

Precautionary Method Statement for Mobile Protected Species

Fir Trees, Westward Lane, West Chiltington
West Sussex, RH20 2PA

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1. Introduction

1.1 Development Location

1.1.1 Mr and Mrs Shaw are proposing a development (grid reference: TQ 08294 16546) on land at Fir Trees, Westward Lane, West Chiltington, West Sussex, RH20 2PA. The Fir Trees property is hereafter referred to as 'the site' and Mr and Mrs Shaw as the 'applicant'.

1.2 Development Proposals

1.2.1 The applicant seeks planning consent (as per drawing: ESSE Landscapes – Full Garden Concept V2) for the following proposals:

- Construction of a swimming pool, shed, pump house, hot tub and covered outdoor kitchen; and
- Landscaping of the garden, including the addition of paving.

1.2.2 The proposals above are hereafter referred to collectively as 'the development' in this report. It is our understanding that the applicant submitted a planning application for the above development to Horsham District Council (HDC) in December 2024.

1.3 Ecology Background

1.3.1 No previous ecology reports for the development boundary were provided to Arun Ecology Ltd by the applicant prior to the writing of this report. It is our understanding that following HDCs assessment of the above planning application, a Precautionary Method Statement for mobile protected species was requested.

1.4 Brief and Objectives

1.4.1 Arun Ecology Ltd were commissioned by the applicant to produce a Precautionary Method Statement (PMS) for mobile protected species. The PMS will contain precautionary mitigation measures to reduce potential impacts to mobile protected species during the construction phase of the development.

2. Precautionary Method Statement

2.1.1 A precautionary method of works for mobile protected species should be followed during the construction phase of the development. The following mitigation measures should be followed.

Reptiles and Amphibians

2.1.2 The habitat within the footprint of the development consists solely of well-cropped modified grassland with a sward height of <50mm and is unsuitable as a permanent resting place for amphibians and reptiles.

2.1.3 Reptile and amphibian species should be discouraged from colonising the habitat within the development boundary by:

- Retaining the existing short length of the modified grassland with regular cutting of the grassland, preventing a long tussocky structure that could create suitable resting places.
- Keeping a tidy construction site and where reasonably practical keeping building materials off ground to prevent the creation of hibernacula/ refugia for amphibians/reptiles.

2.1.4 Any holes, pits or trenches should be kept covered overnight and checked each morning in case an animal has become trapped. Where practical it is advised to include small escape ramps/sticks into any holes, pits and trenches (where it might be difficult to seal them effectively with a cover).

2.1.5 The precautionary method of works outlined above, does not act as legal protection for an action that would otherwise be an offence with respect to European Protected Species (EPS). Therefore, in the unlikely event an EPS is encountered within the development boundary, works must momentarily stop, and a professional ecologist should be consulted. The ecologist's professional judgement should be relied upon to determine the need for a mitigation licence. Works should then recommence once a mitigation licence has been obtained (if required).

Nesting Birds

2.1.6 It is our understanding that no works are planned to existing trees or hedgerows within the development boundary. As such, there are no anticipated adverse impacts to these habitats as part of the development. However, as works will be conducted in close proximity to existing hedgerows and trees onsite, the below measures should be followed.

2.1.7 If an active bird nest or nesting activity is recorded onsite during the construction phase of the development the nest should be protected from damage and destruction (including disturbance that may cause the nest to be abandoned). An exclusion area should be implemented around any active nests and works in and around these areas should be controlled or delayed until the chicks have fledged.

Terrestrial Mammals

2.1.8 Where reasonably practical, measures should be taken to avoid the unnecessary killing or injuring (that could result in undue suffering and harm) of mammals as a result of the developments construction-based activities. Stakeholders and contractors should remain vigilant for the presence of hedgehogs and other terrestrial mammals around any vegetation, debris or stored materials. A reasonable action would be to move an individual to a safe location either within retained habitat on-site or off-site. During the construction phase of the development, any excavations on site should be covered nightly or include a suitable escape ramp to prevent nocturnal mammals from becoming trapped.

Appendix I – Legislation & Planning Policy

2.2 Background

2.2.1 This section provides a summary of the legislation and planning policy that could be relevant to the development. Where possible we have limited this section to the areas relevant to this report. This means the legislation and planning policy outlined below is not included in its entirety.

2.2.2 This section does not constitute legal advice, and only represents the interpretation and professional judgement of the ecologists named in this report, on the legislation and planning policy considered relevant to the development.

2.3 Conservation of Habitat and Species Regulations, 2017

2.3.1 The Conservation of Habitats and Species Regulations, 2017 transposes the EC Habitats Directive and some elements of the EC Bird Directive into national law in England and Wales. The objective of the Habitats Directive is to protect biodiversity through the conservation of natural habitats and species of wild fauna and flora. The directive lays down rules for the protection, management and exploitation of such habitats and species.

Protected Species

2.3.2 The regulations include provisions that prohibit certain actions from the protection of species listed under Annex II of the Habitat Directive. It is a criminal offence for a person to 'intentionally or recklessly' take the following action:

- Deliberately capture, injure or kill any wild animal of a European Protected Species (EPS);
- Deliberately disturb wild animals of any such species in such a way as to be likely to affect significantly the local distribution or abundance of the species to which they are likely to belong;
- Deliberately take or destroy eggs of any such wild animal;
- Deliberately pick, collect, uproot or destroy a wild plant of an EPS; and
- Keep transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal or plant of an EPS, or any part of or anything derived from such an animal or plant.

2.3.3 The disturbance of such animals includes in particular; any disturbance that is likely to impact their ability;

- To survive, to breed or reproduce, or to rear or nurture their young;
- In 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.

2.4 The Wildlife and Countryside Act, 1981 (as amended)

2.4.1 The Wildlife and Countryside Act, 1981 (as amended) primarily transposes the UK Governments obligations under the Bird Directive and Bern Convention into law. The act outlines provisions for the protection of nationally important sites for nature conservation and provides protection at different levels for certain animals and plants, including certain prohibitions.

Protection of Animals

2.4.2 Part 1 – Section 9 of the act includes certain prohibitions for the protection of certain animals named in schedule 5. In summary offences include:

- If any person intentionally or recklessly kills, injures or takes any wild animal included in schedule 5;
- If any person has in his possession or control any live or dead wild animal included in schedule 5, or any part of, or anything derived from, such an animal;
- If any person intentionally or recklessly damages or destroys, or obstructs access to, any structure or place which any wild animal included in schedule 5 uses for shelter or protection; or
- Disturb any such animal while it is occupying a structure or place which it uses for that purpose; and
- Sells, offers or exposes for sale, or has in their possession or transports for the purpose of sale, any live or dead wild animal included in schedule 5, or any part of, or anything derived from, such an animal, or publishes or causes to be published any advertisement likely to be understood as conveying that they buy or sell, or intends to buy or sell, any of those things.

2.5 Countryside Right of Ways Act, 2000 (CRoW, 2000)

2.5.1 The Countryside Right of Ways Act, 2000 (CRoW Act, 2000) makes provisions for public access, amends the law for public rights of ways and amends existing law on nature conservation and the protection of wildlife as well as makes further provisions for Areas of Outstanding Natural Beauty.

Wildlife Legislation

2.5.2 Part III of the CRoW Act, 2000 includes provisions for wildlife protection and nature conservation and includes amendments to the Wildlife & Countryside Act, 1981.

2.5.3 Schedule 9 of the CRoW Act, 2000 increases powers for the protection and management of SSSI. There are increased powers for appropriate authorities to secure management agreements for SSSI. A duty is placed on public bodies to have regard for the continued conservation and enhancement of SSSI. Furthermore, there are increased penalties for the prosecution of wildlife crime, including for third parties that damage SSSI.

2.5.4 Schedule 12 of the CRoW Act, 2000 makes certain offences under the provision of the Wildlife and Countryside Act, 1981 arrestable. Greater powers are given to police and appointed wildlife inspectors under the CRoW Act, 2000 and enables heavier penalties for the prosecution of wildlife crime.

2.6 Natural Environment & Rural Communities Act, 2006

2.6.1 The Natural Environment and Rural Communities Act (NERC), 2006 is primarily intended to implement key aspects of the governments rural strategy published in July 2004. It also addresses a wider range of issues relating broadly to the natural environment.

Section 40

2.6.2 Section 40 of the NERC Act, 2006, places a duty on any public authority and statutory undertaker to have due regard for the conservation and enhancement of biodiversity when delivering their functions, extending the provisions outlined under section 74 of the CRoW Act, 2000.

2.6.3 The policy goes on to state that conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population of that habitat.

Section 41

2.6.4 Section 41 of the NERC Act, 2006 requires the secretary of state in consultation with Natural England to outline Species of Principle Importance (SPI) and Habitats of

Principle Importance (HPI) that in their opinion are important for the conservation of biodiversity.

2.6.5 The secretary of state is required to:

- Take such steps as appear to the secretary of state to be reasonably practicable to further the conservation of the living organisms and types of habitats included in any list published under this section; or
- Promote the taking by other of such steps.

2.6.6 The NERC Act, 2006 also provides some amendments to the Wildlife & Countryside Act, 1981 (as amended) and includes provisions for enforcement powers and the protection of SSSI.

2.7 National Planning Policy Framework (2024)

2.7.1 The National Planning Policy Framework (NPPF, Ministry of Housing Communities and Local Government, 2024) sets out the Governments planning policies for England and how these should be applied. It provides a framework which locally prepared plans for housing and other developments can be produced.

2.7.2 The NPPF supplements Government Circular: Biodiversity and Geological Conservation 06/2005 (Office of the Deputy Prime Minister, 2005).

Conserving and Enhancing the Natural Environment

2.7.3 Paragraph 187 states: Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and

future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs;

- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

2.7.4 Paragraph 188 states: Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.

2.7.5 Paragraph 189 states that: great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

2.7.6 Paragraph 190 states that: When considering applications for development within National Parks, the Broads and National Landscapes, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and

- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

2.7.7 Within areas defined as Heritage Coast (and that do not already fall within one of the designated areas mentioned in paragraph 189), planning policies and decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character.

Habitats and biodiversity

2.7.8 Paragraph 192 states that: To protect and enhance biodiversity and geodiversity, plans should:

- Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and

- 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.

2.7.9 When determining planning applications, local planning authorities should apply the following principles:

- a) If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

2.7.10 The following should be given the same protection as habitats sites:

- a) potential Special Protection Areas and possible Special Areas of Conservation;
- b) listed or proposed Ramsar sites; and
- c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

2.7.11 The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

2.8 Biodiversity and Geological Conservation Circular 06/2005

2.8.1 Biodiversity and geological conservation circular 06/2005 provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It complements the national planning policy in the NPPF, 2024 and the Planning Practice Guidance. Broadly the guidance covers designated sites, the conservation of habitats and species, including outside of designated sites, protected species by law and the duties and powers used by planning authorities.

2.8.2 Paragraph 82 of the guidance states that 'in determining the application for development that is covered by up-to-date standing advice, a planning authority must take into account this standing advice'.

Protected Species and Planning

2.8.3 Paragraph 98 of the guidance states 'the presence of a protected species is a material planning consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat'.

2.8.4 Paragraph 98 also states that 'they (the planning authority) should consider attaching appropriate planning conditions or entering into planning obligations

under which the developer would take steps to secure the long-term protection of the species.

2.8.5 Paragraph 99 of the guidance goes on to state: '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 also states that 'this is justified only, where there is a reasonable likelihood of the species being present and affected by the development.'

2.9 Horsham District Council Adopted Local Plan (2015)

2.9.1 This section includes the deliberate inclusion of revisions made to Policy 31 outlined below under the draft HDC Local Plan (2020). This has been undertaken in view of recent legislative changes in the UK and additional local requirements that are reasonably likely to be considered at determination for this planning application.

Policy 25

2.9.2 Policy 25 sets out Horsham District Councils (HDCs) commitment to protecting the Natural Environment and Landscape Character. Policy 25 states:

2.9.3 The Natural Environment and landscape character of the District, including the landscape, landform and development pattern, together with protected landscapes and habitats will be protected against inappropriate development. The Council will support development proposals which:

2.9.4 Protects, conserves and enhances the landscape and townscape character, taking into account areas identified as being of landscape importance, the individual settlement characteristics, and maintains settlement separation.

2.9.5 Maintain and enhances the Green Infrastructure Network and addresses any identified deficiencies in the District.

2.9.6 Maintains and enhances the existing network of geological sites and biodiversity, including safeguarding existing designated sites and species, and ensures no net loss of wider biodiversity and provides net gains in biodiversity where possible.

2.9.7 Conserve and where possible enhance the setting of the South Downs National Park.

Policy 31

2.9.8 Development will be supported where it can demonstrate that it maintains and enhances the existing network of green infrastructure, the Nature Recovery Network, natural capital and biodiversity. Proposals that would result in the loss of existing green infrastructure or part of the Nature Recovery Network will be resisted unless it can be demonstrated that new opportunities will be provided that mitigates or compensates for this loss and ensures that the ecosystem services of the area are retained.

2.9.9 Proposals will be expected to retain and enhance existing freshwater features, hedgerows, trees and deciduous woodland and the provision of additional hedgerow and tree planting will be sought subject to appropriate consideration of local and wider context, habitats and species.

2.9.10 Where the felling of a tree is necessary, for example due to disease, replacement planting with a suitable species and location to retain the link with the wider network of habitats and Green Infrastructure, will be required.

2.9.11 Development proposals will be expected to remove invasive species and will be required to contribute to the enhancement of existing biodiversity and deliver, as a minimum, a 10% net gain through the delivery of appropriate on-site biodiversity net gain or, where this is not practicable, to off-set the delivery to the Nature Recovery Network.

2.9.12 Proposals should create and manage appropriate new habitats, taking into account pollination, where practicable. The Council will support new development which retains and /or enhances significant features of nature conservation on development sites. The Council will also support development which makes a positive contribution to biodiversity, and where appropriate the Nature Recovery Network, through the creation of green spaces, and linkages between habitats to create local and regional ecological networks and allow the movement of wildlife through development sites.

2.9.13 Particular consideration will be given to the hierarchy of sites and habitats in the District as follows:

- Special Protection Area (SPA) and Special Areas of Conservation (SAC);
- Sites of Special Scientific Interest (SSSI) and National Nature Reserves (NNRs);
- Local Wildlife Sites (LWS), Local Nature Reserves (LNRs) and any areas of Ancient Woodland, traditional orchards, local geodiversity or other irreplaceable habitats not already identified in a & b above.

2.9.14 Where development is anticipated to have a direct or indirect adverse impact on sites or features of importance to nature conservation, development will be refused unless it can be demonstrated that:

- The objectives of a site's designation, where applicable, and integrity of the area will not be undermined;
- The reason for the development clearly outweighs the need to protect the value of the site; and,
- That appropriate mitigation and compensation measures are provided.

2.9.15 Any development with the potential to impact Arun Valley SPA or the Mens SAC will be subject to a Habitats Regulation Assessment to determine the need for an Appropriate Assessment. In addition, development will be required to be in accordance with the necessary mitigation measures for development set out in the HRA of this plan.

2.10 Bibliography – Appendix II

2.10.1 Countryside Right of Ways Act, 2000 (C37) (Online) London, The Statutory Office. Accessed January 2024. Available at http://www.legislation.go.uk.

2.10.2 Horsham District Council Adopted Local Plan (2015).

2.10.3 Ministry of Housing, Communities & Local Government (2024) National Planning Policy Framework. (Online) Ministry of housing and Local Government, Fry Building, 2 Marsham Street, London, SW1P 4DF.

2.10.4 Natural Environment & Rural Communities Act, 2006. (Online). Available at http://legislation.gov.uk.

2.10.5 ODPM Circular 06/2005. Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System (2005). Norwich: HMSO. Accessed January 2024. Available a http://www.go.uk/goverment/publications/biodiversity-and-geological-conservation-circular-06-2005.

2.10.6 The Conservation of Habitat & Species Regulation (2017) (Online). London: The Statutory Office. Available from http://legislation.gov.uk.

2.10.7 Wildlife and Countryside Act, 1981 (As amended). (Online). Available at htttp://www.legislation.go.uk.