# SCALEGILL HALL

## PRELIMINARY ECOLOGICAL APPRAISAL AND PRELIMINARY ROOST ASSESSMENT

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| Doc Name | Rev | Details | Author | Checked | Approved |
|---|---|---|---|---|---|
| ENVr1137 | A | Initial Issue for comments | R. Mansbridge | K. Aldridge | A. Blackshaw |
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## Executive Summary

| Contents | Summary |
|---|---|
| **Site Location** | The site is located to the west of the village of Moor Row in Cumbria and is centred on Ordnance Survey (OS) grid reference NX 99666 14407. The survey area comprises agricultural buildings and infrastructure including a disused house and associated garden. |
| **Proposals** | It is understood current proposals are for the renovation of the unoccupied house and two stone barns. The eastern area of the site, which contains open-ended farm sheds and other farm infrastructure, is designated for potential redevelopment to create new residential properties. |
| **Survey Scope** | The objectives of the report are to undertake:<br>• A desk study, to obtain existing information on statutory and non-statutory sites of nature conservation interest and relevant records of protected/notable species within the site and its zone of influence;<br>• A Preliminary Ecological Appraisal (PEA) of the site to map and record habitat types and dominant vegetation, including any invasive species, and an assessment for evidence of protected fauna or habitats capable of supporting such species;<br>• A Preliminary Roost Assessment (PRA) of all buildings/structures (including trees) on site to identify potential and actual bat entry/exit points, potential and actual bat roosting locations and to determine whether/the extent of which any subsequent activity surveys are required.<br>• An assessment of the potential ecological features present, any constraints they pose to development of the site and any recommendations for further surveys, avoidance, mitigation, compensation, or enhancement measures that are needed (as appropriate). |
| **Results** | **Designated Sites:** No statutory designated sites and three non-statutory sites were identified within 2km of the site. None of these are ecologically connected to the t site.<br>**Habitats:** Seven Phase 1 habitats were identified on site, there were: buildings, scrub, improved grassland, poor semi-improved grassland, tall ruderal vegetation, bare ground and intact species poor hedge.<br>**Invasive Non-Native Species:** No invasive species were recorded within 10 m of the site boundary, however several species are present in the wider area, such as: Himalayan balsam, Japanese knotweed, grey squirrel and American mink.<br>**Protected and/or Notable Species:** Breeding birds including barn owl, bats, west European hedgehog, reptiles and brow hare were all found to be using, or potentially using the site or adjacent land within 30 m of the site boundary. |
| **Recommendations** | **Further Surveys**<br>• Barn Owl Surveys – to be conducted on Building 1, 2 & 3 during March – August in advance of any works on site, including demolition.<br>• Bats – three bat surveys to be conducted on building 1, 2 & 3. Surveys to be conducted during May – August.<br>**General Mitigation**<br>• All site clearance, including demolition should be conducted outwith the breeding bird season (March – August inclusive) |

| | |
|---|---|
| | • Vegetation should be checked by a suitably experienced ecologist in advance of the works for reptiles.<br>**Proposed Enhancements:**<br>• The planting of native species of trees and shrubs, such as silver birch, hazel holly and rowan<br>• The installation of bird boxes, such as swallow and house marten nest boxes to create nesting provision on site.<br>• The installation of bat boxes either externally or as internal features (e.g. bat bricks) on the renovated and new buildings.<br>• The creation of ponds, or small open areas, to attract amphibians, invertebrates and provide water for birds.<br>• The installation and maintenance of bird feeders.<br>• The positioning of log piles to attract invertebrates and provide hibernacula for amphibians and hedgehogs.<br>• The provision of compost heaps at each household or at a community level to minimise waste and provide potential hibernacula habitat for a range species.<br>• The creation of holes in any garden fencing to allow hedgehogs to commute across the site. |

# 1 Introduction

## 1.1 Background

Nevis Environmental Ltd (Nevis) was commissioned by SRE Associates in August 2020, to carry out Preliminary Ecological Appraisal (PEA) and a Preliminary Roost Assessment (PRA) of buildings/structures of the site known as Scalegill Hall, Moorside, hereafter referred to as 'the site'.

This report has been prepared by Nevis consultant ecologist, Rob Mansbridge, BSc (Hons) ACIEEM.

## 1.1 Site Location

The site is located to the west of Moor Row village in Cumbia and is centred on Ordnance Survey (OS) grid reference (NX 99666 14407). The town of Whitehaven lies 1.4 km to the north-west and the West Lakes Science and Technology Park lies 150 m to the north. The survey area is shown on Figure 1 and comprises 1.3 ha of agricultural buildings and infrastructure including a disused house and associated garden. The site is currently being used for agricultural purposes and the house is unoccupied.

Habitats adjacent to the site comprise agricultural land which is primarily used for livestock grazing with arable fields also present. The A595 borders the site to the west and Scalegill Road borders the site to the south. Hedgerows provide some connectivity to the surrounding habitats. A hedgerow along the A595 connects the site to the woodland associated with the West Lakes Science and Technology Park to the north, and the hedgerow along Scalegill Road connects the site to the wooded cycleway located 110 m to the east of the site. This cycleway provides ecological connectivity to the wider landscape.

## 1.2 Development Proposals

It is understood current proposals are for the renovation of the unoccupied house and two stone barns. The eastern area of the site, which contains open-ended farm sheds and other farm infrastructure, is designated for potential redevelopment to create new residential properties.

## 1.3 Purpose of the Report

The objectives of the report are to carry out:

- A desk study, to obtain existing information on statutory and non-statutory sites of nature conservation interest and relevant records of protected/notable species within the site and its zone of influence;
- A PEA of the site to map and record habitat types and dominant vegetation, including any invasive species, and an assessment for evidence of protected fauna or habitats capable of supporting such species;
- A PRA of all buildings/structures (including trees) on site to identify potential and actual bat entry/exit points, potential and actual bat roosting locations and to determine whether/the extent of which any subsequent activity surveys are required; and

- An assessment of the potential ecological features present, any constraints they pose to development of the site and any recommendations for further surveys, avoidance, mitigation, compensation or enhancement measures that are needed (as appropriate).

# 2 Methods

## 2.1 Desk Study

### 2.1.1 Local Ecological Records Centre

Information was requested from Cumbria Biodiversity Data Centre (CBDC) on the following:

- Non-statutory nature conservation sites i.e. Local Wildlife Sites (LWS);
- Legally protected plant and animal species;
- Notable species e.g. Species of Principal Importance (SPI); and
- Priority habitats and species as listed within the Cumbria Local Biodiversity Action Plan (LBAP).

### 2.1.2 Online Resources

The following web-based databases were also accessed:

- Department for Environment Food and Rural Affairs (DEFRA) MAGIC, for information on statutory designated sites and Habitats of Principal Importance (HPI);
- Cumbria LBAP for details of priority habitats and species; and
- Copeland Borough Council Local Plan, for details on biodiversity policies within the local area.

## 2.2 Field Survey

The PEA and PRA survey was undertaken on the site on 11th September 2020 by Nevis Ecology Consultant, Rob Mansbridge, ACIEEM, an experienced ecological surveyor who holds a Natural England Bat Licence (Licence number: 2019-39830-CLS-CLS). The PEA took the form of an Extended Phase 1 Habitat survey. Weather conditions during the survey were 8 oktas of cloud cover with an air temperature of around 14°C, light southerly breeze and heavy showers.

The following methodologies were used to inform the assessment of habitat types and protected and notable species during the survey.

### 2.2.1 Habitats and Flora

The broad habitat types within the site were mapped in accordance with the categories specified in the *Handbook for Phase 1 Habitat Survey* (Joint Nature Conservation Committee 2016). Dominant plant species were recorded for each habitat present using nomenclature according to the 4th edition of New Flora of the British Isles (Stace, 2019). The site was also appraised for its potential to support notable flora.

### 2.2.2 Invasive Non-Native Species

The site was searched for invasive non-native species, primarily those included on Schedule 9 Wildlife and Countryside Act 1981 (as amended), such as Japanese knotweed *Reynoutria japonica*, Himalayan balsam *Impatiens glandulifera*, giant hogweed *Heracleum mantegazzianum*, wall cotoneaster *Cotoneaster horizontalis* and rhododendron *Rhodendron ponticum*.

### 2.2.3 Protected and Notable Species

The site was assessed for the possible presence of, and the likely importance of its habitats for, protected or notable species, especially those listed under the Schedule 2 of the Habitat Regulations 2017, Schedule 5 of the Wildlife and Countryside Act 1981, the Countryside and Rights of Way (CRoW) Act 2000, those given extra protection under the Natural Environment and Rural Communities Act 2006, and species included in the Cumbria LBAP.

#### Great Crested Newt

The site was appraised for its suitability to support great crested newt (GCN) *Triturus cristatus*. The assessment was based on Guidance outlined in the *Herpetofauna Workers' Manual* (Gent & Gibson, 2003) and the *Great Crested Newt Conservation Handbook* (Langton, Becket & Foster, 2001).

#### Reptiles

The site was appraised for its suitability to support reptiles, including common lizard *Zootoca vivipara* and slow worm *Anguis fragilis*. The assessment was based on Guidance outlined in the Herpetofauna Workers' Manual (Gent & Gibson, 2003).

#### Birds

Habitats on the site were appraised for their suitability to support breeding, migratory and wintering birds, with particular emphasis on species listed on Schedule 1 of the W&CA, SPI and bird species of conservation concern, as defined by Eaton *et al.,* (2015).

#### Bats

##### Roosting Bats

Buildings, structures and trees on site were assessed from the ground for their suitability to support breeding, resting and hibernating bats, with reference to the methods outlined in *Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd ed, 2016)* (Collins 2016); hereafter referred to as the 'BCT Guidelines'. The following system has therefore been used to categorise the bat roost suitability of any features found:

**Table 1: Bat Roost Suitability Categories**

| Suitability | Description of Potential Roosting Habitats |
|---|---|
| Negligible | Negligible habitat features on site likely to be used by roosting bats. |
| Low | A structure with one or more potential roost sites that could be used by individual bats opportunistically. However, these potential roost sites do not provide enough space, shelter, protection, appropriate conditions and/or suitable surrounding habitat to be used on a regular basis or by larger numbers of bats (i.e. unlikely to be suitable for maternity or hibernation).<br>A tree of sufficient size and age to contain potential roost features (PRFs) but with none seen from the ground or features seen with only very limited roosting potential. |
| Moderate | A structure or tree with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat but unlikely to support a roost of high |

| Suitability | Description of Potential Roosting Habitats |
|---|---|
| | conservation status (with respect to roost type only – the assessments in this table are made irrespective of species conservation status, which is established after presence is confirmed). |
| High | A structure or tree with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis & potentially for longer periods of time due to their size, shelter, protection, conditions & surrounding habitat. |

### Foraging/commuting bats

In accordance with the BCT Guidelines, the following criteria have been used to categorise the potential value of site habitats and features for use by foraging and commuting bats:

**Table 2 Bat Commuting/Foraging Habitat Suitability Categories**

| Suitability | Description of Potential Roosting Habitats |
|---|---|
| Negligible | Negligible habitat features on site likely to be used by commuting or foraging bats. |
| Low | Habitat that could be used by small numbers of commuting bats such as a gappy hedgerow or unvegetated stream, but isolated, i.e. not very well connected to the surrounding landscape by other habitat.<br>Suitable, but isolated habitat that could be used by small numbers of foraging bats such as a lone tree (not in a parkland situation) or a patch of scrub. |
| Moderate | Continuous habitat connected to the wider landscape that could be used by bats for commuting such as lines of trees and scrub or linked back gardens.<br>Habitat that is connected to the wider landscape that could be used by bats for foraging such as trees, scrub, grassland or water. |
| High | Continuous high-quality habitat that is well connected to the wider landscape that is likely to be used regularly by commuting bats such as river valleys, streams, hedgerows, lines of trees and woodland edge.<br>High-quality habitat that is well connected to the wider landscape that is likely to be used regularly by foraging bats such as broadleaved woodland, tree-lined watercourses and grazed parkland.<br>Site is close to and connected to known roosts. |

### Badgers

The site was surveyed for evidence of badger *Meles meles*, including setts or other badger activity such as paths, latrines or signs of foraging. Any setts recorded were classified according to the criteria outlined in *Surveying Badgers* (Harris, Cresswell & Jefferies, 1989).

### Other Species

The site was also appraised for its suitability to support other protected or notable fauna including mammals, amphibians, and invertebrates with regard to CIEEM's Guidelines for Preliminary Ecological Appraisal (2013) and BS42020:2013 Biodiversity – Code of Practice for Planning and Development. Evidence of any current or historical presence of such species was recorded.

## 2.3 Limitations

The optimal period to undertake a PEA survey is April-September and PRA surveys can be conducted at any time of year. The survey was completed in September which is inside the optimal survey window. It is therefore considered that there were no seasonal constraints to the survey.

Access was available to all external areas and therefore these areas could be surveyed appropriately. However, the following internal areas were inaccessible, being deemed unsafe due to rotten floorboards:

- First floor areas of stone barn (Building 3 - as shown in Figure 1)
- First floor and loft space of the unoccupied house (Building 1).

Any evidence of bats within these buildings would therefore have been missed. The lack of access was not considered significant as the buildings were accessed externally for potential roost features and/or access points and the recommended further bat surveys would indicate the presence of bats within these buildings.

To determine presence or likely absence of notable flora and protected species usually requires multiple visits at suitable times of the year. This survey focuses on assessing the potential of the site to support such ecological features, particularly those given protection under European or UK wildlife legislation or which are considered to be of principal importance for the conservation of biodiversity. Where there are significant limitations to the assessment in respect of any ecological features then further ecological survey work is recommended.

The details of this report are considered to valid for a period of **two** years from the date of the survey. After two years, the assessment should be reviewed to determine whether any further updates are necessary. The recommendations within this report should also be reviewed (and reassessed if necessary) should there be any changes to the development proposals available at the time of writing.

# 3 Baseline Conditions

## 3.1 Designated Sites

The desk study identified no statutory designated sites and four non-statutory designated sites within 2 km of the site.

**Table 3 Designated Sites Located within 2 km of the site**

| Site Name and Designation | Proximity and Direction to the Site | Designated Features |
|---|---|---|
| **Non-Statutory Designated Sites** | | |
| Stanley Pond CWS / SIS | 1.1km west | Priority habitat – reedbeds.<br>Importance for notable invertebrate species. |
| Roska Park and Bellhouse Gill Wood CWS | 1.5km north west (at nearest point) | Priority habitat – deciduous woodland. Bellhouse Gill Wood is also ancient woodland (replanted). |
| Orebank House Quarry LGS | 1.8km south | Unknown likely for geological features connected within historic quarries. |
| **Key**<br>CWS = County Wildlife Site<br>SIS = Site of Invertebrate Significance<br>LS = Local Geological Site | | |

## 3.2 Habitats

The site consists of an unused residential property and associated garden, with farm buildings and other agricultural infrastructure including stone barns, open-ended sheds, a slurry storage tank and areas of hardstanding. Areas of semi-improved grassland, scrub and tall ruderal vegetation are found throughout the site. The following habitats were recorded on site during the field survey:

- Buildings
- Dense scrub
- Improved grassland
- Poor semi-improved grassland
- Tall ruderal vegetation
- Bare ground
- Intact hedge species-poor

### 3.2.1 Buildings

There are six buildings on site; their locations are shown on Figure 1. These include:

- **Building 1:** A disused house with a pitched slate roof and all elevations rendered.

- **Building 2:** A single storey sandstone barn with pitched slate roof. The internal area of this barn is compartmentalised into two rooms. A small number of sheep were using the barn for shelter during the survey.
- **Building 3:** A two storey sandstone barn with a pitched slate roof. The first floor consisted of two large rooms and was accessible from a ramp positioned on the northern elevation. The ground floor consisted of three rooms, one of which was being used as a shelter for chickens, with the two further rooms being used for storage.
- **Building 4 and 5:** Both are large open-ended agricultural sheds constructed of corrugated iron with Perspex windows.
- **Building 6:** A shed of concrete breeze block and corrugated iron construction being used as a workshop/garage/store.

In addition, there are three derelict buildings located to the east of Building 1. These were of sandstone construction with only parts of the external walls remaining (approximately a maximum of 3 m in height). Some of these walls were covered in ivy *Hedera helix* with the internal areas dominated by tall ruderal vegetation.

### 3.2.2 Dense Scrub

Tall ruderal vegetation was identified on site in two areas which were located to the south of Building 5 and surrounding Building 6 to the west and north. The species within the patch to the south of Building 5 included Bramble *Rubus fruticosus* agg. dominates the scrub to adjacent to Building 6, with also spear thistle *Cirsium vulgare*, rosebay willowherb *Chamaenerion angustifolium* and field bindweed C*onvolvulus arvensis* being present.

### 3.2.3 Improved Grassland

Improved grassland dominates the areas of grassland in the western and central areas of the site. This includes the overgrown lawned garden associated with Building 1, and access areas to Building 2 and 3. The southern margin of Building 5 and northern and western margin of Building 4 also comprises improved grassland. This habitat is species-poor with perennial ryegrass *Lolium perenne* and false oat grass *Arrhenatherum elatius* dominating with occasional broadleaved dock *Rumex obtusifolius*, soft rush *Juncus effusus*, spear thistle and white clover *Trifolium repens*.

### 3.2.4 Poor Semi-improved Grassland

Poor semi-improved grassland is present at the eastern margin of the site. This area is species-poor but appeared less managed than the areas of improved grassland: broadleaved dock and patches of tall ruderal vegetation, including common nettle *Urtica dioica*, are more dominant in this area. The northern half of this habitat was being used for grazing chickens at the time of the survey.

### 3.2.5 Tall Ruderal Vegetation

Tall ruderal vegetation is present in areas at the site margins and adjacent to Buildings 2, 3 and 4. The majority of areas are dominated by common nettle. The exceptions are the small field with a stone wall boundary located adjacent to Building 1, which is dominated by soft rush *Juncus effusus* and the area to the south of the access track by Building 6 which contains a mixture of tall ruderal species including rosebay willowherb, common nettle and bramble. Broadleaved dock and spear thistle are also present.

### 3.2.6 Bare Ground

Bare ground is present in the form of concrete hardstanding on the parking area adjacent to Building 6, and the access track from this position to Buildings 4 and 5. An area of concrete hardstanding is also located to the north and west of Building 3 and was being used for animal pens at the time of the survey. A gravel hardstanding area is located to the north of the slurry tank which was being used for the storage of agricultural equipment at the time of the survey.

### 3.2.7 Intact Species Poor Hedgerows

A species-poor hedgerow, approximately 66 m in length, is located along the boundary at the north-western corner of the site. Common hawthorn *Crataegus monogyna* was the only species noted within this hedgerow.

Another single species hedgerow, consisting of blackthorn *Prunus spinosa*, is located along the southern boundary of the site adjacent to the current site access.

## 3.3 Invasive Non-Native Species

CBDC identified 29 records of invasive non-native species within 2 km of the site, these included;

- Japanese knotweed
- Himalayan balsam
- Eastern Grey squirrel Sciurus carolinensis
- American mink Neovison vison

No non-native invasive species were identified during the field survey of the site and immediate surroundings and have therefore been scoped out of the assessment.

## 3.4 Protected and Notable Species

### 3.4.1 Plants and Fungi

CBDC identified two records of bluebell *Hyacinthoides non-scripta* within 2 km of the site.

No notable or protected species of plant or fungi were identified during the field survey. Due to their absence from the survey area, they have been scoped out of the assessment.

### 3.4.2 Invertebrates

CBDC identified four records of protected and/or notable invertebrate species. Records included dragonfly, butterfly and moth species;

- Emperor dragonfly *Anax imperator*
- Wall butterfly *Lasiommata megera*
- Comma butterfly *Polygonia c-album*
- Cinnabar moth *Tyria jacobaeae*

No notable or protected invertebrates were identified on site during the survey. The tall ruderal vegetation, species-poor hedgerow and dense scrub provide suitability to support low numbers of invertebrates. It is considered that the proposed works are unlikely to have a significant adverse effect on local invertebrate populations. Due to the limited suitable habitat, these species have been scoped out of the assessment.

### 3.4.3 Great Crested Newt

CBDC did not return any records of GCN within 2 km of the site.

No suitable habitats to support breeding GCN were identified on site. However, a review of OS maps and online aerial photography indicates that there are three waterbodies within 500 m of the site boundary. These ponds are located 143 m, 307 m north-west and 420 m north of the site. The ponds are situated within the grounds of the West Lakes Science and Technology Park. A search of GCN data held on the DEFRA MAGIC site, indicates there are no records of Habitat Suitability Index (HSI) surveys being conducted on the two closest ponds however the furthest pond has been given an HIS score of average, indicating an average probability of GCN being present within the pond. However, the data indicates that no GCN were noted within the pond during visual inspections conducted in 2019. There is no direct connectivity between the site and these ponds as the Scalegill Beck watercourse forms a significant barrier for commuting GCN. In addition, there is extensive suitable habitat for hibernating GCN in the woodland surrounding the West Lakes Science and Technology Park, which may offer more suitability to GCN than the habitats offered on site.

The species-poor grassland and improved grassland habitats are suitable to support foraging GCN and the species-poor intact hedgerows and tall ruderal vegetation and scrub habitats provide limited potential to support hibernating newts. However, the field survey confirmed that there are no areas of standing water located within the site and therefore there is no potential for breeding GCN. Due to the site lacking suitable breeding habitat, and the low connectivity to the identified local ponds with suitable hibernating habitats, this species has been scoped out of the assessment.

### 3.4.4 Reptiles

CBDC did not return any records for reptiles within 2 km of the site.

Although no reptiles were identified on site during the field survey, the improved grassland, species-poor hedgerows, tall ruderal vegetation, dense scrub and species-poor semi-improved grassland provide suitable habitat to support foraging and hibernating reptiles. However, the surrounding agricultural landscape, which is dominated by land used for livestock grazing, is largely unsuitable to support reptiles. In combination with a lack of connectivity to other suitable habitats, it is considered unlikely that the proposed works will have a significant adverse impact on the local reptile population. However, there is low potential for individual reptiles, such as slow worm to be found within the site boundary.

### 3.4.5 Breeding Birds

CBDC identified extensive records of birds within 2 km of the site, with 742 individual bird records of 80 species provided. Ten of these species are identified as ‘sensitive species’.

No active bird nests were identified during the field survey. However, feral pigeon *Columba livia domestica* were noted within Building 3 and have the potential to be breeding.

The stone buildings (Building 1, Building 2 and Building 3), dense scrub and species-poor intact hedgerow hold potential to support breeding birds. In addition to feral pigeon, the buildings have potential to support birds that nest on, or within, buildings including house marten *Delichon urbica* and swallow *Hirundo rustica*. During the survey, feral pigeon were noted to be nesting in Building 2 and 3 and there was evidence of a recent swallow nest in Room 2 of Building 3. The hedgerows and scrub habitat have the potential to support species typical of these habitats, including wren *Troglodytes troglodytes*, blackbird *Turdus merula*, and robin *Erithacus rubecula*.

CBDC returned no records of barn owl *Tyto alba* within 2 km of the site, however, Buildings 1, 2 and 3 were identified as having potential to support roosting and/or breeding barn owl. Recent barn owl pellets were noted next to the doorway to the first floor of Building 3; as shown in Photograph 1. During the field survey, anecdotal evidence was provided where it was stated that barn owl use, or have recently used, Building 1 and Building 3. A gap within the wooden boarding on the first-floor windows of Building 1 would allow barn owl to access this area.

**Photo 1: Recent barn owl pellets (indicated by red arrows) found close to the doorway on the first-floor of Building 3.**

The internal areas of Building 3 and Building 1 were unable to be assessed fully and therefore it is unknown whether barn owl were present during the survey and whether the buildings are used as a breeding site or as a roost.

### 3.4.6 Bats

#### Roosting Bats

CBDC identified six records of three species of bats: Natterer's *Myotis nattereri*, common pipistrelle *Pipistrellus pipistrellus* and soprano pipistrelle *Pipistrellus pygmaeus* within 2 km of the site. Although the records do not identify if they are confirmed bat roosts or not, this does not indicate that there are no roosts present within 2 km.

The assessment for roosting bats was undertaken as part of the Preliminary Roost Assessment (PRA), which is detailed in Section 3.5

#### Commuting and Foraging Bats

As per Table 2, the site is classified as having 'moderate potential to support commuting and foraging bats. The site is connected to the wider landscape, through the hedges adjacent to the site on the north, south and east of the boundary. These hedges connect the site to excellent foraging habitat including Scalegill Beck watercourse to the north, and mature woodland to the east and west of the site.

### 3.4.7 Badger

CBDC returned no records for badger within 2 km of the site.

No badgers, evidence of badger (including pathways, latrines and guard hairs) or suitable habitats to support setts were identified within or adjacent to the site during the field survey. However, the species-poor improved grassland and improved grassland provides suitable habitat for foraging badgers and the wider landscape offers suitable sett building habitats, mature woodlands and banks.

### 3.4.8 Red Squirrel

CBDC identified 23 records of red squirrel within 2km of the site, with the nearest record within 0.2 km of the site boundary.

No evidence of red squirrel was identified within the site boundary and no suitable habitats for dreys or foraging were recorded within the site boundary. Suitable red squirrel habitat is located within the mature trees to the north and south of the site. Due to the lack of habitat suitability within the development footprint, red squirrel have been scoped out of the assessment.

### 3.4.9 Otter

CBDC identified two records of otter within 2 km of the site, with the nearest record identified 1.2 km from the site. No suitable resting or foraging habitat was identified within the site boundary. Scalegill Beck, located approximately 105 m north of the site, is likely to hold suitable foraging habitat for otter, with the potential for resting sites. The watercourse is surrounding by mature foliage which provides a natural visual buffer from the site.

### 3.4.10 Water Vole

CBDC returned no records for water vole within 2 km of the site.

No suitable habitat for water vole exists within the site, this species has therefore been scoped out of the assessment.

### 3.4.11 Other Notable Species

#### West European Hedgehog

CBDC identified 24 records of west European hedgehog *Erinaceus europaeus* within 2 km of the site. The closest records were located 0.1 km from the site, with the most recent of these recorded in 2016.

The species-poor semi-improved grassland, dense scrub, species-poor hedgerows and tall ruderal vegetation provides suitable habitat to support low numbers of individual foraging, commuting and hibernating hedgehog.

#### Brown Hare

CBDC returned no records of brown hare *Lepus europaeus* within 2 km of the site.

The proposed development site does not hold suitable open habitat to support a population of brown hare. However, the adjacent agricultural fields and woodlands offer the potential to support this species.

## 3.5 Preliminary Roost Assessment – Bats

All six buildings, and the derelict buildings, on site were assess in detail for their potential to support roosting bats. The building numbers used correspond to those presented in Figure 1. The findings are summarised in the sections below.

### 3.5.1 Building 1

As per Table 1, Building 1, the house, was assessed as having 'high' potential to support roosting bats. The external areas of the building were assessed, and several potential roost features were identified.

#### Exterior Inspection

The building is rendered on all four aspects, with several potential roost features in the areas where the rendering was loose/damaged. In addition, there were gaps at the eaves, and gaps between/under roof pitch slates and roof ridge tiles. The features for each elevation are identified in photographs 2 – 6 and described below:

West and North Elevation

The western and northern elevations had several potential roost features, these included gaps under the roof slates and gaps at the soffit. The majority of the elevation was fully rendered. However, there were a few places where the brickwork was exposed and suitable-sized gaps to provide access to potential roost locations were present.

**Photo 2: Western elevation of Building 1. Suitable gaps were noted in the exposed stonework at the soffit and under roof slates.**

Photo 3: Western elevation of Building 1. Gaps in exposed stonework at soffit

Photo 4: Western elevation of Building 1. Gaps in exposed brick work and at exposed stonework at soffits. A gap in the boarded-up window is large enough to allow barn owl and other birds to access the internal areas of the building.

East Elevation

The eastern elevation of Building 1 had full-rendering. However, there were several gaps located within the soffit which may provide access to potential roost locations. Ivy covered the majority of the soffit on this elevation. A gap in the window boarding may provide access for bats and birds to the internal areas of the building.

**Photo 5: Eastern elevation of Building 1. Gaps in the soffit.**

South Elevation

The southern elevation was fully-rendered, including the chimney. There were no obvious potential roost features on this elevation.

**Photo 6: Southern elevation of Building 1. No obvious potential roost features.**

**Internal Inspection**

An internal inspection was not undertaken. The internal structure of the building was deemed unsafe, with rotten floorboards noted, making the upper floor and loft space inaccessible.

### 3.5.2 Building 2

As per Table 1, Building 2, the barn, was assessed as having 'high' potential with numerous potential roost features being identified.

**Exterior Inspection**

North Elevation

The northern elevation of Building 2 has no obvious potential roost features. The roof tiles and roof ridge tiles are in good condition. The stoneface of the barn's northern elevation is within a shed of concrete breezeblock construction. The roof, which was presumably of corrugated iron construction or similar, of this shed is no longer present and the shed provides negligible bat roost potential.

**Photo 7: Northern elevation of Building 2. No obvious potential roost features.**

East Elevation

The eastern elevation of Building 2 has numerous gaps amongst the stonework across the whole face which provide possible access locations to potential roosts. The air vents enable the internal areas of the building to be accessed by internal-dwelling bats such as brown long-eared bat *Plecotus auritus* and Natterer's bat.

**Photo 8: Eastern elevation of Building 2. Numerous gaps in the stonework across the whole elevation.**

South Elevation

Similar to the west elevation, the southern elevation has multiple gaps within the stonework which may be used to access potential roost locations within the wall. The concrete roof tiles are generally in good condition and provide limited bat roost potential, however, tiles are missing at the soffit. The air vents, window and doorway provide access to the internal areas of the building.

**Photo 9: Southern elevation of Building 2. Numerous gaps in the stonework across the whole elevation. Air vents and doorway provide access to internal areas.**

## Internal Inspection

It was noted during the internal inspection, that there was very limited light ingress from outside, suggesting that some of the external features identified did not access all the way through into the internal space of the barn. No evidence of bats was noted during the survey, including bat droppings, feeding remains and 'oily' staining on the roof beams. However, a small flock of sheep were using the barn as a shelter at the time of the survey making the observation of bat droppings on the ground difficult.

The roof beams were in good condition and the roof had a felt lining. The wall-heads were accessible from inside and therefore there is potential for crevice-dwelling bats to roost in these areas. In addition, the window lintel has a gap which may provide access to a potential roost within the external wall of the building.

Photo 10: Internal area of Building 2 – western end of building.

**Photo 11: Internal area of Building 2 – eastern end of building.**

### 3.5.3 Building 3

As per Table 1, Building 3 was assessed as having 'high' bat roost potential. There are numerous potential roost features on all four external elevations and within the internal areas that could safely be inspected.

#### Exterior Inspection

North Elevation

Numerous gaps suitable for access to roosting areas for bats are present across the whole of the northern elevation (Photo 12 and 13). However, most were concentrated towards the apex of the stonework and surrounding the quoins at the edges to the elevation and surrounding the doorway. A gap above the wooden lintel to the doorway provides an additional potential roost feature. The roof tiles are largely in good condition and appear to have been replaced recently. However, there are a few loose slates towards the western gable which may provide potential roost features.

**Photo 12: Northern elevation of Building 3. Numerous gaps in stonework and roof slates towards western gable (red arrow) provide potential roost features.**

**Photo 13: Northern elevation of Building 3. Numerous gaps in stonework (as indicated by red arrows) and gap above wooden lintel to doorway provide potential roost features.**

East Elevation

The eastern elevation is largely well-pointed, and the apex of this gable end appears to have been pointed recently; presumably at a similar time to when the building was re-roofed. There are, however, a few gaps surrounding the quoins which are suitable for entry to roosting locations for bats. The hayloft door and ventilation holes provide access to internal areas of the building, which may be used by bat species that roost in internal areas such as brown-long eared bat.

**Photo 14: Eastern elevation of Building 3. The stonework is largely well-pointed. However, there are a few gaps surrounding the quoins (as shown by red arrow).**

Attached to the eastern elevation of Building 3 is a small single storey storeroom. It is of likely breeze block construction with external rendering. It is roofed using corrugated iron sheeting. The wooden barge board adjacent to the window has a couple of gaps within in it which may provide a potential roost feature for an opportunistic roost for one or two individuals.

**Photo 15: Storeroom attached to the eastern elevation of Building 3. Low potential for supporting roosting bats. Gaps within the wooden barge boarding/lintel may provide a potential roost feature for an opportunistic roost for one or two individuals.**

## South Elevation

There are numerous gaps on the southern elevation of Building 3 which provide potential suitable access to roosts, some of these are presented in Photograph 16. At the eastern end of this elevation, gaps beneath the wooden barge board provides further potential roost features and potential access to the wall head. The air vents may be used as access points to the internal areas of the barn.

Photo 16: Southern elevation of Building 3. Numerous gaps within the stonework providing potential access points to roost locations within the stonework (several are indicated with red arrows).

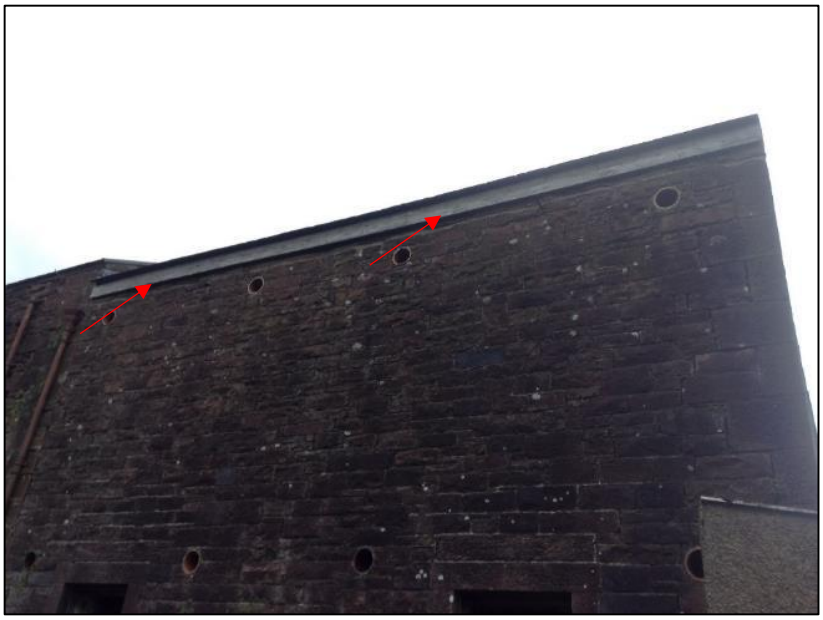

Photo 17: Southern elevation of Building 3. Gaps under wooden bargeboards provide a potential roost feature. Access to internal areas of barn may be acquired through circular vents.

West Elevation

The western elevation has numerous gaps within the stonework which are suitable to provide access to potential roosts. The air vents may provide access to the internal areas of the barn.

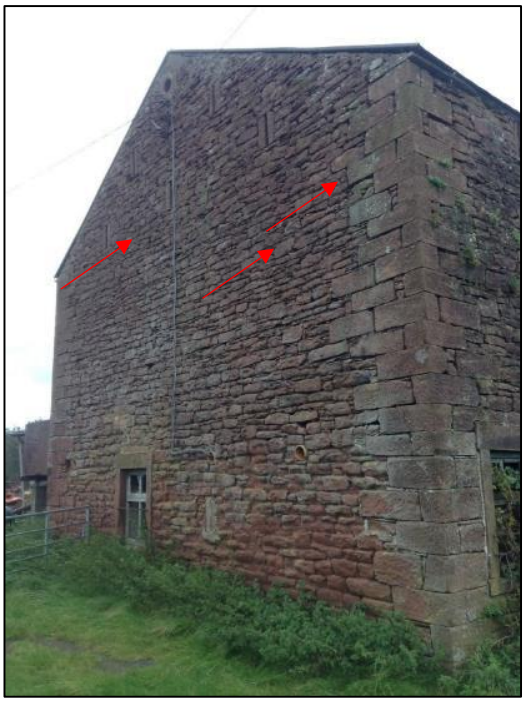

**Photo 18: Western elevation of Building 3. Numerous gaps within the stonework across the whole elevation which provide potential access points to roost locations within the stonework (several are indicated with red arrows).**

## Internal Inspection

An internal inspection was undertaken of the ground floor rooms:

- **Room 1:** At eastern end of building, used as a chicken shelter at the time of the survey.
- **Room 2:** Central room used as storage for wood and other items at the time of the survey.
- **Room 3:** Room at the western end of the building with previous use as a stable/parlour. Used for the storing of materials at the time of the survey.

No evidence of bats was found in any of the three rooms. However, it is possible that signs of bat activity, including droppings, were missed due to the detritus on the floor of Room 1. The storage of materials prevented access to some areas in Room 2 and Room 3.

There were no obvious potential roost features or access points within Room 1. However, the wooden ceiling beams have potential to be used as a place of rest for internal-dwelling bats including brown-long eared bat and natterer's bat.

Room 2 and Room 3 had limited potential to support roosting bats. However, there were gaps in the lintel of both doorways and windows which may provide potential access to the internal areas of the external wall.

An internal inspection of the first floor was unable to be undertaken due to it being deemed unsafe to access. However, it was able to be noted that the roof timbers appeared in good condition and that the roof was felt lined.

### 3.5.4 Building 4 and Building 5

Building 4 and Building 5 were assessed as having 'negligible' bat roost potential. Both buildings were constructed with partial breeze block and corrugated walls, potentially composed of asbestos. The supporting beams are of steel composition. This construction is deemed unsuitable to support roosting bats due to the instability of the temperature these materials provide. The low height of the concrete breeze blocks and exposed nature of any potential crevices within the blockwork makes bat roosting in this area unlikely. There is, however, potential for bats to use the internal area for 'warming up' soon after emerging from roost or for foraging.

Photo 19: Building 4

Photo 20: Building 5

### 3.5.5 Building 6

Building 6 was assessed as having 'negligible' bat roost potential. Similar to Buildings 4 and 5, the building is of partial concrete breeze block and partial corrugated steel construction. The supporting beams are of steel construction. This construction is deemed unsuitable to support roosting bats due to the instability of the temperature that these materials provide. The concrete breeze blocks are of low height and access to any crevices within the blockwork is limited.

Photo 21: Building 6

### 3.5.6 Derelict Buildings

The derelict stone buildings were assessed as providing 'low' bat roost potential. The low height of the walls, and the high level of exposure makes these derelict buildings sub-optimal for supporting roosting bats. However, the gaps amongst the stonework provide potential roost locations for small numbers of individuals.

Photo 22: Derelict buildings adjacent to Building 1 and Building 3

## 3.6 Importance of Ecological Features

In accordance with the CIEEM Guidelines and based on the above baseline information, each ecological feature recorded within the study area is considered to have the following importance (Table 4)

**Table 4 Importance of Ecological Features**

| Feature | Importance | Rationale |
|---|---|---|
| Reptiles | Site Value | Small areas of suitable habitat identified within the site boundary, such as the grassland, hedgerows and scrub, capable of supporting a small number of reptiles, such as slow worm. |
| Breeding Birds | Local Value | Habitats on site have evidence of supporting a number of species, including the potential for supporting Barn Owl, a WACA Schedule 1 species. |
| Roosting Bats | Unknown – likely Local Value | Three of the buildings on site offer high potential to support roosting bats, With the buildings offering the potential to support maternity colonies of Natterer's bat which have been recorded within 2 km of the site. |
| Foraging and Commuting Bats | Site Value | The habitats on site offer little in the way of linear features for commuting bats and the site is unlikely to support significant numbers of foraging bats. |
| Otter | Local Value | The site lies within 100m of a watercourse, which likely has the potential to support an otter population. The current proposals do not impact upon the suitable habitat. |
| West European Hedgehog | Site Value | The site offers suitable habitat for hedgehog, scrub and tall ruderal habitats. Due to the limited size of the site and the connectively to similar habitats, it is unlikely that the development area hosts a significant population of hedgehog. |
| Brown Hare | Site Value | The development site offers little suitable habitat for brown hare, with better foraging habitat within the adjacent habitats. It is unlikely that the site hosts a significant population of brown hare. |

# 4 Discussion

## 4.1 Designated Sites

### 4.1.1 Statutory Designated Sites

During the desk study, it was identified that no statutory designated sites are present within 2 km of the site. In addition, there are no watercourses on, or directly adjacent to, the site and therefore there is no direct connectivity from the site to a statutory designated site. It is therefore considered that the proposed development will have no impact on statutory designated sites.

### 4.1.2 Non-statutory Designated Sites

Three non-statutory designated sites were identified within 2k m of the site, however none of these sites are ecologically connected to the development and there will be no impact from the proposals.

## 4.2 Habitats

The habitats on site hold little ecological value, with only the species-poor hedgerow being assessed as having ecological value. The hedgerow identified on site are listed as a Habitat of Principal Importance (HPI) under Section 41 (41) of the Natural Environment and Rural Communities (NERC) Act 2006. It is recommended that the species-poor hedgerows, where possible, are incorporated into the landscaping design of the proposed development. In addition, there is potential for the habitats to be improved on site as part of the landscape design; suggested enhancement measures are provided in Section 4.6.

## 4.3 Protected and Notable Species

### 4.3.1 Breeding Birds

All six buildings, the species-poor hedgerows and the tall ruderal vegetation hold potential to support breeding birds. Evidence of feral pigeon and swallows recently nesting on site was noted during the field survey.

Barn owl pellets were recorded within Building 1, however Building 2 and 3 also offered suitability for barn owl. In order to assess the site for the current status for barn owl, further surveys are recommended on Building 1, 2 and 3. These surveys should be undertaken during March to August (inclusive).

All bird species are protected under the Wildlife and Countryside Act 1981 (as amended) (W&CA) while they are nesting, as are their nests and eggs. Barn owl receive extra protection under Schedule 1 of W&CA and therefore if barn owl is confirmed as nesting the no potentially disturbing works can be undertaken during the breeding season (March to August inclusive). Therefore, it is recommended that all demolition works be undertaken outside of the breeding season. If this is not feasible, nesting bird checks will need to be conducted in advance of any demolition, by a suitably experienced ecologist. If any nesting activity is identified, then this may lead to a delay in all site works until, until the ecologist has advised that all the chicks have fledged.

If barn owl are found to be nesting within the buildings, then adequate provision will have to be built into the detailed design to replace the lost nesting habitat and temporary habitat will need to be provided during development.

### 4.3.2 Bats

#### Roosting Bats

Prior to the commencement of works, bat activity surveys should be conducted on the buildings on site, see Table 5 for the buildings and survey requirements. The surveys should be conducted between May and August, as the structures are most likely to be used as summer roosts. This is due to the structures lacking features that would offer suitable conditions to support hibernation bats (i.e. offering little in the way of a constant temperature during the winter months). If a bat roost is confirmed during the surveys, then a Bat Mitigation Licence from Natural England may be required to proceed with the works.

**Table 5: Bat Activity Survey Results**

| Building Number/Name | Bat Roost Suitability | Number of Survey's Required |
|---|---|---|
| Building 1 | High | 3 (one dusk, one dawn and one either dusk or dawn) |
| Building 2 | High | 3 (one dusk, one dawn and one either dusk or dawn) |
| Building 3 | High | 3 (one dusk, one dawn and one either dusk or dawn) |
| Building 4 | Negligible | None |
| Building 5 | Negligible | None |
| Building 6 | Negligible | None |
| Derelict Buildings | Low | 1 – dusk or dawn survey |

#### Foraging and Commuting Bats

There is low potential for foraging bats within the site, due to the low-quality linear features, gappy hedgerow within the site boundary. However, suitable features adjacent to the site, mean the site is well connected to the wider landscape for any bats that may utilise the roosting features within the site. The development plans are unlikely to negatively impact any commuting bats, as the current plans do not impact on any of the suitable features, such as the watercourse to the north or the trees/hedgerows around the adjacent field boundaries. In order to minimise any potential impact on foraging and commuting bats, it is recommended that the appropriate mitigation measures listed in Section 4.4 are adhered to during the works. In addition, there is potential for the site to be enhanced for bats as part of the proposed development's landscaping design. Proposed enhancement measures are listed in Section 4.5.

### 4.3.3 Otter

No signs of otter, a European Protected Species (EPS) and an LBAPspecies, were noted during the field survey. Suitable habitat for otter is likely to exist 100 m north of the site along Scalegill Beck. As the current proposals are limited to the footprint of the existing buildings, and with the natural thick vegetation of mature trees and shrubs around the watercourse, it is unlikely that the development would lead to a disturbance to any otter using Scalegill Beck. The agricultural field between the watercourse and the site offers little suitability for foraging otter, so it is unlikely that otter should be found within close proximity to the works. No further survey works for otter are required, unless there is a significant change in the development plans.

### 4.3.4 Badger

Development of the site is unlikely to have an impact on the distribution and abundance of the local badger population. However, the presence of individual badger on site is possible during construction. To avoid accidental injury or disturbance to individual badgers it is recommended that the appropriate general mitigation measures detailed in Section 4.4 should be adhered to during construction.

### 4.3.5 Reptiles

The current proposals are unlikely to negatively impact on the distribution or abundance of any reptile species using the site. No further surveys are required. However, to prevent accidental disturbance or injury to individuals on site it is recommended that the areas of grassland, tall ruderal vegetation and dense scrub are checked by an experienced Ecological Clerk or Works (ECoW) prior to their removal. In addition, in order to minimise the impact on any individuals present on site, the construction and operation of the site should take note of the mitigation measures in Section 4.4.

### 4.3.6 West European hedgehog

Development of the site is unlikely to have an impact on the distribution and abundance of the local hedgehog population. However, the presence of individual hedgehogs on site is possible during construction. It is recommended that prior to the removal of the dense scrub, tall ruderal vegetation and/or hedgerows the area should be checked by an experienced ECoW. In addition, to avoid accidental injury or disturbance to individual hedgehogs it is recommended that the appropriate mitigation measures detailed Section 4.4 should be adhered to during construction.

### 4.3.7 Brown hare

The proposed development is unlikely to have an impact on the distribution and abundance of the local brown hare population. However, the presence of individual brown hares on site is possible during the works. To avoid accidental injury or disturbance to individual brown hare it is recommended that the appropriate mitigation measures detailed Section 4.4 should be adhered to during the works.

## 4.4 General Mitigation Measures

The following measures should be adhered to minimise the potential impact of the proposed works to individual animals on site, including badger, brown hare, reptiles and west European hedgehog:

- Any animals disturbed by site works should be allowed to disperse of their own accord and should not be caught or handled (with the exception of any hedgehogs which do not disperse of their own accord).
- Any hedgehogs, which do not disperse should be carefully placed (where capture is possible and humane) in a ventilated box using gloved hands and released into suitable nearby vegetation, such as thick undergrowth, that will be unaffected by the proposed works. If injured or diseased animals are found, then the animal should be admitted to a wildlife hospital or centre for relocation by an Ecological Clerk of Works (ECoW).
- Any excavations that need to be left overnight should be covered or fitted with ramps to ensure that any animals that enter can safely escape. Ramps can be made using wooden board and a plank that is no less than 0.5 m wide, and that is positioned at an angle of no more than 45°. Each excavation should be checked daily before starting works.
- Where possible, works should be reduced or halted during sunrise and sunset when animal activity is at its greatest.
- A bat sensitive lighting scheme should be applied during works. This should include the avoidance of lighting of all potential roost entry/emergence locations and the identified foraging/commuting areas.

## 4.5 Proposed Enhancements

There are some proposed enhancements that, if undertaken as part of the landscape design, could help improve the site's suitability for protected and/or notable species and tie in with the NPPF. Suggested enhancements include:

- The planting of native species of trees and shrubs, such as silver birch *Betula pendula*, hazel *Corylus avellana*, holly *Ilex aquifolium* and rowan *Sorbus aucuparia*
- The installation of bird boxes, such as swallow and house marten nest boxes[1] to create nesting provision on site.
- The installation of bat boxes either externally or as internal features (e.g. bat bricks) on the new buildings.
- The creation of ponds, or small open areas, to attract amphibians, invertebrates and provide water for birds.
- The installation and maintenance of bird feeders.
- The positioning of log piles to attract invertebrates and provide hibernacula for amphibians and hedgehogs.
- The provision of compost heaps at each household or at a community level to minimise waste and provide suitable hibernacula habitat.
- The creation of holes in any garden fencing to allow hedgehogs to commute across the site.

[1] https://www.nestbox.co.uk/

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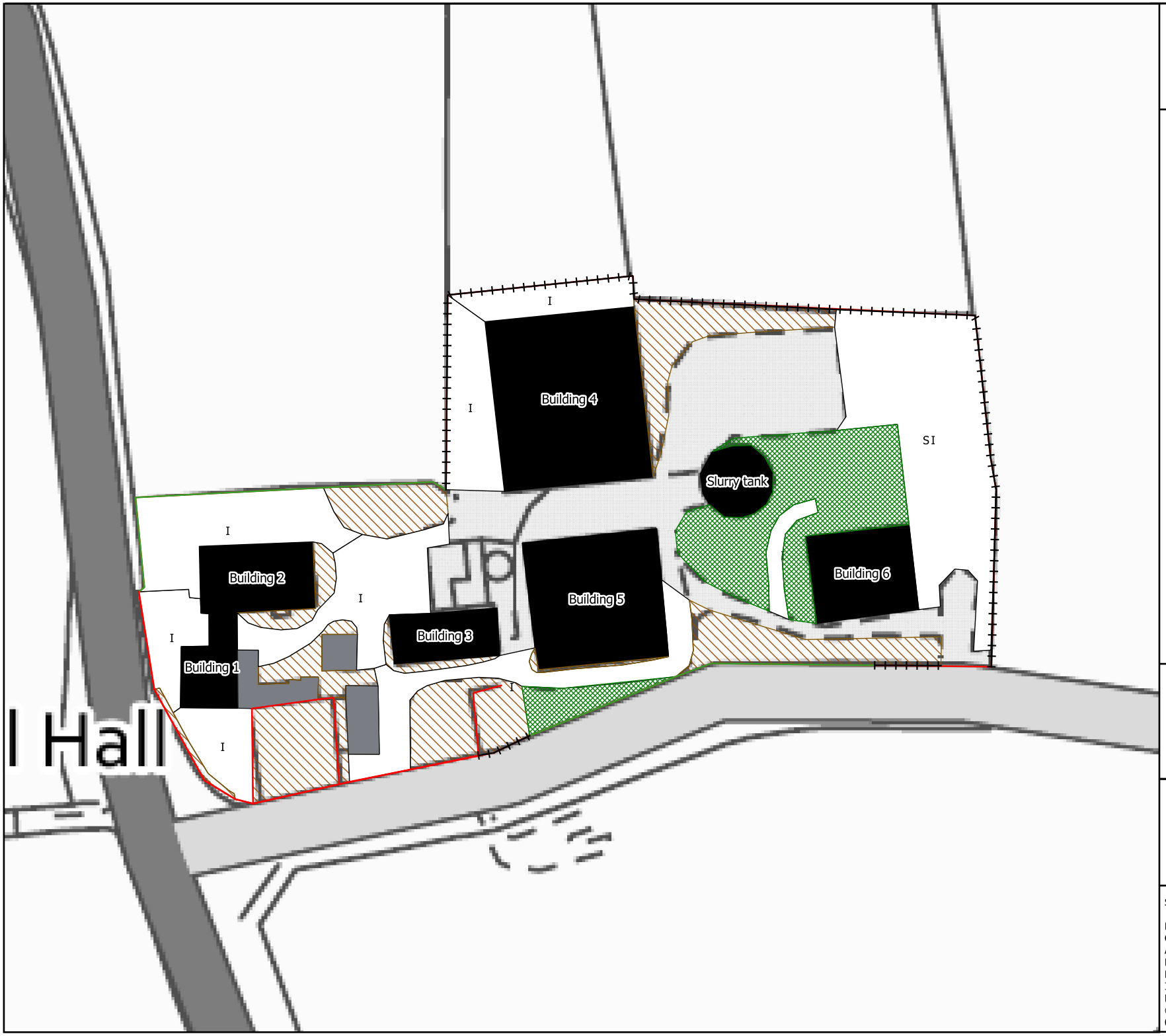
## Figures

Figure 1 – ENVd1039A Extended Phase 1 Habitat Survey Results 2020




# SCALEGILL HALL

Legend

Phase 1 Habitat Types

- A2.1 - Scrub - dense/continuous
- I - B4 - Improved grassland
- SI - B6 - Poor semi-improved grassland
- C3.1 - Other tall herb and fern - ruderal
- J3.6 - Buildings
- J3.6 - Buildings (derelict)
- J4 - Bare ground
- J2.1.2 - Intact hedge species-poor
- J2.4 - Fence
- J2.5 - Wall

**Figure 1**
**Extended Phase 1 Habitat Survey Results 2020**

nevis ENVIRONMENTAL

Scale: 1:750

N

Drawn by: ML
Checked by: RM
Approved by: AB
Ref Number: ENVd1093A
Project Number: 16297
Issue Date:15/09/2020
Projection: OSGB 1936/British National Grid - EPSG 27700
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# Appendix 1 – Overview of Relevant Policy and Legislation

This section provides an overview of the framework of legislation and policy which underpins nature conservation and is a material consideration in the planning process in England.

## Plans and Policy

### National Planning Policy Framework

In early 2012, the National Planning Policy Framework (NPPF) replaced much previous planning policy guidance, including Planning Policy Statement 9: Biological and Geological Conservation. The government circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, which accompanied PPS9, still remains valid. A presumption towards sustainable development is at the heart of the NPPF. This presumption does not apply, however, where developments require appropriate assessment under the Birds or Habitats Directives.

Chapter 15, entitled 'Conserving and enhancing the natural environment', sets out how the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and, where possible, provide net gains in biodiversity. Opportunities to incorporate biodiversity gains into a development should be encouraged.

If a proposed development would result in significant harm to the natural environment which cannot be avoided (through the use of an alternative site with less harmful impacts), mitigated or compensated for (as a last resort) then planning permission should be refused.

The Ministry of Housing, Communities and Local Government has released guidance to support the National Planning Policy Framework (NPPF), known as the National Planning Practice Guidance (NPPG). This has been produced to provide guidance for planners and communities which will help deliver high quality development and sustainable growth in England. The guidance includes a section entitled 'Natural Environment: Biodiversity, geodiversity and ecosystems' which sets out information with respect to the following:

- the statutory basis for minimising impacts on biodiversity and providing net gains where possible;
- the local planning authority's requirements for planning for biodiversity;
- what local ecological networks are and how to identify and map them;
- the sources of ecological evidence;
- the legal obligations on local planning authorities and developers regarding statutory designated sites and protected species;
- the considerations for local (non-statutory) designated sites;
- definition of green infrastructure;
- where biodiversity should be taken into account in preparing a planning application;
- how development can enhance biodiversity;
- how policy is applied to avoid, mitigate or compensate for significant harm to biodiversity and how mitigation and compensation measures can be ensured; and,
- the consideration of ancient woodlands and veteran trees in planning decisions.

### Biodiversity 2020: A strategy for England's wildlife & ecosystem services

Biodiversity 2020 replaces the previous UK Biodiversity Action Plan and sets national targets to be achieved. The intent of Biodiversity 2020, however, is much broader than the protection and enhancement of less common species, and is meant to embrace the wider countryside as a whole.

The priority species and habitats considered under Biodiversity 2020 are the SPI & HPI detailed under NERC Act (see below for further details).

### Local Biodiversity Action Plan

Local Biodiversity Action Plans (LBAPs) identify habitat and species conservation priorities at a local level (typically County by County) and are usually drawn up by a consortium of local Government organisations and conservation charities. Although they are no-longer managed at a national level many are still reviewed and updated at a local level.

It should be noted that the existence of a Species Action Plan (SAP) or Habitat Action Plan (HAP) does not always infer an elevated level importance for those features. These plans may be designed to encourage an increase in these habitats/species, rather than to protect a county-scarce feature.

The Cumbria Biodiversity Action Plan (CBAP) was launched in 2001; species action plans (SAPs) were drawn up for 21 species and habitat action plans (HAPs) were drawn up for 19 habitats. Following the UKBAP review in 2007, the CBAP was reviewed in 2009 and it was decided to include all habitats and species which are listed as HPI and SPI under the NERC Act 2006. A list of all 268 SPI which occur in Cumbria is provided at:

https://www.cumbriawildlifetrust.org.uk/sites/default/files/cumbria%20bap%20species%20updated%20list%202009%20web.pdf

The original action plans for Cumbria were further reviewed as part of the Cumbria Biodiversity Evidence Base (CBEB) and detailed statements have been prepared for 11 species/species groups (Table 5) and 21 habitats (Table 6). For the purposes of this report, the species and habitats listed in the following tables are considered to represent the current CBAP.

| **Species Action Plans** | |
|---|---|
| Barn Owl | Red Squirrel |
| Bats | Reptiles |
| Great Crested Newt | Small Blue |
| Hen Harrier | Water Vole |
| Natterjack Toad | Wintering Geese and Swans |
| Otter | - |

| Habitat Action Plans | |
|---|---|
| Bogs | Hedgerows |
| Calaminarian Grasslands | Lakes, Ponds and Tarns |
| Calcareous Grassland | Lowland Dry Acid Grassland |
| Coastal and Floodplain Grazing Marsh | Montane Habitats |
| Coastal Habitats Above High Water | Open Mosaic Habitats on Previously Developed Land |
| Coastal Intertidal Habitats | Rivers |
| Coastal Subtidal Habitats | Rock Habitats |
| Fen, Marsh and Swamp | Saline Lagoons |
| Hay Meadows and Pastures | Semi-Natural Woodland |
| Heathland | Traditional Orchards |
| Wood-Pasture and Parkland | - |

### Local Plan

Copeland Borough Council are in the process of producing a new Local Plan which will cover the plan period between 2017 and 2035. The Local Plan will set out the level of support for development, where such development should be located, what it should look like and which areas should be protected from development. The Council undertook a public consultation of the first draft between 25th November 2019 and 20th January 2020 and the Local Plan is expected to be published in spring/summer 2020; however, this is subject to be delays caused by the Covid-19 pandemic.

## General Legislation

### Conservation of Habitats and Species Regulations 2017, (as amended)

The Conservation of Habitats and Species Regulations 2017 (as amended), henceforth referred to as the Habitats Regulations 2017, consolidate and update the Conservation (Natural Habitats, &c.) Regulations 1994 and 2010 and all its various amendments. The Habitats Regulations 2017 are the principal means by which the European Union's ECC Directive 92/43 (The Habitats Directive) as amended is transposed into English and Welsh law.

The Habitats Regulations 2017 place duty upon the relevant authority of government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria are, in conjunction with the European Commission, designated as Sites of Community Importance, which are subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. The regulations also place a duty upon the government to maintain a register of European protected sites designated as a result of EC Directive 79/409/EEC on the Conservation of Wild Birds (The Birds Directive). These sites are termed Special Protection Areas (SPA) and, in conjunction with SACs, form a network of sites known as Natura 2000. The Habitats Directive introduces for the first time for protected areas, the precautionary principle; that is that projects can only be permitted having ascertained no adverse effect on the integrity of the site. Projects may still be permitted if there are no alternatives, and there are imperative reasons of overriding public interest.

The Habitats Regulations 2017 also provide for the protection of individual species of fauna and flora of European conservation concern listed in Schedules 2 and 5 respectively. Schedule 2 includes species such as otter and great crested newt for which the UK population represents a significant proportion of the total European population. It is an offence to deliberately kill, injure, disturb or trade these species. Schedule 5 plant species are protected from unlawful destruction, uprooting or trade under the regulations.

### The Wildlife and Countryside Act (WCA) 1981

The WCA, as amended, consolidates and amends pre-existing national wildlife legislation in order to implement the Bern Convention and the Birds Directive. It complements the Conservation (Natural Habitats. &c.) Regulations 2017 (as amended), offering protection to a wider range of species. The Act also provides for the designation and protection of national conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSIs).

Schedules of the act provide lists of protected species, both flora and fauna, and detail the possible offences that apply to these species. All relevant species-specific legislation is detailed later in this Appendix.

### The Countryside rights of Way (CROW) Act 2000

The CROW Act, introduced in England and Wales in 2000, amends and strengthens existing wildlife legislation detailed in the WCA 1981. It places a duty on government departments and the National Assembly for Wales to have regard for biodiversity and provides increased powers for the protection and maintenance of SSSIs. The Act also contains lists of habitats and species (Section 74) for which conservation measures should be

promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

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

Section 40 of the NERC Act places a duty upon all local authorities and public bodies in England and Wales to promote and enhance biodiversity in all of their functions. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity. These lists supersede Section 74 of the CRoW Act 2000. These species and habitats are a material consideration in the planning process.

### Wild Mammals Protection Act 1996

This Act offers protects a form of protection to all wild species of mammals, irrespective of other legislation, and focussed on animal welfare, rather than conservation.

Unless covered by one of the exceptions, a person is guilty of an offence if he mutilates, kicks, beats, nails or otherwise impales, stabs, burns, stones, crushes, drowns, drags or asphyxiates any wild mammal with intent to inflict unnecessary suffering.

Its application is typically restricted to preventing deliberate harm to wildlife (in general) during construction works etc.

## Species Specific Legislation

This section contains a summary of legislation with relation to the species present, or potentially present, in the survey area. The reader should refer to the original legislation for definitive interpretation.

### Birds

The Wildlife and Countryside Act (WCA) 1981, as amended, protects all breeding birds in the UK with a few exceptions (i.e. sporting birds listed in Schedule 2 and for certain specified purposes under licence). The WCA makes it an offence to intentionally or recklessly:

- kill, injure or take a wild bird;
- take, damage, destroy or interfere with the nest of any wild bird whilst it is in use or being built (or at any time for a nest habitually used by any listed in Schedule A I);
- obstruct or prevent any wild bird from using its nest;
- take or destroy an egg of any wild bird;
- disturb any wild bird listed on Schedule 1 whilst it is building a nest or is in, on, or near a nest containing eggs or young, or whilst lekking;
- disturb the dependent young of any wild bird listed on Schedule 1.

Recklessly in this context is to be understood as pursuing a course of action while consciously disregarding the fact that the action gives rise to a substantial and unjustifiable risk.

Schedule 1 is a list of rare breeding species that are specially protected in the UK. Two additional Schedules (Schedule 1A and A1) have been created to afford further protection to some species included on Schedule 1. This additional protection makes it an offence to intentionally or recklessly:

- At any time, damage, destroy or interfere with any nest habitually used by any wild bird included in Schedule A1; and
- At any time harass any wild bird included in Schedule 1A.

The Conservation of Habitats and Species Regulations 2017 (as amended), commonly known as Habitat Regulations 2017, places a duty on public bodies to take measures to preserve, maintain and re-establish habitat for wild birds. Forty-nine bird species are listed as 'Species of Principal Importance' in England within Section 41 of the NERC Act 2006. This makes them capable of being material considerations in the planning process.

The European Union meets its obligations for protecting bird species under the Bern Convention and Bonn Convention and more generally by means of Directive 2009/147/EC (Birds Directive) on the conservation of wild birds (the codified version of Council Directive 79/409/EEC as amended). The Directive provides a framework for the conservation and management of, and human interactions with, wild birds in Europe. Member states are obliged to take special action for a range of species, which are listed on Annex 1, taking into account of their likely extinction, vulnerability to changes in their habitats and their rarity.

*The reader should refer to the original legislation for the definitive interpretation.*

### Bats

Bats and the places they use for shelter or protection (i.e. roosts) receive European protection under The Conservation of Habitats and Species Regulations 2017 (as amended); commonly known as Habitats Regulations 2017. They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that bats, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2017 (as amended), states that a person commits an offence if they:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats; or
- damage or destroy a bat roost (breeding site or resting place).

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2017 (as amended) for any person to have in their possession or control, to transport, to sell or exchange or to offer for sale, any live or dead bats, part of a bat or anything derived from bats, which has been unlawfully taken from the wild.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to intentionally kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to intentionally or recklessly* damage or destroy, or obstruct access to, any structure or place which a protected species uses for shelter or protection.

Section 9(4)(b) of the WCA makes it an offence to intentionally or recklessly* disturb any protected species while it is occupying a structure or place which it uses for shelter or protection.

*Reckless offences were added by the Natural Environment and Rural Communities (NERC) Act 2006.

As bats re-use the same roosts (breeding site or resting place) after periods of vacancy, legal opinion is that roosts are protected whether or not bats are present.

There are several bat species listed as 'Species of Principal Importance' in England under Section 41 of the NERC Act 2006. These are:

- Barbastelle bat Barbastella barbastellus
- Bechstein's bat Myotis bechsteinii
- Noctule Nyctalus noctula
- Soprano pipistrelle Pipistrellus pygmaeus
- Brown long-eared bat Plecotus auritus
- Greater horseshoe bat Rhinolophus ferrumequinum
- Lesser horseshoe bat Rhinolophus hipposideros

The reader should refer to the original legislation for the definitive interpretation.

### Otter

Otters are protected under sections 9 and 11 of the Wildlife and Countryside Act 1981 and also under the Habitats Regulations 2017, making then a European protected species. Under this legislation, it's an offence to:

- capture, kill, disturb or injure otters (on purpose or by not taking enough care);
- damage or destroy a breeding or resting place (deliberately or by not taking enough care);
- obstruct access to their resting or sheltering places (deliberately or by not taking enough care); or
- possess, sell, control or transport live or dead otters, or parts of otters.

Otter are listed as SPI in England under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 and therefore are material consideration for Local Planning Authorities (LPAs) during the planning process.

### Badger

Badgers (*Meles meles*) are protected in Britain by the Protection of Badgers Act 1992. The purpose of this Act is to protect the animals from deliberate cruelty and from the incidental effects of lawful activities which could cause them harm. Under this legislation it is an offence to:

- Wilfully kill, injure or take a badger (or attempt to do so)
- Cruelly ill-treat a badger
- Dig for a badger
- Intentionally or recklessly damage or destroy a badger sett, or obstruct access to it
- Cause a dog to enter a badger sett
- Disturb a badger when it is occupying a sett.
- Have in their possession, or under their control, any dead badger or any part of, or anything derived from, a dead badger.
- Use, for the purpose of killing or taking a badger, badger tongs or any firearm (see legislation for exceptions).
- Sell a live badger or offers one for sale or has a live badger in their possession or under their control.
- Mark, or attaches any ring, tag or other marking device to, a badger (other than one which is lawfully in their possession by virtue of such a licence).

If any of the offences listed above resulted from a person being reckless, even if they had no intention, their action would still be considered an offence.

*The reader should refer to the original legislation for the definitive interpretation.*

### Herpetofauna (reptiles and amphibians)

All the UK's native reptiles and amphibians are protected by law, although their level of protection differs. The Wildlife and Countryside Act (WCA) 1982 (as Amended) makes it an offence to:

- Intentionally kill, injure or take any protected species
- Intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which a protected species uses for shelter or protection.
- Intentionally or recklessly disturb any protected species while it is occupying a structure or place which it uses for shelter or protection.

All of the native reptile and amphibian species are listed as 'Species of Principal Importance' under the Natural Environment and Rural Communities Act 2006; and therefore, are material considerations in the planning process.

The following species are European Protected Species and therefore have additional protection under the Habitats Regulations 2017 (as amended):

- Great crested newt *Triturus cristatus*
- Pool frog *Pelophylax lessonae*
- Natterjack toad *Epidalea calamita*
- Sand lizard *Lacerta agilis*

- Smooth snake *Coronella austriaca*

The additional legal protection for these species is outlined in Section 43 of the Habitats Regulations 2017, and states that a person commits an offence if they:

- deliberately capture, injure or kill a protected species;
- deliberately disturb a protected species;
- deliberately take or destroy eggs of a protected species; or
- damage or destroy a protected species' breeding site or resting place.

It is also an offence under the Habitats Regulations 2017 for any person to have in their possession or control, to transport, to sell or exchange, or to offer for sale, any live or dead protected species, part of a protected species or anything derived from a protected species, which has been unlawfully taken from the wild.

This is a simplified description of the legislation. In particular, the offences mentioned here may be absolute, intentional, deliberate or reckless. Note that where it is predictable that reptiles are likely to be killed or injured by activities such as site clearance, this could legally constitute intentional killing or injuring.

*The reader should refer to the original legislation for the definitive interpretation.*

### West European Hedgehog

West European hedgehog *Erinaceus europaeus* are protected species, listed under Schedule 6 of the Wildlife and Countryside Act 1981 and protected under the Wild Mammals Protection Act (1996). Under this legislation it is an offence to:

- Kill or capture west European hedgehog using certain methods.
- Deliberately commit an act of cruelty.

West European hedgehog are listed as Species of Principal Importance in England under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 and therefore are material consideration for Local Planning Authorities (LPAs) during the planning process.

*The reader should refer to the original legislation for the definitive interpretation.*