

Kent Sussex Ecology

Ecological Impact Assessment

Cherry Dene, Gravesend

November 2023

Reference number: 0159

Version: 1.0

Luke Wallace ACIEEM

The copyright of this document remains with Kent Sussex Ecology. All rights reserved. The contents of this document must not

Information and opinions within this report are considered to be accurate in accordance with the observation, skills and experience of the ecologist(s). The information set out within this report does not constitute a legal opinion and professional advice should be sought for legal interpretation.

No liability or responsibility is accepted by Kent Sussex Ecology for any use of this report, other than for the purposes for which it was originally prepared and provided. The content of this report is partly based on information provided by third parties; Kent Sussex Ecology accepts no liability for any reliance placed on such information.



CONTENTS

1.0.	Summary.....	3
2.0.	Introduction.....	4
3.0.	Methodology	4
4.0.	Baseline Ecological Conditions	5
4.1.	Designated Sites.....	5
4.2.	Habitats.....	5
4.3.	Protected Species.....	5
5.0.	Conclusion and Recommendations	8
5.1.	Designated Sites.....	8
5.2.	Habitats.....	8
5.3.	Protected Species.....	10
5.4.	Breeding Birds	10
5.5.	Badger	10
5.6.	Great Crested Newt.....	10
5.7.	Ecological Enhancement	11
Appendix A: Photographs		13
Appendix B: Legislation and Policy		14



1.0. SUMMARY

The site is currently a curtilage for a single dwelling and consists of amenity lawn, hedgerow boundaries, an ornamental pond, several small outbuildings (sheds) and scattered trees. The proposed development is for the provision of two dwellings within the curtilage, with associated access and parking. There is unlikely to be any impact on protected species or overall biodiversity value; however, precautionary mitigation measures for protected species and ecologically beneficial landscaping measures have been recommended.

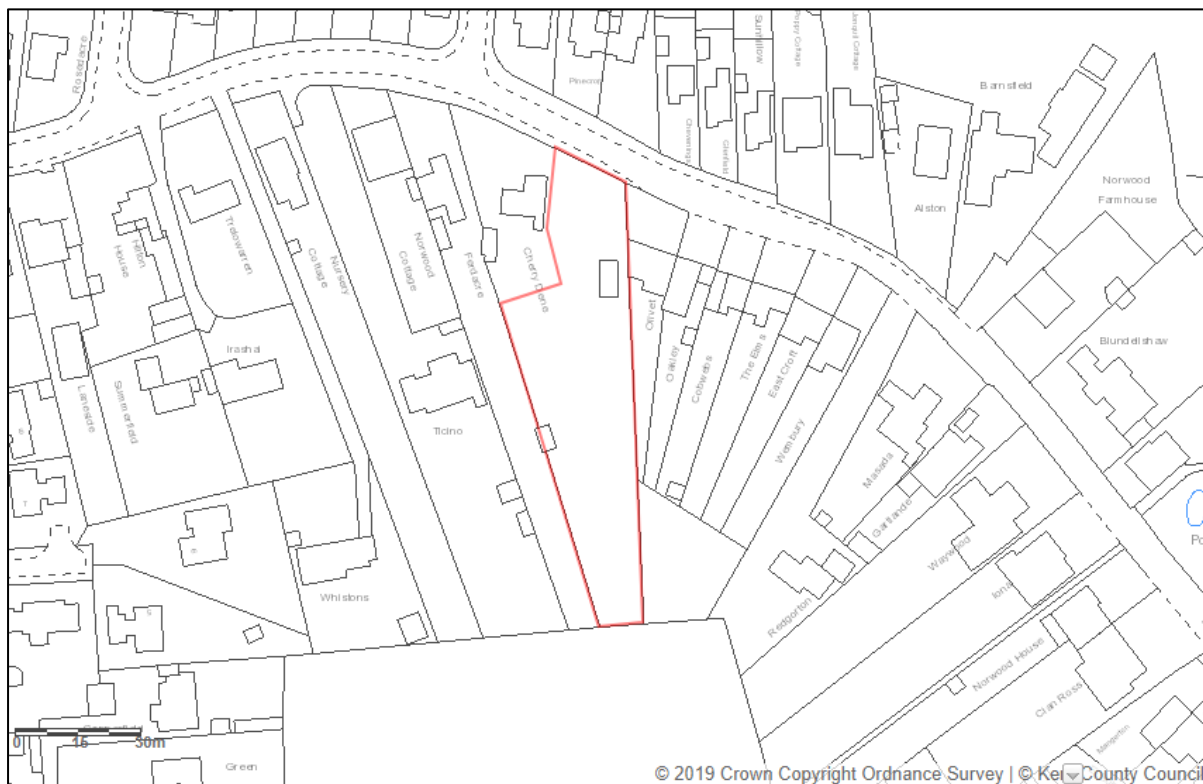


Figure 1. Site location plan.

Designated Sites	The site falls within the impact zone for 'Shorne and Ashenbank Woods' Site of Special Scientific Interest, but this application will not trigger consultation with Natural England. The proposed development is unlikely to have any significant impacts on the surrounding designated sites.
Habitats	The habitats on-site are considered typical of a maintained curtilage environment and do not meet the criteria for priority habitats. It is anticipated that the loss of habitat and ecological features (the trees and ornamental pond) can be offset with a well-designed soft landscape plan.
Protected Species	The site survey visit and desktop study indicate that protected species are unlikely to inhabit or frequent the site and, therefore, no further surveys have been recommended. Precautionary mitigation measures for the construction phase have been recommended for Great Crested Newt, badger and breeding birds. Recommendations have also been made for a sensitive lighting design regarding the operational development.



2.0. INTRODUCTION

- 2.1. Kent Sussex Ecology Ltd was commissioned to undertake an Ecological Impact Assessment (EclA) at 'Cherry Dene Norwood Lane Meopham Gravesend Kent DA13 0YE'. The site is approximately centred around grid reference TQ64466750.
- 2.2. The site (red-line boundary) is 0.2ha in size and is currently used as a residential curtilage. The site predominately consists of amenity grassland, several mature non-native conifers (and other scattered trees), hedgerows, an ornamental pond and two small outbuildings (sheds).
- 2.3. The main objectives of the PEA were to:
 - Identify all relevant statutory and non-statutory designated sites and features of ecological significance within the site and its surroundings.
 - Assess the potential for the presence of protected species and species of principal conservation importance, important habitats or other biodiversity features within the site and its surroundings.
 - Provide recommendations for further surveys as necessary.
 - Present the likely significance of ecological impacts from a development proposal.
 - Present any likely mitigation and compensation measures to be required in relation to the relevant legislation and policy.

3.0. METHODOLOGY

- 3.1. A desktop study was carried out using DEFRA's website MAGIC¹, NBN Atlas² and other record data resources, for records of site designations, protected species and habitat information.
- 3.2. An on-site survey was undertaken on 24th October 2023 in alignment with current CIEEM guidance³ and JNCC phase one survey guidance⁴. There were no limitations regarding access to all areas of the site.
- 3.3. The surveyor and author of the report is a qualified (BSc) and CIEEM-accredited ecologist with over a decade of experience in the field of ecology. The report will remain valid for 12 to 36 months in accordance with current CIEEM guidance.

¹ magic.defra.gov.uk/magicmap.aspx

² records.nbnatlas.org/

³ cieem.net/resource/guidance-on-preliminary-ecological-appraisal-gpea/

⁴ data.jncc.gov.uk/data/9578d07b-e018-4c66-9c1b-47110f14df2a/Handbook-Phase1-HabitatSurvey-Revised-2016.pdf



4.0. BASELINE ECOLOGICAL CONDITIONS

4.1. DESIGNATED SITES

4.1.1. The site is not situated within, or adjacent to, any statutory designated site. The nearest statutory designated site is the 'Shorne and Ashenbank Woods' Site of Special Scientific Interest (SSSI), located approximately 2940m to the north-east.

4.1.2. All designated sites within 6km of the site:

<i>Statutory designated site</i>	<i>Distance from the site</i>
Shorne and Ashenbank Woods SSSI	2940m
Halling to Trottiscliffe Escarpment SSSI	3560m
North Downs Woodlands SAC	3540m
Cobham Woods SSSI	3670m

4.1.3. There are no non-statutory designated sites for nature (including ancient woodland) or 'priority habitat' (as listed under Section 41 of the NERC Act 2006) within 500m of the site.

4.2. HABITATS

The site primarily consists of a well-maintained amenity lawn (curtilage). There are c.20 trees scattered throughout the red-line boundary site (excluding boundary trees), but most of these are considered to be of low ecological value. Two of these trees are considered to be of considerable size; a cedar and a redwood (roughly situated in the middle of the curtilage). Additionally, there is a yew tree in the roadside hedge (northern boundary) of reasonable age. The remaining trees consist of cherry, silver birch and willow.

4.2.1. The site's boundaries consist of hedgerows, containing both a mix of native and non-native species of varying maturity, and an ornamental pond is located in the north of the site. The curtilage also contained two single-storey sheds (one along the eastern boundary and one along the western boundary).

4.2.2. As the site is situated in an urbanisation setting, it is considered to have poor habitat connectivity to the wider natural environment. No Schedule 9 species were noted on-site.

4.3. PROTECTED SPECIES

4.3.1. The only protected species record returned by a search of the biological record data within a 1km radius of the site was for pipistrelle bats. However, the structures and trees on-site were considered to have negligible potential for roosting bats.

4.3.2. Given the well-maintained use of the site as a curtilage and its relatively urbanised setting, it is considered that protected species are expected to be absent (with the exception of breeding

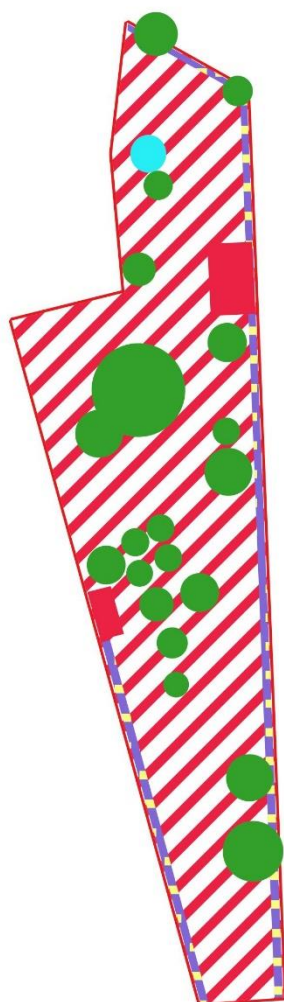


birds within mature trees and hedgerows). No evidence of protected species use was observed during the site survey.

- 4.3.3. The garden pond on-site is relatively small (roughly 3m x 2m) and is inhabited by fish. The pond was subject to HSI assessment and scored 0.30, which is considered 'poor' for Great Crested Newt (GCN). While there could be potential for GCN to be present, mapping data suggests there is only one pond within a 1km radius of the site and little to no habitat connectivity to maintain a GCN population in the area. The putative lack of GCN is also corroborated by the lack of records of the species and GCN licences acquired in the area.



Cherry Dene Habitat Baseline



- Trees
- Ornamental Pond
- Outbuildings
- Hedgerow
- Curtilage
- Red-line Boundary

0 10 20 m



Reproduced with
Google Satellite

Figure 2. Habitat baseline.



5.0. CONCLUSION AND RECOMMENDATIONS

5.1. DESIGNATED SITES

- 5.1.1. Schedule 4(w) of the Town and Country Planning (Development Management Procedure) Order 2015 states that Natural England must be consulted on “Development in or likely to affect a Site of Special Scientific Interest”.
- 5.1.2. Paragraph 180 of the National Planning Policy Framework (NPPF) 2023 states that “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”.
- 5.1.3. Regarding the European designation (SPA and SAC), Article 6(3) of the Habitats Directive 2017, states that “Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public”.
- 5.1.4. Policy CS12 of the Gravesham Local Plan 2014 states “Sites designated for their biodiversity value will be protected, with the highest level of protection given to internationally designated Special Protection Areas, Special Areas of Conservation and Ramsar sites, followed by nationally designated Sites of Special Scientific Interest, followed by Local Wildlife Sites and then by other areas of more local importance for biodiversity”.
- 5.1.5. The site falls within the impact zone for the ‘Shorne and Ashenbank Woods’ SSSI but a two-dwelling residential application would not trigger the need for consultation with Natural England.
- 5.1.6. Overall, it is considered that a residential proposal of this scale and within this locality would not entail ‘significant effects’ or a ‘material impact’ on any of the surrounding designated sites.

5.2. HABITATS

- 5.3.1. There are certain habitat types listed as habitats of principle importance, or ‘priority habitats’, under the NERC Act 2006 which, in accordance with Section 41 of the Act, are capable of being a “...material consideration in the... ..making of planning decisions” (Paragraph 84, Government Circular (ODPM 06/2005)).



- 5.3.2. The habitats on-site are considered to be relatively common and of low ecological value. They do not meet the criteria to be considered 'priority habitats' and, therefore, are not considered a material consideration in the planning determination process.
- 5.3.3. Paragraph 174 of the National Planning Policy Framework (2023) states "Planning policies and decisions should contribute to and enhance the natural and local environment by... ...minimising impacts on and providing net gains for biodiversity...".
- 5.3.4. The proposed development will entail the loss of a section of the roadside hedgerow, the ornamental pond, some of the site's trees (but excluding the large cedar) and an area of grassland. To offset this loss, new native species planting will be implemented as part of the development's soft landscape design. The new planting will be focused around the entrance track and to the rear of the retained curtilage (blue-line boundary). Additionally, a new pond will be created in the retained existing curtilage.
- 3.1.1. To ensure that the biodiversity value of the soft landscaping is maximised, avoid disturbance on nocturnal protected species (such as bats and badgers) and negate impacts to the adjacent designated site, there should be no additional light spill. Importantly, any development must not have continuous external illumination throughout the entire night. Any installed lighting should adhere to the following points:
- Only luminaires with 0% upward light ratio should be used and fitted on the horizontal to avoid excessive up-lighting, back lighting and light spill onto boundary hedgerows and trees;
 - Lamps of greater than 2000 lumens (150 W) must not be used;
 - Light emitting diodes (LED) should be used, as these typically feature no UV component and as a result are less attractive to invertebrates and less disturbing to bats;
 - A warm white spectrum (ideally under 2700 Kelvin) should be used in order to reduce the blue light component, therefore reducing the number of invertebrates attracted to the lights;
 - Internal luminaires can be recessed where installed in proximity to windows to reduce glare and light spill;
 - Movement sensors or timers must be used - they must be carefully installed and aimed, to reduce the amount of time a light is on;
 - Light must illuminate only the immediate area required, by using as sharp a downward angle as possible;
 - Light must not be directed at or close to bat roost access points or flight paths from the roost - a shield or hood can be used to control or restrict the area to be lit;
 - As a last resort, accessories such as baffles, hoods or louvres can be used to reduce light spill and direct it only to where it is needed, and;



- Where habitat needs to be unlit (e.g., important foraging and commuting corridors/roost sites), illuminance should be below 0.2 lux on the horizontal plane and below 0.4 lux on the vertical plane.

5.3. PROTECTED SPECIES

- 5.3.5. Paragraph 99 of the ODPM 06/2005 states that "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 been addressed in making the decision".
- 5.3.6. Other than breeding birds, protected species are unlikely to inhabit the site. Therefore, it is concluded that precautionary mitigation measures for the construction phase of the development are sufficient to avoid impacts to protected species. These measures are detailed below.

5.4. BREEDING BIRDS

- 5.4.1. Under the Wildlife and Countryside Act 1981 (as amended), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built.
- 5.4.2. Any work to vegetation that may provide suitable nesting habitat for birds should be undertaken outside of the breeding bird season (March to August, inclusive). If vegetation needs to be removed during the breeding bird season, it is recommended that an experienced ecologist inspect the vegetation prior to works commencing. If nesting birds are found to be present, works cannot take place until the young are fully fledged.

5.5. BADGER

- 5.5.1. Under the Protection of Badgers Act (1992), badgers and their setts are afforded legal protection. Under this Act it is an offence to wilfully kill, injure, ill-treat, take or possess a badger, as well as to damage, destroy or obstruct access to a sett, or to interfere with a sett whilst it is occupied (causing disturbance to a badger). If disturbance to an active sett is probable, then a licence may need to be obtained from Natural England before any works can commence.
- 5.5.2. To prevent adverse impacts to badgers during the construction phase of any development, all trenches and excavations will be covered overnight and/or escape routes provided to prevent terrestrial fauna from being harmed or becoming trapped.

5.6. GREAT CRESTED NEWT

- 5.6.1. Great Crested Newt (GCN) is afforded full legal protection under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). It is also listed under Schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended). The combined legislation makes it an offence to:
- intentionally or deliberately capture, kill or injure a great crested newt;

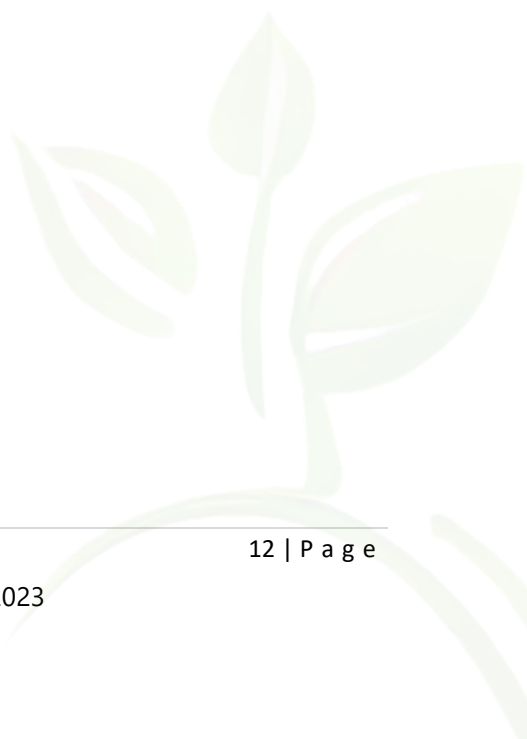


- intentionally or recklessly damage, destroy or obstruct access to any place used for shelter and protection including resting and breeding places, whether occupied or not, and;
- deliberately, intentionally or recklessly disturb a great crested newt when in a place of shelter.

5.6.2. Since it is considered that there is a negligible risk of potential impacts to GCN, specific mitigation measures are only recommended on a precautionary basis. Therefore, it is recommended that the small ornamental pond is carefully decommissioned outside of the winter period, with the contents of the pond being relocated to the site margins. This should be left for 24 hours before being removed to allow any aquatic wildlife the opportunity to disperse away from the area.

5.7. ECOLOGICAL ENHANCEMENT

- 5.7.1. Paragraph 174 of the National Planning Policy Framework (2023) states “Planning policies and decisions should contribute to and enhance the natural and local environment by... ..minimising impacts on and providing net gains for biodiversity...”.
- 5.7.2. As mentioned above, a native species-only planting scheme will maximise the biodiversity value of the development’s soft landscape. The addition of a replacement pond within the blue0line boundary will also contribute to a higher biodiversity value.
- 5.7.3. To further enhance the biodiversity value of the development, it is recommended that the dwellings integrate bird nest bricks, where possible. Ideally, this would be for declining species found in this environment. Examples include Swifts, Starlings and House Sparrows.





APPENDIX A: PHOTOGRAPHS



The northern boundary hedgerow.



The ornamental pond in the north of the site.



Viewing north from the middle of the curtilage.



A view of the south section of the curtilage.



The largest tree on-site; a cedar (to be retained).



APPENDIX B: LEGISLATION AND POLICY

The Wildlife and Countryside Act (as amended) 1981

The Wildlife and Countryside Act 1981 (as amended) is the principal piece of UK legislation relating to the protection of wildlife. It consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the Conservation of Wild Birds (Birds Directive) in Great Britain.

The Act makes it an offence to:

Intentionally kill, injure, or take any wild bird or their eggs or nests (with exception to species listed in Schedule 2). Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young.

Intentionally kill, injure, or take, possess, or trade in any wild animal listed in Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places (subject to exceptions). The Act also prohibits certain methods of killing, injuring, or taking wild animals listed in Schedule 6.

Uproot, trade in, or possess (for the purposes of trade) any wild plant listed in Schedule 8, and prohibits the unauthorised intentional uprooting of such plants (subject to exceptions).

Facilitate the establishment of non-native species which may be detrimental to native wildlife, prohibiting the release of animals and planting of plants listed in Schedule 9. It also provides a mechanism making any of the above offences legal through the granting of licences by the appropriate authorities.

The Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 (the 'Habitat Regulations'), as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, establish the requirements for protecting sites that are internationally important for threatened habitats and species and thus the requirement for a 'Habitat Regulations Assessment' of plans or developments with potential to affect them.

The Habitat Regulations also establish the strict protection of some species (European Protected Species) and make it an offence to deliberately capture, kill or disturb certain wild animals, and to damage or destroy a breeding site or resting place of such an animal even if the animal is not present at the time.

The competent authority will have to adhere to the requirements of the Habitats Directive in the exercise of their functions. As such, they must consider whether it is likely that an EPSM Licence from Natural England will be granted, and in so doing must address the three tests when deciding whether to grant planning permission for the proposed development. The three tests are that:

Regulation 55(2)(e) states: a licence can be granted for the purposes of *"preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment"*.

Regulation 55(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied *"that there is no satisfactory alternative"*.

Regulation 55(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied *"that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."*

Natural Environment and Rural Communities Act 2006

Section 41 of the NERC Act requires the Secretary of State to publish a list of habitats and species that are of principal importance for the conservation of biodiversity in England. The S41 list is used to guide decision-makers such as local planning authorities, in implementing their duty under Section 40 of the Act, to have regard to the conservation of biodiversity in England, when exercising their normal functions. 56 habitats and 943 species of principal importance are included on the S41 list. These are all the habitats and species in England that were identified as requiring action in the UK Biodiversity Action Plan (BAP).



National Planning Policy Framework 2023

The National Planning Policy Framework (NPPF) sets out the view of central government on how planners should balance nature conservation with development and helps ensure that government meets its biodiversity commitments with regard to the operation of the planning system.

Section 15 of the NPPF sets out key policy requirements regarding ecology and development.

Paragraph 174 of the NPPF: “Planning policies and decisions should contribute to and enhance the natural and local environment by... ..minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures”.

The Protection of Badgers Act 1992

The legislation affording protection to badgers is primarily concerned with animal welfare and the need to protect badgers from activities such as baiting and deliberate harm. The Protection of Badgers Act 1992 makes it an offence to:

Wilfully kill, injure, take, possess or cruelly ill-treat a badger, or attempt to do so;

To intentionally or recklessly interfere with a sett (this includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it).

As with The Wildlife and Countryside Act 1981 (as amended), there are several defences to prosecution in the legislation and the text should be consulted for details of these. Penalties for offences include fines up to £5,000, plus up to six months imprisonment for each illegal sett interference, or badger death or injury.

Hedgerows Regulations 1997

Important’ hedgerows (as defined by the Regulations) are protected from removal (up-rooting or otherwise destroying). Criteria specified in the regulations are employed to identify ‘important’ hedgerows for wildlife, landscape or historical reasons.

Office of the Deputy Prime Minister 06/2005

Paragraph 99 of the ODPM 06/2005 states that “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 been addressed in making the decision”.

Gravesham Local Plan 2014

Policy CS12: Sites designated for their biodiversity value will be protected, with the highest level of protection given to internationally designated Special Protection Areas, Special Areas of Conservation and Ramsar sites, followed by nationally designated Sites of Special Scientific Interest, followed by Local Wildlife Sites and then by other areas of more local importance for biodiversity.