



St Modwen Homes

Blythe Vale, Blythe Bridge: Phase 2 Enabling Works

Biodiversity Guidance Note

January 2022

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Rev	Issue Status	Prepared / Date	Reviewed / Date	Approved / Date
-	Draft	LTW 18.01.22	HGF 19.01.22	JD / 20.01.2022
A	Final	LTW 24.01.22	-	-

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FIGURES

Figure 1: Pond Location & Impact Zones

1.0 INTRODUCTION

- 1.1 This report has been prepared by FPCR Environment and Design Ltd on behalf of St Modwen Homes, to provide guidance in relation to the potential presence of protected and notable species within an area of land at Blythe Bridge, Staffordshire Moorlands. Enabling works are proposed to construct a spine road and pumping station, in advance of the Phase 2 application for residential development being granted (application number SMD/2021/0418).
- 1.2 Phase 1 of the development (SMD/2018/0790) is ongoing and the construction of the haul road (SMD/2021/0498) is now complete. Works are ongoing in relation to the drainage works approved under SMD/2018/0790 and the great crested newt (GCN) *Triturus cristatus* mitigation area. A number of habitat and protected species surveys have been undertaken on site and within the wider area in support of the above applications, providing a comprehensive overview of the site's ecological value. This Guidance Note should be read in conjunction with the supporting ecological reports (see Section 2 below).

Site Location and Context

- 1.3 The site is located to the east of Blythe Bridge village, situated between the A50 and the A521. The wider area comprises pastureland with residential development to the northeast and northwest.
- 1.4 The site is approximately 0.99ha in size and includes hardstanding to the north and disturbed land/bare ground to the south and east, largely resulting from the ongoing drainage works (SMD/2018/0790). Recolonising areas of semi improved neutral grassland are present along the eastern branch of the proposed road, along with dead wood and brash piles. No hedgerows or trees are present within the red line boundary, however hedgerows H3 and H10 and associated trees are located adjacent to the proposed spine road.
- 1.5 Three GCN ponds are present within 250m of site, the closest of which is a confirmed breeding pond (P3), located approximately 30m from site at the nearest point (please see Figure 1: Pond Location and Impact Zones). An existing European Protected Species Licence (EPSL), Licence no: 2020-45148-EPS-MIT-1 covers the enabling works boundary and surrounding area. Under this licence the site was trapped out in August/September 2020, with newts moved to a receptor site located approximately 50m outside of the red line boundary to the southeast. Temporary Amphibian Fencing (TAF) remains *in situ* under this licence, with part of the wider area under St Modwen Homes' ownership (blue line boundary Figure 1) still to be trapped out.

Site Proposals

- 1.6 Proposals include the construction of a spine road and pumping station, including the installation of drainage and services.

2.0 PREVIOUS SURVEY INFORMATION

2.1 Past surveys of the site include an extended Phase 1 Habitat survey carried out in May 2014, updated in June 2018 and April 2021. Additional species-specific surveys were also completed for great crested newt, bats and reptiles in 2014, 2015 and 2017. Monitoring of the GCN population has also been conducted March-May 2021. This report should be read in conjunction with the following reports;

- Ecological Appraisal, FPCR, June 2021
- Bat Survey Report, FPCR, July 2017;
- Great Crested Newt Report, FPCR, June 2021; and
- Reptile Survey Report, FPCR, July 2017.

Summary of previous survey findings

- 2.2 No statutory designated sites of international or national nature conservation value were identified within 5km or 2km of the site boundary respectively. No non-statutory designated sites were recorded within 1km of the site boundary.
- 2.3 Habitats prior to the drainage application included semi improved neutral grassland and poor semi improved grassland, as well as hedgerows and trees. Vegetation removal was undertaken to facilitate proposals resulting in the current habitats which include bare ground and areas of recolonising grassland.
- 2.4 No evidence of bats roosting on site was recorded. A series of activity transect and static detector surveys completed in 2014 and 2015 identified common and widespread species of bats using the site for foraging and commuting. As a result, appropriate mitigation including enhanced habitats and a sympathetic lighting scheme was recommended for incorporation into the proposals. Trees identified as having potential roosting features for bats were inspected by a licenced bat worker prior to removal.
- 2.5 No reptiles were recorded on site following the completion of presence/absence surveys in 2015.
- 2.6 A small population of great crested newts was recorded on site during surveys in 2015, 2017 and during monitoring surveys in 2021. The existing EPSL forms part of a phased/multi-plot application, with the second licence (to follow once planning permission is obtained for Phase 2: SMD/2021/0418) agreed in principle with Natural England. The proposed enabling works are located on land covered by the existing licence, which has been trapped out, with TAF still *in situ*, preventing newts from entering the working area. All works within 250m of GCN ponds will be undertaken under a European Protected Species Licence EPSL and an appropriate mitigation package, to ensure the favourable conservation status of great crested newts is at least maintained and will likely be enhanced in the local area.

3.0 LEGISLATION

GCN

- 3.1 Great crested newts (GCN) are afforded full protection at a European and UK level under the Conservation of Habitats and Species Regulations 2017¹ and the Wildlife & Countryside Act 1981² (as amended).
- 3.2 Under Regulation 41 of the Conservation of Habitats and Species Regulations 2017 it is illegal to:
- Deliberately capture, injure or kill any wild animal of a European Protected Species (EPS),
 - Deliberately disturb wild animals of an EPS (affecting ability to survive, breed or rear young) – 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,
 - Deliberately disturb wild animals of an EPS (impairing ability to migrate or hibernate) – disturbance of animals includes in particular any disturbance which is likely to impair their ability in the case of hibernating or migratory species to hibernate or migrate,
 - Deliberately disturb wild animals of an EPS (affecting local distribution and abundance) – disturbance of animals includes in particular any disturbance which is likely to affect significantly the local distribution or abundance of the species to which they belong,
 - Deliberately disturb wild animals of an EPS (whilst occupying a structure or place used for shelter or protection) – intentionally or recklessly disturb any wild animal while it is occupying a structure or place which it uses for shelter or protection,
 - Damage or destroy a breeding site or resting place of an EPS.
- 3.3 Under the Wildlife and Countryside Act 1981 (as amended) it is illegal to:
- Recklessly or intentionally kill, injure or take any wild animals included in Schedule 5.
 - Recklessly or intentionally damage or destroy, or obstruct access to any structure or place which any wild animal included in Schedule 5 uses for shelter or protection,
 - Recklessly or intentionally disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.
- 3.1 Although the law provides strict protection to GCN, it also allows derogation from this protection under Section 53 of the Conservation of Habitats and Species Regulations 2010 through the issuing of EPS licences for development works. These licences in England are currently determined and issued by Natural England.
- 3.2 In such circumstances, where a lawful operation is required to be carried out, which is likely to result in one of the above offences, an EPS licence may be obtained from NE to allow the operation to proceed.

¹ The Conservation of Habitats and Species Regulations 2017 – Statutory Instrument 1997 No. 1012. [Online]. London: HMSO. Available at: <http://www.legislation.gov.uk/uksi/2017/1012/contents/mademade>

² The Wildlife and Countryside Act 1981 (as amended). [Online]. London: HMSO Available at <http://www.legislation.gov.uk/ukpga/1981/69>

3.3 As part of the licence application process a number of 'Tests' have to be met by the application.

3.4 Natural England Guidance Note: European Protected Species and the Planning Process – Natural England's Application of the 'Three Tests' to Licence Applications (March 2011) states:

*"In determining whether or not to grant a licence Natural England must apply the requirements of Regulation 53 of the Regulations and, in particular, the three tests set out in sub-paragraphs (2)(e), (9)(a) and (9)(b). (1) **Regulation 53(2)(e)** states: a licence can be granted for the purposes of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".*

*(2) **Regulation 53(9)(a)** states: the appropriate authority shall not grant a licence unless they are satisfied "that there is no satisfactory alternative".*

*(3) **Regulation 53(9)(b)** states: the appropriate authority shall not grant a licence unless they are satisfied "that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."*

3.5 Conservation status is defined as "the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its population within its territory". It is assessed as favourable when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long term basis as a viable component of its natural habitats, and
- The natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- There is, or will probably continue to be, a sufficiently large habitat to maintain its populations on a long term basis.

3.6 These tests must not only reach agreement with Natural England when assessing a Licence application, they must also be considered by the planning authority when determining a planning application to the extent that the LPA must be satisfied that a licence is likely to be granted should one be required.

Birds

3.7 All birds whilst breeding, their eggs, dependent young and active nests are protected from damage or destruction under the Wildlife and Countryside Act 1981 (as amended). Furthermore, many species are listed as Species of Principal Importance under the Natural Environment and Rural Communities (NERC) Act 2006.³

³ The Natural Environment and Rural Communities Act 2006. [Online]. London: HMSO Available at: <http://www.legislation.gov.uk/ukpga/2006/16/contents> [Accessed 17/01/2021]

Hedgehogs

- 3.8 Hedgehogs are listed as Species of Principal Importance under the Natural Environment and Rural Communities (NERC) Act 2006.

4.0 POTENTIAL CONSTRAINTS

GCN

- 4.1 All proposed works fall within the area trapped-out under the existing EPS Licence (licence no: 2020-45148-EPS-MIT-1), with TAF separating the proposed working area from suitable GCN habitat. As such, GCN should not be present within the working area. Given the close proximity of works to confirmed GCN ponds, however, precautionary working methods (outlined within Section 5) will need to be implemented. This will ensure compliance with the existing licence and that no offences are committed in relation to GCN.

Nesting birds / Other Fauna

- 4.2 Dead wood and brash piles from vegetation removed under consent of the drainage application are present within the working area. These provide potential refuges and nesting opportunities for fauna (i.e., nesting birds, hedgehogs). Working methods are therefore outlined below (Section 5) to ensure no harm to protected or notable species occurs as a result of the proposed enabling works.

5.0 WORKING METHODS FOR CONSTRUCTION

- 5.1 To avoid potential risk of killing or injuring GCN and other fauna, the following measures are recommended:
- All works including material storage must take place within the area trapped out and cleared under the above existing European Protected Species Licence.
 - A Toolbox talk from a suitably experienced ecologist should be given to all site personnel prior to the commencement of works.
 - The existing GCN fence (TAF) needs to be maintained in good condition to ensure it remains an effective barrier to newt dispersal. Inspection of the fence within the working area should be undertaken by site personnel daily, with remedial action (if/where required) undertaken promptly. These inspections will be in addition to the weekly checks of the entire fence line by site personnel and the quarterly inspections carried out by an ecologist, as per the terms of the existing EPSL.
 - Materials and spoil should not be placed in direct proximity to the fence such that it impedes its function as a barrier/potentially provides an access route for GCN over the top and into the Site.
 - Existing dead wood and brash piles within the working area should be inspected by an ecologist prior to removal to check for fauna i.e., nesting birds or hedgehogs.
 - Once checked by the supervising ecologist the dead wood and brash will need to be relocated and stored away from areas of semi-natural habitat (ideally on bare ground or

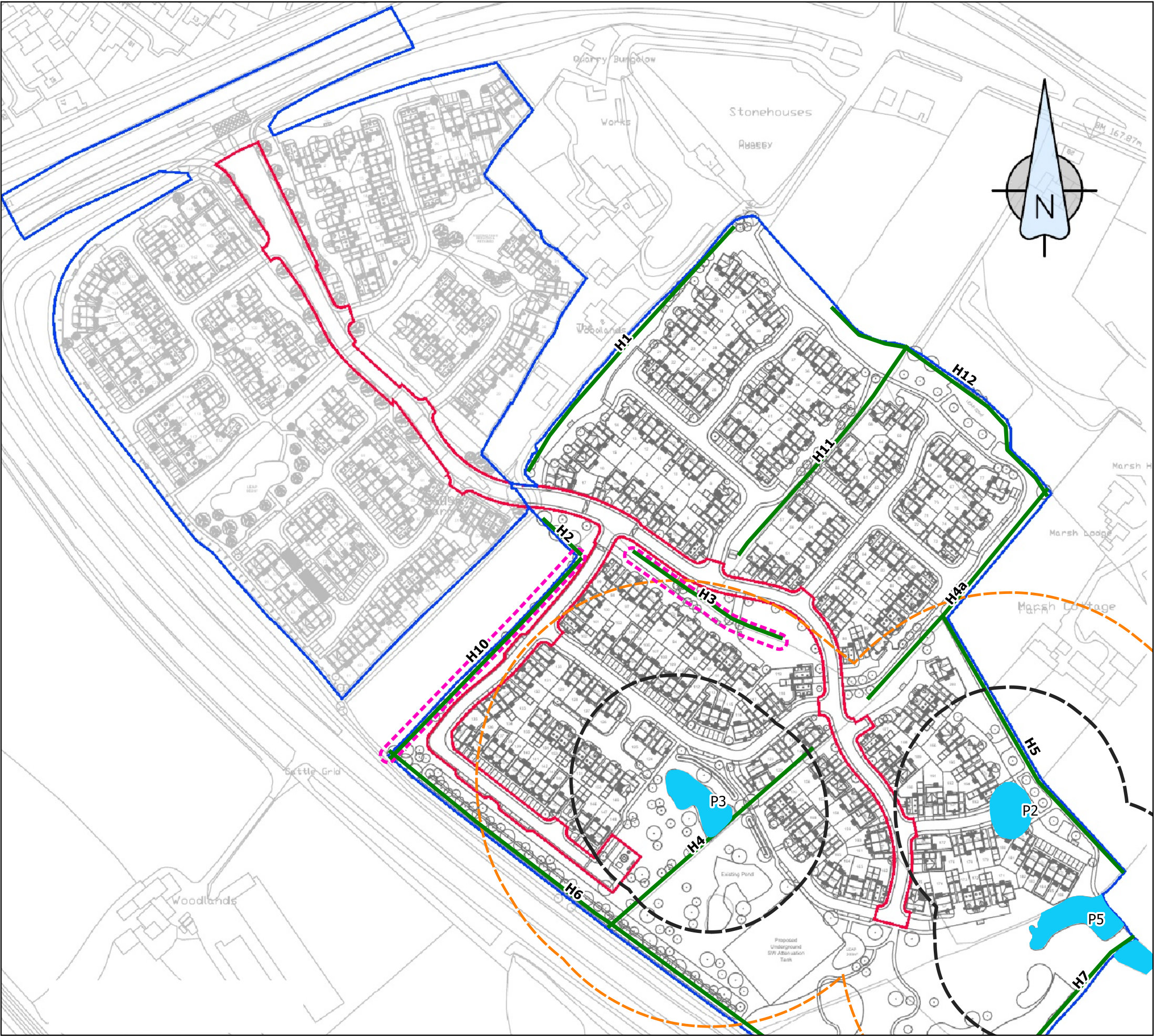
hardstanding), raised on pallets to ensure they do not provide areas of potential rest or shelter.

- Hedgerows and associated trees in close proximity to the spine road (i.e., Hedgerow H3 and H10) should be protected from damage and soil compaction during works by maintaining fenced Root Protection Areas (RPAs). These should be installed in accordance with BS5837:2012 Trees in relation to design, demolition and construction - Recommendations.
- Any hedgerows or trees which require flailing/cutting back (i.e., to facilitate to construction of the spine road) should be undertaken outside of the nesting bird season (March-August inclusive). This applies to boundary trees which may overhang into site. If site clearance outside this period is not possible, a nesting bird check by a suitably experienced ecologist should be undertaken of all areas requiring clearance no more than two days before works are scheduled.

5.2 In the event any GCN, unidentified amphibian or reptile is observed/found during works, **all works must immediately cease** and FPCR must be immediately contacted for further advice.

6.0 CONCLUSIONS

- 6.1 In summary, works will affect a small area which is largely hard standing and bare ground, frequently disturbed as part of the ongoing drainage works. Potential refuges on site are limited to the dead wood and brash piles. Appropriate measures have been recommended to ensure the protection of GCN; to avoid any negative impact on the species as well as to maintain the 'favourable conservation status' within the local area. Consideration has also been given to other species which may utilise the site, with appropriate working methods provided to safeguard these species groups.
- 6.2 Providing the working methods detailed within Section 5 of this document are followed, the proposed enabling works are not anticipated to have a negative impact on protected or notable species potentially present on site.



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Key

- Site Boundary
- Land Under St Modwen Homes' Ownership
- GCN Ponds (with ref)
- 50m GCN Pond Buffer
- 100m GCN Pond buffer
- Hedgerow (with ref)
- Root Protection Areas (RPA) - Refer to BS5837:2012