

**MILL RYTHER HOLIDAY VILLAGE
HAYLING ISLAND, HAMPSHIRE**

**CONSTRUCTION ECOLOGICAL
MANAGEMENT PLAN**

A Report to: Away Resorts Ltd

Report No: RT-MME-156532-02

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Triumph House, Birmingham Road, Allesley, Coventry CV5 9AZ

Tel: 01676 525880 Fax: 01676 521400

E-mail: admin@middlemarch-environmental.com Web: www.middlemarch-environmental.com

REPORT VERIFICATION AND DECLARATION OF COMPLIANCE

This study has been undertaken in accordance with British Standard 42020:2013 "Biodiversity, Code of practice for planning and development".

Report Version	Date	Completed by:	Checked and Approved by:
Final	21/12/2021	Hannah Train ACIEEM (Principal Consultant) and Asija Zeidakis BSc (Hons) (Ecological Project Officer)	Tim Hextell MCIEEM (Principal Technical Ecological Consultant)

The information which we have prepared is true, and has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

DISCLAIMER

The contents of this report are the responsibility of Middlemarch Environmental Ltd. It should be noted that, whilst every effort is made to meet the client's brief, no site investigation can ensure complete assessment or prediction of the natural environment.

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1. INTRODUCTION

1.1 PROJECT BACKGROUND

In November 2021 A & M Architectural Partnership LLP on behalf of Away Resorts Ltd commissioned Middlemarch Environmental Ltd to produce a Construction Ecological Management Plan (CEcMP) in order to control adverse ecological effects associated with the proposed redevelopment of Mill Rythe Holiday Village on Hayling Island in Hampshire. This management plan is required to discharge Condition 7 of the draft approval notice, which states that:

'7 No development shall commence until a Construction Environment Management Plan (CEMP) has been submitted to and agreed in writing by the Local Planning Authority. This shall include details of measures to avoid harm to the natural environment, including explicit avoidance and mitigation measures and the roles and responsibilities of those persons responsible for implementing the agreed CEMP. The details shall also include:

- a) waste disposal measures to be implemented linked to any demolition, excavation, clearance and construction works on the site; and*
- b) Measures to minimise creation and impact of dust.*
- c) Consideration of how certain activities will be limited in time, location or noise level to minimise the risk of disturbance to SPA birds (i.e. October to March inclusive). Details of noise monitoring of the construction and demolition work at sensitive locations,*
- d) Any percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax - measured at the sensitive receptor which is the nearest point of the SPA or SPA supporting habitat - high tide roost sites) should not be undertaken during the bird overwintering period (i.e. October to March inclusive).*
- e) Measures to visually screen the construction works from the sensitive areas;*
- f) Details of the ornithological watching brief necessary for any demolition and construction works during October to March.*

The CEMP shall be in accordance with the measures detailed within the submitted Habitats Regulations Assessment (Middlemarch, March 2021) and the Ecological Mitigation Strategy (Middlemarch, November 2020).

Reason: *To protect biodiversity in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, the NERC Act (2006), NPPF and Policy CS 11 of the Havant Borough Core Strategy March 2011.'*

Middlemarch Environmental Ltd previously completed the following assessments at the site in 2016 and 2017 to inform a planning application (Ref: APP/16/01237) associated with the refurbishment of the site:

- Preliminary Ecological Appraisal (Report RT-MME-123420-01);
- Preliminary Roost Assessment (Report RT-MME-123420-02);
- Habitat Regulations Assessment: Stage 1 Screening Report (RT-MME-123420-03-Rev C);
- Endoscope Survey (Report RT-MME-124714-Rev A);

Permission for the development was granted by Havant Borough Council in May 2017 (Ref: APP/16/01237). Middlemarch Environmental Ltd subsequently prepared a Construction Ecological Management Plan (CEcMP, Report RT-MME-125561-01) and a Landscape and Ecological Management Plan (LEMP, Report RT-MME-125561-02 Rev B) in order to discharge two conditions of the planning permission.

It is understood that a new planning application (Ref: APP/20/01127) was submitted to Havant Borough Council in November 2020 to seek to vary the development commenced under APP/16/01237. The proposal relates to three separate red-line areas within the site, although the amendments were submitted under one application and should be viewed as a variation of the existing permission.

The following updated ecological surveys were completed in 2020 to support the new planning application:

- Preliminary Ecological Appraisal (Report RT-MME-153231-01);
- Reptile Survey (Report RT-MME-153231-02);
- Ecological Mitigation Strategy (Report RT-MME-153231-03);
- Shadow Habitat Regulations Assessment: Stage 1 Screening (Report RT-MME-153231-04)

- Report to Inform Habitats Regulations Assessment: Stage 1 Screening and Stage 2 Appropriate Assessment (Report RT-MME-153231-05);
- Winter Bird Surveys (Report RT-MME-153231-06); and,
- Bat Surveys (Report RT-MME-153320).

In November 2021, Middlemarch Environmental Ltd carried out an Ecological Walkover Assessment (Report RT-MME-156532-01), to verify previous survey findings and inform the CEcMP and LEMP (Report RT-MME-156532-03), to be submitted in support of the new planning application.

1.2 SCOPE OF THE MANAGEMENT PLAN

The overall aim of the CEcMP is to minimise the potential impact of the construction phase of the development on the existing ecology of the site, and ensure works proceed in accordance with current wildlife legislation. It is designed specifically for implementation during the construction phase of the proposed development. This report contains the following information:

- Chapter 2: Ecological Baseline and Risk Assessment of Development
- Chapter 3: General Control of Works
- Chapter 4: Practical Measures to Avoid/Reduce Construction Impacts
- Chapter 5: Drawings.

1.3 SITE DESCRIPTION

The site comprises an irregular parcel of land approximately 13 ha in size, located on the eastern coast of Hayling Island, centred at National Grid Reference SU 7292 0061. The site effectively divides into two discrete areas. The western half of the site is dominated by the existing Mill Rythe Holiday Village, encompassing a number of self-catering accommodation units and associated leisure facilities. At the time of the survey, the Mill Rythe Holiday Complex included approximately 50 buildings, tennis courts, structured play areas, bowling green, swimming pool, boating lake, car parking, access roads and associated hard and soft landscaping, the latter including extensive areas of formal mown grassland. The eastern half of the site was dominated by a former pitch and putt golf course of just over 2.5 ha in extent which is no longer in use and has developed a ranker sward with scattered blocks of scrub and tall ruderal vegetation. In the north-east corner of the former pitch and putt course is a large triangular lake.

Bordering the site to the north and east are a range of intertidal habitats separated from the surveyed areas by sea defences frequently occupied by dense scrub. To the south is Tournembury Golf Course and to the west are a series of medium-scale fields occupied by rough grazed pasture and arable crops delineated by well-timbered boundaries.

The site is adjacent to a number of statutory designated sites including Chichester and Langstone Harbours Ramsar wetland, Site of Special Scientific Interest and Special Protection Area and Solent Maritime Special Area of Conservation. These sites form large estuarine systems comprising habitats such as mud and sand flats and salt meadows.

1.4 DESCRIPTION OF DEVELOPMENT

Planning permission has been granted for the following:

Application for full planning permission, pursuant to APP/16/01237, for the redevelopment of the holiday site including the demolition of redundant chalets, use of land for the siting of 112 holiday caravans with areas of open recreational space, cease the use of the land for pitch and putt purposes and retain the remaining pitch and putt area as a managed wildlife area including the provision of an ecology bund & ditch, landscaping, the siting of three bird hides with bat roost in their roof spaces and a mown 'circular wildlife walkway'.

1.5 DOCUMENTATION PROVIDED

The conclusions and recommendations made in this report are based on information provided by the client regarding the scope of the project. Documentation made available by the client is listed in Table 1.1.

Document Name / Drawing Number	Author
Mill Rythe Holiday Village – Existing Site Plan / 3877-310 Rev A	A & M Architectural Partnership LLP
Mill Rythe Holiday Village – Proposed Site Plan / 3877-410 Rev R	A & M Architectural Partnership LLP

Table 1.1: Documentation Provided by Client

2. ECOLOGICAL BASELINE AND RISK ASSESSMENT OF DEVELOPMENT

This chapter provides a summary of the existing ecological baseline of the proposed development site, and how this baseline could be impacted upon in the absence of appropriate mitigation and control measures. Legislation relevant to the ecological receptors found on site is summarised in Appendix 1.

2.1 NATURE CONSERVATION SITES

The desk study completed as part of the Preliminary Ecological Appraisal (Report RT-MME-153231) identified the following European statutory nature conservation sites within a 5 km radius of the site:

- Chichester and Langstone Harbours Ramsar site and Special Protection Area (SPA), located adjacent to the northern, eastern and south-eastern site boundaries;
- Solent Maritime Special Area of Conservation (SAC), located adjacent to the northern site boundary; and,
- Solent and Dorset Coast SPA, located 2.23 km south.

Middlemarch Environmental Ltd has completed a Habitat Regulations Assessment: Stage 1 Screening and Stage 2 Appropriate Assessment Report (RT-MME-153231-05), which considers the potential impacts on these three statutory nature conservation sites, as well as potential impacts on Solent and Isle of Wight Lagoons SAC and Portsmouth Harbour Ramsar Site and SPA. These sites form part of the Natura 2000 network of European statutory nature conservation sites. This assessment concluded that the proposed development would have 'no likely significant effect' on the majority of factors affecting the integrity of these sites (such as coastal squeeze, fisheries and hydrological changes), and, subject to mitigation measures being implemented, the proposed development would have 'no likely significant effect' on public access and the associated disturbance impacts on brent geese, one of the qualifying species for these nature conservation sites. Mitigation measures of relevance to the construction phase of the development are discussed in Chapter 4.

The following UK statutory nature conservation sites are located within a 2 km radius of the site:

- Chichester Harbour Site of Special Scientific Interest (SSSI), located adjacent to the northern, eastern and south-eastern site boundaries;
- Gutner Point Local Nature Reserve (LNR), located 225 m north;
- Hayling Billy LNR, located 1.56 km west; and,
- Langstone Harbour SSSI, located 1.58 km west.

These UK statutory sites fall within the Natura 2000 sites discussed above. As such, the implementation of mitigation measures to avoid impacts on the European statutory nature conservation sites in proximity to the proposed development site will also ensure that impacts on these UK statutory sites are avoided during the construction phase of the proposed development.

Mill Rythe Holiday Village SINC forms the eastern part of the application site (largely occupied by the former pitch and putt golf course). This SINC supports spiny reedbed *Ononis spinosa* (a species that meets Section 6 of the SINC selection criteria) and is also a Secondary Support Area (Solent Wader and Brent Goose Strategy Site H43) for brent geese. It is understood that the new accommodation units are proposed to be installed within the western portion of the former pitch and putt golf course, as this has been identified as a financially viable option which will secure the future of the site. Tree planting is also proposed in the westernmost region of the nature conservation site, in order to screen the proposed development from valuable habitats for brent geese to the east. Measures to prevent impacts on the retained area of the SINC, and particularly to avoid disturbance impacts on qualifying bird species, are outlined in Chapter 4.

A further three Solent Wader and Brent Goose Strategy Sites are located adjacent to the application site boundary: one Core Area (Site Code H50C), one Secondary Support Area (Site Code H40A) and one area overlapping with Chichester and Langstone Harbours SPA (Site Code H40C). Mill Rythe Lane Saltmarsh SINC and Solent Wader and Brent Goose Strategy Site is located 220 m north-west. These nature conservation sites, along with the retained portion of Mill Rythe Holiday Village SINC, may be indirectly impacted as a result of the proposals during the construction phase of the development. However, implementation of mitigation measures to avoid impacts on the European statutory nature conservation sites in proximity to the proposed development site will also ensure that impacts (such as increases in pollution,

dust and lighting) on these non-statutory sites are avoided during the construction phase of the proposed development.

The remaining non-statutory sites identified in the desk study are located over 800 m from the site. Due to the nature of the development and the intervening distance, it is unlikely that these sites will be directly or indirectly impacted by the proposed development. The remaining non-statutory sites are therefore not discussed further within this CEcMP.

2.2 HABITATS

Middlemarch Environmental Ltd completed an Ecological Walkover Assessment at the site in November 2021. At the time of the survey, the following habitats were recorded within the site (ordered alphabetically, not in order of ecological importance):

- Amenity grassland;
- Building;
- Hardstanding;
- Poor semi-improved grassland;
- Scattered trees;
- Scrub;
- Species-poor intact hedgerow; and,
- Standing water.

The most notable habitats recorded within the site are considered to be building, scattered trees, hedgerow and standing water, which broadly conform to Habitats of Principal Importance under Section 41 of the Natural Environment and Rural Communities Act 2006 (NERC).

It is understood that existing buildings are to be either retained and refurbished, or demolished. Buildings with confirmed roosts (Buildings 24, 27 and 36) will be demolished in accordance with a Natural England Bat Development Licence.

It is understood that many of the scattered trees (including two mature oak trees with bat roosting potential), the hedgerow delineating the southern site boundary and the two onsite waterbodies will be retained and incorporated into the landscaping scheme. However, some trees, which have the potential to support nesting birds, will need to be removed to accommodate the proposed development. Furthermore, small sections of species-poor hedgerow present across the existing holiday village site will be removed to accommodate the proposed development.

In the absence of mitigation, the hedgerow and retained trees could become damaged during the construction phase through soil compaction, through the use of machinery and storage of material which could impact on the roost systems, and by accidental damage. The two retained waterbodies could be subject to pollution and dust deposition arising from emissions from construction vehicles, machinery or incorrectly stored materials, resulting in a decline in water quality, a reduction in function and decline in ability to support wildlife. Mitigation measures to ensure these retained habitats are protected throughout the works are provided in Chapter 4.

Although of generally low ecological importance, the amenity grassland, semi-improved grassland and scrub habitats do contribute to structural diversity within the wider surrounding mosaic of habitats, and may support protected or notable species. The majority of grassland and scrub mosaic within the eastern part of the site will be retained.

The hardstanding habitats on site have negligible ecological value and are unlikely to support protected/notable species. This habitat is not discussed further within this CEcMP.

2.3 SPECIES

Desk study records provided by Hampshire Biodiversity Information Centre and survey work completed by Middlemarch Environmental Ltd in 2016, 2017 and 2020 have identified the following protected and notable species of relevance to the proposed development:

Bats

The 2020 desk study revealed records of at least 12 species of bat (common pipistrelle, soprano pipistrelle, Nathusius' pipistrelle, noctule, Leisler's bat, brown long-eared bat, Daubenton's bat, Natterer's bat, Brandt's bat, serotine, barbastelle and Bechstein's bat) within a 2 km radius of the site, in addition to records of unidentified pipistrelle, *Myotis*, and long-eared bat species. The most recent records dated from 2019 and the nearest records were attributable to common and soprano pipistrelles, located potentially on site.

A Preliminary Roost Assessment (Report RT-MME-123420-02) was undertaken at the site in September 2016. This revealed that a number of the buildings had low potential to support roosting bats, although the majority were considered to have negligible potential. An Endoscope Survey (Report RT-MME-124714 Rev A) was subsequently undertaken, utilising ladders and a mobile elevated working platform to provide safe access to potential roost features at height which had not been possible to fully assess during the Preliminary Roost Assessment. No evidence of bat presence was identified within any of the buildings surveyed. However, the soffits on Building 5 and the wooden cladding and lead flashing on Building 10 were considered to offer potential summer roost locations for individual bats.

An updated Preliminary Bat Roost Assessment (Report RT-MME-153320) was undertaken at the site in August 2020. The trees across the site were found to be in overall good condition and well managed, with no obvious features that could be used by roosting bats. A range of buildings were found to possess potential features suitable for use by roosting bats. Potential roost features recorded included lifted boarding and lead flashing, gaps in brickwork and loose metal fascias present around the multi-faceted complex of linked buildings/structures occupying a central area of the main holiday complex and damaged and missing sections of wooden panelling on the Boathouse building (public house/restaurant). These buildings, along with four boiler houses present on site, were classed as having 'high' potential to support roosting bats. Several of the chalets and accommodation blocks in the southern part of the site were deemed to have moderate potential to support roosting bats, although the majority were deemed to have low or negligible potential.

A suite of dusk emergence and dawn re-entry surveys were subsequently undertaken during August and September 2020. The following roosts were identified:

- A soprano pipistrelle maternity roost in Chalet I 'Seaton' (Building 24);
- A soprano pipistrelle day roost in Chalet K 'Tenby' (Building 27); and,
- A common pipistrelle day roost in Chalet L 'Harrow' (Building 36).

As such, in the absence of mitigation, building demolition/refurbishment has the potential to result in the killing or injury of bats and the loss of roosts. Loss of a bat roost would be in breach of the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

A Natural England Bat Development Licence will be required before any works can proceed. The associated method statement will outline how works will proceed in order to ensure relevant legislation is followed and no bats are injured or killed during the works.

There is also the potential for roosts present within retained buildings and trees to be disturbed as a result of vibration, noise and illumination during the construction phase of the proposed development. In addition, the use of temporary lighting during the construction phase has the potential to disrupt or fragment bat commuting and foraging corridors. These impacts could lead to reductions in breeding or foraging success and subsequent declines in the favourable conservation status of local bat populations.

To avoid impacts on roosting, foraging and commuting bats, the measures outlined in Chapter 4 will be implemented.

Badgers

The desk study did not reveal any records of badger within a 2 km radius of the site. No evidence of badger activity, such as setts, latrines or prints, was identified during the Ecological Walkover Assessment (Report RT-MME-156532-01). However, the dense scrub and grassland provide suitable opportunities for sett building and foraging habitat for badgers. As such, there is the potential for foraging badgers utilising the site to become trapped in open excavations. Measures to protect badgers during construction works are provided in Chapter 4.

Hedgehog

The desk study provided nine records of hedgehog within a 2 km radius of the site. The hedgerows, scrub and grassland all provide suitable habitat for hedgehogs. This species could be impacted during the construction phase of the proposed development if these habitats are lost or disturbed. Mitigation measures are provided in Chapter 4.

Amphibians

The desk study provided a single record of common toad within a 2 km radius of the site. No records of great crested newt were provided in the desk study.

The Ecological Walkover Assessment (Report RT-MME-156532-01) confirmed that the waterbodies within the site are generally unsuitable to support breeding amphibians, due to a lack of aquatic vegetation and the presence of high densities of wildfowl.

However, the eastern portion of the site provides suitable terrestrial habitat for common amphibians. While much of the onsite habitat will be retained, some vegetation clearance will need to be undertaken, which, in the absence of mitigation, could result in the killing or injury of amphibians. As such, precautionary mitigation measures are provided in Chapter 4.

Reptiles

The desk study provided records of slow worm, grass snake, common lizard and adder within a 2 km radius of the site. The closest records were attributable to slow worm and grass snake, located 410 m south of the site. The most recent reptile records also related to these two species, dating from 2015.

The western half of the site is deemed to be largely unsuitable for reptiles, while the eastern half comprising a mosaic of grassland, scattered blocks of scrub and tall ruderal vegetation provides some basking, foraging and refuge opportunities for reptiles. The eastern half of the site is also connected to further areas of suitable habitat within the wider landscape.

Low populations of common lizard (peak count of two adults) and slow worm (peak count of one adult) were identified within the eastern portion of the site during the Reptile Survey (Report RT-MME-153231-02) undertaken between August and September 2020.

Although much of the suitable habitat for reptiles within the eastern portion of the site will be retained, some vegetation clearance will need to be undertaken, which, in the absence of mitigation, could result in the killing or injury of reptiles. The intentional killing or injury of common reptiles (common lizard, slow-worm, adder and grass snake) would be in breach of the Wildlife and Countryside Act 1981 (as amended). Mitigation measures are provided in Chapter 4.

Birds

The desk study provided numerous records of bird species listed under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), a large proportion of which can be attributed to the adjacent Chichester and Langstone Harbour Ramsar wetland and SPA.

The eastern portion of the site is designated as a SINC and Solent Wader and Brent Goose Strategy Site. The Winter Bird Survey (Report RT-MME-153231-06) completed by Middlemarch Environmental Ltd between 2020 and 2021 to support the Habitats Regulations Assessment: Stage 1 Screening and Stage 2 Appropriate Assessment Report (Report RT-MME-153231-05), identified a small number of wildfowl (including low numbers of brent geese) utilising the large waterbody in the north-eastern part of the site. Larger numbers of wildfowl and wading birds were however observed using the surrounding habitats. The survey results obtained over winter 2020-2021 appear to be largely consistent with the survey results obtained by Middlemarch Environmental Ltd during February 2017 to inform the previous Habitats Regulations Assessment: Stage 1 Screening (Report RT-MME-123420-06-Rev C).

Following consultation with Natural England, it has been concluded that disturbance or displacement of qualifying bird species during the construction phase of the proposed development can be prevented, subject to mitigation measures being implemented. Further details regarding the consultation with Natural England are provided in the Habitats Regulations Assessment: Stage 1 Screening Report (RT-MME-123420-03-Rev C), whilst mitigation measures are outlined in Chapter 4.

The wider site also supports suitable habitats for common nesting bird species, including scrub, scattered trees, hedgerows and buildings. As such, inappropriate timing of vegetation and building clearance works has the potential to cause direct disturbance or harm to breeding birds, which would be in breach of the Wildlife and Countryside Act 1981 (as amended). Appropriate mitigation is outlined in Chapter 4.

Invertebrates

The desk study provided 45 records of stag beetle, a Species of Principal Importance, the closest of which was located 230 m north of the site and a single record of Jersey tiger moth from 2018, located potentially within a 2 km radius of the site. The desk study data also included records of a number of other notable terrestrial invertebrate species within a 2 km radius of the site, including moss carder-bee, blood vein moth and small heath butterfly, which are listed as Species of Principal Importance in England.

The mosaic of grassland and scrub which forms the eastern portion of the site is of greatest value to invertebrates and which will be largely retained. As such, no long-term impact on terrestrial invertebrates is anticipated as a result of the development and they are not a notable consideration in relation to the construction phase.

Flora

The desk study provided several records of notable plant species including spiny restharrow, which has been recorded within Mill Rythe Holiday Village SINC. This plant was not recorded during the Phase 1 Habitat Survey, although it should be noted that this was not a detailed botanical survey. The majority of the SINC is to be retained, and as such this plant species is not a notable consideration with respect to the construction phase of the proposed development.

A walkover survey of the site was conducted on November 25th 2021, which, although conducted at a sub-optimal time of year for botanical assessments, did not record any significant changes to the botanical component of the site.

2.4 SUMMARY

The biodiversity risk assessment presented in Sections 2.1 to 2.3 has identified the following key ecological receptors that could be subject to adverse impacts in the absence of mitigation or control measures during the construction phase of development:

- Nature Conservation Sites:
 - Natura 2000 European Statutory Sites: Chichester and Langstone Harbours Ramsar site and SPA; Solent Maritime SAC; Solent and Isle of Wight Lagoons SAC and Portsmouth Harbour Ramsar Site and SPA.
 - UK Statutory Sites: Chichester Harbour SSSI; Gutner Point LNR; Hayling Billy LNR; Langstone Harbour SSSI.
 - Non-statutory SINC and Solent Wader and Brent Goose Strategy Sites: Mill Rythe Holiday Village; Site Code H50C; Site Code H40A; Site Code H40C.
- Habitats: building, hedgerow, scattered trees, standing water, grassland and scrub; and,
- Species: badger, bats, birds (breeding and wintering), hedgehog and herpetofauna.

3. GENERAL CONTROL OF WORKS

This section of the report provides information with respect to the methods that will be implemented during the construction phase, in order to ensure the protection of ecologically sensitive habitats within the site and to prevent significant adverse impacts on any notable species present.

3.1 ECOLOGICAL MANAGEMENT TEAM

The overall responsibility for ensuring construction works proceed in accordance with the CEcMP will lie with Away Resorts Ltd or a suitable delegate appointed by Away Resorts Ltd in the event of their absence.

Away Resorts Ltd will appoint an Ecological Manager. The responsibilities of the Ecological Manager will include developing method statements and site protocols as required, providing guidance for the site team in dealing with environmental matters, and liaising with contractors/sub-contractors and any statutory or third party with an ecological interest in the scheme. The Ecological Manager will ensure that all site personnel are appropriately briefed on the ecological issues within the site. This will be undertaken through inclusion of ecological briefings within the 'toolbox' talks given to all staff as part of the site induction process.

A suitably qualified Ecological Clerk of Works will be appointed by Away Resorts Ltd to advise and oversee construction activities where appropriate, and ensure the site team and sub-contractors comply with site protocols and control/mitigation measures. Any failings will be reported to the Project Manager immediately, who will be responsible for ensuring that remedial action is implemented.

The Ecological Clerk of Works will be responsible to the Ecological Manager and will approve all method statements, in addition to ensuring that any relevant site environmental protocols are appended and that these controls are adhered to.

The ecological management team for this project is summarised in Table 3.1.

Role	Persons Responsible
Project Manager / Site Manager	Away Resorts Ltd
Ecological Manager	TBC
Ecological Clerk of Works	TBC

Table 3.1: Ecological Management Team

3.2 IDENTIFICATION OF BIODIVERSITY PROTECTION ZONES

In order to categorise the site according to ecological risk and to identify areas where certain construction activities are prohibited or restricted, a traffic light system will be implemented. The site has been divided into Red, Amber and Green Zones, with Red Zones being those areas of highest biodiversity interest and of greatest risk from construction.

The areas of the site falling into each of the Biodiversity Protection Zones are detailed in Sections 3.2.1 to 3.2.3, and are shown on Drawing C156532-02-01 in Chapter 5.

3.2.1 Red Zones / Features

Red Zones are defined as the most ecologically sensitive parts of the development site, or the areas most vulnerable to ecological damage. This category comprises the following features:

- Areas outside of the planning application boundary, but within the wider site ownership boundary;
- Buildings with confirmed bat roosts (Buildings 24, 27 and 36);
- Hedgerow and scattered trees to be retained; and,
- Standing water.

Red Zones are defined as the most ecologically sensitive parts of the development site, or the areas most vulnerable to ecological damage. Red Zones are the areas that will be retained and protected throughout the development and works will be subject to ongoing monitoring by the Ecological Clerk of the Works (see Section 3.1). No works can be undertaken within the red zones without prior consent from the Ecological

Manager. Measures that will be implemented to ensure that Red Zones are protected are summarised in Chapter 4.

3.2.2 Amber Zones / Features

Amber Zones are defined as areas of moderate to high ecological value that may be subject to direct or indirect impacts as a result of the proposed development and/or have the potential to support protected or notable species. This category consists of the following habitats:

- Mill Rythe Holiday Village SINC;
- All vegetation (trees, hedgerow, scrub and grassland) to be removed;
- Remaining buildings (due to potential to support roosting bats and/or nesting birds).

Any works impacting upon Amber Zones will be subject to control measures (see Chapter 4), and will be undertaken under the supervision or guidance of the Ecological Clerk of Works. Once works within the Amber Zones have been completed, the Ecological Clerk of Works may downgrade these areas to Green Zones (Section 3.3).

All works within Amber Zones should proceed with caution, and should be subject to regular monitoring by the Ecological Clerk of Works. Specific mitigation and control proposals that will be implemented to minimise the ecological impact of work in Amber Zones are detailed in Chapter 4.

3.2.3 Green Zones / Features

Green Zones are areas identified as having low ecological interest where breaches of wildlife legislation are unlikely to occur. They are of low intrinsic value, and do not offer any key habitat for notable or protected species. This category consists of the following habitat:

- Hardstanding.

Works within Green Zones are permitted to proceed without supervision by the Ecological Clerk of Works, provided that ecological best practice is adhered to at all times. Should any ecological issues be identified, works will cease and the Ecological Clerk of Works will be contacted for advice.

3.3 QUALITY CONTROL

3.3.1 Site Inductions / Toolbox Talks

All personnel on site will receive a site induction prior to commencing any work activities. The site induction will highlight key issues, operations, times of year and areas in relation to ecology. The induction will include:

- Awareness of the Biodiversity Protection Zones Map (see Drawing C156532-02-01 in Chapter 5);
- Site activity method statements;
- Reporting hierarchy; and,
- Permit system.

3.3.2 Ecological Permits

Ecological Permits will be required for working in Red or Amber Zones. These will be valid for specific time periods and should be renewed at least once a month.

3.3.3 Ecological Certificates

Once an activity has been completed or work in a designated area is finished, a certificate will be signed by the Ecological Manager to confirm it has been carried out to an acceptable standard.

3.3.4 Rectification Notices

Rectification notices will be issued by the Ecological Clerk of Works to the Site Manager or a representative of the site team for implementation of action required. These will be signed on completion by the site manager or a representative of the site team and counter signed by the Ecological Manager or Ecological Clerk of Works.

3.3.5 Daily Record Sheets

The Ecological Clerk of Works will record activities and observations onto a record sheet during visits to the site.

3.3.6 Progress Report

The Ecological Manager will produce a monthly report based on the record sheets, highlighting any issues raised during the programme. The report will include copies of:

- Ecological Permits;
- Ecological Certificates; and,
- Rectification Notices.

3.3.7 Revisions to Scheme

Should the need to amend any details of the scheme arise, such as the proposed methods of working or the extent of the works, the proposed changes will be approved in writing by the Ecological Clerk of Works prior to implementation, and also by the Local Planning Authority if required.

3.3.8 Access to Ecological Reports

Hard copies of all ecological baseline reports will be kept in the Site Office during the construction period.

4. PRACTICAL MEASURES TO AVOID/REDUCE CONSTRUCTION IMPACTS

This chapter details practical measures that will be implemented to ensure that biodiversity features on site are protected at all times throughout the construction process.

4.1 USE OF PROTECTIVE FENCING / BARRIERS

The following features require protective fencing/barriers on site to the following extents and during the following periods of the scheme:

- Fencing will be required to demarcate the boundaries of construction areas throughout the construction works period, to prevent encroachment into habitats outside of these areas. This is of particular importance with respect to the Mill Rythe Holiday Village SINC at the eastern extent of the site. Hoarding should be used along the boundary between the SINC and construction area, to minimise visual disturbance to bird species from construction works.
- Hedgerows and scattered trees within and adjacent to the proposed development site to be scheduled for retention will be protected during the proposed development works by the installation of protective fencing (e.g. Heras fencing). This fencing should ensure the integrity of the Root Protection Area of the trees, and should meet the requirements of British Standard 5837: 2012 "Trees in relation to design, demolition and construction - recommendations". Protection should be installed on site prior to the commencement of works.

All fencing and barriers should be installed prior to works commencing on site and under the supervision of the Ecological or Arboricultural Clerk of Works. The fencing will be temporary, but sufficiently robust to prevent accidental incursions into the protected areas.

4.2 ACCESS

Access to the site for construction vehicles will be via the existing route into the holiday village, off the A3203 and Havant Road.

The installation of fencing (see Section 4.1) will prevent access by construction vehicles or personnel into the retained area of the Mill Rythe Holiday Village SINC at the eastern extent of the site, or onto the adjacent sea wall.

4.3 STORAGE OF MATERIALS

Materials will be stored within the existing built footprint. No storage of materials is permitted within the retained grassland area (Mill Rythe Holiday Village SINC) within the eastern part of the site, or in proximity to the existing waterbodies or other valuable retained habitat features (hedgerows and scattered trees). Areas to be used for storage of materials will be agreed with the Ecological Clerk of Works and will be within habitats of negligible ecological value.

4.4 POLLUTION PREVENTION

Environment Agency Pollution Prevention Guidelines, including those relating to works and maintenance in or near water, were formerly withdrawn in December 2015. Guidance on Pollution Prevention for Businesses is provided at <https://www.gov.uk/guidance/pollution-prevention-for-businesses>. These guidelines provide a framework for the design of working practices to avoid pollution and should be followed throughout the construction period.

No bulk storage of fuel and other liquids will be permitted on the site. Fuels and other liquids which must be stored on site will be kept in bunded containers, within the existing built development. Spill kits will be available on site and procedures will be in place to deal with any incidents efficiently and quickly.

Refueling of plant/machinery on site should be avoided. If refueling is required, then it should be undertaken as far away from waterbodies as possible, over a drip tray.

Appropriate dust suppression measures in accordance with British Research Establishment guidance (Kukadia *et al*, 2003) will be put in place to reduce impacts to any species outside of the site boundary. The 'Construction Dust Information Sheet' issued by the Health and Safety Executive (2020¹) provides guidance on controlling construction dust and will be followed throughout the construction period. The use of Heras fencing (see Section 4.1) covered with netting will also reduce the risk of dust being deposited on habitats outside of the works area.

4.5 LIGHTING

During construction, generally work will be scheduled during daylight hours. However, during exceptional circumstances outside of the bat activity season (i.e. between November and February), should night work be required, construction phase lighting will be confined to the minimum level of nocturnal illumination necessary to allow construction works to proceed, with no up-light illumination permitted. No additional construction phase lighting will be permitted during the bat activity season, i.e. between March and October.

Lighting required in proximity to the boundary features, dense scrub or scattered trees, which are considered to provide suitable foraging and commuting habitat for bats, should be kept to a minimum and directed away from these features.

In addition, any required lighting should not allow light spill onto areas of site that may be of value to wintering birds e.g. north-eastern waterbody or the surrounding areas of intertidal habitat which is known to be used by a wide variety of waterbirds, including brent geese, and which may impact their natural behaviours.

4.6 NOISE AND VIBRATION

Reasonable measures should be taken to avoid significant increases in noise and vibration during the construction phase of the development. Any construction works on site will be carried out in accordance with British Standard 5228:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites².

The construction activities proposed will not require significant excavations or any piling and it is considered unlikely that noise levels will exceed 69dbAmax. However, a precautionary approach will be adopted, and noise levels will continue to be monitored throughout construction works. Should any works be required which result in a noise level in excess of 69dbAmax, these will be undertaken outside of the bird overwintering period, which extends from 1st October to 31st March.

4.7 FIRE PREVENTION

During construction, fires will not be permitted on the development site and the work force will be made aware of the risks of accidental fires on surrounding retained habitats.

4.8 MITIGATION MEASURES FOR NATURE CONSERVATION SITES

Implementation of measures relating to the use of protective fencing (Section 4.1), access and parking (Section 4.2), pollution prevention (Section 4.4) and noise and vibration (Section 4.6) will ensure that disturbance impacts on qualifying species (particularly birds) within statutory and non-statutory nature conservation in proximity to the proposed development site are avoided.

4.9 INDIVIDUAL HABITAT MITIGATION STRATEGIES

4.9.1 Hedgerows and Scattered Trees

Any trees or hedgerows on site, or overhanging the site, which are not to be removed as part of any proposed works should be protected in accordance with measures outlined in Section 4.1. Where construction works require the loss, damage or management of sections of hedgerow or specific trees to

¹ Health and Safety Executive (2020) *Construction Dust – Construction Information Sheet No 36 (Revision 3)*. March 2020.

² British Standards Institution (2009) *BS 5228-2:2009 Code of practice for noise and vibration control on construction and open sites*.

accommodate the construction works, then vegetation clearance will need to be undertaken in accordance with specific species mitigation strategies outlined below.

4.9.2 Standing Water

Measures regarding protective fencing (Section 4.1), storage of materials (Section 4.2) and pollution prevention (Section 4.3) will be implemented to minimise impacts on standing water habitats.

4.9.3 Retained Grassland and Scrub

Disturbance of, or damage to, the retained area of grassland and scrub within the Mill Rythe Holiday Village SINCE at the eastern extent of the proposed development site will be prevented through the use of protective fencing (Section 4.1).

4.10 INDIVIDUAL SPECIES MITIGATION STRATEGIES

4.10.1 Bats

Licensed Works and Updated Surveys

In order to avoid any breach of legislation with regard to roosting bats, the following measure will be implemented:

- All works involving disturbance and/or destruction of bat roosts on site (through the demolition of Buildings 28, 27 and 36) will be completed in accordance with a licence from Natural England. This licence will be applied for once planning permission has been granted and all conditions relating to wildlife have been discharged.

Where bat roosts are required to be destroyed to accommodate the proposed works, suitable replacement roost features will be provided as compensation, in accordance with the Natural England licence, to ensure that the favourable conservation status of roosting bats is maintained at the site.

An updated suite of dusk emergence and dawn re-entry bat surveys will be completed during the bat activity season closest to the start date of commencement/construction works, to confirm the current status of the site with regards to roosting bats and inform the licence application.

Two mature oak trees with suitable features for roosting bats have been identified on site. It is understood that these trees will be retained as part of the development and as such should be protected according to the measures outlined in Section 4.1. Illumination of these trees and connected habitats should be avoided.

Foraging and commuting bats

In order to reduce the impact of the development on foraging and commuting bats, the following construction phase mitigation measures will be implemented:

- Hedgerows and scattered trees scheduled for retention will be protected according to the measures outlined in Section 4.1.
- Construction phase lighting, noise and vibration will be kept to a minimum, in line with the measures outlined in Sections 4.5 and 4.6.

4.10.2 Badger

Badger Setts

A pre-commencement badger survey will be completed prior to any works commencing on site. This will involve an assessment of the site to determine if any active setts are present within 30 m of the proposed development footprint, and to establish whether a Natural England Development Licence will need to be applied for.

Foraging and Commuting Badger

In order to reduce the impact of the development on foraging and commuting badgers, the following construction phase mitigation measures will be implemented:

- Any excavations which are left overnight will be covered or be fitted with ramps to prevent any harm to any terrestrial mammals which may pass through the site.
- Any open pipework with an outside diameter of greater than 150 mm must be covered at the end of each work day to prevent terrestrial mammals entering/becoming trapped.

- Construction phase lighting, noise and vibration will be kept to a minimum, in line with the measures outlined in Sections 4.5 and 4.6.

4.10.3 Birds

Vegetation Clearance

Subject to the implementation of protective fencing (see Section 4.1) between the works footprint and the retained area of the Mill Rythe Holiday Village SINC, no disturbance impacts on qualifying winter bird species as a result of vegetation clearance within the main works footprint are anticipated. As such, once appropriate fencing has been installed, clearance of vegetation within the works footprint should be undertaken outside of the bird nesting season, which is weather dependent but generally extends between March and September inclusive (peak period March-August). If this is not feasible, then any vegetation to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing. In the event that birds are found to be nesting, any works which may affect them would have to be delayed until the young have fledged and the nest has been abandoned naturally, for example via the implementation of an appropriate buffer zone (species dependent) around the nest in which no disturbance is permitted until the nest is no longer in use.

Additional Construction Works

Any additional construction phase works with the potential to cause disturbance to wintering birds during the key period (1st October to 31st March) will be completed under the supervision of a suitably qualified and experienced ornithologist. If any works are required that are likely to impact or cause disturbance to birds using the surrounding intertidal habitats then additional measures may be required to ensure that any impacts are minimized e.g. use of appropriate screening/acoustic barriers or alteration of timing of works to ensure potential disturbance impacts are minimized (this may require reduced working activity at periods of high or low tide as appropriate).

General Measures

Implementation of measures relating to the use of protective fencing (Section 4.1), access and parking (Section 4.2), pollution prevention (Section 4.4) and noise and vibration (Section 4.6) will ensure that disturbance impacts on both wintering and nesting birds are avoided.

4.10.4 Herpetofauna

English Nature (2004) identifies two aims that need to be achieved where reptiles are present on proposed development sites:

- (1) To protect reptiles from any harm that might arise during the development work; and
- (2) To ensure that sufficient quality, quantity and connectivity of habitat is provided to accommodate the reptile population, either on-site or at an alternative site, with no net loss of local reptile conservation status.

Herpetofauna mitigation proposals for the site have been designed based on the best practice outlined in the Herpetofauna Workers Manual (Gent and Gibson, 2003). In order to avoid any breach of legislation with regard to reptiles and amphibians which may be utilising the terrestrial habitats within the site, the following measures will be implemented:

Site Clearance Protocol: Initial Habitat Manipulation

Between November and February, prior to the active season for herpetofauna and the nesting season for birds:

- Initial management of woody vegetation (trees, scrub) and longer grass, consisting of cutting to a height of 0.1 m – 0.2 m, with no impact on the ground or roots, can be completed under supervision of the Ecological Clerk of Works. Grass should be cut in a directional manner, towards retained habitats in the eastern part of the former pitch and putt golf course. *NB. This work will need to be completed in accordance with mitigation measures for birds (see Section 4.10.3), with vegetation clearance only commencing once the protective fencing and hoarding has been installed. Fencing/hoarding should be installed with a small gap at the bottom, to allow reptiles (and amphibians) to disperse into suitable, retained habitats outside of the fencing.*
- If vegetation suitable for nesting birds cannot be cleared prior to the bird nesting season, vegetation should be checked by a suitably qualified and experienced ecologist for nesting birds immediately

prior to works commencing. If birds are found to be nesting any works which may affect them would have to be delayed until the young have fledged and the nest has been abandoned naturally.

Once the active period for herpetofauna has commenced:

- The site should be subject to a walkover by the Ecological Clerk of Works to determine any sensitive features and their locations with respect to proposed site activities (the survey will focus on the location of any potential refuges for herpetofauna e.g. piles of rubble/rubbish/logs/mammal holes etc). These will be checked and where possible removed from the area.

The active period for herpetofauna is weather dependent but is generally accepted to extend between March and October inclusive.

Once the refugia clearance works have taken place and all arisings removed from the site, the site should be left for a period of one week to allow any reptiles or amphibians present to disperse into the retained habitat.

Site Clearance Protocol: Direct Search and Supervised Topsoil Strip

The proposed construction area will be searched by hand to ensure that no reptiles (or amphibians) are present. Suitably experienced ecologists will undertake all direct search works and all reptiles and common amphibians found will be moved to the receptor site (see below). In the unlikely event that a great crested newt is discovered, all works will cease and the Ecological Clerk of Works will determine the most appropriate way to proceed.

Following the direct search, a topsoil strip will be undertaken under direct supervision of the Ecological Clerk of Works. The removal of roots of hedges/trees will be undertaken with care by an excavator to allow the careful inspection of the root areas, with vegetation removed from the site so as not to create new refuges.

Avoidance of creation of potential refuges within active work areas.

Amphibians will utilise stacked materials such as wood, stone, boards or metal sheets as refuges. Active work areas should be kept tidy and materials should be stored off the ground – for example on pallets where possible. Should it be necessary to store materials such as topsoil on site, then these will be stored in raised skips, trailers or containers on raised pallets.

Receptor Site

Any reptiles (or common amphibians) which are found during the mitigation works will be translocated by suitably experienced ecologists using suitable personal protective equipment to the retained habitats in the eastern part of the former pitch and putt golf course, outside of the works footprint.

Management of Construction Footprint

Following the supervised vegetation clearance and soil strip works, the construction footprint will be subject to regular management, consisting of the removal of colonising vegetation, at least once every two weeks between April and October, to reduce the suitability of this area for reptiles.

All contractors should be made aware of the potential presence of reptiles on site during the initial site induction and regular toolbox talks. In the unlikely event that a reptile is discovered within the development footprint during construction works, a suitably qualified ecologist should be contacted for advice on how to proceed.

4.10.5 Hedgehog

Habitats within the site are suitable for use by foraging and hibernating hedgehogs. To avoid adverse impacts on this species, the following measures will be implemented:

- Due to timing restrictions associated with wintering birds and herpetofauna, it may not be possible to avoid vegetation clearance of dense scrub and hedgerows when hedgehogs may be hibernating, which is weather dependent, but generally considered to extend between November and February. As such, a suitably qualified ecologist will check suitable vegetation prior to clearance works and if hedgehogs are found to be hibernating will move them into suitable undisturbed habitats away from the construction area.
- Any excavations which are left overnight will be covered or be fitted with ramps to prevent any harm to any terrestrial mammals which may pass through the site.

- Any open pipework with an outside diameter of greater than 150 mm must be covered at the end of each work day to prevent terrestrial mammals entering/becoming trapped.

4.11 TIMING RESTRICTIONS

Table 4.1 details suitable timings for works to take place in order to minimise the impact of the development on sensitive ecological receptors.

Ecological receptor/s	Time of Year											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Works Within 'Red Zones' – areas to be retained and protected throughout works												
Areas outside of the planning application boundary, but within the wider site ownership boundary												
Buildings with confirmed bat roosts (Buildings 24, 27 and 36)												
Retained hedgerows and trees												
Standing water												
Works Within 'Amber Zones'												
Clearance of non-woody vegetation, including grassland.												
Herpetofauna	*	*	*	*	*	*	*	*	*	*	*	*
Other species	*	*	*	*	*	*	*	*	*	*	*	*
Initial management of woody vegetation to height of 0.1 m – 0.2 m.												
Birds (breeding)	*	*	*	*	*	*	*	*	*	*	*	*
Hedgehog	*	*	*	*	*	*	*	*	*	*	*	*
Other species	*	*	*	*	*	*	*	*	*	*	*	*
Removal of rubble/brush and roots of woody vegetation.												
Herpetofauna	*	*	*	*	*	*	*	*	*	*	*	*
Other species	*	*	*	*	*	*	*	*	*	*	*	*
Key: Red: No works permitted Amber: Potential time for action to take place (within constraints detailed in Chapters 3 and 4) Green: Optimal time for action to take place (within constraints detailed in Chapters 3 and 4)												
*: All works must proceed in accordance with methodologies detailed in Chapter 4.												

Table 4.1: Master Timetable of Timing Restricted Work Activities

4.12 SUPERVISION AND MONITORING BY ECOLOGICAL CLERK OF WORKS

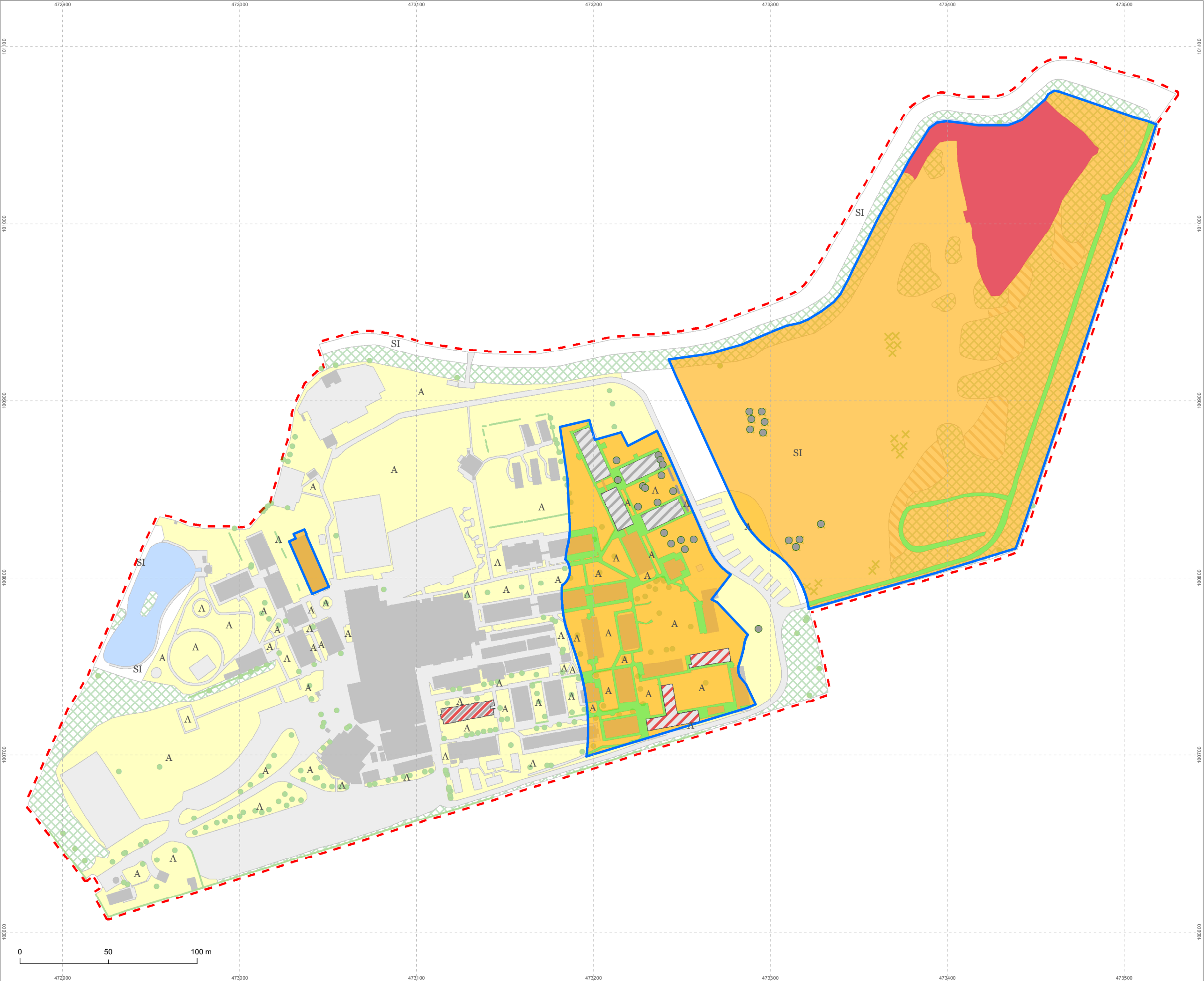
- No disturbance of Red Zones is permitted during construction works unless authorised by the Ecological Clerk of Works.
- Works within Amber Zones will be pre-approved by the Ecological Clerk of Works, and ecological supervision will be undertaken as and when required.

4.13 CONTINGENCY MEASURES

In the event of any protected species being discovered on site during the construction phase, all works will cease immediately and the Ecological Clerk of Works, Local Planning Authority and/or Natural England will be contacted to determine the most appropriate way to proceed.

5. DRAWINGS

Drawing C156532-02-01 – Biodiversity Protection Zones



C156532-02-01

Legend

Site boundary

Planning application boundary

Tree no longer present at time of 2021 walkover

Species-poor hedgerow no longer present at time of 2021 walkover

Green zone: low risk potential

Amber zone: moderate risk potential

Red zone: high risk potential

Building with confirmed bat roost - to be demolished in accordance with Natural England Bat Development Licence

Building with confirmed bat roost - outside planning application boundary

Building no longer present during 2021 walkover

PH1 features outside planning application boundary

Scattered scrub

Scattered tree

Species-poor intact hedgerow

A

Amenity grassland

Building

Dense scrub

Hardstanding

SI

Poor semi-improved grassland

Standing water

Tall ruderal

Project

Mill Rythe Holiday Village, Hayling Island

Drawing

Biodiversity Protection Zones

Client

Away Resorts Ltd.

Drawing Number

C156532-02-01

Revision

00

Scale @ A3

1:2000

Date

December 2021

Approved By

AZ

Drawn By

JR

MIDDLEMARCH ENVIRONMENTAL

Triumph House, Birmingham Road, Allesley, Coventry CV5 9AZ
T:01676 525880 F:01676 521400
E:admin@middlesmarch-environmental.com

This drawing is based on site survey "3189-200-201-202-203-204 Site Survey.dwg", supplied by the client.

APPENDICES

APPENDIX 1: Summary of Wildlife Legislation Applicable to Proposed Development

APPENDIX 2: Sample Ecological Permits, Certificates and Forms

APPENDIX 1

Summary of Wildlife Legislation Applicable to Proposed Development

Bats

Bats and the places they use for shelter or protection (i.e. roosts) receive European protection under The Conservation of Habitats and Species Regulations 2010, as amended (Habitats Regulations 2010, as amended). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that bats, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2010 (as amended), states that a person commits an offence if they:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats; or
- damage or destroy a bat roost (breeding site or resting place).

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2010 (as amended) for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead bats, part of a bat or anything derived from bats, which has been unlawfully taken from the wild.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to *intentionally* (rather than deliberately) kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to *intentionally or recklessly** damage or destroy, or *obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to *intentionally or recklessly** disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

*Reckless offences were added by the Countryside and Rights of Way (CROW) Act 2000.

As bats re-use the same roosts (breeding site or resting place) after periods of vacancy, legal opinion is that roosts are protected whether or not bats are present.

The following bat species are Species of Principal Importance for Nature Conservation in England: Barbastelle Bat *Barbastella barbastellus*, Bechstein's Bat *Myotis bechsteinii*, Noctule Bat *Nyctalus noctula*, Soprano Pipistrelle *Pipistrellus pygmaeus*, Brown Long-eared Bat *Plecotus auritus*, Greater Horseshoe Bat *Rhinolophus ferrumequinum* and Lesser Horseshoe Bat *Rhinolophus hipposideros*.

The reader should refer to the original legislation for the definitive interpretation.

Badgers

Badgers and their setts are protected under the Protection of Badgers Act 1992. The Protection of Badgers Act 1992 is based primarily on the need to protect badgers from baiting and deliberate harm or injury, badgers are not protected for conservation reasons. The following are criminal offences:

- To intentionally or recklessly interfere with a sett. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it.
- To wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so.

A badger sett is defined in the legislation as:

- '*Any structure or place that displays signs indicating current use by a badger*'.

'Current use' is not synonymous with current occupation and a sett is defined as such (and thus protected) as long as signs of current usage are present. Therefore, a sett is protected until such a time as the field signs deteriorate to such an extent that they no longer indicate 'current usage'.

Badger sett interference can result from a multitude of operations including excavation and coring, even if there is no direct damage to the sett, such as through the disturbance of badgers whilst occupying the sett. Any intentional or reckless work that results in the interference of badger setts is illegal without a licence from Natural England³⁰. In England a licence must be obtained from Natural England before any interference with a badger sett occurs.

The reader should refer to the original legislation for the definitive interpretation.

Hedgehog

Hedgehogs receive some protection under Schedule 6 of the Wildlife and Countryside Act 1981 (as amended); this section of the Act lists animals which may not be killed or taken by certain methods, namely traps and nets, poisons, automatic weapons, electrical devices, smokes/gases and various others. Humane trapping for research purposes requires a licence.

Hedgehogs are a Species of Principal Importance for Nature Conservation in England and are thus capable of being material considerations in the planning process.

Great crested newts

Great crested newts (GCN) and the places they use for shelter or protection receive European protection under The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that GCN, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2010, states that a person commits an offence if they:

- deliberately capture, injure or kill a GCN;
- deliberately disturb GCN;
- deliberately take or destroy eggs of a GCN; or
- damage or destroy a GCN breeding site or resting place.

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2010 for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead GCN, part of a GCN or anything derived from GCN, which has been unlawfully taken from the wild. This legislation applies to all life stages of GCN.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to intentionally (rather than deliberately) kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to intentionally or recklessly* damage or destroy, or *obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to intentionally or recklessly* disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

*Reckless offences were added by the Countryside and Rights of Way (CROW) Act 2000.

Great crested newts are listed as Species of Principal Importance on the UK Post-2010 Biodiversity Framework (2012), and as such are material considerations in the planning process.

Reptiles

All of the UK's native reptiles are protected by law. The two rarest species – sand lizard (*Lacerta agilis*) and smooth snake (*Coronella austriaca*) – benefit from the greatest protection.

Common lizard (*Zootoca vivipara*), slow-worm (*Anguis fragilis*), adder (*Vipera berus*) and grass snake (*Natrix natrix*) are protected under the Wildlife and Countryside Act 1981 (as amended) from intentional killing or injuring.

Sand lizard and smooth snake are protected under The Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended) which together make it illegal to kill, injure, capture, handle or disturb these animals. Places they use for breeding, resting, shelter and protection are protected from being damaged or destroyed. It is also illegal to obstruct these animals from using such areas.

All native reptile species are listed as Species of Principal Importance on the UK Post-2010 Biodiversity Framework (2012), and as such are material considerations in the planning process.

This is a simplified description of the legislation. In particular, the offences mentioned here may be absolute, intentional, deliberate or reckless. Note that where it is predictable that reptiles are likely to be killed or injured by activities such as site clearance, this could legally constitute intentional killing or injuring.

Nesting Birds

The Conservation of Habitats and Species Regulations 2010 (as amended) places a duty on public bodies to take measures to preserve, maintain and re-establish habitat for wild birds.

Nesting and nest building birds are protected under the Wildlife and Countryside Act WCA 1981 (as amended). Subject to the provisions of the act, if any person intentionally:

- kills, injures or takes any wild bird;
- takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- takes or destroys an egg of any wild bird, he shall be guilty of an offence.

Some species (listed in Schedule 1 of the WCA) are protected by special penalties. Subject to the provisions of the act, if any person intentionally or recklessly:

- disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturbs dependent young of such a bird, he shall be guilty of an offence.

Several bird species are Species of Principal Importance for Nature Conservation in England, making them capable of being material considerations in the planning process.

APPENDIX 2

Sample Ecological Permits, Certificates and Forms

ECOLOGICAL PERMIT TO WORK (SAMPLE)

CONTRACT NAME:		CONTRACT NO:	PERMIT NO:
RECEPIENT:			
ZONE/AREA:			

PROPOSED NATURE OF WORKS:							
ECOLOGICAL ISSUES:							
	Nesting birds		Reptiles		Other		
ECOLOGICAL CONTROL LEVEL:	Green / Amber / Red						
ECOLOGICAL CONTROL MEASURES:	Nesting bird check		Reptile habitat supervision		Other		
Vegetation clearance must be undertaken within 48 hours of:							

PROPOSED NATURE OF WORKS:							
ECOLOGICAL ISSUES:							
	Nesting birds		Reptiles		Other		
ECOLOGICAL CONTROL LEVEL:	Green / Amber / Red						
ECOLOGICAL CONTROL MEASURES:	Nesting bird check		Reptile habitat supervision		Other		
Vegetation clearance must be undertaken within 48 hours of:							
MS APPROVAL	YES		NO		ECW sign:		
NOTES/ISSUES							
ECOLOGICAL MANAGER							
ECOW							
Notes:							
1. Ecological control levels	Red = No access to areas for working or storage						
	Amber = Full-time to part-time ECoW supervision						
	Green = Visiting ECoW role						
Permit Valid Dates	From:			To:			
Document No:	Document date:			Revision No:			

ECOLOGY CERTIFICATE 1 (SAMPLE)

Form of Certificate to be used by the Ecological Manager for certifying that the relevant Works have been completed.

1. We certify that we have used reasonable professional skill and care in examining the Works carried out listed below and that in our opinion all such Works have been completed in all respects in accordance with the Contract, so as to accord with the Ecological Design to which there has been no objection under the Review and Certification Procedure and so as to satisfy the Employer's Requirements and the Contractor's Proposals as amended by the following Contractor's Changes and Employer's Changes.

[DETAILS OF ECOLOGICAL WORKS]

Signed
Environmental Manager (Partner or Director)
Name
Title
Date

Signed
Project Manager (Principal)
Name
Title
Date

Where the Environmental Manager is not a specialist in this area

2. This certificate is
 - i accepted*
 - ii accepted with comments:*
 - iii returned unaccepted with comments:**delete as appropriate

Signed
Employer's Agent

Name

Date

DAILY RECORD SHEET (SAMPLE)

SITE NAME		
ECOLOGICAL CLERK OF WORKS - DAILY RECORD SHEET		
DATE: TBC		PROJECT NO:
ECOW NAME: TIMES:		WEATHER: TEMPERATURE- CLOUD- WIND- PRECIPITATION-
PLOT REF.	ACTIVITY SUPERVISED, NOTES ETC	ACTION REQUIRED (WHOM)