

**PRELIMINARY ECOLOGICAL APPRAISAL
with PRELIMINARY ROOST ASSESSMENT
(inc. THIRD-PARTY DATA SEARCH)**

**PLOT AT GARWAY, HEREFORDSHIRE, HR2
8RE**

for

MR ANDREW BURGESS

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CONTROL SHEET

Mr Andrew Burgess

Plot at Garway, Herefordshire, HR2 8RE

Preliminary Ecological Appraisal with Preliminary Roost Assessment

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1. RECOMMENDATIONS

1. Unless a delay of more than 12 months is anticipated before development, no further specialist survey work is recommended at this juncture.
2. In discussion with Herefordshire County Council (correspondence: James Bisset), it has been agreed that the works will follow a non-licensed method statement for great crested newts (contrary to the previous consultancies recommendation for an EPS mitigation licence (see below for further details)). This non-licensed method statement must be adhered to during the construction phase to avoid impacts on great crested newts, and will include guidance on the timing and duration of works, storage of materials, specific works to be supervised by a suitable qualified ecologist, *etc.* In the event that great crested newts are subsequently discovered during the construction of the new dwelling, then work **must cease immediately**. The licensed ecologist will be consulted, and they will then liaise directly with Natural England to determine an appropriate course of action.
3. Vegetation within the development footprint should be kept short (c.50mm) to prevent increasing the sites suitability for wildlife (and in particular herpetofauna). Where possible, the site should be sheep grazed.
4. A 2m vegetated buffer will be maintained between the hedgerows and any excavation and construction works, to maintain viable wildlife corridors.
5. Existing mature trees and hedgerows should be retained within the development scheme. All retained trees and hedgerows should be afforded adequate protection in line with '*BS5837: 2012 Trees in relation to design, demolition and construction*'.
6. Where required to facilitate permitted development, removal of potential bird nesting habitat, should be undertaken outside the bird nesting season (March – August inclusive) or otherwise under the direct supervision of a suitably

qualified ecologist who will be able to identify nesting birds and advise of appropriate safe working distances.

7. Strict control over the use of artificial night-lighting is required to prevent unnecessary illumination of wildlife habitats (e.g. hedgerows). Lighting must be low level (e.g. light bollards) and of the minimum wattage, as recommended by Bat Conservation Trust & Institute of Lighting Professionals (2018).
8. The following recommendations are made to provide biodiversity enhancements within the post-developed site and ensure compliance with local and national government policies (e.g. NPPF) and the 'biodiversity duty' enshrined within the Natural Environment & Rural Communities Act, 2006.
 - The new planting and landscaping design should provide foraging and nesting opportunities for a range of wildlife, including mammals, herpetofauna, birds and invertebrates. Native species of local origin (e.g. fruit trees) and ornamental species with a known benefit to wildlife should be incorporated into planting schemes, using species lists agreed in collaboration with the appointed ecologist.
 - A house sparrow terrace (e.g. Schwegler Sparrow Terrace) should be installed beneath the eaves of the new dwelling. The box should be located on a sheltered elevation (north – north-east facing).
 - A traditional bird box (such as the 1B Schwegler Nest Box) should be installed at the site to provide new nesting opportunities for birds.
 - Two bat boxes should be installed within the landownership of the client. One box should be tree or wall mounted (e.g. Beaumaris Woodstone Bat Box or Improved Crevice Bat Box) and one should be integrated within the new built structure (e.g. Ibstock enclosed Bat Box 'C').

- A hedgehog nest box (e.g. HH7 Hoglio Hedgehog / Mammal House) should be incorporated into the post-developed site. The box should be located within cover, out of prevailing wind.
- An insect tower will be installed within the post-developed site. The tower will be installed in a warm place and should be positioned facing south.
- To provide new and enhanced habitat for amphibians (and reptiles) within the site, any logs and deadwood (e.g. the habitat pile) should be retained as refuge habitat. The logs and deadwood should be located in undisturbed and discrete locations within suitable terrestrial habitat (e.g. adjacent to the southern boundary hedgerow), as directed by an ecologist. Further details will be provided within the Risk Avoidance Method Statement for great crested newts (see above).
- A post-development site visit should be undertaken by an appropriately experienced ecologist, in order to formally sign-off the completion of the biodiversity enhancement measures, recommended above. The site visit should be carried out within three months of completion of development. A short letter report and photos will be produced, which can be submitted to the council, in order to comply with Condition 6 of the outline planning permission (see Plan 4.2.3 below, for further details).

2. SUMMARY OF RESULTS

2.1 Overview

1. Outline planning permission has been granted for the *'erection of a detached dwelling with garage, with access via the former access to Newholme, Garway'*. (Application No: 182394).
2. Focus Ecology was commissioned by Mr Andrew Burgess to undertake an update Preliminary Ecological Appraisal, Preliminary Roost Assessment (bats) and third-party data search of the site (centred on Ordnance Survey grid reference SO 465 224), as conditioned by the outline approval. Condition 5 states:

'Before any site clearance or works commence a fully updated ecological survey must be undertaken. The supplied report should clearly detail all relevant ecological working methods and risk avoidance measures, mitigation, compensation and recommend any required Protected Species Licences. The report shall be supplied to the planning authority for written approval. The approved report, along with any appropriate European Protected Species Licence, shall be implemented in full unless otherwise agreed in writing by this planning authority and if subject to a Protected Species Licence additional approval by Natural England. This was accompanied by a third-party data search (2km search radius) from Herefordshire Biological Records Centre.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006'.

3. The site was originally surveyed in 2015 by Wyedean Ecology, followed by subsequent further surveys for reptiles and great crested newts (see Wyedean Ecology, 2015 for further information). This update survey was undertaken by an ecological consultant from Focus Ecology on 21 February 2019.

4. The site is approximately 0.43ha in area and comprises a plot of land dominated by short, previously managed, semi-improved grassland. Mixed fencing is present to the north and east of the site, whilst a defunct species-poor hedgerow is present to the south. An intact species-poor hedgerow and an intact species-rich hedgerow are present to the south-west and north-west, respectively.

2.2 Designated Sites

1. No statutory designated sites are present within 2km of the site.
2. The third-party data search has identified five Special Wildlife Sites (SWS), within 2km of the site. The proposed development footprint is situated immediately adjacent to Garway Common SWS.

2.3 Protected / Notable Habitats

1. **Hedgerows:** The hedgerows on site are considered to qualify as '*habitats of principal importance*' under Section 41 (S. 41) of the Natural Environment and Rural Communities (NERC) Act, 2006.

2.4 Protected / Notable Species

1. **Bats.** The building and Tree (T1) on site were considered to have **negligible potential** to support roosting bats (with reference to Collins, 2016).

The habitats on site and within the surrounding landscape were considered to offer **high suitability** for foraging and commuting bats (with reference to Collins, 2016), and a variety of species would be expected to occur within the surrounding area.

2. **Birds:** Buzzard, blue tit, carrion crow, dunnock, great tit, house sparrow, jackdaw, marsh tit, raven, robin, skylark and woodpigeon were recorded on and / passing over the site. The habitats on site provide a range of nesting and foraging opportunities for birds.

3. **Great crested newts:** A great crested newt breeding pond is located within 250m of the site, with a further two great crested newt breeding ponds present within 500m. The development footprint is considered unlikely to support great crested newts. Nevertheless, the wider site offers some terrestrial habitat suitable for the species.
4. **Reptiles:** No reptiles were recorded during the survey. Habitats within the site offer some suitability for common reptile species, such as the slow-worm.
5. **Badgers:** No setts or evidence of badger activity (latrines, snuffle holes, tracks *etc.*) was observed within the site boundaries.
6. **Hazel dormice:** The hedgerows on-site offer broadly suitable habitat for hazel dormice and connect the site to other areas of suitable habitat within the surrounding landscape.
7. **Other mammals:** No evidence of any other mammal species was recorded during the survey. The habitats on-site provide some shelter and foraging opportunities for small mammals such as polecat, hedgehog, bank vole and wood mouse.
8. **Invertebrates:** A full assessment of the invertebrate assemblage at this site is beyond the scope of this survey. However, no triggers were identified to indicate that the site supports an interesting or notable assemblage of terrestrial invertebrates.
9. No legally-notifiable plant species (e.g. Japanese knotweed) were recorded within the proposed development footprint. The site is unsuitable or offers no habitat for other protected / notable species such as riparian mammals and white-clawed crayfish.

3. DISCUSSION & CONCLUSIONS

The client has outline planning permission for *'the erection of a detached dwelling with garage, with access via the former access to Newholme, Garway'* (Application reference: 182394). The following have been identified which may represent constraints or opportunities (e.g. for biodiversity enhancement and green infrastructure) within a future development at this site.

3.1 Designated Sites

Garway Common SWS is the closest designated site to the survey area, located immediately adjacent to the proposed development footprint. Garway Common is designated for its area of unimproved grassland, which is partly hay meadow and partly pasture. The grassland on site did not appear to comprise a diverse range of grasses or herbaceous flora and is not considered to meet environmental criteria (such as for lowland meadows) to be listed as a *'habitat of principal importance for the purpose of conserving biodiversity in England'* under Section 41 (S.41) of the Natural Environment and Rural Communities (NERC) Act, 2006. The small scale nature of the proposals (c.400m²) mean that the development of this site is highly unlikely to result in any loss or deterioration to the SWS. However, an adequate buffer and suitable precautionary measures from potential development pollutants (e.g. dust, noise etc.) would be required during construction.

Given the small scale of the proposed development and distance of the proposed footprint from other designated sites within the surrounding area, it is considered highly unlikely that future development of this site will impact on the functionality or integrity of any other designated sites or affect their conservation status, provided that standard construction procedures are followed during works.

3.2 Protected / Notable Habitats

Hedgerows: All of the hedgerows on site qualify as a *'habitat of principal importance in England'* under S. 41 of the NERC Act, 2006. Additionally, Hedgerow 3 is *'species-rich'* as it contains at least five woody native species within a 30m section (Defra, 2007). The hedgerow is to remain intact and unaffected by the proposals, and will be protected from the proposed development footprint by a suitable habitat buffer. The

client also proposes to plant new species-rich hedgerows along the eastern site boundary.

3.3 Protected / Notable Species

Bats: The garage to the south-west of the site provides limited roosting opportunities for bats. No signs of bat roosting and / or foraging activity (e.g. feeding perches) were observed on-site. It is understood that this building is to be retained with continued use as a garage. As such, the likelihood of the development proposals having any significant impacts on bats is considered to be **negligible**.

Tree 1 was considered to hold **low potential** (with reference to best practice guidelines). This tree is to remain intact and unaffected by the development proposals.

The habitats on site and within the immediate surrounding area provide **high potential** for foraging and commuting bats (with reference to Collins, 2016). The hedgerows provide an invertebrate food source for bats, as well as a suitable commuting corridor. Areas of broadleaved woodland are present within the surrounding landscape, as well as a network of waterbodies. As such, it would be expected that a variety of bat species would be present within the local area.

The site boundaries are to be retained as part of the development proposals. A suitable habitat buffer is to be maintained between the development footprint and these boundary habitats and it is therefore not anticipated that the development of this site will cause any severance to potential commuting and / or foraging routes.

Birds: Dunnock, house sparrow, marsh tit and skylark were recorded on site and / or within the surrounding habitats.

House sparrow, marsh tit and skylark are Red-Listed birds of conservation concern owing to a significant decline in population over 50% since recording began (Eaton *et al.*, 2015). The dunnock is an Amber-Listed bird of conservation concern due to long-term moderate breeding population decline (Eaton *et al.*, 2015).

House sparrow and marsh tit are listed as '*species of principal importance in England*' under S.41 of the NERC Act, 2006.

The habitats on site (e.g. hedgerows) provide a range of suitable foraging and nesting opportunities for a variety of common and widespread species. However, the site does not provide suitable nesting habitat for ground-nesting birds such as the skylark. The boundary habitats are to be retained as part of the proposals. In addition, the client will be planting new species-rich hedgerows and trees, as well as installing a range of bird boxes at the site, which will benefit a host of bird species in the long-term.

Amphibians: A great crested newt was previously identified on site beneath a purposely placed refugia during reptile surveys undertaken by Wyedean Ecology in 2015 (see Wyedean Ecology, 2015). The proposed development footprint comprises approximately 0.04ha of short, previously managed semi-improved grassland limited suitable terrestrial habitat for great crested newts. The wider site provides features known to be utilised by great crested newts in their terrestrial phase (e.g. hedgerow boundaries and habitat pile). Therefore, they may be considered a '*place of shelter*' in the context of the Conservation of Habitats and Species Regulations, 2017. Nevertheless, these habitats are to remain intact and unaffected by the development proposals. One great crested newt breeding pond is present within 250m of the proposed development footprint, with a further two identified within 500m (Wyedean Ecology, 2015). **N.B.** The ponds were not available for access on the day of the survey (21 February 2019).

To assess the likelihood of committing an offence during development of this site, the Natural England risk assessment has been completed (see below), based on a development footprint of <0.05ha.

Table 1: Risk Assessment taken from Natural England great crested newt mitigation (development) licence method statement template (Natural England 2015).

Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability score

Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	0.01 - 0.1 ha lost or damaged	0.3
Land 100-250m from any breeding pond(s)	No effect	0
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	Minor disturbance of newts	0.3
Maximum:		0.3
Rapid risk assessment result:	AMBER: OFFENCE LIKELY	

Although the result indicates that an offence is likely (Amber), this is based on the worst case scenario where the work results in disturbance to newts. However, Natural England state that the risk assessment above is a generic tool with the limitations and caveats that it doesn't take into account site-specific details. In this instance the terrestrial habitat quality *within the development footprint* is considered to be limited, offering a lack of cover and foraging opportunities, while the development footprint is also of a small area.

Taking these contributing factors into account and applying Reasonable Avoidance Measures (RAMS), the likelihood of the proposed development activities giving rise to an offence under wildlife legislation or resulting in any measurable impact upon the favourable conservation status of great crested newts at this site is **negligible**.

Given the above, it is not considered that a Natural England great crested newt mitigation (development) licence would be merited for the proposed works. However, a method statement adopting best practice and Reasonable Avoidance Measures (RAMs) will be required during the clearance of the development footprint to ensure legal compliance.

Reptiles: Although tussocky in place, the grassland on site (and within the proposed development footprint in particular), is predominantly short, and shows signs of recent management (evidence of former sheep grazing). The wider site boundaries (e.g. hedgerows) offer suitable habitat for common reptile species such as the slow-worm. No reptiles have been recorded on site during this survey, or previous reptile surveys undertaken at the site in 2015 (Wyedean Ecology, 2015). Therefore, given the limited

size of suitable habitat within the proposed development footprint (<0.05ha), and lack of third-party records, it is considered unlikely that reptiles would be present and / or impacted upon by the proposed development. Nevertheless, a precautionary pre-clearance strategy will be designed within the Risk Avoidance Method Statement for great crested newts (see recommendations, above), and will be fully implemented at the site, which will ensure full compliance with the Wildlife and Countryside Act, 1981 (as amended).

Hazel dormice: Hazel dormice are known to be widespread in southern and central England, although populations are patchily distributed where suitable habitats exist (Bright & Morris, 2005). The hedgerows on site are broadly suitable for hazel dormice due to their species composition. Nevertheless, they are to be retained and improved as part of the development proposals. It is therefore not anticipated that the proposed development of this site will impact upon this species.

3.4 Opportunities

The development of this site provides a range of suitable biodiversity enhancement opportunities to improve and / or provide new habitats at this site. The client proposes to plant a new species-rich hedgerow along the eastern site boundary. The new hedgerow will include a minimum of five species, preferably seven (suitable species include field maple, hazel, hawthorn, holly, crab apple, guelder rose, dogwood, blackthorn *etc.*). All of the hedgerows on site should be managed through a sympathetic management scheme including a relaxed cutting regime (trimming as required, in late winter) and bolstering of the hedgerows where gaps are identified. A range of wildlife boxes (e.g. bird, bat and hedgehog boxes) should be incorporated into the development scheme, which may benefit declining species such as the hedgehog, house sparrow and dunnock.

Implementation of these opportunities will contribute to meeting the environmental requirements of the National Planning and Policy Framework, as well as the Herefordshire Local Plan Core Strategy 2011 – 2031 (adopted October 2015¹). Specifically Policy LD2 – Biodiversity and geodiversity, which states: Development

¹ Herefordshire Local Plan Core Strategy 2011 – 2031. Available at: <https://www.herefordshire.gov.uk>

proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire, through the:

- Retention and protection of nature conservation sites and habitats, and important species in accordance with their status;
- Restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks; and
- Creation of new biodiversity features and wildlife habitats.

4. ANNEXES

4.1 Photographs

4.2 Plans

4.3 Survey & Third-Party Data

4.4 Survey Objectives

4.5 Limitations

4.6 Methods

4.7 References & Bibliography

4.8 Legislation & Best Practice

4.1 Photographs

All photographs taken on 21 February 2019.



Plate 1: Showing typical view of the site. Photograph looking east.



Plate 2: Showing typical view of the site. Photograph looking north.



Plate 3: Showing typical view of Hedgerow 1. Photograph looking east.



Plate 4: Showing typical view of Hedgerow 3. Photograph looking north.



Plate 5: Showing habitat pile (Target Note 1).



Plate 6: Showing small pitch-roofed garage to the south-west of the site. Photograph looking south.

4.2 Plans

Plans:


4.2.1 Location Plan


4.2.2 Phase 1 Habitat Survey Plan

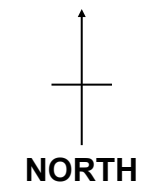
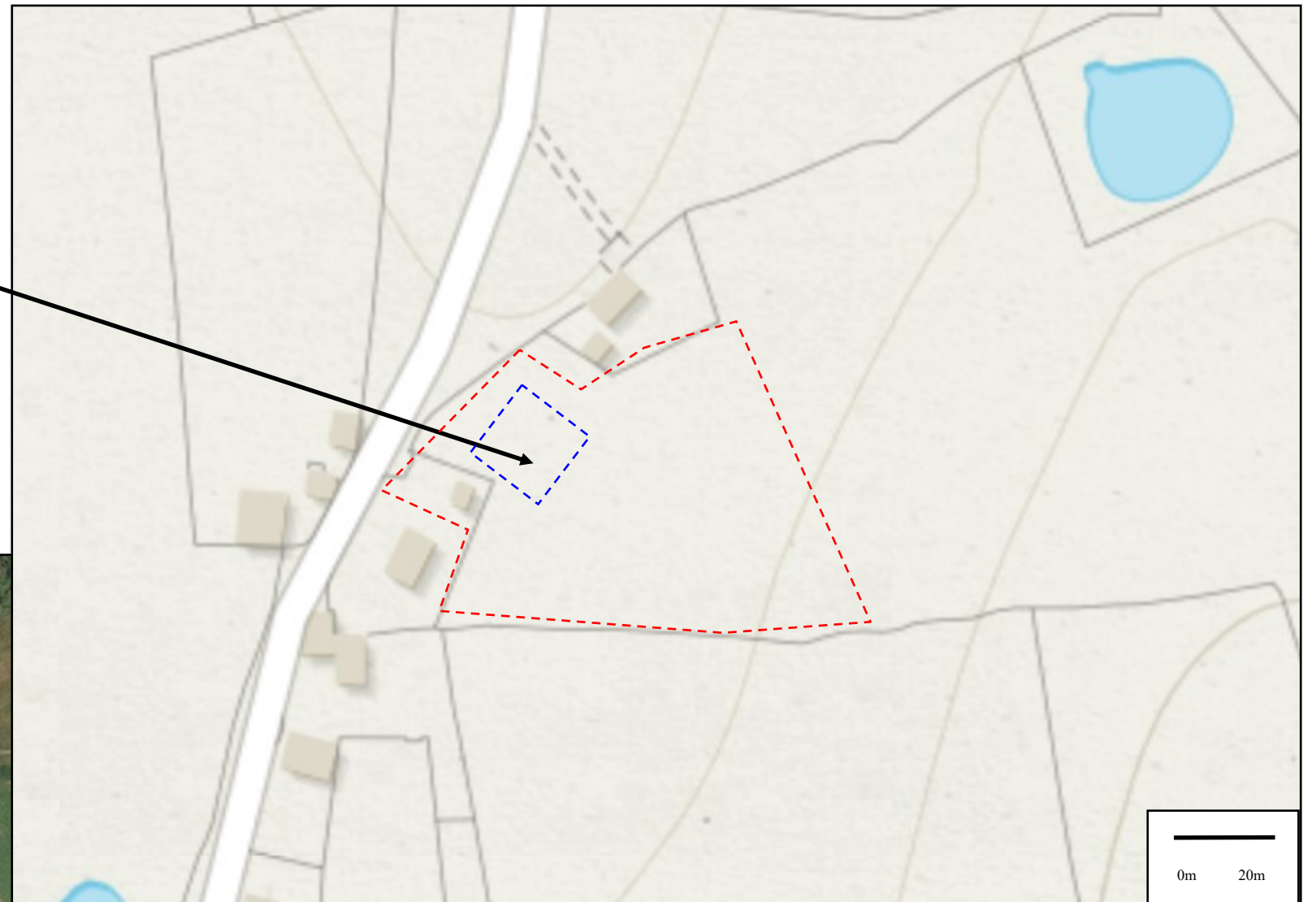
4.2.3 Outline Planning Approval Document

4.2.1 Location Plan

Key:

 Proposed development footprint

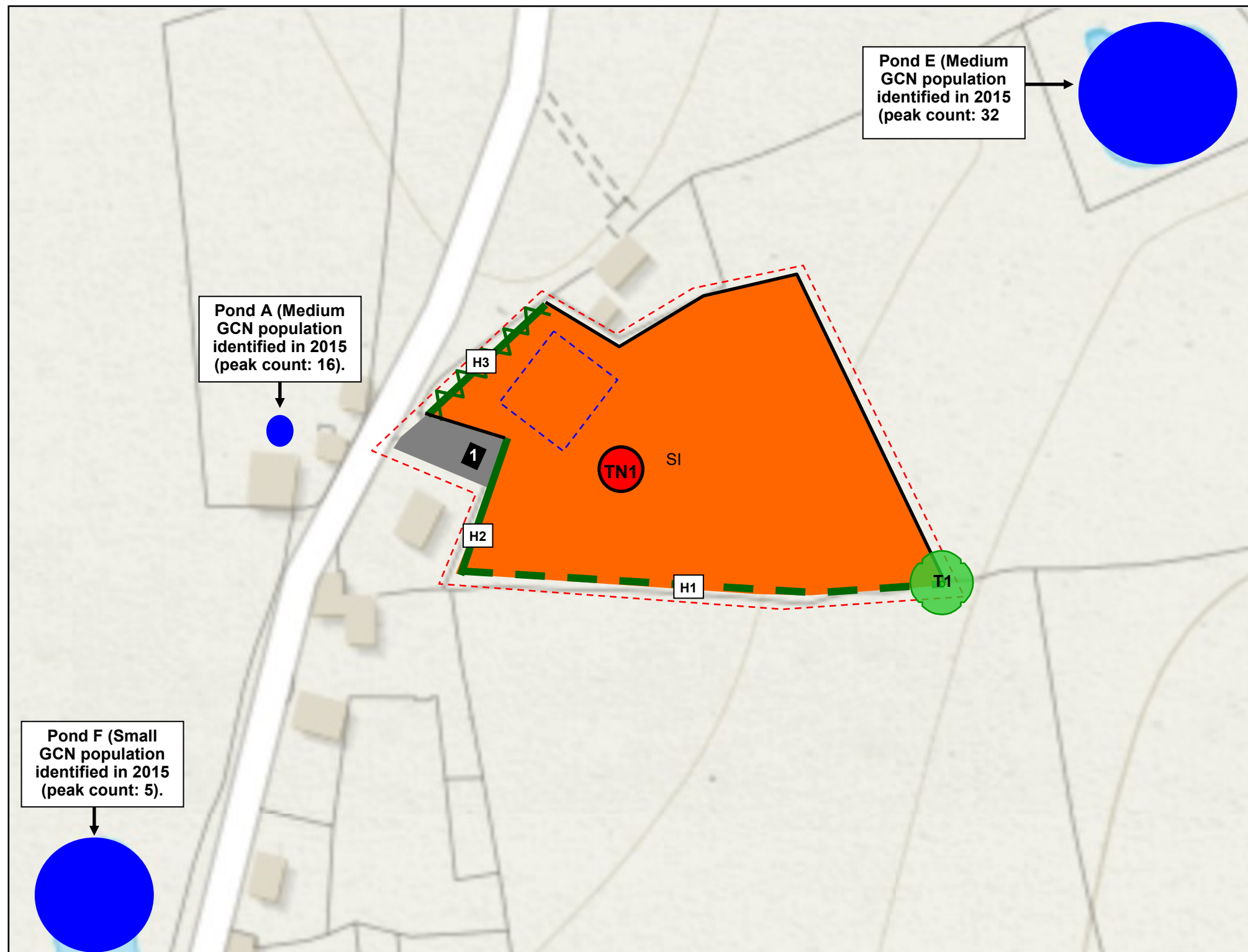
 Survey Area



Client: Mr Andrew Burgess
Site: Plot at Garway, Herefordshire, HR2 8RE
Title: Location Plan
Contract: 1565
Date: March 2019

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4.2.2 Phase 1 Habitat Survey Plan



KEY:

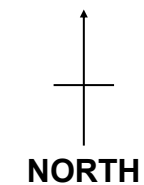
- SI Semi-improved grassland
- 1 Built-structure
- 1 Hardstanding
- ✂ Intact Hedge (species-rich)
- Intact Hedge (species-poor)
- - - Defunct Hedge (species-poor)
- T1 Notable Tree
- Mixed fencing
- - - Survey Boundary
- - - Proposed development footprint

Built-Structure Key:

1 - Garage

Target-note Key:

1 - Habitat pile



Client: Mr Andrew Burgess

Site: Plot at Garway, Herefordshire, HR2 8RE

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OUTLINE PLANNING PERMISSION

Applicant:

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Agent:

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Penrhiw
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Date of Application: 28 June 2018

Application No: 182394

Grid Ref:346559:222414

Proposed development:

SITE: Land between Newlands Cottage and Newholme, Garway Court Lane,
HR2 8RE
DESCRIPTION: Site for the erection of a detached dwelling with garage, with access via the
former access to Newholme, Garway

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that OUTLINE PLANNING PERMISSION has been GRANTED for the development described above in accordance with the application and plans submitted to the authority subject to the following conditions:

- 1 Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 3 Approval of the details of the layout, scale, appearance, access and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.

Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

- 4 Plans and particulars of the reserved matters referred to above relating to the layout, scale, appearance, access and landscaping shall be submitted in writing to the local planning authority and shall be carried out as approved.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 5 Before any site clearance or works commence a fully updated ecological survey must be undertaken. The supplied report should clearly detail all relevant ecological working methods and risk avoidance measures, mitigation, compensation and recommend any required Protected Species Licences. The report shall be supplied to the planning authority for written approval. The approved report, along with any appropriate European Protected Species Licence, shall be implemented in full unless otherwise agreed in writing by this planning authority and if subject to a Protected Species Licence additional approval by Natural England.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

- 6 Within 3 months of completion of the building works evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation of at least two bat roosting enhancements, two bird nesting boxes and one pollinating insect habitat home built in to, or attached to the building and one hedgehog habitat home installed on land under the applicant's control, should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. External habitat boxes should be made of a long- lasting material such as Schwegler Woodcrete or Greenwood Ecohabitats Ecostyrocrite. No external lighting should illuminate any habitat enhancement nor any boundary feature or adjacent habitats.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006. Dark Skies Guidance Defra/NPPF 2013.

- 7 Prior to the occupation of the development details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first use occupation of any of the building hereby permitted.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 8 Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 43 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 9 Before any other works hereby approved are commenced, the construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.
- Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.
- 10 Prior to the first occupation of the dwelling hereby approved the driveway and/or vehicular turning area shall be consolidated and surfaced at a gradient not steeper than 1 in 8. Private drainage arrangements must be made to prevent run-off from the driveway discharging onto the highway. Details of the driveway, vehicular turning area and drainage arrangements shall be submitted to and approved in writing by the local planning authority prior to commencement of any works.
- Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.
- 11 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.
- Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.
- 12 Prior to the first occupation of the dwelling hereby approved space shall be laid out within the application site for cars to be parked and for a vehicle to turn so that it may enter and leave the application site in a forward gear. The parking area shall be properly consolidated, surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for any other purpose than the parking of domestic vehicles.
- Reason: In the interests of highway safety, to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.
- 13 Development shall not begin until parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the local planning authority and such provision shall be retained and kept available during construction of the development.
- Reason: To prevent indiscriminate parking, with immediate effect, in the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.
- 15 Prior to commencement of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of each dwelling shall be submitted to the Local Planning Authority for their written approval. The development shall not commence until the Local Planning Authority has given such written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the occupation of any of the dwellinghouses hereby permitted. Thereafter these facilities shall be maintained.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 16 Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the local planning authority and implemented as approved.

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy.

- 17 During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Informatives:

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
- 3 This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

- 4 This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

- 5 It is an offence for any person to:

Intentionally kill, injure or take any bats.

Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved. The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural England. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural England (0300 060 6000) and the Council's Ecologist. Advice is also available from the Bat Conservation Trust Helpline on 0845 1300 228.

- 6 Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
- 7 The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.
- 8 In relation to condition 12, the number of car parking spaces should accord with the Herefordshire Council Highways Design Guide depending on the level of accommodation provided within the dwelling.



SIMON WITHERS
DEVELOPMENT MANAGER

Date: 3 October 2018

YOUR ATTENTION IS DRAWN TO THE NOTES BELOW

Please note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. In particular consent may be required under the Building Regulations.

NOTES

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within 6 months of the date of this notice, using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Right to Challenge the Decision of the High Court

Currently there are no third party rights of appeal through the planning system against a decision of a Local Planning Authority. Therefore, if you have concerns about a planning application and permission is granted, you cannot appeal that decision. Any challenge under current legislation would have to be made outside the planning system through a process called Judicial Review (JR).

The decision may be challenged by making an application for judicial review to the High Court. The time limits for bringing such challenges are very strict, and applications need to be made as soon as possible after the issue of the decision notice. So, if you think you may have grounds to challenge a decision by Judicial Review you are advised to seek professional advice as soon as possible.

These notes are provided for guidance only and apply to challenges under the legislation specified. If you require further advice on making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000). For further information on judicial review please go to <http://www.justice.gov.uk>

The Council has taken into account environmental information when making this decision. The decision is final unless it is successfully challenged in the Courts. The Council cannot amend or interpret the decision. It may be redetermined by the Council only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

4.3 Survey & Third-party Data

All surveys have been completed by appropriately qualified and experienced ecologists from Focus Ecology. Third-party data has been obtained from Herefordshire Biological Records Centre. Copies of raw data are available on request. Please contact the Project Contact at Focus Ecology for more details.

Table 2: Summary of Habitat Features

Phase 1 Habitat Feature	Phase 1 Code	Size / Extent	Condition	Qualifies as S.41 Habitat	Qualifies as EC Habitats of Community Interest (Annex I)
Neutral grassland (semi-improved)	B2.2	0.40ha	Majority of the site is dominated by short, managed semi-improved grassland. Grass species recorded include perennial rye-grass, red fescue, cock's-foot, rough meadow-grass and false oat-grass. Forbs occur throughout the sward. Species recorded include yarrow, creeping buttercup, ribwort plantain, meadow buttercup, creeping thistle, ground ivy, cleavers, lords-and-ladies and common nettle. Common field speedwell, spear thistle, broad-leaved dock, dandelion, cow parsley, common mouse-ear, chickweed and dove's-foot-cranesbill were also recorded to the west. The grassland is somewhat tussocky, but shows clear evidence of recent management (possibly having been sheep grazed).	No	No

Bracken	C1.2	0.01ha	Bracken was present along the base of Hedgerow 1.	No	No
Intact hedge (species-rich)	J2.1.1	80m	Hedgerow 3 is a species-rich hedgerow located to the north-west of the site. The hedgerow is intact and is unmanaged. Species recorded include holly, blackthorn, sycamore, hazel, elder and hawthorn with ivy, <i>Rosa</i> sp., and bramble trailing throughout.	Yes	No
Intact hedge (species-poor)	J2.1.2	60m	Hedgerow 2 is present to the west of the site. The hedgerow is short and is managed. Species recorded include English elm, blackthorn and hawthorn, with bramble trailing throughout.	Yes	No
Defunct hedge (species-poor)	J2.2.2	178m	Hedgerow 1 is present to the south of the site. The hedgerow is managed, and is gappy in places. Species recorded include hawthorn, holly, elder and <i>Rosa</i> sp., with bramble and ivy trailing throughout.	Yes	No
Mixed fencing	J4	220m	Wooden post and rail fencing is present to the east and north of the site.	No	No
Buildings	J3.6	0.01ha	A small pitch-roofed garage is located to the south-west of the site (see below for further details).	No	No
Hardstanding	J5	0.01ha	An area of hardstanding surrounds the existing garage.	No	No

Table 3: Summary of Preliminary Roost Assessment

Structure	Potential Roost Features	Evidence of Bats	Category (Collins 2016)
Garage (Plate 1)	None.	No.	Negligible

Tree	Potential Roost Features	Evidence of Bats	Category (Collins 2016)
T1	Mature field maple. No obvious features observed from ground level.	No.	Low

4.4 Survey Objectives

The objectives of the survey were:

1. to carry out a Preliminary Ecological Appraisal of the site to identify any habitats, species or features of nature conservation significance;
2. to undertake a “third-party data” search to acquire details of any protected species records held by third parties and information on nature conservation designations relevant to the site, to collate and comment upon the responses;
3. to undertake a daytime preliminary roost assessment for bats, following best practice survey guidelines (Mitchell-Jones, 2004; Collins, 2016);
4. to produce a concise report identifying known and likely ecological constraints associated with a project. The report will identify any additional surveys that may be required to inform an Ecological Impact Assessment (EclA). It will also indicate mitigation measures that may be required, applying the ‘mitigation hierarchy’, to ensure compliance with wildlife law and recognised best practice. Intrinsic opportunities offered by a project to deliver ecological enhancement will be identified within the report.

4.5 Limitations

The Preliminary Ecological Appraisal was carried out by a suitably experienced ecologist from Focus Ecology. The month of survey (February) is outside the optimal survey period for most habitats and species in England.

Many fauna species become inactive and their field signs less apparent in the winter months. Similarly some plant species may also become less evident in the winter as a consequence of their annual growth pattern or natural process of die-back to roots, corms, bulbs and tubers.

The reader is reminded that an ecological survey that is based on a single site visit will typically under-represent the biological diversity of a site, owing to seasonal variations in animal activity and plant growth form in particular. However, a Preliminary Ecological Appraisal such as this can be completed by an experienced ecologist at any time of year subject to suitable weather conditions.

No significant survey limitations were encountered.

4.6 Methods

4.6.1 Third-Party Data Trawl

A third-party data trawl was conducted in February 2019, to collect any existing site records and protected/notable species data records for within the site boundary and a 2km area around the site. The following third-party consultees were contacted: Herefordshire Biological Records Centre. The government's multi-agency website 'magic' was also consulted (www.magic.gov.uk).

4.6.2 Preliminary Ecological Appraisal

An experienced ecological consultant undertook a field survey in accordance with the Guidelines for Preliminary Ecological Appraisal (CIEEM, 2017 2nd Edition) and the Handbook for Phase 1 Habitat Survey (JNCC, 2010). The extent of each habitat type was mapped and details of relative plant species abundance within homogenous areas were recorded. Species abundance was measured on the DAFOR scale (Dominant, Abundant, Frequent, Occasional and Rare), with the addition of the term 'Local' to describe variation on a small-scale.

Higher plant nomenclature follows Stace (3rd Edition), 2010 with common (English) names being used for ease of reading and accessibility. Bryophyte nomenclature follows Atherton *et al.* (Eds), 2010, with English names being used in line with this publication. Scientific names are used for fungal identification, with authorities referenced in the text, for reasons of clarity.

The survey method was extended to include a search for fauna of ecological importance, including those that are afforded legal protection.

Target Note descriptions were recorded for features of ecological importance, these may include areas of species-rich vegetation and field signs of protected and/or notable species.

4.6.3 Preliminary Roost Assessment

A daytime preliminary roost assessment (PRA) was undertaken at the site by an experienced and appropriately licensed ecologist (Jessica Stuart-Smith: Natural England licence number: 2016-25531-CLS-CLS). An internal and external inspection of the built structures on site was carried out from ground-level using binoculars as required. The focus of the survey being to identify any possible exit and entry points of bats, suitable roosting locations and to search for bat field signs.

Within the built structures, particular attention was paid to areas suitable for roosting bats. Field signs that would indicate the presence of bats include:

- bat droppings;
- bat carcasses;
- feeding remains (particularly butterfly & moth wings);
- evidence of urine staining around possible roost entrances;
- presence of areas cleared of cobwebs;
- oily stains around possible roost entrances.

Built structures were assessed as having either 'high', 'moderate', 'low' or 'negligible' potential to support roosting bats, and categorised using definitions in Collins (2016) (see Table 4, below).

Table 4: Guidelines for Assessing the Potential Suitability for Roosting Bats of Structures within a Development Site²

Suitability	Description: Structure
Negligible	Negligible features on the structure that are likely to be used by roosting bats.
Low	A structure with one or more potential roost sites that could be used by individual bats opportunistically. However, these potential roost sites do not provide appropriate conditions (<i>i.e.</i> space, protection, shelter) and/or suitable surrounding habitat to be used on a regular basis or by larger numbers of bats (<i>i.e.</i> unlikely to be used as a maternity roost).
Moderate	A structure with one or more potential roost sites that could be used by bats due to their appropriate condition (<i>i.e.</i> size, shelter, protection) and surrounding habitat. However, it is unlikely to support a roost of high conservation value (with respect to roost type only).

² Taken and adapted from: **Collins, J. (ed.) (2016).** *Bat Surveys for Professional Ecologists: Good Practice Guidelines, 3rd Edition*. The Bat Conservation Trust, London, UK.

High	A structure with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their conditions (<i>i.e.</i> size, protection, shelter) and surrounding habitat.
Confirmed Roost	Structure with confirmed bat roost.

In addition, a ground-based tree assessment was undertaken of mature and semi-mature trees within the site boundary. Survey methods followed the guidelines and techniques recommended in Mitchell-Jones (2004), Collins (2016), BTHK (2018), Cowan, (2003). Binoculars were used as required to obtain better views of potential roost features in trees. Features that can provide roosting sites for bats in trees include:

- woodpecker holes;
- cracks, splits and fissures in trunk and limbs;
- rot holes;
- trunk cavities;
- loose bark;
- dense ivy growth.

Trees were assessed as having either ‘high’, ‘moderate’, ‘low’ or ‘negligible’ potential to support roosting bats, and categorised using definitions in Collins (2016) (see Table 5, below).

Table 5: Guidelines for Assessing the Potential Suitability for Roosting Bats of Trees within a Development Site³

Suitability	Description: Structure
Negligible	Negligible features on the tree that are likely to be used by roosting bats.
Low	A tree of sufficient size and age to contain potential roosting features but with none seen from the ground or features with only very limited roosting potential.
Moderate	A tree with one or more potential roost features that could be used by bats due to their appropriate condition (<i>i.e.</i> size, shelter, protection) and

³ Taken and adapted from: **Collins, J. (ed.) (2016).** *Bat Surveys for Professional Ecologists: Good Practice Guidelines, 3rd Edition.* The Bat Conservation Trust, London, UK.

	surrounding habitat. However, it is unlikely to support a roost of high conservation value (with respect to roost type only).
High	A tree with one or more potential roost features that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their condition (<i>i.e.</i> size, protection, shelter) and surrounding habitat.
Confirmed Roost	Tree with confirmed bat roost.

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4.8 Legislation & Best Practice

4.8.1 The Conservation of Habitats and Species Regulations 2017

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

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

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

4.8.2 The Wildlife and Countryside Act 1981 (as amended)

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

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

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

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

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

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

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

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

4.8.5 The Hedgerow Regulations 1997

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

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

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

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

Exemptions to the Regulations fall into three categories:

- “small scale works;”
- “works approved under other procedures which ensure careful assessment and consideration of the impact on the local environment; and”
- “works authorised under other legislation which justify the removal of a hedgerow without first establishing its importance.”

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

4.8.6 The UK Post-2010 Biodiversity Framework

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

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

4.8.7 National Planning Policy Framework

The National Planning Policy Framework (NPPF) was first published on 27 March 2012, and has since been replaced by the revised National Planning Policy Framework, published on 24 July 2018. This framework acts as guidance for planning authorities (LPAs) in England to form Local Plan policies in favour of sustainable development as part of the government’s reforms to increase the accessibility of the planning system and promote long term sustainable growth. Along with the Circular 06/205, the NPPF consolidates the Planning Policy Statements and Guidance Notes, many of which are now obsolete, including *Planning Policy Statement 9: Biodiversity and Geological Conservation (PPS9)*.

The framework states that “*planning policies and decisions should contribute to and enhance the local environment*” (paragraph 170).

Chapter 15 of the framework focusses on habitats and biodiversity. Specifically, paragraph 175 states: “*...when determining planning applications, local planning authorities should apply the following principles:*

- *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments) should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Scientific Interest;*
- *development proposals whose primary objective is to conserve or enhance biodiversity should be supported;*
- *opportunities to incorporate biodiversity improvements in and around developments should be encouraged;*
- *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.*

4.8.8 Circular 06/2005: Biodiversity and Geological Conservation

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

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

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

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

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

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

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

4.8.10 Bats

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

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

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

4.8.11 Birds

All wild birds in the UK are afforded protection under the Wildlife and Countryside Act 1981 (as amended). This protection includes killing, injuring or taking wild birds as well as taking, damaging or destroying bird nests in use or being built, and taking or destroying eggs. Birds listed under Schedule 1 of the Act are afforded additional protection from disturbance during nesting and offences relating to these birds are subject to special penalties. The nest sites of birds listed under Schedule ZA1 of the act (golden eagle, white-tailed eagle and osprey) are afforded strict, year-round protection even when the nests are not in active use.

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

4.8.12 Great Crested Newts

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

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

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

4.8.13 Reptiles

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

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

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

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

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

5. QUALIFICATIONS & EXPERIENCE

Focus Ecology has the expertise to provide sure-fire environmental solutions to a wide range of projects. The company ethos forges the highest standards of professional scientific practice with a best value approach for our clients. Our core area of expertise is in the production of specialist ecological and arboricultural reports and advice to support planning applications. We are also building an enviable reputation for innovative habitat creation and management solutions. Our flexible approach, range of skills and broad project experience from major infrastructure contracts to smaller projects allows us to adapt to your individual requirements. Focus Ecology is situated in Worcestershire, providing a convenient and central UK location.

Jessica Stuart-Smith BSc (Hons) GradCIEEM AMRSB

Jessica is an Ecologist who joined Focus Ecology in 2015. She holds a BSc (Hons) degree in Zoology from the University of Roehampton. Her ecological experience includes Preliminary Ecological Appraisals, breeding bird surveys and surveying for European Protected Species including great crested newts, bats and hazel dormice. Jessica is also a competent surveyor of badgers, reptiles and barn owls. Jessica holds Natural England survey licences for bats (Class 2), great crested newts and white-clawed crayfish as well as Natural Resources Wales survey licences for bats and great crested newts. Jessica has been the 'Named Ecologist' on Natural England (development) licences for bats and has experience of developing suitable mitigation strategies and overseeing licensable works. Jessica is a Graduate member of the Chartered Institute of Ecology and Environmental Management (CIEEM) and Associate member of the Royal Society of Biology.

This report has been checked for quality and content by:

Graham Davison BSc (Hons) MSc MCIEEM MRSB

Graham is an ecologist with over sixteen years of experience in the field of applied ecology. He holds a BSc (Hons) degree in Zoology and an MSc with distinction in Law and Environmental Science. Graham's Masters paper on legal and practical implications for mammal reintroductions was published by the IUCN. His ecological experience includes surveys to identify nationally and locally important sites for wildlife, ecological services to local planning authorities and provision of ecological reports to accompany major infrastructure projects, housing schemes, industrial developments and mineral extraction. Graham is a skilled botanical surveyor specialising in Phase I and Phase II (NVC) Habitat Surveys. Graham has considerable expertise in protected species surveys, holding protected species licenses for bats, great crested newts, white-clawed crayfish and barn owls as well as competency in the survey of badgers, reptiles, otter, water vole, breeding and over-wintering birds. Graham has held Natural England Mitigation (development) licences for bats (including being a Registered Consultant for the new Bat Low Impact Class Licence) and great crested newts, and numerous Natural England licences to close or disturb badger setts. Graham is highly skilled in the production of reports and Nature Conservation Management Plans providing advice to ensure legal compliance and consistency with recognised best practice. Graham has appeared and delivered

evidence as an expert witness for Planning Appeals and Public Inquiry. Graham has been interviewed for BBC local radio and TV programmes to provide specialist expertise on ecological topics.