



Date: 12/01/2023

Our reference: 509168/NW/001

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Woking, Surrey, GU24 0JN

01483 795449

By email: planningdm@spelthorne.gov.uk

planning@surreywt.org.uk
surreywildlifetrust.org/planning

Dear Paul Tomson / Kelly Walker,

Planning reference: 22/01615/OUT

Proposals: Outline application with approval sought for scale, access and siting, with details of appearance and landscaping reserved, for the demolition of existing buildings and structures, removal of waste transfer facility and the redevelopment of the site for up to 80 residential units and the provision of open space and a play area, plus associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes.

Site Address: Bugle Nurseries, Upper Halliford Road, Shepperton, TW17 8SN

Thank you for consulting Surrey Wildlife Trust Ecology Planning Advice Service with regards to the above planning application. Our advice is restricted to ecological issues, and does not prejudice further representation Surrey Wildlife Trust may make as a non-statutory organisation on related, or other, issues. We also do not comment on whether a planning application should be granted, or refused, but rather provide a technical review of the ecological information that has been submitted to ensure that all ecological aspects have been appropriately considered prior to determination or discharging of conditions.

The Local Planning Authority (LPA) has a duty to conserve biodiversity in line with the planning and legislative context. Relevant legislation and planning policies are detailed in Appendix 1. We have reviewed the relevant application documents submitted on the planning portal, and other relevant publicly available information, and assessed these against published best practice guidance to determine whether submitted information was sufficient in order for the LPA to assess the planning application. Following this, we assessed the proposals against relevant legislation and planning policy and recommended appropriate course of action to ensure the LPA is fulfilling its duty to conserve biodiversity.

This consultation response is valid for one year. Should further project information or amended designs be provided or submitted to the planning portal, then we may need to update our response accordingly.

Our advice and recommendations are detailed below.

We have reviewed the following reports:

- Arboricultural Survey, Delta Simons, November 2022
- Biodiversity Net Gain Assessment, Delta Simons, November 2022
- Design & Access Statement, tp bennett, 14.11.2022
- Ecological Impact Assessment (EclA), Delta Simons, November 2022



- Existing Site Plan, tp bennett, 04.10.2018
- Indicative Proposed Coloured Site Plan, tp bennett, 22.07.2021

Summary of Recommendations

A summary of our advice and recommendations is provided in Table 1. The detail is provided further in this document. Please let us know if you would like to discuss any of these further.

Table 1 Summary of Recommendations Table

Planning Stage	Recommendation
Prior to determination	Additional clarification on ground level assessment of trees for bats Assessment of the potential of the site for hazel dormouse Further qualitative and quantitative information for great crested newt Further presence / absence survey for reptiles
Prior to commencement	Provision of a sensitive lighting plan Secure biodiversity net gain Provision of a Landscape and Ecological Management Plan (LEMP) Provision of a Construction Environmental Management Plan (CEMP)
Prior to occupation	N/A
General Recommendations / Informatives	Consideration of badgers and nesting birds (include in CEMP) Implement the recommended precautionary measures for bats and buildings (include in CEMP) Impacted trees with low bat roost potential should be soft felled (include in CEMP) Incorporate biodiversity enhancements

Protected species - badger

The legal protection afforded to badger is presented in Appendix 1.

The above referenced report has identified the likely absence of active badger setts within and adjacent to the development site. However, signs of badger activity have been identified within the development site and so badgers are known to be present locally.

The applicant should ensure that construction activities on site have regard to the potential presence of terrestrial mammals to ensure that these species do not become trapped in trenches, culverts or pipes. All trenches left open overnight should include a means of escape for any animals that may fall in.

If badger activity is detected, works should cease and advice from a suitably experienced ecologist sought to prevent harm to this species.

Protected species - bats

The legal protection afforded to bats is presented in Appendix 1.

The applicant should be made aware of the requirement for them to apply for a bat mitigation licence from Natural England where development activities may cause an offence. The licence can only be applied for once planning permission has been granted.

Buildings

The above referenced report appears appropriate in scope and methodology and has identified the likely absence of active bat roosts within the development site, although it is noted that in 2022 there was a constraint to the bat surveys in that internal access into the buildings was not possible. A survey in 2018 did identify a roost of a single soprano pipistrelle in building 4, however presence/absence surveys in 2020 and again in 2022 did not record any bats emerging from this building; therefore the ecologist's conclusion that this roost is no longer present seems reasonable.

We therefore advise that bats do not appear to present a constraint to the proposed development.

However, bats are highly mobile and move roost sites frequently. Unidentified bat roosts may still present. **We recommend that the precautionary approach to works for bats, as detailed in Section 5.2.4 of the above referenced EclA report, to include a pre-demolition bat emergence / return to roost survey, should therefore be implemented.**

In line with the NPPF (2021), paragraph 179, the applicant should therefore be encouraged to incorporate bat roosting opportunities as integral design features within the built development.

Trees

The above referenced report identifies a number of trees, some of which may be recommended for removal which have potential bat roost feature. The report notes that the trees identified with bat roost features (including T5 and part of TG25) were assessed as having low bat roosting potential. However, an Ash tree (T20) with a split has not been inspected so the bat roosting potential of this tree is not known and an unidentified tree with moderate bat roosting suitability was subject to an aerial inspection in 2018 that found the crack to be superficial and it was concluded that it was '*not suitable to support roosting bats currently*'; the bat potential of these trees should be clarified. Trees with low bat roost potential can be soft felled however, trees with moderate and high potential require two and three bat presence/absence surveys respectively.

Although some information is provided with regards to trees and bats, it is not clear whether all the trees on site (a number of which are to be removed) have been subject to a detailed updated bat roost potential evaluation (i.e. in the 2022 survey).

The development site and adjacent areas offer optimal habitat for bat roosting, foraging and commuting. The proposed development would appear to result in works to these trees which would result in loss or disturbance to active bat roosts where present. There is therefore a reasonable likelihood of bats being present and affected by the proposed development.

Should be LPA be minded to grant permission for the proposed development, we recommend that the LPA seeks clarification as to whether all trees have been subject to an updated bat preliminary ground level roost assessment, undertaken by a suitably experienced ecologist in line with best practice guidance, and the bat potential of trees T20 and the unidentified tree with a split should be clarified prior to determination.

Sensitive Lighting

Nocturnal species including bats are known to be present at the development site. These species are sensitive to any increase in artificial lighting of their roosting and foraging places and commuting routes.

Paragraph 185 of the NPPF (2021) states that planning policies and decisions should "*limit the impact of light pollution from artificial light on ... dark landscapes and nature conservation.*"

The applicant should ensure that the proposed development will result in no net increase in external artificial lighting at primary bat foraging and commuting routes across the development site, in order to comply with above referenced legislation and the recommendations in BCT & ILP (2018) Guidance Note 08/18. Bats and artificial lighting in the UK. Bats and the Built Environment. Bat Conservation Trust, London & Institution of Lighting Professionals, Rugby”.

We advise that compliance with this best practice guidance is secured through a Sensitive Lighting Management Plan submitted to the LPA for approval in writing prior to commencement of development.

Protected Species – Breeding birds

The legal protection afforded to birds is detailed in Appendix 1.

The applicant should take action to ensure that development activities such as vegetation or site clearance are timed to avoid the bird nest season of early March to August inclusive.

If this is not possible and only small areas of dense vegetation are affected, the site could be inspected for active nests by an ecologist within 24 hours of any clearance works. If any active nests are found they should be left undisturbed with a buffer zone around them, until it can be confirmed by an ecologist that the nest is no longer in use.

Note: There is contradictory recommendations within the EclA report for building demolition outside the breeding bird season, to avoid harm to nesting birds, but between April and October, to avoid the hibernation season for bats. We recommend this advice be clarified; updated recommendations should be included within a Construction Environment Management Plan (CEMP).

Protected Species – hazel dormouse

The legal protection afforded to hazel dormouse is detailed in Appendix 1.

The applicant should be made aware of the requirement for them to apply for a hazel dormouse mitigation licence from Natural England where development activities may cause an offence. The licence can only be applied for once planning permission has been granted.

The proposed development appears to affect suitable habitat for hazel dormouse, e.g. hedgerows and scrub. The ecologist does not appear to have considered this species and has not submitted any supporting information as to the potential presence or likely absence of hazel dormouse at the development site. The biodiversity net gain assessment also details a net loss in linear (i.e. hedgerow) units.

In line with the legislation and planning policy and guidance, detailed in Appendix 1, the LPA has a duty to consider impacts to hazel dormouse when assessing applications and due to the lack of surveys the LPA does not have sufficient information on which to base a decision under Regulation 55(9)(b). The LPA cannot be sure that the applicant will be able to maintain the population at favourable condition status as the presence of the species is not known and therefore appropriate avoidance, mitigation and compensation measures cannot be determined.

We advise that prior to determination of the current planning application, the LPA should require the applicant to provide an assessment of the potential of the site to support hazel dormouse in order to avoid contravention of above referenced legislation. If the information provided does not provide the LPA with confidence on

the presence/likely absence of hazel dormouse, and the potential for adverse impact, then further presence/likely absence surveys may be required.

Protected species – Great Crested Newt

The legal protection afforded to great crested newt is detailed in Appendix 1.

The applicant should be made aware of the requirement for them to apply for a great crested newt mitigation licence from Natural England where development activities may cause an offence. The licence can only be applied for once planning permission has been granted.

The proposed development appears to affect suitable great crested newt terrestrial habitat. The report has identified eight ponds within 500m of the site and has scoped the species out due to ‘*a lack of records and suitably connected ponds*’. However, although the nearest pond is described as being unsuitable, it does not appear that any of the ponds (including a new pond approximately 160m away from the site) have been formally assessed or surveyed for great crested newts.

There is therefore a reasonable likelihood of great crested newt being present and adversely affected by the proposed development. The applicant has not submitted any qualitative or quantitative information supporting information as to the potential presence or likely absence of great crested newt at the development site. Killing, injuring or disturbance of great crested newt present would be contrary to the above referenced legislation. It is therefore not known if the proposed development would result in breach of the above referenced legislation.

In line with the legislation and planning policy and guidance, detailed in Appendix 1, the LPA has a duty to consider impacts to newts when assessing applications and due to the lack of surveys the LPA does not have sufficient information on which to base a decision under Regulation 55(9)(b). The LPA cannot be sure that the applicant will be able to maintain the population at favourable condition status as the presence and status of the species is not known and therefore appropriate avoidance, mitigation and compensation measures cannot be demonstrated to be effective or appropriate.

We advise that prior to determination of the current planning application, the LPA should require the applicant to submit additional information regarding the potential presence of great crested newt in line with best practice guidance. If the information provided does not provide the LPA with confidence on the presence/likely absence of great crested newt, and the potential for adverse impact, then further presence/likely absence surveys may be required.

Protected species – European hedgehog

The protection afforded to European hedgehog is detailed in Appendix 1.

Measures to enhance sites of European hedgehog include:

- Ensuring the species can move across the landscape by creating gaps into all close-boarded fencing
- Creating habitat connectivity across the landscape
- Creating a wild corner with minimal habitat management
- Incorporating hedgehog homes into development.

Protected species - reptiles

The protection afforded to reptiles is presented in Appendix 1.

The above referenced report proposes that avoidance of adverse impacts to reptiles will be achieved through implementation of an impact avoidance and mitigation plan. However, in

absence of appropriate population size and diversity survey data, the applicant cannot know what mitigation is appropriate. Any mitigation plan implemented is not evidence based and cannot be demonstrated to be effective or appropriate. It is noted that the EclA report states ‘*Since the surveys.....scrub habitats have spread and colonised surrounding grasslands*’; presumably this is referring to the period since the 2018 and 2020 surveys indicating that the site in 2022 may now have increased suitability for reptiles.

The proposed development cannot, therefore, be seen to avoid killing or injuring of individuals or result in the restoration or enhancement of the local reptile population or their habitat.

We advise that prior to determination of the current planning application, the LPA should require the applicant to submit the additional reptile presence/likely absence surveys in line with best practice guidance.

Requirement to demonstrate a measurable biodiversity net gain

The requirement for the LPA to have regard for biodiversity net gain (BNG) is detailed in the NPPF (2021) in Appendix 1.

The above referenced biodiversity net gain report indicates that a BNG of +10.88% habitat units and -32.85% hedgerow units is achievable on the site; which seems realistic given the outline proposals. We would advise asking the applicant whether there is feasibility to retain hedgerow habitat or whether additional hedgerow planting could be incorporated into the design. The report details that the actual metric spreadsheet will be issued separately – but we have not seen this. We request a copy of this prior to determination.

We therefore advise that should the LPA be minded to approve this planning application they prepare a condition to secure the biodiversity net gain that has been identified in the biodiversity net gain assessment. This will be required prior to commencement.

Biodiversity Enhancements

Requirements for biodiversity enhancements required under the NPPF (2021) are detailed in Appendix 1.

This development offers opportunities to restore or enhance biodiversity and such measures will assist the LPA in meeting the above obligation and also help offset any localised harm to biodiversity caused by the development process. The development should progress in line with Section 5.4 of the above referenced EclA report and incorporate the following:

- Providing bird and bat boxes erected on or integral within the new buildings as detailed above.
- Habitat and log piles
- Using native species or species of known biodiversity benefit when planting new trees and shrubs, preferably of local provenance from seed collected, raised and grown only in the UK, suitable for site conditions and complimentary to surrounding natural habitat. Planting should focus on nectar-rich flowers and/or berries as these can also be of considerable value to wildlife.
- Enhancements for hedgehogs as outlined above.
- Appropriate design and management of the proposed open space to provide biodiversity enhancements.

Landscape and Ecological Management Plan (LEMP)

A Landscape and Ecological Management Plan (LEMP) details the management measures required to deliver the biodiversity net gain identified in the biodiversity net gain assessment.

Should the LPA be minded to grant planning permission for this proposed development, we recommend that the LPA requires the development to be implemented in accordance with an appropriately detailed landscape and ecological management plan (LEMP).

This document should be submitted to and approved in writing by the LPA prior to the commencement of development. The LEMP should be based on the proposed impact avoidance, mitigation and enhancement measures specified in the above referenced report and should include, but not be limited to following:

- a) Description and evaluation of features to be managed
- b) Ecological trends and constraints on site that might influence management
- c) Aims and objectives of management
- d) Appropriate management options for achieving aims and objectives
- e) Prescriptions for management actions, together with a plan of management compartments
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period
- g) Details of the body or organisation responsible for implementation of the plan
- h) Ongoing monitoring and remedial measures
- i) Legal and funding mechanisms by which the long-term implementation of the plan will be secured by the applicant with the management body(ies) responsible for its delivery.
- j) Monitoring strategy, including details of how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme

Construction Environmental Management Plan (CEMP)

Given the presence of ecological receptors on site, there is a risk of causing ecological harm resulting from construction activities. **Should the LPA be minded to grant permission for the proposal the applicant should be required to implement the development only in accordance with an appropriately detailed CEMP. This document will need to be submitted to and approved by the LPA in writing, prior to the commencement of the development.** The CEMP should include, but not be limited to:

- a) Map showing the location of all of the ecological features
- b) Risk assessment of the potentially damaging construction activities
- c) Practical measures to avoid and reduce impacts during construction
- d) Location and timing of works to avoid harm to biodiversity features
- e) Responsible persons and lines of communication
- f) Use of protected fences, exclusion barriers and warning signs.

I hope this information is helpful in assisting your consideration of the application. Please contact planning@surreywt.org.uk if you require any further clarifications with regards to the above.

Kind regards,

Author: Nicky Williamson BSc (Hons) MSc MCIEEM - Conservation Officer

Reviewer: Robert Hutchinson BSc (Hons) MSc MCIEEM – Manager of SWT Ecology Planning Advice Service

Appendix 1: National Planning Policy and Legislation

Conservation of Habitats and Species Regulations 2017 (as amended)

Provides for the protection of Natura 2000 sites (SACs, SPAs and Ramsar sites), European Protected Species and habitats. European Protected Species are protected from:

- Deliberate capture, injury or killing.
- Deliberate disturbance of a European Protected Species, such that it impairs their ability to breed, reproduce or rear their young, hibernate or migrate or significantly affect their local distribution or abundance.
- Deliberately take or destroy effect.
- Damage or destroy a breeding site or resting place.
- Keep, transport, sell or exchange any live, dead or part of a European Protected Species.

European Protected Species include, but are not limited to:

- Great crested newt
- Natterjack toad
- Otter
- Smooth snake
- Sand lizard
- All bat species
- Hazel dormouse

The LPA should be aware of its legal duty under Regulation 9(3) of Conservation of Habitats and Species Regulations 2017, as amended, which states that “*a competent authority in exercising any of its functions, must have regard to the requirements of the Directives so far as they may be affected by the exercise of those function*”.

Also, under Regulation 55 (9b) of the above regulations, the LPA must apply the following three tests when deciding whether to grant planning permission where a Protected Species (bats) may be harmed, in line with of the Conservation of Habitats and Species Regulations 2017, as amended.

- The activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative;
- Favourable conservation status of the species must be maintained.

Natural England has stated that they would expect these three tests to be adequately considered by the LPA before planning permission is granted. Natural England will require evidence from the applicant that the LPA has considered the three tests and how they were met, before a mitigation licence can be issued. Where a mitigation licence is required to avoid breach of legislation, development cannot proceed even where a valid planning permission is granted.

Wildlife and Countryside Act 1981 (as amended)

Key piece of legislation consolidating existing wildlife legislation to incorporate the requirements of the Bern Convention and Birds Directive. It includes additional protection measures for species listed under the Conservation of Habitats and Species Regulations 2017 (as amended) and includes a list of species protected under the Act. It also provides for the designation and protection of Sites of Special Scientific Interest (SSSI).

Development which would adversely affect a SSSI is not acceptable except only in special cases, where the importance of a development outweighs the impact on the SSSI when planning conditions or obligations would be used to mitigate the impact. Developments likely to impact on a SSSI will likely require an Environmental Impact Assessment (EIA).

The Impact Risk Zones (IRZs) dataset is a GIS tool which details zones around each SSSI according to the particular sensitivities of the features for which it is notified and specifies the types of development that have the potential to have adverse impacts. Natural England uses the IRZs to make an initial assessment of the likely risk of impacts on SSSIs and to quickly determine which consultations are unlikely to pose risks and which require more detailed consideration. Local Planning Authorities (LPAs) have a duty to consult Natural England before granting planning permission on any development that is in or likely to affect a SSSI.

Further information on specific legislation relating to species protected under the Wildlife and Countryside Act 1981 (as amended) is detailed below, under Protection of Protected Species and Habitats.

Environment Act (2021)

The Environment Act (2021) achieved Royal Assent in November 2021.

The Environment Act (2021) makes a provision for biodiversity net gain to be a condition of planning permission in England, however, it is not anticipated that a 10% biodiversity net gain will be mandatory until 2023. When it does become mandatory, planning applications will need to demonstrate a 10% biodiversity net gain can be met. A biodiversity net gain plan must be submitted and must include:

- (a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat
- (b) the pre-development biodiversity value of the onsite habitat,
- (c) the post-development biodiversity value of the onsite habitat,
- (d) any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development,
- (e) any biodiversity credits purchased for the development.

It should be noted however, that the NPPF (2021) as set out below does require a project to provide a measurable net gain for biodiversity.

Countryside and Right of Way Act 2000

Amends and strengthens the Wildlife and Countryside Act 1981 (as amended). It also details habitats and species for which conservation measures should be promoted.

Natural Environment and Rural Communities Act 2006

Section 40 of the Act places a duty on local planning authorities to conserve and enhance biodiversity in England whilst carrying out their normal functions. Section 41 comprises a list of Habitats of Principal Importance (HPIs) and Species of Principal Importance (SPIs) which should be considered.

The LPA will need to have particular regard to any relevant local nature recovery strategies, and any relevant species conservation strategy or protected site strategy prepared by Natural England.

Hedgerows Regulations 1997

Under these regulations it is an offence to intentionally or recklessly remove, or cause or permits another person to remove, a hedgerow. Important hedgerows are defined in Section

4 of the Regulations. This includes hedgerows that have existed for over 30 years or satisfies at least one criteria listed in Part II of Schedule 1.

Wild Mammals (Protection) Act 1996

Under this act wild mammals are protected from the intentional unnecessary suffering by crushing and asphyxiation.

ODPM Circular 06/05: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact within the Planning System (2005)

The Government's Office of the Deputy Prime Minister (ODPM) Circular 06/05 (ODPM 2005) presents the legal requirement for planning authorities with regard to statutory designated sites. Planning approval should not be granted where impacts to statutory designated sites that are not connected to the site maintenance for nature conservation, or will have a significant effect on the site's conservation objectives and/or affect the site's integrity. Permission may be granted if the proposed development overrides public interest.

The presence of a protected species is a material planning consideration. The Circular clearly outlines that 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 planning permission is granted. Otherwise, all relevant considerations may not have been addressed in making the decision.

Biodiversity Opportunity Areas (BOAs)

In order to assist in delivering the government's Biodiversity 2020 strategy, the Surrey Nature Partnership has identified seven BOAs where improved habitat management, habitat restoration and recreation of HPIs is the key focus to enhancing the connectivity of habitats for SPIs to deliver biodiversity objectives at a landscape scale. The location of these is presented in the South East Biodiversity Strategy's website. The project promotes a collaborative approach across a number of regional and local organisations.

Developments within or adjacent to BOAs should be designed in consideration of the BOA objectives, which are provided at:

- <https://surreynaturepartnership.org.uk/our-work/>

The BOAs include:

- Thames Basin Heaths comprising Chobham Common North & Wentworth Heaths, Chobham South Heaths, Colony Bog, Bagshot Heath & Deepcut Heaths, Ash, Brookwood & Whitmoor Heaths, Woking Heaths;
- Thames Basin Lowlands comprising Wanborough & Normandy, Woods & Meadows, Clandon to Bookham Parkland, Esher & Oxshott Commons, Ashted & Epsom Wood Pasture, Princes Coverts & Horton Country Park;
- Thames Valley comprising Windsor Great Park, Runnymede Meadows & Slope, Staines Moor & Shortwood Common, Thorpe & Shepperton, Molesey & Hersham;
- North Downs comprising North Downs Scarp; The Hog's Back, North Downs Scarp and Dip; Guildford to the Mole Gap, North Downs Scarp; Mole Gap to Reigate, North Downs; Epsom Downs, North Downs; Banstead Wood & Chipstead Downs, North Downs Scarp; Caterham, North Downs Scarp; Woldingham,
- Wealden Greensands comprising Puttenham & Crooksbury, Farnham Heaths, Thursley, Hankley & Frensham Heaths, Devil's punch-bowl & Hindhead Heaths, Hascombe, Winkworth & Hydon's Heath and Woodland, Blackheath, Chilworth & Farley Heaths, Winterfold & Hurtwood Greensand Ridge, Leith Hill, Wotton, Abinger &

Holmwood Greensand Ridge, Limpsfield Heaths, Reigate Heaths, Holmthorpe & Bay Pond

- Low Weald comprising Chiddingfold & West Weald Woodlands, Cranleigh Woodlands, Wallis Wood, Vann Lake & Ockley Woodland, Glover's Wood & Edolph's Copse, Newdigate Wood, Earlswood & Redhill Commons;
- River Valleys comprising Hogsmill, Eden Brook, River Blackwater, River Wey, River Mole, River Thames,

Protection of protected species and habitats

Amphibians

Natterjack toad, pool frog and great crested newt are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). They are also afforded additional protection under the Wildlife and Countryside Act 1981 (as amended).

Natterjack toad, common toad, great crested newt and northern pool frog are also SPIs.

Reptiles

Smooth snake and sand lizard are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). They are afforded additional protection under the Wildlife and Countryside Act 1981 (as amended).

Adder, grass snake, common lizard and slow-worm are all protected from killing and injury under the Wildlife and Countryside Act 1981 (as amended). All UK reptile species are SPIs.

Birds

All wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). This includes damage and destruction of their nests whilst in use, or construction. Species listed under Schedule 1 of the Act, such as barn owl, are afforded protection from disturbance during the nesting season.

The following 50 bird species are SPIs: lesser redpoll, aquatic warbler, marsh warbler, skylark, white-fronted goose, tree pipit, scaup, bittern, dark-bellied brent goose, stone-curlew, nightjar, hen harrier, northern harrier, hawfinch, corncrake, cuckoo, Bewick's swan, lesser spotted woodpecker, corn bunting, curl bunting, yellowhammer, reed bunting, red grouse, herring gull, black-tailed godwit, linnet, twite, Savi's warbler, grasshopper warbler, woodlark, common scoter, yellow wagtail, spotted flycatcher, curlew, house sparrow, tree sparrow, grey partridge, wood warbler, willow tit, marsh tit, dunnoek, Balearic shearwater, bullfinch, roseate tern, turtle dove, starling, black grouse, song thrush, ring ouzel and lapwing.

Badger

Badger is protected under the Protection of Badgers Act 1992. Under this legislation it is an offence to kill or injure a badger; to damage, destroy or block access to a badger sett; or to disturb badger in its sett. The Act also states the conditions for the Protection of Badgers licence requirements.

Bats

All bat species are protected under the Conservation of Habitats and Species Regulations 2017 (as amended), as detailed above. Bats are further protected under the Wildlife and Countryside Act 1981 (as amended), making it an offence to:

- Deliberately or recklessly damage or destroy any structure or place which bat(s) use for shelter or protection.

- Disturb bat(s) while occupying a structure or place which it uses for shelter or protection.
- Obstruct access to any structure or place which they use for shelter or protection.

Furthermore, seven bat species are SPIs, covered under Section 41 of the NERC Act 2006. These include western barbastelle, Bechstein's, noctule, soprano pipistrelle, brown long-eared, lesser horseshoe and greater horseshoe.

Hazel dormouse

Hazel dormouse is protected under the Conservation of Habitats and Species Regulations 2017 (as amended). It is afforded additional protection under the Wildlife and Countryside Act 1981 (as amended), including obstruction to a place of shelter or rest.

Hazel dormouse is also a SPI.

Hedgerow

Under the Hedgerows Regulations 1997 it is against the law to remove or destroy certain hedgerows without permission from the LPA, which are also the enforcement body for offences created by the Regulations. LPA permission is normally required before removing hedges that are at least 20 m in length, more than 30 years old and contain certain plant species. The authority will assess the importance of the hedgerow using criteria set out in the regulations. The regulations **do not** apply to hedgerows within the curtilage of, or marking a boundary of the curtilage of, a dwelling house.

Hedgerow is a HPI.

Otter

Otter is protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and is afforded additional protection under the Wildlife and Countryside Act 1981 (as amended). Otter is also a SPI.

Water vole

Water vole is fully protected from capture, killing or injury; damage, destruction or blocking access to a place of shelter; disturbance whilst in a place of shelter or possessing, selling any part of a water vole, dead or alive under the Wildlife and Countryside Act 1981 (as amended).

Water vole is also a SPI.

Other mammals

West European hedgehog, brown hare, mountain hare, pine marten, harvest mouse, polecat and red squirrel are all SPIs.

The following mammals are listed under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended): wildcat, brown hare (Schedule 5A), mountain hare (Schedule 5A), pine marten and red squirrel.

Invertebrates

Fifty-six terrestrial and freshwater invertebrate species are listed under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). These include Reddish buff, Norfolk hawk, Purple emperor, High brown fritillary, Northern brown argus, White-clawed crayfish, Pearl-bordered fritillary, DeFolin's lagoon snail, Chequered skipper, Fairy shrimp, Rainbow leaf beetle, New Forest cicada, Southern damselfly, Large heath, Small blue, Wartbiter, Fen raft spider, Ivell's sea anemone, Mountain ringlet, Ladybird spider, Marsh fritillary, Spangled diving beetle, Mole cricket, Field cricket, Duke of Burgundy, Silver-spotted skipper, Medicinal leech,

Lesser silver water beetle, Moccas beetle, Wood white, Violet click beetle, Large copper, Freshwater pearl mussel, heath fritillary, Glanville fritillary, Glutinous snail, Starlet sea anemone, Large tortoiseshell, Brackish hydroid, Swallowtail, Bembridge beetle, Barberry carpet, Silver-studded blue, Adonis blue, Chalk hill blue, Fiery clearwing, Sandbowl snail, Black hairstreak, White-letter hairstreak, Black-veined moth, Sussex emerald, Brown hairstreak, Northern hatchet-shell, Lulworth skipper, Tadpole shrimp, New Forest burnet.

A total of 398 invertebrates are Species of Principal Importance. These include: beetles (including stag beetle), butterflies (high brown fritillary, large heath, small blue, white-letter hairstreak, brown hairstreak, damselflies (southern damselfly), moths (marsh moth), ants, bees etc. Impacts to SPI must be considered by the LPA when assessing planning applications.

Non-native invasive plant species

Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) is a list of non-native plant species for which Section 14 of the Act applies. It is an offence to plant, or otherwise cause to grow in the wild species listed under Schedule 9 of the act. These include, but are not limited to:

- Himalayan balsam
- Cotoneaster sp.
- Japanese knotweed
- Giant hogweed

Habitats of Principal Importance

Section 41 of the NERC Act 2006 details 56 HPis, of which the following could be present in south-east England: Lowland calcareous grassland, Lowland dry acid grassland, Lowland meadows, Lowland Heathland, Open Mosaic Habitats on Previously Developed Land, Lowland fens, Lowland raised bog, Reedbeds, Lowland beech and yew woodland, Lowland mixed deciduous woodland and Wet woodland.

Impacts to HPI are of material planning consideration.

Ancient woodland and veteran trees

The NPPF 2021 states that 'Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss'. In addition, Natural England's standing advice for ancient woodland indicates that a 15 m buffer is retained between ancient woodland and any works or development. Ancient woodlands, and ancient and veteran trees, may also be protected by Tree Preservation Orders.

National Planning Policy Framework (2021)

Details the Government's planning policies for England and how these should be applied, particularly to contribute to the Government's commitment to halt the decline of biodiversity. When assessing planning applications, LPAs should have regard to conserving and enhancing biodiversity by applying a number of principals, including:

- Avoiding impacts to biodiversity through appropriate site selection.
- Mitigating residual impacts.
- Encouraging the preservation and enhancement of biodiversity.
- Preventing the development of protected sites, such as SSSIs.

- Refusing permission where habitats that cannot be recreated, such as ancient woodland, would be lost.
- Encouraging good design that limits light pollution.

Relevant paragraphs in the NPPF (2021) are detailed below.

Paragraph Number	Detail
174	<p>"Planning policies and decisions should contribute to and enhance the natural and local environment by...minimising impact on and providing net gains for biodiversity"</p> <p>Protection of sites of biological values</p> <p>Preventing new and existing development from adverse impacts to soil, air, water or noise</p> <p>Development should help improve local conditions</p>
175	<p>Maintenance and enhancement of networks of habitats and green infrastructure; plan for the enhancement of natural capital at a catchment or landscape scale</p>
179	<p>"To protect and enhance biodiversity and geodiversity, plans should:</p> <p>a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and</p> <p>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."</p>
180	<p>"When determining planning applications, local planning authorities should apply the following principles:</p> <p>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;</p> <p>b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;</p> <p>c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and</p> <p>d) development 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."</p>

Paragraph Number	Detail
185	<p>“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:</p> <p>...</p> <p>c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”</p>