

Appendix 7.1 Legislation

Legislative context for biodiversity	
Legislation	Implications
The Environment Act 2021	The Environment Act (passed in November 2021) translates aspects of the Government publication “A Green Future: Our 25 Year Plan to Improve the Environment” into legislation. The Environment Act, once the relevant provisions are commenced (which has not yet occurred at the time of writing) makes it mandatory for the vast majority of development projects to deliver a 10% Biodiversity Net Gain (BNG) as a condition to gaining consent. Further secondary legislation is required to apply the BNG requirement to NSIP developments. Previous consultation has set the expectation that a BNG requirement will be imposed on NSIP projects from November 2025, with the level of the requirement detailed within a BNG Statement(s) (subject to prior publication) but presently expected to be set at the same 10% level.
Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) ¹ as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019	<p>These regulations transposed Council Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna (‘the Habitats Directive’) into national law. They also transpose elements of Council Directive 2009/147/EC on the conservation of wild birds (‘the Birds Directive’). The Habitats Regulations provide the framework for the protection of Natura 2000 sites (now referred to as the national site network following the amendments that came into force on 31 December 2020), and for certain flora and fauna (known as European Protected Species (EPS)). The regulations set out the process with regard to the assessment of development.</p> <p>The Proposed Development may result in effects on constituents of the national site network and EPS which require assessment in line with the Habitats Regulations.</p>
Natural Environment and Rural Communities Act 2006 (‘the NERC Act’) ²	<p>The NERC Act (amongst other matters) places a duty to conserve biodiversity on public authorities in England. This requires local authorities and government departments to have regard to the purposes of conserving biodiversity in a manner that is consistent with the exercise of their normal functions. The NERC Act also places a duty on the Secretary of State to maintain lists of species and habitats which are regarded as being of principal importance for the conservation of biodiversity in England. These Habitats of Principal Importance (HPI) and Species of Principal Importance (SPI) are used to guide decision makers in implementing their duties to have regard to the conservation of biodiversity in England when carrying out their normal functions.</p> <p>The Proposed Development may result in effects on HPI and SPI in England.</p>
Countryside and Rights of Way Act 2000 (‘the CRoW Act’) ³	<p>The CRoW Act, amongst other elements, details further measures for the management and protection of Sites of Special Scientific Interest (SSSI) and strengthens wildlife enforcement legislation.</p> <p>The Proposed Development may result in effects on SSSIs and protected flora and fauna.</p>

¹ The Conservation of Habitats and Species Regulations 2017 (No. 1012).

² Natural Environment and Rural Communities Act 2006, c.16.

³ Countryside and Rights of Way Act 2000, c.37.

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The Hedgerows Regulations 1997 ('the Hedgerow Regulations') ⁴	<p>The Hedgerows Regulations facilitate the protection of hedgerows growing in or adjacent to common land, protected land or land used for agriculture, forestry or the breeding and keeping of horses, ponies, or donkeys.</p> <p>The Proposed Development may result in effects on hedgerows deemed important by the Hedgerows Regulations.</p>
Protection of Badgers Act 1992 ('the Protection of Badgers Act') ⁵	<p>The Protection of Badgers Act consolidated and improved protection for badgers. It specifically makes it an offence to kill, injure or take a badger, or damage or interfere with a sett unless a licence has been obtained from a statutory authority.</p> <p>The Proposed Development may result in effects on badgers and their setts.</p>
Wildlife and Countryside Act 1981 (as amended) (WCA) ⁶	<p>The WCA consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats ('the Bern Convention') and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive).</p> <p>Amongst other matters it provides protection for wild birds, certain flora and fauna and sets the framework for the protection and management of SSSIs.</p> <p>The Proposed Development may result in effects on SSSIs and protected flora and fauna</p>
The European Union (EU) Water Framework Directive (2000/60/EC) (WFD) as enacted into domestic law by the Water Environment (Water Framework Directive (England and Wales) Regulations 2017 (as amended)	<p>A fundamental requirement of the WFD is to attain 'Good Ecological Status', or 'Good Ecological Potential' within each defined water body by December 2027 at the latest and to ensure that any deterioration in status is prevented.</p> <p>The proposed development may impact a number of waterbodies including drainage ditches and drains ultimately feeding into the Wash.</p>

⁴ The Hedgerows Regulations 1997 (No.1160).

⁵ Badger Act 1992, c.51.

⁶ Wildlife and Countryside Act 1981.