

PRELIMINARY ECOLOGICAL IMPACT ASSESSMENT

FOLKESTONE GATEWAY (PHASE 2)

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1. EXECUTIVE SUMMARY

- S.1** The application site supports hardstanding, rubble, ruderal vegetation, scattered scrub and a single small building. Tall concrete pillars are present on the western edge of the site. The site is surrounded by Park Farm Road, hardstanding and commercial units.
- S.2** The main findings of this assessment are: -
- No reptiles were recorded during the reptile presence / likely absence survey of the wider site in July 2018. The site is therefore of negligible importance for reptiles;
 - No bats or evidence of bats were recorded in the concrete pillars on the current application site and the wider site during the endoscope survey conducted in July 2018. These gaps were re-assessed as being of 'negligible' suitability for roosting bats;
 - Based on an external inspection, the on-site building has been assessed as having 'moderate' suitability for roosting bats; and
 - The on-site scrub provides suitable habitat for nesting birds.
- S.3** The proposed development, associated with Policy RL11 of the Shepway District Council Places and Policies Local Plan (submission draft), comprises a hotel, car parking, and associated hard and soft landscaping. This development will require total clearance of the site.
- S.4** The key ecological survey, mitigation and compensation measures that will need to be implemented to minimise adverse ecological effects are: -
- The on-site scrub should be reduced to ground level in the period mid-September to February (inclusive) - to keep it unsuitable for nesting birds. This is outside of the typical bird nesting season;
 - If vegetation clearance is required in the period March to mid-September (inclusive), a check for nesting birds will need to be conducted before vegetation clearance is commenced; and
 - An internal endoscope inspection of the on-site building is recommended to re-assess the potential bat roost feature that was previously identified within an interior surface. This assessment will determine whether additional bat survey work is required for this structure;
 - If, following completion of the endoscope inspection, the on-site building is still assessed as being suitable for roosting bats, a bat emergence / re-entry survey will need to be undertaken prior to the demolition of this building, within the period May to August (inclusive). This additional survey work may comprise dusk emergence and/or dawn re-entry survey visits; and
 - The building must not be demolished until the additional endoscope inspection and, if required, additional survey work (as set out above) has been completed and a suitably experienced ecologist has advised the project on an appropriate course of forward action.
- S.5** To enhance the application site for Species of Principal Importance, at least ten house sparrow bricks or boxes will be included within the proposed development.
- S.6** This report contains further detail of ecological mitigation, compensation and enhancement measures and as such it should be read in full.

2. INTRODUCTION

DEVELOPMENT PROPOSAL

- 2.1 The proposed development, associated with Policy RL11 of the Shepway District Council Places and Policies Local Plan (submission draft), comprises a hotel, car parking and associated hard and soft landscaping. This development will require total clearance of the site.
- 2.2 A plan of the proposed development is provided in Figure 2.
- 2.3 Additional detail regarding the proposed development is provided in the documentation submitted with the planning application.

SCOPE OF WORKS

- 2.4 Lloyd Bore Ltd. was instructed to produce a Preliminary Ecological Impact Assessment (PEcIA) of the proposed Folkestone Gateway (Phase 2) development on land at Park Farm Road, Folkestone, Kent (approximate centre: TR 2203 3752)
- 2.5 This assessment was informed by an initial site visit, the results of additional protected species survey work and a biological records search.
- 2.6 An evaluation of recent and historic aerial images and Ordnance Survey maps, and available information regarding designated sites, was also undertaken as part of the desk study.
- 2.7 The impact assessment process documented in this report has been informed by guidance produced by the Chartered Institute of Ecology and Environmental Management - *Guidelines for Ecological Impact Assessment in the United Kingdom and Ireland: Terrestrial, Freshwater, Coastal and Marine* (CIEEM, 2018).

ASSESSMENT OBJECTIVES

- 2.8 The objectives of this assessment and report are to: -
- Record the existing habitats present on-site;
 - Assess the suitability of habitats and structures for legally protected species and Species of Principal Importance (national priority species);
 - Assess the likelihood of protected species presence and priority species presence on site;
 - Identify statutory and non-statutory designated sites within the Zone of Influence (Zoi) of the proposed development scheme;
 - Assess the ecological risks (potential effects) associated with the proposed scheme;
 - Identify appropriate avoidance, mitigation and/or compensation measures;
 - Taking into account the proposed avoidance, mitigation and compensation measures, assess the potential residual effects upon ecological features; and
 - Identify enhancement measures that could improve the ecological importance of the site for priority habitats and species.

3. SITE LOCATION



Figure 1 Approximate location of application site, as indicated by red line (red line is approximate). Image courtesy of (c) Getmapping PLC. © Crown Copyright, all rights reserved. 2018 Licence number 0100031673.

4. METHOD

DESK STUDY

- 4.1 Recent and historic aerial images and Ordnance Survey maps were used to search for waterbodies located within 250m of the application site, and to assess the connectivity of on-site habitats to wider, off-site habitat networks.
- 4.2 A biological records search was undertaken by Kent and Medway Biological Record Centre (KMBRC) in November 2017. This record search was originally for the purpose of Phase 1 of the project. A new record search was not considered to be required as results were still relevant and relate to the same area. The data obtained through this search includes records of: -
- Legally protected species;
 - Species of Principal Importance;
 - Habitats of Principal Importance;
 - Ancient woodland; and
 - Non-statutory designated sites.
- 4.3 The search radius was 1km, measured from the application site boundary. This search radius was extended to 5km for bats. Records obtained within the ten-year period prior to the date of the record search are considered 'recent.' Records older than this are considered 'historic.'
- 4.4 The Multi Agency Geographic Information for the Countryside (MAGIC) website was used to obtain information regarding: -
- Statutory designated sites of international, national and local importance;
 - Proposed, possible and potential statutory designated sites of international importance;
 - Impact Risk Zones (IRZs) associated with Sites of Special Scientific Interest (SSSIs) and statutory designated sites of international importance;
 - Granted European Protected Species Mitigation (EPSM) licences; and
 - Ancient woodland.
- 4.5 The search radius for statutory designated sites of local importance was 1km, measured from the application site boundary. This search radius was extended to 2km for statutory designated sites of national importance and 7km for statutory designated sites of international importance.
- 4.6 The search radius for approved EPSM licences was 5km for bats and hazel dormouse (*Muscardinus avellanarius*) and 1km for great crested newt (*Triturus cristatus*).

SITE VISITS

INITIAL SITE VISIT AND ASSESSMENT

- 4.7 An initial site visit was undertaken by Samuel Durham BSc (Hons) on 14th November 2017.
- 4.8 Samuel is a Full Member of the Chartered Institute of Ecology and Environmental Management (CIEEM) and has over eight years of experience of ecological assessment.

- 4.9 This survey visit was undertaken to provide an initial assessment of ecological risks and opportunities and to determine the scope of additional ecological surveys required.
- 4.10 Vegetation was classified based on standardised habitat descriptions (JNCC, 2010). Where appropriate, habitat descriptions were adapted to better describe the habitats present on site.
- 4.11 Any Habitats of Principal Importance, or habitats that may support rare or scarce plant communities and/or invertebrate assemblages, were recorded during the initial site visit.
- 4.12 The suitability of the site for legally protected species and Species of Principal Importance was assessed during this initial site visit.
- 4.13 This initial in-field assessment was informed by habitat criteria listed in best practice guidelines for individual species or species groups, such as ARG UK (2010) and BCT (2016).
- 4.14 Any evidence of plant species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) was recorded during the visit.

ADDITIONAL ECOLOGICAL SURVEYS

- 4.15 The initial site visit identified on-site habitats suitable for reptiles and roosting bats on the application site. The desk study did not identify any waterbodies located within 250m of the application site.
- 4.16 A reptile presence / likely absence survey was recommended for the wider site.
- 4.17 This survey was undertaken by Alana Shoosmith BSc (Hons) MSc Grad CIEEM and Emily Cummins BSc (Hons) Grad CIEEM between 4th July and 25th July 2018 - to establish whether reptiles are present on, or likely to be absent from, the site.
- 4.18 Details of the reptile survey methodology and findings are provided in the associated *Reptile Report* (Lloyd Bore, 2018a). The reptile report is provided as a separate document.
- 4.19 An endoscope inspection of the concrete pillars on the application site and on the wider site was recommended as these were identified as having potential to support roosting bats.
- 4.20 This survey was undertaken on 6th July by Samuel Durham BSc (Hons) MCIEEM (WML CL18 - Bat Survey Level 2 licence registration number: 2017-31332-CLS-CLS) and Alana Shoosmith BSc (Hons) MSc, Grad CIEEM.
- 4.21 An endoscope survey of the on-site building was recommended as this was identified as being of 'low' suitability for roosting bats. A detailed building inspection of the exterior of the building was conducted due to the inaccessibility of the interior of the building.
- 4.22 This survey was undertaken on 6th November 2018 by Samuel Durham BSc (Hons) MCIEEM (WML CL18 - Bat Survey Level 2 licence registration number 2017-31332-CLS-CLS) and Alana Shoosmith BSc (Hons) MSc, Grad CIEEM.
- 4.23 The results of these additional surveys are summarised in this report. The survey findings have been factored into this assessment.

ASSESSMENT AND EVALUATION

- 4.24 The assessment approach used within this report has been informed by guidelines provided within *BS 42020:2013: Biodiversity: Code of practice for planning and development* (BSI, 2013).
- 4.25 Section 5.5 of *BS 42020:2013* states that: -
 - '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.'

- 4.26 Paragraph 193 of the National Planning Policy Framework (NPPF) (MHCLG, 2018) states that local authorities should only require *'supporting information that is relevant, necessary and material to the application in question.'*
- 4.27 The site assessment was undertaken in broad accordance with CIEEM's *Guidelines for Preliminary Ecological Appraisal* (CIEEM, 2017a).
- 4.28 The structure and content of this EclA was informed by guidance provided within CIEEM's *Guidelines for Ecological Impact Assessment in the United Kingdom and Ireland: Terrestrial, Freshwater, Coastal and Marine* (CIEEM, 2018), and within CIEEM's *Guidelines for Ecological Report Writing* (CIEEM, 2017b). CIEEM 2017b states that: -
- *'It is important to remember that the structure and content of a report should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development. Authors should only provide information that is relevant, necessary and material to the purpose identified, while at the same time ensuring that adequate details are provided for the intended reader and / or audience e.g. in the case of an EclA, a local planning authority (LPA).'*
- 4.29 CIEEM (2018) has also been used to inform the assessment methodology and approach. CIEEM 2018 states that: -
- *'The level of detail required in an EclA will inevitably be proportionate to the scale of the development and complexity of its potential impacts. These Guidelines do not prescribe exactly how to undertake an EclA, but provide guidance to practitioners for refining their own methodologies'* (Para. 1.9);
 - *Scoping should be proportionate to potential effects on ecological features. Professional ecologists need to use their knowledge and experience to judge the resources required to complete an adequate and effective EclA'* (Para. 1.10); and
 - *Emphasis in EclA is on 'significant effects' rather than all ecological effects* (Para. 1.11).

IDENTIFICATION OF IMPORTANT ECOLOGICAL FEATURES

- 4.30 Habitat criteria listed in best practice guidelines for individual species or species groups, such as Oldham *et al.* (2000), ARG (2010) and BCT (2016) have been used to assess the suitability of habitats for protected and/or priority species.
- 4.31 Where best practice guidelines are unavailable or unclear, experienced ecologists have used their judgement to assess and categorise the suitability of habitats for protected and/or priority species.
- 4.32 The need and scope for additional protected species surveys has been determined based on the suitability of the habitats for protected species, the potential impacts of the proposals and the nature of the legal protection afforded to the species most likely to be present.
- 4.33 Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 has been used to identify habitats and species considered to be a conservation priority at a national scale. These are also called Habitats or Species of Principal Importance. The importance of these habitats and species is recognised in the National Planning Policy Framework (NPPF).
- 4.34 Although it does not offer any legal protection, *The Birds of Conservation Concern 4* (Eaton *et al.*, 2015) provides guidance on the conservation status of UK bird species. Thus, it can be used to

inform judgements on the ecological importance of bird populations and the habitats that they rely on, particularly at a local level. Red status species are those species of highest conservation concern and green status species are those of low or no conservation concern. Amber status species are those species of some conservation concern.

- 4.35 A summary of relevant wildlife legislation and national planning policies can be found in Appendix 1.

ZONE OF INFLUENCE

- 4.36 The potential impacts of a development are not always limited to the boundaries of the site concerned. The area over which a development may impact ecologically important features is known as the Zone of Influence (Zoi).
- 4.37 The Zoi is determined by the source / type of impact, the presence of any potential pathways for that impact and the location and sensitivity of any ecologically important off-site features.
- 4.38 Potential off-site impacts associated with the proposed development include pollution of off-site habitats.
- 4.39 If the mitigation and compensation measures detailed in this report are adopted and implemented, the Zoi of the proposed development is likely to be limited to the red line boundary of the application site and those areas just beyond.

LIMITATIONS

- 4.40 Limitations relating to the reptile survey are included within the associated *Reptile Report* (Lloyd Bore, 2018a).
- 4.41 The initial site visit was conducted in November, which is outside of the main plant flowering period. Site visits conducted in the winter period may fail to detect presence of rare or invasive plants.
- 4.42 However, many plant species were still in leaf and it was possible to identify most scrub and tall ruderal species. Therefore, observations made during the site visit allowed an adequate assessment of the likely botanical interest of the application site.
- 4.43 Further visits to the site for the reptile survey and endoscope surveys were carried out in July which allowed walkovers of the site in the main plant flowering period.
- 4.44 The above do not constitute material constraints to the survey or assessment.
- 4.45 The lack of access to the interior of the on-site structure remains a minor limitation to this assessment. Additional inspection and (if required) bat emergence survey work has been recommended to address this limitation.

LIFESPAN OF THIS ASSESSMENT

- 4.46 The structure, extent, arrangement, composition and/or management of habitats, and the suitability of habitats for legally protected species and/or Species of Principal Importance, can change over time. Therefore, the ecological importance of a site and the potential ecological impacts of a proposed development can also change over time.
- 4.47 For this reason, if the commencement of site works is delayed beyond two years from the date of issue of this report, an update site walkover should be undertaken by a suitably experienced ecologist. Following the update walkover, the ecologist will need to determine whether there have been any material changes to the ecological baseline, the potential impacts of the proposed development and/or the ecology-related legal risks associated with the proposed development.
- 4.48 The ecologist will need to advise the project team of any such changes.
- 4.49 If there have been any material changes in baseline ecological conditions, the potential ecological impacts of the proposed development and/or legal risks associated with the proposed development, an updated EcIA report should be produced by a suitably experienced ecologist.
- 4.50 The updated EcIA report should be issued to the project team - to ensure that the project has an up-to-date understanding of the potential ecological impacts and/or legal risks associated with the proposed development.

5. RESULTS

DESIGNATED SITES

STATUTORY DESIGNATED SITES

- 5.1 There is one statutory designated site of international importance located within 7km of the application site. Detail is provided in Table 1.

Table 1 Designated sites of International Importance within 7km of application site.

International site	Distance and direction from application site	Qualifying features
Folkestone to Etchinghill Escarpment Special Area of Conservation (SAC)	c.250m north at closest point	Qualifying Features: Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (important orchid sites).

- 5.2 The application site sits within an IRZ of this SAC. The MAGIC IRZ search tool lists planning application types that require assessment to determine their potential for 'likely significant effects' upon the SAC. The application types listed include '*any development that could cause air pollution including industrial / commercial processes.*'
- 5.3 The Natura 2000 Standard Data Form for this designated site provides details of threats, pressures and activities with potential to impact upon the SAC. These are: -
- Biocenotic evolution, succession;
 - Air pollution, air-borne pollutants; and
 - Grazing;
- 5.4 There is one statutory designated site of national importance located within 2km of the application site. Detail is provided in Table 2.

Table 2 Designated sites of National Importance located within 2km of application site

National site	Distance and direction from application site	Reasons for notification
Folkestone to Etchinghill Escarpment SSSI	c.250m north at closest point	- Supports an extensive area of chalk grassland and scrub. <i>'One of the largest remaining areas of unimproved chalk downland in Kent.'</i> - Supports three legally protected plant species that are listed on Schedule 8 of the Wildlife and Countryside Act 1981 (as amended): late spider orchid (<i>Ophrys fuciflora</i>), early spider orchid (<i>Ophrys sphegodes</i>) and bedstraw broomrape (<i>Orobanche caryophyllacea</i>). - Supports <i>'one of the best examples of a coppiced ash (Fraxinus excelsior) woodland'</i> in Kent. - Supports an <i>'outstanding lichen flora,'</i> a <i>'diverse breeding bird community'</i> and an <i>'outstanding assemblage of insects.'</i>

5.5 The application site sits within an IRZ of this SSSI.

5.6 The MAGIC IRZ search tool lists planning application types that require assessment to determine their potential for adverse impacts upon this designated site. The application types listed include *'any development that could cause air pollution including industrial / commercial processes'*

5.7 Natural England provide a list of operations likely to damage the special interest of the SSSI (Natural England, undated). This list does not include any operations relevant to the proposed development.

5.8 There are no statutory designated sites of local importance located within 1km of the application site.

NON-STATUTORY DESIGNATED SITES

5.9 Based on the results of the KMBRC data search, there are two non-statutory designated sites located within 1km of the application site.

5.10 No detailed information is publicly available for these non-statutory designated sites. The following descriptions have been established through a review of aerial imagery, protected species records obtained through the KMBRC data search and working knowledge accrued by Lloyd Bore ecologists.

5.11 Hills Reservoir Local Wildlife Site (LWS) is located c.850m north-west of the application site, beyond the A20 / M20 motorway. This LWS supports grassland, hedgerow and deciduous woodland. Numerous recent and historic records of all four widespread, native UK reptile species were identified within this LWS through the KMBRC data search.

5.12 A Roadside Nature Reserve (RNR) is located on Crete Road East, c.800m north-east of the application site, beyond the A259 and A260 roads. This RNR supports grassland and scrub habitats.

HABITATS OF PRINCIPAL IMPORTANCE

- 5.13 Due to the small size of vegetated areas, and the lack of any constituent patches of other Habitats of Principal Importance, the on-site habitats do not qualify as *Open Mosaic Habitats on Previously Developed Land*.
- 5.14 The application site does not support any Habitats of Principal Importance.

OTHER HABITATS AND FLORA

- 5.15 The application site comprises hardstanding, rubble, ruderal vegetation, scattered scrub, and a single building.
- 5.16 Tall concrete pillars are present on the western edge of the site.
- 5.17 Ruderal vegetation includes dandelion (*Taraxacum* agg.), creeping thistle (*Cirsium arvense*) and broad-leaved dock (*Rumex obtusifolius*). Grasses, including Cock's foot (*Dactylis glomeratus*) and Yorkshire fog (*Holcus lanatus*), are also present in small patches.
- 5.18 Scattered scrub habitats are dominated by buddleia (*Buddleja davidii*) and *Cotoneaster* sp.
- 5.19 Photographs of on-site habitats are provided in this report.

INVASIVE FLORA

- 5.20 No presence of Japanese knotweed (*Fallopia japonica*) was identified during the site visits.
- 5.21 The on-site *Cotoneaster* species comprise Himalayan cotoneaster (*Cotoneaster simonsii*) and/or *Cotoneaster horizontalis*. These plants are widespread on site. Both species are non-native invasive plants that are listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). The largest blocks of these plants are located in the south-west corner, on an embankment at the site boundary.
- 5.22 Field horsetail (*Equisetum arvense*) was also identified to the north of the wider site. This species is not listed on Schedule 9 of the Wildlife and Countryside Act. However, it is a (native) invasive species that can colonise and dominate new plantings and surfaces.
- 5.23 Pampas grass (*Cortaderia selloana*) and buddleia are widespread on the application site. These species are not listed on Schedule 9 of the Wildlife and Countryside Act. However, they are both non-native invasive species.

INVERTEBRATES (INCLUDING WHITE-CLAWED CRAYFISH)

DESK STUDY

- 5.24 The biological data search did not return any recent, relevant records of legally protected invertebrate species located within 1km of the application site.

SITE ASSESSMENT

- 5.25 The on-site habitats are suitable for common and widespread invertebrate species. The scrub, forbs and grasses provide pollen, nectar and berries for foraging invertebrates, as well as shelter.
- 5.26 The rubble and debris on-site also provide a range of sheltering and hibernation opportunities for invertebrates and are suitable for specialist invertebrates that utilise disturbed ground.
- 5.27 The application site and immediately adjacent land do not provide habitat suitable for white-clawed crayfish (*Austropotamobius pallipes*).

GREAT CRESTED NEWTS AND OTHER AMPHIBIANS

DESK STUDY

- 5.28 No waterbodies were identified within 250m of the application site.
- 5.29 The biological data search did not return any records of great crested newt or common toad (*Bufo bufo*) located within 1km of the application site.
- 5.30 A search of Natural England's MAGIC website did not return any records of granted great crested newt EPSM licences within a 1km radius of the application site.

HABITAT ASSESSMENT

- 5.31 No waterbodies are present on the application site.
- 5.32 The application site provides terrestrial habitats that are suitable for great crested newt.
- 5.33 However, because no waterbodies were identified within 250m of the application site, this species is unlikely to be present on site.

REPTILES

DESK STUDY

- 5.34 The biological data search returned recent and historic records of slow worm (*Anguis fragilis*), common lizard (*Zootoca vivipara*), grass snake (*Natrix helvetica*) and adder (*Vipera berus*) located within 1km of the application site.
- 5.35 The application site has limited connectivity to off-site habitats suitable for reptiles, via narrow corridors of semi-natural vegetation intersected by roads.

HABITAT ASSESSMENT

- 5.36 The on-site habitats (ruderal vegetation, grass and scrub on rubble) are suitable for reptiles. These habitats provide shelter, basking and foraging opportunities for reptiles and total c.0.5ha in area.

SURVEY RESULTS

- 5.37 No reptiles were recorded during the reptile presence / likely absence survey in July 2018.
- 5.38 The site is of negligible importance for reptiles. Therefore, the proposed development is unlikely to impact on reptiles. No further survey or mitigation is required with regards to reptiles.
- 5.39 Additional detail of the reptile survey results is provided in the *Reptile Report* (Lloyd Bore, 2018a).

BIRDS

HABITAT ASSESSMENT

- 5.40 The on-site habitats (scrub vegetation) provide suitable nesting and foraging habitat for a range of bird species.
- 5.41 The height of the scrub was reduced to less than 35cm in height in 2018, but has since been allowed to grow back up.

WATER VOLES

DESK STUDY

- 5.42 The biological data search did not return any records of water vole (*Arvicola amphibius*) located within 1km of the application site.

HABITAT ASSESSMENT

- 5.43 The application site and immediately adjacent land do not provide habitats suitable for water vole.

HAZEL DORMOUSE

DESK STUDY

- 5.44 The biological data search did not return any records of hazel dormouse located within 1km of the application site.
- 5.45 A search of Natural England's MAGIC website did not return any records of granted hazel dormouse EPSM licences within 5km of the application site.
- 5.46 An assessment of aerial imagery confirmed that on-site habitats do not connect to any wider network of hedgerows, treelines or woodland blocks.

HABITAT ASSESSMENT

- 5.47 The application site does not support any habitats suitable for hazel dormouse.

BADGER

DESK STUDY

- 5.48 The biological data search returned two recent records of badger (*Meles meles*) (2015 and 2016) located within 1km of the application site.

SITE VISIT

- 5.49 No evidence of badger presence - such as setts, latrines, snuffle holes, prints or hair, was recorded on the application site, or within 30m of the application site.

OTTER

DESK STUDY

- 5.50 The biological data search did not return any records of otter (*Lutra lutra*) located within 1km of the application site.

HABITAT ASSESSMENT

- 5.51 The site and immediately adjacent land do not provide habitats suitable for otter.

BATS

DESK STUDY

- 5.52 The biological data search returned records of ten bat species located within 5km of the application site. The data search did not return any recent records of bat maternity roosts located within 5km of the application site.

- 5.53 Natural England's MAGIC search tool returned two records of granted EPSM licences relating to roosting bats within a 5km radius of the application site.
- 5.54 These licences evidence the presence of a non-breeding roost of common pipistrelle (*Pipistrellus pipistrellus*) and brown long-eared (*Plecotus auritus*) bats c.2.7km south-west of the application site, and a non-breeding roost of Daubenton's (*Myotis daubentonii*) and whiskered (*M. mystacinus*) bats c.4.8km south-west of the application site, in the period 2014 to present.

HABITAT ASSESSMENT

- 5.55 Based on a ground-level assessment undertaken during the initial site visit in 2017, gaps between concrete pillars on the western edge of the application site were assessed as having potential to support roosting bats.
- 5.56 Based on a ground-level assessment in 2017, the only on-site building was identified as being of 'low' suitability for roosting bats.
- 5.57 The site is dominated by hardstanding and is surrounded by roads and commercial premises that support extensive external lighting. For these reasons, the on-site habitats are of low suitability for foraging bats.

SURVEY RESULTS

- 5.58 An endoscope survey was conducted of the gaps in the concrete pillars in July 2018. No evidence of bats was found within the potential roost features (PRFs) and these features were re-assessed as being of 'negligible' suitability for roosting bats.
- 5.59 A detailed external inspection of the on-site building was undertaken in November 2018. During this survey, the state of the building was different to previously observed in 2017. An open wall and doorway of the building which previously gave access to the interior has now been boarded up. Therefore, it was not possible to inspect the previously identified PRFs within the building.
- 5.60 The boarding up of the on-site building provides a darker and more stable environment within the building. The building was therefore re-assessed as being of 'moderate' suitability for roosting bats.

OTHER MAMMALS

DESK STUDY

- 5.61 The biological data search returned three historic records (1967, 2001 and 2006) of hedgehog (*Erinaceus europaeus*) located within 1km of the application site. Hedgehog is a Species of Principal Importance.

HABITAT ASSESSMENT

- 5.62 The on-site habitats (scattered scrub and pampas grass) provide some foraging and sheltering opportunities for hedgehog.

6. PHOTOGRAPHS



Photo 1 View north-west across application site.



Photo 2 View east across application site.



Photo 3 Gaps between concrete pillars on the western edge of application and wider site.



Photo 4 On-site building assessed as being of 'moderate' suitability for roosting bats.



Photo 5 Cotoneaster sp. (circled in red) in north-west corner of wider site.



Photo 6 Field horsetail (circled in red) in north-west corner of wider site.

[illegible]

05/12/2018

8. ASSESSMENT OF EFFECTS

DESIGNATED SITES

POTENTIAL EFFECTS

- 8.1 The proposed development will not result in any increase in intensive grazing or habitat change (through vegetation succession) within the Folkestone to Etchinghill Escarpment SAC. Therefore, these risks have been scoped out of this assessment.
- 8.2 The MAGIC IRZ tool indicates that *'any development that could cause air pollution, including industrial / commercial processes'* requires further assessment.
- 8.3 The Department for Transport's *Transport Analysis Guidance* (2004) states that *'beyond 200m, the contribution of vehicle emissions from the roadside to local pollution levels is not significant.'*
- 8.4 The application site is located approximately c.250m from the SAC at its closest point. However, the SAC sits adjacent to the A20 and A260. The A259 connects the application site to the A20 / M20. Because of the proximity of these strategic roads to the SAC, the Habitat Regulations Assessment (HRA) of the Shepway Core Strategy (LUC, 2018) states it is *'considered susceptible to likely significant effects as a result of air pollution.'*
- 8.5 The Shepway District Council's Places and Policies Local Plan (submission draft) (SDC, 2018) includes The Former Silver Spring Site, Park Farm, Folkestone (which includes the application site Phase 1 and 2) (SDC, 2018) under Policy RL11. The publicly available Submission Draft of the Places and Policies Local Plan states that: - *'It promotes and encourages the use of sustainable transport, including improvements to footpaths, cycle facilities and routes in accordance with the Shepway Cycle Strategy, and provides a bus stop(s).'*
- 8.6 Effective implementation of this policy requirement will help to minimise the contribution of the proposed development to local air pollution, which will help to minimise the risk of adverse 'in combination' effects upon the SAC as a consequence of increased nitrogen deposition.
- 8.7 The Natural England Site Improvement Plan for this SAC specifies that *'current levels of nitrogen deposition exceed the critical load for chalk grassland habitat at the site and recognises that air pollution as a result of nitrogen deposition is an existing pressure at the site.'*
- 8.8 The Core Strategy Review also identifies *'the strategic need to minimise local carbon emissions, maintain air quality, control pollutants and promote sustainable management as supported by individual policies.'*
- 8.9 If the recommendations made within the HRA are committed to and implemented as part of the Shepway Draft Core Strategy Review Local Plan then *'it can be concluded that the Shepway Draft Core Strategy Review Local Plan will not result in likely significant effects on the Folkestone to Etchinghill Escarpment SAC as a result of air pollution, either alone or in-combination with other plans and projects'* (LUC 2018).
- 8.10 Due to the proximity of the proposed development site to the SAC, the proximity of major connecting roads between the application site and the SAC, and the fact that current levels of nitrogen deposition within the SAC exceed the critical load for chalk grassland habitat at the SAC, in the absence of avoidance and mitigation, the potential for a likely significant effect upon the SAC as a consequence of the proposed development (either alone or in-combination with other plans and projects) cannot be eliminated.

- 8.11 However, the proposed development falls wholly within the parameters of the site allocation under the 2018 Places and Policies Local Plan (submission draft). Therefore, the avoidance and mitigation measures set out within the HRA of the Shepway Core Strategy apply to the current planning application.
- 8.12 For this reason, it is reasonable to assume that the implementation of these strategic, Plan-wide measures will address the risk of a likely significant effect upon the SAC and no additional, project specific avoidance and mitigation measures are required in relation to the proposed development.
- 8.13 Natural England provide a list of operations likely to damage the special interest of the Folkestone to Etchinghill SSSI (Natural England, undated). This list does not include any operations relevant to the proposed development. The listed operations concern changes in agricultural practices and land management, and vehicle use within the SSSI.
- 8.14 For the reasons detailed above, the proposed development is unlikely to result in any significant adverse effects upon the features for which this SSSI was notified and impacts upon the SSSI habitats are scoped out of this assessment.
- 8.15 Based on the information available regarding the LWS and the RNR, and given the distance of the application site from these non-statutory designated sites, the proposed development is unlikely to result in any significant adverse effects upon these non-statutory designated sites

HABITATS OF PRINCIPAL IMPORTANCE

POTENTIAL EFFECTS

- 8.16 No Habitats of Principal Importance are present on the application site.
- 8.17 For this reason, the proposed development will not result in any loss or damage of Habitats of Principal Importance.

OTHER HABITATS AND FLORA

- 8.18 Native and/or wildlife-beneficial shrubs, trees and forbs should be planted on the application site. Species that provide abundant pollen, nectar and berries will be planted.
- 8.19 Detailed horticultural information should be referred to for new plantings - to ensure that new plants are planted in appropriate substrates and conditions, and that they establish successfully.
- 8.20 Although withdrawn, the relevant content of the Environment Agency's *Pollution Prevention Guidelines* will be used to develop a robust pollution prevention and control strategy for the construction stage of the proposed development.
- 8.21 In addition, the drainage proposals for the completed development should include pollution interceptors.

INVASIVE FLORA

- 8.22 It is a legal offence to cause any plant species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) to 'grow in the wild.'
- 8.23 The on-site cotoneaster will be removed and disposed of in a manner that minimises any risk of spread to on-site or off-site areas. Care will be taken to remove all roots, berries and plant fragments. The cut / excavated plant material will either be buried at a sufficient depth on site to prevent regrowth or disposed of at an appropriate off-site waste disposal site. The services of a specialist invasive plant contractor will be engaged to oversee this remediation work.

- 8.24 Pampas grass, buddleia and field horsetail should also be removed and disposed of in a manner that minimises any risk of spread to on-site or off-site areas.
- 8.25 Japanese knotweed is listed on Schedule 9 of the Wildlife and Countryside Act and is frequently encountered on development sites.
- 8.26 Prior to the commencement of site works, all site personnel will be briefed on the identification of Japanese knotweed. This briefing could be delivered through a Toolbox Talk.
- 8.27 If Japanese knotweed is discovered on-site prior to or during works, all works within 7m of the outermost stems of the plant(s) will cease immediately and a suitably experienced specialist will be contacted for advice.

INVERTEBRATES (INCLUDING WHITE-CLAWED CRAYFISH)

- 8.28 The proposed development will result in loss of invertebrate habitat from the application site.
- 8.29 However, in the absence of compensation, the proposed development is unlikely to result in any significant adverse effects upon the local invertebrate assemblage in the long-term.
- 8.30 The proposed new plantings will provide foraging and shelter opportunities for invertebrates.
- 8.31 No additional survey, assessment, or mitigation is required with regards to invertebrates.

GREAT CRESTED NEWTS AND OTHER AMPHIBIANS

- 8.32 Great crested newts are afforded protection by the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).
- 8.33 This species is unlikely to be present on the application site.
- 8.34 Therefore, no further survey, assessment or mitigation is required with regards to great crested newts, and this species has been scoped out of further assessment.
- 8.35 In the unlikely event that a great crested newt or newts are discovered on site prior to or during works, all works must cease immediately because of the nature of the legal protection afforded to this species, and a suitably experienced and licenced ecologist should be contacted for advice.
- 8.36 In the event a common toad is found during works, it should be moved to an alternative, nearby area of suitable vegetation cover away from the construction zone and roads.

REPTILES

- 8.37 All native UK reptile species are afforded legal protection from intentional or reckless killing or injury by the Wildlife and Countryside Act 1981 (as amended).
- 8.38 The reptile presence / likely absence survey recorded no reptiles on site. The site is therefore of negligible importance for reptiles.
- 8.39 Therefore, no further survey, assessment or mitigation is required with regards to reptiles, and reptiles have been scoped out of further assessment.
- 8.40 In the unlikely event that any reptiles are discovered on site prior to or during works, all works must cease immediately because of the nature of the legal protection afforded to native reptile species, and a suitably experienced ecologist should be contacted for advice.

BIRDS

- 8.41 Nesting birds, and their nests, eggs and chicks are afforded legal protection by the Wildlife and Countryside Act 1981 (as amended).

POTENTIAL EFFECTS

- 8.42 The proposed development will result in loss of the existing on-site scrub.
- 8.43 In the absence of mitigation, building demolition works could result in destruction of active bird nests.
- 8.44 The proposed new shrub and tree plantings will provide nesting opportunities for a range of bird species, including song thrush and house sparrow (*Passer domesticus*), which are both locally-occurring Species of Principal Importance and red-status species (Eaton et al., 2015).

MITIGATION MEASURES

- 8.45 The height of the scrub was reduced to less than 35cm in height as previously advised within the *Ecological Impact Assessment* for Phase 1 of the project in 2018. However, this scrub has since been allowed to grow back up.
- 8.46 Scrub vegetation should be reduced to ground level in the period mid-September to February (inclusive), which is outside of the typical bird nesting season, and then maintained at ground level.
- 8.47 If vegetation clearance is required within the typical bird nesting season (March to mid-September, inclusive), a check for nesting birds will need to be conducted before clearance is commenced. The check should be undertaken by a suitably experienced ecologist. Any active nests will need to be retained and protected *in situ* until birds have stopped using them.

ASSESSMENT OF EFFECTS

- 8.48 If the above mitigation and compensation measures are adopted and implemented, the proposed development is unlikely to result in any significant adverse effects upon birds.

WATER VOLES

- 8.49 Water voles are afforded legal protection by the Wildlife and Countryside Act 1981 (as amended).
- 8.50 No further survey, assessment or mitigation is required with regards to water vole, and this species has been scoped out of further assessment.

HAZEL DORMOUSE

- 8.51 Hazel dormice are afforded legal protection by the Conservation of Habitat and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).
- 8.52 No further survey, assessment or mitigation is required with regards to hazel dormouse, and this species has been scoped out of further assessment.

BADGER

- 8.53 Badgers are afforded protection by the Protection of Badgers Act 1992 (as amended).
- 8.54 No further survey, assessment or mitigation is required with regards to badger, and this species has been scoped out of further assessment.
- 8.55 In the unlikely event that a mammal burrow or burrows indicative of badger presence are identified on site or within 30m of site prior to or during works, all works within 30m of the potential badger

sett(s) should cease immediately because of the nature of the legal protection afforded to this species. In this instance, a suitably experienced ecologist should be contacted for advice.

OTTER

- 8.56 Otter is afforded legal protection by the Conservation of Habitat and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).
- 8.57 No further survey, assessment or mitigation is required with regards to otter, and this species has been scoped out of further assessment.

BATS

- 8.58 Bats and their places of shelter and protection (roosts) are afforded legal protection by the Conservation of Habitat and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

POTENTIAL EFFECTS

- 8.59 No bats or evidence of bats were recorded within the gaps between concrete pillars on the western boundary of the application site. Therefore, these features were re-assessed as being of negligible suitability for roosting bats.
- 8.60 The on-site building was re-assessed as having 'moderate' suitability for roosting bats. If this building is being used by roosting bats, site development would result in loss of these roost sites, and could result in killing, injury and/or disturbance of roosting bats.
- 8.61 The on-site habitats are of low suitability for foraging bats.
- 8.62 For this reason, in the absence of mitigation and compensation, the loss of scrub vegetation from the application site, and increased site illumination, are unlikely to have a significant adverse effect on the favourable conservation status of any local bat population

SURVEY AND (IF REQUIRED) MITIGATION AND COMPENSATION MEASURES

- 8.63 An internal endoscope inspection of the on-site building is recommended to re-assess the potential bat roost feature that was previously identified within an interior surface. This assessment will determine whether additional bat survey work is required for this structure;
- 8.64 If, following completion of the endoscope inspection, the on-site building is found to be of 'negligible' suitability for roosting bats, no further surveys, assessment or mitigation will be required.
- 8.65 If, following completion of the endoscope inspection, the on-site building is still assessed as being suitable for roosting bats, a bat emergence / re-entry survey will need to be undertaken prior to the demolition of this building, within the period May to August (inclusive). This additional survey work may comprise dusk emergence and/or dawn re-entry survey visits.
- 8.66 If re-assessed as having 'low' suitability for roosting bats, two surveyors on one survey visit will be required. If re-assessed as having 'moderate' suitability for roosting bats, two surveyors on two survey visits will be required. If re-assessed as having 'high' suitability for roosting bats, two surveyors on three survey visits will be required. These survey visits may comprise dusk emergence and/or dawn re-entry survey visits.
- 8.67 The on-site building must not be demolished until the additional endoscope inspection and, if required, additional survey work (as set out above) has been completed and a suitably experienced ecologist has advised the project on an appropriate course of forward action.

- 8.68 If any presence of roosting bats is confirmed within the on-site building, a bat mitigation licence application will need to be submitted to Natural England to facilitate the relevant works.
- 8.69 In this instance, appropriate mitigation and compensation measures will need to be implemented in accordance with the terms and conditions of the approved bat mitigation licence.
- 8.70 In this instance, the project will deliver replacement bat roost feature(s) on the western boundary of the application site. The replacement roost feature(s) will need to be installed in a dark location on the western boundary, with dark flight corridors maintained to / from the replacement roost feature(s) - to allow bats to access both the roost feature(s) and off-site foraging areas.
- 8.71 Given the proximity of proposed car parking to this boundary, any replacement roost features are likely to be delivered in the north-west corner of the wider site.
- 8.72 Some modification of the site lighting strategy may be required to accommodate any such replacement roost features (if required). Such measures could include use of narrow spectrum lighting with no UV content, or 'warm white' LED lighting near any replacement bat roost feature and the associated 'dark' bat flight corridor. Directing all light to ground and minimising light spill through use of hoods, shields and/or cowls would also reduce illumination near any replacement bat roost feature and the associated 'dark' bat flight corridor.
- 8.73 Subject to health and safety and safe-by-design considerations, motion sensors and/or timers could be used to limit the duration of nocturnal lighting. Tall lighting columns would need to be avoided near to any replacement roost feature(s) and flight corridor. Low-level external lighting would help to minimise illumination of any roost feature(s) and flight corridor.
- 8.74 In general, lighting should follow the principles outlined in Section 3 of the Bat Conservation Trust and Institution of Lighting Professionals *Guidance Note 08/18: Bats and artificial lighting in the UK* (BCT and ILP, 2018), and should only be used where necessary.

ASSESSMENT OF EFFECTS

- 8.75 If the survey, mitigation and compensation measures outlined in this report are adopted and effectively implemented (as required), there is no reason to consider that the favourable conservation status of any local bat population could not be maintained.
- 8.76 However, the recommended bat survey work will need to be completed before a full assessment of potential impacts upon roosting bats can be completed.

OTHER MAMMALS

- 8.77 All wild mammals receive some protection under the Wild Mammals (Protection) Act 1996 (as amended). This Act includes offences of crushing and asphyxiation of any wild mammal with intent to inflict unnecessary suffering.
- 8.78 Any mammal burrows (excluding badger setts) that are identified on-site and need to be removed to facilitate development, will need to be carefully excavated in a manner that allows animals (e.g. rabbits or foxes) to safely escape before works commence. Implementation of this approach should be sufficient to avoid an offence.
- 8.79 If site contractors are not confident undertaking these excavation works, direct ecological supervision can be provided.
- 8.80 In the event a hedgehog is found during works, it should be moved to an alternative, nearby area of dense scrub cover away from the construction zone and roads.
- 8.81 To reduce the risk of harm to animals that may enter the site, the following is recommended: -

- Any holes that are excavated on-site are covered overnight to prevent animals from falling in;
- Alternatively, a broad wooden plank or similar can be placed in the excavation to allow animals to escape. A scaffolding board pitched at a maximum 45° angle would be ideal; and
- Excavations should be checked first thing each morning, prior to the start of works that day. Any animals found within excavations should be allowed to escape and move off, or carefully removed and placed within suitable habitat cover, before site works commence.

9. ECOLOGICAL ENHANCEMENTS

- 9.1 At least ten individual nest bricks or boxes suitable for house sparrow will be incorporated into, or affixed to, north-facing external walls on new buildings.
- 9.2 These nest bricks or boxes will be positioned out of reach from windows and doors, 3-5m above ground level, with at least a 2m spacing between each box.
- 9.3 House sparrow nest bricks or boxes will be arranged to create a loose 'colony' of suitable nest sites.
- 9.4 Single-chamber nest bricks or boxes, rather than the terraced form, will be used. These nest bricks or boxes will be positioned on units located close to the western boundary of the application site.
- 9.5 Built-in nesting features are preferable as these are more secure. The eaves of new buildings may provide suitable sites for external house sparrow boxes, if built-in features are not suitable. For built-in features, Schwegler Brick Nest Boxes (Type 24) are recommended. If inclusion of built-in features is not possible, 1MR Shwegler Avianex boxes could be affixed to exterior walls.

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11. APPENDIX 1: SUMMARY OF WILDLIFE LEGISLATION AND NATIONAL PLANNING POLICY

11.1 The level of protection afforded to protected species varies dependent on the associated legislation. A full list of protected species and their specific legal protection is provided within the Schedules and/or Sections of the associated legislation. Case law may further clarify the nature of the legal protection afforded to species.

11.2 The legal protection afforded to protected species overrides all planning decisions.

EUROPEAN PROTECTED SPECIES (EPS) - AND THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017

11.3 European Protected Species (EPS) are afforded the highest level of protection through the Conservation of Habitats and Species Regulations 2017. EPS are also afforded legal protection by parts of the Wildlife and Countryside Act 1981 (as amended).

11.4 There are several relatively common and widespread EPS. These include great crested newt, all species of UK bat, dormice and otter.

11.5 There are other species of plant and animal that are also EPS, but generally these are scarcer / rare and are restricted to narrow geographies or specific habitat types. Examples of this latter group include natterjack toad (*Epidalea calamita*), sand lizard (*Lacerta agilis*) and smooth snake (*Coronella austriaca*).

11.6 In general, any person and/or activity that: -

- Damages or destroys a breeding or resting place of an EPS. (This is sometimes referred to as the strict liability or absolute offence);
- Deliberately captures, injures or kills an EPS (including their eggs);
- Deliberately disturbs an EPS, and in particular disturbance likely to impair animals ability to survive, breed or nurture young, their ability to hibernate and migrate and disturbance likely to have a significant effect on local distribution and abundance;
- Intentionally or recklessly disturbs an EPS while occupying a structure or place used for shelter and/or protection (Wildlife and Countryside Act 1981 (as amended)); and
- Intentionally or recklessly obstructs access to any structure or place that an EPS uses for shelter or protection (Wildlife and Countryside Act 1981 (as amended)).

... may be guilty of an offence.

11.7 The legislation applies to the egg, larval and adult life stages of great crested newts and to bat roosts even when they are not occupied.

11.8 Actions affecting multiple animals can be construed as separate offences and therefore penalties can be applied per animal impacted.

11.9 Under certain circumstances licences can be granted by the Statutory Nature Conservation Organisation (Natural England in England) to permit actions that would otherwise be unlawful.

11.10 There are some very specific defences associated with the Conservation of Habitats and Species Regulations 2017. However, these are unlikely to apply to construction related projects. The Sections of the Regulations provide further details of these defences.

- 11.11 The Wildlife and Countryside Act (1981) includes defence for those aspects of the legislation that apply to an EPS. These defences are unlikely to apply to construction related projects and do not apply to those acts included in the Conservation of Habitats and Species Regulations 2017. The Schedules of the Act provide further details of defences.
- 11.12 Local authorities have obligations under sections 40 and 41 of the Natural Environment and Rural Communities Act (NERC) 2006 to have regard to the purpose of conserving biodiversity in carrying out their duties. The majority of EPS are listed on Section 41 the NERC Act.

WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

- 11.13 The level of protection afforded to species listed on the Wildlife and Countryside Act 1981 (as amended) varies considerably.
- 11.14 'Fully protected species', such as water vole, are afforded the highest level of protection. Any person who intentionally kills, injures, or takes 'fully protected species', or who intentionally or recklessly damages or destroys a structure or place used for shelter and/or protection, disturbs the animal whilst occupying a structure and/or place used for shelter and protection, or obstructs access to any structure and/or place used for shelter or protection is likely to have committed an offence.
- 11.15 Other species, such as common reptiles, are afforded less protection and for these species it may only be an offence to intentionally or recklessly kill or injure animals.
- 11.16 All active bird nests, eggs and young are protected from intentional destruction. Schedule 1 listed birds are also protected from intentional and reckless disturbance whilst breeding.
- 11.17 Schedule 9 of The Wildlife and Countryside Act lists plant species for which it is an offence for a person to plant, or otherwise cause to grow in the wild. Schedule 9 also lists animals for which it is an offence to release into the wild.

THE PROTECTION OF BADGERS ACT 1992 (AS AMENDED)

- 11.18 The Protection of Badgers Act (1992) makes it an offence to wilfully kill, injure, take or ill-treat a badger and to interfere with a sett, including damage, disturbance and obstruction.

THE PROTECTION OF MAMMALS ACT 1996 (AS AMENDED)

- 11.19 The Protection of Mammals Act (1996) provides protection for all wild mammals against certain cruel acts with the intention of causing unnecessary suffering, including crushing and asphyxiation.

THE NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006 (AS AMENDED)

- 11.20 Section 41 (S41) of the Natural Environment and Rural Communities (NERC) Act (2006) 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. The S41 list is used to guide decision-makers, including local and regional authorities, in implementing their duty under Section 40 of the act to have regard to the conservation of biodiversity in England when carrying out their normal functions.
- 11.21 S41 lists 56 habitats and 943 species of principal importance.
- 11.22 Section 42 of the NERC Act relates to Wales.

ENVIRONMENT PROTECTION ACT 1990 (AS AMENDED)

- 11.23 Japanese Knotweed is classed as 'controlled waste' and if taken off-site it must be disposed of safely at a licensed landfill site. Soil containing rhizome material should also be regarded as contaminated and treated accordingly.

STATUTORY DESIGNATED SITES

- 11.24 Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) are afforded protection under the Conservation of Habitats and Species Regulations 2017. Ramsar sites, which are designated under the Convention on Wetlands of International Importance (1971), are afforded the same level of protection as SPAs and SACs via national planning policy.
- 11.25 Sites of Species Scientific Interest (SSSI) are afforded protection by the Wildlife and Countryside Act 1981 (as amended).
- 11.26 National Nature Reserves (NNRs) are declared by the statutory country conservation agencies under the National Parks and Access to the Countryside Act 1949 (as amended) and the Wildlife and Countryside Act 1981 (as amended). They are managed to conserve their habitats or to provide special opportunities for scientific study of the habitats communities and species represented within them. In addition, they may be managed to provide public recreation that is compatible with their natural heritage interests (JNCC website).
- 11.27 Local Nature Reserves (LNRs) are declared by local authorities after consultation with the relevant statutory nature conservation agency under the National Parks and Access to the Countryside Act 1949 (as amended). LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature (JNCC website).

NON-STATUTORY DESIGNATED SITES

- 11.28 Non-statutory sites may be given various titles, including Local Wildlife Sites (LWS), Sites of Importance for Nature Conservation (SINCs), Sites of Nature Conservation Importance (SNICIs) and County Wildlife Sites (CWS).
- 11.29 These sites are not normally legally protected but are recognised in the planning system and are afforded some protection through planning policy.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

- 11.30 In addition to primary legislation, the government published the National Planning Policy Framework on 18th July 2018 to make the planning system less complex and more accessible.
- 11.31 Within the NPPF, Chapter 15 is headed *Conserving and enhancing the natural environment* (Paragraphs 170 to 183).
- 11.32 Of relevance are the following statements: -
'The planning system should contribute to and enhance the natural and local environment by, amongst other things... 'minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures...' (Paragraph 170); and
- 11.33 To protect and enhance biodiversity and geodiversity, plans should: -
'a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including: the hierarchy of international, national and locally designated sites of

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

'b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.'

11.34 When determining planning applications, local planning authorities should apply the following principles: -

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

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

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

d) development whose primary objective is to conserve or enhance biodiversity should be supported, while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'

11.35 In addition to the above, the NPPF confirms that the following should be afforded the same protection as sites that are included within the definition at Regulation 8 of the Conservation of Habitats and Species Regulations 2017 (Special Areas of Conservation, Sites of Community Importance, Special Protection Areas and any relevant Marine Sites): -

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

b) listed or proposed Ramsar sites; and

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

11.36 The presumption in favour of sustainable development does not apply where a development that requires appropriate assessment, because of its potential impact on one or more of the above categories of site, is being planned or determined.