Order 1996, a series of licences are needed for working with White-clawed and non-native crayfish. These are:

- A licence to handle crayfish (therefore survey work) in England
- A licence for the keeping of crayfish in England and Wales with an exemption for Signal crayfish (England).
- People in the post-code areas listed with crayfish present prior to 1996 do not need to apply for consent for crayfish already established. It does not, however, allow any new stocking of non-native crayfish into waterbodies. Consent for trapping of non-native crayfish for control or consumption is most likely to be granted in Thames and Anglian regions in the areas with "go area" postcodes.
- Harvesting of crayfish is prohibited in much of England and in any part of Scotland and Wales.

Effects on development works:

The relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) 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
- 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 (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for works which are likely to affect species of planted 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 land owner 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 Framework (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.

Scottish Planning Policy (Published: 23 Jun 2014)

The SPP sits alongside the Scottish Government planning policy documents. The National Planning Framework (NPF) provides a statutory framework for Scotland's long-term spatial development. The NPF sets out the Scottish Government's spatial development priorities for the next 20 to 30 years.

A Natural, Resilient Place - Valuing the Natural Environment (National Planning Framework Context) Paragraph 193. The natural environment forms the foundation of the spatial strategy set out in NPF3. The environment is a valued national asset offering a wide range of opportunities for enjoyment, recreation and sustainable economic activity. Planning plays an important role in protecting, enhancing and promoting access to our key environmental resources, whilst supporting their sustainable use.

Policy Principles: Paragraph 194. The planning system should:

- Facilitate positive change while maintaining and enhancing distinctive landscape character;
- **Conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities;**
- Promote protection and improvement of the water environment, including rivers, lochs, estuaries, wetlands, coastal waters and groundwater, in a sustainable and co-ordinated way;
- Seek to protect soils from damage such as erosion or compaction;
- Protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value;
- Seek benefits for biodiversity from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats; and
- Support opportunities for enjoying and learning about the natural environment.

Planning Policy Wales (Draft 2018)

Paragraph 5.42 of the document refers to Biodiversity and Ecological Networks and states:

The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. Addressing the consequences of climate change should be a central part of any measures to conserve biodiversity and the resilience of ecosystems. Information contained in The State of Natural Resources Report (SoNaRR) (published by Natural Resources Wales and Area Statements should be taken into account. Development plan strategies, policies and individual development proposals must take into account the need to:

- Promote the conservation of biodiversity, in particular the conservation of wildlife and habitats;
- Ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats;
- Ensure statutorily designated sites are properly protected and managed;
- Safeguard protected species; and existing biodiversity assets from impacts which directly affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water and soil; and
- Seek enhancement of and improvements to ecosystem resilience by improving diversity, condition, extent and connectivity of ecological networks.

Environment (Wales) Act 2016 and the Biodiversity Duty

The Environment (Wales) Act introduces a new biodiversity duty, which highlights biodiversity as an essential component of ecosystem resilience. This new duty replaces the biodiversity duty in the Natural Environment and Rural Communities Act 2006 (referred to as the NERC Act). Part 1 of the Act deals with Sustainable management of natural resources including Biodiversity and Resilience of Ecosystems Duty. The Environment Act enhances the current NERC Act duty to require all public authorities, when carrying out their functions in Wales, to seek to “maintain and enhance biodiversity” where it is within the proper exercise of their functions. In doing so, public authorities must also seek to “promote the resilience of ecosystems”. As under the NERC Act the new duty will apply to a range of public authorities such as the Welsh Ministers, local authorities, public bodies and statutory undertakers. This ensures that biodiversity is an integral part of the decisions that public authorities take in relation to Wales. It also links biodiversity with the long term health and functioning of our ecosystems, therefore helping to align the biodiversity duty with the framework for sustainable natural resource management provided in the Act.

Biodiversity and Resilience of Ecosystems Duty (Section 6 Duty)

5.44 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. Planning authorities must also take account of and promote the resilience of ecosystems, in particular the following aspects:

- a) Diversity between and within ecosystems;
- b) The connections between and within ecosystems;
- c) The scale of ecosystems;

- d) The condition of ecosystems (including their structure and functioning); and
- e) The adaptability of ecosystems.

5.45 In fulfilling this duty, planning authorities must have regard to:

- a) The list of habitats of principal importance for Wales, published under Section 7 of the Environment (Wales) Act 2016;
- b) The State of Natural Resources Report (SoNaRR), published by NRW; and
- c) Any Area Statement that covers all or part of the area in which the authority exercises its functions.

5.46 A proactive approach towards facilitating the delivery of biodiversity and resilience outcomes should be taken by all those participating in the planning process. In particular, planning authorities should demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions. The broad framework for implementing the duty and building resilience through the planning system includes addressing:

- Diversity: to ensure mechanisms are in place to minimise further loss and that circumstances allow for species' populations to expand and recolonise their natural range (former range) or adapt to future change. This means development should provide a net benefit for biodiversity, and at the very least, with no significant loss of habitats or populations of species, locally or nationally;
- Extent: to ensure mechanisms allow for the maintenance of existing assets and networks and promote the restoration of damaged, modified or potential habitat and the creation of new habitat. This means that planning choices should incorporate measures which seek the creation and restoration of green networks and linkages between habitats and maintaining and
- enhancing other green infrastructure features and networks;
- Condition: this is more complex to address, not least because of the interactions of various factors which underpin habitats. At the very least planning approaches should not compromise the condition of ecosystems. By taking an integrated approach to development, for example, which considers both direct and wider impacts and benefits it should be possible to make a positive contribution through the planning system; and
- Connectivity: to take opportunities to develop functional habitat and ecological networks across landscapes, building on existing connectivity and quality and encouraging habitat creation and restoration. The opportunities could include enlarging habitat areas, developing buffers around designated sites or other biodiversity assets or corridors (including transport and river corridors) and the creation of 'stepping stones' which will strengthen the ability of habitats and ecological networks to adapt to change, including climate change.