Greengage

Jack Straw's Castle Asserson Law Associates
Preliminary Ecological Appraisal, March 2017

QA

Jack Straw's Castle - Preliminary Ecological Appraisal

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1.0 EXECUTIVE SUMMARY

1.1 Greengage Environmental Ltd was commissioned to undertake a Preliminary Ecological Appraisal (PEA) by Asserson Law Associates in order to establish the ecological value of this site and its potential to support notable and/or legally protected species.

1.2 This report has been produced to accompany a planning application for the site.

1.3 Proposals include the construction of a new residential block adjoining the existing Jack Straw's Castle building.

1.4 The assessment site comprises a small car park area adjacent to the former Jack Straw's Castle public house on Hampstead Heath.

1.5 Details received from a desk top study and the site walkover have confirmed the site:

- Has slow value for nesting birds; and
- Has low to moderate value for roosting bats in the adjacent building.

1.6 Proposals should be aware of the potential value for bats in the adjacent building and in the surrounding area; an additional assessment for bats should be undertaken prior to works taking place, and actions that may result in significant disturbance to bats such as extensive piling works should be minimised.

1.7 Best practice construction environmental practise should be followed to minimise any indirect impact to the Heath; such actions could be secured through production of a Construction Environmental Management Plan (CEMP).

1.8 Proposals should also seek to achieve net gains for biodiversity through the integration of the following enhancement actions:

- Wildlife friendly landscaping;
- Bird and bat boxes.

2.0 INTRODUCTION

2.1 Greengage Environmental Ltd was commissioned to undertake a Preliminary Ecological Appraisal by Asserson Law Associates of a site known as Jack Straw's Castle in Hampstead, London Borough of Camden.

2.2 The PEA was undertaken in order to establish the ecological value of this site and its potential to support notable and/or legally protected species. This report should be read in conjunction with the other documents, plans and technical studies submitted to accompany the planning application.

2.3 The PEA (otherwise known as an Extended Ecological Phase 1 Survey) was undertaken in accordance with guidance in the Joint Nature Conservation Committee (JNCC) (2010) Handbook for Phase 1 Habitat Survey[1] and the Chartered Institute of Ecological and Environmental Management (CIEEM) (2013) Guidelines for Preliminary Ecological Appraisal[2], in accordance with BS42020:2013: Biodiversity[3]. The overall assessment consisted of:

- Site specific biological information gained from statutory and non-statutory consultation; and
- A site walkover and ecological survey.

2.4 The site-specific consultation provided the ecological context for the site survey carried out on the 3rd March 2017.

2.5 The survey boundary and existing site is shown at Figure 1.

2.6 Greengage undertook the site walkover during overcast and cold weather conditions. Features within the site boundary and accessible features immediately bordering it were evaluated and the extent and distribution of habitats and plant communities were recorded, supplemented with target notes on areas or species requiring further commentary. Fauna using the area were recorded and areas of habitat suitable for statutorily protected species were identified where present, with an active search carried out for evidence of such use.

2.7 The recommendations and opinions expressed in this report are based on the combination of information stated, site observations and feedback from the consultation exercise.

3.0 SITE DESCRIPTION

3.1 The site comprises a small car park area adjacent to the former Jack Straw's Castle public house building located on North End Way in Hampstead, London Borough of Camden.

3.2 The entire assessment site consists of hardstanding with some ivy coverage along the boundary wall to the west. The site is bound to the east by North End Way, the north by Heath Brow, beyond which extends the Heath, and the south by the former Jack Straw's Castle public house building.

3.3 The site is surrounded by an abundance of diverse green space, with woodland and grassland associated with the Heath extending to the north, east and west. The residential area of Hampstead Village can be found to the south.

PROPOSED DEVELOPMENT

3.4 Proposals include the construction of a new residential block adjoining the existing Jack Straw's Castle building.

4.0 METHODOLOGY

DESK TOP REVIEW

4.1 A review of readily available ecological information and other relevant environmental databases (included Defra's Multi-Agency Geographic Information for the Countryside (MAGIC) website[4]) was undertaken for the site and its vicinity. This provided the overall ecological context for the site, to better inform the assessment.

4.2 Given the scale of the site, the nature of the existing site habitats and the extent of proposed works, a full biological records search was not considered proportional to the assessment.

ON SITE SURVEYS

Flora

4.3 The extent and distribution of different habitats on site were identified and mapped according to the standard JNCC Phase 1 Survey methodologies, supplemented with target notes describing the dominant botanical species and any valuable or interesting features. A habitat map has been produced to illustrate the results, as shown at Figure 1.

Fauna - Protected Species

4.4 The Phase 1 Survey specifically includes surveys to identify the likely presence of protected species and species protected by statute. This involved identifying potential habitats in terms of refugia, breeding sites and foraging areas.

4.5 The likelihood of occurrence is ranked as follows and relies on the current survey and evaluation of existing data through the desk top study.

- Negligible - While presence cannot be absolutely discounted, the site includes very limited or poor quality habitat for a particular species. The site may also be outside the known national range for a species;
- Low - On-site habitat is poor to moderate quality for a given species, with few or no information about their presence from desk top study. However, presence cannot be discounted due to the national distribution of the species or the nature of on-site and surrounding habitats;
- Moderate - The on-site habitats are of moderate quality, providing most or all of the key requirements for a species. Several factors may limit the likelihood of occurrence, habitat severance, habitat disturbance and small habitat area;

- High - On-site habitat of high quality for given species. Site is within a regional or national stronghold for that particular species with good quality surroundings and good connectivity; and
- Present - Presence confirmed for the survey itself or recent, confirmed records from information gathered through desk top study.

4.6 The species surveyed for included:

Badger (Meles meles)

4.7 The potential for badger to inhabit or forage within the study area was established during the site walkover. Evidence of badger activity includes the identification of setts (a system of underground tunnels and nesting chambers), grubbed up grassland (caused by the animals digging for earthworms, slugs, beetles etc.), badger hairs, paths, latrines and paw prints.

Great Crested Newt (Triturus cristatus)

4.8 During the site walkover, an assessment was carried out to identify any potential habitats that may support great crested newt (GCN) and other native amphibians. The aquatic and terrestrial habitats required generally include small, still ponds or water bodies suitable for breeding; and woodland or grassland areas where there is optimal invertebrate prey potential.

Bat species (Chiroptera)

4.9 The site visit was undertaken in daylight and the evaluation of bat potential comprised an assessment of natural features on site that aimed to identify characteristics suitable for bat roosts, foraging and commuting. In accordance with Bat Conservation Trust survey guidelines[5] and methods given in English Nature's (now Natural England) *Bat Mitigation Guidelines*[6] consideration was given to:

- The availability of access to roosts for bats;
- The presence and suitability of crevices and other places as roosts; and
- Signs of bat activity or presence.

4.10 Definite signs of bat activity were taken to be:

- The bats themselves;
- Droppings;
- Grease marks;
- Scratch marks; and
- Urine spatter.

4.11 Signs of possible bat presence were taken to be:

- Stains; and
- Moth and butterfly wings.

4.12 Features with potential as roost sites include mature trees with holes, crevices or splits (the most utilised trees being oak, ash, beech, willow and Scots pine), caves, bridges, tunnels and buildings with cracks or crevices serving as entrance or exit holes.

4.13 Additionally, linear natural features such as tree lines, hedgerows and river corridors are often considered valuable for foraging and commuting. Consideration was given to the presence of these features both immediately within and adjacent to the assessment area.

4.14 The exterior and interior of the buildings (where necessary) were checked for gaps, cavities, access points and crevices, and any signs of bat droppings, in accordance with English Nature (now Natural England) guidelines.

Reptiles

4.15 The potential for reptile species on site was assessed during the walkover survey. Possible species include the grass snake (*Natrix natrix*), smooth snake (*Coronella austriaca*), adder (*Vipera berus*), common and sand lizard (*Lacerta vivipara* and *L. agilis*) and the slow worm (*Anguis fragilis*). These native reptile species generally require open areas with low, mixed-height vegetation, such as heathland, rough grassland, and open scrub or, in the case of grass snake, waterbody margins. Suitable well drained and frost free areas are needed so they can survive the winter.

Dormouse (Muscardinus avellanarius)

4.16 During the walkover survey the potential for dormouse to be present on site was assessed. This included observations for suitable habitat such as well-layered woodland, scrub and linking hedgerows, particularly those species offering suitable food sources such as honeysuckle and hazel, in addition to direct evidence such as characteristically gnawed hazelnuts, chewed ash keys and honeysuckle flowers, or nests.

Water vole (Arvicola terrestris)

4.17 Water vole potential was assessed during the walkover survey. The potential is identified by the presence of ditches, rivers, dykes and lakes with holes and runs along the banks. Latrines, footprints or piles of food can also be noted.

Otter (Lutra lutra)

4.18 Where desk-top review or consultation indicates the presence of otter in a river catchment, the presence of water bodies with good cover and potential holt (den) sites would be noted.

Birds

4.19 During the walkover survey, the potential for breeding birds was assessed. In particular, this includes areas of trees, scrub, heathland and wetlands that could support nests for common or notable birds.

Notable Invertebrates

4.20 As part of the walkover survey the quality of invertebrate habitat and the potential for notable invertebrate species was considered. There are a wide variety of habitats suitable for invertebrates including wetland areas, heathland, areas of bare sandy soil, ephemeral brownfield vegetation and meadows.

Other Fauna

Biodiversity Action Plan priority species/ Species of Principal Importance

4.21 Where consultation and desk-study indicates the presence of BAP priority species (Species of Principal Importance) not protected by statute, effort was made to establish the potential for the site to support these species.

SURVEYORS

4.22 Morgan Taylor, who undertook the site visit and wrote this report, has a Bachelors and Masters degree in Marine Biology (MSci Hons), a Natural England CL17 Bat Survey Level 2 Class (2015-7369-CLS-CLS) and is a Full member of CIEEM. Morgan has over 6 years' experience in ecological surveying and has undertaken assessments of numerous development sites of this nature.

4.23 Mitch Cooke has a degree in Ecology (Hons), an MSc in Environmental Assessment and Management, and is a full member of CIEEM with over 20 years' experience in ecological survey and assessment. Mitch has set up and developed ecological and environmental teams for over 10 years and has undertaken and managed numerous ecological surveys and assessments. He is the Director at Greengage and manages the team.

4.24 This report was reviewed and verified by Mitch Cooke who confirms in writing (see the QA sheet at the front of this report) that the report is in line with the following:

- Represents sound industry practice;

- Reports and recommends correctly, truthfully and objectively;
- Is appropriate given the local site conditions and scope of works proposed; and
- Avoids invalid, biased and exaggerated statements.

CONSTRAINTS

No significant constraints presented themselves.

5.0 BASELINE CONDITIONS

DESK TOP REVIEW

Designations

5.1 The site is located next to Hampstead Heath, a large area of open green space, woodland and heathland that covers 320 hectares of north London. The Heath supports an extensive mosaic of habitat types and is accordingly of importance for a wide range of notable, rare and protected species of plants and animals.

5.2 The closest section of Heath can be found 10m to the north of the site across Heath Brow. This area is defined by woodland and open grassland glades with patches of scrub and ruderal vegetation.

5.3 The Heath is designated as a Site of Metropolitan Importance for Nature Conservation (SINC), with Hampstead Heath Woods (0.75km north east) designated a Sie of Special Scientific Interest (SSSI).

5.4 There are no other designations within the zone of influence of the proposed works.

Biodiversity Action Plans

5.5 UK Biodiversity Action Plans (BAPs) have been developed which set priorities for nationally important habitats and species. To support the BAPs, Species/Habitat Statements (otherwise known as Species/Habitat Action Plans) were produced that provide an overview of the status of the species and set out the broad policies that can be developed to conserve them. A list of priority species of conservation importance was also developed.

5.6 The UK BAP was succeeded in 2012 by the *UK-Post 2012 Biodiversity Framework* which informed the creation of the *Biodiversity 2020* strategy; England's contribution towards the UK's commitments under the *United Nations Convention of Biological Diversity*.

5.7 Despite this, the UK BAP priority species lists and conservation objectives still remain valid through integration with local BAPs (which remain valid), and in the form of the Habitats and Species of Principle Importance list (as required under section 41 of the Natural Environment and Rural Communities (NERC) Act).

5.8 Local Biodiversity Action Plans (LBAPs) ensure that national action plans (the UK BAP/Biodiversity 2020) are translated into effective action at the local level, and establish targets and actions for locally characteristic species and habitats.

5.9 The site is subject to the Greater London and Camden BAP.

Greater London BAP

5.10 Features within the Greater London BAP of importance to this report (due to the presence of these habitats or species in the surrounding area, associated with the Heath) include:

- Heathland Habitat Action Plan (HAP);
- Acid Grassland HAP;
- Woodland HAP;
- Parks & urban green spaces HAP;
- The onus placed on the importance of built structures for wildlife;
- Bat Species Action Plan (SAP); and.
- House Sparrow SAP.

Camden BAP 2013-2018

5.11 Features within the Camden BAP of importance to this report include:

- The Built Environment Action Plan; and
- Camden Biodiversity Advice Note on Landscaping Schemes and Species Features.

DESCRIPTION OF SITE ECOLOGY

Habitats

5.12 The site itself is comprised entirely of hardstanding.

5.13 There is a single tree opposite the site in a traffic island off North End Way. Deciduous semi-natural woodland, improved grassland, scattered scrub and tall ruderal vegetation extends to the north associated with the Heath. The site is bound along its southern boundary by a building.

5.14 No protected or rare habitats were therefore present at site, although deciduous woodlands is a London and UK BAP priority habitat alongside several other habitats found across the adjacent Heath such as acid grassland, heathland, open landscapes with ancient trees and the built form.

Figure 5.1 Ownership boundary (solid red) and application site (dashed red line) showing areas of building and hardstanding as well as the location of the ivy coverage

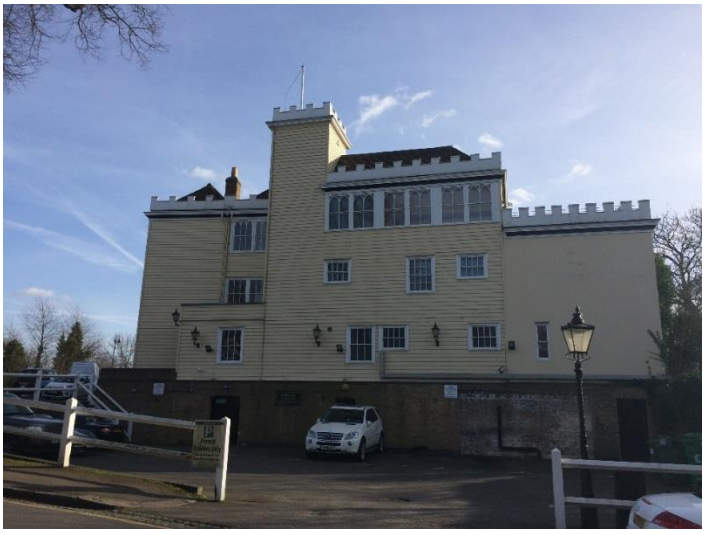
(solid green line) and single street tree opposite (green circle).

Target Notes

Target Note 1

5.15 This note describes the site itself; a 20m by 15m area of car park overlooked by the former Jack Straw's Castle public house building to the south.

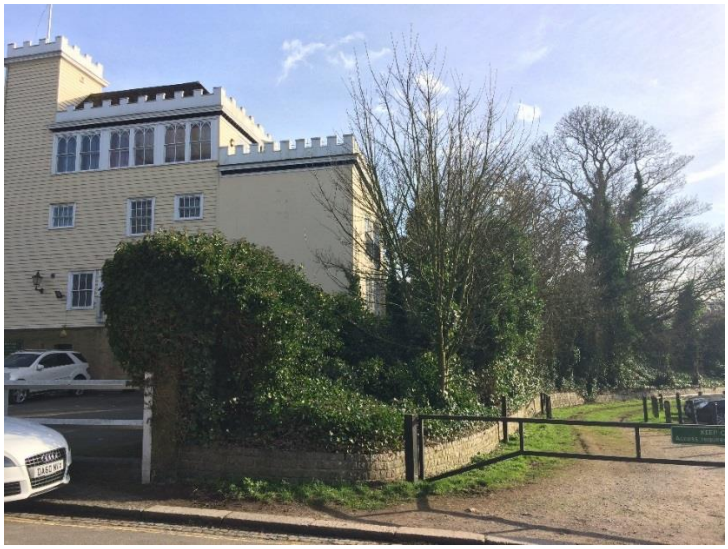
Figure 5.2 The assessment site overlooked by the adjacent building



Target Note 2

5.16 This note describes the ivy-covered wall and band of trees/shrubs to the west of the site. The tree line is located off site along the boundary of the adjacent car park that serves the West Heath.

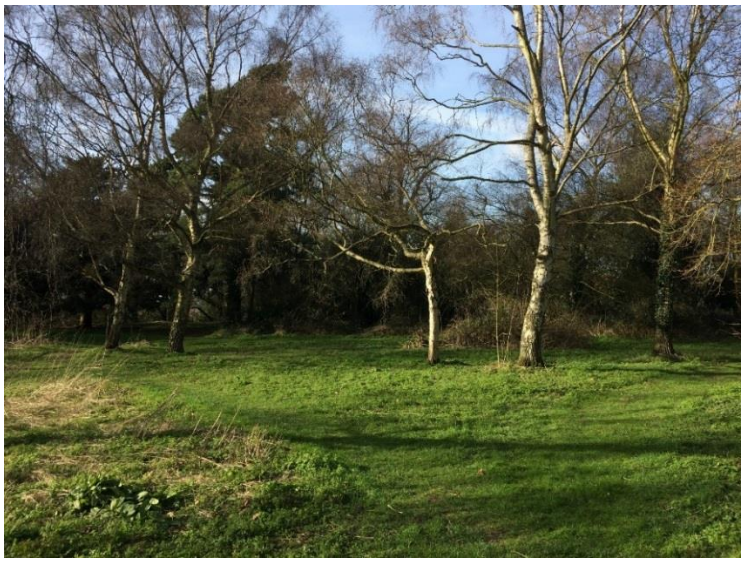
Figure 5.3 The ivy clad wall and tree/shrub line of the next door car park



Target Note 3

5.17 This note describes the section of Heath opposite the site., this part of the Heath, the West Heath, is defined by patches of open grassland amongst deciduous woodland, scrub and heathland.

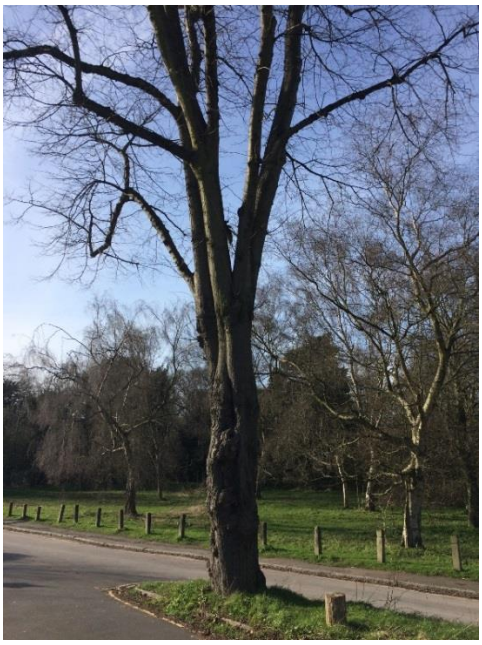
Figure 5.4 The section of Heath opposite the site



Target Note 4

5.18 This note describes the single street tree in the traffic island on the corner of North End Wat. A semi-mature oak, the tree has some features that would be considered of potential value for wildlife, including a woodpecker hole.

Figure 5.5 The tree located opposite the site entrance



Bats

Foraging

5.19 The site itself is likely to be of negligible value for foraging bats, containing no suitable habitats of value for invertebrate prey.

5.20 Proposals should consider the high value for foraging and commuting bats in the adjacent Heath habitats however.

5.21 No further surveys are recommended, but design and approach should be sensitive towards bats; most importantly, proposals should not result in increased light spill across the section of Heath opposite.

Roosting

5.22 There is negligible value for roosting bats within the site itself, however, there was low to moderate value for roosting bats in the pitched and tiled roofs of Jack Straw's Castle, which overlooks the site and the proposed development.

5.23 Proposals therefore do not stand to directly impact any potential roost, however proposals could stand to result in indirect disturbance to any potential roost in the roof space of the former public house.

5.24 There was low value for bat roosting in the single street tree on the traffic island opposite the site at the corner of North End Way and Heath Brow.

Birds

5.25 Nesting value was constrained to the ivy coverage along the western boundary wall. The line of trees beyond this wall in the next door car park may also provide value for bird nesting, hover these habitats are outside of the likely zone of influence of proposals.

Other Protected Species

5.26 Value for other notable, rare or protected species such as otter, water vole, reptiles and badger was deemed negligible given the location of the site, and nature of the existing habitats.

6.0 DISCUSSION AND ANALYSIS

6.1 Overall the site is considered to be of low to moderate ecological value.

6.2 The assessment site and its surroundings have potential to support the following ecological receptors of note, which could therefore be impacted upon by any future prospective development proposals:

Table 6.2 Baseline Summary

Receptor	Presence/Potential Presence	Comments
Designated sites	Present nearby	The site is located opposite a section of Hampstead Heath. Proposals do not stand to result in direct impacts upon the Heath, however the development should be sensitive of the presence of this SINC; best practice construction environmental practices should be followed accordingly.
Habitats	Present nearby	There are no rare habitats within the site boundary however the Heath supports a range of notable BAP priority habitats including woodland. Proposals should be sensitive towards the presence of the surrounding Heath. The single street tree on the traffic island off North End Way should be retained and protected in accordance with BS:5837 2012
Roosting bats	Negligible (low to moderate in adjacent building)	Negligible value at site itself. Low to moderate in pitched tiled roof of overlooking building to the south. Proposals may stand to result in indirect impacts upon this building and additional surveys are therefore recommended to confirm presence/likely absence of roosting bats. Low value also observed in street tree opposite site, however no further assessment deemed necessary.

Receptor	Presence/Potential Presence	Comments
Birds	Low	Low value for nesting birds in ivy coverage along western site boundary wall. This should be cleared outside of nesting bird season, or caution should be shown prior to removal to confirm absence of nests.

RECOMMENDATIONS

Mitigation and compensation

6.3 There is low value for nesting birds in the ivy coverage along the site's western boundary wall; proposals should be considerate of this value, with clearance undertaken outside of the nesting bird season (March to August), or following confirmation of absence of nests.

6.4 Proposals should be considerate of the site's proximity to the Heath. A Construction Environmental Management Plan should be produced following industry best practice to ensure that construction activity avoids causing indirect impacts to the notable habitats surrounding the site.

6.5 Suitable tree protection should be put in place for the oak tree near to the site entrance on the small traffic island.

6.6 Proposals should not result in increased light spill across the section of Heath opposite the site. Any lighting elements should be designed in accordance with industry best practice as described in the Institute of Lighting Engineers and Bat Conservation Trust's joint publication, *Bats and Lighting*.

6.7 An additional assessment for bats should be undertaken to confirm the presence/likely-absence of roosting bats in the adjacent building, and inform the detail of any actions that may be appropriate to mitigate impacts. This assessment should include an internal assessment of the attic space as well as an external emergence/re-entry survey.

Enhancements

6.8 There are a variety of opportunities to incorporate ecological enhancements to reflect local conservation targets (such as those described in the Camden BAP).

6.9 The following habitats/species should be targeted within any enhancements:

- The built form;
- Woodland;

- Birds – including swift and house sparrow;
- Invertebrates – such as solitary bees; and
- Bats.

6.10 Additional recommendations that should be incorporated within the development to benefit bats, birds and invertebrates include the following:

- Wildlife friendly landscaping – to include native berry producing and fruiting shrub, tree and herbaceous species; and
- Bird and bat boxes – these should be integrated into the built form of new building at the site.

7.0 SUMMARY & CONCLUSIONS

7.1 A site survey was carried out in March 2017 in order to establish the ecological value of the assessment site and its potential to support notable and/or legally protected species. Along with a review of readily available ecological information and other relevant environmental databases an assessment of the application site's ecological value was made.

7.2 Details received from a desk top study and the site walkover have confirmed the site:

- Has low value for nesting birds; and
- Has low to moderate value for roosting bats in the adjacent building.

7.3 Proposals should consider the potential value for nesting birds when clearing the ivy vegetation along the site's western boundary wall.

7.4 Proposals should be aware of the potential value for bats in the adjacent building and in the surrounding area; an additional assessment for bats should be undertaken prior to works taking place, and actions that may result in significant disturbance to bats such as extensive piling works should be minimised.

7.5 Best practice construction environmental practise should be followed to minimise any indirect impact to the Heath; such actions could be secured through production of a Construction Environmental Management Plan (CEMP).

7.6 Proposals should also seek to achieve net gains for biodiversity through the integration of the following enhancement actions:

- Wildlife friendly landscaping;
- Bird and bat boxes.

APPENDIX 1 RELEVANT LEGISLATION AND POLICY

Current key legislation relating to ecology includes the Wildlife and Countryside Act 1981 (as amended)[7]; The Conservation of Habitats and Species Regulations 2010 ('Habitats & Species Regulations')[8], The Countryside and Rights of Way Act 2000 (CRoW Act)[9], and The Natural Environment and Rural Communities Act, 2006[10].

The Conservation of Habitats and Species Regulations 2010

The Habitats & Species Regulations replace The Conservation (Natural Habitats, etc.) Regulations 1994 (as amended)[11], and transpose Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Fauna and Flora ('EU Habitats Directive')[12], and Council Directive 79/409/EEC on the Conservation of Wild Birds ('Birds Directive')[13] into UK law (in conjunction with the Wildlife and Countryside Act).

Regulation 41 of the Habitats & Species Regulations makes it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2 (European protected species of animals), or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4 (European protected species of plant). Development that would contravene the protection afforded to European protected species requires a derogation (in the form of a licence) from the provisions of the Habitats Directive.

Regulation 61(1) states: 'A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which —

> (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects); and
>
> (b) is not directly connected with or necessary to the management of that site; must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.'

Wildlife and Countryside Act 1981 (as amended)

The Wildlife and Countryside Act 1981 (as amended) is the principal mechanism for the legislative protection of wildlife in Great Britain. This legislation is the means by which the Convention on the Conservation of European Wildlife and Natural Habitats[14] (the 'Bern Convention') and the Birds Directive and EU Habitats Directive are implemented in Great Britain.

The Countryside and Rights of Way Act 2000

The Wildlife and Countryside Act has been updated by the CRoW Act. The CRoW Act amends the law relating to nature conservation and protection of wildlife. In relation to threatened species it strengthens the legal protection and adds the word 'reckless' to

the offences of damaging, disturbing, or obstructing access to any structure or place a protected species uses for shelter or protection, and disturbing any protected species whilst it is occupying a structure or place it uses for shelter or protection.

The Natural Environment and Rural Communities Act 2006

The Natural Environment and Rural Communities Act 2006 states that 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. Biodiversity Action Plans provide a framework for prioritising conservation actions for biodiversity.

Section 41 of the Natural Environment and Rural Communities Act requires the Secretary of State to publish a list of species of flora and fauna and habitats considered to be of principal importance for the purpose of conserving biodiversity. The list, a result of the most comprehensive analysis ever undertaken in the UK, currently contains 1,149 species, including for example, hedgehog (*Erinaceus europaeus*), and 65 habitats that were listed as priorities for conservation action under the now defunct UK Biodiversity Action Plan[15] (UK BAP). Despite the devolution of the UK BAP and succession of the UK Post-2010 Biodiversity Framework[16] (and Biodiversity 2020 strategy[17] in England), as a response to the Convention on Biological Diversity's (CBD's) Strategic Plan for Biodiversity 2011-2020[18] and EU Biodiversity Strategy (EUBS)[19], this list (now referred to as the list of Species and Habitats of Principal Importance in England) will be used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under section 41 of the Natural Environment and Rural Communities Act 2006 'to have regard' to the conservation of biodiversity in England, when carrying out their normal functions.

Biodiversity Action Plans

Non-statutory Biodiversity Action Plans (BAPs) have been prepared on a local and regional scale throughout the UK over the past 15 years. Such plans provide a mechanism for implementing the government's broad strategy for conserving and enhancing the most endangered ('priority') habitats and species in the UK for the next 20 years. As described above the UK BAP was succeeded in England by Biodiversity 2020 although the list of priority habitats and species remains valid as the list of *Species of Principal Importance for Nature Conservation*.

Regional and local BAPs are still valid however and continue to be updated and produced.

Detail on the relevant BAPs for this site are provided in the main text of this report.

Legislation Relating To Nesting Birds

Nesting birds, with certain exceptions, are protected from disturbance under the Wildlife and Countryside Act 1981 (as amended) and the CRoW Act. Any clearance of dense vegetation should therefore be undertaken outside of the nesting bird season, taken to

run conservatively from March to September, unless an ecologist confirms the absence of active nests prior to clearance.

Legislation Relating to Bats

All UK bats and their roosts are protected by law. Since the first legislation was introduced in 1981, which gave strong legal protection to all bat species and their roosts in England, Scotland and Wales, additional legislation and amendments have been implemented throughout the UK.

Six of the 18 British species of bat have Biodiversity Action Plans (BAPs) assigned to them, which highlights the importance of specific habitats to species, details of the threats they face and proposes measures to aid in the reduction of population declines.

Although habitats that are important for bats are not legally protected, care should be taken when dealing with the modification or development of an area if aspects of it are deemed important to bats such as flight corridors and foraging areas.

The Wildlife & Countryside Act 1981 (WCA) was the first legislation to provide protection for all bats and their roosts in England, Scotland and Wales (earlier legislation gave protection to horseshoe bats only.)

All eighteen British bat species are listed in Schedule 5 of the Wildlife and Countryside Act, 1981 and under Annexe IV of the Habitats Directive, 1992 as a European protected species. They are therefore fully protected under Section 9 of the 1981 Act and under Regulation 39 of the Conservation of Habitats and Species Regulations 2010, which transposes the Habitats Directive into UK law. Consequently, it is an offence to:

- Deliberately capture, injure or kill a bat;
- Intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats;
- Damage or destroy a bat roosting place (even if bats are not occupying the roost at the time);
- Possess or advertise/sell/exchange a bat (dead or alive) or any part of a bat; and
- Intentionally or recklessly obstruct access to a bat roost.

This legislation applies to all bat life stages.

The implications of the above in relation to the proposals are that where it is necessary during construction to remove trees, buildings or structures in which bats roost, it must first be determined that work is compulsory and if so, appropriate licenses must be obtained from Natural England.

Legislation Relating to Natura 2000 Sites and Habitats Directive Annex I/II Species

European Commission Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Fauna and Flora ('EU Habitats Directive'), and Council Directive 79/409/EEC on the Conservation of Wild Birds ('Birds Directive') form the cornerstones of nature conservation legislation across EU member states. Priority species requiring protection across Europe are listed in the Annexes of these Directives. The Habitats Regulations, 2010 (as amended) and Offshore Marine Conservation Regulations, 2007 (as amended) transpose these directives into UK law and set the basis for the designations of protected sites (known as Natura 2000 sites; Special Areas of Conservation under the Habitat Directive and Special Areas of Protection under the Birds Directive) that are of importance for habitats, species or assemblages listed on the directive Annexes. In the UK Ramsar sites are also offered the same level of protection as SPAs and SACs however the qualifying species for the designation may differ; Ramsar sites being designated specifically as important wetland habitats.

Under article 6(3) of the Habitats Directive, where projects stand to have likely significant effect (in accordance with the European Court of Justice ruling of C-127/02 Waddenzee cockle fishing) upon the integrity of conservation objectives (i.e. conservation status of the qualifying species or habitats) within the designated sites then the Competent Authority must undertake an Appropriate Assessment.

Planning Policy

National Planning Policy Framework (NPPF)

Guidance on nature conservation within planning is issued by the Government within the National Planning Policy Framework[20]. This Framework document acts as guidance for local planning authorities on the content of their Local Plans, but is also a material consideration in determining planning applications.

The NPPF has replaced, among other planning guidance documents, Planning Policy Statement 9: Biological and Geological Conservation[21]. However, the accompaniment to PPS9, government circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System[22], remains valid. The prevention of harm to biodiversity through prudent planning decisions is the key principle in the NPPF when considering planning and the natural environment; set out in section 11.

Within the NPPF the Government's vision for conserving and enhancing biological diversity in England within the planning system is set out. The Governments objectives for planning from an ecological perspective are, among others, to recognise the wider benefits of ecosystem services, minimise the impacts on biodiversity and provide net

gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, which will include the establishment of coherent ecological networks that are more resilient to current and future pressures.

Of particular note to ecological impact assessment is paragraph 152 of the Plan-Making Section which states:

"Local planning authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where adverse impacts are unavoidable, measures to mitigate the impact should be considered. Where adequate mitigation measures are not possible, compensatory measures may be appropriate".

As a result of the NPPF any species or habitats of principal importance found on the application site, in addition to statutorily protected species, are of material consideration in the planning process.

Regional Planning Policy: The London Plan Spatial Development Strategy for Greater London[23]

The London Plan is comprised of separate chapters relating to a number of areas, including London's Places, People, Economy and Transport. The following policies have been identified within the London Plan, which relate specifically to ecology and this development.

Policy 2.18 Green Infrastructure

'Policy 2.18 aims to protect, promote, expand and manage the extent and quality of, and access to, London's network of open and green spaces'.

Policy 5.10 Urban Greening

This policy encourages the 'greening of London's buildings and spaces and specifically those in central London by including a target for increasing the area of green space (including green roofs etc.) within the Central Activities Zone'.

Policy 5.11 Green Roofs and Development Site Environs

Policy 5.11 specifically supports the inclusion of planting within developments and encourages boroughs to support the inclusion of green roofs.

Policy 5.13 Sustainable Drainage

'Policy 5.13 promotes the inclusion of sustainable urban drainage systems in developments and sets out a drainage hierarchy that developers should follow when designing their schemes'.

Policy 7.19 Biodiversity and Access to Nature

'The Mayor will work with all the relevant partners to ensure a proactive approach to the protection, enhancement, creation, promotion and management of biodiversity in support of the Mayors Biodiversity Strategy.'

Supplementary Planning Guidance (SPG): Sustainable Design and Construction 2014[24]

As part of the London Plan 2011 implementation framework, the SPG, relating to sustainable design and construction, was released in April 2014 for consultation which includes the following sections detailing Mayoral priorities in relation to biodiversity of relevance to this development.

Nature conservation and biodiversity

The Mayor's priorities include ensuring 'developers make a contribution to biodiversity on their development site'.

Overheating

Where priorities include the inclusions of 'measures, in the design of schemes, in line with the cooling hierarchy set out in London Plan policy 5.9 to prevent overheating over the scheme's lifetime'

Urban greening

A Priority is for developers to 'integrate green infrastructure into development schemes, including by creating links with wider green infrastructure network'.

Use less energy

'The design of developments should prioritise passive measures' which can include 'green roofs, green walls and other green infrastructure which can keep buildings warm or cool and improve biodiversity and contribute to sustainable urban drainage'.

Local Planning Policy: Camden Core Strategy

CS15 – Protecting and improving our parks and open spaces and encouraging biodiversity

Extracts from Core Policy provided below.

The Council will protect and improve Camden's parks and open spaces. We will:

- Protect open spaces designated in the open space schedule as shown on the Proposals Map, including our Metropolitan Open Land, and other suitable land of 400sqm or more on large estates with the potential to be used as open space.
- Tackle deficiencies and under-provision and meet increased demand for open space.
- Secure from developments that create an additional demand for open space, where opportunities arise, improvements to open spaces.

The Council will protect and improve sites of nature conservation and biodiversity, in particular habitats and biodiversity identified in the Camden and London Biodiversity Plans in the borough by:

- Designating existing nature conservation sites;
- Protecting other green areas with nature conservation value, including gardens, where possible;
- Seeking to improve opportunities to experience nature;
- Expecting the provision or new or enhanced habitat, where possible, including through biodiverse green or brown roofs or green walls;
- Identifying habitat corridors and securing biodiversity improvements along gaps;
- Working with the Royal Parks, the London Wildlife Trust, friends of parks groups and local nature conservation groups;
- Protecting trees and promoting the provision of new trees and vegetation, including additional street trees.

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