Catsfield Primary School, East Sussex.
Phase 1 Habitat Survey & Protected Species Assessment
Report for Mackellar Schwerdt Architects

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Contents

Executive Summary.................................................................1
1 Introduction.................................................................................2
2 Methodology ..............................................................................4
3 Results ......................................................................................7
4 Evaluation ................................................................................14
5 Conclusions and Recommendations .......................................17
References ..................................................................................20
Appendix 1: Location and Habitat Plan.......................................22
Appendix 2: Photographs ..............................................................25
Appendix 3: Plant Species List ......................................................28
Appendix 4: Legislation and Policy ...............................................33
Appendix 5: Recommended Planting ...............................................45

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Executive Summary

A Phase 1 habitat survey and protected species risk assessment was carried out at Catsfield Primary School on the 29th June 2009, in order to determine whether any ecological constraints could affect development proposals for the site. The development proposal is for a pre-school building adjoining the current primary school and re-modelling of the car park. The main findings of the survey are as follows:

- The site does not form part of any statutory or non-statutory designated nature conservation sites. The nearest statutorily designated site for nature conservation is Ashburnham Park Site of Special Scientific Interest (SSSI) located approximately 2.2km northwest of the.
- The wider school site is dominated by buildings, hardstanding and amenity grassland which are habitats considered to be of low ecological value. The fabric of the buildings will not affected by development proposals and the soffits of the classroom and music room, where the new building will abut, are in a good state of repair. At this stage no further surveys for bats are required, but if the fabric of the building is to be affected then this will need to be re-assessed.
- The most ecologically important parts of the site are the wildlife garden, hedges and adjacent edge habitats which are considered to be of value for nature conservation in the local (Catsfield) context. They provide habitat of potential value to nesting birds and common species of reptile. The on-site pond (in the wildlife garden) supports great crested newts (Barry Kemp Conservation Limited, 2009) which are European Protected Species.
- Proposed works will be confined to an area of 207m² and will result in the loss of amenity grassland, hardstanding, a mound of soil covered in rough grassland, four young trees and approximately 9m of hedgerow. Raised beds and sheds will be relocated. The wildlife garden will not be affected by development.
- The proposed development will require mitigation to avoid any potential impacts on breeding birds and common species of reptiles (see Section 5).
- Recommendations for further work in regards to great crested newts are given in the great crested newt report for the site (Barry Kemp Conservation Limited, 2009).
1 Introduction

BACKGROUND
1.1 The Ecology Consultancy was commissioned by Mackellar Schwerdt Architects to carry out an ecological assessment of Catsfield Primary School in East Sussex. The survey findings are presented in this report, together with a preliminary ecological evaluation of the site. Possible impacts of the development on ecological receptors are identified and discussed.

SCOPE OF THE REPORT
1.2 This report is based on a desk top study, and field survey using standard Phase 1 survey methodology (JNCC 1993). This approach is designed to identify broad habitat types present, to assess the potential of habitats to support protected species, and to assist in providing an overview of the ecological interest at a site. It is generally the most widely used and professionally recognised method for initial ecological site appraisal.

1.3 A great crested newt *Triturus cristatus* survey of the site was carried out in 2009 by Barry Kemp Conservation Limited (2009) and the findings have been reviewed and included within this report (see Section 3.7).

SITE CONTEXT AND STATUS
1.4 The survey area was the grounds of Catsfield C.E.P. School in the District of Rother in East Sussex. The development area is confined to the grassed play area southeast of the school building complex. Adjacent land use is a mixture of residential, recreational and agricultural. The school grounds are bordered to the north and south by housing and gardens, to the east by Church Road and to the west by farmland and a paddock. The Ordnance Survey Grid Reference for the centre of the site is TQ 727 135.

1.5 The school site was approximately 0.3 hectares in area, and comprised amenity grassland, hedgerows, scattered trees, rough grassland, tall herbaceous and ruderal vegetation, ornamental planting, a complex of school buildings, hard-standing, sheds, play areas, raised vegetable beds and a wildlife garden, including small pond. The development area measures approximately 0.02 ha and is marked on the Location Plan in Appendix 1 (Mackellar Schwerdt, 2009).

1.6 The nearest statutorily designated site for nature conservation is Ashburnham Park Site of Special Scientific Interest (SSSI) located approximately 2.2km northwest of
the. This park is 110ha. in size and is a former medieval deer park with large areas of ancient woodland and many over-mature trees with outstanding lichen flora. The site also supports a diverse breeding bird community.

**DESCRIPTION OF THE DEVELOPMENT**

1.7 The development proposal is for the construction of pre-school nursery unit (115m²) on the southeast side of the current primary school. The development footprint will cover areas of hard-standing, amenity grass, a vegetated pile of soil and two short section of hedgerow. Two sheds and four raised vegetable beds currently in this area will be repositioned within the new play area and retained areas of grassland. Four trees will be removed.

1.8 The new building will abut the existing school building complex, joining onto a classroom, music room and the enclosed courtyard. It will not require any alteration to the fabric of the existing building. Access into the building will be via the main entrance in the proposed play area and via the enclosed courtyard. A short section of hedgerow on Church Road will be removed to create a new access point from Church Road. A short section of hedgerow in the centre of the site will also be removed as it falls within the building footprint. The new play and access area will cover an area of 92m².
2 Methodology

**DESKTOP STUDY**

2.1 Information regarding the present and historical ecological interest of the site and within a 1km radius was requested from the Sussex Biodiversity Records Centre (SBRC). In addition, a search was completed using an on-line mapping service (www.magic.gov.uk) for statutorily designated sites.

2.2 It is important to note that, even where data is held, a lack of records for a defined geographical area does not necessarily mean that there is a lack of ecological interest; the area may be simply under-recorded.

**HABITAT SURVEY**

2.3 The habitat survey followed standard Phase 1 survey methodology (JNCC 1993) and covered the whole site including boundary features. Habitats were described and mapped. A list of plant species was compiled, together with an estimate of abundance made according to the DAFOR scale. A Habitat Plan of the site and Location Plan (Mackellar Schwerdt, 2009) is included in Appendix 1 together with photographs in Appendix 2. A full list of plant species identifiable at the site during this survey, along with an assessment of their abundance, appears in Appendix 3.

2.4 Incidental records of birds and other fauna noted during the course of the habitat survey were also compiled. Scientific names are given after the first mention of a species, thereafter, common names only are used. Nomenclature follows Stace (1997) for vascular plant species.

**PROTECTED SPECIES ASSESSMENT**

2.5 The potential of the site to provide habitat for protected species was assessed from field observations carried out at the same time as the habitat survey, the results of the desk top study and great crested newt survey of the site by Barry Kemp Conservation Limited (2009). The site was inspected for indications of the presence of protected species as follows:

- Nesting habitat for breeding birds, such as, dense scrub, shrubbery and hedgerows;
- The presence of features such as trees with fissures, holes, loose bark and ivy and buildings with features such as cavities roof voids, hanging tiles, unenclosed soffits etc. indicating potential for roosting bats.
- Scrub/grassland mosaic and potential hibernation sites for common reptiles.
- Suitable habitat for dormice, such as woodland, scrub and dense/species-rich hedgerows.
- Assessment of any on-site ponds and surrounding terrestrial habitat as to their potential to support great crested newts and other amphibians.

2.6 The likelihood of occurrence is ranked as follows and relies on the findings of the current survey and an evaluation of existing data.

- **Negligible** – while presence cannot be absolutely discounted, the site includes very limited or poor quality habitat for a particular species or species group. No local returns from a data search, surrounding habitat considered unlikely to support wider populations of a species/species group. The site may also be outside or peripheral to known national range for a species,
- **Low** – on-site habitat of poor to moderate quality for a given species/species group. Few or no returns from data search, but presence cannot be discounted on the basis of national distribution, nature of surrounding habitats, habitat fragmentation, recent on-site disturbance etc.
- **Medium** – on-site habitat of moderate quality, providing all of the known key requirements of given species/species group. Local returns form the data search, within national distribution, suitable surrounding habitat. Factors limiting the likelihood of occurrence may include small habitat area, habitat severance, and disturbance.
- **High** – on-site habitat of high quality for given a species/species group. Local records provided by desk-top study. The site is within/peripheral to a national or regional stronghold. Good quality surrounding habitat and good connectivity.
- **Present** – presence confirmed from the current survey or by recent, confirmed records.

2.7 The purpose of this assessment is to identify whether more comprehensive Phase 2 surveys for protected species should be recommended.

**SITE EVALUATION**

2.1 The site is evaluated following standard criteria developed by the Department for Environment, Food and Rural Affairs (DEFRA, 2006) which have been developed to identify sites of local importance for nature conservation in England. This
methodology has also been developed to promote the use of generic terminology and a common understanding of the social and ecological value of ‘Local Sites’ as identified in the Government’s *Planning Policy Statement (PPS9): Biodiversity and Geological Conservation*.

2.2 The Defra selection criteria used to identify local sites is listed below;

- Size or Extent
- Diversity
- Naturalness
- Rare or Exceptional feature
- Fragility
- Typicalness
- Recorded history and cultural associations
- Connectivity within the landscape
- Value for appreciation of nature
- Value for learning

**LIMITATIONS**

2.3 It should be noted that whilst every effort has been made to provide a comprehensive description of the site, no investigation can ensure the complete characterisation and prediction of the natural environment. Plant species may have been under-recorded, some plant species were unidentifiable and others were not visible at this time of year.

2.4 This Phase 1 habitat survey does not constitute a full botanical survey. The protected species assessment provides a preliminary view of the likelihood of protected species occurring on the site. This is based on the suitability of the habitat, known distribution of the species in the local area provided in response to our enquiries and any direct evidence on the site. It should not be taken as providing a full and definitive survey of any protected species group. It is only valid at the time the survey was carried out. Additional surveys may be recommended if, on the basis of the preliminary assessment or during subsequent surveys, it is considered reasonably likely that protected species may be present.
3 Results

**DESK TOP STUDY**

3.1 The following information regarding the present and historical ecological interest of the site was supplied by Sussex Biological Records Centre (SBRC). The data covers a 2km radius search area and include information on the following:

- Land designated as Sites of Importance for Nature Conservation (SINCs); as being of local conservation importance and often recognized in Local Authority development plans.
- Protected, rare, Biodiversity Action Plan (BAP) and other notable species.

**Sites designated for their nature conservation interest**

3.2 There are no statutory sites with European or National designations located within 1km of the proposed development site. The nearest designated statutory site to the proposed development site is Ashburnham Park SSSI located approximately 2.2km northwest of the site.

3.3 There is one non-statutory designated site within two kilometres of the school. Sites of Nature Conservation Importance (SNCIs) are non-statutory designations which are identified at a county level. They typically form a network of sites that are recognised to be of local conservation importance and are often included in Local Authority development plans. In other areas of the country they are sometimes called SNCIs (Sites of Nature Conservation Importance) or County Wildlife sites. Details are provided in Table 1 below.

**Table 1 – Non-statutory sites within a 2 km radius of the site**

<table>
<thead>
<tr>
<th>Site Name</th>
<th>Reason for designation</th>
<th>Area (ha)</th>
<th>Distance from site (km)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Powdermill Wood</td>
<td>Semi-natural ancient woodland dominated by sweet chestnut <em>Castanea sativa</em> coppice situated around two large lakes, separated by a rich area of Alder carr.</td>
<td>53.9</td>
<td>0.7</td>
</tr>
</tbody>
</table>
3.4 Records include information on the following protected species:

**Birds**

3.5 SBRC returned records for the following red-listed and amber-listed Birds of Conservation Concern\(^1\) (BoCC) that would potentially utilise habitats present on-site; stock pigeon *Columba oenas*, green woodpecker *Picus viridis*, starling *Sturnus vulgaris*, house sparrow *Passer domesticus*, song thrush *Turdus philomelos*, swift *Apus apus*, dunnock *Prunella modularis*, house martin *Delichon urbica*, goldcrest *Regulus regulus* and spotted flycatcher *Muscicapa striata*, amongst others.

**Amphibians**

3.6 There is one 1994 record for common toad *Bufo bufo* approximately 1.2km northwest of the site. There are four records for great crested newt (GCN) within a 2km radius of the site, the closest being a 2002 record located approximately 1.2km northeast of the school.

3.7 The great crested newt survey for the site (Barry Kemp Conservation Limited, 2009) recorded great crested newt, smooth newt *Triturus vulgaris* and palmate newt *Triturus helveticus* in the pond of the wildlife garden. The population of great crested newts is estimated to be ‘low’ (Barry Kemp Conservation Limited, 2009).

**Reptiles**

3.8 The following reptile species were recorded within the search area:

- Two slow worm *Anguis fragilis* records, the closest being a 1987 record approximately 1km northwest of the site.
- Four records for grass snake *Natrix natrix*, the closest being a 1987 record approximately 1km to the northwest.
- One 1994 record for adder *Vipera berus*, 1.25km northwest of the site.

**Bats**

3.9 SBRC returned records for five different bat species including; brown long-eared bat *Plecotus auritus*, common pipistrelle *Pipistrellus pipistrellus*, Natterer’s bat *Myotis nattereri*, serotine bat *Eptesicus serotinus* and Daubenton’s bat *Myotis daubentonii*.

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\(^1\) Birds of Conservation Concern status prioritised into high concern Red, medium concern Amber and low concern Green (Gregory et al, 2002). Red-list species are those that are globally threatened according to the IUCN criteria; those whose population or range has declined rapidly in recent years; and those that have declined historically and not shown a substantial recent recovery. Amber-list species are those with an unfavourable conservation status in Europe; those whose population or range has declined moderately in recent years; those whose population has declined historically but made a substantial recent recovery; rare breeders; and those with internationally important or localised populations. Green-list species are those that fulfill none of the criteria.
The closest record was for a brown long-eared bat in 1990, approximately 1km west of the school.

Other species
3.10 There were no records for water vole *Arvicola terrestris*, hazel dormouse *Muscardinus avellanarius* or badger *Meles meles* within a two kilometre radius of the site.

HABITAT SURVEY
3.11 The site was the village primary school of Catsfield, which included a mixture of school buildings, hard-standing, amenity grass, rough grassland, boundary hedgerows, scattered trees and scrub, tall herbaceous and ruderal vegetation, ornamental planting and wildlife garden including a small pond.

Buildings
3.12 The southwest part of the school building complex had been previously extended. All main buildings were of brick construction with pitched slate roofs. The enclosed soffits of the gable ends of the classroom and music room (to which the new building will abut) were generally in a good state of repair (see Photograph 5 and 6). The ridge tiles above the music room had been re-pointed and the tiles replaced.

Hard-standing
3.13 Tarmacadam paths were present around the school buildings, together with a main playground area in the western corner of the site.

Amenity grassland
3.14 The grass was regularly maintained and kept very short. Species included dominant perennial rye-grass *Lolium perenne* and abundant to frequent daisy *Bellis perennis* white clover *Trifolium repens*, greater plantain *Plantago major* and creeping buttercup *Ranunculus repens*.

Rough grassland
3.15 The sward in the wildlife garden comprised abundant Yorkshire fog *Holcus lanatus* and frequent perennial rye grass, cock’s-foot *Dactylis glomerata* and rough meadow grass *Poa trivialis*. The herbs; daisy, creeping buttercup and white clover were locally frequent and a planted crane’s-bill *Geranium sp.* was abundant.

Tall herbaceous and ruderal vegetation
3.16 The wildlife garden contained an informal mix of rough grassland (see description above) and tall herbaceous vegetation, including frequent to occasional broad-
leaved dock *Rumex obtusifolius*, tansy *Tanacetum vulgare*, hogweed *Heracleum sphondylium*, teasel *Dipsacus fullonum* and willowerb species *Epilobium* *spp*. The more persistent species from a previously sown wildflower seed mix included corn marigold *Chrysanthemum segetum*, ox-eye daisy *Leucanthemum vulgare*, shasta daisy *L. x superbum* and chicory *Cichorium intybus*.

3.17 Disturbed areas around the building edge comprised self-established plants such as locally frequent prickly sow-thistle *Sonchus asper*, smooth sow-thistle *S. oleraceus*, greater plantain and dandelion *Taraxacum agg*. Weeds in planted beds included; locally frequent field speedwell *Veronica persica* and occasional scarlet pimpernel *Anagallis arvensis* and hoary willowerb *Epilobium parviflorum*.

**Pond**

3.18 A small pond was present in the wildlife garden. New Zealand pygmyweed *Crassula helmsii* was locally abundant, water plantain *Alisma plantago-aquatica* and galingale *Cyperus longus* were locally frequent and monkey flower *Mimulus guttatus* and water mint *Mentha aquatic* were occasional.

**Scattered trees and scrub**

3.19 Trees in the wildlife garden included small-leaved lime *Tilia cordata*, silver birch *Betula pendula* and grey willow *Salix cinerea*. Young fruit trees had been planted in amenity grassland in the east of the site and included plum *Prunus domestica*, apple *Malus domestica*, pear *Pyrus communis* etc. An off-site semi-mature pedunculate oak *Quercus robur* was adjacent to the southern corner of the school building complex. Scrub at the end of the wildlife garden included locally frequent ash *Fraxinus excelsior* and bracken *Pteridium aquilinum*.

**Hedgerows**

3.20 Hedges bounded the southern end of the school, along Church Road and divided the eastern edge of the wildlife garden from the car park. The hedge along Church Road was relatively diverse and comprised frequent hawthorn *Craetaegus monogyna*, blackthorn *Prunus spinosa*, ivy *Hedera helix* and bramble *Rubus fruticosus*. Ash *Fraxinus excelsior*, garden privet *Ligustrum ovalifolium* and hornbeam *Carpinus betulus* were locally frequent. This hedge extended around the car park entrance and had been recently planted with rose *Rosa sp.*, goat willow *Salix caprea*, guilder rose *Viburnum opulus* and field maple *Acer campestre*. The hedge between the wildlife garden and car park was less diverse and comprised locally abundant hazel *Corylus avellana*, frequent ivy, bramble and locally frequent hornbeam and hawthorn. The hedge along Church Road qualifies as species-rich under the Hedgerow Regulations (1997) due to the diversity of woody species, but
this is partly a result of the presence of planted as well as self-established species and as such the legislation applying to species-rich hedges is not relevant.

**Ornamental planting**

3.21 Small amounts of shrubbery and herbaceous planting in beds adjacent to boundaries and buildings included species such as *Weigela sp.*, *Escallonia micrantha*, lilac *Syringa vulgaris*, orange-ball tree *Buddleja globosa* and cherry laurel *Prunus laurocerasus*.

**PROTECTED SPECIES ASSESSMENT**

3.22 The habitats at the site were evaluated as to their likelihood to provide sheltering, roosting, nesting and foraging habitat for the following species;

- Bats
- Breeding birds
- Reptiles
- Great crested newt
- Dormouse

3.23 These species were selected for further consideration because the results of the desk-top study revealed that they occur in the vicinity of the site and potentially suitable habitat is present on-site. The results of the field survey, combined with information from the desk-top study, are presented in the Table 2 below. The relevant legislation and policies relating to protected species is presented within Appendix 4.
Table 2 - Assessment of potential presence of protected and BAP priority species and habitats at the proposed development site

<table>
<thead>
<tr>
<th>Species</th>
<th>Main legislation and policy (see Appendix 4)</th>
<th>Reason for consideration</th>
<th>Likelihood of occurrence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bat</td>
<td>Wildlife and Countryside Act 1981 (as amended). Schedule 5. Schedule 2 of the Conservation (Natural Habitats, &amp; c.) Regulations 1994</td>
<td>Semi-mature trees, scrub, hedgerow, grassland and buildings provide bat commuting, foraging and roosting habitat. There are 5 bat species recorded, including pipistrelle (a species commonly roosting in buildings) from within the 2 km search area.</td>
<td>LOW. The school building provided limited bat roosting opportunities with features such as raised roof tiles and occasional ingress points around soffits, but its fabric will not be altered by development. On-site trees did not contain features suitable for roosting bats such as holes and splits. The site has limited connectivity to the open countryside via tree-lines and hedgerows and the closest bat records are over 1km from the school.</td>
</tr>
<tr>
<td>Breeding birds</td>
<td>Wildlife and Countryside Act 1981 (as amended) Sections 1-8</td>
<td>Scattered trees, scrub and hedges provide suitable foraging and breeding habitat for common species of garden birds. Buildings can provide opportunities for nesting birds such as house sparrow and feral pigeon.</td>
<td>HIGH. Trees, scrub and hedges around the edges of the site provide potential breeding habitat for common birds such as blackbird, robin and wren. House sparrows may potentially use the school building.</td>
</tr>
<tr>
<td>Common reptiles</td>
<td>Wildlife and Countryside Act, 1981 (as amended) Schedule 5 (partial protection)</td>
<td>Edge habitats near the wildlife garden, hedgerows and boundary scrub provide foraging habitat, basking areas and refugia for common reptile species. There are records for three species of reptile from the data search area. There was also good connectivity to adjacent suitable back garden habitats</td>
<td>MEDIUM/LOW. The amenity grassland present at the school was kept short and was regularly disturbed through use, which made it unsuitable as reptile habitat. The edge habitat adjacent to hedges and habitat mosaics in the wildlife garden (including pond, compost and log piles) are suitable for reptiles and could support small numbers of species such as slow-worm and potentially grass snake.</td>
</tr>
<tr>
<td>Great crested newt</td>
<td>Wildlife and Countryside Act 1981 (as amended). Schedule 5. Schedule 2 of The Conservation (Natural Habitats, &amp; c.) Regulations 1994.</td>
<td>Wildlife garden, hedges, small banks of rough grassland and gardens of properties adjacent to wildlife garden provide suitable terrestrial habitat. Pond in wildlife garden provides suitable breeding habitat. The Sussex countryside has an abundance of shallow ponds suitable as breeding</td>
<td>PRESENT. It is estimated that a small population of GCN are present on-site in the wildlife pond (Barry Kemp Conservation Limited, 2009). There are at least six ponds within a 500m radius of the school site, the closest being approximately 90m to the south across a small country lane. Wildlife</td>
</tr>
</tbody>
</table>
### Table 2 - Assessment of potential presence of protected and BAP priority species and habitats at the proposed development site

<table>
<thead>
<tr>
<th>Species</th>
<th>Main legislation and policy (see Appendix 4)</th>
<th>Reason for consideration</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>sites. There are 4 records for great crested newt within the data search results.</td>
<td>garden and adjacent hedges and edge habitats provide suitable terrestrial habitat. Remaining habitats across the wider school grounds are managed, regularly disturbed and have low value to GCN.</td>
<td>LOW</td>
</tr>
<tr>
<td>Dormouse</td>
<td>Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation (Natural Habitats, &amp;c) Regulations 1994 (as amended).</td>
<td>Two hedgerows provide potentially suitable habitat. Site located in rural landscape.</td>
<td>LOW, It was considered unlikely that dormice were present within hedgerows as they were isolated and not connected to off-site areas of woodland. A few foraging plants such as hazel and bramble were present, but in low quantities. Site receives high levels of disturbance with the main hedge along a road. No records in data search.</td>
</tr>
</tbody>
</table>
4 Evaluation

4.1 This assesses the value of the site in terms of potential for biodiversity (based on the Phase 1 habitat survey and data search results), support of protected species and habitats, and the contribution the site makes as part of the wider landscape. Key aspects of national planning policy regarding conservation relevant to the site including an explanation of species referred to as being of ‘Principal Importance for Biodiversity’, and Biodiversity Action Plan species and habitats, are provided in Appendix 4.

4.2 PPS9 notes that, ‘Criteria-based policies should be established in local development documents against which proposals for any development on, or affecting, such sites (of nature conservation importance) will be judged. These policies should be distinguished from those applied to nationally important sites. An evaluation of the nature conservation value of the site using standard criteria developed by the Department for Food and Rural Affairs (DEFRA, 2006) is provided below.

**Table 3 - Site evaluation based on Local Sites criteria**

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Remarks</th>
</tr>
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<tbody>
<tr>
<td>Size or Extent</td>
<td>The school site was relatively small, approximately 0.3ha in extent and was of insufficient size to support large numbers or diversity of species. Amenity grassland, buildings and hard-standing covered the majority of the site with small areas of edge habitat associated with hedges and the wildlife garden which included a small pond. The latter have potential to support small numbers of birds, reptiles and a limited assemblage of invertebrates. GCN are present in the pond.</td>
</tr>
<tr>
<td>Diversity</td>
<td>A limited number of vegetation types were present, including scattered trees, hedges, amenity grassland, rough grassland, tall-herbaceous and ruderal vegetation, standing water with aquatic/marginal plants and ornamental planting. Plant species richness was low/moderate (124 species recorded) with the majority of species recorded for edge habitats and the wildlife garden. With exception to the main hedge along Church Road (parts of which had been planted) no on-site habitats were species rich.</td>
</tr>
<tr>
<td>Naturalness</td>
<td>The majority of the habitats within the site had been recently planted. Parts of the hedge on Church Road were of a greater age. An off-site semi-mature pedunculate oak was adjacent to the site boundary.</td>
</tr>
<tr>
<td>Rare or Exceptional feature</td>
<td>While not uncommon at the local or national level, the semi-mature pedunculate oak and hedge on Church Road are of some note due to their age and diversity and are replaceable only in the medium to long term. The main habitats present are amenity grassland and hard-standing which are common and widespread in the local area. There is potential for</td>
</tr>
</tbody>
</table>
### Table 3 - Site evaluation based on Local Sites criteria

<table>
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<tr>
<th>Criteria</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criteria</td>
<td>Remarks</td>
</tr>
<tr>
<td>low populations of common species of reptile to be present at site edges (all reptile species numbers are in decline through habitat loss and are UK BAP species (JNCC, 2009). An estimated ‘low population’ of GCN are present in the pond (Barry Kemp Conservation Limited, 2009). GCN are a UK BAP and European Protected Species.</td>
<td></td>
</tr>
<tr>
<td>Fragility</td>
<td>The hedgerow and semi-mature trees are susceptible to fragmentation (hedgerow only) and ground disturbance. The pond is susceptible to changes in nutrient levels and introduction of non-native species etc. The remaining habitats are all relatively recently established, would rapidly recover from impacts and are easily replaced.</td>
</tr>
<tr>
<td>Typicalness</td>
<td>The hedge along Church Road and the semi-mature pedunculate oak are good example of their type. The pond is typical of a small, artificial water feature with a high level of planted species, including the invasive New Zealand pygmyweed. The remaining habitats are of limited extent, comprise a mixture of common planted and native species and are not old, natural or unmodified examples of their type.</td>
</tr>
<tr>
<td>Recorded history and cultural associations</td>
<td>No ancient trees are present on-site. The hedge on Church Road is species-rich, but partly as a result of planting.</td>
</tr>
<tr>
<td>Connectivity within the landscape</td>
<td>The school site is connected to areas of scattered trees/scrub in adjacent properties. Otherwise the habitats at the site do not appear to contribute to a wider habitat mosaic or form linkages with the wider countryside.</td>
</tr>
<tr>
<td>Value for appreciation of nature</td>
<td>The site currently provides the amenity value of an open area of green space, appreciation of nature and gardening opportunities for the attendant school pupils.</td>
</tr>
<tr>
<td>Value for learning</td>
<td>The site is of high value to local school children in learning about nature conservation.</td>
</tr>
</tbody>
</table>

#### 4.3

On the basis of the above evaluation it is considered that the wildlife garden, hedges and adjacent edge habitats are of value for nature conservation in the context of the school and its immediate environs only. Whilst limited in extent, they provide habitat of potential value to nesting birds and common species of reptile, such as slow worm and potentially grass snake. They may also provide commuting and foraging habitat for bats. The pond supports great crested newts which are UK BAP and European Protected Species which are likely to comprise part of a wider population in the locality. Where necessary, proposals for mitigation and additional survey are made in Section 5.4-5.10 below.

#### LOCAL PLANNING POLICY

#### 4.4

On the basis of the surveys completed it is considered that the following policy contained in the 2006 Rother District Council Local Plan is relevant to site, as
follows in Table 4 below. The full text of the relevant policies is contained in Appendix 4.

**Table 4 – Rother District Council Nature Conservation polices relevant to the site.**

<table>
<thead>
<tr>
<th>Policy</th>
<th>Relevance to the site</th>
</tr>
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</table>
| **POLICY GD1: General Development Considerations**  
All development should meet the following criteria:  
\((vii)\) it protects habitats of ecological value and incorporates, wherever practicable, features that enhance the ecological value of the site, with particular regard to wildlife refuges or corridors, or fully compensates for any necessary loss; | The wildlife garden will be retained as part of the development. It is recommended that appropriate planting be carried out to compensate for the loss of young trees and short sections of hedgerow (see Section 5.10). |
5 Conclusions and Recommendations

CONCLUSIONS

5.1 The school is dominated by buildings, hardstanding and amenity grassland which are habitats considered to be of low ecological value. The roof structures provide a limited number of features of value to roosting bats and nesting birds, such as house sparrow. The fabric of the buildings will not, however, be affected by development proposals and the soffits of the classroom and music room, where the new building will abut, are in a good state of repair. If the fabric of the buildings are to be affected during development this situation should be re-assessed as further bat surveys may be required.

5.2 The most ecologically important parts of the site are the wildlife garden, hedges and adjacent edge habitats which are considered to be of value for nature conservation in the local (Catsfield) context. Whilst they cover a small area, they provide habitat of potential value to nesting birds and common species of reptile. They may also provide commuting and foraging habitat for bats. The pond within the wildlife garden is known to support great crested newts (Barry Kemp Conservation Ltd., 2009) which are a European Protected Species.

5.3 It is understood that the proposed works will be confined to a small area (207m²) adjacent to the school building complex - as marked on the Location Plan in Appendix One (Mackellar Schwerdt, 2009). This will result in the loss of amenity grassland, hardstanding, a mound if soil covered with rough grassland, four young trees and approximately 9m of hedgerow. Raised beds and sheds will be relocated. The wildlife garden will not be affected by development.

MITIGATION

Great Crested Newts

5.4 Recommendations for further work in regards to great crested newts are given in the great crested newt report for the site (Barry Kemp Conservation Limited, 2009).

Reptiles

5.5 The wildlife garden comprises habitat suitable for common species of reptile, but will not be affected by development proposals. Hedgerows, the soil mound covered in rough grassland and edge habitats around the wildlife garden provide additional habitat suitable for reptiles which falls within the development footprint. Whilst this
additional habitat is limited in extent and likely to support only low numbers of common species of reptile such as slow-worm a suitable mitigation strategy will need to be devised to avoid killing any reptiles.

5.6 The preferred strategy would be (under supervision from an ecologist) to cut vegetation first to 20cm and then to 5cm a week later to encourage animals to move away from the development area. The soil pile covered in rough grassland and the roots of the cut sections of hedgerow will also need to be cleared under supervision. The ground may then be levelled in preparation for development and/or significant disturbance. These works should be carried during the active period for reptiles (March-October) and carried out under the supervision of an experienced ecologist. Any reptiles found should be placed within suitable habitats, such as the wildlife garden.

**Birds**

5.7 Hedges along Church Road and in between the wildlife garden and car park provide suitable habitat for common breeding birds. In order to avoid impacts on breeding birds any required vegetation clearance in these areas should be carried out outside of the main bird nesting season which runs from March to September Inclusive.

5.8 Where this is not possible a search for any nesting birds prior to vegetation clearance should be undertaken by a suitably qualified ecologist and, if any are found, the nests should be protected until such time as the young have fledged and left the nest. If any nesting birds are found at any time during clearance works, work should stop immediately and an ecologist consulted.

**Trees and Habitat Protection**

5.9 Protection measures in the vicinity of works areas should follow the guidance given in BS5837:2005 *Trees in Relation To Construction*, in particular for the off-site semi-mature oak tree adjacent to the boundary. This should include the erection of a vertical barrier to protect the tree/root zone. The minimum distance between a tree and the barrier must be either the distance of branch spread or half the tree height, whichever is the greater. No works, tracking of heavy machinery or storage of materials should take place in protected areas. The contractor should erect ecological protection prior to any preliminary construction or preparation works e.g. clearing of the site or erection of temporary site facilities. Regular checks should be made to ensure the protection measures are intact and fenced habitats are not being impacted.

**COMPENSATION AND ENHANCEMENT**
Landscape planting

5.10 The development will result in the loss of four young trees and short sections of hedgerow (approximately 9m in total). To mitigate for the loss of this habitat and to improve the wider school grounds appropriate wildlife planting should take place. Suitable native trees and shrubs providing food sources including nectar, fruit and berries are species such as hazel *Corylus avellana*, oak *Quercus sp.*, guelder-rose *Viburnum opulus*, hawthorn *Crataegus monogyna*, blackthorn *Prunus spinosa*, crab apple *Malus sylvestris*, wild plum *Prunus domestica*, holly *Ilex aquifolium*. Native tree and shrub species will attract insects and also provide a potential food source for birds. A list of further suitable species is included as Appendix 5.

Nesting boxes

5.11 The inclusion of bird nesting boxes on trees and walls covered in climbers or wall-trained shrubs could benefit a variety of common breeding birds. Boxes should be located out of direct sunlight, at least 2m or so above ground, facing south-east if possible, away from bird feeders and a discrete distance away from other nest boxes. Alternatively the proposed development could include a specially designed feature within its structure to attract house sparrow (UK BAP species). House sparrow boxes are usually erected in locations such as under eaves. Woodcrete bird boxes are recommended as they include a broad range of designs, are long-lasting compared to wooden boxes and insulate occupants from extremes of temperature and condensation.

5.12 Bat boxes should be installed in suitable locations in mature trees. Consideration could also be given to the inclusion of integral bat boxes or ‘bat bricks’ (e.g. Schwegler 2FR tubes) into the new building to enhance the value of the site for bats. These will provide warm and favourable conditions for crevice roosting species such as pipistrelle *Pipistrellus spp.* (soprano pipistrelle is a UK BAP species); ideally, they should be south or south-west facing with a clear flight entry path and away from artificial lighting.

Pond

5.13 The non-native called New Zealand pygmyweed is present in the on-site pond. This oxygenating plant is easily spread, forms dense growth which can out-compete native species and is currently proposed for inclusion under Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended) (Defra, 2007). It is recommended that this plant be carefully removed and disposed of and smaller, native oxygenators used in its place (see Appendix 5).
References


HMSO. (1994). Conservation (Natural Habitats, & c.) Regulations 1994 (as amended),


Appendix 1: Location and Habitat Plan
Photograph 1
View northwest with car park in foreground and main school building complex in background.

Photograph 2
View across amenity grassland with wildlife garden and pond to the left.

Photograph 3
Play area with scattered trees and planted shrubbery around boundaries.
Photograph 4
Habitat types in wildlife garden.

Photograph 5
New slate tiles and re-pointed ridge tiles on gable end of music room.

Photograph 6
Soffits of classroom in good state of repair with no obvious entrance points for roosting bats and/or nesting birds such as house sparrow.
Appendix 3: Plant Species List
Scientific nomenclature follows Stace (1997) for vascular plant species and Blockeel & Long (1998) for bryophyte species. Vascular plant common names follow the Botanical Society of the British Isles 2003 list, published on its web site, www.bsbi.org.uk. Please note that this plant species list was generated as part of a Phase 1 Habitat survey, does not constitute a full botanical survey and should be read in conjunction with the associated Phase 1 Report.

Abundance was estimated using the DAFOR scale as follows:
D = dominant, A = abundant, F = frequent, O = occasional, R = rare, L = locally
C = clumped, E = edge only, G = garden origin, P = planted, S = seedling or sucker, T = tree, H = hedgerow, ? = identification uncertain

<table>
<thead>
<tr>
<th>Scientific name</th>
<th>Common name</th>
<th>Abundance</th>
<th>Qualifier</th>
</tr>
</thead>
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<td>t, y, p</td>
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<td><em>Rhododendron ponticum</em></td>
<td>Rhododendron</td>
<td>R</td>
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<tr>
<td><em>Rosa sp.</em></td>
<td>Rose</td>
<td>O</td>
<td>h, p</td>
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<tr>
<td><em>Rubus fruticosus agg.</em></td>
<td>Bramble</td>
<td>F</td>
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<tr>
<td><em>Rumex conglomeratus</em></td>
<td>Clustered dock</td>
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<td>Curled dock</td>
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<td><em>Rumex obtusifolius</em></td>
<td>Broad-leaved dock</td>
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<td><em>Rumex sanguineus</em></td>
<td>Wood dock</td>
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<td><em>Sagina procumbens</em></td>
<td>Procumbent pearlwort</td>
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<td><em>Alisma plantago-aquatica</em></td>
<td>Water plantain</td>
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<td>pond</td>
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<td><em>Salix babylonica</em></td>
<td>Weeping willow</td>
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<td><em>Salix caprea</em></td>
<td>Goat willow</td>
<td>R</td>
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<td><em>Salix cinerea</em></td>
<td>Grey willow</td>
<td>R</td>
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<td><em>Sambucus nigra</em></td>
<td>Elder</td>
<td>O</td>
<td></td>
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<td><em>Senecio jacobaea</em></td>
<td>Common ragwort</td>
<td>R</td>
<td></td>
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<td><em>Sisymbrium officinale</em></td>
<td>Hedge mustard</td>
<td>R</td>
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<td><em>Solidago sp.</em></td>
<td>Goldenrod</td>
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<td><em>Sonchus asper</em></td>
<td>Prickly sow-thistle</td>
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<td>Brideworts</td>
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<td>Hedge woundwort</td>
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<td><em>Symphytum officinale</em></td>
<td>Common comfrey</td>
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<td>Black bryony</td>
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<td>Feverfew</td>
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<td>Tansy</td>
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<td>p</td>
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<td>Dandelion</td>
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<td>Yew</td>
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<td><em>Teucrium scorodonia</em></td>
<td>Wood sage</td>
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<td>Small-leaved lime</td>
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<td>t, p</td>
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<td>Lesser trefoil</td>
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<td>Scientific name</td>
<td>Common name</td>
<td>Abundance</td>
<td>Qualifier</td>
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<tr>
<td><em>Trifolium repens</em></td>
<td>White clover</td>
<td>F</td>
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<td><em>Urtica dioica</em></td>
<td>Common nettle</td>
<td>F</td>
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<td><em>Veronica arvensis</em></td>
<td>Wall speedwell</td>
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<td><em>Veronica persica</em></td>
<td>Common field-speedwell</td>
<td>LF</td>
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<td><em>Viburnum opulus</em></td>
<td>Guelder-rose</td>
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<tr>
<td><em>Vicia tetrasperma</em></td>
<td>Smooth tare</td>
<td>R</td>
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<td><em>Weigelia spp.</em></td>
<td>Weigelia</td>
<td>R</td>
<td>e, p</td>
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Appendix 4: Legislation and Policy
IMPORTANT NOTICE: This section contains details of legislation and planning policy applicable in Britain only (i.e. not including the Isle of Man, Northern Ireland, the Republic of Ireland or the Channel Islands) and is provided for general guidance only. While every effort has been made to ensure accuracy, this section should not be relied upon as a definitive statement of the law.

A NATIONAL LEGISLATION AFFORDED TO SPECIES

The objective of the EC Habitats Directive is to conserve the various species of plant and animal which are considered rare across Europe. The Directive is transposed into UK law by The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) (commonly referred to as the Habitats Regulations) and The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended).


Since the passing of the Wildlife & Countryside Act 1981, various amendments have been made, details of which can be found on www.opsi.gov.uk. Key amendments have been made through the Countryside and Rights of Way (CRoW) Act (2000) and Nature Conservation (Scotland) Act 2004.

Other legislative Acts affording protection to wildlife and their habitats include:

- Deer Act 1991
- Countryside and Rights of Way (CRoW) Act 2000
- Natural Environment & Rural Communities (NERC) Act 2006
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996

Species and species groups that are protected or otherwise regulated under the aforementioned domestic and European legislation, and that are most likely to be affected by development activities, include herpetofauna (amphibians and reptiles), badger, bats, birds, dormouse, invasive plant species, otter, plants, red squirrel, water vole and white clawed crayfish. A summary of the protection afforded these species or species groups is given below.

HERPETOFAUNA (AMPHIBIANS AND REPTILES)

The sand lizard Lacerta agilis, smooth snake Coronella austriaca, natterjack toad Epidalea calamita and great crested newt Triturus cristatus receive full protection of Schedule 2 of The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). From the 1st October 2008, the pool frog Pelophylax lessonae was also afforded full protection under the same legislation. Regulation 39 prohibits:

- Deliberate killing, injuring or taking of species listed on Schedule 2
- Deliberate disturbance of any Schedule 2 species as:
  - a) to impair their ability:
    - (i) to survive, breed, or reproduce, or to rear or nurture young;
(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate\(^3\)
b) to affect significantly the local distribution or abundance of the species

- Deliberate\(^2\) taking or destroying of the eggs of a Schedule 2 species
- Damage or destruction of a breeding site or resting place
- Keeping, transporting, selling, exchanging or offering for sale whether live or dead or of any part thereof.

With the exception of the pool frog, these species are also currently listed on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection
- Selling, offering or exposing for sale, possession or transporting for purpose of sale.

Other native species of herpetofauna are protected solely under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). Species such as the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis* are listed in respect to Section 9(1) & (5). For these species, it is prohibited to:

- Intentionally (or recklessly in Scotland) kill or injure these species
- Sell, offer or expose for sale, possess or transport for purpose of sale these species, or any part thereof.

Common frog *Rana temporaria*, common toad *Bufo bufo*, smooth newt *Lissotriton vulgaris* and palmate newt *L. helveticus* are listed in respect to Section 9(5) only which affords them protection against sale, offering or exposing for sale, possession or transport for the purpose of sale.

**How is the legislation pertaining to herpetofauna liable to affect development works?**

A European Protected Species (EPS) Licence issued by the relevant countryside agency (e.g. Natural England)\(^4\) will be required for works liable to affect the breeding sites or resting places of those amphibian and reptile species protected under The Conservation (Natural Habitats &c.) Regulations 1994 (as amended). A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate).

The licences are to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the Wildlife and Countryside Act 1981 (as amended).

**BADGER**

Badgers *Meles meles* receive protection under The Protection of Badgers Act 1992 which consolidates the previous Badger Acts of 1973 and 1991. The Act makes it an offence to:
• Wilfully kill, injure, take, or attempt to kill, injure or take a badger
• Cruelly ill-treat a badger, including use of tongs and digging
• Possess or control a dead badger or any part thereof
• Intentionally or recklessly damage, destroy or obstruct access to a badger sett^4 or any part thereof
• Intentionally or recklessly disturb a badger when it is occupying a badger sett^4
• Intentionally or recklessly cause a dog to enter a badger sett^4
• Sell or offers for sale, possesses or has under his control, a live badger

How is the legislation pertaining to badgers liable to affect development works?
A Development Licence^6 will be required from the relevant countryside agency (e.g. Natural England) for any development works liable to affect an active badger sett, or to disturb badgers whilst in the sett. Depending on the nature of the works and the specifics of the sett and its environs, badgers could be disturbed by work near the sett even if there is no direct interference or damage to the sett itself. The countryside agencies have issued guidelines on what constitutes a licensable activity^7. N.B. there is no provision in law for the capture of badgers for development purposes and therefore it is not possible to obtain a licence to translocate badgers from one area to another.

BATS
All species of bat are fully protected under The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) through their inclusion on Schedule 2. Regulation 39 prohibits:

• Deliberate^2 killing, injuring or taking (capture) of Schedule 2 species (e.g. bats)
• Deliberate^2 disturbance of bat species as:
  a) to impair their ability:
    (i) to survive, breed, or reproduce, or to rear or nurture young;
    (ii) to hibernate or migrate^3
  b) to affect significantly the local distribution or abundance of the species
• Damage or destruction of a breeding site or resting place
• Keeping, transporting, selling, exchanging or offering for sale whether live or dead or of any part thereof.

Bats are also currently protected under the Wildlife and Countryside Act 1981 (as amended) through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

• Intentional or reckless disturbance (at any level)
• Intentional or reckless obstruction of access to any place of shelter or protection
• Selling, offering or exposing for sale, possession or transporting for purpose of sale.

How is the legislation pertaining to bats liable to affect development works?
A European Protected Species (EPS) Licence issued by the relevant countryside agency (e.g. Natural England)^4 will be required for works liable to affect a bat roost or for operations likely to result in a level of disturbance which might impair their ability to
undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Though there is no case law to date, the legislation may also be interpreted such that, in certain circumstances, important foraging areas and/or commuting routes can be regarded as being afforded de facto protection, for example, where it can be proven that the continued usage of such areas is crucial to maintaining the integrity and long-term viability of a bat roost⁸.

BIRDS

With certain exceptions, all birds, their nests and eggs are protected under Sections 1-8 of the Wildlife and Countryside Act 1981 (as amended). Among other things, this makes it an offence to:

- Intentionally (or recklessly in Scotland) kill, injure or take any wild bird
- Intentionally (or recklessly in Scotland) take, damage or destroy (or, in Scotland, otherwise interfere with) the nest of any wild bird while it is in use or being built
- Intentionally take or destroy an egg of any wild bird
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof
- In Scotland only, intentionally or recklessly obstruct or prevent any wild bird from using its nest

Certain species of bird, for example the barn owl, black redstart, hobby, bittern and kingfisher receive additional special protection under Schedule 1 of the Act and Annex 1 of the European Community Directive on the Conservation of Wild Birds (79/409/EEC). This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young
- Intentional or reckless disturbance of dependent young of such a bird
- In Scotland only, intentional or reckless disturbance whilst lekking
- In Scotland only, intentional or reckless harassment

How is the legislation pertaining to birds liable to affect development works?

To avoid contravention of the Wildlife and Countryside Act 1981 (as amended), works should be planned to avoid the possibility of killing or injuring any wild bird, or damaging or destroying their nests. The most effective way to reduce the likelihood of nest destruction in particular is to undertake work outside the main bird nesting season which typically runs from March to August⁹. Where this is not feasible, it will be necessary to have any areas of suitable habitat thoroughly checked for nests prior to vegetation clearance.

Those species of bird listed on Schedule 1 are additionally protected against disturbance during the nesting season. Thus, it will be necessary to ensure that no potentially disturbing works are undertaken in the vicinity of the nest. The most effective way to avoid disturbance is to postpone works until the young have fledged. If this is not feasible, it may be possible to maintain an appropriate buffer zone or standoff around the nest.
DORMOUSE

Dormice *Muscardinus avellanarius* are fully protected under The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) through their inclusion on Schedule 2. Regulation 39 prohibits:

- Deliberate\(^2\) killing, injuring or taking (capture) of dormice
- Deliberate\(^2\) disturbance of dormice in such a way as to be likely significantly to affect:
  - (i) the ability of any significant group of dormice to survive, breed, or rear or nurture their young; or
  - (ii) the local distribution or abundance of dormice
- Damage or destruction of a breeding site or resting place
- Keeping, transporting, selling, exchanging or offering for sale whether live or dead or of any part thereof.

Dormice are also currently protected under the Wildlife and Countryside Act 1981 (as amended) through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection
- Selling, offering or exposing for sale, possession or transporting for purpose of sale.

**How is the legislation pertaining to dormice liable to affect development works?**

A European Protected Species (EPS) Licence issued by the relevant countryside agency\(^3\) will be required for works liable to affect dormouse breeding or resting places or for operations likely to result in a level of disturbance in excess of the ‘threshold’ stated in The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

**WILD MAMMALS (PROTECTION) ACT 1996**

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it an offence to:

- Mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

To avoid possible contravention, due care and attention should be taken when carrying out works (for example operations near burrows or nests) with the potential to affect any wild mammal in this way, regardless of whether they are legally protected through other conservation legislation or not.

**PLANTS**

With certain exceptions, all wild plants are protected under the Wildlife and Countryside Act 1981 (as amended). This makes it an offence for an ‘unauthorised’ person to intentionally (or recklessly in Scotland) uproot wild plants. An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.
Certain rare species of plant, for example some species of orchid, are also fully protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). This prohibits any person:

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)
- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof

In addition to the UK legislation outlined above, several plant species are fully protected under Schedule 4 of The Conservation (Natural Habitats, &c.) Regulations 1994. These are species of European importance. Regulation 43 makes it an offence to:

- Deliberately pick, collect, cut, uproot or destroy a wild Schedule 4 species
- Keep, transport, sell or exchange, or offer for sale or exchange any wild live or dead Schedule 4 species

*How is the legislation pertaining to protected plants liable to affect development works?*

A European Protected Species (EPS) Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect species of plant listed under The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

**INVASIVE PLANT SPECIES**

Certain species of plant, including Japanese knotweed *Fallopia japonica* and giant hogweed *Heracleum mantegazzianum* are listed on Part II of Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) in respect to Section 14(2). Such species are generally non-natives whose establishment or spread in the wild may be detrimental to native wildlife. Inclusion on Part II of Schedule 9 therefore makes it an offence to plant or otherwise cause these species to grow in the wild.

*How is the legislation pertaining to invasive plants liable to affect development works?*

Although it is not an offence to have these plants on your land *per se*, it is an offence to cause these species to grow in the wild. Therefore, if they are present on site and development activities (for example movement of spoil, disposal of cut waste or vehicular movements) have the potential to cause the further spread of these species to new areas, it will be necessary to ensure appropriate measures are in place to prevent this happening prior to the commencement of works.

**PLANTS: INJURIOUS WEEDS**

Under the Weeds Act 1959 any land owner or occupier may be required prevent the spread of certain ‘injurious weeds’ such as spear thistle *Cirsium vulgare*, creeping thistle *Cirsium arvense*, curled dock *Rumex crispus*, broad-leaved dock *Rumex obtusifolius*, and common ragwort *Senecio jacobaea*. It is a criminal offence to fail to comply with a notice requiring such action to be taken. The Ragwort Control Act 2003 establishes a ragwort control code of practice as common ragwort is poisonous to horses and other livestock. This code provides best practice guidelines and is not legally binding.
FOOTNOTES TO SECTION A


2 In the Directive, the term ‘deliberate’ is interpreted as being somewhat wider than intentional and may be thought of as including an element of recklessness.

3 The recent 2009 amendment to The Conservation (Natural Habitats, &c.) Regulations 1994 does not define the act of ‘migration’ and therefore, as a precaution, it is recommended that short distance movement of animals for e.g. foraging, breeding or dispersal purposes are also considered.

4 In order to obtain an EPS licence, the application must demonstrate that it meets all of the following three ‘tests’: i) the action(s) are necessary for the purpose of preserving public health or safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment; ii) that there is no satisfactory alternative and iii) that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

5 A badger sett is defined in the legislation as “any structure or place which displays signs indicating current use by a badger”. This includes seasonally used setts and latest guidance from Natural England suggests a sett can be considered to be in current use if there have been “signs of occupation within the past few months”. Setts may be classified as main, annexe, subsidiary & outlier.

6 Natural England will only consider issuing a licence where detailed planning permission (if applicable to operation) has already been granted.


9 It should be noted that this is the main breeding period. Breeding activity may occur outwith this period (depending on the particular species and geographical location of the site) and thus due care and attention should be given when undertaking potentially disturbing works at any time of year.

B NATIONAL AND EUROPEAN LEGISLATION AFFORDED TO HABITATS

STATUTORY DESIGNATIONS: NATIONAL

Nationally important areas of special scientific interest, by reason of their flora, fauna, or geological or physiographical features, are notified by the countryside agencies as statutory Sites of Special Scientific Interest (SSSIs) under the National Parks and Access to the Countryside Act 1949 and latterly the Wildlife & Countryside Act 1981 (as amended). As well as underpinning other national designations (such as National Nature Reserves which are declared by the countryside agencies under the same legislation), the system also provides statutory protection for terrestrial and coastal sites which are important within a European context (Natura 2000 network) and globally (such as Wetlands of International Importance). See subsequent sections for details of these designations. Improved provisions for the protection and management of SSSIs have been introduced by the Countryside and Rights of Way Act 2000 (in England and Wales) and the Nature Conservation (Scotland) Act 2004.

The Wildlife & Countryside Act 1981 (as amended) also provides for the making of Limestone Pavement Orders, which prohibit the disturbance and removal of limestone from such designated areas, and the designation of Marine Nature Reserves, for which byelaws must be made to protect them.

STATUTORY DESIGNATIONS: INTERNATIONAL

Special Protection Areas (SPAs), together with Special Areas of Conservation (SACs) form the Natura 2000 network. The Government is obliged to identify and classify SPAs under the EC Birds Directive (Council Directive 79/409/EEC on the Conservation of Wild Birds). SPAs are areas of the most important habitat for rare (listed on Annex I of the Directive) and migratory birds within the European Union. Protection afforded SPAs in terrestrial areas and territorial marine waters out to 12 nautical miles (nm) is given by The Conservation (Natural Habitats, &c. Regulations 1994 (as amended). The Offshore Marine
Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) provide a mechanism for the designation and protection of SPAs in UK offshore waters (from 12-200 nm). The Government is obliged to identify and designate SACs under the EC Habitats Directive (Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora). These are areas which have been identified as best representing the range and variety of habitats and (non-bird) species listed on Annexes I and II to the Directive within the European Union. SACs in terrestrial areas and territorial marine waters out to 12 nautical miles are protected under The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) provide a mechanism for the designation and protection of SACs in UK offshore waters (from 12-200 nm).

**Ramsar** sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention covers all aspects of wetland conservation and wise use, in particular recognizing wetlands as ecosystems that are globally important for biodiversity conservation. Wetlands can include areas of marsh, fen, peatland or water and may be natural or artificial, permanent or temporary. Wetlands may also incorporate riparian and coastal zones adjacent to the wetlands. Ramsar sites are underpinned through prior notification as Sites of Special Scientific Interest (SSSIs) and as such receive statutory protection under the Wildlife & Countryside Act 1981 (as amended) with further protection provided by the Countryside and Rights of Way (CRoW) Act 2000. Policy statements have been issued by the Government in England and Wales highlighting the special status of Ramsar sites. This effectively extends the level of protection to that afforded to sites which have been designated under the EC Birds and Habitats Directives as part of the Natura 2000 network (e.g. SACs & SPAs).

**STATUTORY DESIGNATIONS: LOCAL**
Under the National Parks and Access to the Countryside Act 1949 **Local Nature Reserves** (LNRs) may be declared by local authorities after consultation with the relevant countryside agency. LNRs are declared for sites holding special wildlife or geological interest at a local level and are managed for nature conservation, and provide opportunities for research and education and enjoyment of nature.

**NON-STATUTORY DESIGNATIONS**
Areas considered to be of local conservation interest may be designated by local authorities as a **Wildlife Site**, under a variety of names such as County Wildlife Sites (CWS), Listed Wildlife Sites (LWS), Local Nature Conservation Sites (LNCS), Sites of Biological Importance (SBIs), Sites of Importance for Nature Conservation (SINCs), or Sites of Nature Conservation Importance (SNCIs). The criteria for designation may vary between counties.

Together with the statutory designations, these are defined in local and structure plans under the Town and Country Planning system and are a material consideration when planning applications are being determined. The level of protection afforded to these sites through local planning policies and development frameworks may vary between counties.

**Regionally Important Geological and Geomorphological Sites** (RIGS) are the most important places for geology and geomorphology outside land holding statutory designations such as SSSIs. Locally-developed criteria are used to select these sites, according to their value for education, scientific study, historical significance or aesthetic qualities. As with local Wildlife Sites, RIGS are a material consideration when planning applications are being determined.
THE HEDGEROW REGULATIONS 1997
The Hedgerow Regulations 1997 are intended to protect ‘important’ countryside hedgerows from destruction or damage. A hedgerow is considered important if (a) has existed for 30 years or more; and (b) satisfies at least one of the criteria listed in Part II of Schedule 1 of the Regulations.

Under the Regulations, it is against the law to remove or destroy certain hedgerows without permission from the local planning authority. Hedgerows on or adjacent to common land, village greens, SSSIs (including all terrestrial SACs, NNRs and SPAs), LNRs, land used for agriculture or forestry and land used for the keeping or breeding of horses, ponies or donkeys are covered by these regulations. Hedgerows ‘within or marking the boundary of the curtilage of a dwelling-house’ are not.

C NATIONAL PLANNING POLICY

Guidance on nature conservation is issued by the Government in the form of Planning Policy Statement 9: Biodiversity & Geological Conservation (PPS 9) and Circular 06/2005 on biodiversity and geological conservation within the planning system. The key principles in this guidance include the aim that all planning decisions should prevent harm to biodiversity.

PPS 9 offers the following guidance on Species and Habitats of Principal Importance for Biodiversity defined under section 74 of the Countryside and Rights of Way Act 2000 (which generally comprise UK Biodiversity Action Plan priority habitats species):

“Planning authorities should ensure that these species and habitats are protected from the adverse effects of development, where appropriate, by using planning conditions and obligations. Planning authorities should refuse permission where harm to the species or their habitats would result unless the need for and benefits of the development clearly outweigh that harm.”

PPS 9 also states that in the case of previously developed land or ‘wasteland’:

“where such sites have significant biodiversity interest of recognised local importance, local planning authorities, together with developers, should aim to retain this interest or incorporate it into any development of the site.”

In general, planning authorities should also;

“maximise opportunities for building in beneficial biodiversity features as part of good design … using planning obligations where appropriate.”

D REGIONAL PLANNING POLICY

The South East Plan (2009) includes the following Core Regional Policies that are relevant to the site.

Policy NRM5: Conservation and Improvement of Biodiversity
Local planning authorities and other bodies shall avoid a net loss of biodiversity, and actively pursue opportunities to achieve a net gain across the region.
(i) They must give the highest level of protection to sites of international nature conservation importance (European sites\(^2\)). Plans or projects implementing policies in this RSS are subject to the Habitats Directive. Where a likely significant effect of a plan or project on European sites cannot be excluded, an appropriate assessment in line with the Habitats Directive and associated regulations will be required.

(ii) If after completing an appropriate assessment of a plan or project local planning authorities and other bodies are unable to conclude that there will be no adverse effect on the integrity of any European sites, the plan or project will not be approved, irrespective of conformity with other policies in the RSS, unless otherwise in compliance with 6(4) of the Habitats Directive.

(iii) For example when deciding on the distribution of housing allocations, local planning authorities should consider a range of alternative distributions within their area and should distribute an allocation in such a way that it avoids adversely affecting the integrity of European sites. In the event that a local planning authority concludes that it cannot distribute an allocation accordingly, or otherwise avoid or adequately mitigate any adverse effect, it should make provision up to the level closest to its original allocation for which it can be concluded that it can be distributed without adversely affecting the integrity of any European sites.

(iv) They shall avoid damage to nationally important sites of special scientific interest and seek to ensure that damage to county wildlife sites and locally important wildlife and geological sites is avoided, including additional areas outside the boundaries 6 ‘European sites’ is the term used to encompass sites that have the highest level of protection in the UK either through legislation or policy. These are Special Areas of Conservation (SACs), candidate SACs (cSACs), Special Protection Areas (SPAs), proposed SPAs (pSPAs) and Ramsar sites.

(v) They shall ensure appropriate access to areas of wildlife importance, identifying areas of opportunity for biodiversity improvement and setting targets reflecting those in the table headed ‘Regional Biodiversity Targets - Summary for 2010 and 2026’ below. Opportunities for biodiversity improvement, including connection of sites, large-scale habitat restoration, enhancement and re-creation in the areas of strategic opportunity for biodiversity improvement (Diagram NRM3) should be pursued.

(vi) They shall influence and applying agri-environment schemes, forestry, flood defence, restoration of mineral extraction sites and other land management practices to:
- deliver biodiversity targets
- increase the wildlife value of land
- reduce diffuse pollution
- protect soil resources.

(vii) They shall promote policies that integrate the need to accommodate the changes taking place in agriculture with the potential implications of resultant development in the countryside.

(viii) They shall require green infrastructure to be identified, developed and implemented in conjunction with new development.

**E LOCAL PLANNING POLICY**

Rother District Council’s Local Plan (2006) contains the following policies from Chapter 3: The Planning Policy Framework for Rother District and Chapter 5: General Development Considerations that are relevant to the site;

**POLICY DS1: Development Principles.**

\(^2\) ‘European sites’ is the term used to encompass sites that have the highest level of protection in the UK either through legislation or policy. These are Special Areas of Conservation (SACs), candidate SACs (cSACs), Special Protection Areas (SPAs), proposed SPAs (pSPAs) and Ramsar sites.
In determining whether development is appropriate in a particular location, proposals should accord with the following principles:

,,,,, (vii) it protects sites of recognised nature conservation importance, particularly of internationally and nationally important sites.
,,,,, (x) it protects ancient woodland from development that would prejudice its ecological and landscape value.

**POLICY GD1: General Development Considerations**

All development should meet the following criteria:

,,,,, (vii) it protects habitats of ecological value and incorporates, wherever practicable, features that enhance the ecological value of the site, with particular regard to wildlife refuges or corridors, or fully compensates for any necessary loss;

**F UK BIODIVERSITY ACTION PLAN**

The UK BAP was initiated to comply with obligations under the Convention on Biological Diversity, 1992. It describes the UK’s biological resources and commits to developing detailed plans to conserve these resources. The UK BAP comprises Habitat Action Plans (HAPs) and Species Action Plans (SAPs). In addition, local authorities promote habitat and species conservation at a regional level through development of Local BAPs (LBAPs).

UK Priority BAP species and habitats, that are potentially relevant to the site include:
- Birds such as house sparrow, dunnock, starling and song thrush;
- Reptiles such as slow worm, grass snake and common lizard;
- Amphibians such as great crested newt or common toad;
- Small mammals such as hedgehog
- Habitats such as hedgerow and ponds.

**G LOCAL BIODIVERSITY ACTION PLAN**

Sussex Priority BAP (2001) species and habitats, that are potentially relevant to the site include;

Objectives in the action plan for great crested newt, that are relevant to the site, include;
- The establishment of new populations by creating ponds
- Ensure that the accurate distribution of the species is ascertained and monitored
- Ensure that as many breeding sites as possible and associated terrestrial habitats are identified and protected.

Objectives in the action plan for hedgerows, that are relevant to the site, include;
- Encourage planting of native mixed hedges where compatible with landscape guidelines, particularly where they will provide a linking feature between other habitats. Species used should be compatible to that Natural Area.
Appendix 5: Recommended Planting
ORNAMENTAL AND NATIVE SPECIES OF WILDLIFE VALUE

The list below gives some easily sourced plants which are of proven value to wildlife. It includes a number of ornamental species which are not native and can be used in combination with native species in more formal situations. In informal landscapes the emphasis should be on the use of native species. Different horticultural varieties of the following species are commonly available, but where possible standard stock is advised, especially for native species. Single flowering plants should be chosen over double flowering (‘flore pleno’) varieties. With exception of * (biennials) and ** (annuals) all species are perennial. E = Exotic, N = Native.

Please note that the following oxygenators; water fern *Azolla filiculoides*, parrot’s feather *Myriophyllum aquaticum*, New Zealand pygmyweed *Crassula helmsii* and Canadian pondweed *Elodea Canadensis* are non-native species that can out-compete native species. They are currently proposed for inclusion under Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended) which would make it an offence to cause these plants to grow in the wild, and therefore, their use as oxygenators is not recommended (Defra, 2007).

### Tree
- Cherry *Prunus spp.*, *P. avium* (wild cherry) N or *P. cerasifera* (cherry plum) E,
- Ash *Fraxinus excelsior* N
- Apple *Malus spp.*, *M. domestica* (edible apple), *M. sylvestris* (crab apple) N
- Pear *Pyrus spp.*, *P. communis* (edible pear) or *P. calleryana* (callery pear) E
- Small-leaved lime *Tilia cordata* N
- Silver birch *Betula pendula* N
- Yew *Taxus baccata* N
- Foxglove tree *Pawonia tomentosa* E
- Lacebarks *Hoheria spp.*, *H. glabrata*, *H. lyallii* E
- Tulip tree *Liriodendron tulipifera* E
- Beech *Fagus sylvatica* N

NB: many of the shrub species below will form small trees when mature.

### Large Shrubs
- Shrubby Veronica *Hebe spp.* E
- Hawthorn *Crataegus monogyna* N
- Blackthorn *Prunus spinosa* N NB: can become invasive in small landscaped areas.
- Rose *Rosa canina* (dog rose) *R. arvensis* (field rose) *R. pimpinellifolia* (burnet rose) N *Rosa rugosa* (Japanese rose) E
- Elder *Sambucus nigra* N
- California lilac *Ceanothus spp.*, *C. arborea* E
- Wild privet *Ligustrum vulgare* N
- Common holly *Ilex aquifolium* N
- Barberry *Berberis spp.*, *B. darwinii*, *B. thunbergii*, *B. x stenophylla* E
- Daisy Bush *Olearia spp.*, *O. x hastii*, *O. macrodonta* and *O. traversii* E
Firethorn *Pyracantha coccinea* E
Hazel *Corylus avellana* N *C. maxima* E
Viburnum *Viburnum spp.*, *V. lantana* (wayfaring tree) N, *V. opulus* (guilder rose) N, *V. tinus* (laurstinus) E Note: *V. lantana* can become invasive in more open habitats such as chalk grassland.
Buddleia *Buddleja spp.*, *B. davidii*, *B. alternifolia*, *B. globosa* E Note: *B. davidii* can become invasive in more open habitats and around infrastructure.
Dogwood *Cornus sanguinea* N
Broom *Cytisus scoparius* N
Mexican orange bush *Choisya ternata* E
Portuguese Laurel *Prunus lusitanica* E
Flowering currant *Ribes sanguineum* E
Cherry Laurel *Prunus laurocerasus* E
Escallonia *Escallonia macrantha* E cultivar ‘*Langleyensis*’ is a hardier version
Hardy Fuchsia *Fuchsia magellanica* E
Buckthorn *Rhamnus cathartica* N
Spindle *Euonymus europaeus* N
Tutsan *Hypericum androsaemum* N
Yew *Taxus baccata* N

Note: some of these species can be trained (along with climbers) to create ‘living’ or ‘green walls’.

**Herbaceous perennials and small shrubs**
Tree mallow *Lavatera spp.*, *L. arborea* N, or *L. olblio*, *L. thuringiaca* E
Ice plant *Sedum spectabile* E
Lavender *Lavandula spp.*, *L. angustifolia*, *L. x intermedia* E
Glove thistle *Echinopsis ritro* E
Foxglove *Digitalis purpurea* N or *D. lutea*, *D. x mertonensis* E
Michaelmas Daisy *Aster novi-belgii* E
Teasel *Dipsacus fullonum* N
Sunflowers *Helianthus annus* E
Red valerian *Centranthus rubra* E
Hemp agrimony *Eupatoria cannabinum* N
Common knapweed *Centaurea nigra* N
Black-eyed susan *Rudbeckia spp.*, *R. hirta* N or *R. fulgida* E
Rosemary *Rosmarinus officinalis* E
Rock rose *Cistus spp.* E
Shrubby cinquefoil *Potentilla fruticosa* N
Oregon grape *Mahonia aquifolium* E

**Climbers**
Star jasmine *Trachelospermum jasminiodes* E
Jasmine *Jasminum spp.*, *J. officinale* (summer jasmine) *J. nodiflorum* (winter jasmine) E
Ivy *Hedera helix* N
Climbing Hydrangea *Hydrangea anomala ssp. petiolaris* E
Virginia creeper/Boston ivy *Parthenocissus quinquefolia* P. tricuspidata E
Honeysuckle *Lonicera spp. L. periclymenum N* or *L. japonica, L. fragrantissima, L. standishii* E
Clematis *Clematis spp., C. vitalba N* or *C. armandii, C. alpina, C. montana, C. tangutica E*
Hop *Humulus lupulus N*
Firethorn *Pyracantha atalantioides E*
Nasturtium *Tropaeolum majus* E

**Bulbs**

English bluebell *Hyacinthoides non-scripta* Note: Spanish bluebell *Hyacinthoides hispanica* is not recommended as it can escape from gardens and out-compete and hybridise with the UK native species.
Squill species *Scilla spp. N/E*
Snowdrop *Galanthus nivalis N*
Winter aconite *Eranthis hyemalis E*
Grape hyacinth *Muscari neglectum E*
Glory-of-the-snows *Chinodoxa spp. E*
Crocus species *Crocus spp. C. nudiflorus* (autumn crocus), *C. tommasinianus* (early crocus), *C. vernus* (spring crocus) E
Wild Daffodil *Narcissus pseudonarcissus N*
Onion species *Alliums spp. A. ursinum* (ransoms) N or *A. giganteum* (giant onion) E Note: *A. triquetrum* (three cornered leek) can become invasive.
Wood anemone *Anemone nemorosa N*
Lesser celandine *Ranunculus ficaria N*

**Submerged Aquatics (acting as oxygenators)**

Water crowfoot *Ranunculus aquatilis*
Spiky water milfoil *Myriophyllum spicatum*
Water starwort *Callitrichace stagnalis*
Rigid hornwort *Ceratophyllum demersum*
Curly pondweed *Potamogeton crispus*

**Floating Aquatics**

Yellow water lily *Nuphar lutea* (can require control)
White water lily *Nymphaea alba* (can require control)
Fringed water lily *Nymphaeoides peltata*
Bog-bean *Menyanthes trifoliata*
Amphibious bistort *Polygonum amphibium*

**Marginal**

Yellow iris *Iris pseudacorus*
Water mint *Mentha aquatica*
Water plantain *Alisma plantago-aquatica*
Arrowhead *Sagittaria sagittifolia*
Brooklime *Veronica beccabunga*
Water forget-me-not *Myosotis scorpioides*
Lesser spearwort *Ranunculus flammula*
Lesser reedmace *Typha angustifolia*
Flowering rush *Butomus umbellatus*
Branched bur-reed *Sparganium erectum*
Purple loosestrife *Lythrum salicaria*
Floating sweet-grass *Glyceria fluitans* (grass)
Reed sweet-grass *Glyceria maxima* (grass)
Reed canary grass *Phalaris arundinacea* (grass)

**Marshy/damp grassland**
Bugle *Ajuga reptans*
Creeping Jenny *Lysimachia nummularia*
Lady’s smock *Cardamine pratensis*
Ragged robin *Lychnis flos-cuculi*
Marsh marigold *Caltha palustris*
Meadow sweet *Filipendula ulmaria*
Meadow buttercup *Ranunculus acris*
Marsh woundwort *Stachys palustris*
Hemp agrimony *Eupatorium cannabinum*
Rush species *Juncus spp.*

**Plants to avoid in smaller ponds**
Greater reedmace *Typha latifolia* (large area required)
Common reed *Phragmites australis* (large area required)
Greater spearwort *Ranunculus lingua* (spreads quickly)