

Land at Pendle Road, Clitheroe

Preliminary Ecological Appraisal & Potential Bat Roost Survey

May 2022



GEO-ENVIRONMENTAL CONSULTING ENGINEERS

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Prepared for:

MÜLLER
PROPERTY GROUP

Report Ref: BEK-22035-2

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Project Quality Assurance Information Sheet

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REVISION STATUS / HISTORY

Rev	Date	Issue / Comment	Prepared	Checked

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Guidelines

This assessment has been designed to meet:

- Chartered Institute of Ecology and Environmental Management 'Guidelines for Preliminary Ecological Appraisal' (2013);
- British Standard 42020 (2013) 'Biodiversity – Code of Practice for Planning and Development'.
- The Bat Conservation Trust publication *Bat Surveys for Professional Ecologists – Good Practice Guidelines* (Collins, J. (Ed) 2016).
- National Planning Policy Framework 2021 (NPPF, Para 170(d) and Para 175(d))
- CIEEM, CIRIA, IEMA *Biodiversity net gain. Good practice principles for development. A practical guide.* CIRIA C776a. London, 2019.

Summary

Carol Edmondson MSc MRSB, undertook a Preliminary Ecological Assessment and Potential Bat Roost Survey at Pendle Mill, Clitheroe on 04/04/22. The aim of the assessment was to complete an extended Phase 1 Habitat Survey of the survey area (all land that will be impacted by the proposals) and to consider the value and suitability of the land and any structures to be affected by the development for protected wildlife species, including identifying any potential for roosting bats (PRA).

The site is overall is of moderate conservation and wildlife value due to the condition of some of the buildings and the location in the landscape. Further bat emergence re-entry surveys will be required, see recommendations below. Biodiversity enhancement as recommended at 4.3 and mitigation recommendations need to be incorporated into any landscaping and building design.

Recommendations – This is required to obtain planning permission or comply with legislation.

Ecological Factor	Recommendations
SSSI/RAMSAR IRZ	Pre-application consultation with Natural England regarding impacts to SSSI/RAMSAR sites
Bats	Three bat emergence/re-entry surveys are required during the active bat season (May – September) to determine the presence/absence of bats. At least two of the surveys should be completed during the optimal survey period mid-May to August inclusive. Sub-optimal: early May and September. One of these surveys should be a dawn re-entry survey. Five surveyors are required to provide full coverage of the buildings. If bat roosts are confirmed in the building a Protected Species Mitigation Licence application to Natural England will be required once planning permission is granted, and before work can commence. Lighting scheme in the final design to be in line with Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18 Bats and artificial lighting in the UK. See also Enhancement measures at 4.3
Birds	Any building works should be commenced outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the trees and scrub to be removed should be undertaken immediately prior to clearance. All active nests will need to be retained until the young have fledged. RAMS Method statement for site clearance to be followed. See also enhancements at 4.3
Amphibians and reptiles, European Hedgehog and other terrestrial mammals.	No further surveys required. A Reasonable Avoidance Measures (RAMS) approach should be adopted. Method statement at Appendix 4 to be strictly adhered to. Enhancement measures according to section 4.3

CONTENTS

1.0 Introduction and Context	3
1.1 Background	3
1.2 Site Context	3
1.3 Scope of the report	3
2.0 Methodology	4
2.1 Desk Study methodology	4
2.2 Site Survey methodology	4
2.3 Breeding birds and other incidental observations	5
2.4 Suitability Assessment	5
2.5 Limitations	6
3.0 Results and Evaluation	7
3.1 Desk Study Results	7
3.2 Designated sites & priority habitats	7
3.3 Landscape	7
3.5 Field Survey Results	9
3.6 Site Feature descriptions and photos	10
4.0 Conclusions, Impacts and Recommendations	22
4.1 Informative guidelines	22
4.2 Evaluation	22
4.3 Biodiversity Enhancement plan	25
5.0 Bibliography	27
Appendix 1: Survey Plan	29
Appendix 2: Proposed Site Plan	30
Appendix 3: Desk Study Information	31
Appendix 4: RAMS Method Statement	34

1.0 Introduction and Context

1.1 Background

BEK Enviro Limited were commissioned to undertake a Preliminary Ecological Appraisal (PEA) and Potential Bat Roost Survey at Pendle Mill, Clitheroe Lancashire to support a planning application.

1.2 Site Context

The site is located at central National Grid Reference SD 74909 41547, currently a combination of retail and warehousing facility.

1.3 Scope of the report

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

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

A desk study has been carried out, including:

- The desk study area (2km radius of site) and field survey area (generally 50m from the site boundary/proposed footprint and including the 'zone of influence' of the scheme) have been identified.
- A desk study has been carried out, including a search on MaGIC, and Google Earth websites.
- Baseline information on the site and surrounding area has been recorded through an 'Extended Phase 1 Habitat Survey', including a Phase 1 Habitat Survey (JNCC 2010) and recording further details in relation to notable or protected habitats and species
- The ecological features present within the survey area have been evaluated where possible (CIEEM, 2006).
- Invasive plant and animal species (such as those listed on Schedule 9 of the Wildlife & Countryside Act [WCA]) have been identified.
- Likely impacts on features of value, as a result of the development proposals, have been identified.
- Recommendations for further survey and assessment have been made.

A survey plan is presented in Appendix 1, the proposed Project Plan is included in Appendix 2 (where available), desk study results are provided in the Appendix 3, RAMS method statement at Appendix 4 and a summary of relevant legislation can be found in Appendix 5.

2.0 Methodology

2.1 Desk Study methodology

Existing biological records data relating to the site and a surrounding 2km radius (the study area) are required to conform to national guidelines and these can be supplied by Lancashire Environmental Records Network (LERN). The data search is confidential information that is not suitable for public release, however a summary is provided at 3.4.4.

A review of the following information sources has also been undertaken to inform the assessment:

- Landscape structure using aerial images from Google Earth and OS maps
- Designated sites, habitat and granted EPSL records held on Magic.gov.uk.

2.2 Site Survey methodology

The survey was undertaken by Carol Edmondson MSc MRSB (Natural England bat licence number: **2015-12195** CLS-CLS) on 4th April 2022.

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

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

The ecological value of the survey area has been assessed based on the Guidelines for Ecological Impact Assessment (CIEEM, 2018), using geographic frames of reference. The biodiversity value of any identified designated sites, habitat types and associated species assemblages has been considered. Botanical assemblages were assessed; the site was inspected for the presence of red listed (Stroh *et al*, 2014), NERC s.41 listed and LBAP listed species, alongside specially protected species listed under Schedule 8 of the Wildlife and Countryside Act (WCA) (1981) and/or Schedule 5 of the Conservation of Habitats and Species Regulations (2017). The site was also assessed in relation to the presence of invasive species listed under Schedule 9 (Part II) of the Wildlife and Countryside Act (1981) (as amended).

2.3 Breeding birds and other incidental observations

The surveyor also made note of any other ecological constraints observed during the survey, notably the likelihood of presence or signs of breeding birds, and the suitability of the site for barn owls *Tyto alba*.

2.4 Suitability Assessment

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

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

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

All affected survey features on site were categorised according to the likelihood of bats being present, in line with best practice guidelines (Collins, J. (ed) 2016). The features that dictate the likelihood of roosting bats are summarised in Tables 2 and 3 below. Roost suitability is classified as high, moderate, low and negligible and dictates any further surveys required before works can proceed.

Table 2: Features of a building that are correlated with use by bats

Likelihood of bats being present	Feature of building and its context
Higher	Buildings/structures with features of particular significance for roosting bats e.g. mines, caves, tunnels, icehouses and cellars. Habitat on site and surrounding landscape of high quality for foraging bats e.g. broadleaved woodland, tree-lined watercourses and grazed parkland. Site is connected with the wider landscape by strong linear features that would be used by commuting bats e.g. river and or stream valleys and hedgerows. Site is proximate to known or likely roosts (based on historical data).
Lower	A small number of possible roost sites/features, used sporadically by more widespread species. Habitat suitable for foraging in close proximity, but isolated in the landscape. Or an isolated site not connected by prominent linear features. Few features suitable for roosting, minor foraging or commuting.

Table 3: Features of a tree that are correlated with use by bats

Likelihood of bats being present	Feature of tree and its context
Higher	A tree 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.
Lower	A tree of sufficient size and age to contain potential roosting features but with none seen from the ground or features seen with only very limited roosting potential.

2.5 Limitations

It should be noted that whilst every effort has been made to describe the baseline conditions within the survey area, and evaluate these features, this report does not provide a complete characterisation of the site. This assessment provides a preliminary view of the likelihood of protected species being present.

Specific limitations:

- The survey was conducted outside the peak season for many species including bats, herpetofauna and breeding birds.
- Many flowering plants are dormant at this time of year making it unlikely to identify all species present on the site including non-native invasive species.

The survey was carried out to the extent based on those areas visible and accessible, and the conclusions based on the range of evidence available at the time of the survey.

3.0 RESULTS AND EVALUATION

3.1 Desk Study Results

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

3.2 Designated sites & priority habitats

3.2.1 National and internationally designated areas:

The site lies within the following designated areas:

- Impact Risk Zone (IRZ) for Salthill & Bellmarsh plus Coplow Quarry Sites of Special Scientific Interest (SSSI)
The Site proposals will not likely have any impact on the Quarry SSSI's but due to the size of the development **pre-application advice may be required from Natural England regarding the impact of the development on the SSSI sites.**

3.2.2 Biological Heritage Sites & Local Nature Reserves within 2km survey area (*Priority habitat in brackets*):

- Salthill Local Nature Reserve (LNR) 800m to the north (Deciduous woodland and limestone grassland)
- Cross Hill Quarry LNR 1700m north (Deciduous woodland and limestone grassland)
- Mearley Brook & Primrose Lodge LNR lie 650m south west (Deciduous woodland, open & running water).

3.2.3 Other Priority Habitats

- Deciduous Woodland and wood pasture and parkland lies 600m west of the site at Clitheroe Castle

3.3 Landscape

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

Located to the east of Clitheroe town the landscape to the north, west and south is predominantly urban, with open countryside stretching away to the east. The deciduous woodland, hedgerows, drainage ditches and open grassland habitats in the area all provide good nesting and feeding habitat for birds, ample foraging habitat for bats; good quality terrestrial habitat for amphibians, reptiles and terrestrial mammals.

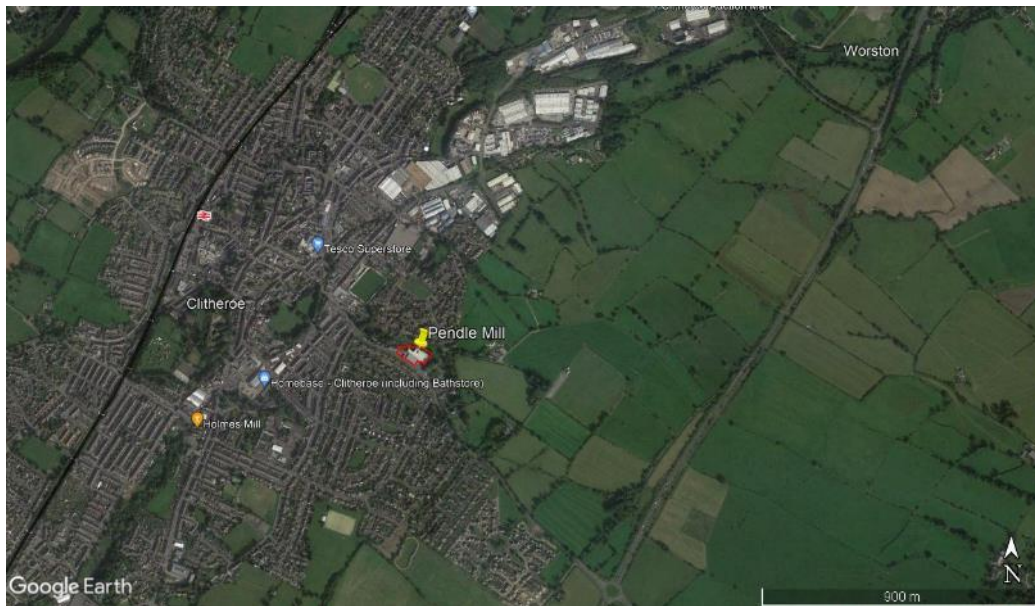


Figure 1: Aerial photo of site, showing landscape structure

3.4 Protected species: Species Protected under Schedule 5 Section 9.1a of the Wildlife and Countryside Act 1981 (as amended) and Section 41 (S41) of the 2006 Natural Environment and Rural Communities (NERC) Act.

3.4.1 Bats

A search of the magic database for granted European Protected Species Mitigation Licences (EPSMLs) within a 2km radius found 2 licenced sites which include damage to a breeding and/or resting site for common pipistrelle *Pipistrellus pipistrellus* and soprano pipistrelle *P.pygmeus*. This is evidence of the presence of these species within the proximity of the site, but does not exclude the presence of other bat species. These species of bat are known to roost in residential areas and buildings, foraging along hedgerows and under trees around urban areas and parks.

3.4.2 Birds

A search of the Magic database for Priority bird species within a 1000m radius returned records of tree sparrow, redshank, curlew, snipe, grey partridge and lapwing in survey area, all Lancashire BAP and IUCN red listed species. This data suggests the area provides good quality habitat for these species.

3.4.3 Great Crested Newts (GCN)

A search of the MAGIC database returned no positive class licence results, or granted mitigation licences pertaining to GCN. However potential breeding habitat is present within the 500m zone of influence at one pond located 250m to the southeast (No access at the time of the survey).

3.5 Field Survey Results

The environmental variables recorded at the time of the survey:

Date: 04/04/22	
Temperature	8°C
Cloud Cover	95%
Wind	5km/h
Rain	showers

3.5.1 Site Feature descriptions and photos

Site description

The site of the proposed development is an area of approx. 0.47ha mainly comprising of Industrial buildings. Some trees and parkland managed grass surround the buildings to the north and east, with Shaw brook emerging from a culvert under the site from the north west boundary wall, with some woodland ground vegetation on the north bank.

The retail units front onto Pendle Road which forms the southern site boundary.

To the rear of the site at the northwest corner is a small area of hardstanding which forms a yard.

Native deciduous trees are present around the boundary walls to the north and east.



Figure 2: Aerial view of the site.



Figure 3: Retail unit facing south onto Pendle Rd.

Phase 1 Habitats

Within the site boundary the site comprises 100% built environment J36 buildings (See survey plan at App.1). UKHABS code u1b5; 97 buildings.

The surrounding landscape to the north and east is managed grassland and tall ruderal herb with single trees; described below using the DAFOR scale:



Figure 4: Looking south west across surrounding park to the site, single native deciduous trees around the buildings.

C3.1 Tall Ruderal (UKHABS U1a, 16)

Immediately bordering the site to the east and south were occasional deciduous trees with a ground cover of ruderal “weeds” dominated in places by ivy sp. *Hedera sp.*, broadleaved & other dock *Rumex sp.* with abundant stinging nettle *Urtica dioica*, creeping buttercup *Ranunculus repens*, Rosebay willowherb *Chamerion angustifolium* great willowherb *Epilobium hirsutum* and occasional meadowsweet *Filipendula ulmaria*. Frequent bramble species *Rubus spp.* suggest these areas would transform into scrub if left unmanaged. Frequent grasses: Yorkshire fog *Holcus lanatus*, cocksfoot *Dactylis glomerata* and rough meadow grass *Poa trivialis*.



Figure 5: Example of tall ruderal vegetation on the north boundary.

C3.1 Tall ruderal cont.

Along the eastern boundary bordering the mill building the ground flora was dominated by ivy with occasional tall ruderals as listed above. In addition some remnant vernal woodland/hedgerow species were present: Lords and Ladies *Arum maculatum*, Lesser celandine *Ficaria verna* dog's mercury *Mercurialis perennis* and hybrid bluebells *H. x massartiana*, together with some obvious garden escapes close to the cottages to the south of the site e.g Russian vine *Fallopia baldschuanica*.

The ivy has spread up wall on the east elevation.



Figure 6: Woodland ground flora to the eastern boundary.

J1.2 Amenity grassland

(UKHABS g3c,66 Other neutral grassland, frequently mown).

The large open grassy area to the north and east of the site is frequently mown short grass with some dandelion *Taraxacum spp.*(F), daisy *Bellis perennis* (F), and plantain spp. *Plantago lanceolata*, *P.major* (F).



Figure 7: Amenity grass to the north and eastern boundary.

G2 Running Water (R2)

Shaw brook emerges from a culvert on the north corner of the site, and runs alongside the northern retaining wall behind the cottages. The steep northern bank was nettle *Urtica dioica* (F), also creeping buttercup *Ranunculus repens* (F), daisy (O), Rosebay willowherb *Chamerion angustifolium* (F), dandelion *Taraxacum spp.* (F), but at the time of the survey dominated was by ramsons *Gallium ursinum*, and emerging butterbur *Petasites hybridus*. Reed canary grass *Phalaris arundinacea* was also present (O).



Figure 8: Shaw Brook running alongside the retaining wall to the north of the site.

There are otters *Lutra lutra* known to be present in the area (authors' observation) but the habitat on this brook is not suitable for otter.

The banks of the brook are suitable habitat for water vole *Arvicola amphibius*, but no field signs, burrows or latrines were found on the north bank on this stretch of the brook.



Figure 9: Shaw Brook running alongside the retaining wall to the north of the site.

T3 Trees (Numbered on the survey map)

Tree 1: A mature ash *Fraxinus excelsior* with heavy ivy covering is present on the north bank of the brook (See survey map at App.1). Dense Ivy covers the boundary retaining wall on the south bank of the brook, and over into the small yard area. This dense ivy forms excellent nesting habitat for breeding birds. Too densely covered in ivy to check for potential bat roosting features, but the ivy itself likely excludes bats from roosting, and was not mature enough to form roosting features behind the stems.

Also ash and willow *Salix* spp. saplings emerging on the banks, and around the boundary walls to the north.



Figure 10: Dense ivy covering an ash tree on the bank of Shaw brook, at the northwest corner of the site.



Figure 11: Immature tree example on the north boundary.

Tree 2 & 3: On the north eastern corner 3m from the site wall were two multi-stemmed willow. There were no potential roosting features for bats (PRF) in these trees.

Tree group 4: To the east of the site approx. 3m from the boundary wall a group of 7 hawthorn and some willow, possibly a remnant hedge. Many dead or decaying limbs with dense ivy coverage, One tree had recently fallen. No PRF's in these trees, but good bird nesting habitat, including the wall of the buildings in this area.



Figure 12: Trees 2 & 3 multi-stemmed willow & tree group 4: Densely covered in ivy, a group of hawthorn and willow sp. One specimen has recently fallen.

Tree 5: Mature Ash: tri-stemmed semi mature ash tree located to the northwest of the site boundary. No potential bat roost features.



Figure 13: Tree 5, Mature ash tree.

Potential bat roosts in trees & breeding birds

None of the trees described above or the less mature trees immediately adjacent to the boundary walls have any potential bat roosting features, but Tree group 4 have good bird nesting habitat as does the dense ivy covering along the north wall (Fig.14). These may not be marked for removal, but if they are to be felled will require removing outside the bird nesting season, or hand searching immediately prior to removal by a suitably qualified ecologist.



Figure 14: Dense ivy covering an area of the north elevation wall.

Building description and potential bat roosting features.

B1: Main warehousing unit, utilising the rendered brick old mill walls, with a modern corrugated aluminium roof. The majority of the render is in a reasonable state of repair, however on the north elevation there are gaps suitable for crevice dwelling bats in some areas along the gutter boards.



Figure 15: Example locations of gaps in the mortar, forming suitable bat crevices.

B1 cont.



Figure 16: View across the modern corrugated sheet roof of B1.

B2 description.

A retail unit which fronts onto Pendle Road, rendered brick walls with corrugated metal sheet roof.

The fascia, barge and gutter boards are all close fit to the walls without any gaps to the rear. The main signage on the front of the building has a gap behind which is open to the elements at the top, making it unsuitable for roosting bats.



Figure 17: B2 south elevation.

B2. Cont..

Windows and doors were uPVC and close fitting with no gaps.

On the northwest corner is stone built circular annex with a flat roof, and aluminium fascia.

There were no visible PRF's in these elevations of B2.



Figure 18: B2 west elevation and main signage.

On the eastern elevation of B2 is a small outbuilding with a traditional slate roof in a poor state of repair, with gaps and broken slates, forming suitable crevices for bats to roost.

On the north elevation the window lintels on the upper storey are in a poor state of repair, again with crevices suitable for bats to utilise.



Figure 19: B2 East elevation showing small outbuilding, and north elevation with gaps in window lintels on the upper storey.

B3 buildings

A group of adjoining buildings currently in use as a retail unit & storage. Rendered brick walls & traditional slate covered roof pitches with gaps & cracked slates on some elevations and missing mortar to the ridge tiles– see survey map at App.1 & photos 18 -21 .



Figure 20: B3 west and south elevations, with gaps in roofing materials marked in red.



Figure 21: B3 west and south elevations, with gaps in roofing materials marked in red.



Figure 22: B3 far west elevation, with gaps in roofing materials marked in red.



Figure 23: B3 Eastern roof pitch of western-most section , with gaps in roofing materials marked in red.

B3 cont

On the north elevation of the building which lies over the culvert, a small outbuilding with no door had a timber fascia with gaps to the wall, known to be used by common crevice dwelling bats. There were also gaps at the wall caps to the lower roof tiles on this elevation.



Figure 24: B3 North elevation , with gaps in roofing materials marked in red.

Culvert and stone retaining wall

Where Shaw brook emerges from the culvert the stone wall has multiple gaps in the mortar to the random stonework which form gaps suitable for both day roosting and hibernation for crevice dwelling bats.

The archway and tunnel over the brook also provide potential hibernation roosting habitat and will need to be closely inspected prior to any building works taking place.



Figure 25: Stone wall & culvert archway over Shaw brook to the north of the site.

4.0 CONCLUSIONS, IMPACTS AND RECOMMENDATIONS

4.1 Informative guidelines

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

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

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

4.2 Evaluation

Taking the desk-based assessment and site survey results into account, the following value for roosting bats has been placed on each site survey feature.

Table 4: Evaluation of site

Ecological Factor	Survey assessment conclusions (with justification)	Foreseen impacts	Mitigation & Recommendations The following recommendations are valid for two years from the date of this report; if the development is delayed beyond this point, an update survey will be required.
Designated sites	The site is within a SSSI Impact zone.	The proposed development is not likely to impact the SSSI.	Following the SSSI IRZ Guidance, pre-application consultation with Natural England may be required.
Notable habitats and plants	No notable plants recorded at the time of the survey, no priority habitats on site. Deciduous woodland 200m south, within the zone of influence.	Some possible disturbance from construction noise and dust. Potential for pollution into Shaw Brook being carried away from the Site.	Mitigation measures to include: <ul style="list-style-type: none"> • 5m buffer zone between construction site and the brook. • Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.
Invasive Non-native species	No INNS were recorded on the site.	No impact	No further action

Bats	<p>Given the number of potential roosting features, and the location in the landscape, these buildings have a moderate likelihood of supporting roosting bats. None of the trees on the Site boundary have any potential roosting features for bats.</p>	<p>As the proposals include the demolition of this building, As the proposals include the demolition of these buildings, any bat roosts present would be destroyed. This could result in the death or injury of any bats present.</p> <p>Disturbance from unsuitable lighting schemes on site.</p> <p>Disturbance is also possible during construction phase from noise and lighting during winter for hibernating bats.</p>	<p>Three bat emergence/re-entry surveys are required during the active bat season (May – September) to determine the presence/absence of bats. At least two of the surveys should be completed during the optimal survey period mid-May to August inclusive.</p> <p>Sub-optimal: early May and September.</p> <p>One of these surveys should be a dawn re-entry survey.</p> <p>Five surveyors are required to provide full coverage of the buildings.</p> <p>If bat roosts are confirmed in the buildings a Protected Species Mitigation Licence application to Natural England will be required once planning permission is granted, and before work can commence.</p> <p>Lighting scheme in the final design to be in line with Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18 <i>Bats and artificial lighting in the UK</i>.</p> <p>See also Enhancement measures at 4.3</p>
Birds	<p>There is ample habitat for nesting birds on the Site boundaries, particularly within the dense ivy covering some areas of the walls on the north elevations.</p>	<p>Active nests could be destroyed during vegetation removal.</p> <p>Breeding and foraging resources for local birds will be destroyed with the removal of vegetation.</p>	<p>Any tree and scrub removal should be undertaken outside the period 1st March to 31st August for nesting birds. If this timeframe cannot be avoided, a close inspection of the trees and scrub to be removed should be undertaken immediately prior to clearance by an ecologist. All active nests will need to be retained until the young have fledged.</p>



GEO-ENVIRONMENTAL CONSULTING ENGINEERS

Preliminary Ecological Appraisal & Potential Bat Roost Survey
Land at Pendle Mill, Pendle Road, Clitheroe
 Report Ref BEK-22051-2, May 2022

Reptiles and amphibians	Small areas of terrestrial habitat on site e.g. Fallen timber, leaf litter and tussocky grass. One pond 250 east of the site (no access to survey) Biological records data would confirm reptile or amphibian records within 500m.	The proposed development will result in the loss of small areas of terrestrial habitat for amphibians and reptiles. Any present during the works could be injured or killed.	A Reasonable Avoidance Measures (RAMS) approach should be adopted as described at Appendix 4.
Water voles/otters	No habitat for otter. Low potential habitat for water voles, Biological records data would confirm records within 500m.	Low potential to disturb water voles during the construction phase.	No further surveys, but disturbance to the brook should be avoided – see RAMS at App.4
Badgers, hare, hedgehog, red squirrel.	No badger tracks, latrines, snuffle holes or other signs of presence were recorded. Biological records data would confirm records within 500m.	Negligible potential for impact on these species.	A Reasonable Avoidance Measures (RAMS) approach should be adopted as described at Appendix 4.

4.3 Biodiversity Enhancement

<p>Enhancements</p> <p><i>The Local Planning Authority has a duty to ask for enhancements under the NPPF and circular 06/2021: Biodiversity and Geological Conservation.</i></p>	<p>A wildflower meadow area and further native hedge and tree planting will be incorporated into the biodiversity enhancement plan for the site.</p> <p>Such areas offer habitat for invertebrates which in turn feed the local bird and bat population. A wildflower area requires much less maintenance than a lawned area, and enhances the visual aspect of a landscaping scheme. Advice on sourcing seed and maintenance is available at http://www.magnificentmeadows.org.uk/assets/pdfs/Mini-meadow.pdf</p> <p>Any landscape planting should include native pollinator friendly species, including night scented shrubs and fruit producing native species.</p> <p>Guidance can be found at: https://www.bumblebeeconservation.org/wp-content/uploads/2017/06/Buzzing-Communities-%E2%80%93-English-Proof-6_web_interactive-compressed_WEBSITE-VIEW.pdf</p> <p>Tree species for proposed landscaping will be a mix of native species which offer habitat for insects and autumn foraging for birds, and reflect the surrounding landscape.</p> <p>Suggested examples include:</p> <table border="0"> <tr> <td>Common Oak</td><td>Quercus robur</td></tr> <tr> <td>Rowan</td><td>Sorbus aucuparia</td></tr> <tr> <td>Bird Cherry</td><td>Prunus padus</td></tr> <tr> <td>Silver Birch</td><td>Betula pendula</td></tr> <tr> <td>Willow spp.</td><td>Salix spp.</td></tr> <tr> <td>Alder</td><td>Alnus glutinosa</td></tr> </table> <p>Any introduced boundary hedgerows will include a mix of native species eg:</p> <table border="0"> <tr> <td>Hawthorn</td><td>Craetagus montana</td></tr> <tr> <td>Hazel</td><td>Corylus avellana</td></tr> <tr> <td>Blackthorn</td><td>Prunus spinosa</td></tr> <tr> <td>Dog rose</td><td>Rosa canina agg.</td></tr> <tr> <td>Rowan</td><td>Sorbus aucuparia</td></tr> <tr> <td>Holly</td><td>Ilex aquifolium</td></tr> <tr> <td>Native honeysuckle</td><td>Lonicera spp.</td></tr> </table> <p>Yew <i>Taxus baccata</i> offers an excellent evergreen alternative to non-native hedging species.</p>	Common Oak	Quercus robur	Rowan	Sorbus aucuparia	Bird Cherry	Prunus padus	Silver Birch	Betula pendula	Willow spp.	Salix spp.	Alder	Alnus glutinosa	Hawthorn	Craetagus montana	Hazel	Corylus avellana	Blackthorn	Prunus spinosa	Dog rose	Rosa canina agg.	Rowan	Sorbus aucuparia	Holly	Ilex aquifolium	Native honeysuckle	Lonicera spp.
Common Oak	Quercus robur																										
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Rowan	Sorbus aucuparia																										
Holly	Ilex aquifolium																										
Native honeysuckle	Lonicera spp.																										
	<ul style="list-style-type: none"> • Bats <p>There is good foraging habitat in the area in the form of residential gardens, wet grasslands, hedges, drainage ditches & deciduous woodland in the immediate area.</p> <p>Mitigation & Enhancement will be designed following further surveys to determine species relevant installations, but could include:</p> <p>The installation of a minimum number of bat boxes or integrated bat bricks/tubes on each new building will provide additional roosting habitat for bats. for example (depending on the final design):</p> <ul style="list-style-type: none"> • Build-In Woodstone Bat Access (wildcare.co.uk) • https://www.wildcare.co.uk/soffit-bat-box.html • 1FF Schwegler Bat Box 																										

	<ul style="list-style-type: none"> • Greenwoods Ecohabitats • https://www.greenwoodsecohabitats.co.uk/bats <p>Bat boxes should be positioned 3-5m above ground level facing in a south/south-westerly direction with a clear flight path to and from the entrance.</p> <ul style="list-style-type: none"> • Birds <p>Bird nesting boxes will be included in the building plans to add to the available nesting opportunities in the local area. For example:</p> <ul style="list-style-type: none"> ○ Schwegler 1SP Sparrow Terrace ○ Schwegler 1B nest boxes ○ Schwegler 2H Robin Boxes <p><u>At least 8</u> bird boxes to be located on each new building and must include a sparrow terrace. Nest boxes should be positioned approximately 3m above ground level where they will be sheltered from prevailing wind, rain and strong sunlight, away from any artificial lighting source.</p> <ul style="list-style-type: none"> • Insects <p>Bee hotels and bee bricks to be incorporated into building designs.</p> <ul style="list-style-type: none"> • Hedgehogs <p>Hedgehog numbers are rapidly declining across the UK; providing a refuge on site will help to protect hedgehogs from predators and loss of habitat in which they can shelter. It is recommended that hedgehog homes are provided on the north elevations of the new buildings. They should be sited in a quiet a position out of prevailing wind in an area with some nearby cover, such as below hedgerow.</p> <p>(See https://www.hedgehoghighway.co.uk/news/ for further information).</p> <ul style="list-style-type: none"> • Lighting <p>Any external lighting should not be directed at any wildlife features of the building as this will cause disturbance.</p> <p><u>See Bat Conservation Trust Guidance note 8/18 Bats and artificial lighting in the UK</u></p>
<p>Biodiversity Net Gain (BNG)</p> <p><i>The NPPF updates of July 2021, 179b indicate that a measurable gain should be</i></p>	<p>BNG will need to be achieved by the implementation of all the above enhancement schemes, the inclusion of native specimen trees & Sustainable Urban Drainage Systems (SUDS). Further guidance can be found at: https://www.bats.org.uk/our-work/landscapes-for-bats/landscape-and-urban-design</p> <p>The final landscape design will need to utilise these schemes to meet the minimum biodiversity net gain requirement for planning (10%). A full net gain calculation can be reported once the full landscape design is complete.</p>

secured by
means of the
DEFRA BNG
Metric.

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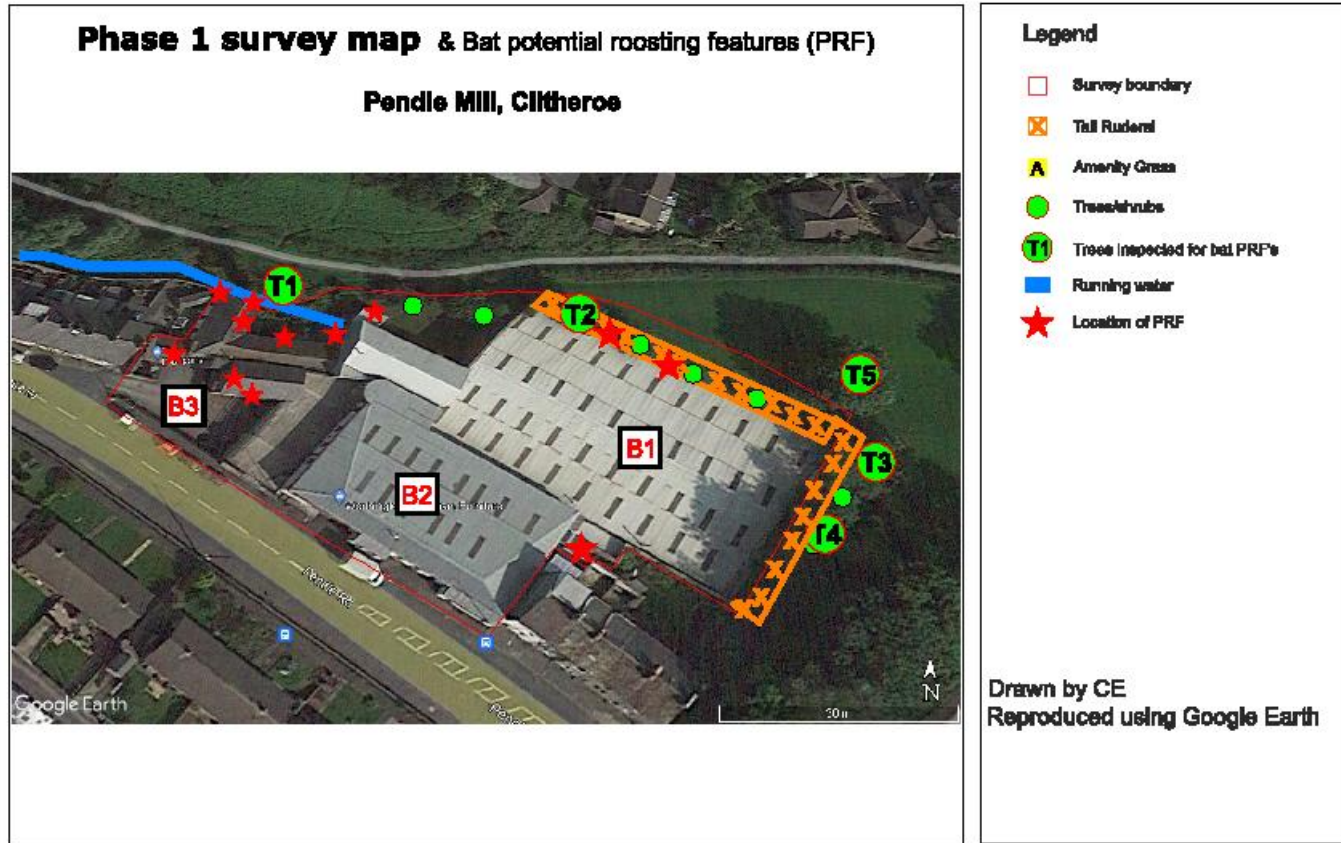


GEO-ENVIRONMENTAL CONSULTING ENGINEERS

Preliminary Ecological Appraisal & Potential Bat Roost Survey
Land at Pendle Mill, Pendle Road, Clitheroe
Report Ref BEK-22051-2, May 2022

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Appendix I: Survey Plan



Appendix 2: Proposed Site Plan

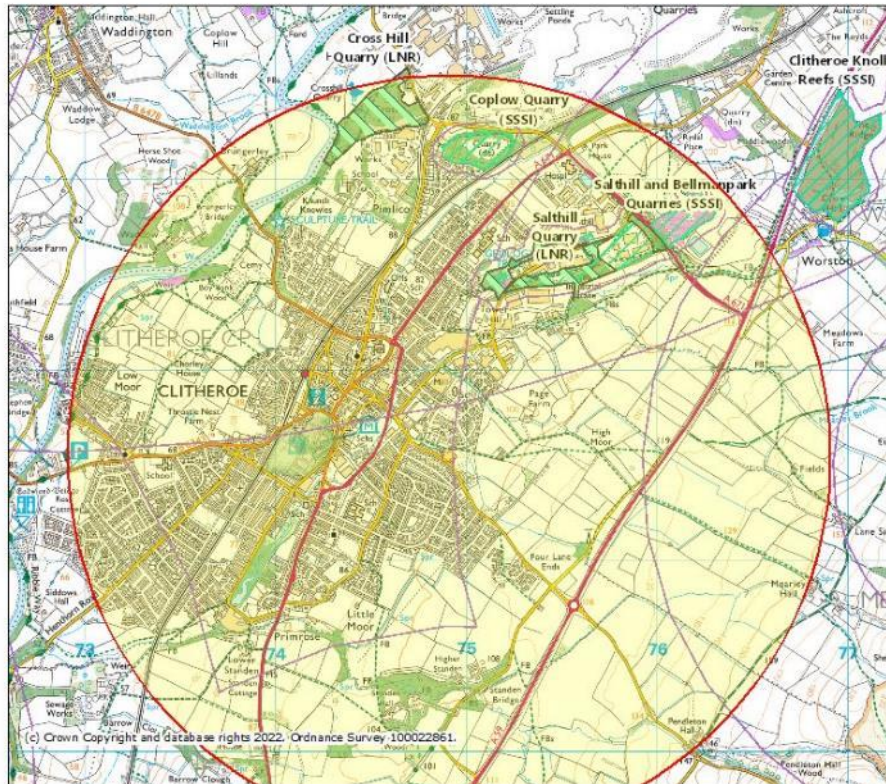


Appendix 3: Desk Study Information

Full historical records can be provided on request.

MAGiC

Pendle Mill 2km survey area



Legend

- Local Nature Reserves (England)
- Sites of Special Scientific Interest (England)
- SSSI Impact Risk Zones - to assess planning applications for likely impacts on SSSIs/SA Cs/SPAs & Ramsar sites (England)
- Priority Habitat Inventory - Good quality semi-improved grassland (Non Priority) (England)
- Priority Habitat Inventory - Lowland Calcareous Grassland (England)
- Ancient Woodland (England)**
 - Ancient and Semi-Natural Woodland
 - Ancient Replanted Woodland
 - Priority Habitat Inventory - Deciduous Woodland (England)
 - Woodpasture and Parkland BAP Priority Habitat (England)

Projection = OSGB36
 xmin = 370200
 ymin = 439500
 xmax = 379600
 ymax = 444200
 Map produced by MAGIC on 8 April, 2022.
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Appendix 4: Reasonable Avoidance Measures (RAMS)

Method Statement for Reasonable Avoidance Measures

Reasonable Avoidance Measures (RAMS) - Method Statement in relation to:

- Reptiles
- Great Crested Newt (*Triturus cristatus*) (GCN) and common amphibians
- Terrestrial Mammals e.g hedgehog, badger, hare
- Water Vole

Objectives of the Method Statement

Some development related activities on the site, such as excavation creation and removal of materials from site in areas local to otherwise suitable terrestrial habitat, has the potential to affect common amphibian and reptiles, and some terrestrial mammals, whilst protected mammals are known in the extending area. Therefore, safeguards must be implemented to protect these species and the Method Statement below outlines measures to be implemented in order to ensure this objective is achieved. Following these methods reduces the likelihood of negative impacts.

Timings – preferred timing of scrub clearance to minimise impact

- **GCN** : When the GCN are found in their aquatic habitat and not in terrestrial habitat (core breeding season: March-May inclusive).
- **Nesting Birds**: Outside the key breeding season which is 1st March – 31st August inclusive
- **Mammals** : All year

Before Any Works

- Before any work commence at the site all contractors will be attend a 'tool box' talk by a suitably licenced ecologist of the potential for protected species to occur on site, what to look out for and what to do in the event that protected animals are found.
- Photograph(s) of relevant protected species will be displayed at the site office and/or kept by the contractor's personal being for visual reference purposes.
- Contractors to ask any questions as required following toolbox talk, before signing the Toolbox Talk Audit Form.

During Works

- Clearance works within the site should only commence after a careful visual inspection (Hand Search) has been carried out by a suitably qualified and experienced ecologist has determined that no animals are present on site/targeted areas and is satisfied no animals are at risk.

- Habitat manipulation - vegetation that can support reptiles is to be reduced to a height of 150-200 mm, followed by a visual hand search. After the hand search the vegetation is then to be cut to ground level and raked bare.
- Habitat manipulation will encourage animals to temporarily move away/abandon the area.
- For the full duration of the work, vegetation will be kept at ground level.
- No works are to extend off site in the areas adjacent to the red line boundary.
- The impact of works on adjacent habitats will be avoided by the clear demarcation of the works area.
- All work must strictly be in accordance with all of the relevant Pollution Prevention Guidelines published by the Environment Agency which may include, but is not limited to, PPG1 (general), PPG5 (works in, near, or liable to affect watercourses) and PPG6 (work at construction & demolition sites). Contingency/emergency plan should be drawn up to address chemical spillage, drainage, collision, etc.
- Machinery and materials are to remain on bare ground and reasonable efforts must be made to avoid the compiling of accumulated piles. Materials that do require piling will be stored within areas of bare ground above ground level using pallets in order to prevent animals from seeking shelter beneath.
- Any excavated material stored overnight should be searched prior to being used as infill.
- Where open vertical-sided trenches are excavated it should be ensured that they are not left open overnight to avoid amphibians or small mammals falling into them and becoming trapped. If trenches cannot be back filled after the working day planks of 150-200 mm wide should be placed in them at a 45 degree diagonal angle to serve as an escape mechanism.
- Excavations should also be checked in the morning on a daily basis for the presence of any animals that may have fallen in during the night. In the event that a protected species is located in trenches then it/they should be left in situ and the ecologist promptly contacted to identify and provide further advice.

If in the event a GCN/Water vole is found work must cease; the ecologist will be made aware of the finding and can then appraise the situation providing further advice.

Site staff must be made aware that if GCN /water vole are found there is a correct procedure in place to follow, and failure to halt works may result in committing an offence.

At no point should any person handle a water vole or suspected GCN. Unlicensed handling is illegal and untrained handling may cause the animal unnecessary stress and injury.

A Natural England Protected Species Mitigation Licence may be required following the discovery of any protected species on site.

Appendix 5: Legislation and Planning Policy

National and European Legislation Afforded to Habitats

International Statutory Designations

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

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

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

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

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

National Statutory Designations

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

Local Statutory Designations

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

Non- Statutory Designations

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

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

The Hedgerow Regulations 1997

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

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

National and European Legislation Afforded to Species

The Habitats Directive

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

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

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

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

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

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

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

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

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

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

Badgers

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

- Wilfully kill, injure, take, or attempt to kill, injure or take a badger
- Cruelly ill-treat a badger, including use of tongs and digging
- Possess or control a dead badger or any part thereof
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when it is occupying a badger sett
- Intentionally or recklessly cause a dog to enter a badger sett
- Sell or offers for sale, possesses or has under his control, a live badger

Effects on development works:

A development licence will be required from the relevant countryside agency for any development works liable to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agency's to define what would constitute a licensable activity. It is not possible to obtain a licence to translocate badgers.

Birds

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

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

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

This affords them protection against:

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

Effects on development works:

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

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

Herpetofauna (Amphibians and reptiles)

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

Regulation 41 prohibits:

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

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

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

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

- Intentionally or recklessly kill or injure these species.

Effects on development works:

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

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

Water voles

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

- Intentionally kill, injure or take (capture) water voles
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection

- Intentionally or recklessly disturb water voles while they are occupying a structure or place used for shelter or protection

Effects on development works:

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

Otters

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

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

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

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

Effects on development works:

An EPSM Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect otter breeding or resting places (often referred to as holts, couches or dens) or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, and rear young). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored

Bats

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

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

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

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

Effects on development works:

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

Wild Mammals (Protection Act) 1996

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

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

Legislation afforded to Plants

With certain exceptions, all wild plants are protected under the WCA. This makes it an offence for an 'unauthorised' person to intentionally (or recklessly in Scotland) uproot wild plants. An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.

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

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)
- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof
- In addition to the UK legislation outlined above, several plant species are fully protected under Schedule 5 of The Conservation of Habitats and Species Regulations 2010. These are species of European importance. Regulation 45 makes it an offence to:
 - Deliberately pick, collect, cut, uproot or destroy a wild Schedule 5 species
 - Be in possession of, or control, transport, sell or exchange, or offer for sale or exchange any wild live or dead Schedule 5 species or anything derived from such a plant.

Effects on development works:

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

Invasive Species

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

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

Effects on development works:

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

Injurious weeds

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

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

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

NATIONAL PLANNING POLICY (ENGLAND)

National Planning Policy Framework

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

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

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

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

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



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