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Preliminary Ecological Appraisal

Site Name

Grainingfold Farm

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Client

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About the Author

This report has been prepared by Dr Ryan Walker, a Principal ecologist at The Ecology Co-op, with 20 years' experience. He has a Level 2 bat survey licence and has prepared numerous European Protected Species licences for bats. As a Full member of the Chartered Institute for Ecology and Environmental Management (CIEEM) and as Chartered Environmental Scientist through The Society for the Environment, he is bound by their codes of professional conduct.

About the Reviewer

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Report Summary

Purpose	The Ecology Co-op was commissioned by Manorwood to undertake a Preliminary Ecological Appraisal (PEA) of the land to the north of Grainingfold Farm, further to a proposal to develop a new access track.
Context	The site is dominated by other neutral grassland, fringed with native species-rich hedgerows to the north of the site. The site is fringed by mostly pasture and other agricultural land.
Key findings	The site supports a species-rich native hedgerow upon the northern boundary (UKBAP Habitat) that is proposed to be impacted by the works. The site supports habitat with the potential to support populations of reptiles, foraging bats, nesting birds and dormice.
Recommendations	It is proposed that the site is subjected to a reptile precautionary measure using mowing regime and dormouse survey, employing a nest search by a licensed ecologist. Mitigation to protect nesting birds is detailed.
Are further surveys required?	Yes



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1 INTRODUCTION

1.1 Purpose of the Report

The Ecology Co-op has been commissioned to undertake a Preliminary Ecological Appraisal (PEA) of land to the north of Grainingfold Farmhouse, Horsham Road, Five Oaks, West Sussex, RH14 9AT by Manorwood. This report presents the findings of a walkover survey undertaken by Dr Ryan Walker, a Full member of the Chartered Institute of Ecology and Environmental Management (MCIEEM), Chartered Environmental Scientist (CEnv) and Natural England Level 2 Bat Survey Class Licence holder on 26th August 2025. It provides details on the potential for any protected/notable species and/or habitats to be present at the site and a simple assessment of the potential ecological constraints and opportunities in relation to develop a new access track. Recommendations for further surveys that are likely to be required to inform a planning application and Ecological Impact Assessment (EclA) of the proposal are provided where necessary, and possible measures to avoid, mitigate and/or compensate for significant adverse effects are summarised. The potential to incorporate ecological enhancement measures as part of the scheme is discussed, in addition to any requirement to achieve biodiversity net gain.

This PEA report is designed to inform the client and their team (as appropriate) about the initial findings of the site walkover and desk study research in relation to the site proposals, highlighting the key ecological constraints and opportunities, and any further survey requirements. It is not intended for submission in support of a planning application but can be used to inform a future Ecological Impact Assessment (EclA).

1.2 Background

The new access will go through one hedgerow at the site entrance, with a track spanning approximately 29.5m and the footprint occupying pastureland and/or hay meadow. The site is situated approximately 1km to the east of the village of Five Oaks, West Sussex. The site is situated in a largely rural location fringed with pasture land, hedgerows and rural properties. Figure 1 shows the boundary of the site. The proposed development will include a new and improved access route to Grainingfold Farmhouse (Figure 2).



Figure 1. An aerial image showing the location of the site. The approximate site boundary is outlined in red. Image produced courtesy of Google maps (map data ©2025 Google).



Figure 2. Proposed site layout (right). Image of the site currently (left). Image produced by Manorwood Colony Architects Ltd. Drawing No. 2507GR_100.



1.3 Policy and Legislation

Legal protection applying to relevant bird, mammal, herpetofauna, invertebrate species and flora, and current nature conservation planning policy is outlined in Appendix 1 of this report.

Where possible, this report provides guidance on how the proposal can be designed to meet the requirements of both local planning policy and the National Planning Policy Framework (NPPF). Details of the NPPF can be found in Appendix 1.

2 METHODOLOGY

The methodologies used for this survey are in accordance with the Guidelines for Preliminary Ecological Appraisal¹, but also consider the Guidelines for Ecological Report Writing, Second Edition².

2.1 Desk Study

A search for existing records of protected species, species of conservation concern and invasive non-native species was requested from the Sussex Biodiversity Records Centre (SxBRC) within a radius of 2km of the site.

A search of on-line mapping resources was undertaken to identify the location of any features of potential ecological interest including ponds within 500m (relevant to great crested newts *Triturus cristatus*), watercourses (relevant to riparian mammals and crayfish) and connectivity to woodland, scrub, and hedgerow networks (relevant to bats and dormice *Muscardinus avellanarius*) in the wider landscape around the site. The connectivity of the site to these features, buildings and other semi-natural habitats, such as grassland and heathland, are also relevant to great crested newts, reptiles and a wide variety of notable species of conservation concern.

The MAGIC website resource (www.magic.gov.uk) was used to identify the location of designated sites for nature conservation and European Protected Species (EPS) licences granted in relation to the survey site.

2.2 Field Survey

A site walkover survey was undertaken on 26th August 2025, during which the habitats contained within the site were described and evaluated. Since this site is relatively small in scale and contains limited semi-natural habitat diversity, it was not considered necessary to undertake comprehensive UKHab mapping of the site. All habitat types contained within the site, together with the dominant botanical species and indicators of important habitat types, such as ancient woodland or unimproved grassland, have simply been listed and described where identified.

¹ CIEEM (2017). *Guidelines for Preliminary Ecological Appraisal*, 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.

² CIEEM (2017). *Guidelines for Ecological Report Writing*, 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.



Habitats and features at the site were evaluated for their potential to support legally protected species and/or species of conservation interest. In addition, observations of any important plant communities, bird assemblages or other potentially valuable ecological features were recorded.

Details of the preliminary survey methods for each legally protected species are given below. Any site-specific limitations to the survey, e.g. access constraints or seasonal constraints, are set out in section 3.11.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2.4 Bats

Bats can use a wide range of features for roosting purposes, including loft spaces, cavity walls, loose tiles, mortice joints and cracks/gaps in a variety of built structures. They can also be found in trees with holes, splits, cracks, cavities, ivy and loose bark.

There were no structures within the site, however trees were broadly assessed for their potential to support roosting bats and further surveys are recommended as appropriate.

The potential for roosting bats for each feature, or group of features was assessed as negligible, low, moderate, or high, in accordance with best practice. Any evidence confirming the presence of bats was clearly recorded including photos and samples taken (e.g. droppings), where appropriate. Further surveys are recommended as appropriate.

The habitats surrounding the site and wider landscape were broadly assessed for their potential to support foraging and commuting bats. Further surveys are recommended as appropriate.

2.5 Breeding Birds

Birds can use a wide range of natural and artificial habitats when breeding, including trees, hedgerows, fields, houses and garden sheds. The habitats contained within the site and adjacent areas were broadly assessed for their potential to support important bird species/assemblages, and breeding birds. Special

³ Harris, S, Cresswell, P. and Jefferies, D. (1989). *Surveying Badgers*. Mammal Society.



attention was paid to notable species such as red-listed Birds of Conservation Concern⁴ and those species afforded special protection on Schedule 1 of the Wildlife and Countryside Act (1981). Further surveys are recommended as appropriate.

2.6 Dormice

Dormice are found in deciduous woodland and hedgerows, feeding on flowers, pollen, fruits, insects and nuts, favouring hazel *Corylus avellana* and honeysuckle *Lonicera periclymenum* for food and as bedding. The site was broadly assessed for its potential to support dormice. This included use of on-line mapping resources to assess the surrounding area for connectivity to large blocks of woodland, scrub and extensive hedgerow networks. Further surveys are recommended as appropriate in accordance with best practice guidance⁵.

2.7 Great Crested Newt

Great crested newts breed in ponds during the spring and spend the rest of the year feeding on invertebrates primarily in semi-natural habitats including woodland, hedgerows, marshes and tussocky grassland. A desk study was undertaken to identify ponds and wet ditches within 500m of the site that might support breeding great crested newts. Where access permission was granted, or ponds could be viewed from public roads or footpaths, the ponds were assessed for their potential to support great crested newts using the Habitat Suitability Index (HSI) (Oldham et al 2000)⁶. The value of the site for terrestrially foraging great crested newts and any features that might be used by hibernating newts has also been assessed.

Further surveys are recommended as appropriate, in accordance with best practice guidance (English Nature 2001)⁷.

2.8 Reptiles

The common lizard *Zootoca vivipara*, slow-worm *Anguis fragilis*, grass snake *Natrix helvetica* and adder *Vipera berus* are widespread species that can be found in any of these habitats, whereas smooth snake *Coronella austriaca* and sand lizard *Lacerta agilis* have much more restricted and isolated populations on lowland heathland and sand dunes.

Habitats on the site were broadly assessed for their potential to support reptiles. Particular attention was paid to those features that provide suitable basking areas (e.g. south-facing slopes), hibernation sites (e.g. banks, walls, piles of rotting vegetation) and opportunities for foraging (rough grassland and scrub). Further surveys are recommended as appropriate.

⁴ Stanbury, A., Eaton, M., Aebischer, N., Balmer, N., Douse, A., Lindley, P., McCulloch, N., Noble, D., and Win I. (2021). Birds of Conservation Concern 5: the status of bird populations: the fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of Man. British Birds 114, pp 723-747.

⁵ Bright, P., Morris, P. and Mitchell-Jones, T. (2006). *The dormouse conservation handbook 2nd Ed.* English Nature, Peterborough.

⁶ Oldham, R.S., Keeble, J., Swan, M.J.S. and Jeffcote, M. (2000). Evaluating the suitability of habitat for the great crested newt (*Triturus cristatus*). *Herpetological Journal* 10, 143-155.

⁷ English Nature (2001). *Great Crested Newt Mitigation Guidelines*. English Nature, Peterborough.



2.9 Other Notable Species

The site's habitats were broadly assessed for their potential to support species of principal importance for nature conservation (Section 41 NERC Act 2006) and other notable species. This includes mammals such as harvest mouse *Micromys minutus*, hedgehog *Erinaceus europaeus*, brown hare *Lepus europaeus*, and many bird species. The site was broadly assessed for its potential to support important invertebrate assemblages with particular attention paid to features such as standing dead-wood, wet flushes, bare earth banks and botanically rich areas.

3 BASELINE CONDITIONS

3.1 Designated Sites and Granted EPS Licences

There are no statutory designated sites for nature conservation within 2km of the site. There are two non-statutory Sites (Local Wildlife Sites - LWS) within 2km of the site. Bishop's Wood and Rookery Wood, are reported by the SxBRC to occur approximately 1km to the east of the site. These areas of woodland are the closest areas of deciduous and ancient woodland to the east as shown in Figure 3.

There are no designated sites within the zone of influence of the site and therefore sites designated for nature conservation are unlikely to be a consideration for the proposed development.

There are no granted EPS licences for mitigation projects within 1km of the site boundary concerning any European protected species. The closest EPS licence to the site, is approximately 2.5km to the north and concerns great crested newts.

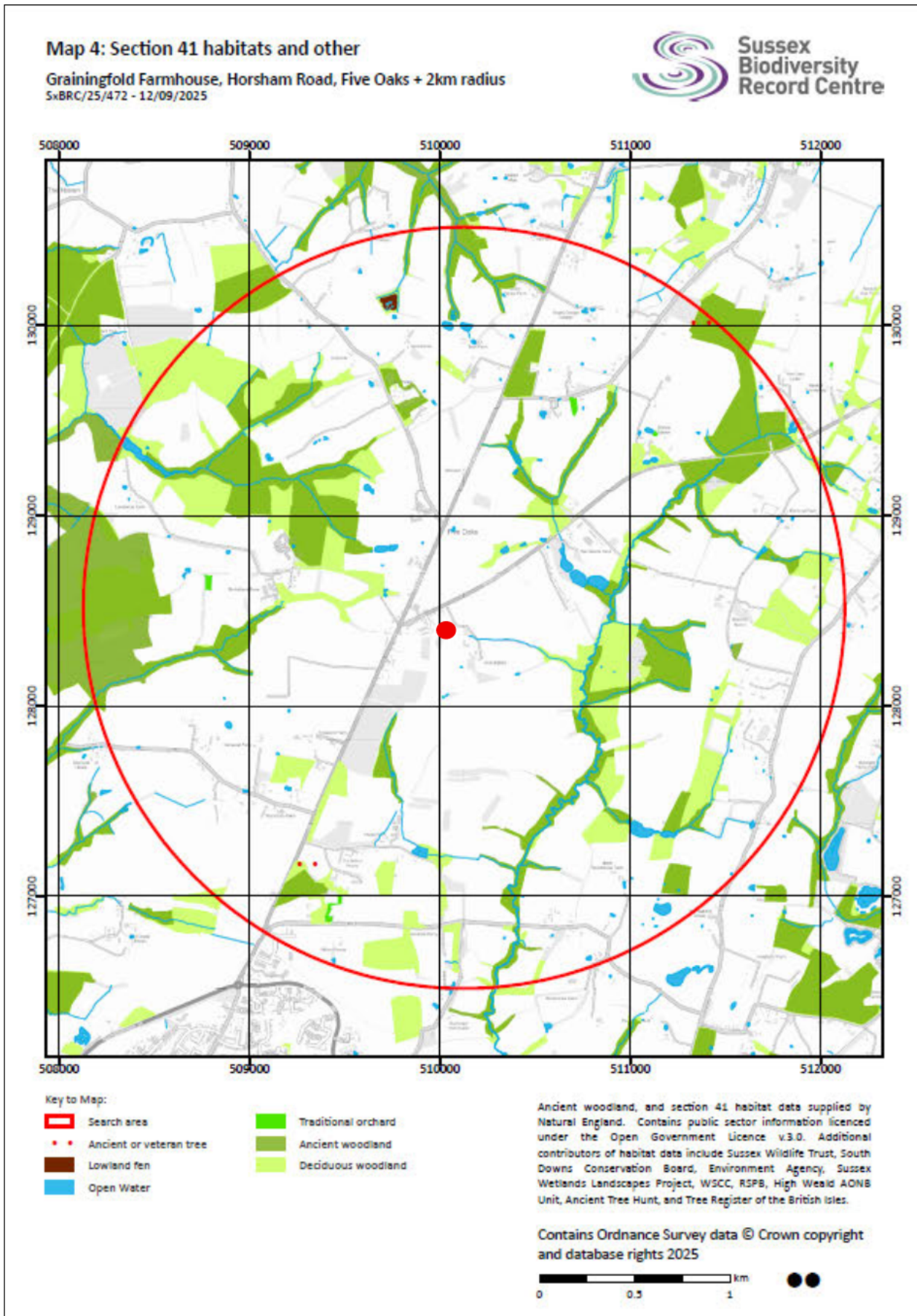


Figure 3. Habitats of importance for nature conservation. Image produced courtesy of SxBRC. Dark green polygons represent areas of ancient woodland, lighter green show areas of deciduous woodland within 2km of the site.



3.2 Habitats

The site is dominated by rough other neutral grassland, supporting the following species; yarrow *Achillea millefolium*, foxtail *Alopecurus* sp., Yorkshire fog *Holcus lanatus*, creeping buttercup *Ranunculus repens*, creeping thistle *Cirsium arvense*, hogweed *Heracleum* sp., common mouse-ear *Cerastium fontanum*, *Juncus* sp., knapweed *Centaurea nigra*, ragwort *Jacobaea vulgaris*, fleabane *Pulicaria dysenterica*, red clover *Trifolium pratense* and plantain *Plantago* sp (Photos 2-5). The areas of the proposed track to the north will impact a number of small trees including mostly hawthorn *Crataegus monogyna* (Photos 2 & 3). The northern boundary is fringed with a native species-rich hedgerow (Photo 1), supporting the following species; hawthorn, hazel *Corylus avellana*, dogwood *Cornus sanguinea*, blackthorn *Prunus spinosa*, oak *Quercus robur* and field maple *Acer campestre*. The southern boundary of the field is fringed with a native species-rich hedgerow with trees, including the following species; blackthorn, elder, dogwood, ash *Fraxinus excelsior*, oak, hazel and hawthorn (Photos 6 & 7).



Photograph 1. The native species-rich hedgerow fringing the northern boundary of the site.



Photograph 2. The area of un-mowed, other neutral grassland within the north of the proposed footprint of the track.



Photograph 3. The area of un-mowed, other neutral grassland to the south of the track.



Photograph 4. The area of un-mowed, other neutral grassland within the southern section of the field.



Photograph 5. Transition for the mowed to un-mowed areas of other neutral grassland within the south of the field.



Photograph 6. The southern field boundary- native species-rich hedgerow with trees.



Photograph 7. Oak tree within the southern field boundary hedge.

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

3.4 Bats

The site does not support any buildings or trees that support features that could be considered potentially suitable for roosting bats. The hedgerow margins and grassland within the site support ideal foraging habitat for a number of species of bats.

The SxBRC has returned records for the following species of bats within 2km of the site, within the last



10 years; serotine *Eptesicus serotinus*, barbastelle *Barbastella barbastellus*, noctule *Nyctalus noctula*, common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, brown long-eared bat *Plecotus auritus*.

3.5 Breeding Birds

All of the hedgerows and grassland have the potential to support species of farmland birds during the nesting season. The SxBRC biodiversity records search indicates the presence of the following farmland species within 2km of the site, within the last 10 years; lapwing *Vanellus vanellus*, barn owl *Tyto alba*, mistle thrush *Turdus viscivorus*, skylark *Alauda arvensis*, swift *Apus apus*, cuckoo *Cuculus canorus*, house martin *Delichon urbicum*, yellowhammer *Emberiza citrinella*, kestrel *Falco tinnunculus*, house sparrow *Passer domesticus*, starling *Sturnus vulgaris*, stock dove *Columba oenas*, red kite *Milvus milvus*, bullfinch *Pyrrhula pyrrhula*, swallow *Hirundo rustica*, dunnoek *Prunella modularis*, song thrush *Turdus philomelos*, green woodpecker *Picus viridis*.

3.6 Dormice

The small areas of hedgerow habitat contained within the site and proposed to be impacted by the works, support potential to be used by populations of dormice. There is connective habitat to wooded areas within the landscape. The SxBRC data supports two records for dormice within 2km of the site in 2023 and 2002.

3.7 Great Crested Newts and other Amphibians

There appears to be no ponds contained by the site or within 500m of the site. Great crested newts and other amphibians are therefore highly unlikely to be present at the site. The SxBRC biodiversity records search have returned a single record for great created newts within the last 10 years within 2km of the site. Common toads *bufo bufo*, common frog *Rana temporaria*, smooth newts *Lissotriton vulgaris* and palmate newts *Lissotriton helveticus* have been recorded within the search area.

3.8 Reptiles

The grassland habitat present within the proposed development site is potentially suitable for common reptile species, particularly common lizard and slow worm, owing to the presence of favourable habitats. The SxBRC data indicates the presence of grass snakes *Natrix helvetica* within 2km of the site within the last 10 years.

3.9 Invasive Non-native Species

No evidence of invasive non-native species was found during the walkover survey. The SxBRC did not return any records for invasive species within 2km of the site.



3.10 Other Notable Species

The site has the potential to support populations of hedgehogs *Erinaceus europaeus* and brown hare *Lepus europaeus*, both are Schedule 41 species. Both species have been recorded within 2km of the site within the last 10 years.

3.11 Survey Limitations

An initial site assessment such as this is only able to act like a 'snapshot' to record any flora or fauna that is present at the time of the survey. It is therefore possible that some species may not have been present during the survey, but may be evident at other times of the year. For this reason, habitats are assessed for their potential to support some species, even where no direct evidence (such as droppings) has been found.

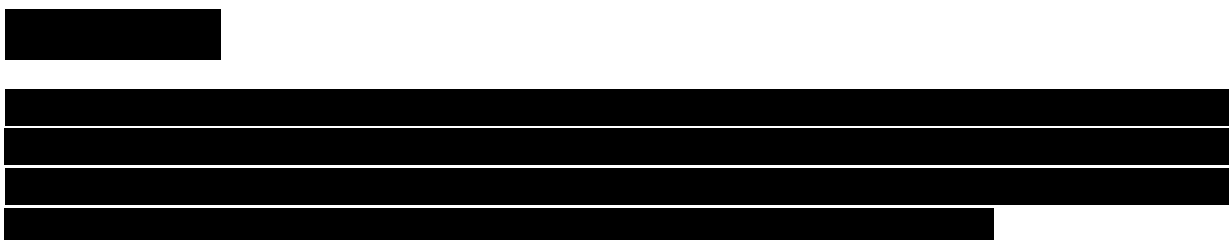
4 IMPACT APPRAISAL

4.1 Designated Sites

The site is outside the zone of influence of all designated sites and, based on this and the small scale of the development, there are no identified mechanisms of impact on designated sites as a result of the proposed development. Therefore, in relation to designated sites, the proposed development is considered to pose a 'negligible' impact risk.

4.2 Habitats

The species-rich native hedgerow fringing the northern boundary is proposed to be partly removed, is a UK Biodiversity Action Plan Habitat (UKBAP). Figure 2 suggests that approximately 6m of this hedgerow will be lost within the northern access to the site. All of the other neutral grassland will be lost, within the redline boundary.



4.4 Bats

The hedgerows and grassland habitats at the site are likely to be used by foraging and commuting bats as part of a wider resource across the landscape. However, only relatively little of this habitat will be lost and it does not appear that the track will incorporate any kind of lighting. As a result, no further surveys in relation to foraging bats are required.



4.5 Breeding and Wintering Birds

The proposed development supports a relatively small footprint in comparison to the amount of available similar habitat within the surrounding landscape. Therefore, no further surveys are recommended, however, the clearance of any vegetation as part of the proposed development should be confined to outside of the bird nesting season (avoiding March to August inclusive).

4.6 Dormice

The areas of hedgerow within the northern boundary of the site support habitat that could be considered potentially suitable for supporting populations of dormice. These areas of habitat are too small to accommodate a full dormouse presence/absence survey to be undertaken using nest tubes. Therefore, it is recommended that a hand search for summer nests is undertaken by a licensed ecologist. This hand search should be undertaken during three visits to the site, ideally during the winter months when there is less vegetation within the hedges, making the search easier. If fruiting hazel is present, then a nut search will be conducted alongside a check for nests. If summer nests are found, confirming the presence of dormice, a dormouse mitigation strategy will be developed.

4.7 Great Crested Newts

No further surveys are recommended with respect to great crested newts, as no waterbodies that might support breeding newts have been identified and it is considered extremely unlikely that this species would be found on the site at any time.

4.8 Reptiles

The proposed development would result in the loss of suitable reptile habitat at the site. This has the potential to impact on populations of reptiles and precautionary measures through a mowing regime is therefore recommended for this site to encourage reptiles away from the grass area to be used as the new entrance and track.

4.9 Invasive Non-native Species

The survey did not record any invasive non-native species within the site.

4.10 Other Notable Species

Precautionary mitigation should be followed if any vegetation is proposed to be removed as part of the development. Vegetation removal should be overseen by a suitably qualified ecologist in order to protect species such as hedgehogs.



5 OPPORTUNITIES FOR ENHANCEMENT

Under current legislation, the proposed development will be required to show a Biodiversity net gain of 10%. This net gain is calculated and detailed within the separate Biodiversity Net Gain Report, with the necessary enhancements required to meet this net gain detailed within this report.

6 CONCLUSIONS

The land to the north of Grainingfold Farm proposed to support a new access track and is comprised of an area of un-managed other neutral grassland, fringed to the north with a native, species-rich hedgerow. The site has the potential to support populations of reptiles, habitat for nesting birds and foraging habitat for bats. In addition, the small areas of hedgerow proposed to be impacted to the north of the site have the potential to support populations of dormice. Reptile precautionary measures and dormouse nest surveying have been proposed. Mitigation to protect nesting birds is detailed. Ecological enhancements as required through legislation requiring a 10% net gain in biodiversity are detailed within a separate report.

It is important that no habitat clearance or other site preparation work should be undertaken until planning permission has been granted and all relevant protections for habitats of importance and protected species have been detailed and implemented. Please be advised that any work to remove or modify habitats outside of typical management may undermine a future planning application.

Should you need any further advice on the information provided above, please do not hesitate to contact The Ecology Co-op, info@ecologyco-op.co.uk, www.ecologyco-op.co.uk, Office: 01798 861800.



APPENDIX 1 – Wildlife Legislation and National Planning Policy

Introduction

The following text is intended for general guidance only and does not constitute comprehensive professional legal advice. It provides a summary of the current legal protection afforded to wildlife in general and certain species. It includes current national planning policy relevant to nature conservation.

The ‘Birds Directive’, ‘Habitats Directive’ and ‘Natura 2000 Sites’

The Council Directive 79/409/EEC on the Conservation of Wild Birds (“the Birds Directive”) sets a framework for the protection of wild birds. Under the Directive, several provisions are made including the designation and protection of ‘Special Protection Areas’ (SPAs) – areas which support important bird populations, and the legal protection of rare or vulnerable species.

The Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the “Habitats Directive”) directs member states of the EU to take measures to maintain the favourable conservation status of important habitats and species. This requires the designation of a series of sites which contain important populations of species listed on Annex II of the Directive (for example Bechstein’s bat *Myotis bechsteinii*, Barbastelle bat *Barbastella barbastellus* and white-clawed crayfish *Austropotamobius pallipes*). Together with ‘Special Areas of Conservation’ (SACs), SPAs form a network across Europe of protected areas known as the ‘Natura 2000 sites’.

Annex IV lists species in need of more strict protection, these are known as “European Protected Species (EPS)”. All bat species, common dormice *Muscardinus avellana*, otter *Lutra lutra* and great crested newts *Triturus cristatus* are examples of EPS that are regularly encountered during development projects.

The ‘Habitats Regulations’

The Conservation of Habitats and Species Regulations 2017, as amended (the “Habitats Regulations”) is the principle means of transposing the Habitats Directive and the Birds Directive, and updates the Conservation (Natural Habitats, &c.) Regulations 1994 (“the 1994 regulations”) in England and Wales.

‘Natura 2000’ sites, now known as National Site Network sites under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, receive the highest level of protection under the Regulations which requires that any activity within the zone of influence of these sites would be subject to a Habitats Regulations Assessment (HRA) by the competent authority (e.g. planning authority), leading to an Appropriate Assessment (AA) in cases where ‘likely significant effects’ to the conservation objectives are identified.

For European Protected Species, Regulation 41 makes it a criminal offence to:

- deliberately capture, injure or kill any such animal;
- deliberately disturb wild animals of such species;
- deliberately take or destroy their eggs (where relevant);
- damage or destroy a *breeding or resting place* of such an animal;
- possess, control, sell or exchange any live or dead animal or plant, of such species;
- deliberately pick, collect, cut, uproot or destroy a wild plant of such species.

The Habitats Directive and Habitats Regulations provide for the derogation from these prohibitions for



specific reasons provided certain conditions are met. An EPS licensing regime allows operations that would otherwise be unlawful acts to be carried out lawfully. Natural England is the licensing Authority and, in order to grant a license, ensures that three statutory conditions (sometimes referred to as the ‘three derogation tests’) are met:

- a licence can be granted for the purposes of “preserving public health or safety or for other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment” (Regulation 53 (2) (e);
- a licence can be granted if “there are no satisfactory alternatives” to the proposed action;
- a licence shall not be granted unless the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Wildlife and Countryside Act (1981) as amended.

This remains one of the most important pieces of wildlife legislation in the UK. There are various schedules to the Act protecting birds (Schedule 1), other animals including insects (Schedule 5), plants (Schedule 8), and control of invasive non-native species (Schedule 9).

Under the Wildlife and Countryside Act (WCA) 1981, all wild birds (with the exception of those listed on Schedule 2), their eggs and nests are protected by law and it is an offence to:

- take, damage or destroy the nest of any wild bird while it is in use or being built
- take or destroy the egg of any wild bird
- disturb any bird listed on Schedule 1, while it is nest building, or at a nest with eggs or young, or disturb the dependant young of any such bird.

Schedule 5 lists all non-avian animals receiving protection to a varied degree. At its strongest, the Act makes it an offence to intentionally kill, injure or take any wild animal listed on Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturb animals while occupying such places. Examples of species with *full protection* include all EPS, common reptile species, water vole *Arvicola amphibius*, white-clawed crayfish *Austropotamobius pallipes* and Roman snail *Helix pomatia*. Other species are protected from sale, barter or exchange only, such as white letter hairstreak *Satyrrium w-album*.

The Act makes it an offence to intentionally pick, uproot or destroy any plant or seed, and sell or possess any plant listed on Schedule 8. It is also an offence to intentionally uproot any wild plant not listed on Schedule 8 unless authorised [by the land owner]. Species on Schedules 5 and 8 are reviewed every 5 years when species can be added or removed.

Measures for the prevention of spreading non-native species which may be detrimental to native wildlife is included in the Act, which prohibits the release of animals or planting of plants into the wild of species listed on Schedule 9 (for example, Japanese knotweed *Fallopia japonica*, Himalayan balsam *Impatiens glandifera*, New Zealand Pygmyweed *Crassula helmsii*).

The Wildlife and Countryside Act 1981 (as amended) also prohibits certain inhumane methods of traps and devices for the capture or killing of wild animals and certain additional methods such as fixed trap, poisoning with gas or smoke, or spot-lighting with vehicles for killing species listed on Schedule 6 of the Act (this includes all bat species, badger, otter, polecat, dormice, hedgehog and red squirrel).



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

The NERC Act (2006) created the statutory nature conservation body Natural England, and places a statutory duty on all public bodies, including planning authorities, under Section 40, to take, or promote the taking by others, steps to further the conservation of *habitats and species of principal importance for the conservation of biodiversity* in England (commonly referred to as the 'Biodiversity Duty'). This duty extends to all public bodies the biodiversity duty of Section 74 of the Countryside and Rights of Way (CROW) Act 2000, which placed a duty only on Government and Ministers. Section 41 of the NERC Act lists the habitats and species of principle importance. This includes a wide range of species from mosses, vascular plants, invertebrates through to mammals and birds. It originates from the priority species listed under the UK Biodiversity Action Plan (UK BAP) with some omissions and additions.

Environment Act (2021)

The Environment Act sets a target of halting the decline in species through the inclusion of a legally binding 2030 species abundance target. Aiming to restore natural habitats and enhance biodiversity, the Act requires new developments to improve or create habitats for nature (through mechanisms such as mandatory Biodiversity Net Gain), and tackle deforestation. Going forwards, UK businesses will need to look closely at their supply chains as amongst other measures they will be prohibited from using commodities associated with wide-scale deforestation. Woodland protection measures are also strengthened through the Act.

The Act enables the reform of the Habitats Regulations and further improves protection for nature through the establishment of Local Nature Recovery Strategies that support national Nature Recovery Networks. In addition, the Act provides for the production of Protected Site Strategies and Species Conservation Strategies, aimed at supporting the design and delivery of strategic approaches to deliver better outcomes for nature.

Protection of Badgers Act (1992)

The badger *Meles meles* is afforded specific legal protection in Britain under the Protection of Badgers Act (1992), and Schedule 6 of the Wildlife and Countryside Act 1981 (as amended) (see above).

Under this legislation, it is a criminal offence to:

- intentionally kill, injure, take, possess, or cruelly ill-treat, a badger, or to attempt to do so;
- interfere with a sett, by damaging or destroying it;
- to obstruct access to, or any entrance of, a badger sett; or
- to disturb a badger when it is occupying a sett.

A licence may be obtained from Natural England to permit certain prohibited actions for a number of defined reasons including interference of a sett for the purpose of development, provided that a certain number of conditions are met. Note that licenses are not normally granted for works affecting badgers between the end of November and the start of July.

National Planning Policy Framework

The National Planning Policy Framework (NPPF 2024)⁸ sets out the Government's view on how planners should balance nature conservation with development and helps ensure that Government meets its

⁸ HM Government (2024). National Planning Policy Framework. Department for Communities and Local Government. Available online at: <https://assets.publishing.service.gov.uk/media/675abd214cbda57cacd3476e/NPPF-December-2024.pdf>.



biodiversity commitments with regard to the operation of the planning system.

Paragraph 192, states that council plans should “*promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*”

The Office of the Deputy Prime Minister (ODPM) Circular 06/2005, 2005)⁹. In accordance with the NPPF, it is important that developments should contribute to and enhance the natural and local environment by:

- minimising impacts on existing biodiversity and habitats;
- providing net gains in biodiversity and habitats, wherever possible;
- establishing coherent ecological networks that are more resilient to current and future pressures.

UK Post-2010 Biodiversity Framework

The UK Biodiversity Action Plan (UK BAP), first published in 1994, was the UK’s response to the commitments of the Rio Convention on Biological Diversity (1992) until 2010, when the UK BAP was replaced by the UK Post-2010 Biodiversity Framework. This framework covers the period 2011 to 2020 and forms the UK government’s response to the new strategic plan of the United Nations Convention on Biodiversity (CBD) published in 2010. This promotes a focus on individual countries delivering target for protection for biodiversity through their own strategies.

The most recent biodiversity strategy for England, 'Biodiversity 2020: A strategy for England's wildlife and ecosystem services' was published by Defra (2011), and a progress update was provided in July 2013 (Defra 2013).

'Biodiversity 2020' builds on the Natural Environment White Paper for England – 'The Natural Choice', published on 7 June 2011, and sets out the strategic direction for biodiversity policy for the next decade.

Biodiversity 2020 deliberately avoids setting specific targets and actions for local areas and species because the Government believes that local people and organisations are best placed to decide how to implement the strategy in the most appropriate way for their local area or situation.

Birds of Conservation Concern (BoCC)

In 1996, the UK’s leading non-governmental bird conservation organisations listed the conservation status of all bird species in the UK against a series of criteria relating to their population size, trends and relative importance to global conservation. The lists, known as the ‘Red’, ‘Amber’ and ‘Green’ lists (in order of decreasing concern) are used to inform key conservation policy and decisions. The lists are reviewed every five years and are a useful reference for determining the current importance of a particular site for birds. The most recent review was undertaken in 2021 (Stanbury et al, 2021), which provides an up to date assessment of the conservation status of birds in the UK.

References

⁹ HM Government (2005) ODPM Circular 06/05 Government Circular: *Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System*. Available online at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7692/147570.pdf.



Protection of Badgers Act (1992). HMSO London. Available at:
<http://www.legislation.gov.uk/ukpga/1992/51/contents>

Circular 06/2005 (2005). Government Circular: Biodiversity and geological conservation – statutory obligations and their impact within the planning system. Office of the Deputy Prime Minister, London. Available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7692/147570.pdf

Council Directive 79/409/EEC on the Conservation of Wild Birds (“the Birds Directive”). Available at:
<http://jncc.defra.gov.uk/page-1373>

Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the “Habitats Directive”). Available at: <http://jncc.defra.gov.uk/page-1374>

The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations”). Available at:
<http://jncc.defra.gov.uk/page-1379>

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Available at:
<https://www.legislation.gov.uk/ukdsi/2019/9780111176573>

Countryside and Rights of Way (CROW) Act (2000). HMSO London. Available at:
<http://www.legislation.gov.uk/ukpga/2000/37/contents>

Defra (2011) Biodiversity 2020: A strategy for England’s wildlife and ecosystem services. Available at:
www.gov.uk/government/publications/biodiversity-2020-a-strategy-for-england-s-wildlife-and-ecosystem-services.

Defra (2013) Progress Update. Available at: www.gov.uk/government/publications/biodiversity-2020-simple-guide-and-progress-update-july-2013.

Stanbury, A., Eaton, M., Aebischer, N., Balmer, N., Douse, A., Lindley, P., McCulloch, N., Noble, D., and Win I. (2021). Birds of Conservation Concern 5: the status of bird populations: the fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of Man. *British Birds* 114, pp 723-747.

Natural Environment and Rural Communities (NERC) Act (2006). HMSO London. Available at:
http://www.legislation.gov.uk/ukpga/2006/16/pdfs/ukpga_20060016_en.pdf

National Planning Policy Framework (NPPF) (2024) Ministry of Housing Communities & Local Government. Available at:
<https://assets.publishing.service.gov.uk/media/675abd214cbda57cacd3476e/NPPF-December-2024.pdf>

Wildlife and Countryside Act (WCA) (1981). HMSO London. Available at:
<http://www.legislation.gov.uk/ukpga/1981/69/contents>

End.
