

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

LAND AT TAPPERS FARM, OXFORD ROAD,
BODICOTE, BANBURY, OX15 4BN

for

GREENSQUARE HOMES LTD

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CONTROL SHEET

GreenSquare Homes Ltd
Land at Tappers Farm, Oxford Road, Bodicote, Banbury, OX15 4BN
Construction Environmental Management Plan (CEMP)

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1. INTRODUCTION

COPIES OF THIS DOCUMENT AND ALL ASSOCIATED ECOLOGICAL REPORTS RELEVANT TO SITE WORKS AND RELEVANT PLANNING CONDITIONS AND ASSOCIATED PROTECTED SPECIES LICENSES WILL BE KEPT IN THE SITE OFFICE, PRINTED, BOUND AND PLACED IN A CLEARLY LABELLED FOLDER, SO THEY ARE AVAILABLE TO REFER TO AT ANY TIME.

1.1 Scheme Background

Following refusal of planning permission for Ref 18/00792/OUT by Cherwell District Council in May 2018, the Planning Inspectorate granted outline planning permission following an appeal (Appeal Ref: APP/C3105/W/19/3222428) on 30 October 2019 for the demolition of existing buildings and erection of up to 46 no. dwellings, with associated works and provision of open space at Land at Tappers Farm, Oxford Road, Bodicote, OX15 4BN.

This Construction Environmental Management Plan (CEMP) has been written to help satisfy Condition 10 of the approval.

Condition 10

No development shall take place, including any works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by the local planning authority. The CEMP shall include details of:

- i) Construction traffic management measures;*
- ii) Measures to ensure construction works do not adversely affect biodiversity and protect habitats and species of biodiversity importance;*
- iii) Measures to ensure construction works do not adversely affect nearby residential properties, including any details of consultation and communication with local residents.*

The approved CEMP shall be adhered to throughout the construction period for the development.

This CEMP is designed to minimise any long-term impact of the development on the biodiversity of the site and surrounding area. This document is to be read in conjunction with the Ecological Mitigation and Enhancement Strategy (EMES) (Focus Environmental Consultants, 2022) which provides further details on specific protected species.

1.2 Objectives

The objectives of this CEMP are:

- to produce a concise CEMP to help fulfil Condition 10 and direct a future scheme of development at the site in full compliance with wildlife law and recognised best practice.
- to provide a written record for the Local Planning Authority and local Natural England team that all reasonable precautions have and will be undertaken to avoid killing or injuring of wildlife during development works and that full compliance with wildlife law has and will be upheld.

1.3 Site Description & Location

The site is located at Tappers Farm to the east of White Post Road in Bodicote, Oxfordshire. The site is approximately 2.19ha and is centred on Ordnance Survey grid reference SP 4618 3836. The majority of the site comprises improved grassland with several mature scattered trees. There is also an area of bare ground and buildings within the southern area of the site. The site is bounded with a mixture of hedgerows, trees and fencing.

An update visit to the site was undertaken by Focus Environmental Consultants on 23 April 2021 to assess any changes to the site since the initial survey conducted by Resource and Environmental Consultants Ltd (REC) in March 2018 (REC, 2018a). No significant changes were observed in the condition of the on-site habitats since the initial survey conducted by REC in March 2018.

2. CONSTRUCTION METHOD STATEMENT

The following prescriptions will be undertaken during the construction phase to ensure best practice is carried out during the development to reduce impacts on resident wildlife and retained habitats.

2.1 Site Personnel

Formal instruction and training (a 'tool-box talk') of site-based personnel will be undertaken prior to commencement of the construction works to inform on agreed policies, recommendations and requirements to maintain environmental quality and minimise impacts during construction, generally avoiding unnecessary disturbance and pollution.

Focus Environmental Consultants has been appointed as the Ecological Clerk of Works (ECoW) to oversee and monitor the ecological aspects of the development during all construction phases. Contact information is provided in Annex 4.2.

2.2 Pre-clearance Site Checks

A pre-site clearance check by the ECoW will be undertaken before any ground clearance works or removal of vegetation. This recommendation is made to ensure that due attention is paid to the possible presence of protected and notable species including nesting birds, bats and amphibians, and to ensure compliance with the Wildlife and Countryside Act 1981 (as amended).

2.3 Tree Protection & Arboricultural Works

BS 5837: 2012 '*Trees in relation to design, demolition and construction*' will be implemented on site in order to ensure that retained trees are protected adequately from construction-related damage. Please refer to the Arboricultural Method Statement (AWA Tree Consultants, 2018) produced for the site.

Tree works (e.g. removal of limbs, crown reduction) must be done outside of the bird nesting season (March – August, inclusive) or otherwise only after being checked for nesting birds by the ECoW. The ECoW will be able to identify any nesting birds and

advise of appropriate safe working distances to ensure compliance with wildlife legislation.

2.4 General Construction Practices

During development operations, the following precautionary actions will be implemented to prevent unintentional harm to vulnerable fauna that may commute across the site:

- Any machinery used will be made safe or temporarily fenced off when not in use. Should any trenches and excavations be required, an escape route for animals that may enter the trench must be provided, especially if left overnight. Ramps should be no greater than 45 degrees in angle. Any holes will be securely covered. This will ensure animals are not trapped during work.
- All excavations left open overnight or longer must be checked for animals prior to the continuation of works or infilling. Back filling should be completed immediately after any excavations, ideally back filling as an on-going process to the work in hand.
- Any temporarily exposed open pipe systems or ducts (diameter greater than 200mm) will be capped at the end of each working day in such a way as to prevent wildlife gaining access.
- Contractors will avoid leaving mounds of earth (or similar materials) undisturbed for long periods of time as mammals, such as badgers, may be tempted to excavate new setts within it.
- Any small mammals (e.g. hedgehogs) encountered during the works will be carefully transferred by hand from the work area to a safe location in similar habitat within the immediate vicinity. If in doubt the ECoW must be contacted for advice.
- **Should any trapped protected / notable species be found, works within this area will cease immediately and the ECoW will be contacted for**

advice. Any injured animals found during works will be taken to an appropriate wildlife hospital or centre for relocation.

2.5 Site Materials & Working Hours

To avoid any unnecessary disturbances to nocturnal wildlife (e.g. night-lighting, loud noises or vibrations from the use of heavy machinery), construction activities will be restricted to the hours specified in the General Construction Environmental Method Statement. Working outside this time frame should only occur in exceptional circumstances and when no other option is available.

If required, any artificial lighting of the site at night will be minimal and low-level to minimise light spillage on habitats. Lighting will specifically be directed away from the boundaries and the retained trees, as recommended by the Bat Conservation Trust & Institute of Lighting Professionals (2018).

Construction materials and heavy machinery / vehicles will be excluded from Root Protection Areas and areas of grassland prior to site clearance to avoid possible injuring / killing of vulnerable fauna. The storage of materials / machinery within the site will only be permitted in areas of bare ground (e.g. cleared areas) and stored on pallets to discourage wildlife from using them as shelter. Any discarded materials will be stored in skips or similar containers rather than in piles on the ground. Potential pollutants will be securely stored in appropriate containers. No construction operations will occur within these areas unless otherwise agreed with the ECoW. Contractors using tall and / or wide loads during site operations should be extra vigilant to prevent coming into contact with trees adjacent to / over-hanging the site.

These designated zones will be fenced off using Heras fencing or similar. Notices will be erected on the fencing at various suitable locations to inform contractors and other personnel.

2.6 Dust & Noise

The proposed works include a number of activities that may result in the generation of dust particles. As a result, a number of precautionary measures will be implemented in order to control dust emissions:

- All vehicles carrying loose aggregate, and other materials likely to produce dusty emissions, will be sheeted at all times.
- Provide easily-cleaned hard standing for vehicles, and ensure surface is regularly cleaned using wet sweeping methods.
- The access roads bordering the site should be regularly inspected, and if necessary, cleaned using a wet sweeping method.
- Ensure the use of wheel wash facilities near the site exit to prevent vehicles carrying dust/mud off-site.
- Completed earthworks will be covered, or vegetated where appropriate, to minimise potential wind pick-up.
- Minimise the amount of excavated material held on-site.
- Mounds of soil, and other aggregate materials, will be located as far as possible from sensitive properties (including major roads) and important ecological areas.
- Tools used for cutting/grinding should be fitted with dust collection devices.
- No unauthorised fires on-site.

The works will comply with *BS 5228: Noise and Vibration control on construction and open sites*.

2.7 Demolition of B1

No bats were found roosting within B1 during surveys. As a precautionary approach, a licensed bat worker will remain 'on-call' during the development works. Roof materials must be removed by hand by the roofing contractors. **In the event that a roosting bat(s) or evidence of an active bat roost is discovered at any stage of the development, works must cease immediately and the on call ecologist contacted, they will liaise with Natural England (as required) to advise on any licensing requirements to allow lawful completion of the work.**

2.8 Removal of T8

Prior to removal of T8, a specialist tree-climbing inspection of potential roost features (PRF's) for bats will be undertaken by two suitably bat-licensed ecologists trained in tree-climbing.

1. ***If bats or evidence of bats (e.g. droppings) is discovered or a full inspection of the PRFs cannot be carried out via tree-climbing***, then further survey work (dusk / dawn surveys) will be required to determine the presence / absence of roosting bats within this tree and / or characterise the roost(s). The results will be used to inform appropriate mitigation / compensation / licensing requirements.

2. ***If bats are confirmed as absent***, the felling of T8 will be completed as follows;
 - Arborists will avoid crosscutting in proximity to cavities, hollow sections and other crevices suitable for roosting bats.

 - Sections containing cavities will be lowered to the ground, and left overnight with the cavity opening clear to provide any bats with an opportunity to escape.

 - The ECoW (suitably bat-licensed) will be available on site or on call, to provide advice and/or deal with any last-minute discoveries. Site arborists will be provided with the contact information of the ecological consultant and have the details to hand during site works.

 - If a roosting bat(s) is found during tree felling, tree works **must** cease immediately. The arborist must then contact the ECoW for further advice.

2.9 Vegetation Removal / Site Clearance

Prior to construction and ground-clearance activities, removal of tall vegetation (e.g. rough grassland) will follow a precautionary approach to avoid the incidental killing or injuring of amphibians, reptiles or other vulnerable fauna and ensure compliance with wildlife legislation (e.g. Wildlife and Countryside Act 1981, etc.). Full details of the mitigation strategy is provided in the EMES (Focus Environmental Consultants, 2022) where prescriptions include a phased cutting programme for vegetation.

2.6 Monitoring

The ECoW will keep in contact (via telephone / email) with the Construction Manager / client throughout the construction works to ensure compliance with the CEMP. Any breaches of the CEMP will be brought to the attention of the Construction Manager / client and remedial action will be implemented.

3. ECOLOGICAL CONSTRUCTION MANAGEMENT PLAN

This Construction Environmental Management Plan is to be adhered to during all construction phases of the development. Further projects may be added as necessary.

KEY: ECoW = Ecological Clerk of Works (Focus Environmental Consultants); LA = Landscape Architects; DC = Development Contractor; MC= Maintenance Contractor, SO = Site Owner; A = Arboriculturalist;

Table 1: List of ecological projects with details of appropriate prescriptions, timings, responsibilities and frequency of activity.

Project	Prescriptions	Action	Action by	Date
1. CONSTRUCTION PRACTICES				
<i>Tree & Hedgerow Protection & Arboriculture Works</i>	<i>'BS 5837: 2012 Trees in relation to design, demolition and construction'</i> implemented on site in order to ensure that retained trees and hedgerows are protected adequately from construction-related damage.	Install protective fencing around retained trees and hedgerows within construction zone as per BS guidelines. Please see the Arboricultural Method Statement (AWA Tree Consultants, 2018) for further details in regards to the Root Protection Areas. Tree and hedgerow works (e.g. limb removal, crown reduction, pollarding) must be done outside of the bird nesting season (March – August inclusive) or otherwise only after being checked for nesting birds by the ECoW.	DC; A; ECoW	Prior to commencement of development works. Arboriculture works between September to February, or only after vegetation is checked beforehand for nesting birds by the ECoW.

Project	Prescriptions	Action	Action by	Date
<i>Site Personnel</i>	Instruction and training to site-based personnel carried out by the ECoW prior to works commencing.	An ECoW will be appointed to oversee the ecological aspects of the development during all construction phases. See Annex 4.2 for contact information. 'Tool-box talk' to site-based personnel to inform on agreed policies, recommendations and requirements to maintain environmental quality and minimise impacts during construction.	ECoW; DC	Prior to commencement of works.
<i>Pre-site Clearance Checks</i>	Pre-site clearance check for vulnerable fauna by the ECoW.	A pre-site clearance check by the ECoW will be undertaken before any ground clearance works or removal of vegetation to ensure that due attention is paid to the possible presence of protected and notable species. Please refer to the relevant sections below for specific species / faunal groups.	ECoW; DC	Prior to ground clearance works.
<i>Site Materials / Working Hours</i>	Avoidance of unnecessary disturbances to wildlife.	Restrict construction activities to the hours specified in the General Construction Environmental Method Statement (<i>i.e.</i> Monday – Friday 8:00 – 18:00, Saturday 8:00 – 13:00, no Sunday or bank holiday working permitted). Working outside this	DC	During construction. Installation of exclusion zones (fencing / signs) prior

Project	Prescriptions	Action	Action by	Date
		<p>time frame will only occur in exceptional circumstances and when no other option is available.</p> <p>Exclusion of construction materials and heavy machinery/vehicles from sensitive areas. Exclusion of construction operations unless authorised by the ECoW.</p> <p>Protection zones to be fenced off and notices to be erected to inform contractors and other personnel.</p> <p>Potential pollutants secured in appropriate containers.</p>		to commencement of works.
<i>Record Keeping</i>	Maintain records of habitat works.	Details of all habitat works undertaken, together with maps and photographs to be retained and appended to this document.	ECoW; LA; DC; A; SO	As required.
2. BATS				
<i>Mitigation measures for bats</i>	Precautionary approach to be carried out during demolition of B1.	<p>Removal of roof materials by hand by contractors.</p> <p>A licensed bat worker will remain '<u>on call</u>' during the development works.</p>	ECoW; DC	During demolition of B1.

Project	Prescriptions	Action	Action by	Date
		<p>In the event that a roosting bat(s) or evidence of an active bat roost is discovered at any stage of the development, works must cease <u>immediately</u> and the on call ecologist contacted, they will liaise with Natural England (as required) to advise on any licensing requirements to allow lawful completion of the work.</p>		
	<p>Further specialist survey work for bats required for removal of T8.</p>	<p>A specialist tree-climbing inspection of potential roost features (PRF's) for bats will be undertaken of T8 prior to removal by two suitably bat-licensed ecologists trained in tree-climbing.</p> <p>1) <i>If bats or evidence of bats (e.g. droppings) is discovered or a full inspection of the PRFs cannot be carried out via tree-climbing, then further survey work (dusk / dawn surveys) will be required to determine the presence / absence of roosting bats within this tree and / or characterise the roost(s). The</i></p>	<p>ECoW; A</p>	<p>Prior to removal of T8.</p>

Project	Prescriptions	Action	Action by	Date
		<p>results will be used to inform appropriate mitigation / compensation / licensing requirements.</p> <p>2) If bats are confirmed as absent, T8 will be section felled, as per the guidance within Section 2.8. The ECoW (suitably bat-licensed) will be available on site <u>or</u> on call, to provide advice and/or deal with any last-minute discoveries.</p> <p>If a roosting bat(s) is found during tree felling, tree works <u>must</u> cease immediately. The arborist must then contact the ECoW for further advice.</p>		
	Implementation of lighting scheme sensitive to bats.	Minimal and low-level lighting to be implemented during construction and to be incorporated into the design post-development. Lighting will be directed away from new bat roosting features (e.g. bat boxes) and suitable foraging and navigating habitat (e.g. hedgerows and trees).	LA; DC; ECoW	During construction and post-development.

Project	Prescriptions	Action	Action by	Date
3. BIRDS				
<i>Mitigation Measures for wild birds</i>	Sensitive timing of arboriculture works to avoid bird nesting season.	Any arboriculture works and/or removal of hedgerows/buildings should be undertaken outside of the bird nesting season (March – August inclusive) or otherwise only after being checked for nesting birds by the ECoW. Active nests will be left undisturbed until young have fledged, as advised by the ECoW.	ECoW; A; MC	As required, between September to February, or only after vegetation is checked beforehand for nesting birds by the ECoW.
4. REPTILES AND AMPHIBIANS				
<i>Mitigation measures for reptiles and amphibians</i>	Implementation of precautionary measures during construction.	At least one week prior to any vegetation stripping / ground clearance, any tall vegetation to be removed will be cut in phases to progressively reduce the height and encourage any resident wildlife to disperse away from the future construction zone. Clearance will be undertaken by hand-tools only (e.g. strimmer). Following the completion of the phased vegetation cutting the site will be immediately stripped of vegetation to bare earth and / or made inhospitable for wildlife through maintaining the vegetation at a	ECoW; DC; MC	Prior to site clearance activities.

Project	Prescriptions	Action	Action by	Date
		<p>sward height of no more than 50mm until construction is complete.</p> <p>Please refer to the EMES (Focus Environmental Consultants, 2022) for full details of the mitigation strategy.</p>		
5. OTHER PROTECTED / NOTABLE WILDLIFE				
<p><i>5.1 Mitigation Measures for Badgers & Other Mammals</i></p>	<p>Implementation of precautionary measures during construction.</p>	<p>Implement measures to avoid unnecessary disturbance or harm to vulnerable fauna:</p> <ul style="list-style-type: none"> • Machinery to be made safe or temporarily fenced off when not in use. • Covering of trenches / excavations and open pipe systems / ducts at the end of the day, or provision of a ramp ($\leq 45^\circ$ in angle). • Checking of open excavations left overnight for animals prior to the continuation of works. Back filling of excavations as an on-going process where possible. 	<p>DC</p>	<p>During construction.</p>

Project	Prescriptions	Action	Action by	Date
		<ul style="list-style-type: none"> Vertebrate fauna encountered during works to be transferred by hand to a safe location in similar habitat. <p>Further details are provided in Section 2.4.</p> <p>Should any protected species be found during any part of the development, works within this area <u>will cease immediately</u> and the ECoW will be contacted for advice. Any injured animals found during works will be taken to an appropriate wildlife hospital or centre for relocation</p>		
6. GENERAL				
<i>6.1 Condition Monitoring</i>	Undertake ecological monitoring of the habitats within the site.	Monitoring visit to be undertaken by ECoW and short report produced with habitat condition assessment and species lists and any recommendations for remedial actions / active management.	ECoW; MC	Within 6 months following completion of works.
<i>6.2 Record Keeping</i>	Maintain records of habitat works.	Details of all habitat works undertaken, together with maps and photographs to be retained and appended to this document.	ECoW; LA; DC; A; MC	As required.

4. ANNEXES

4.1 Plans

4.2 Contact Information

4.3 References & Bibliography

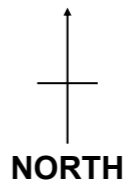
4.4 Legislation & Best Practice

4.1 Plans

Plans:

4.1.1 Location Plan

4.1.1. Location Plan



Client: GreenSquare Homes Ltd
Site: Land at Tappers Farm, Oxford Road, Bodicote, Banbury, OX16 9HA
Title: Location Plan
Contract: 2257
Date: September 2022

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4.2 Contact Information

4.2.1 Ecological Clerk of Works (ECoW)

Name: Focus Environmental Consultants

Contact: Cassie Needham (Senior Ecologist) / Natalie Walsh (Associate Ecologist)

Contact No: 01905 780700

Address: Unit 2, Ball Mill Top Business Park, Worcester, WR2 6PD

4.2.2 Natural England

In the unlikely event that any protected species are identified during the works, works must cease immediately and consultation held with the ECoW. Where necessary, the ECoW will liaise with Natural England to agree and implement any licensing requirements before proceeding.

Contact No: 0300 060 3900

Copies of this document and all associated ecological reports relevant to site works, relevant planning conditions will be kept in the site office, printed, bound and placed in a clearly labelled folder, so they are available to refer to at any time. The location of these documents will be made clear during the ‘tool box talk’ prior to the commencement of any works on-site.

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4.4 Legislation & Best Practice

4.4.1 The Environment Act 2021

The Environment Act 2021 is a far-reaching Act of parliament, which received Royal Assent on 9th November 2021 and took a number of years to come into force. It is described by the Chartered Institute of Ecology and Environmental Management as ‘world leading’ legislation and has the primary focus of providing targets, plans and policies for improving the natural environment. In implementing the Act, the Secretary of State is required to set long-term targets for a number of priority areas including: air quality, water, biodiversity, resource efficiency and waste reduction. Schedule 14 of the Act establishes a mandatory requirement for all developments to secure a 10% net gain in biodiversity, with a few exceptions such as ‘permitted development’ and marine and intertidal developments. Schedule 14 of the Act details the required amendment of the Town and Country Planning Act 1990 (inserting a new s.90A and Schedule 7A) with respect to ‘normal’ development. Schedule 15 describes amendments to the Planning Act 2008 with respect to Nationally Significant Infrastructure Projects, inserting a new s.99 and Schedule 2A.

The measurement of baseline and post-development biodiversity figures involves the use of the most up to date version of the state-sponsored ‘biodiversity metric’. A ‘small sites’ metric is available for sites of up to 0.5ha in size supporting 1 - 9 residential units or for other forms of development, with a floorspace of less than 5000m² and in both cases without priority habitats being present (with the exception of hedgerows and arable field margins). The mandatory 10% biodiversity net gain requirement described by the Act will not be mandatory until November 2023, although may be still be required by local plan policy in the intervening period. Other matters covered by the Environment Act are the creation of a Biodiversity Gain Site Register, the provision of Biodiversity Credits, the establishment of the Office for Environmental Protection (OEP) and the establishment of Local Nature Recovery Strategies. The Act further strengthens the biodiversity duty enshrined within s.40 of the Natural Environment and Rural Communities Act 2006, requiring not only the conservation of biodiversity but also its ‘enhancement’.

4.4.2 The Conservation of Habitats and Species Regulations 2017 (as amended)

<http://www.legislation.gov.uk/uk/si/2010/490/contents/made>

These regulations, referred hereafter as “the Habitats Regulations”, represent the primary method by which Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the “Habitats Directive”) is transposed for England and Wales and their territorial seas. The Habitats Directive, in conjunction with the Birds Directive (Council Directive 2009/147/EEC) forms the basis for implementation of Europe’s nature conservation policy through both habitat and species level protection. The Habitats Directive requires the designation of strictly protected European sites known as Special Areas of Conservation (SACs). Together with the Special Protection Areas (SPAs) established by the Birds Directive, these collectively form the Natura 2000 Network of protected sites. The Habitats Directive also requires the strict protection of animals and plants of Community Interest

listed under Annex IV. Habitat types requiring strict protection as SACs are listed under Annex I. The conservation of animals and plants listed under Annex II requires the designation of SACs.

The Habitats Regulations require that public bodies must exercise their nature conservation responsibilities to ensure compliance with the Habitats Directive. These regulations also require the conservation of natural habitats and habitats of species through the selection, designation and notification of marine and terrestrial 'European Sites' to be afforded protection under the Habitats Directive. The habitats and species of European Importance are listed under Annexes I and II of the Habitats Directive. The regulations also contain provision for the appropriate management of these European Sites including the control of damaging operations, special nature conservation orders and restoration orders, for example. The Habitats Regulations afford strict protection to European Protected Species of animals under Schedule 2 and plants under Schedule 5. Offences (subject to certain exceptions) include the deliberate capture, killing, disturbance or trade in these animals. Similarly plants listed under Schedule 5 are protected (subject to exceptions) from picking, collection, cutting, destruction or trade.

4.4.3 The Wildlife and Countryside Act 1981 (as amended)

While the Habitats Regulations provide the basis for nature conservation policy in Europe, the Wildlife and Countryside Act 1981 (as amended) (WCA) is still a major mechanism for the legislative protection of wildlife and countryside/national parks in the UK. The WCA, and its various amendments, draw on from pre-existing legislation and support the Habitats Regulations in implementing the Bern Convention (1979) and Directive 2009/147/EC on the conservation of wild birds. Schedules within the WCA provide a list of protected species and habitats, in addition to prohibited actions. Further details are provided below for specific species relevant to the report. The WCA also contains measures for controlling invasive non-native species and amendments to a number of laws, including in relation to public rights of way.

4.4.4 The Countryside and Rights of Way (CROW) Act 2000

The CROW Act amends existing WCA legislation in accordance with the 1992 Convention on Biological Diversity (Rio Earth Summit). The Act applies to England and Wales only and encompasses public access, rights of way, nature conservation and Areas of Outstanding Natural Beauty (AONBs). Schedule 9 of the Act provides increased powers for the protection and management of SSSIs while Schedule 12 strengthens the legal protection for protected species via arrestable offences and heavier penalties.

4.4.5 The Natural Environment and Rural Communities (NERC) Act 2006

The Natural Environment and Rural Communities Act imposes a *Biodiversity Duty* (S.40) on all public bodies to conserve biodiversity at both species and habitat levels (S40). "*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.*"

S.41 of the Act requires the publication of a list of “*living organisms and types of habitat which in the Secretary of State’s opinion are of principal importance for the purpose of conserving biodiversity.*” The list generated under S.41 of the Act contains a number of types of habitats and species of animal and plant that have the potential to be affected by development projects of a range of sizes and impacts.

S.47 of the Act establishes special protection for the nest sites of certain birds that are known to re-use their nests and creates an additional Schedule containing these birds, namely golden eagle, white-tailed eagle and osprey. It is an offence to take, damage or destroy the nest of these three birds at any time.

The Act also establishes Natural England as the independent body “to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development”. 943 species and 56 habitats of principal importance are included on the S41 list as guidance for public bodies on decisions that affect biodiversity.

4.4.6 The Hedgerow Regulations 1997

On 1 June 1997, the Hedgerow Regulations came into force under section 97 of the Environment Act 1995 to address the dramatic decline in UK hedgerows. The regulations protect important hedgerows by limiting removal through a system of notification via local planning authorities.

The regulations are aimed at countryside hedgerows in England and Wales “on or adjoining, common land, village greens, Site of Special Scientific Interest (which include National Nature Reserves, Special Protection Areas under the Birds Directive and Special Areas of Conservation under the Habitats Directive), Local Nature Reserves, or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys” (Section 3.6).

Written permission is required from the local planning authority before the removal of any hedgerow over 20 metres and more than 30 years old. Hedgerows less than 20 metres long may also be considered if they form part of a continuous network of hedges. Garden hedges, however, are not protected. Once the LPA has received a written request they will issue either a Hedgerow Retention or Hedgerow Removal Notice within 42 days depending on whether they define the hedgerow as *important* or not. This is determined by the following;

- “They have been in existence 30 years or more; and”
- “They satisfy at least one of the criteria set out in Part II of Schedule 1 of the Regulations.”

Exemptions to the Regulations fall into three categories:

- “small scale works;”
- “works approved under other procedures which ensure careful assessment and consideration of the impact on the local environment; and”

- “works authorised under other legislation which justify the removal of a hedgerow without first establishing its importance.”

It is an offence to remove a hedgerow subject to a retention notice, or to remove a hedgerow protected under the Hedgerow Regulations without first obtaining the required removal notice.

4.4.7 The UK Post-2010 Biodiversity Framework

As of 17 July 2012, the UK Post-2012 Biodiversity Framework replaced the UK level Biodiversity Action Plan to deliver the outcomes of the Government’s Biodiversity 2020 Strategy. This was in response to the 2011 EU Biodiversity Strategy (EUBS) and the 2010 United Nations Convention on Biological Diversity (CBD) whereby five “*Aichi*’ *strategic goals and supporting targets*” have been internationally agreed.

The UK Framework is a collaborative effort between Defra and JNCC on behalf of the Four Countries’ Biodiversity Group to achieve the ‘*Aichi*’ strategic goals through focused supporting targets and follows on from policies contained within the Natural Environment White Paper (2011).

4.4.8 National Planning Policy Framework

The National Planning Policy Framework (NPPF) was most recently updated on 20 July 2021. The NPPF sets out the government’s planning policies for England and how these are expected to be applied. This framework acts as guidance for planning authorities (LPAs) in England to form Local Plan policies in favour of sustainable development as part of the government’s reforms to increase the accessibility of the planning system and promote long term sustainable growth. Along with the Circular 06/205, the NPPF consolidates the Planning Policy Statements and Guidance Notes, many of which are now obsolete, including *Planning Policy Statement 9: Biodiversity and Geological Conservation (PPS9)*.

The framework states that “*planning policies and decisions should contribute to and enhance the local environment*” (paragraph 174).

Chapter 15 of the framework focusses on habitats and biodiversity. Specifically, paragraph 180 states: “*...when determining planning applications, local planning authorities should apply the following principles:*

- *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;*
- *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments)*

should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

- *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;*
- *development proposals whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

4.4.9 Circular 06/2005: Biodiversity and Geological Conservation

The Circular 06/2005 complements the NPPF by advising on how the law relates to planning and nature conservation in England, with particular reference to designated sites and protected species;

“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision” (Paragraph 99).

However, *“developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.”*

Part IV also reminds LPAs and developers that licences and mitigation measures may be required in addition to planning permissions if protected species are to be affected by the development. *“The breach of protected species legislation can often give rise to a criminal offence” (Paragraph 101).*

4.4.10 BS42020:2013 Biodiversity. Code of Practice for Planning and Development

BS 42020 was developed by BSI with input from a variety of organisations (in all sectors) and experts in the field of biodiversity. It is fundamentally engaged with the incorporation of biodiversity into all stages of the planning process. The standard identifies a suite of recommendations and advice to ensure that decision-making and activities undertaken from inception to fruition of planning applications are adequately informed by appropriate and robust ecological knowledge. BS42020 aims to:

- give decision-makers (and specifically planning authorities and other regulatory bodies) more confidence that the ecological audits and assessment of impact on biodiversity provided in support of development proposals is fit for purpose;
- encourage greater consistency and transparency in the quality, scientific robustness and transparency of ecological reports that are submitted with planning applications and other forms of regulatory approval; and
- foster an approach that is proportionate and retains and positive environmental legacy following development.

4.4.11 Bats

All British bats are “European Protected Species” (EPS) and listed on Annex II and Annex IV of the EC Habitats Directive. The Directive is transposed into UK law through the Conservation of Habitats and Species Regulations 2017 (as amended). The following actions affecting bats are prohibited under the legislation:

- deliberate capture, injury or killing of a bat;
- deliberate disturbance of a bat and in particular disturbance which is likely to impair their ability:
 - to survive, to breed or reproduce, or to rear or nurture their young, or
 - in the case of animals of a hibernating or migratory species, to hibernate or migrate;
 - or to affect significantly the local distribution or abundance of the species to which they belong.
- damage or destruction of a breeding site or resting place;
- possessing, controlling transporting, selling or exchanging, or offering for sale or exchange, any bat or any part of a bat or anything derived from one.

Bats are also afforded protection from intentional or reckless ‘disturbance’ by the Wildlife and Countryside Act 1981 (as amended). The deliberate or reckless obstruction of access to a structure or place used by bats for shelter and protection is also an offence under the Act.

4.4.12 Badgers

Badgers and their setts are protected by the Protection of Badgers Act 1992 (as amended). This makes it an offence to wilfully kill, injure or take a badger or interfere with a badger sett through damaging the sett, destroying the sett, obstructing access to a sett, causing a dog to enter the sett or disturbing a badger occupying a sett.

4.4.13 Birds

All wild birds in the UK are afforded protection under the Wildlife and Countryside Act 1981 (as amended). This protection includes killing, injuring or taking wild birds as well as taking, damaging or destroying bird nests in use or being built, and taking or destroying eggs. Birds listed under Schedule 1 of the Act are afforded additional protection from disturbance during nesting and offences relating to

these birds are subject to special penalties. The nest sites of birds listed under Schedule ZA1 of the act (golden eagle, white-tailed eagle and osprey) are afforded strict, year-round protection even when the nests are not in active use.

A small number of derogated bird species, principally members of the genus *Corvus* (crows), *Larus* (gulls) and *Columba* (pigeons), may be killed by authorised persons (landowner/occupier or otherwise authorised by the landowner or relevant conservation body or fisheries board) under a 'general licence'. The general licence is issued by Natural England (in the case of English usage). The general licence can only be exercised for reasons of preserving public health or public safety and cannot be lawfully used in the case of damage to property or nuisance.

4.4.14 Great Crested Newts

The great crested newt (*Triturus cristatus*) (Laurenti, 1758), is a "European Protected Species" (EPS) and listed on Annex II and Annex IV of the EC Habitats Directive. The Directive is transposed into UK law through the Conservation of Habitats and Species Regulations 2017 (as amended). The following actions affecting great crested newts are prohibited under the legislation:

- deliberate capture, injury or killing of a great crested newt;
- deliberate disturbance of a great crested newt and in particular disturbance which is likely to impair their ability:
 - to survive, to breed or reproduce, or to rear or nurture their young, or
 - in the case of animals of a hibernating or migratory species, to hibernate or migrate;
 - or to affect significantly the local distribution or abundance of the species to which they belong.
- damage or destruction of a breeding site or resting place;
- possessing, controlling transporting, selling or exchanging, or offering for sale or exchange, any great crested newt, any part of a great crested newt or anything derived from one.

Great crested newts are also afforded protection from intentional or reckless 'disturbance' by the Wildlife and Countryside Act 1981 (as amended). The deliberate or reckless obstruction of access to a structure or place used by great crested newts for shelter and protection is also an offence under the Act. This applies to both aquatic and terrestrial habitat.

4.4.15 Reptiles

All common reptile species (grass snake, adder, common lizard and slow-worm) native to Britain are protected by Schedule 5 the Wildlife & Countryside Act, 1981 (as amended). It is illegal to:

- deliberately kill, injure a reptile or
- sale, barter, exchange, transport for sale and advertising to sell or to buy a reptile.
- In Northern Ireland they are fully protected against killing, injuring, capturing, disturbance, possession or trade.

In addition, sand lizard and smooth snake are protected under Conservation of Habitats and Species Regulations 2017 (as amended). The following actions affecting these reptiles are prohibited under the legislation:

- deliberate capture, injury or killing;
- deliberate disturbance and in particular disturbance which is likely to impair their ability:
 - to survive, to breed or reproduce, or to rear or nurture their young, or
 - in the case of animals of a hibernating or migratory species, to hibernate or migrate;
 - or to affect significantly the local distribution or abundance of the species to which they belong.
- damage or destruction of a breeding site or resting place;
- possessing, controlling transporting, selling or exchanging, or offering for sale or exchange, these reptiles or anything derived from them.

Sand lizards and smooth snakes are also afforded protection from intentional or reckless 'disturbance' by the Wildlife and Countryside Act 1981 (as amended). The deliberate or reckless obstruction of access to a structure or place used by these reptiles for shelter and protection is also an offence under the Act.

5. QUALIFICATIONS & EXPERIENCE

Focus Environmental Consultants® has the expertise to provide sure-fire environmental solutions to a wide range of projects. The company ethos forges the highest standards of professional scientific practice with a best value approach for our clients. Our core area of expertise is in the production of specialist environmental reports and advice to support planning applications. Our comprehensive services include Preliminary Ecological Appraisals (PEA), Ecological Impact Assessment (EclA), Habitat Regulations Assessment (HRA) and fulfilling protected species surveys, licensing and mitigation requirements. Focus Environmental Consultants is a CIEEM Registered Practice, with all ecological staff being members of this professional body. Our flexible approach, range of skills and broad project experience from major infrastructure contracts to small private developments allows us to adapt to your individual requirements. As well as offering a full suite of ecological services, Focus Environmental Consultants can provide expert arboricultural advice and reports and is building an enviable reputation for innovative habitat creation and management solutions. Focus Environmental Consultants is situated in Worcestershire, providing a convenient and central UK location.

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Cassie is a Senior Ecologist with over nine years of experience in the ecological consultancy field. Prior to joining the company, she assisted on a number of large projects nationwide with two leading ecological consultancies. She holds a BSc (Hons) degree in Geography with Ecology from the University of Sussex and an MSc in Conservation from University College London. Cassie is experienced in conducting Preliminary Ecological Appraisals as well as surveys for protected species; great crested newts, reptiles, white-clawed crayfish, bats, hazel dormice and water voles. She also holds Natural England survey licences for bats (Class 2), great crested newts, hazel dormice and white-clawed crayfish and is a Certificated Surveyor in Japanese Knotweed. Cassie is a Full member of the Chartered Institute of Ecology and Environmental Management (CIEEM).

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