



October 2021

## Preliminary Ecological Appraisal

CALTHORPE STREET  
BANBURY  
OX16 5EX

Report Ref. G59944 / Final



## PRELIMINARY ECOLOGICAL APPRAISAL

**CALTHORPE STREET**

**BANBURY**

**OX16 5EX**

**Client:** Corstorphine + Wright

**Report Status:** Final

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## EXECUTIVE SUMMARY

Ensafe Ltd was commissioned by Corstorphine + Wright to undertake a Preliminary Ecological Appraisal (PEA) (including a desk study) of a site proposed for re-development .

This PEA was undertaken in order to establish the baseline ecological conditions of the site, with particular attention given to the possible presence of protected, invasive or otherwise notable species. The results have been used to identify potential constraints to the proposed works and recommend any further ecological work required to allow the works to proceed lawfully.

The site included a large commercial building with associated service yard, hardstanding car parking areas and occasional planted landscaped areas. A commercial property was also present in the north of the site, although this will not be impacted by the proposals.

In relation to the proposed redevelopment works, the following potential issues were identified during the site survey/desk study, with consequent recommendations:

**Bats** - The PRA survey concluded that the building in the north of the site was of moderate suitability for roosting bats. At least two nocturnal presence/absence (dusk 'emergence' and dawn 'return to roost') surveys are required to evaluate if bats are entering/exiting the building at dawn/dusk, in addition to identifying bat species and numbers/type of roosts (if present).

No further survey work is necessary in relation to the building in the north of the site is required. However, if the development design changes and impacts are possible, a PRA will be required.

**Birds** - Common species of bird may use the site for nesting both within the building and the rear yard. As such, works should ideally be completed outside the bird nesting season (1 March to 31 August). Alternatively, if works are required during the breeding season, they must only be completed following checks by an appropriately experienced person. Should an occupied bird nest or a nest in the process of being constructed be encountered during works, clearance must cease in this area and should only re-commence once the birds have fledged or the nest is abandoned.

**Invasive Non-native Species** - A small area of Butterfly-bush was present in the north of the site. This species is not listed among the wild invasive non-native plants on Schedule 9 of the Wildlife and Countryside Act, although is a non-native species, and it is recommended that it is removed during development. To replace this nectar source, it is recommended that a variety of native flowering plants are included within soft landscape planting.

No other legally protected species or species of particular nature conservation value are considered likely to be present or represent a potential constraint to the proposed works.

The findings of this report are considered valid for a period of 12 months, if works are delayed beyond this period update survey/s may be required.

## 1.0 INTRODUCTION

Ensafe Consultants Ltd was commissioned by Corstorphine + Wright to undertake a Preliminary Ecological Appraisal (PEA) (including a desk study) of a site proposed for re-development. This site, located off Calthorpe Street, Banbury (OX16 5EX), is centred on National Grid Reference SP 45488 40335.

The site survey and desk study were undertaken in order to establish the baseline ecological conditions of the site, with particular attention given to the possible presence of protected, invasive or otherwise notable species.

The results have been used to identify potential constraints to development (if present) and to recommend any further ecological work required to enable the proposed works at the site to proceed lawfully.

### 1.1 SITE DESCRIPTION

The site included a large commercial building (**Photograph 1**) with associated service yard (**Photograph 2**), hardstanding car parking areas (**Photograph 3**) and occasional planted landscaped areas (**Photograph 4**).

A commercial property was also present in the north of the site (**Photograph 5**).

The site is set in an urban area, with a church (Marlborough Road Methodist Church) adjacent to the eastern boundary.

The existing site layout is shown on **Figure 1**.

**Photograph 1. Large commercial premises within site**





Photograph 2. Service yard



Photograph 3. Hardstanding within site



**Photograph 4. Typical examples of soft landscaped areas**



**Photograph 5. Commercial premises in north of site**



## **1.2 PROPOSED WORKS**

It is understood that it is proposed to demolish the large commercial premises in the south and redevelop the site.

The building in the north of the site (**Photograph 5**) will remain unaffected.

## 2.0 RELEVANT LEGISLATION

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### Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

The Habitats Regulations convey special protection to a number of species, which are listed in Schedule 2 of the Regulations and are referred to as European Protected Species (EPS). Those potentially relevant to the Project include:

- All UK resident bat species;
- Common (Hazel) Dormouse (*Muscardinus avellanarius*);
- Great Crested Newt (*Triturus cristatus*) (GCN);
- Otter (*Lutra Lutra*);
- Marsh Fritillary (*Euphydryas aurinia*).

Regulation 43 makes it an offence to:

- Deliberately capture, injure or kill any wild animal of a EPS;
- Deliberately disturb wild animals of such a species;
- Deliberately take or destroy the eggs of such a species;
- Damage or destroy a breeding site or resting place of such an animal.

Disturbance in the context of the offences above is disturbance which is likely to impair the ability of the animals to survive, to breed or reproduce, to nurture their young, to hibernate, to migrate; or to affect significantly the local distribution of the species.

Licences can be granted by the relevant Statutory Nature Conservation Organisation (SNCO) for developments (sometime referred to as EPS Licences or Derogation Licences) providing the purposes of the licence is for "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment"

### Wildlife and Countryside Act 1981 (as amended)

The Wildlife and Countryside Act 1981 (as amended) provides protection to both EPSs and other species including wild birds, Water Voles *Arvicola amphibius* and reptiles.

All wild birds, their nests and eggs are protected, with some rare species afforded extra protection from disturbance during the breeding season (these species are listed in Schedule 1 of the Act). It is illegal to take any wild bird or damage or destroy the nests and eggs of breeding birds. There are certain exceptions to this in respect of wildfowl, game birds and certain species that may cause damage.

In England and Wales Water Voles *Arvicola amphibius* are listed on Schedule 5 of the Act, receiving full protection since 2008. The Wildlife and Countryside Act 1981 together with amending legislation, lists the following offences:

- Intentionally killing, injuring, or taking a Water Vole by any method.
- Intentionally or recklessly damaging or destroying a Water Vole place of shelter or protection.
- Intentionally or recklessly damaging disturbing a Water Vole whilst it is occupying such a structure or place it uses for shelter or protection.



- Intentionally or recklessly obstructing access to a Water Vole's place of shelter or protection.
- Selling, offering for sale, or possessing or transporting for the purposes of sale, any live or dead Water Vole, or any part or derivative, or advertising any of these for buying or selling.

All native reptile species in the UK are subject to partial protection from intentional or reckless killing or injury only.

The Act also includes provisions for the control of invasive non-native species (INNS). Under these provisions it is an offence to:

- Release or allow to escape into the wild any animal which is not ordinarily resident or a regular visitor to Great Britain or is included in Schedule 9 of the Act.
- Plant or otherwise cause to grow in the wild any plant which is included in Schedule 9 of the Act.

People undertaking works in proximity to invasive non-native plant species should take all reasonable steps and exercise all due diligence to avoid committing an offence.

### **The Invasive Alien Species (Enforcement and Permitting) Order 2019**

The order came into effect on the 1 December 2019 to allow for enforcement of EU Regulations (Regulation (EU) No. 1143/2014 on the prevention and management of the introduction and spread of invasive alien species in England and Wales) also known as the IAS Regulations.

It lists 66 species which are of European Union concern. There are currently 19 species listed in the Order:

- Chinese Mitten Crab (*Eriocheir sinensis*)
- Red Swamp Crayfish (*Procambarus clarkia*)
- Crayfish Signal (*Pacifastacus leniusculus*)
- Spiny Cheek Crayfish (*Orconectes limosus*)
- Muntjac Deer (*Muntiacus reevesi*)
- Ruddy Duck (*Oxyura jamaicensis*)
- Egyptian Goose (*Alopochen aegyptiacus*)
- Grey Squirrel (*Sciurus carolinensis*)
- Himalayan Balsam (*Impatiens glandulifera*)
- Fanwort (otherwise known as Carolina Water Shield) (*Cabomba caroliniana*)
- Giant Hogweed (*Heracleum mantegazzianum*)
- Water Hyacinth (*Eichhornia crassipes*)
- Parrots Feather (*Myriophyllum aquaticum*)
- Floating Pennywort (*Hydrocotyle ranunculoides*)
- Floating Water Primrose (*Ludwigia peploides*)
- Water Primrose (*Ludwigia grandiflora*)
- Giant Rhubarb (*Gunnera tinctoria*)
- Curly Waterweed (*Lagarosiphon major*)
- Nuttall's Waterweed (*Elodea nuttallii*)

## Natural Environment and Rural Communities (NERC) Act 2006

The UK Biodiversity Plan (BAP) was a programme designed to help conserve the UK's biodiversity. It led to the production of 436 action plans between 1995 and 1999 to help many of the UK's most threatened species and habitats to recover. A review of the UK BAP priority list in 2007 led to the identification of 1,150 species and 65 habitats that met the BAP criteria at UK level.

Currently 56 Habitats of Principal Importance and 943 Species of Principal Importance are included within Schedule 41 of the NERC Act 2006 and these include species and habitats which were identified in the UK BAP and which continue to be considered to represent the conservation priorities of England in the UK Post-2010 Biodiversity Framework.

## National Planning Policy Framework (NPPF) 2019

The NPPF aims to minimise impacts on biodiversity and provide net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity. Chapter 15 'Conserving and enhancing the natural environment' details what local planning policies should seek to consider with regard to planning applications:

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

170 a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

170 d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

174 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;

175 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;

175 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."

## 3.0 METHODOLOGIES

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### 3.1 DESK STUDY

Biological records data were obtained from Thames Valley Environmental Records Centre (TVERC) on 3 October 2021. The provided data included protected and notable species records within 1km.

The below information was obtained from MAGIC<sup>1</sup>:

- Information in relation to statutorily designated sites within 2km
- Granted European Protected Species (EPS) mitigation licences within 2km
- GCN Pond Surveys to inform for District Licencing within 2km.
- GCN class licence returns within 2km.

Habitats and Species of Principal Importance<sup>2</sup> and the Local Biodiversity Action Plan (LBAP) priority habitats and species were also reviewed to compare to those habitats and species either recorded within the site during the survey or recorded as having potential to be present (due to habitat suitability). The LBAP which covers this site is the Oxfordshire LBAP.

### 3.2 SUITABLY QUALIFIED ECOLOGIST DETAILS

The site surveys and assessment were completed by Martyn Owen. Martyn is a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM) and holds survey licences in relation to bats, GCN and a variety of Schedule 1 birds. Martyn has completed many similar surveys during his 18-year career as a consultant ecologist.

### 3.3 PRELIMINARY ECOLOGICAL APPRAISAL SURVEY

A PEA site survey<sup>34</sup> was undertaken on 1 October 2021 in excellent weather conditions. During the survey all areas within the site and site boundaries were walked and habitat types assessed. Signs of protected species, invasive plants (i.e. those included on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended)) and other notable species were also searched for during the survey, as well as noting habitats considered to have the potential to support protected species.

The ultimate purpose of this PEA was to identify potentially valuable habitats and plant species assemblages, and to identify the presence and/or potential for protected/controlled species. This report presents an initial assessment of the ecological significance of the features present, and discusses the potential for the site to support legally protected species and/or species of conservation interest which may be impacted by the proposed works.

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<sup>1</sup> MAGIC (2020) [online] available at: [www.magic.defra.gov.uk](http://www.magic.defra.gov.uk) (accessed 1 October 2021)

<sup>2</sup> Habitats and Species of Principal Importance are listed under Section 41 (S41) of the Natural Environment and Rural Communities (NERC) Act 2006.

<sup>3</sup> Collins, J. (ed.) (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn). The Bat Conservation Trust, London

<sup>4</sup> CIEEM (2017) Guidelines for preliminary ecological appraisal [online] available at: <https://www.cieem.net/guidance-on-preliminary-ecological-appraisal-gpea/> (accessed 1 October 2021)

Prior to the completion of the site survey aerial imagery was reviewed<sup>5</sup> to provide an indication of previous and current site uses and habitat types present in the area.

### 3.4 BADGER SURVEY

A Badger activity survey, following the method outlined within Harris et al. (1989)<sup>6</sup>, was completed of the site (**Figure 1**) and a buffer of 30m. The presence of Badgers is indicated through observations of latrines, hair, prints (spoor) and setts.

### 3.5 BATS

#### 3.5.1 Preliminary Roost Assessment

A Preliminary Roost Assessment (PRA) survey of the buildings within the site (**Figure 1**) was completed in line with appropriate survey guidance<sup>7</sup>.

The survey involved a systematic search of the interior and exterior of the buildings to identify potential or actual bat access points and roosting sites, and to locate any evidence of bats such as live or dead specimens, bat droppings, urine splashes, fur-oil staining and/or squeaking noises. It should be noted that sometimes bats leave no visible sign of their presence on the outside of a building (and even when they do wet weather can wash away evidence).

The external inspection also included the examination of the ground, particularly beneath any potential bat access points, for example any windowsills, window panes, walls, hanging tiles, weatherboarding, eaves, soffit boxes, fascias, lead flashing, gaps under felt, and under tiles/slates.

The inspection of buildings and built structures for evidence of bats, which can be conducted at all times of year was facilitated by the use of scaffolding erected on the building, a high-powered torch, endoscope and small dental mirrors to inspect accessible crevices considered likely to support bats. Weather conditions on the day of the survey were appropriate for undertaking ecological fieldwork (sunny and dry).

The potential suitability of the buildings for roosting bats was assessed in line with relevant guidelines<sup>7</sup> and allocated to one of the categories detailed within **Table 1**.

<sup>5</sup> Google Maps [online] available at: <https://www.google.co.uk/maps> (accessed 1 October 2021)

<sup>6</sup> Harris, S., Cresswell, P. & Jefferies, D. (1989). Surveying Badgers. The Mammal Society

<sup>7</sup> Collins, J. (ed.) (2016). Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn.). The Bat Conservation Trust, London



**Table 1. Guidelines for assessing the potential suitability of proposed development site for bats.**

Suitability	Description of Roosting Habitats
<b>Negligible</b>	Negligible habitat features on site likely to be used by roosting bats.
<b>Low</b>	A structure/tree with one or more potential roost sites that could be used by individual bats opportunistically. However, these potential roost sites do not provide enough space, shelter, protection, appropriate conditions and/or suitable surrounding habitat to be used on a regular basis or by larger numbers of bats (i.e. unlikely to be suitable for maternity or hibernation).
<b>Moderate</b>	A structure/tree with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat but unlikely to support a roost of high conservation status (with respect to roost type only – the assessments in this table are made irrespective of species conservation status, which is established after presence is confirmed).
<b>High</b>	A structure/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.
<b>Confirmed Roost</b>	Roosting bat/s or definitive evidence of roosting bats (i.e., accumulations of droppings) present

### 3.5.2 Trees – Preliminary Ground Level Inspection

Preliminary Ground Level Inspection (PGLI) surveys of all trees within the site (**Figure 1**) was completed to determine their potential suitability for roosting bats. This assessment involved the detailed inspection of the exterior of each tree from ground level using binoculars and a high-powered torch to identify and illuminate features that may support roosting bats (Potential Roost Features (PRFs)).

The potential suitability of the buildings/trees to be impacted by the proposed development for roosting bats was assessed in line with relevant guidelines<sup>8</sup> and allocated to one of the categories detailed within **Table 1**

### 3.5.3 Foraging and Commuting Habitat

An assessment was made of the suitability of the site and the surrounding landscape to support foraging and/or commuting bats. The assessment was based on the presence of key habitat features such as woodland, scrub, hedgerows, grassland and open water, which are highly attractive to bats. Of potential importance is the presence of unlit (semi-)natural vegetation and habitat linkage between the site and the surrounding landscape.

The quality of bat foraging and commuting habitat has been assessed using the criteria detailed in **Table 2**.

<sup>8</sup> Collins, J. (ed.) (2016). Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn.). The Bat Conservation Trust, London

**Table 2. Valuing Bat foraging and commuting habitat**

Grading Criteria	Reason
<b>Optimal Quality</b>	Presence of optimal habitat features such as unlit woodland, scrub, hedgerows, grassland and open water with excellent linkage to similar habitats within the wider landscape. Presence of high potential buildings/trees and/or known roosts within immediate landscape. Sites are generally rural in character.
<b>Moderate Quality</b>	Presence of optimal habitat features such as woodland, scrub, hedgerows, grassland and open water with reasonable linkage to similar habitats within the wider landscape. Limiting factors may include size of site.
<b>Low Quality</b>	Presence of some limited habitat features such as scrub or hedgerows, with minimal linkage to suitable habitats within the wider landscape.
<b>Poor Quality</b>	No suitable habitat presents or, if present, highly degraded/fragmented. Minimal unlit areas with no linkage to suitable habitat beyond site. Generally urban in character.

### 3.6 LIMITATIONS

The findings presented in this study represent those at the time of survey and reporting, and data collected from available sources. Ecological surveys are limited by factors which affect the presence of plants and animals, such as the time of year, migration patterns and behaviour.

Access to all areas immediately outwith the site boundary was not possible; however, it was possible to adequately assess these areas from within the site or from public rights of way.

No access to the roof void/s was possible due to the presence of hanging ceilings. However, based on the results of the external inspection and the recommendations for further surveys this is not considered to represent a significant constraint.

## 4.0 RESULTS

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The results of the desk study (Section 4.1) and the site survey (Section 4.2) are presented below.

### 4.1 DESK STUDY

#### 4.1.1 Sites

There were no statutorily designated sites within the search area.

There was one granted EPS mitigation licence within 2km. This related to non-maternity colonies of Common Pipistrelle (*Pipistrellus pipistrellus*), Soprano Pipistrelle (*Pipistrellus pygmaeus*) and Brown Long-eared Bat (*Plecotus auratus*), granted in 2009 located 0.5km east of the site.

Details of one positive result of GCN class licence returns within 2km was available, located 1.8km to the southwest of the site.

#### 4.1.2 Species

Data provided by TVERC are included the following species:

- One species of amphibian
- 57 species of bird.
- Three species of bony fish.
- Five species of flowering plant.
- One species of invertebrate
- Six species of terrestrial mammal (inc. bats)
- Two species of reptile.

Detailed results of the biological records data search are summarised within Section 4.2, when relevant

### 4.2 SITE SURVEY

#### 4.2.1 Habitats

The site was dominated by the existing buildings and associated/adjoining hardstanding. Small landscaped areas were present within and around carparking areas, which has been planted with a variety of trees including Silver Birch, Bird Cherry, Sycamore (*Acer pseudoplatanus*), maple sp. *Acer* sp. and Narrow-leaved Ash (*Fraxinus angustifolia*), with occasional areas of Cherry Laurel (*Prunus laurocerasus*) and small area of Butterfly-bush (*Buddleja davidii*) adjacent to the northern boundary.

The desk study returned records of below species, none of which were present, or likely to occur on site:

- Bluebell (*Hyacinthoides non-scripta*) (two records).
- Chives (*Allium schoenoprasum*) (two records).
- Common Cudweed (*Filago vulgaris*) (three records).
- Common Valerian (*Valeriana officinalis*) (two records).
- Large-leaved Lime (*Tilia platyphyllos*) (two records).

The habitats found in the site are common locally and across England. No habitats that conform to LBAP or S41 priority habitats were identified within the site and no further work in relation to habitats are recommended.

## 4.2.2 Species

### 4.2.2.1 Bats

**Buildings** - The large convenience store (TK Maxx and Farmfoods) in the north of the site was constructed in red brick with a concrete tile roof. A number of louvres were present on the roof slopes. No evidence of bat usage was found associated with the building exterior. No access to the roof interior was possible due to the presence of hanging ceilings.

Due to the size of buildings, condition of the roof and the availability of access points to the interior of the roof/building, this building was assessed to have **MODERATE** potential to support roosting bats (**Table 1**).

It is understood that there will be no impacts to the building in the north of the site.

**Trees** - A number of semi-mature trees were present within and immediately adjacent to the site. No PRFs were noted on any tree and all were therefore classed as having **NEGLIGIBLE** potential to support roosting bats (**Table 1**).

**Foraging/Commuting** - Habitats around the periphery of the site may offer some limited value to foraging and commuting bats although overall the site was assessed to be of poor suitability.

**Desk Study** - The desk study returned the following records:

- Common Pipistrelle– five records (most recently in 2017).
- Brown Long-eared Bat - one record (2011).
- Noctule (*Nyctalus noctula*) – two records (most recently in 2017).

### 4.2.2.2 Badger

All areas within the site were surveyed for Badgers, including adjacent areas; no Badger activity was noted. The desk study returned one record, in 2013.

Badgers are assessed to be likely absent from the site and the surrounding area; no further works in relation to Badger are considered necessary.

### 4.2.2.3 Otter and Water Vole

No watercourses were present within the site, or in immediately adjacent areas and no records of either species were returned during the desk study.

No further works in relation to Otter/Water Vole are considered necessary.



#### 4.2.2.4 Other Section 41 Mammals

The desk study returned one record of Polecat (*Mustela putorius*) (2014) and three records of Hedgehog (*Erinaceus europaeus*) (most recently in 2019). No records of any other Section 41 mammal species were returned.

Taking into account the nature of the site, and the nature of habitats present, the regular presence of any Section 41 mammal species in significant numbers within the site is considered highly unlikely.

No further works in relation to other Section 41 mammals are considered necessary.

#### 4.2.2.5 Amphibians

No waterbodies were identified within the site or within 250m<sup>9</sup>.

The desk study returned two records of Common Frog (*Rana temporaria*), both in 2015.

The presence of any species of amphibian within the site is considered highly unlikely and no further works are deemed necessary.

#### 4.2.2.6 Reptiles

Habitats favoured by reptiles tend to be sunny, well-drained and often southfacing. Typical habitats include grass and heather heathland, chalk downland, coppiced woodland, sand dunes, disused allotments, suburban wasteland, road/railway embankments, golf course roughs, rough grassland, open woodland and woodland edge, immature plantation forestry, sea cliffs, moorland, disused quarries, non-intensive farmland and wild gardens. In addition, Grass Snakes (*Natrix Helvetica*) favour damp habitats<sup>10</sup>.

Habitats within the site were considered unsuitable for all reptilian species. The desk study returned records of Common Lizard (*Zootoca vivipara*) (two, most recently in 2014) and Grass Snake (one, 2017).

Reptiles are considered likely absent from the site and immediately adjacent areas; no further works in relation to reptiles are considered necessary

#### 4.2.2.7 Birds

All wild birds (defined as species which are resident or are visitors to the United Kingdom (UK), but generally not game birds) are protected by the Wildlife and Countryside Act 1981 (as amended). As far as planning and development is concerned, it is an offence to kill, injure or take any wild bird. Some species, listed in Schedule 1 of the Act, are protected by special provisions because of their rarity and it would constitute an offence to disturb them while nesting (which includes nest building). It is also an offence to disturb dependent young of a Schedule 1 bird.

No birds were observed within the site during the survey. However, it is considered possible that common species of bird nest within the site (both on the buildings and within landscaped areas).

<sup>9</sup> 250m is considered to be the typical ranging distance of the majority of a population of GCN from their breeding pond – Great Crested Newt Conservation Handbook (Froglife - 2001)

<sup>10</sup> Froglife (1999). Froglife Advice Sheet 10; Reptile Survey. An introduction to planning, conducting and interpreting surveys for snake and lizard conservation

No evidence of Schedule 1 (of the Wildlife & Countryside Act 1981 (as amended)) nesting birds was noted and the habitats within the site were considered unsuitable for any nesting Schedule 1 species.

The desk study returned records of wide variety of species of bird.

#### 4.2.2.8 Invertebrates

A number of invertebrate species are afforded legal protection under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). These species are protected from intentional killing, injuring or taking, possession or control, intentional damage/destruction of any structure or place used for shelter or protection, intentional disturbance while occupying such a structure/place, selling or offering for sale or buying. Numerous species are also included on S41 of the NERC Act.

The desk study returned a single record of one protected invertebrate species; Stag Beetle (*Lucanus cervus*), in 2016. Taking into account the nature of the habitats on-site it is considered highly unlikely that significant populations/species of invertebrates are present and no further works relating to invertebrates are considered necessary.

#### 4.2.2.9 Invasive Plants

The sole invasive non-native species (INNS) observed during the site survey was a small area of Butterfly-bush adjacent to the northern boundary. No non-native invasive plant species listed on Schedule 9 of the Wildlife & Countryside Act 1981 (as amended) were observed.

The desk study returned the following records:

- Butterfly-bush (two records, both 2015)
- Indian Balsam (*Impatiens glandulifera*) (one record, 2019)
- Japanese Knotweed (*Fallopia japonica*) (four records, most recently in 2015)
- A Crustacean (*Crangonyx pseudogracilis*) (one record, 2015)
- Demon Shrimp (*Dikerogammarus haemobaphes*) (one record, 2015)

## 5.0 CONCLUSIONS AND RECOMMENDATIONS

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### 5.1 HABITATS

None of the habitats identified on-site were considered to be of significant ecological value and are not considered to represent a constraint to the proposed works

### 5.2. BATS

The PRA survey concluded that the building in the south of the site (currently TK Maxx/Farmfoods) was of moderate suitability for roosting bats. At least two nocturnal presence/absence (dusk 'emergence' and dawn 'return to roost') surveys are required to evaluate if bats are entering/exiting the building at dawn/dusk, in addition to identifying bat species and numbers/type of roosts (if present).

All bat survey methods employed should be in line with the latest Bat Conservation Trust (BCT) survey guidance<sup>6</sup>. The optimal time for emergence/re-entry surveys is between May and August (inclusive).

If, following these further bat surveys, the proposed works are determined to likely cause destruction/disturbance to any bat roosts then a EPS licence will need to be sought from Natural England to enable the re-development works to proceed legally. This licence would need to detail how the works would avoid any harm to bats in addition to providing appropriate compensatory roosting sites.

No further survey work is necessary in relation to the building in the north of the site is required. However, if the development design changes and impacts are possible a PRA will be required, followed by nocturnal presence/absence surveys (if required).

### 5.3 BIRDS

Common species of bird may use the site for nesting both within the building and the rear yard. As such, works should ideally be completed outside the bird nesting season (1 March to 31 August). Alternatively, if works are required during the breeding season they must only be completed following checks by an appropriately experienced person. Should an occupied bird nest or a nest in the process of being constructed be encountered during works, clearance must cease in this area and should only re-commence once the birds have fledged or the nest is abandoned.

### 5.4 INVASIVE NON-NATIVE SPECIES

A small area of Butterfly-bush was present in the north of the site. This species is not listed among the wild invasive non-native plants on Schedule 9 of the Wildlife and Countryside Act, although is a non-native species, and it is recommended that it is removed during development. To replace this nectar source, it is recommended that a variety of native flowering plants are included within soft landscape planting.

## **5.5 OTHER SPECIES/HABITATS/DESIGNATED SITES**

No further works, or potential impacts to protected/notable species, habitats or designated sites are considered necessary at this time.

## **5.6. OPPORTUNITIES FOR ENHANCEMENT**

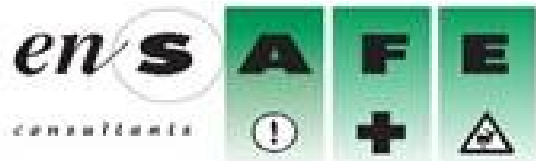
The National Planning Policy Framework (NPPF) sets out national planning policies for the protection of biodiversity (and geological) conservation through the planning system. A key principle of NPPF is that, 'Opportunities to incorporate biodiversity in and around developments should be encouraged'. Taking the requirements of NPPF into account, opportunities should be sought where possible for nature conservation enhancement at this site.

Opportunities may exist to create small habitat areas and to use native species in any landscape planting. Opportunities may also exist to enhance the site for bat and bird species through the incorporation of bat/bird boxes into built structures. Such measures would therefore be beneficial to nature conservation and show compliance with the latest policy guidance.

**Ensafe Consultants**  
**October 2021**



**FIGURE**



Project:

Calthorpe Sreet  
Banbury

Title:

Existing Site Layout

Scale: NTS

Job No.: G59944

Figure 1



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## CONSULTING TERMS OF BUSINESS

### 1. Scope of Terms of Business

All work carried out by or at the responsibility of the Company (a "Project") for the person, firm or company commissioning the work (the "Client") is subject to these Terms. These Terms may be varied or excluded (in whole or in any part) by any proposal or tender ("Proposal") submitted by the Company to the Client or by subsequent express agreement in writing signed on behalf of the Company and the Client, but not otherwise.

The Proposal shall, unless otherwise stated therein, remain valid for 30 days from the date of the Proposal.

Our fee proposals are based on these terms and conditions. Should an external contract be proposed by the Client a legal review will be undertaken. Subject to agreement, an additional charge will be made to cover additional provisions such as for insurances, Letters of Reliance and Collateral Warranties.

Our fee proposal does not include for the provision of Letter of Reliance or Collateral Warranties and Ensafe is under no obligation to provide these. Should suitable wording be agreed then a charge will be made.

Should siteworks be cancelled, the following charges will be made to cover supervision time and third -party cost items:

- a. <24 hours - 100%
- b. <48 hours – 50%
- c. <72 hours – 25%

### 2. Commencement and Completion of Work

2.1 Unless otherwise stated in the Proposal, the appointment of the Company shall commence from the date of the Company's acceptance of the Client's purchase order, or from the time when the company shall have begun to perform for the Client any of the services specified in the Proposal, whichever is the earlier. The Client will co-operate with the company in all reasonable ways and will make freely available or place at the Company's disposal all facilities and personnel reasonably required by the Company to carry out the Project including (without limitation) where appropriate:

- Access to the Project site (the "Site").
- Services (electricity, water etc.) at the Site.
- Visas and permits for personnel and equipment to enter and leave the Client's country and site.
- Licences or permits for the work to be undertaken at the site.
- Office (and telephone and fax) at the Site.
- Site security.
- Assistance in arranging accommodation local to the site.
- Medical facilities on or near the Site.
- Information on special hazards or risks at Site or in relation to the Project material.

2.2 The Client shall (a) provide the company with all the data (presently or subsequently in the possession of the Client) relating to the Site and the Project (and the Client represents and warrants to the Company that having made due enquiry all such data is accurate to the best of the Client's knowledge); (b) accurately indicate and mark for the Company the location of all property boundaries, easements, utilities and site conditions of which the Client has knowledge; (c) retain ownership of and take full responsibility for the generation, treatment, disposal and transport of any and all Hazardous Substances.

2.3 The Company shall not be obliged to work at the Site in dangerous, unhealthy or unsafe conditions.

2.4 If the Company is delayed in the Project by any act or default of the Client or any other party or by individual disputes or any cause beyond the reasonable control of the Company, including (without limitation) war, armed conflict, civil disturbance, act of God, explosion, accident, act of Governmental agencies or failure of third party suppliers, the completion of the Project shall be extended by a reasonable period and the Company shall be paid for any additional reasonable costs incurred attributable to the delay.

2.5 The Company shall make reasonable endeavours to supply the Results as defined below on the date agreed, but this date will be taken as a guideline for time planning purposes only. Time is not of the essence unless specifically agreed in writing with liquidated damages for late delivery fully defined before commencement of the Project.

### 3. Business Associates

The Company shall take all reasonable steps to meet the wishes of the Client in the use of the Client's business associates but reserves the right to employ, discharge or replace at any time any business associate in carrying out the Project. References in the Proposal to the utilisation of a particular person as a business associate shall imply only that the company intends at the Proposal date to employ or retain such person but shall not imply that contractual arrangements have been made for such employment or retention for the entire contract period.



#### 4. Company Personnel

It is a condition of contract that the Client will not approach or contact, with the intention of employing or retaining, any employee of the Company engaged on or connected with the Proposal or the Project without the prior agreement of the Company. This restriction is to apply at all times during the project and for a period of 6 months following completion of the Project.

#### 5. Disbursements to Third Parties (not applicable to fixed price contracts)

A charge may be made on all disbursements made by the company associated with the contract in order to cover administrative costs. The disbursements include but are not limited to subcontractors, freight and packing charges, out of pocket expenses and travel and accommodation expenses away from the normal place of business of the Company's personnel incurred in carrying out the Project.

#### 6. Techniques

The Company intends to employ methods, procedures, techniques, personnel and sources of information set out in the Proposal but reserves the right to vary these as necessary or desirable in order to achieve the aims of the Project.

#### 7. Care, Diligence and Contractual Limitations

- 7.1. All survey findings, forecasts, statements of opinion and recommendations in the Proposal or in any letter or report (the "Results") submitted by the Company to the Client on the work carried out under a Project are made in good faith, and on the basis of the information before the Company at that time. The Company warrants that it shall in the discharge of the services agreed to be performed by the Company, exercise all the reasonable skill, care and diligence normally provided by a professional person or firm in the performance of services similar to those provided for the Client and under the same terms and circumstances. All other warranties whether express or implied, statutory or otherwise are hereby excluded. If in the performance of these services the Company has a discretion exercisable as between the Client and a contractor, the Company shall exercise this discretion fairly.
- 7.2. In so far as the Results are based on observations, data and/or materials supplied by the Client or obtained by the Company from a third party the Company assumes no responsibility and makes no warranty or representation as to their correctness. All samples, material, data and other information supplied by or on behalf of the Client will be accepted by the Company at the Client's risk. The Company will exert reasonable efforts to ensure their safety and security in a manner consistent with the Company's safety and security policy for its own property. The Client shall inform the Company in writing prior to supply of such items to the Company of any special or hazardous features associated with such items. The Client shall indemnify the Company at all times against any costs, claims, demands and expenses (including without limitation legal expenses on an indemnity basis) arising from the Client's failure to comply with the provisions of Clause 7.2.
- 7.3. The Client acknowledges and accepts that the contract price does not contain a premium sufficient to cover the Company's risk of unlimited liability in respect of the project and that a limitation on the Company's liability is therefore reasonable. Without prejudice to Clauses 7.4 and 7.5 the Company shall be liable to the Client for such direct losses of the Client as are attributable directly to the Company's defective work, limited to an amount not exceeding twenty times the cost of service (Clause 9) up to a maximum of £5,000,000 subject to other limits specifically agreed in writing. The Company shall have no further liability to the Client, its servants or agents in connection with the performance of services or supply of goods, by the Company under this agreement.
- 7.4. The Company shall have no liability to the Client under contract or otherwise (including negligence or breach of statutory duty) for any consequential or indirect loss or damages. The term consequential shall include, but is not limited to, loss or reduction in profits, increased costs of production or increased costs of Site investigation or development arising from defective work by the Company or incorrect interpretation of Client's data.
- 7.5. Nothing in this agreement shall restrict the Company's liability for death or personal injury caused by negligence.
- 7.6. The Company can accept no responsibility for the failure of the Client to follow the Company's advice. The Client is therefore advised to refer back to the Company any Proposal by the Client that would conflict with the Company's advice. The Company will provide advice on the Clients proposals, at standard rates or for an agreed sum.
- 7.7. Our limit of liability period is for 6 years from date of report.

#### 8. Confidentiality and Intellectual Property

- 8.1. Except as provided by Clauses 8.4 and 8.5 herein, all material resulting from the Company's performance of the Project, including documents, calculations, maps, photographs, drawings, computer printouts, notes, analytical reports and any other pertinent data are the property of the Company. Ownership of any such material which is unique to the project together with an irrevocable licence in respect of non-unique material shall be the Client's when the Client completes payments and its other obligations under this Agreement. Provided however that the Company shall have the right to retain copies of said materials for archive purposes. All reports and other materials resulting from the performance by the Company of the Project are intended solely for the Client's use in this Project and are not intended or represented to be suitable for use by the Client or third parties on any other Project: such reuse of said materials by the Client or third parties without written permission or adaptation by the Company for the specific purpose intended shall be at the user's sole risk without liability to the Company and the Client agrees to indemnify and hold harmless the Company from all claims, damages and expenses including without limitation legal fees on an indemnity basis arising from such unauthorised reuse.
- 8.2. Nothing in this Agreement shall create any obligation on the part of the Company to undertake any responsibilities the Client may have under any laws or regulations which may require the reporting or notification to responsible governmental authorities or other third parties of any discharge or release of Hazardous Substances or of any other environmental or compliance condition at the Site. However, the Company expressly retains the right to undertake such reporting or notification where it deems such reporting or notification necessary to ensure the Company's compliance with applicable laws or to prevent harm to health, the environment or to property.



- 8.3 In the event that samples, residues, equipment or other materials generated or used in the course of the performance of the Project, contain or may contain Hazardous Substances, the Company shall, after completion of testing or other related portions of the Project, return such samples or other contaminated materials to the Client or, on prior written request by the Client, and using documentation signed by the Client as generator, have such samples or other contaminated materials transported to a location selected by the Client for final disposal.
- 8.4 Copyright is reserved to the Company in the Proposal, and any material in the Results that has not been generated under the Project. No such material shall be copied or published (in whole or in part) or disseminated to any third party without the prior written permission of the Company.
- 8.5 The copyright in all drawings, documents and other similar material provided by or on behalf of the Client for the use of the Company in connection with the Project shall remain vested in the originator of such material, but the Client shall ensure that the Company is duly authorised to use such material for all purposes related to the Project.
- 8.6 Notwithstanding the foregoing conditions, the Company reserves the right to use an outline description of the Project in its promotional literature.

#### **9. Cost of Service.**

- 9.1 Work will be carried out and charged on the basis of time spent unless a fixed budget is agreed in writing. Any time charge contained or referred to in the Proposal shall be for guidance only and relates to the relevant charge at the date of the Proposal only. Invoices will be issued using the fee rates and price schedule in force at the time work is carried out, unless otherwise agreed.

#### **10. Terms of Payment**

- 10.1 Invoices will be rendered monthly and shall be paid (without deduction or set-off) by the Client within 30 days of the date of submission of the invoice by the Company. Any sums remaining unpaid at the expiry of any such 30 days will bear interest to accrue from day to day at the rate of 2% (two percent) per month cumulatively on the balance outstanding. Without prejudice to Clause 13, the Company reserves the right to suspend its services hereunder if any invoice is not paid within 60 days of the date of submission by the Company.
- 10.2 If any item or part of an item of an invoice rendered by the Company is disputed or subject to question, the payment of the remainder of the invoice shall not be withheld on those grounds and the provisions above shall apply to such remainder, and also the disputed or questioned item to the extent that it shall subsequently be agreed or determined to have been due to the Company.

#### **11. Foreign Currency Expenses**

Where any expense to be reimbursed by the Client is paid by the Company in a currency other than sterling, it shall be reimbursed in sterling calculated at the official purchase rate of exchange prevailing at the date when the expense was incurred.

#### **12. Taxation Provisions**

- 12.1 The cost of services and expenses incurred will bear a value added tax (VAT) charge at the rate applicable at the date of invoice.
- 12.2 Non-UK Clients: The Client shall remit all payments free of any taxes, levies or claims or duties arising outside the UK. The Client shall pay in full any taxes, levies or claims due according to the laws of its country or state.

#### **13. Termination or Suspension**

- 13.1 If either party shall become bankrupt, go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reorganisation only) have a receiver, administrative receiver or administrator appointed over any part of its business or assets, enter into a composition with its creditors become insolvent (the Bankrupt Party) the other party shall be entitled forthwith by notice to the Bankrupt Party to terminate or suspend work under the Contract.
- 13.2 If the Client fails to pay any sum due hereunder within 30 days of the due date, the Company may by notice to the Client suspend and at the same or a later time terminate the Contract.
- 13.3 If either party (the Defaulting Party) breaches a material term of the Contract which remains unremedied for 60 days after service of written notice on the Defaulting Party by the other party specifying such a breach, or if it appears that the Defaulting Party is in breach of a material provision of any statute statutory instrument or has in connection with this Agreement committed an act of default actionable by the other party at common law, the other party may by notice in writing to the Defaulting Party suspend and at the same or a later time, terminate the Contract.
- 13.4 The Client may terminate the Contract at any time on 30 days written notice to the Company.
- 13.5 If the client terminates the contract under Clauses 13.1 or 13.3 above the Client shall pay to the company only such sums as are due up to the date of the termination. If the Company terminates the Contract under Clauses 13.1, 13.2 or 13.3, or the Client terminates the Contract under Clause 13.4, the Client shall pay to the Company in addition to the foregoing, such sums as are reasonably expended by the Company in bringing the work under the Contract to an end in a prompt but orderly fashion, plus all commitments of the Company and a cancellation fee of 5% of the outstanding contract price. Such sums in aggregate are not to exceed the Contract price where fixed.
- 13.6 If the contract is suspended under Clauses 13.1, 13.2 or 13.3 and the Company is required to perform any additional work in connection with the resumption of services, the Client shall pay the Company in respect of the performance of such additional work in advance.

#### 14. Interpretation

- 14.1 These Terms of Business and all documents, arrangements and agreements to which they apply shall be construed and have effect in accordance with the Laws of England.
- 14.2 "Hazardous Substances" in this Agreement includes PCBs, asbestos, petroleum, crude oil, natural gas, pollutants or contaminants and includes, without limitation, any substances, wastes, sewage effluents, process effluents, materials, pollutants or contaminants identified or defined in or by the Control of Pollution Act 1974 or the Environmental Protection Act 1990, as amended.
- 14.3 This Agreement contains the entire Agreement and understanding between the parties hereto with respect to the subject matter hereof and replaces all prior agreements and understandings relating to the said subject matter.
15. For Contracts involving investigative work, The Client acknowledges and assumes the risk that (a) Site conditions may change over time; (b) subsurface conditions of the Site may vary from those encountered in borings, surveys or explorations; (c) although necessary to perform the Project, commonly used exploration methods e.g. drilling, borings or technical excavating involve an inherent risk of contamination of previously uncontaminated soils and waters.
16. For contracts involving remedial, construction related activities, the Client acknowledges and recognises that (a) during the course of the investigation and or remedial work it may be necessary for the Company or its subcontractors to perform drilling, trenching or other excavation on or in the vicinity of the Site containing Hazardous Substances; (b) the activities to be undertaken by the Company under this Agreement involve certain inherent risks with regard to the potential migration of contaminants present on or beneath the surface of the Site and (c) any seal may be imperfect despite normal precautions. The Client further acknowledges that in the course of performance of this Agreement the company may rely upon information supplied by the Client or the Clients contractors, consultants or agents or information available from generally accepted reputable sources without independent verification. The Client assumes these risks and the Company shall be indemnified pursuant to the following paragraph.
17. The Client shall save, defend, indemnify and hold harmless the Company and its Directors, officers, shareholders and subcontractors from and against any and all suits, actions, legal or administrative proceedings, claims, demands, fines, losses, costs, liabilities, interest and legal fees which either exceeds the limitation of the liability provided for in Clause 7 of the Agreement or results from, arises out of or are in any way connected with (a) breach of any obligation of the Client under this Agreement; (b) negligent acts or omissions of the Client, the Clients employees, agents and subcontractors; (c) existing conditions or any aggravation of existing Site conditions not solely caused by negligent acts of the Company; (d) any generation, treatment, disposal or transportation of Hazardous Substances; (e) any interpretation, materials furnished or services provided by the Client or a third party in connection with the Project; (f) claims made by any person not a party to the Agreement relating to the services performed in compliance with the Agreement or (g) arising out of or in connection with any actual or threatened release, discharge dispersal or escape or exposure or threatened exposure of any person or property to a Hazardous Substance; any obligation to test for, study, monitor, report, clean up, remove, abate, contain treat, neutralise or characterise the quality or quantity of any substance, material, vapour including without limitation any hazardous Substance or otherwise pertaining to activities undertaken by the Company under this Agreement.