

Date: 12/12/2023

Our reference: 897418/RH/004

By email: [planconsult@waverley.gov.uk](mailto:planconsult@waverley.gov.uk)



**Surrey**  
**Wildlife Trust**

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## **Proof of Evidence in Respect of Ecology and Nature Conservation for WA/2022/01887**

### **Qualifications and Experience**

Surrey Wildlife Trust Ecology Planning Advice Service provides professional, evidence-based consultation responses to planning application proposals submitted to us by ten local planning authorities in Surrey to help them meet their legal and policy obligations towards wildlife.

My name is Robert Hutchinson. I am the Manager of Surrey Wildlife Trust Ecology Planning Advice Service, with 10 years of experience in the ecological consultancy profession. I have experience of working with a wide range of clients including local planning authorities, Surrey County Council, developers, and home owners. This experience has included being project ecologist for housing projects and large-scale national infrastructure projects in the UK.

I am a Chartered Ecologist, a member of the Chartered Institute of Ecology and Environmental Management, hold a master's in science in Environmental Sustainability and Green Technology and hold a Bachelor of Science in Geography. I hold protected species survey class licences for great crested newt, bats, smooth snake, sand lizard and a displacement class licence for water vole. I am on the committee of the Surrey Amphibian and Reptile Group.

I confirm that the opinions expressed are my true and professional opinions. I confirm that the evidence to which I have prepared and provided for this Proof of Evidence is true to the best of my knowledge and given in accordance with the guidelines of the Chartered Institute of Ecology and Environmental Management.

### **Proposed Development – WA/2022/01887, APP/R3650/W/23/3327643**

Hybrid application consisting of:

- Outline application (all matters reserved except access) for up to 130 residential dwellings accessed from the proposed access road (linking to Midhurst Road), associated landscaping, restricted access for emergency access, community growing space and associated infrastructure, including green infrastructure.
- Full application for the erection of 1 dwelling and associated works; a junction alteration from Midhurst Road, associated access road to serve the development (including the diversion of a public footpath), car park, associated landscaping, and drainage; the erection of a scout facility/nursery (use class F) and an education facility (use class F); a Suitable Alternative Natural Greenspace (SANG). This application is accompanied by an Environmental Statement

**Site Address:** Land Centred Coordinates 489803 131978 Midhurst Road Haslemere



On the 2<sup>nd</sup> May 2023, Waverley Borough Council refused planning application WA/2022/01887 with reason 2 stating:

- *“The ecological information submitted with the application fails to demonstrate that the proposed development would not negatively affect and/or fragment the wildlife corridors adjacent to Midhurst Road and within the northern central area of the application site. Additionally, the ecological information fails to demonstrate that there would not be a detrimental impact on protected species being great crested newts, hazel dormice and bat species, and Habitats of Principal Importance. The proposal is contrary to Policy NE1 of the Local Plan Part 1 (2018), Policy DM1 of the Local Plan Part 2 (2023), Policy H12 of the Haslemere Neighbourhood Plan and paragraphs 174 and 179 of the NPPF.”*

## Policy Framework

The Officers Report for WA/2022/01887 provides the local and national planning policy context relating to reasons for refusal. This includes:

- National Planning Policy Framework (2019)
- Waverley Borough Local Plan, Part 1 Strategic Policies and Sites (adopted February 2018).
- Waverley Borough Local Plan, Part 2: Site Allocations and Development Management Policies (adopted 21st March 2023) (LPP2).
- Haslemere Neighbourhood Plan 12 November 2021.
- Government Circular 06/2005.

I have also had regard for the Natural Environment and Rural Communities Act (2006), National Planning Policy Guidance and the National Planning Policy Framework 2023.

## Current Position

Surrey Wildlife Trust Ecology Planning Advice Service has provided three formal consultation responses to the LPA for planning application WA/2022/01887, dated 15/09/2022, 24/04/2023 and 22/11/2023. I have provided all three of these consultations within Appendix 1 of this Proof of Evidence for ease of reference.

In the latest consultation provided on the 22/11/2023, Surrey Wildlife Trust Ecology Planning Advice Service advised the LPA that they should require the Applicant/Appellant to submit further information on the following matters:

- Assessment of impact to Wildlife Corridors in line with Haslemere Neighbourhood Plan Policy H12.
- Updated Environment Statement and revised impact assessment to reflect completed species surveys.
- Bat Presence/likely absence of impacted trees with high and moderate bat roosting potential.
- Outline hazel dormouse mitigation strategy.
- Outline Reptile mitigation strategy.

Following the submission of this consultation to the LPA, a meeting was held between Surrey Wildlife Trust Ecology Planning Advice Service, Waverley Borough Council, Savills and Environmental Gain Ltd (Engain Ltd) on the 29<sup>th</sup> November 2023. Following the completion of the meeting, Surrey Wildlife Trust Ecology Planning Advice Service was informed that the Appellant would be submitting further information, assessment, and response prior to the submission of Proof of Evidence. Waverley Borough Council has informed Surrey Wildlife Trust Ecology Planning Advice Service that the deadline for the Proof of Evidence is the 12<sup>th</sup>

December 2023. Surrey Wildlife Trust Ecology Planning Advice Service has not received the further information, assessment, and response from the Appellant or Engain, therefore I am unable to review the 'Prior to Determination' recommendations set out within our last consultation provided in the 22/11/2023.

### Assessment of Impacts

Our detailed evaluation on the proposed development is provided within our latest consultation provided on the 22/11/2023. In reviewing the information submitted as part of the application and the appeal, I consider the following main points:

- In the absence of a full impact assessment and mitigation strategy, the submission does not demonstrate that the proposed development would not negatively affect and/or fragment the South Haslemere wildlife corridors. There is no evidence of appropriate mitigation incorporated within the proposal.
- The Application site supports at least three groups of protected species including hazel dormouse, bats, and reptiles. Hazel dormouse and bats are sensitive to artificial lighting. There is currently a lack of evidence that sufficient information on the baseline illuminance of the South Haslemere wildlife corridors across the whole application site is understood, and a lack of evidence that a sensitive lighting strategy is feasible and achievable.
- Tree removal is required to facilitate the proposed development. Engain Ltd has assessed that there are trees on the application site which have the suitability to support roosting bats. The Appellant has not submitted bat presence/likely absence survey results for trees to be felled. Based on the current proposal for tree removal, the Appellant has submitted insufficient information on the presence/likely absence of roosting bats in trees.
- The Appellant should submit further evidence that suitable mitigation strategies can be provided for hazel dormouse and reptiles.

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.

**Author** Robert Hutchinson BSc (Hons) MSc CEcol MCIEEM – Manager of SWT Ecology Planning Advice Service

## Appendix 1: Planning Consultation History WA/2022/01887



Date: 15/09/2022

Our reference: 897418/NW/001

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[surreywildlifetrust.org/planning](http://surreywildlifetrust.org/planning)

Dear Carl Housden,

**Planning reference: WA/2022/01887**

**Proposals: Hybrid application consisting of:**

**Outline application (all matters reserved except access) for residential dwellings accessed from the proposed access road (linking to Midhurst Road), associated landscaping, restricted access for emergency access, community growing space and associated infrastructure including green infrastructure.**

**Full application for the erection of 2 dwellings and associated works; a junction alteration from Midhurst Road, associated access road to serve the development (including the diversion of a public footpath), car park, associated landscaping and drainage; the erection of a scout facility/nursery (use class F) and education facility (use class F); a Suitable Alternative Natural Greenspace (SANG). This application is accompanied by an Environmental Statement**

**Site Address: Land Centred Coordinates 489803 131978 Midhurst Road Haslemere**

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:

- Tree Protection Plan, CBA, June 2022
- Access Plan, Vision Transport Planning, May 2022



- Tree Survey Report, CBA, April 2022
- SANG Creation and Management Plan, EPR, 22 June 2022
- Ecological Survey Report, engain, 16 June 2022
- Outline Landscape and Ecological Management Plan, EPR, 22 June 2022
- Environmental Statement Chapter 9 Ecology, engain, undated
- Green and Blue Infrastructure Plan, Adam Architecture, June 2022
- Design & Access Statement, Adam Architecture, June 2022
- Biodiversity Net Gain and Enhancement Strategy, engain, June 2022
- Landscape Design Strategy, Sightline Landscape, June 2022
- Information for Habitats Regulations Assessment (HRA), EPR, 22 June 2022
- Illustrative Block (site) Plan, Adam Architecture, March 2022
- Location Plan, Adam Architecture, June 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>Submit up to date survey information for protected species and associated impact avoidance and mitigation proposals</p> <p>Badger mitigation strategy</p> <p>Further clarification of approach or presence / absence surveys for great crested newts</p> <p>Consult Natural England on appropriateness of the proposed Wealden Heaths avoidance mitigation</p> <p>Clarification of impact on deciduous woodland HPI</p> <p>Clarification of retention and protection of important hedgerow</p> <p>Clarification of impact on SNCIs</p> <p>Clarification of stated BNG values</p>
Prior to commencement	<p>Sensitive Lighting Plan</p> <p>Invasive species management</p> <p>Provision of a LEMP</p> <p>Provision of a CEMP</p>
Prior to occupation	Biodiversity enhancements

### Requirement to submit up to date information

The Ecology section of the Environmental Statement (Section 9.1) summarises surveys for great crested newt, bats, reptiles, birds, badger and dormouse and notes that some update surveys are underway (bat activity, bat static detector, dormouse and reptile) with some update surveys having recently been completed (data search, UK habitat, badger, PRA of trees and birds) but the full reports have not all been submitted.

The above referenced survey reports date from 2018 and are therefore now four years old. Government guidance states that “*surveys should be up to date and ideally from the most recent survey season.*” The National Planning Policy Framework (2021) also states that “*The right information is crucial to good decision making, particularly where formal assessments are required.*” The documentation submitted does not therefore constitute up to date information.

Without up to date ecological survey information it is difficult for Surrey Wildlife Trust to advise fully on the ecological consequences of the proposed development.

**Therefore, we recommend that prior to determination of this planning application, the development site is surveyed by a suitably qualified ecologist to help determine the status of ecological features on site, which could be adversely affected by the proposed development works and to put forward for consideration by the LPA any required impact avoidance and mitigation proposals to prevent such effect. All surveys should conform to best practice guidance.**

This is of particular importance for the full aspects of this application to understand the impacts on reptiles, dormouse and bats (of which the survey information regarding barbastelle bats is particularly relevant as the site has been assessed as of ‘regional importance’ for this species).

**EPAS may have additional comments on receipt of these reports.**

The illustrative block plan shows the outline proposals for the application; however, it is not clear which aspects are contained within the full application and which are within the outline application; this is relevant as biodiversity constraints associated with the full application aspects need to be assessed in more detail at this stage. **Therefore, we advise the LPA that clarification of the location of the various aspects of this hybrid application be obtained (e.g. by provision of a revised block plan).**

#### **Protected species – Badger**

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

The above referenced ecology report has identified badger setts as present within the proposed development site, which are expected to be adversely affected. Disturbance or closure of active setts without appropriate derogation licensing would be contrary to the above referenced legislation. However, the report is unclear with regards to the extent of impacts and cannot therefore demonstrate that adverse impacts on this protected species will not occur.

We therefore advise that on the basis of the currently submitted information, the LPA does not have sufficient information to demonstrate that badger(s) will not be harmed by the proposed development, both through direct loss of a potentially active sett and loss of associated foraging areas. The LPA does not currently have sufficient information to ensure that the development as proposed will not be contrary to the statutory objectives of the Badgers Act 1992 and the Wildlife and Countryside Act 1981.

**We recommend that prior to determination of this current application, the LPA seeks clarification from the applicant as to how the development will proceed in accordance with best practice guidance to ensure that the statutory obligations of the above legislation is adhered to.**

### 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 – 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 (GCN) 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 ecology report has scoped out GCN. However, the 2018 surveys identified a number of ponds within 500m of the site which were formally assessed as being of poor or below average suitability for GCN, the locations of these ponds are not clear and records of GCN were identified within 1km. Below average ponds are still potentially suitable for GCN, and best practice would be for these to be subject to further presence /likely absence surveys.

The proposed development appears to affect suitable GCN terrestrial habitat. Suitable terrestrial and breeding habitat for GCN also exists locally and records indicate local presence. 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 supporting information as to the potential presence or likely absence of GCN at the development site. Killing, injuring or disturbance of GCN 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

**We advise that prior to determination of the current planning application, the LPA should require the applicant to submit further clarification as to why GCN have been scoped out of the ecology assessment or additional GCN presence/likely absence surveys in line with best practice guidance.**

### **Invasive non-native species**

The applicant will need to ensure they do not cause any invasive non-native species to spread as a result of the works associated with the development in order to comply with the relevant legislation.

**To prevent the spread of Rhododendron and Himalayan Balsam, these should be eradicated using qualified and experienced contractors and disposed of in accordance with the Environmental Protection Act (Duty of Care) Regulations 1991. Further information on this species can be obtained from the GB Non-native Species Secretariat at '[www.nonnativespecies.org](http://www.nonnativespecies.org)'.**

### **Protected sites and habitats - Wealden Heaths**

The proposed development is located within 5km of the Wealden Heaths Phase II Special Protection Area (SPA) / Special Area of Conservation (SAC). 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 Waverley Local Plan Policy.

The above referenced HRA report concludes that there will be no adverse effect on the SPA due to the provision on a Suitable Alternative area of Natural Greenspace (SANG), which will follow the principles of those utilised for the Thames Basin Heaths SPA, adjacent to the proposed outline development. The HRA report also states that this has '*been the subject of extensive consultation with Natural England, who have requested various modifications to the proposals, and have now indicated that they are content with the proposed SANG solution*'. Natural England do not appear to have provided comments on this application.

**The LPA should seek advice from Natural England to confirm they are satisfied that the proposed SANG is appropriate and, in line with their objectives for mitigating adverse effects on the Wealden Heaths, adequately secured by planning obligation.**

### **Protected habitat – Lowland mixed deciduous woodland Habitat of Principle Importance**

The protection afforded to lowland mixed, deciduous woodland; a Habitat of Principle Importance (HPI) is detailed in Appendix 1.

The NPPF (2021) makes it clear (para 179) that plans should 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". Loss or deterioration of a Habitat of Principle Importance would not therefore be in accordance with these objectives.

The SANG is proposed to be located in an area of HPI woodland, there will be some loss of habitat and increased visitor pressure, although it is acknowledged that there will be improved management of the retained woodland to improve its quality. The Forest School and Scout Hut are included within the full application, but only details of the proposed buildings have been provided. Significant areas of deciduous woodland HPI are shown as 'scouts clearing' and 'forest school clearing' on the Landscape Components Plan suggesting there could be additional impacts on habitat in these areas (e.g. from woodland loss to accommodate camp fires, camping, visitor pressure etc). **We advise the LPA to seek additional clarification regarding the ongoing usage of the habitats associated with the proposed Forest School and Scout Hut and to seek assurance that any associated impacts on biodiversity are assessed and appropriately mitigated.**

**We recommend that should the LPA be minded to grant planning permission, they request adequate protection measures for the lowland mixed, deciduous woodland are detailed in the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan.**

#### **Protected habitat – Hedgerows**

The ecology report notes there is an ‘important hedgerow’ on the development site associated with a bank, but no further details appear to have been submitted.

**The LPA should seek clarification regarding the location of the importance of the important hedgerow and measures to ensure its retention and protection should be provided within a Construction Environment Management Plan (CEMP).** Further details are provided below.

#### **Protected habitat – Site of Nature Conservation Importance (SNCI)**

The proposed development is located in close proximity (0.3km) to Backdown and Valewood Park which is identified as a Site of Nature Conservation Importance (SNCI) and therefore has County Importance for nature conservation.

Waverley Local Plan 2018 Policy NE1 states ‘Within locally designated sites, development will not be permitted unless it is necessary for appropriate on site management measures or can demonstrate no adverse impact to the integrity of the nature conservation interest. Development adjacent to locally designated sites will not be permitted where it has an adverse impact on the integrity of the nature conservation interest’. Paragraph 179 of the National Planning Policy Framework states that plans should “*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.*”

**Documentation submitted with this application has not appropriately demonstrated that the proposed development would not have a likely adverse effect on Backdown and Valewood Park Site of Nature Conservation Importance. The application as submitted therefore appears to be in breach of the above National and Local planning policy.**

#### **Requirement to demonstrate a measurable biodiversity net gain**

The requirement to demonstrate a measurable biodiversity net gain (BNG) is detailed in the NPPF (2021) in Appendix 1.

The above referenced BNG assessment indicates that the proposals will deliver a BNG of 35.36% area units and 14.85% hedgerow units. While a BNG may be achievable for this proposed development, the number of units quoted may be an over estimation for the following reasons:

- The adjacent approved application also submitted a BNG assessment indicating a >10% BNG, which may have included off site gains. Any gain cannot be double counted and, therefore, any BNG approved under the adjacent development should be defined and discounted from the assessment for this application.
- The proposed Forest School and Scout Hut are associated with significant areas of woodland (shown as ‘scouts clearing’ and ‘forest school clearing’ on the Landscape Components Plan). It appears the ownership of these areas will be transferred and the

LEMP also states that the management of these areas is 'to be agreed' and therefore these areas should not form part of the BNG assessment at this stage.

- The proposed SANG is located on an area where a 'Wealden Heaths Mitigation Strategy' for the adjacent 50 dwelling development has already been agreed; any habitat management required for this previously approved element should also be excluded from the estimated biodiversity gain for this proposal.
- Natural England's advice (in their Guidelines for Creation of Suitable Alternative Natural Greenspace (SANG) – August 2021) is that '*SANG is not an automatic delivery mechanism for BNG but the two can exist on the same site. BNG on SANG is only attributable to such habitat creation or enhancement that proves measurable additionality over and above the minimum requirements of the SANG*'.

**We advise the LPA that the BNG assessment should clearly demonstrate how additionality has been factored into the assessment and also only identify biodiversity net gains where these can be secured long term. 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 the Landscape Ecology and Management Plan and incorporate the following:

- Providing bird and bat boxes erected on or integral within the new buildings and mature trees as outlined above.
- 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.
- Any additional enhancements recommended following full appraisal of the proposed development site for all protected species and habitats should also be incorporated into the development.

### **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](mailto: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

Date: 24/04/2023

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**Full application for the erection of 1 dwelling and associated works; a junction alteration from Midhurst Road, associated access road to serve the development (including the diversion of a public footpath), car park, associated landscaping and drainage; the erection of a scout facility/nursery (use class F) and an education facility (use class F); a Suitable Alternative Natural Greenspace (SANG). This application is accompanied by an Environmental Statement**

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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, which follow from our previous comments dated 15/09/2022 (our reference 897418/NW/001) are detailed below.

We have reviewed the following reports:

- SWT Consultation Response, engain, 18/11/22
- Ecological Survey Report, engain, 18 November 2022
- Biodiversity Net Gain and Enhancement Strategy, engain, 24 February 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	Submit full and up to date survey information for protected species (e.g. hazel dormouse, PRA of trees for bats) and associated impact avoidance and mitigation proposals Assessment of impact to Wildlife Corridors in line with Haslemere Neighbourhood Plan Policy H12 Further qualitative information for great crested newts Clarification of impact on deciduous woodland HPI Clarification of impacts to important hedgerow(s) Clarification of impacts to and compensation for hedgerow Habitats of Principal Importance
Prior to commencement	Sensitive Lighting Plan Invasive species management Secure identified Biodiversity Net Gain Provision of LEMPs Provision of a CEMP
Prior to occupation	Biodiversity enhancements
General Recommendations	Pre-commencement badger survey and appropriate mitigation strategy for badger as required Consideration of breeding birds

### General – Wildlife Corridors

The proposed development would result in the removal of a section of trees alongside Midhurst Road. We have been made aware through comments on this application that this forms part of Haslemere's Ecological Network and is shown as a 'woody/vegetation' corridor (as illustrated on map 8, Appendix 3) of the Haslemere Neighbourhood Plan.

Policy H12 of Haslemere Neighbourhood Plan (2013 – 2032) states '*Haslemere's Ecological Network (the key elements of which are shown on Figures 8a and 8b) shall be maintained, protected, consolidated, extended and enhanced as appropriate to their existing designations*

*and biodiversity status. Development that negatively affects these sites or fragments the network will not be supported unless appropriate mitigation is incorporated within the proposal'.*

**Documentation submitted with this application has not appropriately demonstrated that the proposed development would not negatively affect and/or fragment this wildlife corridor, as such it is contrary to Neighbourhood Plan policy H12; details of appropriate mitigation for this particular aspect should be provided.**

Furthermore, the proposed enhanced wildlife corridors within the residential area are partially fragmented by residential roads (in particular the most easterly of the three); if tree canopy cover can be maintained across these roads this may provide connectivity for arboreal species but would not be suitable for species such as badger or European hedgehog. Lighting associated with the residential dwellings and roads may also mean these corridors are not suitable for nocturnal species such as bats and hazel dormouse).

#### **Requirement to submit up to date information**

We previously noted that the Ecology section of the Environmental Statement (Section 9.1) summarises surveys for great crested newt, bats, reptiles, birds, badger and dormouse and notes that some update surveys are underway (bat activity, bat static detector, dormouse and reptile) with some update surveys having recently been completed (data search, UK habitat, badger, PRA of trees and birds) but the full reports have not all been submitted.

Update surveys for bats, reptiles and birds have been now completed with the methodologies and results provided within the above referenced Ecology Survey Report.

The great crested newt HSI survey has not been updated since 2018, the dormouse survey is underway but is not yet completed and full details have not been provided for the remaining species.

Without full survey information and/ or up to date ecological survey information it is difficult for Surrey Wildlife Trust to advise fully on the ecological consequences of the proposed development.

**Therefore, we recommend that prior to determination of this planning application, all ecological surveys are completed and the full reports be submitted prior to determination.** This is of particular importance for the full aspects of this application (i.e. great crested newt and hazel dormouse). **EPAS may have additional comments on receipt of these reports.**

#### **Protected species – Badger**

We had previously recommended that the LPA seek clarification from the applicant as to how the development will proceed in accordance with best practice guidance to ensure that the statutory obligations of the above legislation is adhered to given that badger setts were identified on the proposed development site.

The above referenced Consultation Response states that badger surveys in 2022 '*found the former setts are no longer in use*'. The survey information has not been provided; we would be happy to review this should it be made available.

**We therefore advise that immediately prior to the start of development works, a survey of the site by an appropriately qualified and experienced ecologist should be undertaken within the proposed development boundary and a 30m buffer, to search for any new badger setts and confirm that any setts present remain inactive. If any badger**

**activity is detected a suitable course of action shall be submitted to and approved in writing by the LPA to prevent harm to this species.**

The applicant should also 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.

If any close-boarded fencing is to be used at the site, we recommend that holes are included in the base of 20cmx20cm to allow badger to move freely through the site.

### **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.

### **Trees**

The above referenced Ecology report states that *'Most of the mature trees (including those in the hedgerow to be removed) to be lost to facilitate the development were assessed to have low bat roosting potential.'* However, further details, including whether any trees have moderate or high potential to support roosting bats have not been provided (although a Section of Table 5.1 has been redacted so this may contain the necessary information).

Trees with moderate or high bat roosting potential should be subject to further bat survey in line with best practice prior to determination. Trees with low bat roosting potential can be soft felled following a precautionary approach for bats.

The proposed development would appear to result in works to 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, a bat preliminary ground level roost assessment, undertaken by a suitably experienced ecologist in line with best practice guidance, should be undertaken (or submitted) prior to determination.**

### **Commuting and foraging habitats**

The above referenced Ecology Report identified a number of bat species utilising the proposed site, including Barbastelle bats for which the site is assessed as being of up to regional importance.

**The impact of the proposed development on bats, in particular the importance of the wildlife corridor along Midhurst Road and the loss of a section of this to provide the access road on bats needs to be assessed prior to determination.**

### **Sensitive Lighting**

No further comment

### **Protected species – Great Crested Newt**

We previously advised that prior to determination of the current planning application, the LPA should require the applicant to submit further clarification as to why great crested newt (GCN)

have been scoped out of the ecology assessment or additional GCN presence/likely absence surveys in line with best practice guidance.

We had previously commented that we were unclear as to the location of the ponds within 500m. The above referenced Ecology Survey Report now includes a map showing 18 ponds within 500m of the proposed development site. The 2018 surveys included a Habitat Suitability Index assessment of 7 of these ponds (of which 2 were found to be below average suitability for GCN). No updated HSI survey, or surveys to assess the remaining 11 ponds appears to have been undertaken.

The ecologist appears to have scoped out GCN due to a lack of records within 500m (although there is a record within 1km) and that a 2018 data search by the Surrey Amphibian and Reptile Group assessed GCN presence as unlikely.

We maintain that best practice (as per Natural England's Standing Advice) is for all ponds within 500m to be assessed for their suitability for GCN and that all suitable ponds (including those with below average suitability for GCN) should be subject to further presence/likely absence survey.

#### **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. Suitable habitat for hazel dormouse also exists locally and records and the 2018 survey indicate local presence. There is therefore a reasonable likelihood of hazel dormouse being present and adversely affected by the proposed development. It is understood that an up-to-date survey for this species is currently underway but the above referenced Ecology Report notes only 1 survey visit has been undertaken and, therefore, this is currently incomplete with further survey visits in 2023 required.

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 submit the completed updated additional hazel dormouse presence/likely absence surveys in accordance with best practice survey guidelines in order to avoid contravention of above referenced legislation prior to determination.**

#### **Invasive non-native species**

No further comment

#### **Protected sites and habitats - Wealden Heaths**

No further comment

### **Protected habitat – Lowland mixed deciduous woodland Habitat of Principle Importance**

We had previously advised the LPA to seek additional clarification regarding the ongoing usage of the habitats associated with the proposed Forest School and Scout Hut and to seek assurance that any associated impacts on biodiversity are assessed and appropriately mitigated. We also recommend that should the LPA be minded to grant planning permission, they request adequate protection measures for the lowland mixed, deciduous woodland are detailed in the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan.

The above referenced Ecology Response proposes that three separate LEMPs be prepared (one for each of the following: main site, Scout Hut and Forest School). The provision of LEMPs is supported, however, it is not clear what activities will be undertaken or associated with these areas, what the likely ecological impacts of these might be and whether any specific mitigation or compensation is required.

### **Protected habitat – Hedgerows**

We had previously noted that an ecology report refers to an 'important hedgerow' on the development site associated with a bank, but no further details appear to have been submitted. We recommended that the LPA should seek clarification regarding the location of the important hedgerow and measures to ensure its retention and protection should be provided within a Construction Environment Management Plan (CEMP).

The above referenced Consultation Response refers to a hedgerow in the middle of the site which is a Habitat of Principal Importance (HPI); note this is not the same as an important hedgerow so **further clarification on whether this is the hedgerow previously referred to is required.**

The Consultation Response also states that 'The majority of the Hedgerow is shown on Plan 6046 / PL 10 as retained'. This implies that **some of the HPI hedgerow will be lost; it is important that the amount of loss is quantified so that appropriate compensation can be undertaken.**

### **Protected habitat – Site of Nature Conservation Importance (SNCI)**

We had previously noted that documentation submitted with this application had not appropriately demonstrated that the proposed development would not have a likely adverse effect on Backdown and Valewood Park Site of Nature Conservation Importance (0.3km away). The application as submitted therefore appears to be in breach of the above National and Local planning policy.

The Consultation Response states '*The proposed development would not have any direct impacts on this site as it is outside of the project's application boundary (and separated from it by more than 300m). Residents from the proposed new development may use the National Trust property, in accordance with National Trust's open access policies. Furthermore, the provision of the SANG will minimise the visitor pressure on the SNCI given it provides an alternative green space for residents to visit.*

### **Requirement to demonstrate a measurable biodiversity net gain**

We had advise the LPA that the BNG assessment should clearly demonstrate how additionality has been factored into the assessment and also only identify biodiversity net gains where these can be secured long term.

The above referenced Consultation Response sets out that the identified BNG is additional to the SANGs and other requirements required for this and the adjacent development.

**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**

No further comment

**Landscape and Ecological Management Plan (LEMP)**

No further comment

**Construction Environmental Management Plan (CEMP)**

No further comment

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** Nicky Williamson BSc (Hons) MSc MCIEEM - Conservation Officer

Date: 22/11/2023

Our reference: 897418/NW/003



**Surrey**  
**Wildlife Trust**

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Dear Michael

**Planning reference: WA/2022/01887**

**Proposals: Hybrid application consisting of:**

**Outline application (all matters reserved except access) for up to 130 residential dwellings accessed from the proposed access road (linking to Midhurst Road), associated landscaping, restricted access for emergency access, community growing space and associated infrastructure, including green infrastructure.**

**Full application for the erection of 1 dwelling and associated works; a junction alteration from Midhurst Road, associated access road to serve the development (including the diversion of a public footpath), car park, associated landscaping and drainage; the erection of a scout facility/nursery (use class F) and an education facility (use class F); a Suitable Alternative Natural Greenspace (SANG). This application is accompanied by an Environmental Statement**

**Site Address: Land Centred Coordinates 489803 131978 Midhurst Road Haslemere**

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, which follow from our previous comments dated 15/09/2022, 24/04/2023 and 16/10/2023 are detailed below.

We have reviewed the following reports:

- Ecological Survey Report Revision: 04, engain, 24 October 2023
- Letter 'LAND AT SCOTLAND PARK PHASE 2, HASLEMERE WBC REFERENCE: WA/2022/01887 ADDITIONAL ECOLOGY SURVEY WORK', savills, 7<sup>th</sup> November 2023
- SWT Consultation Response, engain, 6 November 2023
- Further Survey Updates, engain, 24 October 2023
- Environmental Statement Chapter 9 Ecology, engain, June 2022
- Scotland Park, Haslemere: Biodiversity Net Gain and Enhancement Strategy, engain, February, 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	<p>Assessment of impact to Wildlife Corridors in line with Haslemere Neighbourhood Plan Policy H12</p> <p>Updated Environmental Statement and revised impact assessment to reflect completed species surveys.</p> <p>Bat presence/likely absence surveys of impacted trees with high and moderate bat roosting potential</p> <p>Outline hazel dormouse mitigation strategy</p> <p>Outline reptile mitigation strategy</p>
Prior to commencement	<p>Sensitive Lighting Management Plan (pending prior to determination factors raised in this consultation)</p> <p>Invasive species management</p> <p>Secure identified Biodiversity Net Gain</p> <p>Provision of LEMPs (including for Forest School and Scout Hut areas)</p> <p>Provision of a CEMP</p>
Prior to occupation	Biodiversity enhancements

Planning Stage	Recommendation
General Recommendations	<p><u>Include in CEMP:</u></p> <p>Pre-commencement badger survey and appropriate mitigation strategy for badger as required</p> <p>Consideration of breeding birds</p> <p>Impacted trees with low bat roosting potential must be soft felled following a precautionary approach for bats</p> <p>Precautionary measures for great crested newt</p> <p>Reptile mitigation strategy</p>

## General – Wildlife Corridors

### **Background**

In consultation provided on the 24<sup>th</sup> April 2023 we advised that documentation submitted with this application does not appropriately demonstrate that the proposed development would not negatively affect and/or fragment the wildlife corridors, as such it is contrary to Neighbourhood Plan Policy H12. We recommended that details of appropriate mitigation should be provided.

In the Scotland Park Phase 2 SWT Consultation Response' dated 6th November 2023, Engain state that the topic of Wildlife Corridors in line with Haslemere Local Plan Policy H12 is "resolved", which we disagree with.

Figure 9 of the Haslemere Neighbourhood Plan shows the location of 'Map 8 South Haslemere' wildlife corridor. Hereafter, we will refer to this wildlife corridor as being 'South Haslemere wildlife corridors'. Appendix 3 of the Haslemere Neighbourhood Plan provides further detail on the presence of the 'Woody Vegetation' wildlife corridor.

The Ecological Survey Report (Engain, October 2023) references Policy H12. However, Environmental Statement Chapter 9 Ecology and Ecological Survey Report (Engain, October 2023) do not provide an assessment, impact assessment and mitigation strategy for the South Haslemere wildlife corridors.

Policy H12 of the Haslemere Neighbourhood Plan states:

- *"Haslemere's Ecological Network (the key elements of which are shown on Figures 8a and 8b) shall be maintained, protected, consolidated, extended, and enhanced as appropriate to their existing designations and biodiversity status. Development that negatively affects these sites or fragments the network will not be supported unless appropriate mitigation is incorporated within the proposal".*

We note the relevance of Policy NE1 in the Waverley Borough Council Local Plan Part (2018) which states *"The Council will seek to conserve and enhance biodiversity within Waverley. Development will be permitted provided that it: a) Retains, protects, and enhances features of biodiversity and geological interest and ensures appropriate management of those features"*,

We note that Paragraph 174 of the National Planning Policy Framework (2021) requires planning policies and decision to *"...establishing coherent ecological networks that are more resilient to current and future pressures"*.

### **Protected Species Overview**

It is important for the LPA to note that the South Haslemere wildlife corridor network is likely to provide an important ecological function for at least three groups of protected species. This

includes hazel dormouse, bats, and reptiles; however, the function of the corridors may also support Species of Principal Importance, including common toad, hedgehog, and birds. Given that the Applicant has not submitted bat presence/likely absence survey results for trees to be felled, the LPA has insufficient information to assess the actual ecological value of the wildlife corridors for bats. Please see each species group below for more evaluation.

**South Haslemere wildlife corridor – Lack of Complete Impact Assessment and Strategy**

In review of the South Haslemere wildlife corridors; the coverage includes the western boundary of the application site, a central linear route in the centre of the application site and in the east of the application site. In review of the ‘Scotland Park Phase 2 SWT Consultation Response’ dated 6<sup>th</sup> November 2023, Engain only appear to assess the corridor on the western boundary of the application site. We have found no assessment for the central linear route and in the east of the application site. In review of the Illustrative Block (Site) Plan by Adam Architecture, March 2022, drawing 6046 / PL 03) there appears to be impacts to all these corridors, to include severance and habitat removal, but also a likely increase in lighting and recreational pressure due to the proximity of the proposed development.

In their ‘Scotland Park Phase 2 SWT Consultation Response’ dated 6<sup>th</sup> November 2023, Engain confirm the presence of the South Haslemere wildlife corridors, shown in Map 8, Appendix 3 of the Haslemere Local Plan. Engain confirm that trees would need to be removed from the eastern roadside to provide the access point into the development. This will result in a “*permanent break of approximately 5m within in the canopy cover*”. Engain state that new trees will be planted, but there will remain a slight adverse impact. We acknowledge the proposal for tree planting; however, the access appears to result in the severance of the wildlife corridor, and potentially a net increase in artificial lighting.

The ‘Scotland Park Phase 2 SWT Consultation Response’ dated 6<sup>th</sup> November 2023 says that the corridor to the west of Midhurst Road will be maintained. However, this is outside of the development footprint and the applicant’s control, therefore, it’s retention cannot be relied upon as part of any assessment of impact.

**South Haslemere wildlife corridor – Lighting**

The ‘Scotland Park Phase 2 SWT Consultation Response’ dated 6<sup>th</sup> November 2023 states that “*The access into the site will require some lighting, however a wildlife sensitive lighting strategy will be implemented at this point to minimise impacts from artificial lighting*”. However, no further information (such as an outline lighting strategy) has been provided. Protected species such as bats and hazel dormouse are sensitive to an increase in artificial lighting, therefore a net increase in illuminance of the wildlife corridor and habitat has the potential to impact these species groups. Currently there is insufficient detail as to whether sufficiently sensitive lighting would be achievable given there will be a need for lighting due to highways requirements at the road junction and within the residential development.

The Guidance Note 08/23 Bats and Artificial Lighting at Night by the Institution of Lighting Professionals and Bat Conservation Trust states “*Baseline, pre-development lighting surveys may be useful where existing on or off-site lighting is suspected to be acting on Key and Supporting Habitats and features...*” We have found no evidence of baseline lighting surveys being carried out to inform a wildlife sensitive lighting strategy. There is currently a lack of evidence that sufficient information on the baseline illuminance of the South Haslemere wildlife corridor across the whole application site is understood, and a lack of evidence that a sensitive lighting strategy is feasible and achievable.

### **South Haslemere wildlife corridor – Mammal Tunnel**

The Scotland Park Phase 2 SWT Consultation Response' dated 6<sup>th</sup> November 2023 indicates that a 'mammal tunnel' will be installed under the road at the western boundary of the application site. Whilst a 'mammal tunnel' may provide minor benefit to terrestrial species such as badger and hedgehog; no details of this have been included, for example, location, dimensions, drainage, and rationale. The construction of a mammal tunnel is unlikely to benefit hazel dormouse and does not provide suitable mitigation and compensation for this species as they are primarily an arboreal (tree dwelling) species.

### **South Haslemere wildlife corridor – Review**

**In the absence of a full impact assessment and mitigation strategy, the submission does not demonstrate that the proposed development would not negatively affect and/or fragment the wildlife corridors, therefore it appears to be contrary to Neighbourhood Plan Policy H12.**

Given that the South Haslemere wildlife corridors appear to support a range of protected species, a lack of a full impact assessment and mitigation strategy provides a limitation to the LPA in determining the application in line with Policy NE1 in the Waverley Borough Council Local Plan Part (2018). Given the lack of the mitigation strategy in particular, there is insufficient evidence base to allow for an assessment of the application in line with Paragraph 174 of the National Planning Policy Framework (2021).

### **Requirement to submit up to date information.**

We had previously noted that full survey reports had not been submitted for all species. Updated and completed surveys and reports for bats (activity transects and static detectors), reptiles, birds and hazel dormouse have now been provided in Ecological Survey Report Revision 04 and a great crested newt Habitat Suitability Index (HSI) and preliminary ground level tree roost assessment of trees for bats in Further Survey Updates.

Note the Environmental Statement Chapter 9 Ecology submitted with this application is based on incomplete data as the results of the bat activity surveys July to October 2022, hazel dormouse surveys July to October 2022, reptile surveys August 2022, great crested newt HSI and bat PRA of trees August 2023 have not been included within the assessment. **The Environmental Statement Chapter 9 Ecology should be updated to reflect full species survey data prior to determination.**

### **Protected species – Badger**

No further comment.

### **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.

### **Trees**

Engain has submitted a Further Survey Updates report. This includes the results of a Bat Preliminary Ground Level Tree Roost Assessment carried out in August 2023 for trees to be felled to facilitate the proposed development.

This survey identified 1 tree (W101.30) as having high potential, ten trees as having moderate suitability. However, in review of Table 2 there appears to be more than 10 trees with moderate

suitability being felled (Note Table 2 lists 11 trees as detailed here: 131, 132, 176, 177, 214, 220, 252, G101.28, G101.30, G111.1-G111.2M and W101.29) and at least 20 trees as having low potential to support roosting bats. We would advise that the level of evidence and information submitted within the Further Survey Updates report does not provide the LPA with a robust evidence base. For example, no photographs are provided, no map is provided and a lack of information on the potential roosting features is submitted. The Further Surveys Updates report fails to provide any recommendations or an updated mitigation strategy for bats.

It is unclear whether Engain has carried out any Bat Preliminary Ground Level Tree Roost Assessments within the woodland habitat. In the Ecological Survey Report (Engain, October 2023) it states, *“Specific trees with Potential Roosting Features (PRFs) within the woodland areas were not identified, as the proposed development does not include plans that would directly impact these areas by way of tree removal”*. However, Table 9.4 of the Environmental Statement Chapter 9 Ecology states that 0.22ha of woodland will be lost. The submitted Further Survey Updates report does not provide a survey map, therefore we cannot assess whether woodland to be impacted has been subjected to a Bat Preliminary Ground Level Tree Roost Assessments.

The Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016) states that *“Where suitable roosting habitat (moderate or high suitability see Table 4.1 on page 35) or evidence of bats is found during a preliminary ground level roost assessment then further surveys (such as PRF inspection surveys..., presence/absence survey... or roost characterisation surveys are likely to be necessary if impacts on the roosting habitat or the bats using it are predicted”*. It further states that *“Where a PRF has been verified as moderate or high suitability for bats or evidence is found, further surveys are likely to be necessary if impacts on the PRF or the bats using it are predicted”*.

Trees which have been assessed as having moderate or high suitability to support a bat roost should be subject to further bat survey in line with good practice prior to determination. In the absence of any further surveys, such as PRF inspection surveys or presence/absence surveys, the LPA cannot fully assess the potential impact of the proposed development on bats or the South Haslemere wildlife corridors. In the absence of any further surveys for moderate and high suitability trees the LPA has not been provided with a minimum confidence level on the presence/likely absence of bats from these trees. Given the bat activity recorded during the bat activity surveys, to include the species diversity and abundance, we would advise that there is a reasonable likelihood that bats will roost in trees on the application site.

Trees with low bat roosting potential can be soft felled following a precautionary approach for bats, however, there may be occasions when further survey is required, for example, when a high number of low suitability trees are to be removed.

The ODPM Circular 06/05 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 the planning permission is granted. Otherwise, all relevant considerations may not have been addressed in making the decision. In addition, British Standards BS42020:2013 states that *“The presence or absence of protected species, and the extent to which they could be affected by the proposed development, should be established before planning permission is granted”*.

Savills has submitted an ‘Additional Ecology Survey Work’ (Savills, 7<sup>th</sup> November 2023) letter, which provides a summary of the Bat Preliminary Ground Level Tree Roost Assessment

carried out in August 2023. The letter cites, the loss of 10 trees with moderate suitability, however, as discussed above, we believe that Table 2 in the Further Survey Updates report requires the removal of 11 moderate suitability trees and one high suitability tree.

The above 'Additional Ecology Survey Work' (Savills, 7<sup>th</sup> November 2023) letter states that prior to any tree removal, all trees will be subject to the appropriate level of surveys with suitable mitigation implemented including the provision of new roosting features. In the absence of a robust understanding on the presence/likely absence of roosting bats, the Applicant cannot design an evidence-based mitigation strategy and the LPA has insufficient information to determine the potential impact on bats.

The Additional Ecology Survey Work' (Savills, 7<sup>th</sup> November 2023) appears to detail that the further bat surveys prior to felling can be conditioned, and that this is "*standard practice*". We would disagree that this is standard practice and would highlight British Standards BS42020:2013 which states "*the use of planning conditions to secure ecological surveys after planning permission has been granted should therefore only be applied in exceptional circumstances*". Natural England guidance states that "*You should not usually attach planning conditions that ask for surveys. This is because you need to consider the full impact of the proposal on protected species before you can grant planning permission*".

**We advise the LPA that Savills and Engain have failed to submit sufficient information on the presence/likely absence of roosting bats in trees. In addition, Savills and Engain has failed to provide a robust strategy and explanation, in line with British Standards, for how this project meets exceptional circumstances and could secure bat presence/likely absence surveys as a condition.**

#### ***Commuting and foraging habitats***

The Ecological Survey Report (Engain, October 2023) provides the results of bat activity and static detector surveys undertaken between April and October 2022 which identified nine bat species utilising the proposed site for both commuting and foraging. The report concludes that the site is assessed as being of Parish importance for 7 species of bats, Parish to regional importance for *Myotis* sp. bats and up to Regional importance for *Barbastelle* bats.

We had previously advised that the impact of the proposed development on bats, in particular the importance of the wildlife corridor along Midhurst Road and the loss of a section of this to provide the access road on bats needs to be assessed prior to determination.

The Scotland Park Phase 2 SWT Consultation Response' dated 6th November 2023 says this is assessed in Table 9.4 of the Ecology Chapter June 2022. Table 9.4 the loss of woodland habitat and introduction of lighting on bats up to regional level importance is assessed as minor impact not significant, however, this is based on bat activity surveys that, at the time of the assessment, had only been conducted between April to June 2022.

Given that bat activity data is available to October 2022 (with the months August to October recording higher levels of *barbastelle* activity particularly in the west of the site) this assessment should be updated accordingly. The Ecological Survey Report Revision 4 (October 2023) states that "*Based on the survey data to date, commuting and foraging bats has been scoped in the Ecology Chapter for a full assessment*". **We have not found an updated Ecology Chapter, based on the full programme of bat activity surveys. Therefore, an incomplete impact assessment and therefore mitigation strategy appears to have been submitted.**

We would advise that as part of the review on the potential impact on active bats, the LPA review our above consultation on the lack of information and evidence that a sensitive lighting plan can be designed and implemented. This is relevant across the application site and across all the South Haslemere wildlife corridor network. It is not clear if the impact of the proposed residential area on the South Haslemere wildlife corridors, to include the central linear route and the eastern part of the application site.

**Given the incomplete ecological impact assessment for bats, we would advise that the LPA has insufficient information to determine the planning application regarding bats.**

#### **Protected species – Great Crested Newt**

We previously advised that prior to determination of the current planning application, the LPA should require the applicant to submit further clarification as to why great crested newt (GCN) have been scoped out of the ecology assessment or additional GCN presence/likely absence surveys in line with best practice guidance.

The above referenced Further Survey Updates includes the results of a HSI assessment of all ponds within 500m for great crested newts. Eighteen ponds were identified and illustrated on a map, of which 12 could not be accessed and 6 were assessed as having average suitability to support great crested newt. However, the ecologist has scoped out 15 of the ponds located to the south of the site due to the River Wey and a network of fast flowing ditches providing a barrier to amphibian dispersal.

The remaining three ponds located to the northeast of the site could not be accessed by the ecologist. Although Engain has not evaluated these ponds in detail, aerial photography (google mapping) that we have reviewed indicates that these 'ponds' appear to be swimming pools and, as such, are unlikely to be suitable for great crested newts.

The Scotland Park Phase 2 SWT Consultation Response' dated 6th November 2023 states that the potential impacts during construction are small and can be managed through a Construction Ecological Management Plan. **If the application is granted, then this document should be secured through a planning condition.**

#### **Protected Species – hazel dormouse**

We had previously advised that prior to determination of the current planning application, the LPA should require the applicant to submit the completed updated additional hazel dormouse presence/likely absence surveys.

The Ecological Survey Report (2023) provides the results of a hazel dormouse survey undertaken between May and September 2022; this recorded hazel dormouse on 4 of the 5 surveys in the southeast of the site (in 2019 they were recorded in the northwest and central eastern areas).

The Scotland Park Phase 2 SWT Consultation Response' dated 6th November 2023 indicates that the conclusion of the Environmental Statement Chapter 9 Ecology and Ecological Survey Report (Engain, June 2022) remain unchanged; a minor impact to dormouse at the Parish level and improved management of the site will result in this not being ecologically significant.

In review of the Illustrative Block (Site) Plan by Adam Architecture, March 2022, drawing 6046 / PL 03) there appears to be permanent impacts to the South Haslemere wildlife corridor network, to include the western boundary, eastern area, and central linear area. It is feasible that these wildlife corridors as a baseline habitat provide important linkage across and around the application site for hazel dormouse, a species which is vulnerable to habitat fragmentation.

As stated in the Hazel Dormouse Conservation Handbook “*The loss of hedges, leaving remnant groups of dormice isolated in the landscape, can be very damaging*”. We have reviewed Table 9.4 of the Environmental Statement Chapter 9 Ecology; however, we would advise that there is an insufficient level of analysis, evaluation and detail that supports the conclusion that the removal of foraging, hibernating, breeding, and nesting habitat for dormice within the habitats will not be ecologically significant. This links with the consultation opinion that insufficient assessment and mitigation has been carried out and detailed for South Haslemere Wildlife Corridors.

**We advise the LPA to request an impact assessment for hazel dormouse and a mitigation strategy prior to determination. The strategy will need to be prepared by a suitably qualified ecologist and appropriate to the local context.**

#### **Protected species - reptiles**

The protection afforded to reptiles is presented in Appendix 1.

Ecological surveys submitted identified the presence of a good population of slow worm and a low population of grass snake. Appropriate mitigation is therefore required to ensure reptiles are adequately protected.

The above referenced Ecological Survey Report indicates that avoidance of impacts to reptiles can be achieved by “*Sensitive vegetation clearance in suitable habitat*”. **However, insufficient information has been provided to support this approach. It is unclear how sensitive vegetation clearance is suitable for a good population of slow worm, and the proposed location of receptor site(s) is not clear. We would advise that at least an outline reptile mitigation strategy is submitted prior to determination.**

#### **Invasive non-native species**

No further comment

#### **Protected sites and habitats - Wealden Heaths**

No further comment

#### **Protected habitat – Lowland mixed deciduous woodland Habitat of Principle Importance**

We had previously advised the LPA to seek additional clarification to understand what the potential impacts to the woodland might be of the proposed Forest School and Scout Hut so that any associated impacts on biodiversity are assessed and appropriately mitigated and compensated for.

The above referenced SWT Ecology Response states that the “*The siting of the respective users huts are within existing clearings and no removal of woodland/habitat is required to accommodate any buildings*”. The LPA should ensure that they are satisfied that sufficient information has been submitted to support this statement.

The operational phase of the proposed Forest School and Scout Hut also needs to be addressed as it is not clear what activities will be associated with these areas and therefore, whether there will be any ongoing impacts to woodland habitat. The above referenced SWT Consultation Response proposes that this could be addressed via a LEMP.

**Should the LPA be minded to grant this application, individual LEMPs for the Forest School and Scout Hut should be provided prior to commencement.**

### **Protected habitat – Hedgerows**

We had previously noted that an ecology report refers to an 'important hedgerow' on the development site associated with a bank, but no further details appear to have been submitted. The above referenced SWT Consultation Response states there are no important hedgerows on the site.

We had also previously asked that the amount of hedgerow loss is quantified so that appropriate compensation can be undertaken.

We note that the SWT Consultation Response states that "*the amount of linear features being removed has been reduced*". The above referenced Biodiversity Net Gain and Enhancement Strategy provides a summary of a biodiversity net gain assessment which indicates that the proposed development can achieve a net gain of 24.07% hedgerow units (Note the full metric and condition assessments are not available for scrutiny).

**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.**

### **Protected habitat – Site of Nature Conservation Importance (SNCI)**

No further comment.

### **Requirement to demonstrate a measurable biodiversity net gain**

No further comment.

### **Biodiversity Enhancements**

No further comment

### **Landscape and Ecological Management Plan (LEMP)**

No further comment

### **Construction Environmental Management Plan (CEMP)**

No further comment

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,

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**Reviewer** Robert Hutchinson BSc (Hons) MSc CEcol 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 <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
	part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.”
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>