

5.3 Habitats

Buildings and Hardstanding

- 5.3.1 The Site is dominated by buildings and hard-standing. Aylesham shopping centre is formed of a large continuous brickwork building that offers retail space. A glass roof is present on the atrium of the building, with Morrisons shopping centre adjoining the main building. A large car park is present within the east of the Site, as well as a re-fuelling station.
- 5.3.2 Most built structures appear to be well-sealed with flush joints offering limited space for roosting bats or nesting birds. However, pigeons were noted within the Aylesham Centre walkways, as well as a large amount of bird droppings. No changes to the building or hardstand were noted during the updated habitat survey. This habitat is of low ecological value.

Scrub

- 5.3.3 There are some ornamental shrubs and scrub planted to the east and south of the Site around the car park. These mainly consist of cotoneaster and laurel (*Prunus laurocerasus*). They primarily form linear features near boundaries and are sparse within the Site. No changes to this habitat were noted during the updated habitat survey. This habitat is of negligible ecological value. As the patches of habitat were under the Minimum Mapping Unit (MMU) of 25m² these have been excluded from the habitat map found in Appendix A.

Trees

- 5.3.4 Scattered trees can be found around the Site both around the perimeter and across the car parking areas, such as sycamore (*Acer pseudoplatanus*), cherry (*Prunus* sp.) and ash (*Fraxinus excelsior*). The trees are of mixed maturity, and some have potential to support nesting birds. The trees have limited connectivity due to the nearby urban environment. The tree line present adjacent to Hanover Park are relatively mature and offer the best opportunity for nesting birds/roosting bats.
- 5.3.5 This habitat has a low ecological value.

6. Potential Impacts

6.1 Designated Sites & Priority Habitats

- 6.1.1 Given the scale of the Proposed Development, and the lack of likely impacts beyond the Site boundary (in line with a Construction Environmental Management Plan), nearby designated sites / priority habitats are sufficiently well separated so that no impacts on their designated features are anticipated because of the works.

6.2 Habitats

- 6.2.1 The ecological importance of the terrestrial habitats present within the Site is low, the impact is considered to be minimal. The minimal ecological disturbance would be contained on the Site only and will not impact the ecological habitats surrounding the Site.

6.3 Protected / Notable Species

6.3.1 The following section considers the likely impact of the proposals on protected or notable species. This is based on those species for which potentially suitable habitat occurs within or adjacent to the Proposed Development Site. Please refer to Table 2 for the definitions of the scale of constraints.

Bats

6.3.2 No evidence of bats was recorded during the external assessments of the buildings or trees at Aylesham Centre, Peckham. On the whole, the buildings were well sealed and offered very limited roosting opportunities. The buildings and structures, when considering the surrounding area and high levels of disturbance from humans and lighting, did not support any suitable roosting features, and are defined as having a negligible potential to support roosting bats in accordance with the BCT criteria. While there were some cracks within mortar of the brickwork, it is thought the features are too shallow to offer a real opportunity for roosting bats.

6.3.3 The Site may offer limited commuting and foraging opportunities for bats. However, the highly urban context of the Site, high levels of disturbance from lighting as well as sparse vegetation on Site allows for negligible opportunities for commuting and foraging bats.

Nesting birds

6.3.4 No sightings of black redstarts (*Phoenicurus ochruros*) have been recorded within 1 km of the Site in the last ten years. The Site provides a negligible potential for nesting black redstart and/or peregrine falcon (*Falco peregrinus*). Black redstart requires areas of sparse wasteland vegetation and stony ground for feeding and tall and complex structures with ledges and crevices for nesting, which are currently absent on the Site. Existing levels of disturbance on the Site and in the surrounding area would also likely discourage black redstart from nesting on the Site, even if suitable habitat was present.

6.3.5 A wide range of passerine bird species were recorded in the desk study. The habitats could support local assemblages of birds which might use the buildings and vegetation to nest within. Removal of vegetation and building refurbishment in the nesting bird season could impact active nests and cause a legal offence. Loss of the trees, ornamental planting and buildings would have the potential to result in the loss of nesting bird habitat. However, this loss will be offset through the planting of further shrubs and trees as incorporated within the Proposed Development.

6.3.6 The survey was conducted outside of breeding bird season; however, groups of starlings and pigeons were both noted on Site during the Phase 1 habitat walkover and during the updated site visit. The impact of the Proposed Development is considered to be low on nesting birds, and of a site scale, due to the limited habitats in the surrounding area.

Invertebrates

6.3.7 The Site includes very limited habitat for invertebrates. A minimal number of invertebrates have been recorded within 1 km of the Site within the last 10 years which suggests the impact of the Proposed Development on invertebrates is negligible.

Other mammals

- 6.3.8 The Site provides some suitable habitat for common mammals, such as red fox (*Vulpes vulpes*) including the car park which red foxes could use as a place of refuge. Common wild mammals, such as red fox, may venture onto the Site during the demolition and construction of the Proposed Development and there is a possibility that they may be killed or injured. Appropriate prevention measures will be incorporated.
- 6.3.9 A record of west European hedgehog (*Erinaceus europaeus*) was noted in the desk study. The Site does not offer suitable habitats for hedgehogs. The building refurbishment and construction works are considered unlikely to impact hedgehog populations and have therefore not been considered further within this assessment.
- 6.3.10 The impact on other mammals is considered to be low.

Plants

- 6.3.11 None of the habitats recorded during the extended Phase 1 habitat survey and the updated site survey are of high botanical or habitat value and no native plant species of national importance were present.
- 6.3.12 Cotoneaster was recorded on Site, and some species of this plant are listed on Schedule 9 of the Wildlife & Countryside Act (1981 as amended), which makes it illegal to distribute or allow the spread of cotoneaster species into the wild. The impact of this invasive species is considered to be low.

Table 6 Ecological Features and Scale of Constraint

Ecological Feature	Scale of Constraint
Statutory Designated Sites	Negligible
Non-Statutory Designated Sites / Notable Habitats	Negligible
Bats	Negligible
Other mammals	Low. Take precautions to ensure any holes are covered to not endanger fox species.
Nesting birds	Low. Site is likely used for nesting by common and widespread bird species.
Plants – invasive species	Low.

7. Compensation & Recommendations

7.1 Nesting birds

- 7.1.1 All birds, their active nests and eggs are protected from harm under the WCA. This legislation makes it an offence to kill, injure or take any wild bird or to take, damage or destroy the nest of any wild bird while that nest is in use or being built. An offence could therefore occur during clearance and refurbishment work on the Site.
- 7.1.2 The buildings and vegetation could support nesting birds. To ensure legal compliance, clearance of habitat suitable for nesting birds (all vegetation and buildings) should be undertaken outside the nesting bird season (i.e. between October and February inclusive). However, should this not be practical, the following measures must be adhered to:
- Works must be undertaken in line with a Precautionary Working Method Statement (PWMS);
 - Prior to clearance, an ecologist should carry out a nesting bird inspection of areas to be cleared;
 - Should any active birds' nests be found, the work may not take place within an appropriate established buffer zone (usually 5 m), which should be left intact until it has been confirmed that the young have fledged, and the nest(s) is no longer in use.

7.2 Wild mammals

- 7.2.1 All wild mammals, including red fox, are protected by the Wild Mammals (Protection) Act 1996 which makes it an offence to intentionally cause any wild mammal unnecessary suffering by certain methods. Common wild mammals, such as red fox, may venture onto the Site during the refurbishment and construction of the Proposed Development.
- 7.2.2 To avoid an offence, measures should be employed during the construction phase, including the covering of all deep holes and trenches overnight and/or the provision of planked escape routes for any wildlife that may fall in. In addition, any liquids held on-Site should be stored in a secure lock-up. These measures should be implemented through a Construction Environmental Management Plans (CEMP). Hoarding around the perimeter of the Site should also minimise the likelihood of any wild mammals gaining access to the Site.

7.3 Plants – Invasives

- 7.3.1 Some species of cotoneaster are listed on Schedule 9 of the Wildlife and Countryside Act. When removing this plant, it must be chipped or burnt on Site or removed to a licenced landfill as controlled waste.

7.4 Landscape Management Plan

- 7.4.1 A Landscape Management Plan should be developed for the Site. The aim of the plan would be to facilitate the appropriate maintenance of landscaped areas and to provide replacement planting, as necessary. The plan would also outline proposed management measures to maintain the ecological value of any new habitats created, such as biodiverse roof(s) and areas of new planting.

8. Enhancements

- 8.1.1 Planning policy at the national and local level and strategic biodiversity partnerships encourage inclusion of ecological enhancements in development projects. Ecological enhancements can also contribute to green infrastructure and ecosystem services such as storm water attenuation and reducing the urban heat island effect. The following measures would be suitable for integration into the Proposed Development Site's design.

Native tree and scrub planting

- 8.1.2 It is recommended that trees on Site be retained and protected during construction where possible. It is recommended that native trees and scrub species are included within any landscaping to enhance the Site.
- 8.1.3 It is recommended wildlife planting should be integral to the soft landscape plans and should include native species and/or species of recognised wildlife value. The use of nectar-rich and berry producing plants will attract a wider range of insects, birds and mammals and continue to accommodate those already utilising the Site. Where possible, larger shrubs should be under-planted to create greater structure and cover for wildlife. The use of block planting of single species should be avoided in favour of a higher diversity of plant types per square metre.

Good horticultural practice

- 8.1.4 Good horticultural practice should be utilised, including the use of peat-free composts, mulches and soil conditioners, native plants with local provenance and avoidance of the use of invasive species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended).

Installation of Green Roofs

- 8.1.5 It is recommended that green roofs containing intensive planting are provided on the proposed buildings. To maximise biodiversity, this should comprise of the intensive planting of a range of native grasses and flowering plants. This would provide habitat for birds and invertebrates and would represent a valuable ecological enhancement. This should ideally only be accessible for maintenance purposes, to minimise disturbance to wildlife. If the roof terraces are to be open to the public, it is recommended that the intensive planting is kept off walking routes to avoid disturbance.
- 8.1.6 Other features could be installed on an intensive green roof terrace, to enhance its ecological value. A bird bath and bird feeders could be provided, to provide washing and feeding opportunities for birds. Stone or log piles would also provide shelter for a variety of invertebrates. An insect house could also be installed.

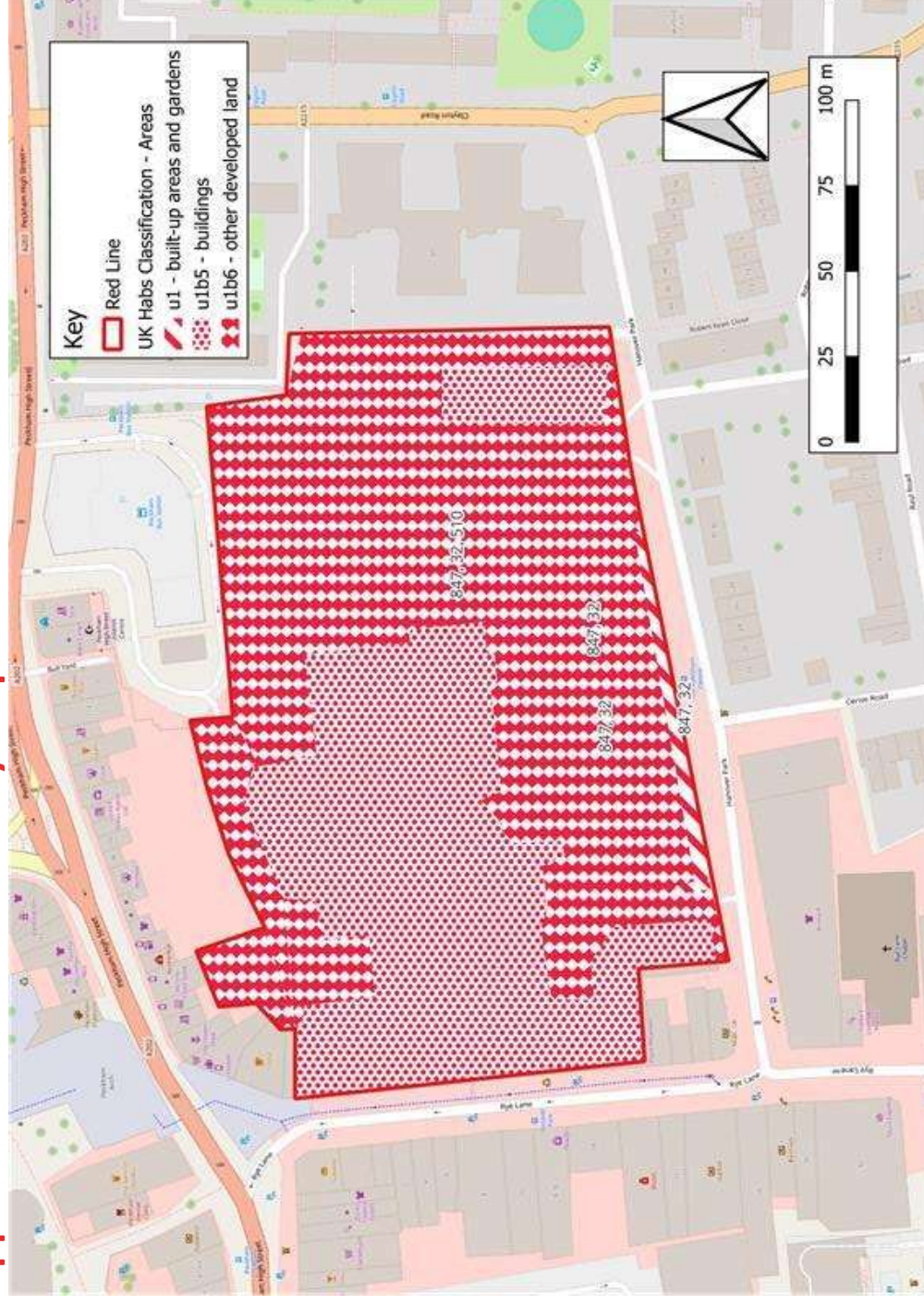
Provision of wildlife boxes

- 8.1.7 Bird boxes could be installed within the tree planting on the ground and on the roof amongst green roof terraces.
- 8.1.8 Insect houses and bee bricks can be installed both within the ground level intensive planting and on the intense green roof terraces.

- 8.1.9 Bird boxes should be installed on the refurbished buildings, to provide roosting habitat for bats and nesting habitat for birds, respectively. These could be installed onto or within the walls or on the roof of the buildings.
- 8.1.10 Bird boxes should be installed with different sized holes (including both 32 mm and 26 mm diameter) to cater for different species, including notable species that could occur on the Site. This should include nest boxes for house sparrow on the proposed buildings, such as the 'Schwegler 1SP Sparrow Terrace'. A further suggestion is the 'Schwegler No 24 Brick Box' and 'Schwegler 1B Bird Box', including both 32 mm and 26 mm diameter holes. These boxes should also be located adjacent to any landscaped areas, at least 3 m above the ground and facing southeast to north, to avoid direct sunlight and the heaviest rain.

9. Appendices / Annexes

Appendix A Habitat Survey Map



Appendix B Photographs of the Site

Photograph 1: Main entrance of Aylesham Centre on Rye Lane	Photograph 2: Main entrance of Aylesham Centre on Rye Lane
	
Photograph 3: Main entrance of Aylesham Centre on Rye Lane	Photograph 4: Glass atrium within Aylesham Centre
	

Photograph 5: Glass atrium within Aylesham Centre



Photograph 6: Glass atrium within Aylesham Centre. Pigeon visible



Photograph 7: Edge of Site boundary on Rye Lane

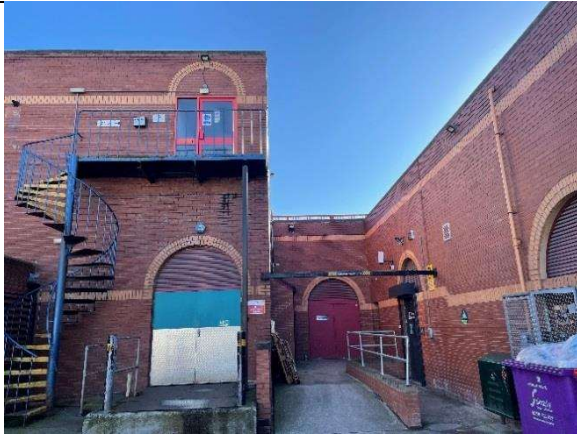


Photograph 8: Morrisons from bus garage



Photograph 9: Morrisons goods entrance 	Photograph 10: Morrisons goods entrance 
Photograph 11: Morrisons goods entrance 	Photograph 12: Morrisons goods entrance boundary 
Photograph 13: Morrisons goods entrance 	Photograph 14: Morrisons goods entrance. 

Photograph 15: Morrisons goods entrance



Photograph 16: Morrisons goods entrance and cracks within mortar



Photograph 17: Re-fueling station



Photograph 18: Re-fueling station



Photograph 19: View from the square facing south.



Photograph 20: The east façade of the building



Photograph 21: Tunnel facing the west of the Site.



Photograph 22: Holly tree (Ilex) to the south of the Site.

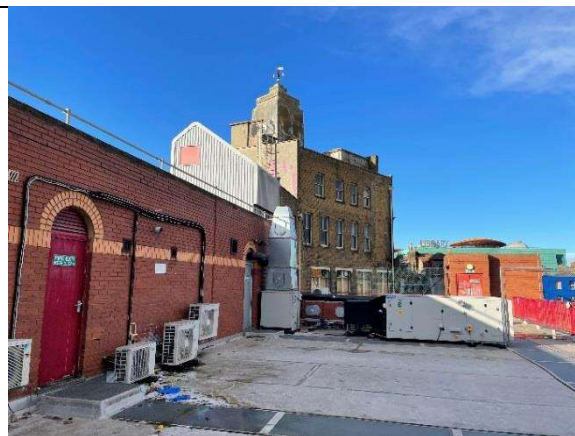


Photograph 23: Trees present in north of the Site.	Photograph 24: Trees present in south-east of the Site.
	
Photograph 25: Tree present within car park	Photograph 26: Trees adjacent to Hanver Park
	

Photograph 27: Roof of the Aylesham Centre/Morrisons.



Photograph 28: Roof of the Aylesham Centre



Appendix C Relevant Legislation

The Environment Act 2021

The focus of the Act is the “...provision for targets, plans and policies for improving the natural environment...” and its requirements are structured around a number of broad themes (noting this is not a comprehensive summary of the provisions):

Nature and biodiversity – Part 6 of the Act importantly makes provision for “*biodiversity gain in planning*” which will apply to applications under the Town & Countryside Act and the Planning Act. In addition, the responsibilities on Government or public bodies have changed, including through:

- strengthening the existing biodiversity duty;
- requiring biodiversity reports;
- setting up local nature recovery strategy areas;
- providing for national habitat mapping; and
- establishing species conservation and protect site strategies.

Section 98 and 99 introduce biodiversity gain requirements that make changes to the Town & Country Planning Act and The Planning Act. The commencement of these changes and whether secondary legislation will be required to enact them will have to be subject to legal interpretation and advice.

Conservation covenants– Part 7 of the Act makes provisions for conservation covenants which essentially support the “*biodiversity gain in planning*” concept by providing a mechanism through which any gains can be secured and managed. These come into force at the point that the Secretary of State “*by regulations appoints*”.

The Conservation of Habitats and Species Regulations 2017 (as amended)

The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. Most of these changes involved transferring functions from the European Commission to the appropriate authorities in England and Wales. The Regulations transpose Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European Protected Species', and the adaptation of planning and other controls for the protection of European Sites.

Under the Regulations, competent authorities (i.e. government departments and public bodies) have a general duty to have regard to the EC Habitats Directive and Wild Birds Directive. The Regulations place a duty on the Secretary of State to propose a list of sites which are important for either habitats or species (listed in Annexes I and II of the Habitats Directive respectively) to the European Commission. The Regulations also require the compilation and maintenance of a register of European sites, to include SACs and Special Protection Areas (SPAs) classified under Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive). These sites form a network termed Natura 2000, now referred to as 'National Site Network'. The Regulations enable the country agencies to enter into management agreements on land within or adjacent to a European site, in order to secure its conservation.

The Regulations also provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. When considering potentially damaging operations, the precautionary principle applies i.e. consent cannot be given unless it is ascertained that there will be no adverse effect on the integrity of the site.

The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licences by the appropriate authorities. Licences may be granted for a few purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild populations of the species concerned.

The Wildlife and Countryside Act 1981 (as amended)

The Wildlife and Countryside Act 1981 (as amended) consolidates and amends pre-existing national wildlife legislation in order to implement the Bern Convention and the Birds Directive. It complements the Conservation of Habitats and Species Regulations 2017 (as amended), offering protection to a wider range of species. The Act also provides for the designation and protection of national conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSIs).

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

Schedule 1 – Part 1 relates to birds and their young, for which it is an offence to intentionally or recklessly disturb at, on or near an ‘active’ nest. Schedule 1 – Part 2 relates to birds afforded special protection during the close season which is 1 February to 31 August (21 February to 31 August below high-water mark), but which may be killed or taken outside this period.

The Countryside and Rights of Way (CROW) Act 2000

The CROW Act, introduced in England and Wales in 2000, amends and strengthens existing wildlife legislation. Legislation detailed in the Wildlife and Countryside Act 1981 (as amended) places a duty on government departments and the National Assembly for Wales to have regard for biodiversity and provides increased powers for the protection and maintenance of SSSIs. The Act also contains lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

The Natural Environment and Rural Communities (NERC) Act 2006

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

UK Biodiversity Action Plan

The United Kingdom Biodiversity Action Plan (UK BAP), first published in 1994 and updated in 2007, was a government initiative designed to implement the requirements of the Convention of Biological Diversity to conserve and enhance species and habitats. The UK BAP contained a list of priority habitats and species of conservation concern in the UK and outlined biodiversity initiatives designed to enhance their conservation status. Lists of Broad and Local habitats were also included. The priority habitats and species correlated with those listed on Section 41 and 42 of the NERC Act.

The UK BAP required that conservation of biodiversity be addressed at a County level through the production of Local BAPs. These were complementary to the UK BAP, however, were targeted towards species of conservation concern characteristic of each area. In addition, several local authorities and large organisations have produced their own BAPs.

Species and Habitats of Material Consideration for Planning in England – UK Post-2010 Biodiversity Framework

In 2011, the government published the 'Biodiversity 2020: A strategy for England's wildlife and ecosystem services' to replace the previous England Biodiversity Strategy. In 2012 the UK BAP was replaced by the UK Post-2010 Biodiversity Framework.

Previous planning policy (and some supporting guidance which is still current, e.g. ODPM Circular 06/2005, now under revision), refers to UK BAP habitats and species as being a material consideration in the planning process. Equally many local plans refer to BAP priority habitats and species. Both remain as material considerations in the planning process, but such habitats and species are now described as Species and Habitats of Principal Importance for Conservation in England, or simply priority habitats and priority species under the UK Post-2010 Biodiversity Framework. The list of habitats and species remains unchanged and is still derived from Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006. As was previously the case when it was a BAP priority species hen harrier continues to be regarded as a priority species although it does not appear on the Section 41 list.

The 'UK Post-2010 Biodiversity Framework', published in July 2012 succeeds the UK BAP and 'Conserving Biodiversity – the UK Approach'. The framework was produced by JNCC and Defra to set a broad enabling structure for action across the UK. Its purpose was to:

- Set out a shared vision and priorities for UK-scale activities, in a framework jointly owned by the four countries, and to which their own strategies will contribute.
- Identify priority work at a UK level which will be needed to help deliver the Aichi Targets and the EU Biodiversity Strategy.
- Facilitate the aggregation and collation of information on activity and outcomes across all countries of the UK, where the four countries agree this will bring benefits compared to individual country work.
- Streamline governance arrangements for UK-scale activity.

Natural Environment White Paper – ‘The Natural Choice: securing the value of nature’ 2011

The principal aims of Natural Environment White Paper, published in June 2011, are to preserve and improve the natural environment, and build a connection between people and nature as well as introducing policies that will help ‘move progressively from net biodiversity loss to net gain’ through reforms such as ‘biodiversity offsets’.

The ‘Biodiversity 2020: A strategy for England’s wildlife and ecosystem services’ strategy builds on this, offering a more comprehensive approach to stop biodiversity loss such as emphasis on preserving and maintaining important habitats, priority habitats and connections between areas with special status such as SSSIs.

Birds of Conservation Concern 5: the Red List for Birds

The latest review of Birds of Conservation Concern 5: the Red List for Birds was published in December 2021.

Commonly referred to as the UK Red List for birds, this is the fifth review of the status of birds in the UK, Channel Islands and Isle of Man, and updates the last assessment in 2015. Using standardised criteria, 245 species with breeding, passage or wintering populations in the UK were assessed by experts from a range of bird NGOs and assigned to the Red, Amber or Green lists of conservation concern.

Protection of Badgers Act 1992

Under the Protection of Badgers Act 1992, it is an offence to disturb a badger in its sett or damage, destroy or obstruct access to a badger sett. If the proposed work will involve works coming within 30 m of an active badger sett Natural England’s standing advice will need to be consulted and a mitigation plan drawn up. After which a licence will need to be applied for from Natural England to undertake any works. It should be noted that badgers cannot be captured and moved purely for development purposes.

Invasive Species (Enforcement and Permitting) Order 2019

This Order allows for the enforcement of Regulation (EU) No. 1143/2014 on the prevention and management of the introduction and spread of invasive alien species in England and Wales, including the relevant licences, permits and rules for keeping invasive alien species.

An enforcement regime is introduced, including criminal offences, licencing, and permitting provisions for Regulation (EU) No. 1143/2014 on the prevention and management of the introduction and spread of invasive alien species (“The IAS Regulation”).

The IAS Regulation lists species of concern which cannot be imported, kept, bred/grown, transported, sold, used, allowed to reproduce, or released into the environment. There are currently 49 species listed, which can be found in the Annex of Regulation (EU) No. 2016/1141 adopting a list of invasive alien species of Union concern pursuant to Regulation (EU) No 1143/2014. The regulator is Natural England for England, offshore marine areas, and in relation to imports and exports.