Extended Phase 1 Habitat Survey Report
Tintagel Drive, Harrow

May 2020

For: **London Borough of Harrow**

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By their very nature, ecological surveys can only assess a site or particular species at a set point in time, thus providing a snapshot of the environment and not a definitive evaluation. Every effort has been taken to provide an accurate assessment of the habitats or species surveyed. However, presence and population sizes of species can change over time and therefore the accuracy of this report will be affected by time and seasonality.

This document has been prepared by Ecology Link Ltd for the sole use of the client.

1. Introduction

1.1 Ecology Link Ltd. was commissioned by MEPK Architects, to undertake an ecological assessment of an area of land at Tintagel Drive, Harrow, London. The purpose of the survey was to assess the conservation value of the site, including the likely presence of rare or protected species. Any features, habitats or species constituting potential constraints to the development were identified, with recommendations for appropriate further surveys and mitigation.

1.2 The client (London Borough of Harrow) intend to put the site into the GLA Small Sites Programme for the construction of residential units.

Site Location and Description

1.3 The site was located within a cul-de-sac off Tintagel Drive, Canons Corner, Harrow, London HA7 4SR (Grid Ref: TQ 17946 92485). The site consisted of a largely redundant terrace of garages and associated hard standing. A short section of road led from Tintagel Drive to the garage block. Amenity grassland, footpaths and scattered ornamental trees were recorded within the site margins. Detailed habitat descriptions are given in Section 3, which is supported by the Phase 1 Habitat Map (Appendix 1) and Photographic Record (Appendix 2).

Adjacent Habitats

1.4 The site was located within a residential area dominated by houses and associated gardens.

2. Scope of Works

Desk Study

2.1 A purchased desk-based data search was not deemed necessary, due to the small size and existing nature of the site, with minor proposed changes to negligible value habitats. This was backed up by the field survey, which confirmed no evidence of protected species. A search for designated sites and habitats was undertaken using the Multi-agency Geographic Information for the Countryside (MAGIC) website (www.magic.gov.uk). The data collated will inform on the impacts (if any) of the proposed works, ensuring that suitable mitigation and protection measures are considered.

Extended Phase 1 Habitat Survey

2.2 An extended Phase 1 habitat survey was conducted on the 4th May 2020 by Jon Panter, whom is an experienced ecologist and full member of the Chartered Institute of Ecology and Environmental Management (CIEEM).

2.3 The weather conditions were cool and dry. A risk assessment was completed and all appropriate PPE worn. The client granted access to the site.

2.4 An evaluation was made of the habitats within the site and where possible, of the immediate surrounding environs. Methodology followed the standard survey criteria as set out in the JNCC Survey Handbook (2010) and a Phase 1 map was produced to show the distribution of habitats and plant communities across the site. Target Notes (TN) were used if required, to give greater detail for specific features. The information gathered provided a record of the existing wildlife habitats present, in accordance with the habitat codes within the JNCC guidelines. The potential for the site to support protected species was also assessed, some of which may be protected by UK or European legislation (Appendix 3).

Buildings and Structures Survey

2.5 Any buildings or other structures (if present) on site were surveyed. This comprised both an external visual inspection and internal search (where safety allowed) to look for signs of, or potential for, protected species (most likely to include bird and bat species). Indicators of use could include live animals, carcasses, droppings, feeding remains and nesting material. A ladder, high-powered torch, angled mirror and endoscope were available for use as required.

Survey Constraints

2.6 There were no constraints. The survey was undertaken during the optimal survey season (April to September). It is felt that an accurate record of the habitats and species present was recorded. It may be that additional plant species are present, which were not visible at the time of survey. It is important to note that species diversity and dominant plant assemblages may increase or change throughout the season. A full plant species list has not been provided due to the limit habitats. Main species recorded have been included within the habitat descriptions in section 3.

3. Results

Desk Study

3.1 The following sites and species records were returned from within a 1km radius of the site. Only species likely to be impacted within or in close proximity to the site have been summarised within this report. Records more than ten years old have been omitted.

Designated Sites

3.2 No records of internationally or nationally important sites were returned. No statutory protected sites were identified (e.g. County Wildlife Site). One non-statutory protected site was identified. Stanmore Country Park (Local Nature Reserve) was located approximately 520m northwest.

3.3 The position of the site within a largely urban area, restricted the movement of wildlife from protected or suitable habitats (such as ponds) to the site.

Protected Species

3.4 Records were identified for the following protected species within 1km of the site:

3.5 Only one amphibian record was identified, for common frog from c.600m west of the site.

3.6 No reptile records.

3.7 Common bird sightings were provided with 31 species being listed, none of which were of particular relevance to the habitats present on site. The most frequent species recorded were mallard, tufted duck and mute swan, reflecting records from the large waterbodies within 0.5 and 1km of the site. Non waterfowl records were dominated by blackbird and woodpigeon.

3.8 The only mammal record was for a single occurrence of hedgehog from c.650m east.

3.9 There were no bat records or Natural England licence applications for European Protected Species, such as bats, great crested newts or hazel dormice.

Phase 1 Survey – Habitats

Amenity grassland

3.10 Small areas of amenity grassland were recorded, being maintained grass verges along Tintagel Drive. A larger block of grassland was recorded on the opposite side of the road, holding the trees under TPO (Photo 1). Species diversity was limited being dominated by ryegrass (*Lolium perenne*),

red fescue (*Festuca rubra*), yarrow (*Achillea millefolium*), creeping cinquefoil (*Potentilla reptans*) and daisy (*Bellis perennis*).

Hard Standing

3.11 Hard standing was associated with the garages (Photo 2). This was mostly intact and in relatively good condition, although ruderal species had colonised the edges and occasional larger cracks in the concrete.

3.12 Species included dandelion (*Taraxacum* agg.), herb Robert (*Geranium robertianum*), common mouse ear (*Cerastium fontanum*) and cock's-foot (*Dactylis glomerata*) recorded along edges of the hard standing.

Scattered Trees

3.13 A few trees were recorded adjacent to the wider site access (Photo 3), including mature oak (*Quercus petraea*) and ash (*Fraxinus excelsior*). These have been described within the tree report.

Phase 1 Survey – Protected Species

Badgers

3.14 The site and wider area (where accessible), were surveyed for badger evidence such as setts, latrines, pathways, footprints, snuffle holes and badger hairs. Any setts recorded were classified according to published criteria (Harris, et al., 1989).

3.15 There was no suitable sett building habitat for badgers (*Meles meles*) on site. No evidence in the form of paths, prints, foraging, latrines or runs under fencing were noted.

3.16 This species needs no further consideration or survey.

Barn Owls

3.17 All breeding wild birds are protected by under Part 1 of the Wildlife and Countryside Act (WCA) (1981, as amended). In addition to the offences of taking, damaging or destroying a nest or eggs; barn owls receive special additional protection under Schedule 1 of the WCA. Barn owls (and other Schedule 1 species) are protected from any form of intentional or reckless disturbance when they are nesting or rearing dependent young. Any such activity constitutes an offence.

3.18 There were no roosting or breeding opportunities for barn owls (*Tyto alba*) within the site. Habitats recorded represented no value for hunting.

3.19 This species needs no further consideration or survey.

Bats

3.20 Potential for the site to support roosting, foraging and commuting bats was assessed in line with the Bat Conservation Trust (BCT) Bat Surveys for Professional Ecologists Good Practice Guidelines (Collins, 2016).

3.21 Buildings or structures (if present) were assessed for suitability to support roosting bats according to the classifications provided (Table 3.2). Any potential roost sites and roost access points were highlighted. Evidence of bats was also searched for and equipment available to investigate the buildings included; binoculars; a ladder; an endoscope; and a high-power torch. The surveyor looked for bats, droppings, staining, scratch marks and feeding remains in any potentially suitable locations.

Table 3.2 Classifying the bat roosting suitability of buildings (Collins, 2016)

Negligible roosting suitability	Negligible habitat features present that are likely to be used by roosting bats.
Low roosting suitability	A structure with one or more features that could be opportunistically used by individual bats. Unlikely to support maternity or hibernation roosts.
Moderate roosting suitability	A structure with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat (unlikely to support roosts of high conservation status).
High roosting suitability	A structure with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat.
Confirmed roost	Evidence of bat occupation found.

3.22 Trees potential bat roost features and where present and accessible, evidence of bats. Each tree was assigned a level of suitability for roosting bats (Table 3.3).

3.23 The site was also assessed for its suitability for foraging bats and for commuting or dispersing bats (i.e. how well the habitats on the site link to other offsite habitats and in particular the presence of sheltered linear habitats on the site.

Table 3.3 Classifying the bat roosting suitability of trees (Collins, 2016)

Negligible roosting suitability	Trees with few, if any, features suitable for roosting.
Low roosting suitability	A tree of sufficient size and age to contain potential roost features (PRFs), but with none seen from the ground or features seen with only very limited roosting potential.
Moderate roosting suitability	A tree with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat. These trees are unlikely to support a roost of high conservation status.
High roosting suitability	A tree with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat.

3.24 The trees held negligible potential to support roosting bats.

3.25 The series of garages held negligible value to support roosting bats.

3.26 The site provided very limited foraging opportunities and commuting links. The site is not deemed to be of key importance within the locality (in terms of size, connectivity or quality).

3.27 This group requires no further consideration or survey at this time.

Birds

3.28 Vegetation was assessed for suitability to support any species of nesting bird. This included searching for evidence of nesting.

3.29 The habitats and general location of the site were assessed for their overall value to birds, including the likelihood for species of conservation importance to use the site.

3.30 No evidence of active or old nests were recorded in the garages or two mature trees within the wider site access boundary.

Dormice

3.31 There was no suitable habitat to support dormice (*Muscardinus avellanarius*) within the site boundary.

3.32 Dormice favour ancient and mature woodland with good structural diversity and understorey. Hedgerows can be important as dispersal routes, but only if well connected to optimal habitat. They require a diverse food source throughout their active season (May to Oct). Being very territorial, dormice usually remain within 80m of their nests. The hedgerow is to be retained under current proposals.

3.33 This species needs no further consideration or survey.

Great Crested Newts

3.34 The site was assessed for suitability to support amphibians, including great crested newts (European Protected Species – EPS), common toad (species of conservation importance) and common frog. The assessment was undertaken in accordance with Gent & Gibson (2003) and Langton et al (2001).

3.35 Consideration was given to waterbodies on and within 500m of the site using maps and aerial images.

3.36 The closest waterbody was c.445m south of the site, being a pond within the grounds of North London Collegiate School. There was a significant quantity of housing between the site and this pond. However, a small spur of green land did lead northwards towards the western end of the site from the school grounds. It is still considered unlikely that animals would move along this and across the 4 rows of housing to reach the site, which contained negligible suitable habitat and therefore no incentive for dispersal in this direction. There was further residential habitat and the A410 main road before the southernmost extent of Stanmore Country Park.

3.37 A large lake (The Lake) was located c.480m southeast of the site, within Canons Park. It was separated from the site by a large triangular block of housing laid out in 4 rows, with three roads. This would represent a significant barrier to dispersal.

3.38 There was negligible suitable habitat for great crested newts (*Triturus cristatus*) on site. There were no waterbodies on site. The closest potentially suitable pond was at 445m, so at the edge range of likely dispersal distance and with barriers to dipseral.

3.39 Due to the limited value for amphibians on site, this species needs no further survey.

Hedgehogs

3.40 Hedgehogs (*Erinaceus europaeus*) are listed under the Habitats and Species of Principal Importance in England. The Natural Environment and Rural Communities (NERC) Act came into force in 2006. Section 41 (S41) of the Act requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England. These are habitats and species that had been identified as requiring action in the UK Biodiversity Action Plan (UK BAP) and which continue to be regarded as conservation priorities.

3.41 There was no evidence of hedgehogs on the site. The site was considered largely unsuitable for foraging animals, although adjacent gardens provided good foraging opportunities.

3.42 This species requires no further survey but recommendations for site enhancement has been provided to assist with biodiversity net gain.

Invertebrates

3.43 The habitats were not considered of importance to notable invertebrates in the locality. Apart from through field observation, the site was not evaluated for the likely presence of important invertebrates, as surveys require specialist methods and equipment. Surveys are seasonally restricted, with samples collected over a number of months and removed from site for expert identification.

3.44 Vegetation communities were typical in species assemblage of this habitat type and geographic location.

3.45 This group needs no further consideration or survey.

Otters

3.46 No evidence of otters (*Lutra lutra*) was recorded at the time of survey. The habitats within and immediately adjacent to the site do not provide suitable resources for this species.

3.47 This species requires no further consideration or survey.

Reptiles

3.48 The site was assessed for suitability to support reptiles with reference to the (Gent & Gibson, 2003) and Froglife Advice Sheet 10.

3.49 The site provided negligible habitat suitable for reptiles. The site was relatively isolated from adjacent suitable habitats (Stanmore Country Park), by roads and numerous rows of houses and gardens.

3.50 This group requires no further survey.

Water Voles

3.51 There were no suitable waterbodies on site for water voles (*Arvicola amphibius*).

3.52 This species requires no further consideration or survey.

White-clawed Crayfish

3.53 There was no suitable habitat within site to support white-clawed crayfish (*Austropotamobius pallipes)*.

3.54 This species requires no further consideration or survey.

Other Species

3.55 No evidence of other species was recorded.

Invasive Species

3.56 No invasive plant or animal species were recorded on site at the time of survey.

Buildings and Structures

3.57 A row of garages was present on site. These were largely intact structures constructed from brick and block walls with low, single pitched, corrugated asbestos roof. (Photo 4) They were uninsulated and contained no hidden voids.

3.58 The structures held negligible roosting potential for bats.

4. Evaluation and Recommendations

4.1 The following potential ecological constraints were identified within the site boundary. Each protected species requiring further investigation or survey has been listed, including the relevant legislation and rationale. *Caveat – only species deemed likely to be present either within or immediately adjacent to the site have been considered further.*

Habitats

4.2 No habitats were recorded which require any specific protection.

Protected Species

4.3 The level of protection for different species varies, often being reviewed and amended. We have stated in the text below, which laws protect which species. A summary of their specific protection has also been provided (Appendix 3).

Bats

4.4 All British bat species are fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended); and under Schedule 2 of the Conservation of Habitats and Species Regulations 2017, as European Protected Species (EPS). This makes it an offence to kill or injure a bat, or damage or destroy a place of shelter or protection.

4.5 No trees or buildings within the site have been identified as containing features with potential to support roosting bats.

4.6 In the unlikely event during any work on site bats or evidence of roosting bats are found, then work must stop immediately and a Natural England licensed bat worker should be contacted. Once a bat roost has been confirmed, only a licensed bat worker may disturb the roost and all further proposed work which may disturb the roost will need to be completed by a licence holder.

Bat box designs

4.7 There is scope for enhancing the biodiversity of the site through the provision of a bat boxes. A bat brick or bat tube could also be incorporated into the new build if desired, as an alternative to externally mounted boxes.

4.8 There are many different designs to choose from, including wooden and woodcrete external mounted boxes for buildings or trees, bat bricks for installation within the structure, and bat tiles for within roofs. The choice of box depends largely on the building design and whether you require the boxes to be visible or 'hidden' i.e. not a feature within the design. For example, the Schwegler 2FR or Schwegler 1WI can easily be built into brick walls and may be faced with bricks or rendered and disguised to reduce their visual impact, leaving a small gap for bat access. The specific model also depends on the location of the box upon the building or tree, and whether it will be accessible for future maintenance or needs to be self-cleaning. Purpose built bat roosting boxes or bricks can easily be incorporated into new buildings, or retrospectively if building renovations are taking place. The appointed architect can choose from many different colours, styles and materials to suit the design.

4.9 Bat boxes should be placed so they are sheltered from strong winds and receive some sun each day with SE to SW aspects being optimal. Ideally, several boxes should be put up facing in different directions (within the SE, S, SW orientations) to provide a range of temperature conditions. Boxes should be put as high as possible in sheltered sunny places (at least 4m). On buildings, boxes should be placed as close to the eaves as possible. Boxes are more likely to be used if they are located where bats are known to feed. Some bats use tree lines or hedgerows for navigation; putting boxes near these features may help the bats find the box. It is possible to have up to 3 boxes on one tree, providing it is a mature enough specimen. It is important to make sure

there is a clear flight line into each box, regardless of whether it is upon a building or tree. They should be positioned away from windows and doors and any sources of potential future disturbance, e.g. artificial lighting.

4.10 Sometimes birds may successfully occupy a bat box. If so, they should not be disturbed whilst they are nesting.

- 1 x Schwegler 2FE (comes as pack of 2), such as http://www.nhbs.com/title/179048/2fe-schwegler-wall-mounted-bat-shelter-pack-of-2.
  or
- 1 x Schwegler 1FQ (wall mounted), such as https://www.nhbs.com/1fq-schwegler-bat-roost-for-external-walls.

Birds

4.11 All birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981, as amended. It is illegal to take, damage or destroy the nests of wild birds whilst being built or in use.

4.12 It is recommended that any vegetation clearance be undertaken outside of the breeding bird season (nesting March to August, inclusive). If this is not feasible, then a survey of all vegetation and built structures to be disturbed should be performed within a 48hr period prior to works, to identify any nests present. Should any active nests be found, then all work in these areas will have to wait until all young have fully fledged.

4.13 It is recommended that woodcrete boxes with designs suitable for a wider range of common bird species are installed.

4.14 Bird boxes should be orientated facing between N, NE to E, avoiding strong winds and wettest weather but also avoiding direct sunlight. Heights vary depending on which species of bird the box is designed for. As a rule, boxes should be no lower than 2m, with 3-4m being ideal (5m+ for swifts), which keeps them out of the reach of many predators (cats, foxes) and vandals.

4.15 Some birds can have up to four broods of chicks in one season, so it is essential that the bird boxes are completely empty before doing any maintenance on them. Any scheduled annual bird box maintenance (if applicable) should take place in the autumn between September and January (inclusive). Maintenance should consist of removing any nesting material to prevent a build of parasites, followed by a thorough clean out using a stiff wire brush and warm water. Any door fixings that are loose should be refurbished and any damage to the fabric should be repaired.

Bird box designs

4.16 A total of two Schwegler 1B nest boxes: one with an entrance hole diameter of 26mm and one with an entrance hole of 32mm. The smaller entrance hole is suitable for species such as blue, marsh, coal tit and wren. All other species are prevented from using the nest box due to the smaller entrance hole. The larger entrance hole makes the box suitable for species such as great tit, nuthatch and house sparrow. One of each size should be located upon each building at a height of 3-4m, with the remaining two boxes on retained trees. (N.B. higher c. 5m if for swifts).

- 1 x 26mm entrance hole, such as Schwegler 1B http://www.nhbs.com/title/181549/traditional-wooden-bird-nest-box.
- 1 x 32mm entrance hole, such as Schwegler 1B http://www.nhbs.com/title/181549/traditional-wooden-bird-nest-box.

Ecological and Biodiversity Enhancements

4.17 There is scope for enhancing the biodiversity of the site through the provision of bird nest boxes and bat roosting boxes (as detailed in the Recommendations section).

4.18 The site can also be improved for a range of protected and common species by the planting of more wildlife-friendly plants. These will increase the number of invertebrates at the site and food resources for many other species.

4.19 Hedgehogs would benefit from continued easy access on and off the site. Where close-boarded wooden fences are installed, simply lift up or cut out a small square approximately 13x13cm (size of CD case) at the bottom of a panel every 15m around the perimeter. Chainlink or weldmesh fences often have enough gap underneath in places, but if not, dig out a small channel to afford easy access. If the site is enclosed and the fences are directly upon hard surfaces, then cut a small hole within the wire mesh, size as detailed above. The holes created are too small for most pets.

4.20 Hedgehogs would also benefit from log piles, reducing the use of pesticides and avoiding the use of slug pellets.

4.21 General advice would be to follow National Planning Policy Framework (NPPF) requirements, such as use of native species planting (preferably of local provenance).

4.22 More prescriptive advice and recommendations for specific suitable enhancements can be provided at a later date (upon request). This can include details of optimal locations to site bird and bat boxes once the design has been approved by the LPA.

4.23 Several species of cotoneaster are widely used for ornamental planting but, whilst the berries are a good food source for birds, this often leads to plants becoming established in the wild where they out compete native species and destroy natural habitats. Cotoneaster should not be planted, with other native species alternatives be considered.

5. Conclusions

5.1 The potential ecological constraints discussed in the recommendations, which require further assessment has been provided (Table 5.1), including key survey periods. It is important to make a note of these restricted survey seasons when planning your development schedule.

Table 5.1: Outline of Further Surveys, Timings and Actions

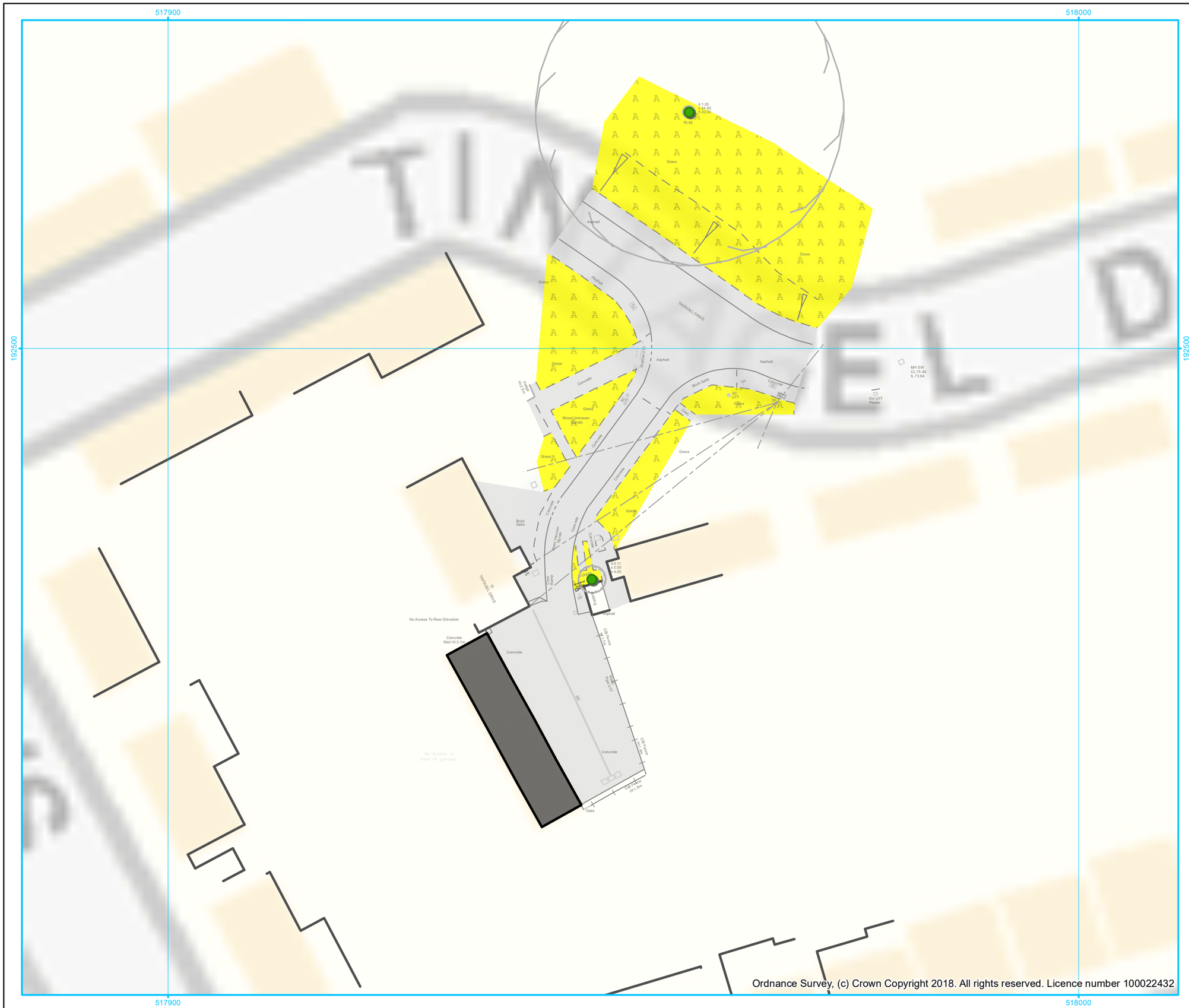
Species Group	Action / Survey Requirement	Optimal Timing (inclusive)
Breeding birds	All vegetation clearance and building refurbishment outside of breeding season	September to February

6. Appendices

Appendix 1 – Phase 1 Habitat Map & Target Notes

Appendix 2 – Photographic Record

Appendix 3 – Legislation



Legend

- Amenity grassland
- Building
- Hard standing
- Tree

Scale: 1:400

0 10 20m

Title: **Appendix 1 – Phase 1 Habitat**

Client: MEPK Architects

Project: Tintagel Drive

Date: May 2020

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This plan is provided for reference only and its accuracy is not guaranteed

Appendix 2: Photographic Record



Photo 1: Small areas of amenity grassland with occasional scattered trees, forming the verges of the road and dissecting between footpaths and driveways.



Photo 2: Hard standing (intact) associated with the access to the row of garages.



Photo 3: Scattered mature trees. Mo potential bat roosting features identified. May support bird nests.



Photo 4: Row of garages, with no bat roost potential.

Appendix 3 – Legislation

This document contains a brief summary of key legislation relating to the protection of wildlife and habitats. Ecology Link Ltd. does not offer legal opinion or provide legal advice. The client is responsible for reviewing the full legislative documents from up-to-date original sources and should seek independent legal advice where appropriate.

European Protected Species

The Bern Convention (The Convention on the Conservation of European Wildlife and Natural Habitats) was adopted in 1979 and came into force in 1982. To implement this agreement, the European Community adopted the EC Habitats Directive in 1992. This directive has been transposed into UK legislation by the Wildlife and Countryside Act 1981 (as amended); and the Conservation of Habitats and Species Regulations 2017. The Countryside and Rights of Way (CRoW) Act 2000 strengthened the existing wildlife legislation in the UK. The UK has also signed the Bonn Convention (The Convention on the Conservation of Migratory Species of Wild Animals) and is therefore party to various agreements.

Bats

All species of British bats are fully protected under Schedules 5 and 6 of the Wildlife and Countryside Act 1981 (as amended) and are also protected under Schedule 2 of the Conservation of Habitats and Species Regulations 2017. They are listed under Appendix III of the Bern Convention and Annex IV of the EC Habitats Directive. Bats and their habitats are also listed under Appendix II of the Bonn Convention and therefore the UK has an obligation to protect their habitat, including links to important feeding areas.

Taken together, these pieces of legislation make it an offence to:

- Intentionally kill, injure or capture bats.
- Deliberately or recklessly disturb bats (whether in roost or not).
- Damage, destroy or obstruct access to bat roosts.

A roost is defined as “any structure which a bat uses for shelter or protection”. As bats tend to re-use the same roosts, legal opinion is that a roost is protected whether or not bats are present at the time of survey.

Dormice

Hazel dormice are classified as Lower Risk-Near Threatened by the International Union for the Conservation of Nature (IUCN) Red List, and as Vulnerable in the UK. They are listed under Appendix III of the Bern Convention and Annex IV of the EC Habitats Directive. In the UK they are fully protected under Schedules 5 and 6 of the Wildlife and Countryside Act 1981 (as amended) and are also protected under Schedule 2 of the Conservation of Habitats and Species Regulations 2017. Taken together, these pieces of legislation make it an offence to:

- deliberately capture, injure or kill dormice.
- damage or destroy a dormouse resting place or breeding site.
- deliberately or recklessly disturb a hazel dormouse while it’s in a structure or place of shelter or protection.
- block access to structures or places of shelter or protection.
- possess, sell, control or transport live or dead hazel dormice, or parts of hazel dormice.

Great Crested Newts

Great crested newts are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017. At the European level they are protected under Annex IV of the EC Habitats Directive. All life stages of great crested newts are protected, including eggs, larvae, juveniles and adults.

Otters

Classified as Vulnerable under the IUCN Red List, they are also listed under Appendix II of the Bern Convention and Annex II of the EC Habitats Directive. They are also protected in the UK by Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). In order to minimise disturbance, it is usually recommended that a barrier should be erected to prevent works within 20m of an otter resting place. If the holt is known to be used for breeding, the radius should be extended to 30m.

Legislation Relating to European Protected Species

In relation to a development a person commits an offence if they:

- Deliberately capture, injure or kill a European Protected Species.
- Deliberately or recklessly disturb a European Protected Species in such a way as to be likely to significantly affect;
  - i. the ability of any significant group of animals to survive, breed, rear or nurture their young
  - ii. the local distribution or abundance of that species.
- Damage or destroy a breeding site or resting place (even if unintentionally or when the animal is not present).
- Intentionally or recklessly obstruct access to a structure or place used for shelter or protection.

All aspects of this legislation apply regardless of the life stage.

A European Protected Species Licence is required to carry out any activity that would otherwise involve committing an offence.

The species above are those most frequently encountered. For a full list of current EPS in the UK please refer to the Conservation of Habitats and Species Regulations 2017, available at www.legislation.gov.uk. Lists of animals and plants can be found in Schedules 2 and 5, respectively.

Other Protected Species

Nesting Birds

All wild birds are protected under Part 1 of the Wildlife and Countryside Act 1981 (as amended). Therefore, in the UK it is an offence to:

- Take, damage or destroy the nest of any wild bird whilst it is being built or in use.
- Kill, injure or take any wild bird.
- Take or destroy the eggs of any wild bird.

To avoid committing an offence, no works should be conducted on a habitat that is being used by nesting birds. Nesting is deemed to be over when the young have fully fledged. Certain species which are listed on Schedule 1 of the WCA receive special protection. In these cases any form of intentional or reckless disturbance when they are nesting or rearing dependant young constitutes an offence.

Reptiles

Common lizard, slow-worm, adder and grass snake are all protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended), as updated by the Countryside & Rights of Way (CRoW) Act 2000. They are covered against intentional injuring, killing or selling. To avoid prosecution, wherever works will impact upon these species there must be evidence to show that every reasonable effort was made to avoid breaking the law – including proof of adequate surveys and mitigation plans. Mitigation measures should, ideally, be agreed with Natural England.

Only the sand lizard and smooth snake are fully protected under the Wildlife and Countryside Act (Section 9) and the Conservation of Habitats and Species Regulations (Regulation 9). These protect them against:

- Killing, injuring or capturing.
- Keeping, transporting or selling.
- Damaging or destroying a breeding or resting site.
- Intentionally obstructing access to a place used for shelter.

This means that both the animals and their habitats are protected. These species mainly occur in specific nature reserves, mostly in the south and south-west of England.

Badgers

Badgers are fully protected in the UK by the Protection of Badgers Act 1992 and by Schedule 6 of the Wildlife and Countryside Act 1981 (as amended). This makes it an offence to:

- Willfully kill, injure, take, possess or cruelly treat a badger.
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett.
- Disturb a badger while it is occupying a sett.

Disturbance could include digging or scrub clearance within 30m of a sett and therefore advice should be sought before conducting such activities. Badgers are mainly protected due to persecution in the past and are not rare.

Water Vole

Water voles are fully protected under the Wildlife and Countryside Act 1981 (as amended). Water voles are protected against intentional killing, capture or injury and intentional or reckless disturbance, obstruction, damage or destruction or their burrows. Displacement works (translocation) can now only be undertaken under ecologist direction (Class Licence holder) or with a specific Natural England licence.

White-clawed Crayfish

The white-clawed crayfish is protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). In addition, Schedule 9 makes it an offence to release, or allow to escape into the wild, all non-native crayfish. It is listed under Appendix III of the Bern Convention, Under Annexes II and V of the EC Habitats Directive, and is classed as Globally Threatened by the IUCN. It is also a Priority Species under the UK Biodiversity Action Plan (BAP).

Invertebrates

Many invertebrates are listed as UK Biodiversity Action Plan (BAP) Priority Species and as Species of Principal Importance (Section 41) of the Natural Environment and Rural Communities Act 2006 (NERC-S41) (see below). Although such species do not receive protection under criminal law, their presence is a material planning consideration and consequently:

- Planning policies and decisions should “promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species…” (taken from NPPF, 2019)

- Local Planning Authorities will use the list to identify the species and habitats that require specific consideration in dealing with planning and development control, recognising that under the NPPF the aim of planning decisions should be to avoid or minimise impacts to biodiversity.

Invasive Species

The Wildlife and Countryside Act 1981 (as amended) is the principal legislation dealing with non-native species. The WCA has been amended in relation to England and Wales by various pieces of legislation, including: the WCA Variation of Schedule 9 Order 2010; the Natural Environment and Rural Communities Act 2006; and the Countryside and Rights of Way Act 2000. Section 14(1) of the WCA makes it illegal to release or allow to escape into the wild any animal which is not ordinarily resident in Great Britain, is not a regular visitor to Great Britain in a wild state, or is listed in Schedule 9 of the Act. It is also illegal to plant or otherwise cause to grow in the wild any plant listed in Schedule 9 of the Act.

Wild Mammals (rabbits, foxes, deer, etc.)

Mammal species that are not of primary conservation importance do receive a degree of protection within the Wild Mammals (Protection) Act 1996. This includes offences which have implications for site clearance (particularly in the case of burrowing species like rabbits and foxes), such as crushing or asphyxiation of any wild mammal with intent to cause unnecessary suffering. To avoid offences under this legislation, it is recommended that where these species are present a method statement is produced, aimed at careful excavation of (or exclusion from) burrows.

The Wildlife and Countryside Act 1981 (as amended)

Protected birds, animals and plants are listed in Schedules 1, 5, 6, and 8 of the Wildlife and Countryside Act.

Schedule 1

The Act makes it an offence to intentionally kill, injure or take any wild bird, their eggs or their nests. 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 dependant young. The Secretary of State may also designate Areas of Special Protection (subject to exceptions) to provide further protection to birds. 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.

Schedule 5

The Act makes it an offence to intentionally kill, injure, take or possess, or trade in any wild animal listed in Schedule 5. It also prohibits interference with places used for shelter or protection, or the intentional disturbance of animals occupying such places. The Act also prohibits certain methods of killing, injuring or taking wild animals.

Schedule 6

The Act makes it an offence to kill or take animals by certain methods. Such methods include: self-locking snares, bows, crossbows, explosives (other than firearm ammunition) or live decoys. Species listed are also protected from the use of: traps, snares or nets; electrical devices for killing or stunning; poisonous, poisoned or stupefying substances, or any other gas or smoke; automatic or semi-automatic weapons; devices for illuminating a target or sighting devices for night shooting; artificial lights, mirrors or other dazzling devices; sound recordings; and mechanically propelled vehicles in immediate pursuit.

Schedule 8

The Act makes it an offence to pick, uproot, trade in or possess (for the purposes of trade) any wild plant listed in Schedule 8, and prohibits the unauthorised intentional uprooting of such plants.

The Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 (abbreviated to the Habitats Regulations) consolidate all of the various amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994. The 1994 Regulations transposed the EC Habitats Directive into national law in England and Wales. In Scotland the Habitats Directive is transposed through a combination of the Habitats Regulations 2010 (relating to reserved matters) and the 1994 Regulations. The Regulations provide for the protection of European Protected Species; and the designation, protection and adaptation of planning and other controls for the protection of European Sites. Under the Regulations, competent authorities (e.g. Ministers, government departments, public bodies or persons holding public office) have a general duty, in the exercise of any of their functions, to regard the EC Habitats Directive.

Schedule 2: European protected species of animals; Schedule 3: Animals which may not be taken or killed in certain ways; Schedule 4: European protected species of plants.

The UK Biodiversity Action Plan List of Priority Species and Habitats

Starting in 2005, the old UK BAP priorities were reviewed and, after adoption by the Governments of all four UK administrations, a new list called the UK List of Priority Species and Habitats was published in 2007. The species and habitats on this list help guide the conservation actions being made in the UK, as part of the UK contribution to the Convention on Biological Diversity.

The Hedgerows Regulations 1997

The Hedgerows Regulations were made under Section 97 of the Environment Act 1995 and came into effect in 1997. They introduced new arrangements for local planning authorities in England and Wales to protect important hedgerows in the countryside. Under the Regulations it is against the law to remove or destroy certain hedgerows without permission from the local planning authority. The Regulations specify the criteria to be used by the local planning authority in determining which hedgerows are important. The criteria relate to the value of hedgerows from an archaeological, historical, landscape, wildlife or amenity perspective. Local planning authority permission is normally required before removing hedges that are at least 20m in length, more than 30 years old, or contain certain plant species. If a hedgerow is at least 30 years old and qualifies under any one of the criteria, then it is important.

The National Planning Policy Framework

The National Planning Policy Framework (NPPF) came into force on the 27 March 2012, being updated in February 2019. Relevant policies include the following:

Policy 170: Planning policies and decisions should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils
- recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services
- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures

Policy 175: When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.
- Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted.

- Opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

Policy 180: Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- {…} limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

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