



Date: 27/01/2023

Our reference: 146673/001/RH

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Woking, Surrey, GU24 0JN

01483 795449

By email: [tplan@elmbridge.gov.uk](mailto:tplan@elmbridge.gov.uk)

[planning@surreywt.org.uk](mailto:planning@surreywt.org.uk)  
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Dear Jack,

**Planning reference: 2022/3525**

**Proposals: Development comprising 3 detached buildings containing 74 residential units with underground and surface level car and cycle parking, mechanical plant, soft and hard landscaping and associated diversion of Thames Water pipe following demolition of existing buildings**

**Site Address: The Molesey Venture, Orchard Lane, East Molesey, KT8 0BN**

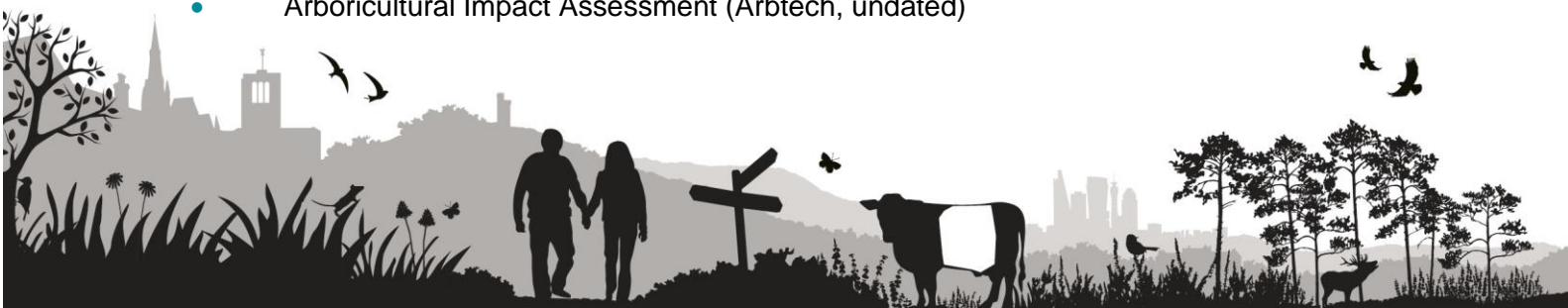
Thank you for consulting with Surrey Wildlife Trust with regards to the above planning application. Our advice is restricted to ecological issues, and does not prejudice further representation Surrey Wildlife Trust may make as a non-statutory organisation on related, or other, issues. We also do not 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.

Our advice and recommendations are detailed below.

We have reviewed the following reports:

- Preliminary Ecological Appraisal (Middlemarch, November 2022)
- Preliminary Bat Roost Assessment (Middlemarch, November 2022)
- Lighting Impact Assessment (DFL, November 2022)
- Invasive Species Method Statement (Middlemarch, November 2022)
- Herpetofauna Reasonable Avoidance Method Statement (Middlemarch, November 2022)
- Biodiversity Net Gain Assessment (Middlemarch, November 2022)
- Dusk Emergence & re-entry Bat Surveys (November 2022)
- Arboricultural Impact Assessment (Arbtech, undated)



- Proposed retention and tree removal plan.
- Construction Management Plan
- Planning Statement (Beamish Planning Consultancy, November 2022)

### 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	<p>Further Assessment for Southwest London Waterbodies SPA/SAC/RAMSAR/SSSI and Busy Park and Home Park SSSI</p> <p>Assessment for Priority Woodland Habitat identified by Natural England</p> <p>Herpetofauna Reasonable Avoidance Method Statement clarification(s) on approach</p> <p>More specific programme and methodology for invasive plants</p> <p>Confirmation of mitigation strategy for loss of one day soprano pipistrelle bat roost.</p>
Prior to commencement	TBC
General Recommendations	Bat mitigation licence required

### Designated Sites

Recommendation R1 in the Preliminary Ecological Appraisal states “*Southwest London Waterbodies and Busy Park and Home Park: The proposed development could potentially impact upon Southwest London Waterbodies SPA/SAC/Ramsar/SSSI. Further assessment should be undertaken to determine whether the proposed project could have a Likely Significant Effect on the qualifying criteria for this site and which, if any, stages of the Habitats Regulations Assessment process will need to be undertaken. Natural England should be consulted prior to any works commencing to discuss the likelihood of any impacts on this nature conservation site*”.

We understand that Natural England has stated that they consider the proposed development will not have likely significant effects and has no objection to the proposed development.

Whilst this consultation by Natural England is noted, the recommendation R1 – we have not seen the results of “*Further assessment should be undertaken...*” There appears to be no advance from this in later reports or submissions. **Therefore, we would advise that the further assessment is carried out by Middlemarch for Southwest London Waterbodies SPA/SAC/Ramsar/SSSI and Bushy Park and Home Park SSSI, prior to determination.**

Natural England note the presence of a ‘Priority Woodland Habitat’ adjacent to the site. In review of the Preliminary Ecological Appraisal, potential impact(s) to this habitat does not appear to have been carried out. **Therefore, we would advise that potential impacts are reviewed by the Applicant, prior to determination.**

### Bats

It is understood that 8 mature trees at the site’s northern boundary are to be removed by Thames Water to facilitate pipe works. A further ten trees across the site will be removed to

facilitate the residential redevelopment, resulting in a total loss of 18 trees. Section 2.2 of the Preliminary Bat Roost Assessment states “*A summary of the trees within the survey area without suitable features to support roosting bats (low and negligible suitability) is provided within the report. Due to their negligible potential to support roosting bats, the Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016) recommend no further survey work is required for these tree classes.*”

Based on this wording we have assumed that all trees have been surveyed, and that all trees have negligible suitability to support roosting bats. This is our assessment based on the above cited wording from the Preliminary Bat Roost Assessment. **If the LPA has any uncertainty over the wording, then we would advise that Middlemarch confirm whether all trees to be impacted have negligible suitability to support a bat roost, prior to determination.**

**Due to the presence of a soprano pipistrelle bat roost within Building B2, we would advise that if the LPA grant the planning application, the Applicant is required to obtain a bat mitigation licence, in line with the advice of a suitably qualified ecologist.**

**Section 6 of the Dusk Emergence and Dawn Re-Entry Surveys report does not appear to outline what the proposed mitigation and/or compensation will be for the loss of the soprano pipistrelle roost in B2. We would advise that this is clarified and confirmed, prior to determination.**

### Reptiles

The Applicant has submitted a Herpetofauna Reasonable Avoidance Method Statement, rather than presence/likely absence surveys to provide an evidence-based mitigation strategy.

The proposed development site appears to be particularly suitable for grass snake, and potentially nesting grass snake. We note that the proposed development site is adjacent to the River Ember, which could be used by grass snake. The proposed development site includes semi-improved grassland, compost/brush piles, and dense scrub. We have not found detailed photographs of the compost/brush piles and dense scrub but generally, these habitats are suitable nesting locations for grass snake.

The Herpetofauna Reasonable Avoidance Method Statement scopes in the potential for reptiles to be present, as does the Preliminary Ecological Appraisal. However, we would advise that the LPA requires a more detailed habitat suitability assessment and impact assessment to allow further confidence that the Herpetofauna Reasonable Avoidance Method Statement is appropriate. The presence/likely absence of reptiles and knowledge of how they use the habitats (if present), is not known.

The Herpetofauna Reasonable Avoidance Method Statement appears to lack specific detail on what will happen to reptiles if they are found. It is not clear what precautionary population size has been used, whether retained habitat will be used, where it is located, how it will be protected, what the carrying capacity of the habitat is and will be. In Section 3,9 it states that “*No post-development safeguarding measures are proposed*”.

In Section 3.8 it states, “*While there is no explicit obligation to provide compensatory habitat for herpetofauna on site...*” Reptiles are a Species of Principal Importance under the Natural Environment and Rural Communities Act (2006) – therefore the LPA must have regard for the conservation interest of these species. There is a requirement for the LPA to understand the presence/likely absence of protected species and the extent of any impacts. At the present, the presence/likely absence is unknown, and there does not appear to be a robust strategy to manage reptiles on-site if they are found.

To negate the requirement to carry out presence/likely absence surveys to inform an evidence-based impact assessment, it would be advisable that any Herpetofauna Reasonable Avoidance Method Statement provides the LPA with confidence that if present and found, the proposed development can support the species. If there is not this confidence, then the project does not appear to be in line with Policy CS15 of the Core Strategy which states “*Protecting and enhancing BAP(11) priority habitats and species and seeking to expand their coverage...*”.

**We would advise that this is further evaluated and considered prior to determination.**

### **Invasive Plant Species**

The Preliminary Ecological Appraisal has provided recommendations with regards to kingfisher, however, the submitted Invasive Species Method Statement does not appear to adhere to these recommendations. Therefore, we would advise that the Invasive Species Method Statement is updated with a more specific and detailed works programme, which demonstrates that the potential presence of nesting kingfisher (and other ecological considerations, such as fish spawning) has been appropriately considered.

For example, in Section 3.2 it states “*Control of Himalayan balsam should ideally happen when the plants have grown to a good height but have not yet flowered. This is usually around June*”. In the Preliminary Ecological Appraisal, it states “*R8 Kingfisher: Construction activities likely to impact upon the riparian zone of the river should be avoided during the breeding season for kingfisher (March-August)*”

In addition, the Preliminary Ecological Appraisal has assessed that there is a potential hydrological connection between the proposed development site and Bushy Park and Home Park SSSI. The potential impact assessment for Bushy Park and Home Park SSSI does not appear to have been completed. Given the hydrological connection, we would advise that the Invasive Species Method Statement is updated with a more specific recommendations to avoid an impact to Bushy Park and Home Park SSSI.

**We would advise that these updates (or clarifications) are provided prior to determination.**

### **Biodiversity Net Gain**

It is set out in the Biodiversity Net Gain Assessment that the project will result in a net loss of -0.14 habitat units, and that trading rules have not been satisfied. Therefore, the proposed development cannot demonstrate a measurable net gain (or no net loss) for biodiversity through a quantitative assessment – such as the biodiversity metric calculator.

Policy CS15 of the Core Strategy states:

*“The Council will seek to avoid loss and contribute to a net gain in biodiversity across the region and the objectives of the Surrey Biodiversity Action Plan (BAP)), by:*

*Ensuring new development does not result in a net loss of biodiversity and where feasible contributes to a net gain through the incorporation of biodiversity features”.*

**We would advise that the Applicant and Middlemarch provide an assessment for how this proposal complies with Policy CS15 of the Core Strategy and the NPPF (2021), prior to determination.**

Please note that as part of this recommendation, we have reviewed Recommendation R3 of the Preliminary Ecological Appraisal – Biodiversity Enhancement. This appears to be a general list of potential enhancements; however, we have not found an assessment which demonstrates how the ecological function of pre-existing habitats will be compensated for and

specifically detail how the project complies with national and local planning policy, with regards to provide net gains/no net loss.

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

Kind regards,

**Author:** 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 HPAs is the key focus to enhancing the connectivity of habitats for SPAs 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, cirl 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 HPs, 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 <b>securing measurable net gains for biodiversity.</b>”</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</p>

Paragraph Number	Detail
	<p>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>
<p>185</p>	<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>