



Ebeneser Chapel

Wrexham

## Ecological Desk Study

Prepared For: Wales & West Housing Association

Document Reference: 10835.001

December 2024

Version 1.0

TEP  
401 Faraday Street  
Birchwood Park  
Warrington  
WA3 6GA

Tel: 01925 844004  
Email: [tep@tep.uk.com](mailto:tep@tep.uk.com)

Offices in Warrington, Market Harborough, Gateshead, London and Cornwall

Project Name:	Ebeneser Chapel
Location:	Wrexham
Document Title:	Ecological Desk Study
Client:	Wales & West Housing Association
Prepared by:	The Environment Partnership Ltd
Office:	Warrington
Document Ref:	10835.001

Document history and status:

Version	Date	Description of Issue	Author	Checked	Approved
1.0	December 2024	First issue	LM	JC	JC

The Environment Partnership Ltd is a private limited company registered in England. Registered number 7745159. Registered office: 401 Faraday Street, Birchwood Park, Warrington, WA3 6GA.

© Copyright 2024 The Environment Partnership Ltd. All Rights Reserved.

This document has been prepared by The Environment Partnership Ltd (“TEP”) for sole use of our Client in accordance with the provisions of the contract between TEP and the Client. No third party may use or rely upon this document or its content. TEP accepts no liability or responsibility for any such use or reliance thereon by any third party.



TEP is a is a Registered Practice of the Chartered Institute of Ecology and Environmental Management. The content of this document has been prepared in accordance with the Chartered Institute of Ecology and Environmental Management (CIEEM) Code of Professional Conduct and is compliant with British Standard BS42020:2013 Biodiversity Code of Practice for Planning and Development.

The conclusions and recommendations contained in this document are based upon information gathered by TEP and provided by third parties. Information provided by third parties and referred to herein has not been independently verified by TEP, unless otherwise expressly stated in the document.

Nothing in this report constitutes legal opinion. If legal opinion is required, the advice of a qualified legal professional should be secured.

Contents	Page
1.0 INTRODUCTION.....	4
Site Location.....	4
2.0 METHODS .....	5
Scope and Data Sources .....	5
3.0 LEGISLATION AND POLICY .....	7
National Planning Policy .....	8
Relevant Policy .....	9
Local Planning Policy.....	9
4.0 BIODIVERSITY INITIATIVES AND STRATEGIES.....	11
Local Biodiversity Action Plans (LBAP) .....	11
5.0 WILDLIFE SITES .....	12
Statutory Sites .....	12
Non-Statutory Wildlife Sites .....	15
6.0 PROTECTED AND NOTABLE SPECIES .....	16
Pre-existing Species Records.....	16

## Figures

Figure 1: Site location and local context .....	4
Figure 2: Statutory wildlife sites of international significance within 10km of the site.....	13
Figure 3: Statutory wildlife sites of national significance within 5km of the site.....	14

## Tables

Table 1: Scope and preliminary ecological Zones of Influence (ZOI) .....	6
Table 2: Statutory wildlife sites within influencing distance of the site .....	12

## Annexes

Annex A: Key Ecological Legislation and National Policy

## 1.0 Introduction

- 1.1 The Environment Partnership (TEP) was commissioned by Wales & West Housing Association in November 2024 to undertake a Preliminary Ecological Assessment (PEA) for the proposed development of a site called Ebeneser Chapel in Wrexham.
- 1.2 To inform the PEA an ecological desk study was also completed. This Ecological Desk Study report details the method of data gathering and interpretation and presents the findings of the desk-based assessment.
- 1.3 This report is not sufficient in isolation to support a planning application. This report should be read in conjunction with the PEA (TEP Ref: 10835.002).

### Site Location

- 1.4 The site (central grid reference SJ 33631 50682) is located within Rhosddu suburb, east of the A483 and approximately one mile north of Wrexham. The surrounding landscape is predominantly commercial and residential with pockets of urban greenspace and private gardens.
- 1.5 The site is within the administrative area of Wrexham County Borough Council. The site location is depicted by the red line boundary shown in Figure 1.

*Figure 1: Site location and local context*



## 2.0 Methods

### Scope and Data Sources

- 2.1 The ecological Zone of Influence (ZOI) is an area defined by the ecological assessment within which valued ecological features may be subject to significant biophysical changes as a consequence of the proposed development under assessment.
- 2.2 For the purposes of this assessment, the preliminary ZOIs (pZOI) within which ecological features were searched for as part of this desk study were varied according to the geo-spatial and/or legal significance of the feature. The scope and the pZOIs applied for this desk study are summarised in Table 1.
- 2.3 Species records for within the last ten full years (i.e. from 01/01/2014 to present) were obtained from Cofnod Local Environmental Records Centre (CLERC) in November 2024. This report lists protected and notable species records obtained in the data search that are listed under any of the following:
  - Protected species listed under Schedule 2 (animals) or Schedule 5 (plants) under the Conservation of Habitats and Species Regulations 2017 (EPS);
  - Protected bird species under Schedule 1 of the Wildlife and Countryside Act 1981, as amended (WCA1);
  - Protected animal species under Schedule 5 of the Wildlife and Countryside Act 1981, as amended (WCA5);
  - Protected plant species under Schedule 8 of the Wildlife and Countryside Act 1981, as amended (WCA8);
  - Invasive non-native plant species under Schedule 9 of the Wildlife and Countryside Act 1981, as amended (WCA9);
  - Invasive Alien Species (Enforcement and Permitting) Order 2019 (IAS);
  - Protection of Badgers Act 1992 (PBA);
  - Species of principal importance (SPI) listed by requirements under Section 7 of the Environment (Wales) Act 2016;
  - Red and Amber listed Birds of Conservation Concern (BRd/BAm); and
  - Local Biodiversity Action Plan Species (LBAP).
- 2.4 An absence of records does not indicate the absence of protected species from the search area.
- 2.5 Geological sites are not designated for ecology reasons and is therefore excluded from further consideration in this ecological assessment.



*Table 1: Scope and preliminary ecological Zones of Influence (ZOI)*

Scope	Key Source(s)	ZOI
Policy and Related Guidance (Chapter 3.0 and 4.0)		
<ul style="list-style-type: none"><li>▶ Land allocations and relevant environment / biodiversity policy</li><li>▶ Local biodiversity priority habitats and species</li><li>▶ Habitat Network / Nature Recovery Network</li></ul>	<ul style="list-style-type: none"><li>▶ Wrexham Local Development Plan 2013 – 2028 (adopted 2023)<sup>1</sup></li></ul>	As applicable to site
Statutory wildlife sites (Chapter 5.0)		
<ul style="list-style-type: none"><li>▶ Ramsar and proposed Ramsar sites</li><li>▶ Special Areas of Conservation (SAC), including possible SAC and SAC with marine components</li><li>▶ Special Protection Areas (SPA) and potential SPA</li><li>▶ Marine Conservation Zones</li></ul>	<ul style="list-style-type: none"><li>▶ Natural Resources Wales<sup>2</sup></li></ul>	10km
<ul style="list-style-type: none"><li>▶ Sites of Special Scientific Interest (SSSI)</li><li>▶ National Nature Reserves (NNR)</li><li>▶ Marine Nature Reserves (MNR)</li></ul>		5km
<ul style="list-style-type: none"><li>▶ Local Nature Reserves (LNR)</li><li>▶ Country Parks</li><li>▶ Strategic Nature Areas</li></ul>		2km
Non-statutory wildlife sites (Chapter 5.0)		
<ul style="list-style-type: none"><li>▶ Local Wildlife Site (LWS)</li><li>▶ Site of Nature Conservation Interest (SNCI)</li><li>▶ Site of Importance for Nature Conservation (SINC)</li></ul>	<ul style="list-style-type: none"><li>▶ Cofnod Environmental Records Centre</li><li>▶ Wrexham Local Development Plan 2013 – 2028 (adopted 2023)</li></ul>	1km
Notable habitats (Chapter 6.0)		
<ul style="list-style-type: none"><li>▶ Ancient Woodland</li><li>▶ Habitats of principal importance</li><li>▶ Main rivers</li><li>▶ Peaty Soils</li></ul>	<ul style="list-style-type: none"><li>▶ Natural Resources Wales</li><li>▶ Cofnod Environmental Records Centre</li></ul>	0.25km
Protected or notable species (Chapter 7.0)		
<ul style="list-style-type: none"><li>▶ Pre-existing records for protected or notable species, non-native invasive species</li></ul>	<ul style="list-style-type: none"><li>▶ Cofnod Environmental Records Centre</li></ul>	1km

<sup>1</sup> Wrexham County Borough Council (2023) [Online]. Wrexham Local Development Plan 2013 - 2028. <https://wrexham-consult.objective.co.uk/portal/> [26/11/2024].

<sup>2</sup> Public sector information

## 3.0 Legislation and Policy

3.1 The following summarises the legislation and planning policy which may have key relevance to biodiversity and the site. Further information is provided in Annex A.

- International Conventions:
  - ▶ The Convention on Wetlands of International Importance especially as Waterfowl Habitat ('Ramsar Convention'<sup>3</sup> or 'Wetlands Convention');
  - ▶ The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention<sup>4</sup>);
  - ▶ The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention<sup>5</sup> or CMS)
  - ▶ The Convention on Biological Diversity (Biodiversity Convention<sup>6</sup> or CBD)
- Conservation of Habitats and Species Regulations 2017<sup>7</sup> (the 2017 Regulations);
- Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019<sup>8</sup> (the 2019 Regulations);
- Wildlife and Countryside Act (WCA) 1981<sup>9</sup>;
- Environment (Wales) Act 2016<sup>10</sup>;
- Countryside and Rights of Way Act (CROW) 2000<sup>11</sup>;
- Natural Environment and Rural Communities (NERC) Act 2006<sup>12</sup>;
- Hedgerow Regulations 1997<sup>13</sup>;
- Protection of Badgers Act (PBA) 1992<sup>14</sup>;
- Wild Mammals (Protection) Act (WMPA) 1996<sup>15</sup>;

<sup>3</sup> Convention on Wetlands of International Importance especially as Waterfowl Habitat, Ramsar, 2.2.1971 <https://www.ramsar.org/>

<sup>4</sup> Convention on the Conservation of European Wildlife and Natural Habitats. Bern, 1979 <https://www.coe.int/>

<sup>5</sup> Convention on the Conservation of Migratory Species of Wild Animals, Bonn, June 1979 <https://www.cms.int/>

<sup>6</sup> Convention on Biological Diversity, Rio de Janeiro, June 1992 <https://www.cbd.int/>

<sup>7</sup> Conservation of Habitats and Species Regulations 2017 (SI 2017/1012) <https://www.legislation.gov.uk/uksi/2017/1012/>

<sup>8</sup> Conservation of Habitats and Species Regulations 2019 (SI 2019/579) <https://www.legislation.gov.uk/uksi/2019/579/>

<sup>9</sup> Wildlife and Countryside Act 1981 c. 69 <https://www.legislation.gov.uk/ukpga/1981/69/>

<sup>10</sup> Environment (Wales) Act 2016 ([legislation.gov.uk](https://www.legislation.gov.uk))

<sup>11</sup> Countryside and Rights of Way Act 2000 c. 37 <https://www.legislation.gov.uk/ukpga/2000/37/>

<sup>12</sup> Natural Environment and Rural Communities Act 2006 c. 16 <https://www.legislation.gov.uk/ukpga/2006/16/>

<sup>13</sup> The Hedgerow Regulations 1997 (SI 1997/1167) <https://www.legislation.gov.uk/uksi/1997/1160/>

<sup>14</sup> Protection of Badgers Act 1992 c. 51 <https://www.legislation.gov.uk/ukpga/1992/51/>

<sup>15</sup> Wild Mammals (Protection) Act 1996 c.3 <https://www.legislation.gov.uk/ukpga/1996/3>

- Government Circular 06/2005<sup>16</sup>.

## National Planning Policy

- 3.2 Planning Policy Wales (PPW) 12 delivers land use planning policy for Wales and provides a framework for the effective preparation of local planning authorities' development plans. This is supplemented by 21 topic based Technical Advice Notes (TANs). Technical Advice Note 5 – Nature Conservation and Planning is a key TAN in relation to nature conservation and biodiversity.
- 3.3 TAN 5 states that the town and country planning system in Wales should:
- work to achieve nature conservation objectives through a partnership between local planning authorities, NRW, the Environment Agency Wales, voluntary organisations, developers, landowners and other key stakeholders;
  - integrate nature conservation into all planning decisions looking for development to deliver social, economic and environmental objectives together over time;
  - ensure that the UK's international and national obligations for site, species and habitat protection are fully met in all planning decisions;
  - look for development to provide a net benefit for biodiversity conservation with no significant loss of habitats or populations of species, locally or nationally;
  - help to ensure that development does not damage, or restrict access to, or the study of, geological sites and features or impede the evolution of natural processes and systems especially on rivers and the coast;
  - forge and strengthen links between the town and country planning system and biodiversity action planning particularly through policies in local development plans and the preparation of supplementary planning guidance that adds value to Local Biodiversity Action Plans (LBAPs) by highlighting the ways in which the planning system can help to deliver the objectives of LBAPs in practical ways; and
  - plan to accommodate and reduce the effects of climate change by encouraging development that will reduce damaging emissions and energy consumption and that help habitats and species to respond to climate change.

---

<sup>16</sup> Office of the Deputy Prime Minister (2005) 'Government Circular: Geological and Biological Conservation – Statutory obligations and their implications within the planning system' ODPM circular 06/2005, DEFRA circular 01/2005  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7692/147570.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7692/147570.pdf)



## Relevant Policy

### Environment (Wales) Act 2016

- 3.4 Section 6 of the Environment Act places a duty on public authorities to ‘seek to maintain and enhance biodiversity’ so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to ‘promote the resilience of ecosystems’.
- 3.5 Section 7 of the Environment Act requires the Welsh Ministers to publish, review and revise lists of living organisms and types of habitats in Wales, which they consider are of key significance to sustain and improve biodiversity in relation to Wales. This is known as the S7 list.

### Natural Resources Wales (NRW) Area Statements

- 3.6 NRW has developed seven Area Statements covering different areas of Wales. These statements are seen as a collaborative response to the Natural Resources Policy, published by the Welsh Government in 2017.
- 3.7 The Area Statement for North-West Wales<sup>17</sup> contains the following themes:
  - Ways of working
  - Climate and nature emergency
  - Reconnecting people with nature
  - Encouraging a sustainable economy
  - Supporting sustainable land management
  - Opportunities for a resilient ecosystem

## Local Planning Policy

### Wrexham Local Development Plan 2013 – 2028 (adopted 2023)

- 3.8 The current Local Plan is the Wrexham Local Development Plan (LDP) 2013 – 2028 (adopted 2023). The adopted LDP forms the development plan for Wrexham County Borough and will be the basis for decisions on land use planning in this area.

---

<sup>17</sup> *Natural Resources Wales / North West Wales Area Statement*

- 3.9 The LDP also forms part of Wrexham County Borough Council's statutory development plan alongside the Future Wales Plan as the primary basis for making decisions on planning applications and development proposals.
- 3.10 The following policies relate to biodiversity and nature conservation:
- Policy SP6 – Green Wedge
  - Policy SP14 – Natural Environment
  - Policy SP19 – Green Infrastructure

#### Site Allocations

- 3.11 The site is not allocated by any policies listed in the Wrexham LDP however a parcel of land approximately 0.1 miles south of the site is allocated by Strategic Policy SP1 (Housing Provision) and Housing Policy H1 (Housing Allocations).

## 4.0 Biodiversity Initiatives and Strategies

### Local Biodiversity Action Plans (LBAP)

- 4.1 The Wrexham Biodiversity Group is a Local Nature Partnership (LNP) which supports local nature initiatives and supersedes the Wrexham LBAP produced in 2002. No specific local habitat action plans or local species action plans are available for reference.<sup>18</sup>

---

<sup>18</sup> Wrexham Local Nature Partnership (2024) [Online]. Nature in Wrexham. <https://www.biodiversitywales.org.uk/Wrexham> [26/11/2024].

## 5.0 Wildlife Sites

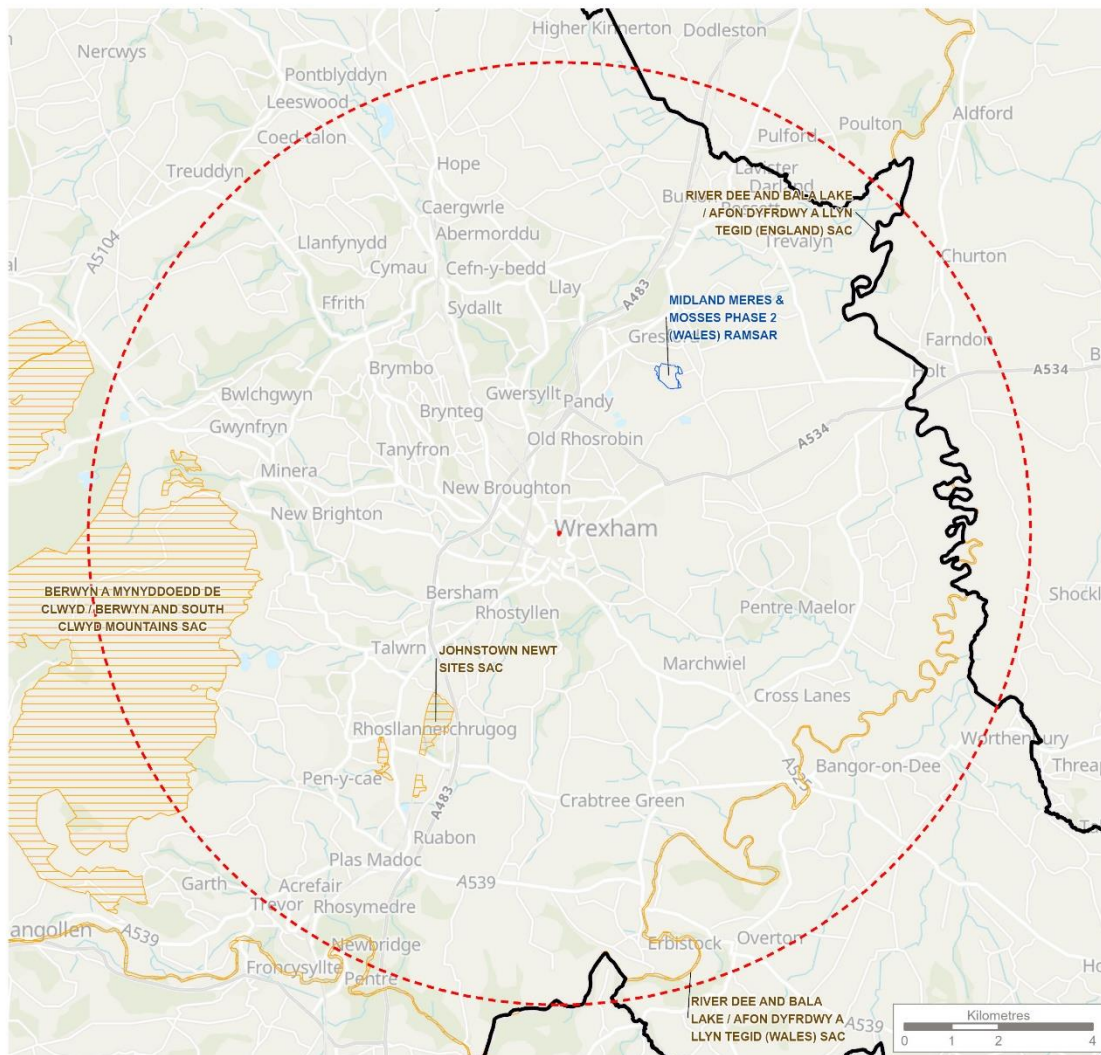
### Statutory Sites

- 5.1 Table 2 and Figure 2 and Figure 3 summarise the statutory designated wildlife sites within influencing distance of the site.

*Table 2: Statutory wildlife sites within influencing distance of the site*

Site Name	Designation	Distance and Direction from Site
Statutory Wildlife Sites of International Significance within 10km of the site (Figure 2)		
Midland Meres & Mosses Phase 2 (Wales)	Ramsar	3.8km north-east
Johnstown Newt Sites	SAC	4.3km south-west
Berwyn a Mynyddoedd De Clwyd / Berwyn and South Clwyd Mountains	SAC	6.4km west
River Dee and Bala Lake / Afon Dyfrdwy a Llyn Tegid (Wales)	SAC	approx. 6.5km south-east
River Dee and Bala Lake / Afon Dyfrdwy a Llyn Tegid (England)	SAC	approx. 8km north-east
Statutory wildlife sites of national significance within 5km of the site (Figure 3)		
Gatewen Marsh	SSSI	1.5km north-west
Sontley Marsh	SSSI	2.3km south
Vicarage Moss	SSSI	3.9km north-east
Stryt Las a'r Hafod	SSSI	4.3km south-west
Llay Bog	SSSI	4.8km north
Coedwig Ffossil Brymbo Fossil Forest	SSSI	4.9km north-west

*Figure 2: Statutory wildlife sites of international significance within 10km of the site*



- Key**
- Site boundary
  - Site boundary - 10km buffer
  - Wales/England Border
  - Ramsar
  - Special Areas of Conservation (SAC)

Sites searched for were as follows:

- Ramsar
- Special Protection Areas (SPA)
- Special Areas of Conservation (SAC)

**THE  
ENVIRONMENT  
PARTNERSHIP**

401 Faraday Street, Birchwood Park, Warrington, WA3 6GA  
Tel 01925 844004 e-mail [tep@tep.uk.com](mailto:tep@tep.uk.com) www.[tep.uk.com](http://tep.uk.com)

Project		
Ebeneser Chapel, Wrexham		
Title		
Internationally Designated Sites Within a 10km Buffer		
Drawing Number		
G10835.004		
Scale	Date	
1:115,000 @ A4	04/12/2024	
Drawn	Checked	Approved
MG	MK	LM

© **Natural England**  
Contains public sector information licensed under the Open Government Licence v3.0.

© **Scottish Natural Heritage**  
Contains public sector information licensed under the Open Government Licence v3.0.

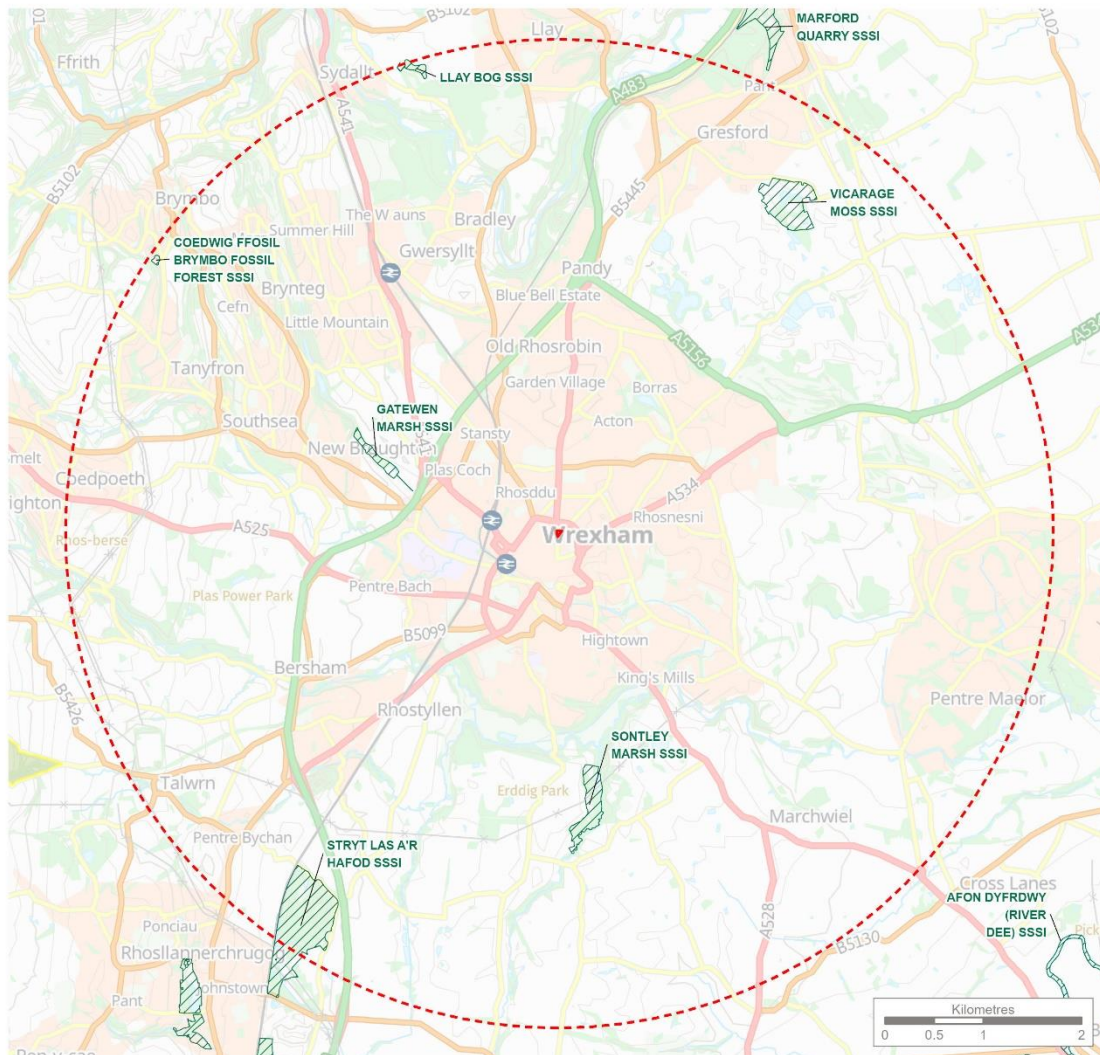
© **Natural Resources Wales**  
Contains public sector information licensed under the Open Government Licence v2.0.  
OS licence number 100019741

**Ordnance Survey Data**  
Contains OS data © Crown copyright and database right 2024.  
Contains data from OS Zoomstack





*Figure 3: Statutory wildlife sites of national significance within 5km of the site*



**Key**

- Site boundary
- Site boundary - 5km buffer
- Sites of Special Scientific Interest (SSSI)

Sites searched for were as follows:

- Sites of Special Scientific Interest (SSSI)
- National Nature Reserve (NNR)
- Area of Outstanding Natural Beauty (AONB)



**THE  
ENVIRONMENT  
PARTNERSHIP**

401 Faraday Street, Birchwood Park, Warrington, WA3 6GA  
Tel 01925 844004 e-mail [tep@tep.uk.com](mailto:tep@tep.uk.com) www.[tep.uk.com](http://www.tep.uk.com)

Project  
Ebeneser Chapel, Wrexham

Title  
**Nationally Designated Sites Within a 5km Buffer**

Drawing Number  
**G10835.005**

Scale  
**1:55,000 @ A4**

Date  
**04/12/2024**

Drawn <b>MG</b>	Checked <b>MK</b>	Approved <b>LM</b>
--------------------	----------------------	-----------------------

© **Natural England**  
Contains public sector information licensed under the Open Government Licence v3.0.

© **Scottish Natural Heritage**  
Contains public sector information licensed under the Open Government Licence v3.0.

© **Natural Resources Wales**  
Contains public sector information licensed under the Open Government Licence v2.0.

Ordnance Survey Data  
Contains OS data © Crown copyright and database right 2024.  
Contains data from OS Zoomstack



## Non-Statutory Wildlife Sites

- 5.2 There are no non-statutory designated wildlife sites within influencing distance of the site.

## 6.0 Protected and Notable Species

### Pre-existing Species Records

- 6.1 Protected and notable species records returned from CLERC for the last ten full years within 1km of the site are summarised on page 17. The terms and conditions of this data state this data is valid until May 2025.
- 6.2 No species were recorded within or adjacent to the site boundary.

## Species Records Summary: Ebeneser Chapel

Amphibians	
Species	Count
None recorded	

Bird	
Species	Count
Common Scoter <i>Melanitta nigra</i> WCA1.1, S42, BAm	1
Great Black-backed Gull <i>Larus marinus</i> BAm	1
Lapwing <i>Vanellus vanellus</i> S42, BRd	1
Whimbrel <i>Numenius phaeopus</i> WCA1.1, BAm	1

Flora	
Species	Count
Bluebell <i>Hyacinthoides non-scripta</i> WCA8	5
Himalayan Cotoneaster <i>Cotoneaster simonsii</i> WCA9	2
<i>Rhododendron ponticum</i> WCA9	1
Wall Cotoneaster <i>Cotoneaster horizontalis</i> WCA9	1

Invertebrates
---------------

Species	Count
Cinnabar <i>Tyria jacobaeae</i> S42	1
Wall <i>Lasiommata megera</i> S42	3

Reptiles	
Species	Count
None recorded	

Terrestrial Mammals (Bats)	
Roost Records	
Species	Count
None recorded	
Other Records	
Species	Count
Noctule <i>Nyctalus noctula</i> EPS, WCA5, S42	1

Terrestrial Mammals (Other)	
Species	Count
None recorded	

## Annex A: Key Ecological Legislation and National Policy



# Relevant Legislation

## International Conventions

- a. The UK is a Contracting Party to numerous environmental conventions, the commonest form of international agreements to encourage a coordinated response to managing the environment. Key environmental conventions ratified in the UK include:
  - The Convention on Wetlands of International Importance especially as Waterfowl Habitat ('Ramsar Convention'<sup>19</sup> or 'Wetlands Convention') - provides the only international mechanism for protecting sites of global importance;
  - The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention<sup>20</sup>) - imposes legal obligations on contracting parties, protecting over 500 wild plant species and more than 1,000 wild animal species;
  - The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention<sup>21</sup> or CMS) - provides strict protection for endangered migratory species. The UK has currently ratified four legally binding Agreements under the convention relating to bats (EUROBATS), African-Eurasian migratory birds (AEWA), small cetaceans in the Baltic, Irish and North Seas (ASCOBANS) and albatrosses and petrels (ACAP) in addition to five Memorandum of Understanding (MoU) and is non-party range state to a further Agreement and a further MoU;
  - The Convention Concerning the Protection of the World Cultural and Natural Heritage (UNESCO World Heritage Convention) - seeks to protect both cultural and natural heritage;
  - The Convention on Biological Diversity (Biodiversity Convention<sup>22</sup> or CBD) - provides a legal framework for biodiversity conservation. Within the UK, delivery of the CBD and the Strategic Plan for Biodiversity 2011-2020<sup>23</sup> is guided by the UK Post-2010 Biodiversity Framework<sup>24</sup>.
- b. The legal obligations of the multiple Conventions to which the UK is a Contracting Party are enacted through a suite of national environmental legislation. The most relevant are described in the following paragraphs.

<sup>19</sup> Convention on Wetlands of International Importance especially as Waterfowl Habitat, Ramsar, 2.2.1971 <https://www.ramsar.org/>

<sup>20</sup> Convention on the Conservation of European Wildlife and Natural Habitats. Bern, 1979 <https://www.coe.int/>

<sup>21</sup> Convention on the Conservation of Migratory Species of Wild Animals, Bonn, June 1979 <https://www.cms.int/>

<sup>22</sup> Convention on Biological Diversity, Rio de Janeiro, June 1992 <https://www.cbd.int/>

<sup>23</sup> In October 2010, at the 10th Conference of the Parties to the CBD in Nagoya, Japan, the Parties adopted a new 'Strategic Plan for Biodiversity 2011–2020' along with its 20 'Aichi targets'. <https://www.cbd.int/sp/>

<sup>24</sup> The framework is overseen by the Environment Departments of the four UK governments working through the Four Countries' Biodiversity Group. It demonstrates how the UK, through each of the four countries, contributes to achieving the 'Aichi targets', and identifies the activities required to complement the individual country biodiversity strategies <https://jncc.gov.uk/our-work/uk-post-2010-biodiversity-framework/>

## Conservation of Habitats and Species Regulations

- c. The Conservation of Habitats and Species Regulations 2017<sup>25</sup> (2017 Regulations) transposed the land and marine aspects of the Habitats Directive (Council Directive 92/43/EEC) and certain elements of the Wild Birds Directive (Directive 2009/147/EC) (known as the Nature Directives) into domestic law.
- d. The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019<sup>26</sup> (2019 Regulations) amends the 2017 Regulations to make them operable following the withdrawal of the United Kingdom from the European Union (EU). Most of the changes involve transferral of functions from European Commission to the appropriate authorities in England and Wales, also extending to Scotland and Northern Ireland and applies to Scotland and Northern Ireland (including the adjacent territorial sea to a limited degree), as regards reserved and excepted matters respectively. It also amends Section 27 of the Wildlife and Countryside Act 1981 to maintain existing protections and enforcement for species of wild birds.
- e. All other processes or terms in the 2017 Regulations remain unchanged and existing guidance and obligations (of a competent authority) remain relevant.

### National Site Network

- f. Under the 2019 Regulations, Special Areas of Conservation (SAC) and Special Protection Areas (SPA) in the UK no longer form part of the EU's 'Natura 2000' ecological network, but instead (along with new SACs and SPAs designated under the 2019 Regulations) form the new National Site Network (NSN). Ramsar sites<sup>3</sup> do not form part of the NSN but remain protected in the same way as SACs and SPAs.
- g. Proposals which may significantly affect a site belonging to the NSN and which are not connected with or necessary to the management of that site require (by Regulations 63 and 64 of the 2017 Regulations, as amended by Regulations 24 and 25 of the 2019 Regulations, respectively) competent authorities to undertake an Appropriate Assessment of the implications of the plan or project in view of that site's conservation objectives. This process is commonly referred to as a 'Habitats Regulations Assessment' (HRA). The assessment must consider the potential effects both of the plan/project itself and in combination with other plans or projects. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest (IROPI) and if the necessary compensatory measures can be secured.

<sup>25</sup> Conservation of Habitats and Species Regulations 2017 (SI 2017/1012) <https://www.legislation.gov.uk/uksi/2017/1012/>

<sup>26</sup> Conservation of Habitats and Species Regulations 2019 (SI 2019/579) <https://www.legislation.gov.uk/uksi/2019/579/>

## Protected Species

- h. Certain animals and their breeding sites or resting places are protected under Regulation 43 of the 2017 Regulations, which makes it illegal to:
  - Deliberately capture, injure or kill any such animal or to deliberately take or destroy the eggs of such an animal;
  - Deliberately disturb such an animal; and
  - Damage or destroy a breeding site or resting place of such an animal.
- i. Disturbance is defined in the 2017 Regulations as an activity which is likely to impair a species' ability to survive, to breed or reproduce, to rear or nurture young or, in the case of animals hibernating or migratory species, to hibernate, migrate or which may affect significantly the local distribution or abundance; of the species.
- j. A bat's resting place is known as a roost site. Because bats tend to be faithful to roost sites but their biology is such that different roost site characteristics are preferred at different times of the year by different species for different functions, a bat roost is considered to be afforded protection even when it is not occupied.
- k. Certain plant species are protected under Regulation 47 of the 2017 Regulations against deliberate picking, collecting, cutting, uprooting or destruction. It is also an offence to be in possession or control and to transport any live or dead plant or part of a plant of such a species which has been taken in the wild.
- l. The 2017 Regulations (Regulation 55) enables a relevant licensing body to grant a licence for certain activities that may affect animal or plant species protected by the above provisions. The purpose must conform to one of those listed under Regulation 55(2). For most development related activities, the purpose normally relates to Regulation 55(2)(e) 'preserving public health or public 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' – commonly known as the IROPI test. Regulation 55(9) introduces two further tests that the licensing body must consider:
  - There is no satisfactory alternative; and
  - The favourable conservation status of the species concerned will be maintained and/or enhanced.
- m. Under Regulation 9(1) of the 2017 Regulations (as amended), competent authorities "must exercise their functions which are relevant to nature conservation... so as to secure compliance with the requirements of the Directives". Regulation 9(3) requires a competent authority, in exercising any of its function, to "have regard to the requirements of the Directives so far as they be affected by the exercise of those functions." Local

planning authorities must therefore consider the above three ‘tests’ when determining if planning permission should be granted for developments likely to cause an offence under the Regulations.

## Wildlife and Countryside Act 1981

- n. The Wildlife and Countryside Act 1981 (as amended)<sup>27</sup> (WCA) is a major legal instrument for wildlife protection in the UK. In respect of habitats and flora, the WCA protects important habitats and/or species as Sites of Special Scientific Interest (SSSI). The designation of UK Ramsar sites<sup>3</sup> has usually been underpinned through prior notification of these areas as SSSI and accordingly they receive statutory protection under the WCA.
- o. The obligations of the Bern Convention<sup>4</sup> (the protection of wild plant and animal species and their natural habitats) are transposed into law for England and Wales<sup>28</sup> by the WCA. The legal requirement for the protection of migratory species listed by the Bonn Convention<sup>5</sup> is also provided by the WCA.
- p. All wild birds (as defined by the WCA and with exception to species listed in Schedule 2) are protected under the WCA, which makes it illegal to:
  - Intentionally kill, injure or take any wild bird;
  - Take, damage or destroy the nest (whilst being built or in use) of any wild bird; or
  - Take or destroy the eggs of any wild bird.
- q. Special penalties are available for offences related to birds listed in Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young. The Secretary of State may also designate Areas of Special Protection (subject to exceptions) to provide further protection to birds. The WCA also prohibits certain methods of killing, injuring, or taking birds, restricts the sale and possession of captive bred birds, and sets standards for keeping birds in captivity.
- r. Certain animal species (listed under Schedule 5) of the WCA receive protection which makes it illegal (with certain exceptions) to:
  - Intentionally kill, injure or take any such animal;
  - Intentionally or recklessly damage, destroy or obstruct any place used for shelter or protection by any such animal;
  - Intentionally or recklessly disturb such animals while they occupy a place used for shelter or protection.

<sup>27</sup> Wildlife and Countryside Act 1981 c. 69 <https://www.legislation.gov.uk/ukpga/1981/69/>

<sup>28</sup> In Scotland by the Nature Conservation (Scotland) Act 2004 (as amended) and in Northern Ireland by Wildlife (Northern Ireland) Order 1985 and the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985.

- s. The Environment Act (EA) 2021 amends the licensing regime under Section 16 of the WCA 1981 to enable licences to be granted (in England only) for reasons of overriding public interest. This new purpose will enable those involved in development activities to apply for a derogation under the WCA for species domestically protected under Schedule 5 of the WCA 1981.
- t. The amendments introduced by the EA 2021 at Section 16(3) requires that licensed may only be granted (in England) where:
  - there is no other satisfactory solution, and
  - the grant of the licence is not detrimental to the survival of any population of the species of animal or plant to which the licence relates.
- u. Plant species listed under Schedule 8 of the WCA 1981 are protected from unauthorised intentional picking, uprooting and destruction.
- v. It is an offence to plant or otherwise cause to grow in the wild any plant that is included in Schedule 9.

## Countryside and Rights of Way Act 2000

- w. Part III of the Countryside and Rights of Way Act 2000<sup>29</sup> (CROW) deals specifically with wildlife protection and nature conservation. It requires that Government Departments have regard for the conservation of biodiversity, in accordance with the CBD. In addition, it requires that The Secretary of State publishes a list of living organisms and habitat types that are considered to be of principal importance in conserving biodiversity.
- x. CROW also amends the WCA, expanding the terms of offences to include reckless activity. It increases the legal protection of threatened species, by also making it an offence to “recklessly” obstruct access to a sheltering place used by an animal listed in Schedule 5 of the WCA or “recklessly” disturb an animal occupying such a structure or place.

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

- y. Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC)<sup>30</sup> places a duty to conserve biodiversity on public authorities in England. It requires local authorities and government departments to have regard to the purposes of conserving biodiversity in a manner that is consistent with the exercise of their normal functions such as policy

<sup>29</sup> Countryside and Rights of Way Act 2000 c. 37 <https://www.legislation.gov.uk/ukpga/2000/37/>

<sup>30</sup> Natural Environment and Rural Communities Act 2006 c. 16 <https://www.legislation.gov.uk/ukpga/2006/16/>



and decision-making. 'Conserving biodiversity' may include enhancing, restoring or protecting a population or a habitat.

- z. Section 41 requires the Secretary of State to publish and maintain lists of species and types of habitats which are regarded by Natural Resources Wales to be of "principal importance" for the purposes of conserving biodiversity in England.
- aa. These habitats and species of principal importance (HPI and SPI) are drawn from earlier lists of United Kingdom Biodiversity Action Plan Priority Species and Habitats. The Section 41 (S41) lists of HPI and SPI are needed by decision-makers in local and regional authorities when carrying out their duties under Section 40 of the Act.

## Environment Act 2021

- bb. The Environment Act 2021<sup>31</sup> was passed into law in November 2021. The Act applies only to England, although many of its measures are designed to be operable across the UK with the consent of devolved administrations. The Act requires statutory long-term (15+ years) targets to be set (and monitored, reported and reviewed) in the four priority areas of waste reduction, air quality, water resources and biodiversity as well as additional targets relating to species abundance and fine particulates by 2030.
- cc. The Environment Act amends the Town and Country Planning Act 1990<sup>32</sup> in that planning permissions granted after the provisions come into force<sup>33</sup> are deemed to be subject to a condition prohibiting the start of development before a biodiversity gain plan has been submitted to and approved by the Local Planning Authority (LPA).
- dd. The biodiversity gain plan must demonstrate a net gain of at least 10% in the biodiversity value of the development site "as at the time the development is completed". Biodiversity net gain must be demonstrated by calculations using the biodiversity metric (currently the Statutory Biodiversity Metric published by Natural Resources Wales).
- ee. The Environment Act introduces Local Nature Recovery Strategies (LNRS), a new system of spatial strategies for nature, covering the whole of England. LNRS are to be prepared and published by the 'responsible authority', namely the local authority, mayoral authority or National Park authority whose area is, or is within, the strategy area, the Broads Authority or Natural Resources Wales. Section 40 of the NERC Act (duty to conserve biodiversity) makes provision about the duties of public authorities in relation to LNRS.

---

<sup>31</sup> Environment Act 2001 c.30 <https://www.legislation.gov.uk/ukpga/2021/30/>

<sup>32</sup> Town and Country Planning Act 1990 c. 8 <https://www.legislation.gov.uk/ukpga/1990/8/>

<sup>33</sup> The Biodiversity Gain provision of the Environment Act requires the Secretary of State to first publish detailed regulations (see s147(3) of the Act). These are anticipated in November 2023.

- ff. A ‘responsible authority’ is to be appointed to lead each LNRS area, which could include LPAs and which in mayoral combined authorities is highly likely to be the mayor. The responsible Authority must map the most valuable existing natural habitat in its area and develop a biodiversity strategy, including specific proposals for creating or improving habitats and priorities for nature recovery.
- gg. In addition to the above, the Environment Act Part 6 (Nature and biodiversity) will also:
- Strengthen the biodiversity duty through amendments to Section 40 of the NERC Act.
  - Impose a duty upon Local Authorities to consult on street tree felling;
  - Strengthen woodland protection enforcement measures;
  - Introduce Conservation Covenants (agreements between a landowner and a responsible body);
  - Protected Site Strategies (prepared and published by Natural Resources Wales) to improve the conservation and management of a protected site (including SACs, SPAs listed before exit day, Sites of Community Importance (SCI)<sup>34</sup> listed before exit day and those sites proposed before exit day as SACs).
  - Species Conservation Strategies (prepared and published by Natural Resources Wales) to improve the conservation status of any species of flora or fauna, with which a LPA in England and any prescribed authority must have regard so far as relevant to its functions, including when discharging its duties under the 2017 Regulations (as amended);
  - Prohibit larger UK businesses from using commodities associated with wide-scale deforestation (where ‘forest’ is defined as “*an area of land of more than 0.5 hectares with a tree canopy cover of at least 10% (excluding trees planted for the purpose of producing timber or other commodities)*”, which includes “*land that is wholly or partly submerged in water whether temporarily or permanently*”);
  - Require regulated businesses to establish a system of due diligence for each regulated commodity used in their supply chain, requires regulated businesses to report on their due diligence, introduces a due diligence enforcement system.

## Hedgerow Regulations 1997

- hh. Important hedgerows are protected from removal by the Hedgerows Regulations<sup>35</sup> (as amended). Regulation 3 defines the hedgerows to which the Regulations apply. Regulation 4 sets out the criteria for identifying “important hedgerows” including ecological, landscape or historical/cultural reasons. Under the Hedgerow Regulations it is against the law to remove or destroy certain hedgerows without permission from the

<sup>34</sup> SCIs are established under the European Union Habitats Directive (92/43/EEC) and are (under the Habitats Directive) the pre-requisite step for establishing SACs and SPAs.

<sup>35</sup> The Hedgerow Regulations 1997 (SI 1997/1167) <https://www.legislation.gov.uk/ukSI/1997/1160/>

local planning authority. Works to “important hedgerows” are exempt under the Hedgerow Regulations if planning consent is granted which allows their removal.

- ii. The identification of important hedgerows also provides an additional means to value hedgerows aside from their botanical value (e.g. species richness) as the assessment of importance also includes characteristics relating to maturity and structure (e.g. associated features, connectivity, integrity) which will affect the functional value of the hedgerow.

## Protection of Badgers Act 1992

- jj. Badgers and their setts receive statutory protection under the Protection of Badgers Act 1992 (PBA)<sup>36</sup>. This makes it an offence to wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so; or to intentionally or recklessly interfere with a sett.
- kk. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it. A badger sett is defined in the legislation as “any structure or place, which displays signs indicating current use by a badger.”

## Wild Mammals (Protection) Act 1996

- ll. All UK wild mammals are afforded a degree of protection from certain cruel acts. The Act is intended to preserve animal welfare more so than nature conservation. The Act makes it an offence to use a variety of methods to intentionally cause suffering to a wild mammal. It also has exemptions including in relation to euthanasia and otherwise lawful use of certain methods of killing.

## Relevant National Policy

### National Planning Policy Framework

- mm. The National Planning Policy Framework (NPPF23)<sup>37</sup> sets out the Government’s planning policies for England and how these are expected to be applied at a local level in development plans and how developers should address them. The Framework places great emphasis on plans and developments contributing to sustainable development.
- nn. Policy relating to sustainable design, climate resilience and green infrastructure are integrated throughout the NPPF. Relating to the planning and delivery of large-scale developments, Paragraph 22 requires that a vision should look at least 30 years ahead.

---

<sup>36</sup> Protection of Badgers Act 1992 c. 51 <https://www.legislation.gov.uk/ukpga/1992/51/>

<sup>37</sup> National Planning Policy Framework (2023). Ministry of Housing, Communities & Local Government.. *National Planning Policy Framework* ([publishing.service.gov.uk](https://publishing.service.gov.uk))

- oo. Paragraph 74 identifies a number of considerations to help guide such large-scale proposals including consideration of opportunities presented by the scope for net environmental gains, ensuring sustainable communities, quality of places, rates of delivery and establishment of Green Belt around or adjoining new developments of significant size.
- pp. Paragraph 136 states that “Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are put in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained where possible.”
- qq. Paragraph 158 states that plans should take a proactive approach to mitigating and adapting to climate change, considering the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts.
- rr. Furthermore paragraph 159 requires that new development should be planned to avoid increased impacts from climate change. In areas which are vulnerable from impacts of climate change these should be mitigated against and managed through suitable adaption measures, such as green infrastructure.
- ss. Part 15 Paragraphs 180 to 188 relate expressly to conserving and enhancement the natural environment. Paragraph 180 requires that planning policies and decisions should contribute to and enhance the natural and local environment by:
  - protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
  - recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
  - maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
  - minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
  - preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- tt. Paragraphs 181 and 182 relate designated sites, prioritising allocation of land with least environmental or amenity value, establishing a strategic approach to maintaining and enhancement landscape networks and the sensitive location and design of development within the setting of designated sites to avoid or minimise impacts upon those sites.
- uu. Paragraphs 185 to 188 specifically relate to habitats and biodiversity. Under paragraph 185, plans should identify, map and safeguard designated sites of importance for biodiversity and wider ecological networks (corridors and stepping stones) that connect them, promote conservation, restoration and enhancement of these networks, priority habitats and priority species recovery in addition to pursuing measurable biodiversity net gain.
- vv. Paragraph 186 requires local planning authorities to apply the following principles when determining planning applications:
- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
  - development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
  - development resulting in the loss or deterioration of irreplaceable habitats<sup>38</sup> should be refused, unless are wholly exceptional reasons and a suitable compensation strategy exists; and;
  - development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.”
- ww. Paragraph 187 stipulates that the following should be given the same protection as habitats sites<sup>39</sup>:

<sup>38</sup> Noted by NPPF23 as “Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen”.

<sup>39</sup> Defined by NPPF23 as “Any site which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations, including candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation, Special Protection Areas and any relevant Marine Sites”.

- potential Special Protection Areas and possible Special Areas of Conservation;
  - listed or proposed Ramsar sites; and
  - sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.
- xx. Paragraph 188 confirms the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
- yy. Paragraphs 189 to 194 relate to ground conditions and pollution, including light pollution. Paragraph 191(c) requires policies and planning decisions ensure that new developments limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

### Government Circular 06/2005

- zz. Government Circular 06/2005<sup>40</sup> remains pertinent in national policy even though PPS9, which it originally supported, was revoked by the NPPF. NPPF23 references the Circular and the guidance contained within, namely the statutory obligations for biodiversity and geological conservation and their impact within the planning system.
- aaa. The Circular provides guidance on the protection of designated international and national nature conservation sites, non-designated sites, the conservation of species, and advice on the related issues and statutory powers.
- bbb. Part IV relates to conservation of species protected by law and confirms the presence of such a species is a material consideration for planning decisions. Paragraph 99 states “*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have addressed in making the decision*”.
- ccc. Paragraphs 104 to 117 summarise legal status of species afforded protection under the Habitats Regulations (now, the 2017 Regulations) and the licensing process while paragraphs 118 to 122 explain the same for species afforded protection under the WCA. Paragraphs 123 and 124 summarise the protective status of badgers under the PBA.

<sup>40</sup> Office of the Deputy Prime Minister (2005) ‘Government Circular: Geological and Biological Conservation – Statutory obligations and their implications within the planning system’ ODPM circular 06/2005, DEFRA circular 01/2005  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7692/147570.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7692/147570.pdf)



Paragraph 124 states that “*the likelihood of disturbing a badger sett, or adversely affecting badgers’ foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions. Although consideration of the case for granting a licence is separate from the process of applying for planning permission, a planning authority should advise anyone submitting an application for development in an area where there are known to be badger setts that they must comply with the provisions of the Act*”.

---

**HEAD OFFICE**

Tel: 01925 844004  
E-mail: [tep@tep.uk.com](mailto:tep@tep.uk.com)

**MARKET  
HARBOROUGH**

Tel: 01858 383120  
E-mail: [mh@tep.uk.com](mailto:mh@tep.uk.com)

**GATESHEAD**

Tel: 0191 605 3340  
E-mail: [gateshead@tep.uk.com](mailto:gateshead@tep.uk.com)

**LONDON**

Tel: 020 3096 6050  
E-mail: [london@tep.uk.com](mailto:london@tep.uk.com)

**CORNWALL**

Tel: 01326 240081  
E-mail: [cornwall@tep.uk.com](mailto:cornwall@tep.uk.com)

---