

NYMNPA

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ECOLOGICAL IMPACT ASSESSMENT

**FIELDHOUSE FARM
NEWHOLM
WHITBY**

**REED-19-01
AUGUST 2019**



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ECOLOGICAL IMPACT ASSESSMENT

**FIELDHOUSE FARM
NEWHOLM, WHITBY
NORTH YORKSHIRE
YO21 3QY**

GRID REF: NZ 8670 1047

**REPORT FOR
REED STUDIOS**

Quality Assurance

Version	Prepared by	Date	Checked by	Date	Approved by	Date
R1	Heather Lyons	05/08/2019	Graeme Skinner	05/08/2019	Graeme Skinner	05/08/2019

This report is intended to provide an accurate description of findings from survey work undertaken on the date shown in the report; however, it cannot fully account for any changes to site conditions following the completion of the survey work due to activities carried out on site or the dynamic nature of the natural environment. All work carried out by Naturally Wild Consultants Ltd is subject to our Terms and Conditions.

The report has been produced in accordance with current best practice guidelines.

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EXECUTIVE SUMMARY

Naturally Wild were instructed to undertake an Ecological Impact Assessment at Fieldhouse farm, Newholm. The survey area is comprised of a stone garage building with three internal rooms. The proposals are to demolish the garage building.

The EclA comprised two parts: a desktop study and a site visit. The desktop study collated available public information regarding the biodiversity of the area, including the habitat structure of the site and surrounding area and the presence of any statutory or non-statutory designated sites. In addition, biological records within 1 km of the site were requested from the North & East Yorkshire Ecological Data Centre.

The initial site visit consisted of an assessment of all habitats on site and in the surrounding area to determine their ecological importance to protected species and was conducted on 19/07/19 by ecologists Heather Lyons MSc BSc (Hons) and Tom Richardson BSc (Hons). A further bat activity survey was carried out by Heather Lyons and Tom Richardson on the 19/07/2019.

Over all, the site is considered to be of low ecological value. The building is deemed to be of low value to roosting bats and nesting bird. The site and immediate surrounding area is considered to be of moderate value to commuting and foraging hedgehogs. Following the site assessment and in review of the findings, Naturally Wild would recommend the following:

Tiles on the southern elevation of roofing, made from clay pan tiles, should be removed by hand in a soft strip style demolition. This is as a precautionary in the highly unlikely event that bats are found to be roosting here. Any excavations that may be made on site must have ramps installed into them at the end of each working day. This is to allow any animals which enter the excavations to escape. A low-level lighting scheme should be implemented during and after construction to avoid indirect disturbance to foraging and commuting bats, birds and small mammals that may be using the near-by hedgerows and fields. At least two sparrow terraces must be installed on the near-by buildings on the farm to compensate for the loss of potential nesting habitat within the building. At least one bat box and bird box should be installed on the near-by buildings to enhance the local biodiversity. At least two hedgehog houses should be installed to increase the local population. Any landscape planting should use native plant species and/or species of known wildlife value that will enhance the ecological value of the site for local populations of invertebrates, birds, bats and small mammals.

Providing the recommendations of this report are implemented in full, Naturally Wild would conclude that there will not be a significant impact to protected species or habitats as a result of the proposed works.

ECOLOGICAL IMPACT ASSESSMENT: FILEDHOSUE FARM, NEWHOLM, WHITBY

1 INTRODUCTION

Naturally Wild were instructed to undertake an Ecological Impact Assessment at Fieldhouse Farm, Newholm (Figure 1). The survey area is comprised of a single storey stone garage building. The main objective of the assessment was to determine the suitability of the site to support protected species and to check for any evidence of the presence of protected species, as well as the presence of any protected or notable habitats.

The proposals are to demolish the garage building. As part of the planning process, an ecological assessment is required to determine if any European, UK Biodiversity Action Plan (BAP) or other important protected species/habitats are likely to be affected by the proposed works, and to show how any negative ecological impacts would be mitigated and compensated.

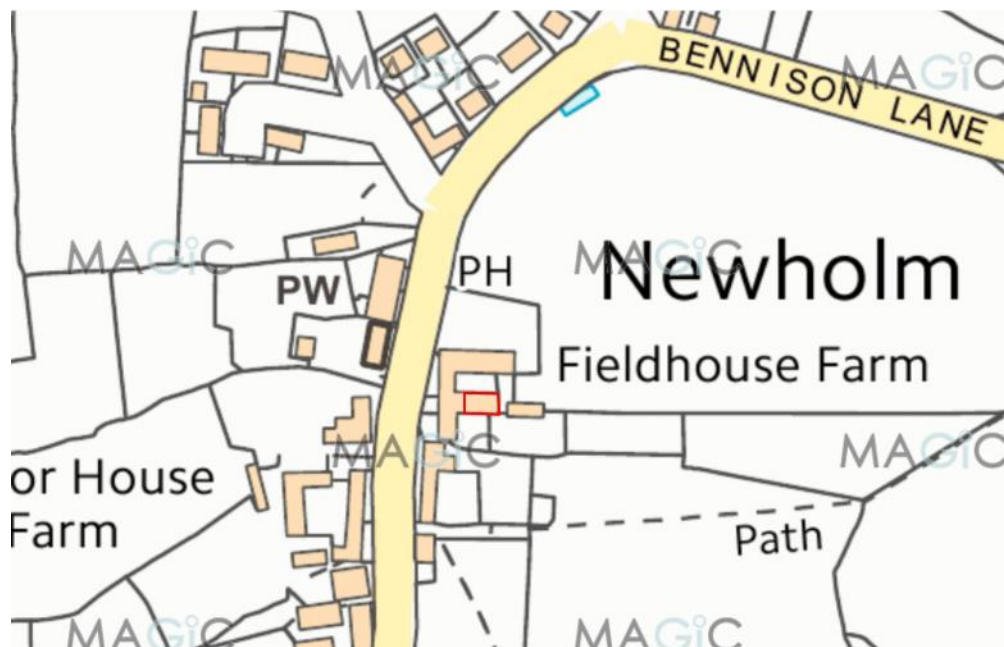


Figure 1. Site location plan. Red line shows the area proposed for re-development.

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2 RELEVANT LEGISLATION

British wildlife is protected by a range of legislation, the most important being the Wildlife and Countryside Act 1981, the Countryside Rights of Way Act 2000 and The Conservation of Habitats and Species Regulations 2017. The Wildlife and Countryside Act, as amended mainly by the Countryside Rights of Way Act, protects species listed in Schedules 5 and 8 of the Act (animals and plants respectively) from being killed, injured, and used for trade. For some species, such as great crested newts and all bat species, the provisions of this act go further to protect animals from being disturbed or taken from the wild and protects aspects of their habitats. The Act also stipulates that offences occur regardless of whether they were committed intentionally or recklessly. The parts of this legislation that apply to most reptile species are in regard to killing, injury and trade only and do not protect their habitat, nor are they protected from disturbance or from being taken from their habitat.

The Conservation of Habitats and Species Regulations is the English enactment of European legislation and provides similar but subtly different protection for species listed on Schedules 2 and 4 of those regulations. A recent change in this legislation means that the provisions of this act now complement those of the Wildlife and Countryside Act more. Species to which these provisions apply are the European Protected Species. Activities that might cause offences to be committed can be legitimised by obtaining a licence from the relevant statutory body.

Further details on the legislation protecting species of British wildlife relevant to this assessment can be found in section 8.1 of this report.

3 METHODOLOGY

3.1 Overview

The PEA comprised of a desktop study and a site visit. The desktop study collated available public information regarding the biodiversity of the area, including the habitat structure of the site and surrounding area and the presence of any statutory or non-statutory designated sites, using the Multi-Agency Geographic Information for the Countryside (MAGIC) resource. In addition, biological records within 1 km of the site were requested from the North & East Yorkshire Ecological Data Centre, which included records of protected and notable species and any nearby non-statutory designated sites not available through MAGIC.

The objective of the survey was to ascertain if any protected species may be using the site, document the habitats present and determine any potential ecological impacts during and following the completion of the works. The survey would be completed under suitable weather conditions and by experienced ecologists. Further to this, the results of the desktop study and site survey would be assessed to determine the ecological impacts posed by the work, any additional survey work required, and how such impacts should be mitigated and compensated for.

The survey work and the preparation of this report has been conducted by Ecologist Heather Lyons MSc BSc (Hons) and Junior Ecologist Tom Richardson BSc (Hons), who are experienced in protected species survey work. All survey and assessment work has been completed in line with official guidelines produced by Natural England and the Chartered Institute for Ecology and Environmental Management, and British Standard document BS 42020: 2013 *'Biodiversity – Code of practice for planning and development.'*

3.2 Survey Area

The application site is located at Grid Reference NZ86701047 and can be accessed via Bennison Lane. The assessment focused on the application site, as well as all habitats in the immediate surrounding area (where access was available).



Figure 2. Location of the surveyed area. Application site boundary is shown by the red line.

(Image taken from Google Earth Pro: ©2019 Map Data Google 2019)

3.3 Survey Constraints

A small loft void within the southern section of the building could not be accessed as there was no access hatch. It is thought that this had a minor impact to the initial survey as it could have obscured visual evidence of bats. However, from looking through a gap in the ceiling, it was evident that the loft had a large ingress of light from a skylight and a very large abundance of cobwebs. A pond, approximately 440m to the south of the site could also not be surveyed due to access constraints. It is considered that this had a minor impact on the survey results due to the distance from site, the size of the development site and type of habitat present. Other than this, there were no constraints with regards to site access or completion of the survey objectives across the site.

3.4 Field Surveys

3.4.1 Habitat Assessment

The initial survey was carried out on Friday 19th July 2019 and consisted of an assessment of the habitats on and adjacent to the site. The dominant vegetation structure was identified, where present, allowing the habitats to be classified. Following this, the habitats present were assessed for their suitability to support protected species and for the presence of any evidence of protected species.

3.4.2 Protected Species Impact Assessment

Based on the habitats present, the site was assessed with particular regard to determine the presence or otherwise of badgers (*Meles meles*), bats, great crested newts (GCN) (*Triturus cristatus*), nesting birds, and reptiles. An overview of the survey methods used is outlined below.

Badgers: An assessment of the site and surrounding habitats (where access was available), with particular focus on any areas of dense vegetation, was carried out in order to identify any evidence of badgers, including:

- the presence of any setts
- well-used runs/tracks

- supplementary evidence, such as hairs or prints
- badgers themselves

Bats: An assessment of the on-site building was carried out in order to identify the presence of any potential roost features (PRFs) for bats, and/or evidence of roosting bats, in accordance with the current Bat Conservation Trust (BCT) survey guidelines (Collins, 2016). An external inspection of the building was carried out, focussing on features that may provide roosting opportunities or access points to roosting features internally, such as the gaps under roof tiles and open doorways. An internal inspection was also carried out, with any roof spaces present checked for any evidence of bats. The building was then categorised based on its assessed value for roosting bats, in accordance with the BCT guidelines, detailed in Table 1.

Table 1. Guidelines for assessing bat roosting potential of structures and trees.

Suitability	Habitat description	Further action required?
Negligible	Negligible habitat features on site likely to be used by roosting bats.	No further bat risk assessment effort or bat activity surveys are required.
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).	Structures: One bat activity survey is required to determine whether the structure is being utilised by roosting bats; this may be a dusk or dawn survey. This survey must occur between May and August. The discovery of a roosting bat during this single bat activity survey will require further survey effort.
	A tree of sufficient size and age to contain PRFs, but with none seen from the ground or features seen with only very limited roosting potential.	Trees: No further bat risk assessment effort or bat activity surveys are required.
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 conservation status.	Two bat activity surveys are required to determine whether the structure or tree is being utilised by roosting bats; this should be comprised of one dusk and one dawn survey. One survey must occur between May and August.
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 and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat.	Three bat activity surveys are required to determine whether the structure or tree is being utilised by roosting bats; this should be comprised of one dusk and one dawn survey, with an additional survey (either dusk or dawn). Two surveys must occur between May and August.

Evidence of roosting bats includes: bat droppings in, around or below an entrance hole; staining around an entrance hole; small scratches around an entrance hole; audible squeaking at dusk or in warm weather; smoothening of surfaces around cavity or an entrance hole; distinctive smell of bats.

The assessment was completed using ladders, binoculars and a powerful torch. An endoscope was also available to check any small gaps/cracks for evidence of bats.

Great Crested Newts: An assessment of the habitats present on the site was carried out in order to determine their suitability to support GCN and any natural or artificial refugia (such as logs, stones, discarded building materials etc.) present were also lifted to check for the presence of GCN.

Nesting Birds: The habitats on site were assessed to determine their suitability for nesting, with a check carried out for the presence of any active nests or any evidence of nesting behaviour.

Reptiles: The assessment for reptiles followed a similar methodology to that for GCN, with an assessment of the habitats present carried out to determine their suitability to support reptiles, and with any refugia lifted to check for the presence of reptiles or evidence of reptiles, such as sloughs (shed skins).

Other Wildlife: In accordance with good practice, the site was checked for the presence of any other protected/notable species, with particular regard to any other species highlighted in the desktop study.

Invasive Species: The site was also surveyed for the presence of any invasive, non-native flora or fauna.

4 RESULTS

4.1 Desktop Study

4.1.1 Designated Sites

The closest statutory protected site to the proposed development is the North York Moors National Park (ref ode:7, 144100ha) which the site is within. There are two Sites of Special Scientific Interest (SSSIs), on Special Area of Conservation (SAC) and one Special Protection Area (SPA) within 5km of the proposed development site. There are no National Nature Reserves within 10km of the site.

Due to the distance of statutory protected sites and the relatively small scale of the proposed development, it is highly unlikely that there will be significant impacts on the near-by protected areas.

Table 3. Statutory and non-statutory designations in the areas surrounding the site.

Designation	Reference	Name	Area (ha)	Distance and direction from site
National Park	7	North York Moors	144100	0 km
Special Area of Conservation	UK0030228	North York Moors	44094.41	4.3 km South
Special Protection Area	UK9006161	North York Moors	44094.41	4.3 km South
Site of Special Scientific Interest	1003507	Whitby-Saltwick SSSI	39.95	3.5 km North-east4
	1007119	North York Moors SSSI	44094.41	4.3 km South

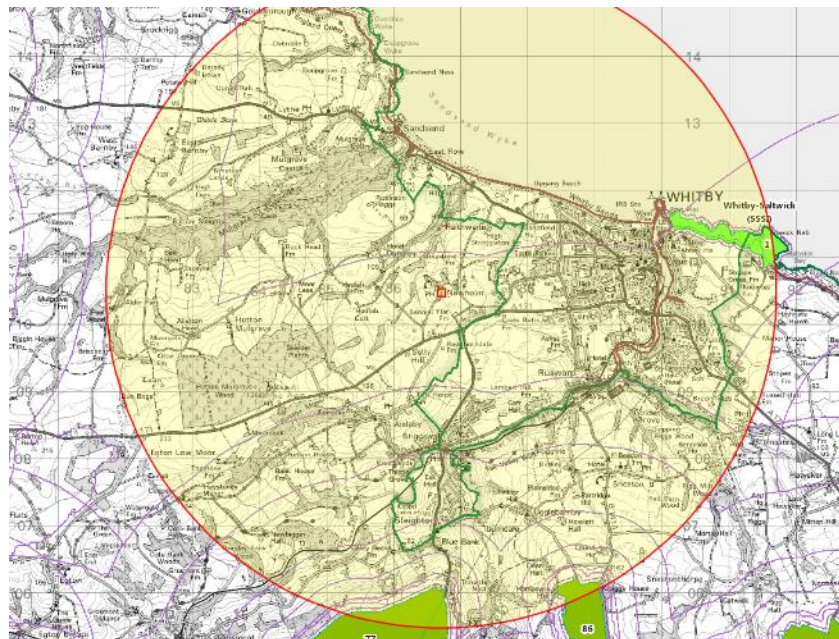


Figure 3. Location of the surveyed site in relation to the surrounding designated sites.

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4.1.2 Biological Records

Biological records were requested from the North & East Yorkshire Ecological Data Centre (NEYEDC) for a 1 km radius surrounding the application site. We are currently awaiting results.

4.2 Site Assessment

4.2.1 On-Site Ecological Features

The site comprised of a single storey stone garage with a pitched roof and three internal rooms. The general ecological value of each habitat is described in the paragraphs below, with any notable species-specific findings detailed in section 4.3.

The building was constructed with stone with a pitched roof; the northern elevation made of corrugated asbestos and the southern elevation from clay pan tiles which had several gaps under tiles. On the northern elevation there were two boarded-up windows with gaps round the boards allowing for some ingress of light into the building. The eastern elevation had two access points which lead into two internal rooms and the southern elevation had an entrance which led into one internal storage room. The most northerly entrance was a large, open, garage doorway which remains open at all times. The other two entrances lead into small storage rooms which had locked wooden doors closed at all times. The building was attached to a small storage building on the western elevation. The garage building and storage building do not share any internal voids or roofing and the storage building will not be impacted on by the proposed works. There was no external evidence of bats on, or near to, the building.

Internally, there was a small, inaccessible loft void, within the most southern section of the building. From inspecting the loft void through a hole in the ceiling, it was found that there is a large ingress of light into it from a skylight and a large abundance of cobwebs with no evidence of bats observed. The central and southern internal rooms were being used for storage and contained an abundance of cobwebs and had evidence of previously nesting birds in the form of old nests and droppings. The large internal room, the garage, was also being used for storage on the date of survey. Within this room, several recently used birds nests were observed within large gaps in the stonework. A single bat dropping was found within this room. Due to the open nature of this room, it is thought that the dropping could have possibly been from a foraging bat, feeding within the garage. No further evidence of bats was observed within the building. The building was considered to be of low value to nesting birds and low value to roosting bats.

4.2.2 Off-Site Ecological Features

The building is located within the farmstead of Fieldhouse Farm in the hamlet of Newholm, approximately 1.8km west of Whitby, North Yorkshire. The site is surrounded by agricultural fields and has no existing ponds within 500m. There is anecdotal evidence that there is a large population of hedgehogs (*Erinaceus europaeus*) in the local vicinity. There is one pond located approximately 440m to the south of the site. This pond could not have a Habitat Suitability Index (HSI) score assessment carried out on it due to access constraints. Assuming that this pond may have a breeding population of great crested newts, a rapid risk assessment was carried out. The results of this are discussed in section 4.3 of this report.

4.3 Protected Species

Badgers: There is no suitable habitat on site, or in the mediate vicinity, which is suitable for badger sett creation. There was no evidence of foraging or commuting badgers on site or the near-by area. It is considered that there is negligible value for badgers on site.

Bats: Due to there being several gaps under roof tiles and a single bat dropping being found in the open section of the building (likely to be from a foraging bat rather than roosting), it is considered that the site is of low value to roosting bats.

As the building was assessed to be of low value for roosting bats, one bat activity survey was carried out. The weather conditions for this survey was considered suitable for bats to be active and is summarised in Table 4.

Table 4. Bat Activity Survey Weather Conditions.

Date	Survey start	Sunset/sunrise	Survey end	Temp. (°C)	Precipitation	Wind (Beaufort)	Cloud (Oktas)
19/07/19	21:00	21:25	22:40	17	None	3	8

Results from the bat activity surveys are provided in the paragraphs below. It should be noted that only a summary of the key findings have been provided, although full results are available upon request.

During the first survey, two common pipistrelles were observed foraging along a hedgerow to the south of the site from 21:45 until the end of the survey. No bat activity was observed in close proximity or within the building and no bats were observed emerging or entering the building during the survey.

It is thought that the barn does not support roosting bats and may occasionally have single bats foraging within the open area of the garage.

Great Crested Newts: A pond was located approximately 440m south of the proposed development site (figure 4). As this pond could not be accessed to carry out a HSI score assessment, a rapid risk assessment was carried out (figure 5). The results came back as “offence highly unlikely”. This is has been interoperated as it will be highly unlikely that there will be great crested newts on site and that the proposed development will be unlikely to have an impact on the pond.

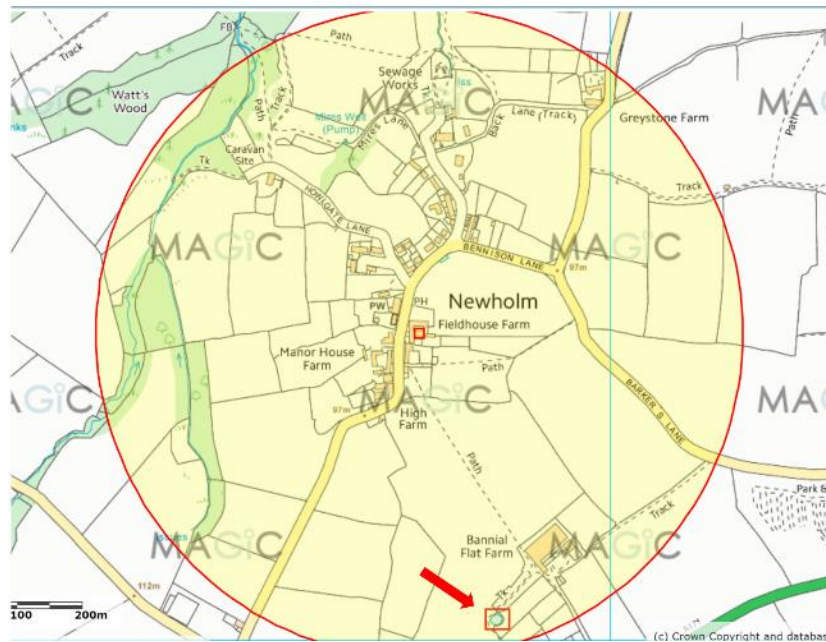


Figure 4. Pond located within 500 m of the proposed development site; 500 m buffer shown by red line. (© Crown Copyright and MAGIC database rights 2017. Ordnance Survey 100022861).

Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	No effect	0
Land 100-250m from any breeding pond(s)	No effect	0
Land >250m from any breeding pond(s)	0.001 - 0.01 ha lost or damaged	0.0005
Individual great crested newts	No effect	0
		Maximum: 0.0005
Rapid risk assessment result:	GREEN: OFFENCE HIGHLY UNLIKELY	

Figure 5. Rapid Risk Assessment provided by Natural England.

Nesting Birds: There was a low level of recent bird nesting activity on site within the building. It is considered that there is a low value to nesting birds on site.

Reptiles: There is a lack of suitable habitat on site or the immediate area for reptile species. It is therefore considered highly unlikely that they would be found on site during works.

Other species: During the bat activity survey, a hedgehog was found commuting and foraging on site. there is also anecdotal evidence that there is a large population of hedgehogs in the near-by vicinity. It is therefore considered that the site is of moderate value to commuting and foraging hedgehogs.

4.4 Invasive Species

No invasive species – including non-native invasive species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) – were recorded within the site extent at the time of the site survey, or within habitats adjacent to the site.

5 CONCLUSIONS AND RECOMMENDATIONS

Over all, the site is considered to be of low ecological value. The building is deemed to be of low value to roosting bats and nesting bird. The site and immediate surrounding area is considered to be of moderate value to commuting and foraging hedgehogs. Following the site assessment and in review of the findings, Naturally Wild would recommend the following:

5.1 Mitigation Measures

- Tiles on the southern elevation of roofing, made from clay pan tiles, should be removed by hand in a soft strip style demolition. This is as a precautionary in the highly unlikely event that bats are found to be roosting here.
- Any excavations that may be made on site must have ramps installed into them at the end of each working day. This is to allow any animals which enter the excavations to escape.
- If a hedgehog is found on site, works must stop immediately and cannot continue until it removes its self rom the vicinity.
- A low-level lighting scheme should be implemented during and after construction to avoid indirect disturbance to foraging and commuting bats, birds and small mammals that may be using the near-by hedgerows and fields, and should include the following elements:
 - Sensitive positioning of lighting to avoid unnecessary spill onto hedgerows, fields and any habitat enhancement features to be incorporated into the (re-)development (see below);
 - Angle of lighting: avoidance of direct lighting and light spill onto areas of habitat that are of importance as commuting pathways and/or foraging areas;
 - Type of lighting: studies have shown that light sources emitting higher amounts of UV light have a greater impact to wildlife. Use of narrow-spectrum bulbs that avoid white and blue wavelengths are likely to reduce the number of species impacted by the lighting;
 - Reduce the height of lighting columns to avoid unnecessary light spill.

5.2 Compensation Measures

- At least two sparrow terraces must be installed on the near-by buildings on the farm to compensate for the loss of potential nesting habitat within the building.

5.3 Enhancement Measures

- At least one bat box and bird box should be installed on the near-by buildings to enhance the local biodiversity.
- At least two hedgehog houses should be installed into suitable locations within the land ownership of the site to encourage further hedgehogs to the area and further increase the local population.
- Any landscape planting should use native plant species and/or species of known wildlife value that will enhance the ecological value of the site for local populations of invertebrates, birds, bats and small mammals.

Providing the recommendations of this report are implemented in full, Naturally Wild would conclude that there will not be a significant impact to protected species or habitats as a result of the proposed works.

6 SITE IMAGES



Image 1. North elevation of building



Image 2. South elevation of roof showing gaps under tiles



Image 3. Target building from a south-east elevation



Image 4. East elevation of target building.



Image 5. Internal of central store room



Image 6. Internal of open garage showing recently used bird nest



Image 7. Hole in ceiling of storage room.

7 BIBLIOGRAPHY & REFERENCES

Amphibian and Reptile Groups of the UK (2010) *ARG UK Advice Note 5: Great Crested Newt Habitat Suitability Index*. Available: <http://www.arguk.org/download-document/9-great-crested-newt-habitat-suitability-index-arg-advice-note-5>

British Standards Institution (2013) *BS 42020:2013. Biodiversity – Code of practice for planning and development*. British Standards Institution, London.

CIEEM (2016) *Guidelines for Accessing and Using Biodiversity Data*. CIEEM, Winchester.

CIEEM (2017a) *Guidelines for Preliminary Ecological Appraisal (2nd ed.)*. CIEEM, Winchester.

CIEEM (2017b) *Guidelines for Ecological Report Writing (2nd ed.)*. CIEEM, Winchester.

CIEEM (2018) *Guidelines for Ecological Impact Assessment in the UK and Ireland (3rd ed.)*. CIEEM, Winchester.

Collins, J. (2016) *Bat Surveys for Professional Ecologists: Good Practice Guidelines, 3rd edn*. Bat Conservation Trust, London.

The Conservation of Habitats and Species Regulations 2017.

Cresswell, W. and Whitworth, R. (2004) *An assessment of the efficiency of capture techniques and the value of different habitats for great crested newts*. English Nature Research Reports 576. English Nature, Peterborough.

European Commission. Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds.

European Economic Community. Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

Harris, S., Cresswell, P, and Jeffries, D. (1989) *Surveying Badgers*. Occasional Publication No. 9. The Mammal Society, London.

Ministry of Housing, Communities and Local Government (2019) *National Policy Planning Framework*. Crown Copyright 2019. <https://www.gov.uk/government/collections/revised-national-planning-policy-framework>

Mitchell-Jones, A.J. (2004) *Bat Mitigation Guidelines*. English Nature, Peterborough.

Multi-Agency Geographical Information for the Countryside (MAGIC). Crown Copyright and database rights [2019]. Ordnance Survey 100022861. Available at: <http://www.magic.gov.uk/>

Oldham, R.S., Keeble, J., Swan, M.J.S. and Jeffcote, M. (2000) *Evaluating the suitability of habitat for the Great Crested Newts (Triturus cristatus)*. Herpetological Journal 10: 143-155.

The Protection of Badgers Act (1992).

Rose, F. and O'Reilly, C. (2006) *The Wild Flower Key*, Revised Edition. Penguin Books, London.

The UK Biodiversity Action Plan. Available: <http://jncc.defra.gov.uk/page-5155>

Wildlife and Countryside Act 1981 (as amended).

8 APPENDICES

8.1 Additional Information for the Legislation of Other Protected Species

Badgers: The badger is geographically widespread across the UK; however, they are still vulnerable to baiting, hunting and detrimental impacts of development to their habitat. Both the badger and its habitat are protected under The Protection of Badgers Act 1992, Schedule 6 of the Wildlife and Countryside Act 1981 (as amended) an Appendix Three of the Bern Convention. Therefore, badgers have legal protection against deliberate harm or injury and it is an offence to:

- Interfere with a badger sett by damaging or destroying it
- Kill, injure, take or possess a badger
- Cruelly ill-treat a badger
- Obstruct access to a badger sett
- Disturb a badger whilst it is in a badger sett

Bats: All British bat species are listed on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and are therefore afforded protection under Section 9 of this Act. In addition, all bat species are listed in Schedule 2 of The Conservation (Natural Habitats, &c.) Regulations 1994 (SI 1994 No. 2716) (as amended) (known as the Habitats Regulations) and are therefore protected under Regulation 39 of the Regulations. These Regulations make provision for the purpose of implementing European Union Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora 1992, under which bats are included on Annex IV. The Act and Regulations makes it an offence, *inter alia*, to:

- Intentionally kill, injure, take (handle) or capture a bat;
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection (this is taken to mean all bat roosts whether bats are present or not) - under the Habitats Regulations it is an offence to damage or destroy a breeding site or resting place of any bat; or
- Intentionally or recklessly disturb a bat while it is occupying a structure or place that it uses for shelter or protection - under the Habitats Regulations it is an offence to deliberately disturb a bat (this applies anywhere, not just at its roost) in such a way as to be likely to affect its ability to survive, breed, reproduce, rear or nurture their young or hibernate.

Further details of the above legislation, and of the roles and responsibilities of developers and planners in relation to bats, can be found in Natural England's Bat Mitigation Guidelines (Mitchell-Jones, 2004).

Nesting Birds: Birds receive protection under the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take any wild bird; take, damage or destroy a nest of a wild bird whilst it is in use or being built; or to take, damage or destroy an egg of a wild bird. The bird-nesting season is defined as being from 1st March until 31st August with exceptions and alterations for some species.

Great Crested Newts: Great crested newts are a European Protected Species, listed on Annex II and IV of the EEC Directive on the Conservation of Natural Habitats and Wild Fauna and Flora, receiving protection under Schedule 2 of The Conservation of Habitats and Species Regulations 2017. This species is also afforded full protection under the Schedule 5 of the Wildlife and Countryside Act 1981. Under such legislation it is an offence to:

- Intentionally or recklessly* kill, injure or capture a great crested newt;
- Possess or control any live or dead specimen or anything derived from a great crested newt;
- Intentionally or recklessly* damage, destroy or obstruct access to any structure or place used for shelter or protection by a great crested newt; and
- Intentionally or recklessly* disturb a great crested newt while it is occupying a structure or place which it uses for that purpose.
- Damage or destroy a breeding site or resting place.
- Sell, barter, exchange or transport or offer for sale great crested newts or parts of them.

**Reckless offences were added by the Countryside and Rights of Way Act 2000, which applies only to England and Wales.*

To undertake surveys for great crested newts it is necessary to hold an appropriate licence issued by Natural England.

Reptiles: All native British species of reptile (of which there are 6) are listed on Schedule 5 of the Wildlife and Countryside Act 1981 and, as such, are protected from deliberate killing, injury or trade. Therefore, where development is permitted and there will be a significant change in land use, a reasonable effort must be undertaken to remove reptiles off site to avoid committing an offence. The same Act makes the trading of native reptile species a criminal offence without an appropriate licence.