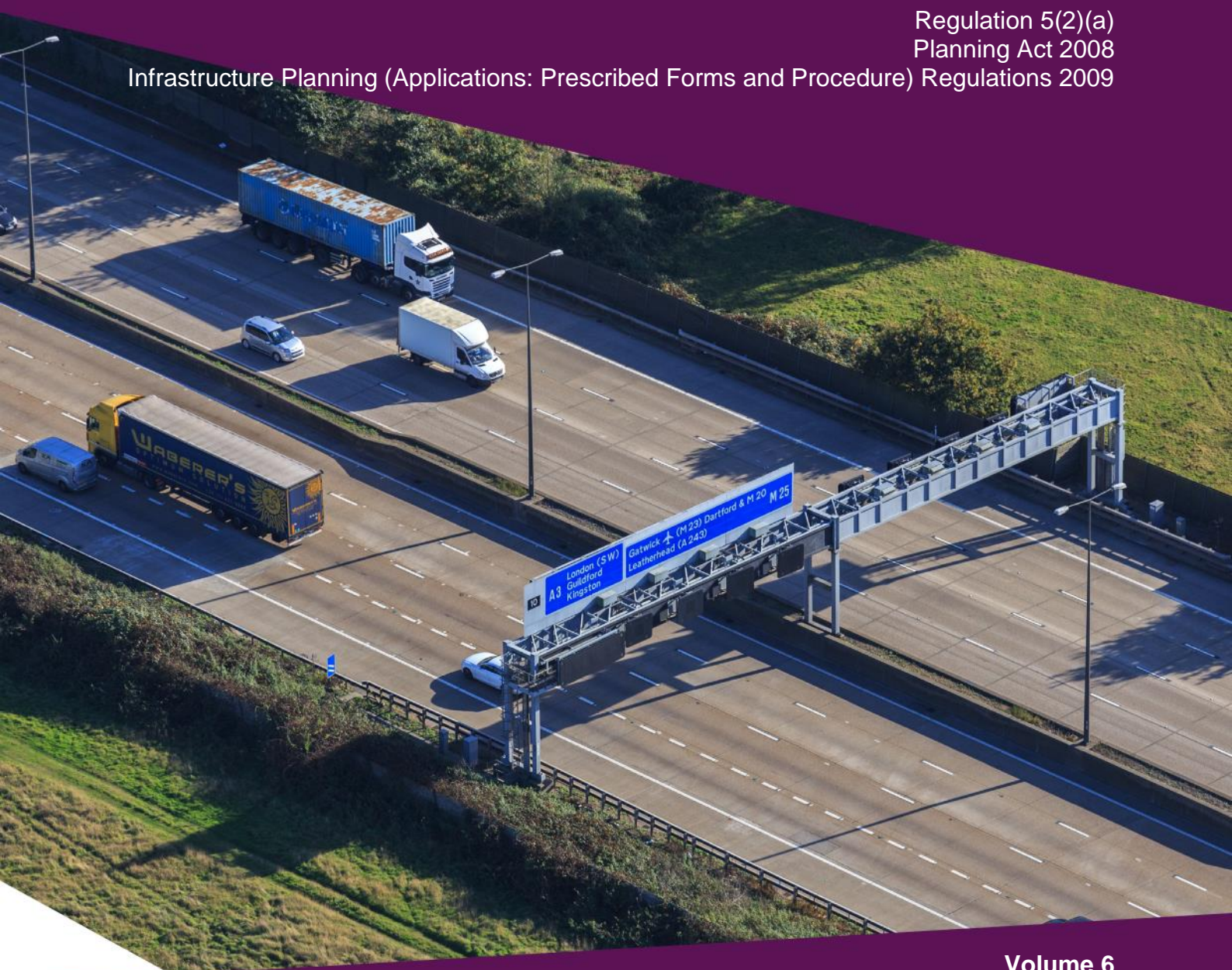


M25 junction 10/A3 Wisley interchange TR010030

6.5 Environmental Statement: Appendix 7.1 Summary of relevant policy and legislation

Regulation 5(2)(a)
Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009



Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended)

M25 junction 10/A3 Wisley interchange

The M25 junction 10/A3 Wisley interchange Development Consent Order 202[x]

6.5 ENVIRONMENTAL STATEMENT

APPENDIX 7.1 SUMMARY OF RELEVANT POLICY AND LEGISLATION

Regulation Number:	Regulation 5(2)(a)
Planning Inspectorate Scheme Reference	TR010030
Application Document Reference	TR010030/APP/6.5
Author:	M25 junction 10/A3 Wisley interchange project team, Highways England

Version	Date	Status of Version
Rev 0	June 2019	Development Consent Order application

Table of contents

Appendix	Pages
7.1 Policy framework	5
7.2 Summary of Relevant Ecological Legislation in England	11

Tables	
Table 7.1.1: Policy framework and plans relevant to the Scheme	5
Table 7.2.1: Summary of Relevant Ecological Legislation in England for Designated Sites	11
Table 7.2.2: Summary of Relevant Ecological Legislation in England for Habitats and Species	11
Table 7.2.3: Summary of Relevant Ecological Legislation in England for Protected Species	12

Appendix 7.1 Summary of relevant policy and legislation

7.1 Policy framework

Table 7.1.1: Policy framework and plans relevant to the Scheme

Scale	Policy framework / plan	Summary of requirements
National	National Policy Statement for National Networks (NPSNN) 2014 ¹	<p>Chapter 3, 'Wider government policy on the national networks':</p> <ul style="list-style-type: none">3.2 The Government recognises that for development of the national road and rail networks to be sustainable these should be designed to minimise social and environmental impacts and improve quality of life.3.3 In delivering new schemes, the Government expects applicants to avoid and mitigate environmental and social impacts in line with the principles set out in the National Planning Policy Framework and the Government's planning guidance. Applicants should also provide evidence that they have considered reasonable opportunities to deliver environmental and social benefits as part of schemes. <p>Chapter 4, 'Environmental Impact Assessment':</p> <ul style="list-style-type: none">4.23 Applicants are required to provide sufficient information with their applications for development consent to enable the Secretary of State to carry out an Appropriate Assessment if required. This information should include details of any measures that are proposed to minimise or avoid any likely significant effects on a European site. The information provided may also assist the Secretary of State in concluding that an Appropriate Assessment is not required because significant effects on European sites are sufficiently unlikely that they can be excluded.4.24 If a proposed national network development makes it impossible to rule out an adverse effect on the integrity of a European site, it is possible to apply for derogation from the Habitats Directive, subject to the proposal meeting three tests. These tests are that no feasible, less-damaging alternatives should exist, that there are IROPI for the proposal going ahead, and that adequate and timely compensation measures will be put in place to ensure the overall coherence of the network of protected sites is maintained.4.25 Where a development may negatively affect any priority habitat or priority species on a site for which they are a protected feature, any IROPI case would need to be established solely on one or more of the grounds relating to human health, public safety or beneficial consequences of primary importance to the environment. <p>Chapter 5, 'Biodiversity and ecological conservation':</p> <ul style="list-style-type: none">5.27 The most important sites for biodiversity are those identified through international conventions and European Directives. The Habitats Directive provides statutory protection for European Sites and equivalent policy protection is afforded to Ramsar sites² (relevant paragraphs also include 4.22-4.25 relating to Habitat Regulations Assessment).5.29 Where a proposed development is likely to have an adverse effect on a Site of Special Scientific Interest (SSSI), development consent should not normally be granted. Where an adverse effect on a site's notified special interest features is likely, an exception should be made only where the benefits of the development at this site clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest, and any broader impacts on the wider network of SSSIs. The Secretary of State should ensure that the applicant's proposals to mitigate the harmful³ aspects of the development and, where possible, to ensure the conservation and enhancement of the site's biodiversity or geological interest, are acceptable. Where necessary, requirements and/or planning obligations should be used to ensure these proposals are delivered.5.31 Sites of regional and local biodiversity (which include Local Nature Reserves, Local Wildlife Sites and Nature Improvement Areas) have a fundamental role to play in meeting overall national biodiversity targets, in contributing to the quality of life and the well-being of the community, and in supporting research and education. The Secretary of State should give due consideration to such regional or local designations. However, given the need for new infrastructure, these designations should not be used in themselves to refuse development consent.5.32 Ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated. The Secretary of State should not grant consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss. Aged or veteran trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided⁴. Where such trees would be affected by development proposals, the applicant should set out proposals for their conservation or, where their loss is unavoidable, the reasons for this.5.33 Development proposals potentially provide many opportunities for building in beneficial biodiversity or geological features as part of good design⁵. When considering proposals, the Secretary of State should consider whether the applicant has maximised such opportunities in and around developments.5.35 The Secretary of State should ensure that applicants have taken measures to ensure that statutory protected species⁶ and species and habitats identified as being of principle importance for the conservation of biodiversity in England⁷ species and habitats are protected from the adverse effects of development. Where appropriate,

¹ Department for Transport (December 2014). National Policy Statement for National Networks.

² Special Areas of Conservation and Special Protection Areas, as well as Sites of Community Importance, cSACs, pSPAs, Ramsars, pRamsars and sites identified, or required, as compensatory measures for adverse effects on any of these European Sites

³ In line with the principle above, the term "harm" should be understood to mean significant harm.

⁴ This does not prevent the loss of such trees where the decision-maker is satisfied that their loss is unavoidable

⁵ The Natural Environment White Paper 2011 identifies opportunities for transport to contribute to the creation of coherent and resilient ecological networks.

⁶ Certain plant and animal species, including all wild birds, are protected under the Wildlife and Countryside Act 1981. European plant and animal species are protected under the Conservation of Habitats and Species Regulations 2010 (as amended). Some other animals are protected under their own legislation, for example Protection of Badgers Act 1992

⁷ Lists of habitats and species of principal importance for the conservation of biological diversity in England published in response to Section 41 of the Natural Environment and Rural Communities Act 2006 are available from the Biodiversity Action Reporting System website.

Scale	Policy framework / plan	Summary of requirements
		<p>requirements or planning obligations may be used in order to deliver this protection. The Secretary of State should refuse consent where harm to the habitats or species and their habitats would result, unless the benefits of the development (including need) clearly outweigh that harm.</p> <ul style="list-style-type: none">• 5.36 Applicants should include appropriate mitigation measures as an integral part of their proposed development, including identifying where and how these will be secured. In particular, the applicant should demonstrate that:<ul style="list-style-type: none">– During construction, they will seek to ensure that activities will be confined to the minimum areas required for the works;– During construction and operation, best practice will be followed to ensure that risk of disturbance or damage to species or habitats is minimised (including as a consequence of transport access arrangements);– Habitats will, where practicable, be restored after construction works have finished;– Developments will be designed and landscaped to provide green corridors and minimise habitat fragmentation where reasonable; and– Opportunities will be taken to enhance existing habitats and, where practicable, to create new habitats of value within the site landscaping proposals, for example through techniques such as the 'greening' of existing network crossing points, the use of green bridges and the habitat improvement of the network verge.• 5.37 The Secretary of State should consider what appropriate requirements should be attached to any consent and/or in any planning obligations entered into in order to ensure that mitigation measures are delivered.• 5.38 The Secretary of State will need to take account of what mitigation measures may have been agreed between the applicant and Natural England, and whether Natural England has granted or refused, or intends to grant or refuse, any relevant licences, including protected species mitigation licences.
	National Policy Planning Framework (NPPF) 2019 ⁸	<p>Chapter 15 of the NPPF 'Conserving and enhancing the natural environment':</p> <ul style="list-style-type: none">• 170 Planning policies and decisions should contribute to and enhance the natural and local environment by:<ul style="list-style-type: none">– Protecting and enhancing valued landscapes, geological conservation interests 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 of ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;– Minimising impacts on and providing net gains for biodiversity, including by establishing 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.• 171 Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework⁹; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.• 172 Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads¹⁰. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development¹¹ other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:<ul style="list-style-type: none">– The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;– The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and– Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.• 174 To protect and enhance biodiversity and geodiversity, plans should:<ul style="list-style-type: none">– Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity¹²; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnership for habitat management, enhancement, restoration or creation¹³; and– Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.• 175 When determining planning applications, local planning authorities should apply the following principles:

⁸ Ministry of Housing, Communities and Local Government (2018) National Planning Policy Framework. Accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779764/NPPF_Feb_2019_web.pdf

⁹ Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality should be preferred to those of a higher quality.

¹⁰ English National Parks and the Broads: UK Government Vision and Circular 2010 provides further guidance and information about their statutory purposes, management and other matters

¹¹ For the purposes of paragraphs 172, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

¹² Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system

¹³ Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.

Scale	Policy framework / plan	Summary of requirements
		<ul style="list-style-type: none">– If significant harm to biodiversity 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 (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons¹⁴ and a suitable compensation strategy exists; and– Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. <ul style="list-style-type: none">• 176 The following should be given the same protection as habitats sites:<ul style="list-style-type: none">– Potential Special Protection Areas and possible Special Areas of Conservation;– Listed or proposed Ramsar sites¹⁵; 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.• 177 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.
	Defra 25 Year Environment Plan 2018 ¹⁶	Sets goals for improving the environment within a generation and leaving it in a better condition than its current state. There are a number of goals and targets, but the following targets are of particular relevance to biodiversity: <ul style="list-style-type: none">• Restoring 75% of our one million hectares of terrestrial and freshwater protected sites to favourable condition, securing their wildlife value for the long term;• Creating or restoring 500,000 hectares of wildlife-rich habitat outside the protected site network, focusing on priority habitats as part of a wider set of land management changes providing extensive benefits;• Taking action to recover threatened, iconic or economically important species of animals, plants and fungi, and where possible to prevent human induced extinction or loss of known threatened species in England and the Overseas Territories;• Increasing woodland in England in line with our aspiration of 12% cover by 2060: this would involve planting 180,000 hectares by end of 2042; and• Managing and reducing the impact of existing plant and animal diseases; lowering the risk of new ones and tackling invasive non-native species.
	Department for Transport Road Investment Strategy 2015-2020 (RIS)	Section 6 includes aspirations by 2040 to have improved environmental outcomes, including a net gain in biodiversity from the Company's (Highways England) activities. In Section 7, one of the key performance indicators is “ <i>delivering better environmental outcomes</i> ”. Investments made to achieve ambitions include the setting up of an Environment Fund to improve and halt the loss of local biodiversity. Areas targeted for the Environment Fund: <ul style="list-style-type: none">• Increasing the number of SSSIs in good or recovering condition.• Interventions to support Nature Improvement Areas. One of the Key Performance Indicators (KPI) is Biodiversity: Delivery of improved biodiversity, as set out in the Company's Biodiversity Action Plan ¹⁷ .
	Highways England: Strategic Business Plan 2015 to 2020	A commitment to continue to “manage land immediately surrounding the network to improve biodiversity”. Delivering better environmental outcomes: <ul style="list-style-type: none">• KPI: Delivery of improved biodiversity, as set out in the Company's Biodiversity Action Plan¹⁷. Target: The Company should publish its Biodiversity Action Plan by 30 June 2015 (published), and report annually on how it has delivered against the Plan to reduce net biodiversity loss on an ongoing annual basis.
	Highways England's Biodiversity Plan ¹⁷	Proposes a local approach to improving biodiversity surrounding the road network and encourages management activities to be guided by the principles of Natural England's The Mosaic Approach: Managing Habitats for Species ¹⁸ , including efforts to target priority habitats and species ¹⁹ . The Biodiversity Plan includes five outcomes. The following actions are taken from Outcome 3: We have delivered biodiversity enhancements whilst implementing a capital programme of network improvement: <ul style="list-style-type: none">• As part of normal delivery, network improvement projects will mitigate and compensate their biodiversity impacts in order achieve no net loss of biodiversity, as far as the projects are reasonably able. In addition, projects will identify biodiversity opportunities and deliver actions that will achieve net biodiversity gain, wherever possible

¹⁴ For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat

¹⁵ Potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites are sites on which Government has initiated public consultation on the scientific case for designation as a Special Protection Area, candidate Special Area of Conservation or Ramsar site.

¹⁶ Defra (2018) A Green Future: Our 25 Year Plan to Improve the Environment. This can be accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693158/25-year-environment-plan.pdf (Last Accessed 21/01/2019)

¹⁷ Highways England (2014) Our plan to protect and enhance biodiversity.

¹⁸ <http://publications.naturalengland.org.uk/publication/6415972705501184>

¹⁹ Habitats and species of principal importance for the conservation of biodiversity as identified by the Secretary of State for England, in consultation with Natural England, are referred to in Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 for England.

Scale	Policy framework / plan	Summary of requirements
		<ul style="list-style-type: none"> Project teams to liaise with local wildlife partners as part of their project design and development to identify how the project could best contribute towards landscape-scale biodiversity gains. Information on these opportunities to be provided to the relevant regional programme board and technical working group. <p>In addition, the Road Investment Strategy²⁰ has sustainable aspirations for a net gain in biodiversity from the Company's activities.</p>
Regional	The South East Plan – Regional Spatial Strategy for the South. Policy NRM6 – Thames Basin Heaths SPA ²¹	<p>New residential development which is likely to have a significant effect on the ecological integrity of Thames Basin Heaths Special Protection Area (SPA) will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects. Such measures must be agreed with Natural England.</p> <p>Priority should be given to directing development to those areas where potential adverse effects can be avoided without the need for mitigation measures. Where mitigation measures are required, local planning authorities, as Competent Authorities, should work in partnership to set out clearly and deliver a consistent approach to mitigation, based on the following principles:</p> <ol style="list-style-type: none"> A zone of influence set at 5 km linear distance from the SPA boundary will be established where measures must be taken to ensure that the integrity of the SPA is protected; Within this zone of influence, there will be a 400m “exclusion zone” where mitigation measures are unlikely to be capable of protecting the integrity of the SPA. In exceptional circumstances, this may vary with the provision of evidence that demonstrates the extent of the area within which it is considered that mitigation measures will be capable of protecting the integrity of the SPA. These small locally determined zones will be set out in local development frameworks (LDFs) and SPA avoidance strategies and agreed with Natural England; Where development is proposed outside the exclusion zone but within the zone of influence, mitigation measures will be delivered prior to occupation and in perpetuity. Measures will be based on a combination of access management, and the provision of Suitable Accessible Natural Greenspace (SANG). <p>Where mitigation takes the form of provision of SANG the following standards and arrangements will apply:</p> <ol style="list-style-type: none"> a minimum of 8 hectares of SANG land (after discounting to account for current access and capacity) should be provided per 1,000 new occupants; developments of fewer than 10 dwellings should not be required to be within a specified distance of SANG land provided it is ensured that a sufficient quantity of SANG land is in place to cater for the consequent increase in residents prior to occupation of the dwellings; access management measures will be provided strategically to ensure that adverse impacts on the SPA are avoided and that SANG functions effectively; authorities should co-operate and work jointly to implement mitigation measures. These may include, inter alia, assistance to those authorities with insufficient SANG land within their own boundaries, co-operation on access management and joint development plan documents; relevant parties will co-operate with Natural England and landowners and stakeholders in monitoring the effectiveness of avoidance and mitigation measures and monitoring visitor pressure on the SPA and review/amend the approach set out in this policy, as necessary; local authorities will collect developer contributions towards mitigation measures, including the provision of SANG land and joint contributions to the funding of access management and monitoring the effects of mitigation measures across the SPA; large developments may be expected to provide bespoke mitigation that provides a combination of benefits including SANG, biodiversity enhancement, green infrastructure and, potentially, new recreational facilities. <p>Where further evidence demonstrates that the integrity of the SPA can be protected using different linear thresholds or with alternative mitigation measures (including standards of SANG provision different to those set out in this policy) these must be agreed with Natural England.</p>
County	Surrey Road Verge Habitat Action Plan (RVHAP) - part of the Surrey Biodiversity Action Plan ²²	<p>Aims to raise awareness of the biodiversity potential of verge side habitat and identifies how this can be managed to maintain and enhance biodiversity in a way which best balances the competing interests of conservation and road safety.</p> <p>One of the key sections of the RVHAP was to identify the County's most important verges for wildlife. These are known as Conservation Verges. A verge of any length or size can become a Conservation Verge as long as it meets one of the following criteria:</p> <ul style="list-style-type: none"> It supports a population of nationally or locally rare or scarce species; It contains semi-natural vegetation containing a good population or assemblage of species of conservation interest in Surrey; The verge is culturally important and of intrinsic value to local people for its wildlife; or, It forms part of a larger site or connects sites that have an existing wildlife designation such as a SSSI or SNCI.
Local	Elmbridge Core Strategy (CS) (July 2011) and Elmbridge Local Plan– Development Management Plan (April 2015)	
	CS13: Thames Basin Heaths Special Protection Area (SPA)	New residential development which is likely to have a significant effect on the ecological integrity of the Thames Basin Heaths SPA will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects. Further information in relation to zones of influence and provision of Suitable Accessible Natural Greenspace (SANG) is included in the policy.
	CS15: Biodiversity	<p>The council will seek to avoid loss and contribute to a net gain in biodiversity across the region and the objective of the Surrey Biodiversity Action Plan (BAP)²² by:</p> <ol style="list-style-type: none"> Protecting and seeking to improve all sites designated for their biodiversity importance, as identified on the proposal map, in accordance to PPS9: Biodiversity and Geological Conservation and CS13: Thames Basin Heaths SPA, including those sites considered to be relevant to the integrity of the South West London Waterbodies SPA and Ramsar site. Criteria based policies against which proposals will be judged for any development on, or affecting, sites of regional or local significance will be brought forward through future Development Plan Documents that address Development Management and Site Allocations;

²⁰ Department for Transport (2015) Road Investment Strategy: for the 2015/16-2019/20 Road Period.

²¹ As of 25th March 2013, The Regional Strategy for the South East was revoked except for policy NRM6. Full details of the revocation can be found at http://www.legislation.gov.uk/ukxi/2013/427/pdfs/ukxi_20130427_en.pdf.

²² Surrey Biodiversity Action Plan (Surrey Biodiversity Partnership, 1999). (NB this BAP is no longer active)

Scale	Policy framework / plan	Summary of requirements
		<p>2. Support the implementation of the Regional Forests and Woodland Framework by:</p> <ul style="list-style-type: none">• Protecting all woodland, including ancient woodland, as shown on the proposals map, from damaging development and land uses;• Promoting the effective management, and where appropriate, extension and creation of new woodland areas including, in association with areas of major development, where this helps to restore and enhance degraded landscapes, screen noise and pollution, provide recreational opportunities, help mitigate climate change, and contributes to floodplain management;• Replacing woodland unavoidably lost through development with new woodland at the same scale;• Promoting and encouraging the economic use of woodlands and wood resources, including wood fuels as renewable energy source; and• Promoting the growth and procurement of sustainable timber products. <p>3. Protecting and enhancing BAP priority habitats²³ and species and seeking to expand their coverage by supporting the development of the Biodiversity Opportunity Areas²⁴; as shown on the proposals map;</p> <p>4. Managing and maintaining a mosaic of habitats and rich variety of wildlife across the Council's landholdings in accordance with the Elmbridge Countryside Strategy;</p> <p>5. Working in partnership²⁵ to restore and enhance:</p> <ul style="list-style-type: none">• The Thames Basin Heaths SPA, in accordance with CS13: Thames Basin Heaths SPA, which is an area of strategic opportunity for biodiversity improvement;• Brooklands Community Park and Esher Commons SSSI in accordance with the Council's most up-to-date mitigation strategy for the Thames Basin Heaths SPA and the Esher Commons SSSI Restoration and Management Plan. <p>6. Maximising the contribution of other green spaces and features²⁶, where appropriate, to the area's biodiversity resources including identifying and developing wildlife corridors²⁷ to provide ecological 'stepping stones' and form a coherent local and regional biodiversity network in accordance with CS12: The River Thames and its tributaries and CS14: Green Infrastructure;</p> <p>7. Directing development to previously developed land in accordance with CS1: Spatial Strategy, taking account of its existing biodiversity value; and</p> <p>8. Ensuring new development does not result in a net loss of biodiversity and where feasible contributes to a net gain through the incorporation of biodiversity features.</p>
	DM6: Landscape and trees	<p>Development proposals should be designed to include an integral scheme of landscape, tree retention, protection and/or planting that:</p> <ul style="list-style-type: none">• Reflects, conserves or enhances the existing landscape and integrates the development into its surroundings, adding scale, visual interest and amenity;• Contributes to biodiversity by conserving existing wildlife habitats, creating new habitats and providing links to green infrastructure network;• Encourages adaption to climate change, for instance by incorporating Sustainable Drainage Systems (SuDS), providing areas for flood mitigation, green roofs, green walls, tree planting for shade, shelter and cooling and a balance of hard and soft element;• Does not result in loss of, or damage to, trees and hedgerows that are, or are capable of, making a significant contribution to the character or amenity of the area, unless in exceptional circumstances, the benefits would outweigh the loss;• Adequately protects existing trees including their root systems prior to, during and after construction process;• Would not result in the loss or deterioration of irreplaceable habitats including ancient woodland and ancient or veteran trees, unless in exceptional circumstances the benefits would outweigh the loss; and• Includes proposals for the successful implementation, maintenance and management of landscape and tree planting schemes. <p>To ensure high quality landscape schism and depending on the scale, nature and location of the development, the Council will seek appropriate considerations attached to planning permissions to secure various improvements. These may include tree retention and protection, the submission and implementation of a landscape or tree-planting scheme, surface materials, screen walls, fences and planting.</p> <p>Tree Preservation Orders (TPOs).</p> <p>In considering consent for works to trees protected by TPO, the council will:</p> <ol style="list-style-type: none">i. Assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area; andii. In the light of this assessment consider whether or not the proposal is justified, having regards to the reason put forward in support of it.
	DM21: Nature conservation and biodiversity	<p>a. In accordance with Core Strategy policy CS15: Biodiversity, all new development will be expected to preserve, manage and where possible enhance existing habitats, protected species and biodiversity features. The Council will work in partnership to explore new opportunities for habitat creation and restoration.</p> <p>b. Support will be given to proposals that enhance existing and incorporate new biodiversity features, habitats and links to habitat networks into the design of the buildings themselves as well as in appropriate design and landscape schemes of new developments with the aim of attracting wildlife and promoting biodiversity. Conditions will be used to secure the provision of mitigation measures, as appropriate;</p>

²³ BAP Priority Habitats including Lowland Heath, Fens and Wet Woodland
²⁴ Biodiversity Opportunity Area Statements (South East England Biodiversity Forum) available at: www.sebiodiversity.org.uk
²⁵ Thames Basin Heath Joint Strategic Partnership Board
²⁶ Those sites and features not designated specifically for their biodiversity value
²⁷ such as watercourses, hedgerows, woodlands, road and railway verges

Scale	Policy framework / plan	Summary of requirements
		<p>c. Development affecting designated international sites of biodiversity importance and compensatory sites²⁸ will be considered against Core Strategy policies CS13: Thames Basin Heaths SPA, CS15: Biodiversity, the Framework and relevant legalisation²⁹;</p> <p>d. Development affecting national sites of biodiversity importance³⁰ will not be permitted if it will have an adverse effect, directly or indirectly, individually or in combination, on the site or its features. In exceptional circumstances, proposals that have an adverse effect on a national site may be permitted if the benefits of the development clearly outweigh the harm. If a development is approved under these circumstances, appropriate avoidance, mitigation and compensation will be sought wherever possible;</p> <p>e. Development affecting locally designated sites of biodiversity importance³¹ or sites falling outside these that support national priority habitats or priority species will not be permitted if it will result in significant harm to the nature conservation value of the site or feature; and</p> <p>f. Sites identified on Policies Map³² as having potential to be designated in future as Suitable Accessible Natural Greenspace (SANG) will be protected from development that may compromise its ability to serve that function, taking into account the level of existing SANG when the development is proposed and any wider benefits of the proposal.</p>
	Guildford Borough Local Plan (2019)	
	POLICY ID4: Green and blue infrastructure	<p>1. The Council will maintain, conserve and enhance biodiversity and will seek opportunities for habitat restoration and creation, particularly within and adjacent to Biodiversity Opportunity Areas (BOAs). The Council will produce a Green and Blue Infrastructure Supplementary Planning Document (SPD) setting out how this approach will be implemented.</p> <p>2. New development should aim to deliver gains in biodiversity where appropriate. Where proposals fall within or adjacent to a BOA, biodiversity measures should support that BOA's objectives. The SPD will set out guidance on how this can be achieved.</p> <p>3. The designated sites in the following hierarchy are shown on the Policies Map or as subsequently updated:</p> <p>a. European sites: Special Protection Areas (SPA) and Special Areas of Conservation (SAC);</p> <p>b. National sites: Sites of Special Scientific Interest (SSSI);</p> <p>c. Local sites: Sites of Nature Conservation Importance (SNCI) and Local Nature Reserves.</p> <p>4. Permission will not be granted for development proposals unless it can be demonstrated that doing so would not give rise to adverse effects on the integrity of European sites, whether alone or in combination with other development. Any development with a potential impact on SPA or SAC sites will be subject to a Habitats Regulations Assessment.</p> <p>5. Permission will only be granted for development proposals within or adjacent to national sites where it can be demonstrated that doing so would not be harmful to the nature conservation interests of the site and its function as an ecological unit.</p> <p>6. Permission will not be granted for proposals that are likely to materially harm the nature conservation interests of local sites unless clear justification is provided that the need for development clearly outweighs the impact on biodiversity. Where this test is met, every effort must be made to reduce the harm to the site through avoidance and mitigation measures.</p>

²⁸ Statutorily protected under European Directives 92/43/EEC on the conservation of natural habitats and wild fauna and Flora (Habitat's Directive) and 2009/147/EC on the conservation of wild birds (codified version of 79/409/EEC as amended) (Bird's Directive)

²⁹ In particular, the Birds and Habitats Directives and associated UK Regulations.

³⁰ Esher Common SSSI, Ockham and Wisley SSSI and Knight and Bessborough Reservoirs SSSI

³¹ Local sites listed on page 61 of the Core Strategy and under Section 41 of the Natural Environment & Rural Communities (NERC) Act 2006.

³² Elmbridge Borough Council Policies Map available at: <http://emaps.elmbridge.gov.uk/myElmbridge.aspx?tab=0>

7.2 Summary of Relevant Ecological Legislation in England

Table 7.2.1: Summary of Relevant Ecological Legislation in England for Designated Sites

Site Designation	Legislation	Protection	Guidance
Special Area of Conservation (SAC) Special Protection Area (SPA) Wetland of International Importance (Ramsar site)	Conservation of Habitats and Species Regulations 2017 EC Directive on the conservation of natural habitats and of wild fauna and flora (92/42/EEC) EC Directive on the conservation of wild birds (79/409/EEC) Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971 (the Ramsar Convention)	Assessment of the implications of plans and projects is effected through Part 6 of the Conservation of Habitats and Species Regulations 2017 (in particular Regs 61 - 69). The legislation for the Site of Special Scientific Interest which will underpin each designation also applies. These sites are given protection through policies in the Local Development Plan.	Formal Appropriate Assessment is required to be undertaken by the competent authority before undertaking, or giving consent, permission or other authorisation for a plan or project which is likely to have a significant effect on such a site. Guidance documents: The National Planning Policy Framework (Department for Communities and Local Government, March 2012), with particular reference to Policy 11. The Government Circular: Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System (ODPM Circular 6/2005 & Defra Circular 01/2005) (the joint Circular).
Site of Special Scientific Interest (SSSI)	Wildlife and Countryside Act 1981 (as amended)	It is an offence to carry out or permit to be carried out any potentially damaging operation. SSSIs are given protection through policies in the Local Development Plan.	Owners, occupiers, public bodies and statutory undertakers must give notice and obtain the appropriate consent under S.28 before undertaking operations likely to damage a SSSI. S.28G places a duty on all public bodies to further the conservation and enhancement of SSSIs. Guidance documents: The National Planning Policy Framework (Department for Communities and Local Government, March 2012), with particular reference to Policy 11, and the joint Circular.
Local Nature Reserve (LNR)	National Parks and Access to the Countryside Act 1949 S.21	LNRs are given protection through policies in the Local Development Plan.	LNRs are generally owned and managed by local authorities. Development proposals that would potentially affect a LNR would need to provide a detailed justification for the work, an assessment of likely impacts, together with proposals for mitigation and restoration of habitats lost or damaged. Guidance documents: The National Planning Policy Framework (Department for Communities and Local Government, March 2012), with particular reference to Policy 11, and the joint Circular.
Local Sites (eg Sites of Nature Conservation Interest, Conservation Verges)	There is no statutory designation for local sites.	Local sites are given protection through policies in the Local Development Plan.	Development proposals that would potentially affect a local site would need to provide a detailed justification for the work, an assessment of likely impacts, together with proposals for mitigation and restoration of habitats lost or damaged. Guidance documents: The National Planning Policy Framework (Department for Communities and Local Government, March 2012), with particular reference to Policy 11, and the joint Circular.

Table 7.2.2: Summary of Relevant Ecological Legislation in England for Habitats and Species

Habitats & Species	Legislation	Guidance
Species and Habitats of Principal Importance for the Conservation of Biodiversity	Natural Environment & Rural Communities Act 2006 S.40	S.40 of the NERC Act 2006 sets out the duty for public authorities to conserve biodiversity in England. Habitats and species of principal importance for the conservation of biodiversity are identified by the Secretary of State for England, in consultation with Natural England, are referred to in S.41 of the NERC Act for England. The list, known as the 'England Biodiversity List', of habitats and species can be found on the Natural England web site. The 'England Biodiversity List' is used as a guide for decision makers such as public bodies, including local and regional authorities, in implementing their duty under Section 40 of the NERC Act 2006 to have regard to the conservation of biodiversity in England when carrying out their normal functions. Ecological impact assessments should include an assessment of the likely impacts to these habitats and species.
Biodiversity Action Plan (BAP) Habitats & Species	No specific legislation, unless it is also a species or habitat of principal importance as described above.	The Biodiversity Action Plan (BAP) is the UK's initiative to maintain and enhance biodiversity in response to the Convention on Biological Diversity signed in 1992. The UK BAP was used to draw up the 'England Biodiversity List' and has been succeeded by the UK Post-2010 Biodiversity Framework in 2012, due to a change in government strategy by all UK countries, focussing on managing the environment as a whole rather than dealing with different aspects of biodiversity and environment separately. However, the UK BAP list of priority habitats and species continue to be regarded as conservation priorities in the UK Post-2010 Biodiversity Framework (JNCC & Defra 2012).

Table 7.2.3: Summary of Relevant Ecological Legislation in England for Protected Species

Species	Legislation	Offences	Licensing procedures and guidance
Bats (European protected species)	Conservation of Habitats and Species Regulations 2017 Reg 43	Deliberately ³³ capture, injure or kill a bat; deliberate disturbance ³⁴ of bats; or damage or destroy a breeding site or resting place used by a bat. [The protection of bat roosts is considered to apply regardless of whether bats are present.]	A Natural England (NE) licence in respect of development is required. Guidance documents: <ul style="list-style-type: none">NE Standing Advice for protected species 2013European Protected Species: Mitigation Licensing- How to get a licence (NE 2013)Bat Mitigation Guidelines (English Nature 2004)Bat Workers Manual (JNCC 2004)
	Wildlife and Countryside Act 1981 (as amended) S.9	Intentionally or recklessly obstruct access to any structure or place used for shelter or protection or disturb ³⁵ a bat in such a place.	Licence from NE is required for surveys (scientific purposes) that would involve disturbance of bats or entering a known or suspected roost site.
Great crested newt (European protected species)	Conservation of Habitats and Species Regulations 2017 Reg 43	Deliberately ¹ capture, injure or kill a great crested newt; deliberate disturbance ² of a great crested newt; deliberately take or destroy its eggs; or damage or destroy a breeding site or resting place used by a great crested newt.	Licences issued for development by Natural England. Guidance documents: <ul style="list-style-type: none">NE Standing Advice for protected species 2013European Protected Species: Mitigation Licensing- How to get a licence (NE 2013)Great Crested Newt Mitigation Guidelines (English Nature 2001)
	Wildlife and Countryside Act 1981 (as amended) S.9	Intentionally or recklessly obstruct access to any structure or place used for shelter or protection or disturb ³ a great crested newt in such a place.	Licences issued for science (survey), education and conservation by Natural England.
Sand lizard (European protected species)	Conservation of Habitats and Species Regulations 2017 Reg 43	Deliberately ¹ capture, injure or kill it; deliberate disturbance ² of it; deliberately take or destroy its eggs; or damage or destroy a breeding site or resting place used by it.	Licences issued for development by Natural England. Guidance documents: <ul style="list-style-type: none">NE Standing Advice for protected species 2013European Protected Species: Mitigation Licensing- How to get a licence (NE 2013)
	Wildlife and Countryside Act 1981 (as amended) S.9	Intentionally or recklessly obstruct access to any structure or place used for shelter or protection or disturb ³ it in such a place.	A licence is required from Natural England for surveying and handling.
Adder Common lizard Grass snake Slow worm	Wildlife and Countryside Act 1981 S.9(1) and S.9(5)	Intentionally kill or injure any common reptile species.	No licence is required. However, an assessment for the potential of a site to support reptiles should be undertaken prior to any development works which have potential to affect these animals. Guidance documents: NE Standing Advice for protected species 2013
Hazel dormouse (European protected species)	Conservation of Habitats and Species Regulations 2017 Reg 43	Deliberately ¹ capture, injure or kill a hazel dormouse; deliberate disturbance ² of a hazel dormouse; or damage or destroy a breeding site or resting place used by a hazel dormouse.	A Natural England licence in respect of development is required. Guidance documents: <ul style="list-style-type: none">NE Standing Advice for protected species 2013European Protected Species: Mitigation Licensing- How to get a licence (NE 2013)Dormouse Conservation Handbook (English Nature 2006)
	Wildlife and Countryside Act 1981 (as amended) S.9	Intentionally or recklessly obstruct access to any structure or place used for shelter or protection or disturb ³ a hazel dormouse in such a place.	Licence issued for survey and conservation by Natural England.
Otter (European protected species)	Conservation of Habitats and Species Regulations 2017 Reg 43	Deliberately ³³ capture, injure or kill an otter; deliberate disturbance ² of otters; or damage or destroy a breeding site or resting place used by an otter.	Licences issued for development by Natural England. Guidance documents: <ul style="list-style-type: none">NE Standing Advice for protected species 2013European Protected Species: Mitigation Licensing- How to get a licence (NE 2013)

³³ Deliberate capture or killing is taken to include “accepting the possibility” of such capture or killing
³⁴ Deliberate disturbance of animals includes in particular any disturbance which is likely a) to impair their ability (i) to survive, to breed or reproduce, or to rear or nurture their young, or (ii) in the case of animals of hibernating or migratory species, to hibernate or migrate; or b) to affect significantly the local distribution or abundance of the species to which they belong.
³⁵ Lower levels of disturbance not covered by the Conservation of Habitats and Species Regulations 2017 remain an offence under the Wildlife and Countryside Act 1981 although a defence is available where such actions are the incidental result of a lawful activity that could not reasonably be avoided.

Species	Legislation	Offences	Licensing procedures and guidance
	Wildlife and Countryside Act 1981 (as amended) S.9	Intentionally or recklessly obstruct access to any structure or place used for shelter or protection or disturb ³ an otter in such a place.	No licence is required for survey in England. However, a licence would be required if the survey methodology involved disturbance.
Water vole	Wildlife and Countryside Act 1981 (as amended) S.9	Intentionally kill, injure or take water voles; intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection or disturb a water vole in such a place.	Conservation licences issued for trapping and translocation operations by Natural England. Certain displacement operations can be carried out under a class licence. Guidance documents: <ul style="list-style-type: none"> The Water Vole Conservation Handbook (R. Strachan & T. Moorhouse, Wildlife Conservation Research Unit, 3rd Edition 2011) Water voles and development licensing policy - NE Technical Information Note TIN042 2008 NE Standing Advice for protected species 2013 The Water Vole Mitigation Handbook (M. Dean, R. Strachan, D. Gow & R. Andrews 2016)
Birds	Wildlife and Countryside Act 1981 (as amended) S.1	Intentionally kill, injure or take any wild bird; intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built; intentionally take or destroy the nest or eggs of any wild bird. Intentionally or recklessly disturb a Schedule 1 species while it is building a nest or is in, on or near a nest containing eggs or young; intentionally or recklessly disturb dependent young of such a species [e.g. most birds of prey, kingfisher, barn owl, black redstart, little ringed plover].	No licences are available to disturb any birds in regard to development. Licences are available in certain circumstances to damage or destroy nests, but these only apply to the list of licensable activities in the Act and do not cover development. General licences are available in respect of 'pest species' but only for certain very specific purposes e.g. public health, public safety, air safety. Guidance documents: NE Standing Advice for protected species 2013
Badger	Protection of Badgers Act 1992 (as amended)	Wilfully kill, injure or take a badger; or intentionally or recklessly damage, destroy or obstruct access to a badger sett or disturb a badger in its sett. [It is not illegal to carry out disturbance activities in the vicinity of setts that are not occupied.]	Where required, licences for development activities involving disturbance or sett interference or closure are issued by Natural England (NE). Licences for activities involving watercourse maintenance, drainage works or flood defences are issued under a separate process. Licences are normally not granted from December to June inclusive because cubs may be present within setts. Guidance documents: <ul style="list-style-type: none"> NE Standing Advice for protected species 2013 Badgers & Development (NE 2007)
White-clawed crayfish	Wildlife and Countryside Act 1981 S.9(1) only	Intentionally take from the wild.	Licences issued by Natural England for survey (to take crayfish by hand, by hand net or by crayfish trap). Use of crayfish traps for survey requires Environment Agency consent. Using crayfish traps to remove crayfish for maintenance or development activities in a watercourse requires a conservation licence from Natural England and a permit from the Environment Agency. No licences in respect of development are available. Guidance documents: NE Standing Advice for protected species 2013
Rabbits, foxes and other wild mammals	Wild Mammals (Protection) Act 1996	Intentionally inflict unnecessary suffering to any wild mammal.	Natural England provides guidance in relation to rabbits, foxes (which are also protected under the Wildlife and Countryside Act 1981 from live baits and decoys) and other wild mammals, on their website. Lawful and humane pest control of these species is permitted.
Plants (European protected species)	Conservation of Habitats and Species Regulations 2017 Reg 47	Deliberately pick, collect, cut, uproot or destroy a wild plant of a European protected species (Schedule 5).	Licences can be issued for science, education and conservation and also in respect of a development if it is of over-riding public interest. Guidance documents: <ul style="list-style-type: none"> NE Standing Advice for protected species 2013 European Protected Species: Mitigation Licensing- How to get a licence (NE 2013) Guidance on sampling rare aquatic plants, NE 2009

Species	Legislation	Offences	Licensing procedures and guidance
Plants (Nationally protected species)	Wildlife and Countryside Act 1981 S.13 (Schedule 8)	Intentionally pick, uproot or destroy any wild plant on Schedule 8	Licences can be issued by Natural England for specific purposes only, such as science and education or conservation purposes. There is no provision for licensing the above actions for development operations under the Wildlife & Countryside Act 1981 (as amended). No licence is required for survey in England. Guidance on survey techniques is available from Natural England. Guidance documents: NE Standing Advice for protected species 2013
Plants (Invasive species e.g. Japanese knotweed, hybrid knotweed, giant knotweed, giant hogweed, rhododendron, Himalayan balsam)	Wildlife and Countryside Act 1981 S.14	It is illegal to plant or otherwise cause these species to grow in the wild.	Any contaminated soil or plant material is classified as controlled waste and should be disposed of in a suitably licensed landfill site, accompanied by appropriate Waste Transfer documentation, and must comply with section 34 of the Environmental Protection Act 1990. Guidance documents: <ul style="list-style-type: none">• The Knotweed Code of Practice (Environment Agency, 2013 version 3)• Managing Invasive Non-native Plants (Environment Agency 2010)• Guidance on Section 14 of the Wildlife and Countryside Act, 1981 (Defra 2010)

© Crown copyright (2017).

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/

write to the Information Policy Team, **The National Archives**, Kew, London TW9 4DU,
or email psi@nationalarchives.gsi.gov.uk.

Printed on paper from well-managed forests and other controlled sources.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

Highways England Company Limited registered in England and Wales number 09346363

