

From: Nicky Williamson [REDACTED]
Sent: 21 February 2024 15:40
To: Town Planning; Margarita Romanovich
Cc: Planning-SWT; Carol-Ann O'Kane; [REDACTED]
Subject: RE: Anyards Road, Cobham - Surrey Wildlife Ecology response Planning reference: 2023/2889
Attachments: 240205_107606_Land off Anyards Road & Copse Road_NW.pdf; 4410832.pdf; Copy of Biodiversity Metric 4.0 Calculation Tool_Oct2023.xlsm
Follow Up Flag: Follow up
Flag Status: Completed

 External email >

Dear Margarita

We have received the below email from the applicant.

In our consultation response (attached for ease of reference) we had noted that one building to be demolished had not been assessed for bat potential by the ecologist. The applicant has included photos of this building which clearly show it is a flat roofed garage; these photographs indicate that this building is of a design and construction that is typically unlikely to support bats and therefore it could be considered disproportionate to request further survey.

The applicant has also forwarded the full biodiversity metric for review. However, we had queried the ecological baseline used by the ecologist given possible recent habitat changes on the site; we recommend that this be either amended or further justified by the ecologist so that we can review the final version of the metric.

Kind regards

Nicky Williamson BSc (Hons) MSc MCIEEM
Conservation Officer - Ecology Planning Advice Services Surrey Wildlife Trust
Working days Monday, Wednesday and Thursday
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From: James Griffiths <[REDACTED]>
Sent: Thursday, February 15, 2024 4:52 PM
To: Planning-SWT <planning@surreywt.org.uk>
Cc: Carol-Ann O'Kane <[REDACTED]>
Subject: Anyards Road, Cobham - Surrey Wildlife Ecology response Planning reference: 2023/2889

Dear Sir or Madam

Further to your comments on our application submission on Cobham, we note that you have requested that a building be included in an update of the bat survey. This building wasn't originally included in the survey as building 13 comprises a single flat roofed garage which you can see from the below recent photographs is completely empty and provides no opportunities for roosting bats as there is no void between the ceiling and flat roof that would be suitable for roosting bats .

 [Cobham garage](#)

As the Surrey bat group didn't raise an objection to the survey I am anxious to avoid further expenditure of sending the ecology team back to site to provide an update investigation on this building and wondered whether you could apply a pragmatic approach in this instance and withdraw the need for a further inspection of this building. I can confirm the house, building 14 is not being demolished so does not require inspection.

As requested I have also attached a full copy of the biodiversity metric for your consideration.

Can you review and let me know whether you are able to update your comments in light of the above comments and attached metric?

Many thanks

James Griffiths MRTPI | Senior Planning Manager
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Date: 05/02/2024

Our reference: 168405/NW/001



Surrey
Wildlife Trust

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Dear Margarita Romanovich,

Planning reference: 2023/2889

Proposals: Outline Application for 26 residential dwellings following demolition of existing buildings (For layout, scale, access and appearance).

Site Address: Land Off Anyards Road and Copse Road Cobham Surrey KT11 2LH

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.

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:

Design and Access Statement, Shanley Homes, October 2023

Preliminary Ecological Appraisal (PEA), The Ecology Partnership, October 2023

Bat Emergence Survey, The Ecology Partnership, October 2023

Biodiversity Net Gain (BNG) Assessment, The Ecology Partnership, October 2023

Arboricultural Impact Assessment and Method Statement Revision A, Greenspace

Ecological Solutions, October 2023



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	Bat Preliminary Roost Assessment for Building 13 (and Building 14 if this is to be impacted) Ensure compliance with Thames Basin Heaths Avoidance Strategy Further clarification of ecological baseline within the Biodiversity Net Gain assessment Submission of the full Biodiversity Metric (in excel format)
Prior to commencement	Sensitive Lighting Management Plan Landscape and Ecological Management Plan (LEMP)
Prior to occupation	n/a
General Recommendations	Obtain relevant Natural England bat mitigation license Site clearance to take place outside of breeding bird season or following nesting bird checks Biodiversity enhancements (include in LEMP)

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 1-12

The above referenced report has confirmed the presence of active bat roosts within the bungalow (Building 1) at the development site and that these roosts would be subject to loss or disturbance as a result of development. Works would therefore be contrary to the above referenced legislation in absence of derogation licensing.

Should they be minded to grant this planning application for this site, the LPA should advise the applicant that they will be required to appoint a registered consultant under the bat mitigation class licence to undertake the works.

Buildings 13 & 14

These buildings have not been assessed or surveyed for bats; the ecologist notes they were originally outside of the redline survey boundary so not included within the ecology survey. Building 13 appears to be demolished to facilitate the proposed development.

Suitable habitat for bats existing locally and bat records indicate local presence. There is therefore a reasonable likelihood of bats being present and adversely affected by the proposed development. The applicant has not submitted any supporting information as to the potential presence of active bat roosts within these buildings at the development site. Loss or

disturbance to any active bat roosts and bats present would be contrary to 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 bats 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 roosts 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, Building 13 (and also Building 14 if this is to be impacted) should be surveyed by a suitably qualified ecologist in accordance with best practice survey guidelines to establish the presence or likely absence of active bat roosts, in order to avoid contravention of above referenced legislation.

Trees

The above referenced arboriculture report recommends retention of all onsite trees. As such there are no constraints with regards to roosting bats and trees for the proposed development. However, if plans change or if any tree works are required then further assessment of trees for bats should be undertaken.

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 191 of the NPPF (2023) 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 (2023) Guidance Note 08/23. *Bats and artificial lighting at night*. 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.

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 ecologist has, in their professional opinion, scoped out the likely presence of great crested newt from the proposed development site due the presence of the A307 road providing a barrier between the site and the only pond located within 250m. It would therefore appear that great crested newt is not a constraint to development.

However, the applicant should be aware that suitable habitat for great crested newt exists within the development site and that should great crested newt be identified during works, all work should cease immediately and advice sought from Natural England or a qualified specialist.

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 sites and habitats - Thames Basin Heaths

The proposed development is located within 5km of Thames Basin Heaths Special Protection Area (SPA). The development will result in a net increase in residential development and so the development is assumed to result in a likely significant effect on the SPA unless appropriately mitigated for in line with the Thames Basin Heaths Special Protection Area Delivery Framework in order to comply with the Conservation of Habitat and Species Regulations 2017, as amended, and national policy NRM6.

LPA should seek advice from Natural England to ensure that contributions to Suitable Alternative Natural Greenspace provision and Strategic Access Management and Monitoring payment is appropriate and adequately secured by planning obligation.

Protected habitat – Local Nature Reserve & Site of Nature Conservation Importance (SNCI)

The proposed development is located in close proximity to Old Common Local Nature Reserve and Old Common Site of Nature Conservation Importance.

The ecologist has scoped out impacts to these sites as follows “*The development is restricted to the habitats set within a residential area, and is surrounded on all sides by development. The habitats within the site are not Land at Glenelm and 160 Anyards Road, Surrey October 2023 The Ecology Partnership 20 functionally linked to the nature reserve and the habitats are separated from these off site habitats by the A307. The development will therefore not result in any similar habitat loss or impact the off site habitats through construction impacts. However, the increase in the local population resulting from the development may result in the increase of recreational use. However, there are numerous opportunities for recreation in the local area and the development is limited in extent. As such it is considered unlikely that the proposals would impact upon the integrity of these locally designated sites.*”

Requirement to demonstrate a measurable biodiversity net gain

The requirement for the LPA to have regard for biodiversity net gain is detailed in the NPPF (2023) in Appendix 1.

The above referenced BNG Assessment indicates that the proposed development can deliver a biodiversity net gain of 60.02% habitat units and a net zero (i.e. no loss or gain) of hedgerow units.

However, the ecologist has acknowledged that there has been some recent clearance of vegetation within part of the site (e.g. see Photographs 1-4 in the PEA report). The ecologist has assigned the baseline habitat for this recently cleared area as 'vegetated garden'. Google aerial imagery indicates that the site did contain several trees which appear to have been felled, we highlight that it is unknown who carried out this habitat clearance. The BNG 4.0 User Guide states "8.3.6. *Established trees within gardens should be recorded in a site baseline*". The PEA refers to a previous PEA (September 2021) conducted by Bright Green Environmental Consultancy Ltd, based upon a preliminary site survey undertaken on 5th August 2020). It may be possible to create a broad and likely scenario baseline biodiversity units' assessment for the proposed development site, using the information in the previous ecology report and aerial imagery.

We recommend the LPA seeks further justification from the ecologist for estimating the baseline of the recently cleared habitats as vegetated garden given the apparent loss of trees.

Demonstration of biodiversity net gain should be clearly recorded and reported through use of an appropriate metric such as the Statutory Biodiversity Metric. Therefore, **the full metric (in excel format) should be submitted for review prior to determination.** Natural England advises that any net gain should be fully secured and funded for the lifetime of the development.

Biodiversity Enhancements

Requirements for biodiversity enhancements required under the NPPF (2023) 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 5.17 to 5.23 in the PEA report and incorporate the following:

Providing bird and bat boxes erected on or integral within the new buildings or on retained trees.

Incorporate enhancements for hedgehog as outlined above.

Installing bees bricks within the new buildings.

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.

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

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

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.

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, ciril 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 2023 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 (2023)

The National Planning Policy Framework was revised in response to the Levelling-up and Regeneration Bill: reforms to national planning policy consultation on 19 December 2023 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in March 2012, revised in July 2018, updated in February 2019, revised in July 2021 and updated in September 2023.

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.

Relevant paragraphs in the NPPF (2023) are detailed below.

Paragraph Number	Detail
8	<p><i>“Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives.</i></p> <p><i>c) an environmental objective – to protect and enhance our natural, built and historic environment, including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy”</i></p>
180	<p><i>Planning policies and decisions should contribute to and enhance the natural and local environment by:</i></p> <p><i>a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).</i></p> <p><i>b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.</i></p> <p><i>c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate.</i></p> <p><i>d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.</i></p> <p><i>e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and</i></p> <p><i>f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.</i></p>
185	<p><i>“To protect and enhance biodiversity and geodiversity, plans should:</i></p> <p><i>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</i></p> <p><i>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.”</i></p>
186	<p><i>“When determining planning applications, local planning authorities should apply the following principles:</i></p>



Paragraph Number	Detail
	<ul style="list-style-type: none">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;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;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; andd) 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.”
191	<p><i>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:</i></p> <ul style="list-style-type: none"><i>a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life (69).</i><i>b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and</i><i>c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes, and nature conservation.</i>