

GREAT CRESTED NEWTS AND OTHER AMPHIBIANS

- 7.13. Data from Krag show no records of great crested newt within 1km of the development site. The closest recorded great crested newt is located approximately 2.18km to the south.
- 7.14. Data from Krag shows the following amphibian records within 1km of the site:
- Common toad (*Bufo bufo*) - 0.95km to the north-west in 2010;
 - Common frog (*Rana temporaria*) - 0.8km to the north in 1998 and 0.95km to the north-west in 2010; and
 - Smooth newt (*Lissotriton vulgaris*) - 0.95km to the north-west in 2010.
- 7.15. According to Krag, the MAGIC website and Ordnance Survey, the only ponds within 500m of the site are on the opposite side of the M2 motorway, which constitutes a major barrier to dispersal to amphibians.
- 7.16. The rough grassland, ruderal, scrub and woodland within and adjacent to the site provide high quality terrestrial habitat for amphibians. However, due to the lack of waterbodies in the vicinity, amphibians are not likely to be present.

REPTILES

- 7.17. Data from Krag shows the following reptile records within 1km of the site:
- Grass snake (*Natrix natrix*) - 10 juveniles 0.82km to the west in 2011.
- 7.18. During the 2012 Lloyd Bore assessment, the habitat was reported as being managed and of limited potential for reptiles. However, the current condition of the habitat, which has not been managed as intensively as it was in 2012, provides suitable opportunities for reptiles. In particular the ruderal vegetation, scrub and rough grassland around the periphery of the site provides suitable reptile habitat.

BIRDS

- 7.19. The scrub and trees present within and around the boundaries of the site provide nesting opportunities for common and widespread birds.

WATER VOLES

- 7.20. There is no suitable habitat for water vole (*Arvicola amphibius*) on site or immediately adjacent to it.

HAZEL DORMOUSE

- 7.21. Data from the KMBRC include recent (2012) records of hazel dormouse (*Muscardinus avellanarius*) from Tunbury Woods, which is within 500m of the site and is directly linked to the site by means of woodland and scrub habitat.
- 7.22. In addition, dormouse presence is known to be within Impton Woods, which is 950m to the west of the site, and this woodland is also linked by means of woodland canopy.
- 7.23. The woodland and scrub habitat immediately adjacent to the site has very high potential for dormice, providing year round sheltering opportunities and abundant foraging resources. The scrub habitat, which is interconnected to the woodland, is encroaching into the site.
- 7.24. The suitable habitat on site is linked to ancient woodland off-site. The ancient woodland off-site is known to support dormouse and the closest record is only 500m from the site. The combination of

known dormice presence, high habitat connectivity and the presence of suitable habitat on the site boundary increases the risk of hazel dormice being present within the habitats on the site boundary.

BADGER

- 7.25. No badger (*Meles meles*) setts or other signs were found within or immediately adjacent to the development site.
- 7.26. The surrounding woodland has the potential to support badger habitat.

OTTER

- 7.27. There is no suitable habitat for otter (*Lutra lutra*) on site or immediately adjacent to it.

BATS

- 7.28. KMBRC data showed records of 10 bat species within 5km of the site, comprising 221 bat roost records and 215 other 'non-roost' bat records. The following species have been recorded: - serotine (*Eptesicus serotinus*), Natterer's (*Myotis nattereri*), Daubenton's (*M. Daubentonii*), whiskered (*M. mystacinus*), Leisler's (*Nyctalus leisleri*), noctule (*N. noctula*), soprano pipistrelle (*Pipistrellus pygmaeus*), common pipistrelle (*P. pipistrellus*), Nathusius' pipistrelle (*P. nathusii*) and brown long-eared bat (*Plecotus auritus*).
- 7.29. The closest record is of a hibernating common pipistrelle, 0.8km to the east in 1996.
- 7.30. There are records of three grounded bats (two common pipistrelles and one unidentified pipistrelle) within 1km of the site.

Trees

- 7.31. The site is surrounded by mature woodland.
- 7.32. Based upon drawing number 07.10.02 'Site Location and Proposed Site Plan', some trees are likely to be removed to facilitate development. These trees were assessed for their potential to support roosting bats according to BCT (2012), using the categories shown in Table 2.

Table 2: Bat tree classification, based on guidance produced by the Bat Conservation Trust (2012)

Tree category	Description
Known or confirmed roost	Known or confirmed roost
Category 1*	Trees with multiple, highly suitable features capable of supporting larger roosts
Category 1	Trees with definite bat potential, supporting fewer suitable features than category 1* trees or with potential for use by single bats
Category 2	Trees with no obvious potential, although the tree is of a size and age that elevated surveys may results in cracks or crevices being found; or the tree supports some features that may have limited potential to support bats
Category 3	Trees with no potential to support bats

- 7.33. No significant features of bat potential were noted on the majority of the trees, which were classified as Category 2 and 3 bat trees.
- 7.34. Two trees with features with potential to support roosting bats are present, and it could not be determined at the point of the survey whether they were inside the site boundary. These are shown on the habitat plan (see Figure 4). It is unclear if these trees will be retained or not.
- Ivy covered tree (Tree A, target note 1), at the southern end of the site, leaning towards the site. This is classed as a Category 1 to 2 bat tree.
 - Sweet chestnut (Tree B, target note 2) with cavities and crossed limbs, adjacent to the proposed access on Wildfell Close. This tree is classified as a Category 1 bat tree.

Habitats

- 7.35. The woodland habitats around the site boundaries are likely to provide foraging, sheltering and commuting habitat for bats.

OTHER MAMMALS

- 7.36. The hedgerows present around the site boundaries provide potential habitat for hedgehog (*Erinaceus europaeus*).
- 7.37. The site is likely to support other common and widespread mammal species, such as European rabbit (*Oryctolagus cuniculus*).

8. PHOTOGRAPHS



Photo 1: View from the south-east corner of the site, with encroaching scrub.



Photo 2: View from the west edge of the site, with encroaching scrub.



Photo 3: Boundary woodland on Wildfell Close (east side of site)



Photo 4: Existing access gate from Wildfell Close



Photo 5: High quality dormouse habitat adjacent to western boundary of the site

9. EVALUATION AND RECOMMENDATIONS

DESIGNATED SITES

Statutory sites

- 9.1. There are two statutory designated sites of International importance within 6km of the development.
- 9.2. These sites are unlikely to be impacted directly or indirectly by the development proposals because of the scale and nature of the proposed development and the distance between the development and the designated site.

Non-statutory sites

- 9.3. There is a LWS adjacent to the site and a number of blocks of ancient woodland within 1km of the development.
- 9.4. The development of the 12 residential units will fund a 25 year management plan for the adjacent woodland, which is part of the LWS. Therefore, the proposed development will ultimately enable beneficial management of the LWS and therefore the proposals are likely to have a long-term beneficial impact.
- 9.5. There is a risk that the development proposals could give rise to minor indirect effects, for example through an increase in cat predation associated with the new residential units. However, the development is small in scale (only 12 units) and not all the new residential units are likely to have pet owners. Overall, the potential effects are considered to be negligible.

HABITATS

- 9.6. Where possible mature trees and woodland on the site boundary will be retained and protected.
- 9.7. Overall the site is of relatively poor ecological quality compared to the wider woodland network. The site is heavily used by dog walkers and fly-tipping occurs. Given this, and the site's location of the edge of the woodland network, and given the presence of street lighting on Wildfell Close the development is likely to have a negligible impact on the woodland beyond the site.
- 9.8. It is understood that the existing access route from Wildfell Close to the east will be used, although this access may need to be widened.
- 9.9. An access path within the west boundary is proposed, with a ramp to the plateau at the top. To facilitate this, it is likely that some trees and woodland vegetation will be cleared.
- 9.10. It is recommended that no further accesses are created through the boundary woodland areas.

FLORA

- 9.11. The site is unlikely to support legally protected or notable plants.
- 9.12. No further surveys are required.

INVERTEBRATES (INCLUDING WHITE-CLAWED CRAYFISH)

- 9.13. The site is likely to be of negligible value for invertebrates.
- 9.14. There is no suitable habitat for white-clawed crayfish on site or immediately adjacent to it.

- 9.15. No further surveys are required.

GREAT CRESTED NEWTS AND OTHER AMPHIBIANS

- 9.16. Great crested newts are afforded protection by the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).
- 9.17. Great crested newts are most commonly found within 250m of waterbodies (English Nature, 2001; English Nature 2004; Natural England, 2013), but can be found up to 500m from suitable water bodies.
- 9.18. According to KRAG, the MAGIC website and Ordnance Survey, the only ponds within 500m of the site are on the opposite side of the M2 motorway, which constitutes a major barrier to dispersal to amphibians.
- 9.19. No further survey work is recommended.
- 9.20. In the unlikely event a great crested newt is found on site prior to or during development, then all works should cease immediately because of the nature of the legal protection afforded to this species and an appropriately qualified ecologist should be contacted for advice.
- 9.21. It is unlikely that common amphibians occur on-site. However, any that are discovered during works should be relocated to a suitable area within the site (or on the site's boundary) that will not be impacted by works.

REPTILES

- 9.22. All four common reptile species are protected from intentional and reckless killing and injury by the Wildlife and Countryside Act 1981 (as amended).
- 9.23. Reptiles are present on site, and the associated reptile report provides further information.

BIRDS

- 9.24. Nesting birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981 (as amended).
- 9.25. The trees and scrub surrounding the site provide suitable habitat for nesting birds. Appropriate avoidance and mitigation measures are recommended.
- 9.26. If required, nesting habitat should ideally be removed during the period October to February (inclusive) to avoid the bird nesting season. Alternatively, if this is not possible, a check for any nesting birds should be undertaken by a suitably qualified ecologist prior to works. Any active nests will need to be left in situ until birds have stopped using them. Habitat clearance should not commence until the dormouse surveys have been completed.

WATER VOLES

- 9.27. There is no suitable habitat for water vole on site or immediately adjacent to it.
- 9.28. No further surveys are required.

HAZEL DORMOUSE

- 9.29. Hazel dormice are afforded protection by the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).

9.30. Dormice are present on site, and the associated dormouse report provides further information.

BADGER

9.31. Badgers are afforded protection by the Protection of Badgers Act 1992 (as amended).

9.32. No further survey work for badger is required.

9.33. If fresh animal burrows are found that indicate the presence of a badger sett within the site or within 30m of the site boundary, because of the legal protection afforded to badger a suitably qualified ecologist should be contacted for advice.

9.34. Therefore, in order to reduce the risk of harm to badgers (and other animals) that may enter the site, the following recommendations are proposed:-

- Any holes that are excavated on-site are covered over night to prevent badgers and other animals from falling into them;
- Alternatively, a wooden plank or similar can be placed in the excavation to allow animals to escape; and
- The development site should be checked first thing each morning prior to the start of works that day.

OTTER

9.35. There is no suitable habitat for otters on site or immediately adjacent to it.

9.36. No further surveys are required.

BATS

9.37. Bat roosts are afforded legal protection by the Conservation of Habitat and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).

Trees

9.38. Two trees (Trees A (T19) and B (T3), see target notes 1 and 2) were initially assessed as being of Category 1 to 2 and 1 bat trees respectively. However further inspections indicate no further work is required. Further information is provided in letter 3478_LT_100, which is dated 18th November 2015.

Habitats

9.39. The woodland site boundaries may provide foraging and commuting habitat for bats.

9.40. Where security and/or health and safety constraints allow, light spillage onto potential bat foraging habitat should be minimised through the use of cowled, shielded or directed external lighting. In general and where possible, lighting should follow the principles outlined in Bats and Lighting in the UK (BCT, 2009).

9.41. Section 9 provides suggestions for ecological enhancement measures that would provide additional foraging areas for bats.

OTHER MAMMALS

- 9.42. All wild mammals receive some protection by the Wild Mammals (Protection) Act 1996 (as amended) and it includes offences of crushing and asphyxiation of any wild mammal with intent to inflict unnecessary suffering.
- 9.43. If any animal burrows (excluding active badger setts) are found during works, careful excavation of animals from their burrows before works commence should be sufficient to avoid an offence.

10. ECOLOGICAL ENHANCEMENT MEASURES

- 10.1. The proposed development will fund a 25 year management plan of the adjacent woodland for wildlife. Surveys should be conducted of the adjacent woodland to inform management. In particular, the location of notable ground flora should be mapped to ensure management does not adversely affect the areas of greatest ecological value. In particular, the management plan should consider woodland invertebrates, birds, bats and dormice.
- 10.2. The inclusion of small native trees and hedges within the development proposals are recommended in the post-development planting plan.
- 10.3. Bat and dormouse boxes should be installed in the adjacent woodland habitats. If possible, these should be monitored by appropriately licenced volunteers.
- 10.4. Further species specific ecological enhancement measures may be provided within reports for protected species following further survey work.
- 10.5. Standard Environment Agency Pollution Prevention Guidelines should be followed to minimise the risk of ecological impacts arising from fuel or chemical spillages.

11. REFERENCES

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12. APPENDIX 1: SUMMARY OF LEGISLATION AND PLANNING POLICY

- 12.1. The level of protection afforded to protected species varies dependent on the associated legislation. A full list of protected species and their specific legal protection is provided within the Schedules and/or Sections of the associated legislation. Case law may further clarify the nature of the legal protection afforded to species.
- 12.2. The legal protection afforded to protected species overrides all planning decisions.
- European Protected Species (EPS) - and the Conservation of Habitats and Species Regulations 2010 (as amended)*
- 12.3. European Protected Species (EPS) are afforded the highest level of protection through the Conservation of Habitats and Species Regulations 2010 (as amended). EPS are also afforded legal protection by parts of the Wildlife and Countryside Act 1981 (as amended).
- 12.4. There are a number of relatively common and widespread EPS. These include great crested newt, all species of UK bat, dormice and otter.
- 12.5. There are other species of plant and animal that are also EPS, but generally these are more scarce / rare and are restricted to narrow geographies or specific habitat types. Examples of this latter group include natterjack toad (*Epidalea calamita*), sand lizard (*Lacerta agilis*) and smooth snake (*Coronella austriaca*).
- 12.6. In general, any person and/or activity that:-
- Damages or destroys a breeding or resting place of an EPS. (This is sometimes referred to as the strict liability or absolute offence);
 - Deliberately captures, injures or kills an EPS (including their eggs);
 - Deliberately disturbs an EPS, and in particular disturbance likely to impair animals ability to survive, breed or nurture young, their ability to hibernate and migrate and disturbance likely to have a significant effect on local distribution and abundance;
 - Intentionally or recklessly disturbs an EPS while occupying a structure or place used for shelter and/or protection (Wildlife and Countryside Act 1981 (as amended)); and
 - Intentionally or recklessly obstructs access to any structure or place that an EPS uses for shelter or protection (Wildlife and Countryside Act 1981 (as amended)).
- ...may be guilty of an offence.
- 12.7. The legislation applies to the egg, larval and adult life stages of great crested newts and to bat roosts even when they are not occupied.
- 12.8. Maximum penalties are punishable with fines up to £5,000 per offence and up to 6 months imprisonment. Actions affecting multiple animals can be construed as separate offences and therefore penalties can be applied per animal impacted.
- 12.9. Under certain circumstances licences can be granted by the Statutory Nature Conservation Organisation (Natural England in England) to permit actions that would otherwise be unlawful.
- 12.10. There are some very specific defences associated with the Conservation of Habitats and Species Regulations 2010 (as amended). However these are unlikely to apply to construction related projects. The Sections of the Regulations provide further details of these defences.

- 12.11. The Wildlife and Countryside Act (1981) includes defence for those aspects of the legislation that apply to an EPS. These defences are unlikely to apply to construction related projects and do not apply to those acts included in the Conservation of Habitats and Species Regulations 2010 (as amended). The Schedules of the Act provide further details of defences.
- 12.12. Local authorities have obligations under sections 40 and 41 of the Natural Environment and Rural Communities Act (NERC) 2006 to have regard to the purpose of conserving biodiversity in carrying out their duties. The majority of EPS are listed on Section 41 the NERC Act.

Wildlife and Countryside Act 1981 (as amended)

- 12.13. The level of protection afforded to species listed on the Wildlife and Countryside Act 1981 (as amended) varies considerably.
- 12.14. 'Fully protected species', such as water vole, are afforded the highest level of protection. Any person who intentionally kills, injures, or takes 'fully protected species', or who intentionally or recklessly damages or destroys a structure or place used for shelter and/or protection, disturbs the animal whilst occupying a structure and/or place used for shelter and protection, or obstructs access to any structure and/or place used for shelter or protection is likely to have committed an offence.
- 12.15. Other species, such as common reptiles, are afforded less protection and for these species it may only be an offence to intentionally or recklessly kill or injure animals.
- 12.16. All active bird nests, eggs and young are protected from intentional destruction. Schedule 1 listed birds are also protected from intentional and reckless disturbance whilst breeding.
- 12.17. Schedule 9 of The Wildlife and Countryside Act lists plant species for which it is an offence for a person to plant, or otherwise cause to grow in the wild. Schedule 9 also lists animals for which it is an offence to release into the wild.

The Protection of Badgers Act 1992 (as amended)

- 12.18. The Protection of Badgers Act (1992) makes it an offence to wilfully kill, injure, take or ill-treat a badger and to interfere with a sett, including damage, disturbance and obstruction.

The Protection of Mammals Act 1996 (as amended)

- 12.19. The Protection of Mammals Act (1996) provides protection for all wild mammals against certain cruel acts with the intention of causing unnecessary suffering, including crushing and asphyxiation.

The Natural Environment and Rural Communities Act 2006 (as amended)

- 12.20. Section 41 (S41) of the Natural Environment and Rural Communities (NERC) Act (2006) requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England. The S41 list is used to guide decision-makers, including local and regional authorities, in implementing their duty under Section 40 of the act to have regard to the conservation of biodiversity in England when carrying out their normal functions.
- 12.21. S41 lists 56 habitats and 943 species of principal importance.
- 12.22. Section 42 of the NERC Act relates to Wales.

Environment Protection Act 1990 (as amended)

- 12.23. Japanese Knotweed is classed as 'controlled waste' and if taken off site it must be disposed of safely at a licensed landfill site. Soil containing rhizome material should also be regarded as contaminated and treated accordingly.

Statutory Protected Sites

- 12.24. Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) are afforded protection under the Conservation of Habitats and Species Regulations 2010 (as amended). Ramsar sites, which are designated under the Convention on Wetlands of International Importance (1971), are afforded the same level of protection as SPAs and SACs via national planning policy.
- 12.25. Sites of Species Scientific Interest (SSSI) are afforded protection by the Wildlife and Countryside Act 1981 (as amended).
- 12.26. National Nature Reserves (NNRs) are declared by the statutory country conservation agencies under the National Parks and Access to the Countryside Act 1949 (as amended) and the Wildlife and Countryside Act 1981 (as amended). They are managed to conserve their habitats or to provide special opportunities for scientific study of the habitats communities and species represented within them. In addition they may be managed to provide public recreation that is compatible with their natural heritage interests (JNCC website).
- 12.27. Local Nature Reserves (LNRs) are declared by local authorities after consultation with the relevant statutory nature conservation agency under the National Parks and Access to the Countryside Act 1949 (as amended). LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature (JNCC website).

Non-Statutory Protected Sites

- 12.28. Non-statutory sites may be given various titles, including Local Wildlife Sites (LWS), Sites of Importance for Nature Conservation (SINCs), Sites of Nature Conservation Importance (SNCIs) and County Wildlife Sites (CWS).
- 12.29. These sites are not normally legally protected but are recognised in the planning system and are afforded some protection through planning policy.

National planning policy framework (NPPF)

- 12.30. In addition to primary legislation, the government published the National Planning Policy Framework on 27 March 2012 to make the planning system less complex and more accessible. Within this, Chapter 11 is headed - Conserving and enhancing the natural environment (Sections 109 to 125).
- 12.31. Of particular relevance are the following statements:
- That the planning system should contribute to and enhance the natural and local environment by, amongst other things, ‘minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity,’ (Section 109); and
 - Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife...will be judged (Section 113).
- 12.32. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles (Section 118):
- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequate mitigated, or, as a last resort, compensated for, then planning permission should be refused; and
 - Opportunities to incorporate biodiversity in and around developments should be encouraged.

The presumption in favour of sustainable development (para. 14 of the Framework) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined (Section 119).

13. APPENDIX 2: HABITAT PLAN

(See plan below)








Habitat Plan

Walderslade Woods

DHA Planning



LEGEND:

-  A1.1.1 Broadleaved woodland
-  A2.2 Dense scrub
-  B2.2 Semi-improved grassland
-  C3.1 Ruderal/unmanaged grass periphery
-  Informal path
-  Target Note
-  Site boundary