

ECOLOGICAL APPRAISAL

GHL (EAGLE WHARF ROAD) LTD

49 - 50 EAGLE WHARF ROAD
N1 7ED, LONDON

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EXECUTIVE SUMMARY

- S.1 The proposed development comprises the construction of a six and seven-storey building and two further new build structures to provide approximately 4200m² of commercial floor space and approximately 64 residential units, including a basement level.
- S.2 The proposed development will include the demolition of the majority of the existing building complex. A three storey 19th Century warehouse, a former industrial chimney and a party wall will be retained.
- S.3 The existing buildings on site provide nesting habitat for birds. Due to the potential risk of the presence of nesting black redstart, demolition or renovation works to the buildings should be undertaken during the period October to February (inclusive) to avoid the bird nesting season.
- S.4 Alternatively, if this is not possible and demolition occurs during the breeding season, further survey work is recommended to establish whether black redstart is nesting on site. One survey visit should be conducted in suitable weather conditions approximately one week prior to demolition works commencing.
- S.5 A check for other nesting bird species should be undertaken at the same time as the black redstart survey if demolition works occur during the nesting season. Any active nests will need to be left in situ until birds have stopped using them.
- S.6 The buildings on site are of negligible to low potential to support roosting bat roost. Therefore further surveys are not required. However the possibility of an occasional, itinerant bat roosting under features such as corrugated roof sheeting cannot be entirely ruled out.
- S.7 As a precaution, the corrugated roof sheeting, as well as the fascia boards within the courtyard on the west and south facing elevations should be carefully removed by hand and inspected for bats. Ideally this work should be undertaken between late October and early April. Should a bat be found, works should cease and a suitably qualified bat ecologist be contacted.
- S.8 In the unlikely event roosting bats are found, further survey work and a European Protected Species Mitigation (EPSM) Licence will be needed before demolition works continue in that area where the bat roost was found. Works to other areas of the site may be able to commence.
- S.9 Other protected species are unlikely to occur on site and no additional survey work is recommended.
- S.10 This report contains further details of ecological avoidance, mitigation and enhancement measurements. Therefore the details of this report should be read in full.

1. INTRODUCTION

INSTRUCTION

- 1.1. Lloyd Bore Ltd was instructed by Wyn Gilley of Stephen Davy Peter Smith Architects Ltd on 2nd October 2014 to undertake an ecological appraisal of 49 - 50 Eagle Wharf Road, Hackney, N1 7ED (approximate centre TQ 323 834).

DESCRIPTION OF PROPOSED DEVELOPMENT

- 1.2. The proposed development consists of the demolition of the majority of the existing two and three-storey building complex. The three storey 19th Century warehouse, a former industrial chimney and a party wall will be retained.
- 1.3. A proposed six and seven-storey building will run along the width of the street frontage and returns along the eastern boundary to the canal. Two further new build structures will be constructed adjacent to the chimney and parallel to the retained western boundary wall.
- 1.4. The scheme proposes approximately 4200m² of commercial floor space and 64 residential units, which include a basement level.
- 1.5. The details of the proposed development are shown in the Steven Davy Peter Smith Architects Drawing 1434(PL)101, dated July 2014 and Drawing 1434(PL)202, dated October 2014 (Sections 5 and 6 respectively).

SCOPE OF WORKS

- 1.6. The instruction included a site visit and the production of an ecological appraisal report to support planning and a BREEAM: Code for Sustainable Homes and a BREEAM: New Construction ecology assessment.
- 1.7. The scope of works did not include an internal assessment of the building or specific protected species surveys or associated reports.

ASSESSMENT OBJECTIVES

- 1.8. The objectives of the survey and report are to:-
- Record the existing habitats on site;
 - Identify habitats and/or structures that have potential to support legally protected species;
 - Make recommendations, if required, for further protected species surveys, avoidance measures, mitigation or, if necessary, compensation measures;
 - Determine the ecological value of the site where it is possible to do so; and
 - Identify potential enhancement measures that could improve the ecological value of the site for notable habitats and species.

2. SITE LOCATION

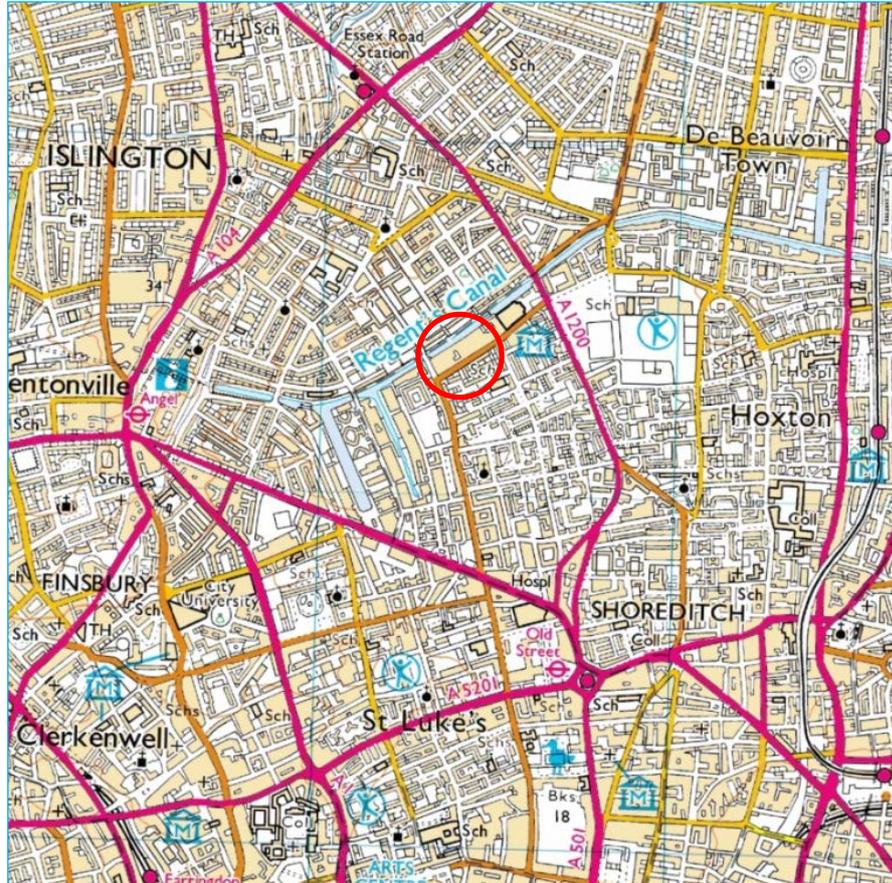


Fig. 1: Location of the site (approximate centre TQ 323 834). Reproduced from by permission of Ordnance Survey. © Crown Copyright (2014), All rights reserved.

4. EXISTING ELEVATIONS

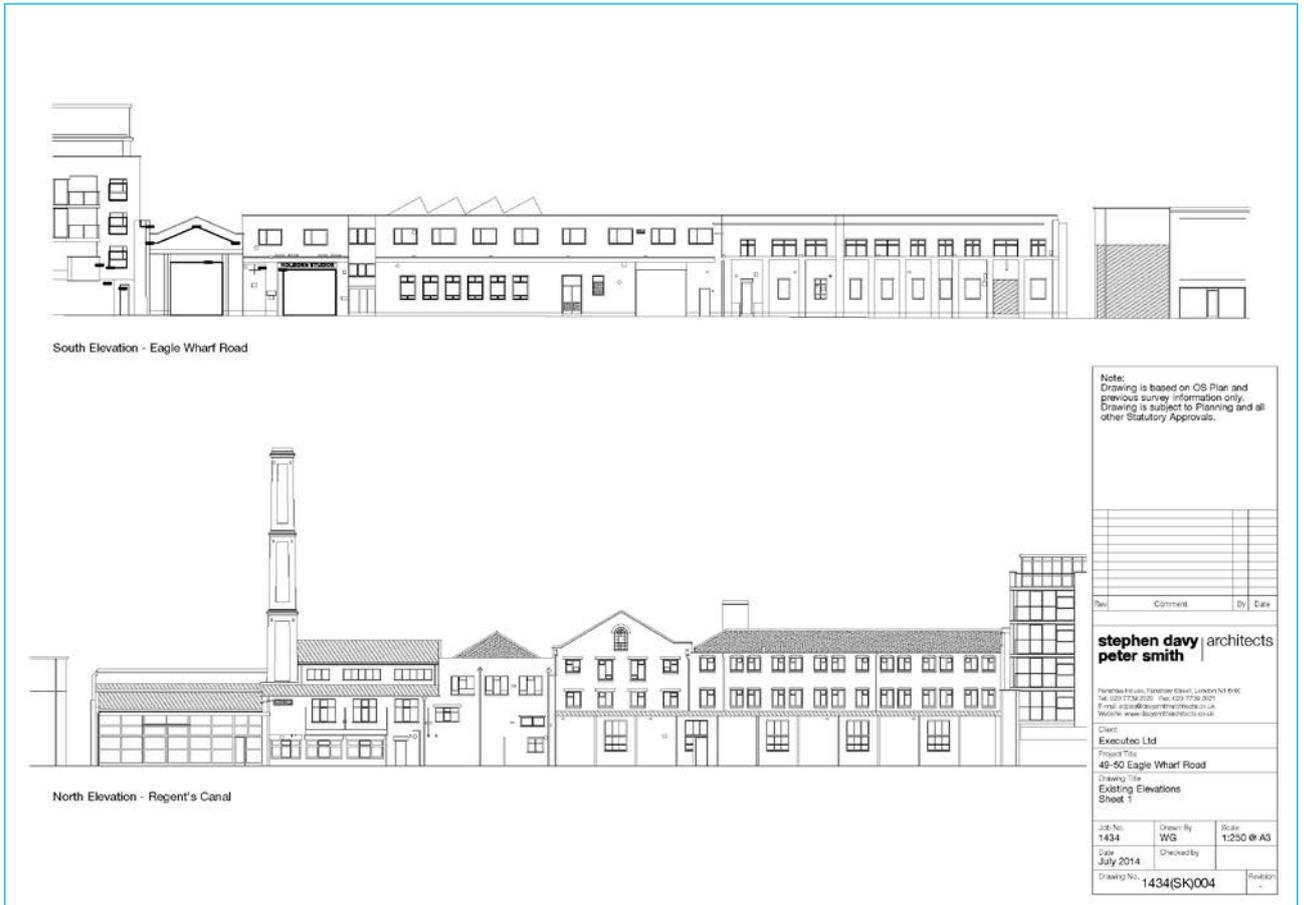


Fig. 3: Existing elevations (Drawing 1434(SK)004, dated July 2014). For a larger plan see the pdf document submitted with planning application.

5. PROPOSED GROUND FLOOR PLAN

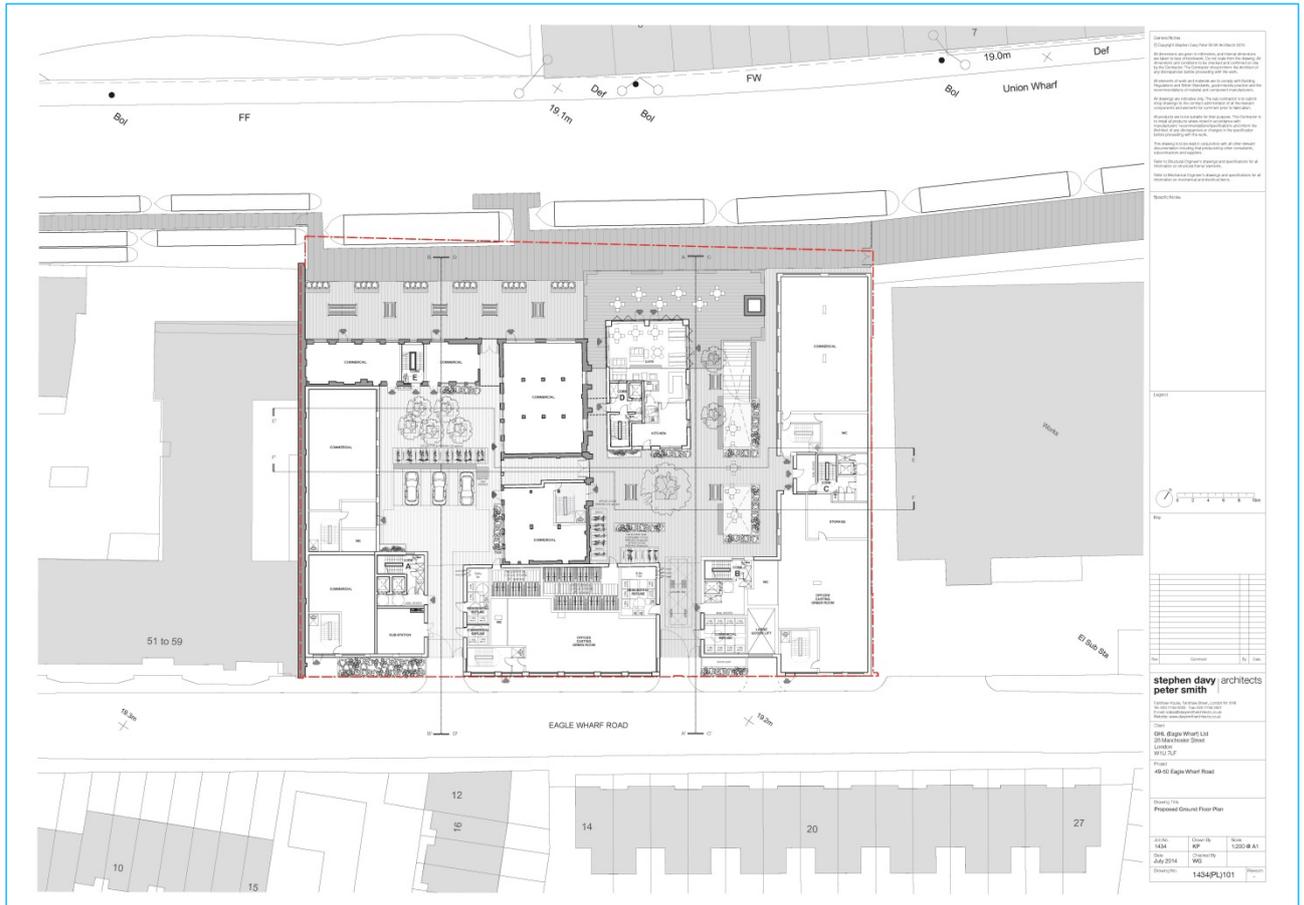


Fig. 4: Proposed ground floor plan (Drawing 1434(PL)101, dated July 2014). For a larger plan see the pdf document submitted with planning application.

6. PROPOSED ELEVATIONS

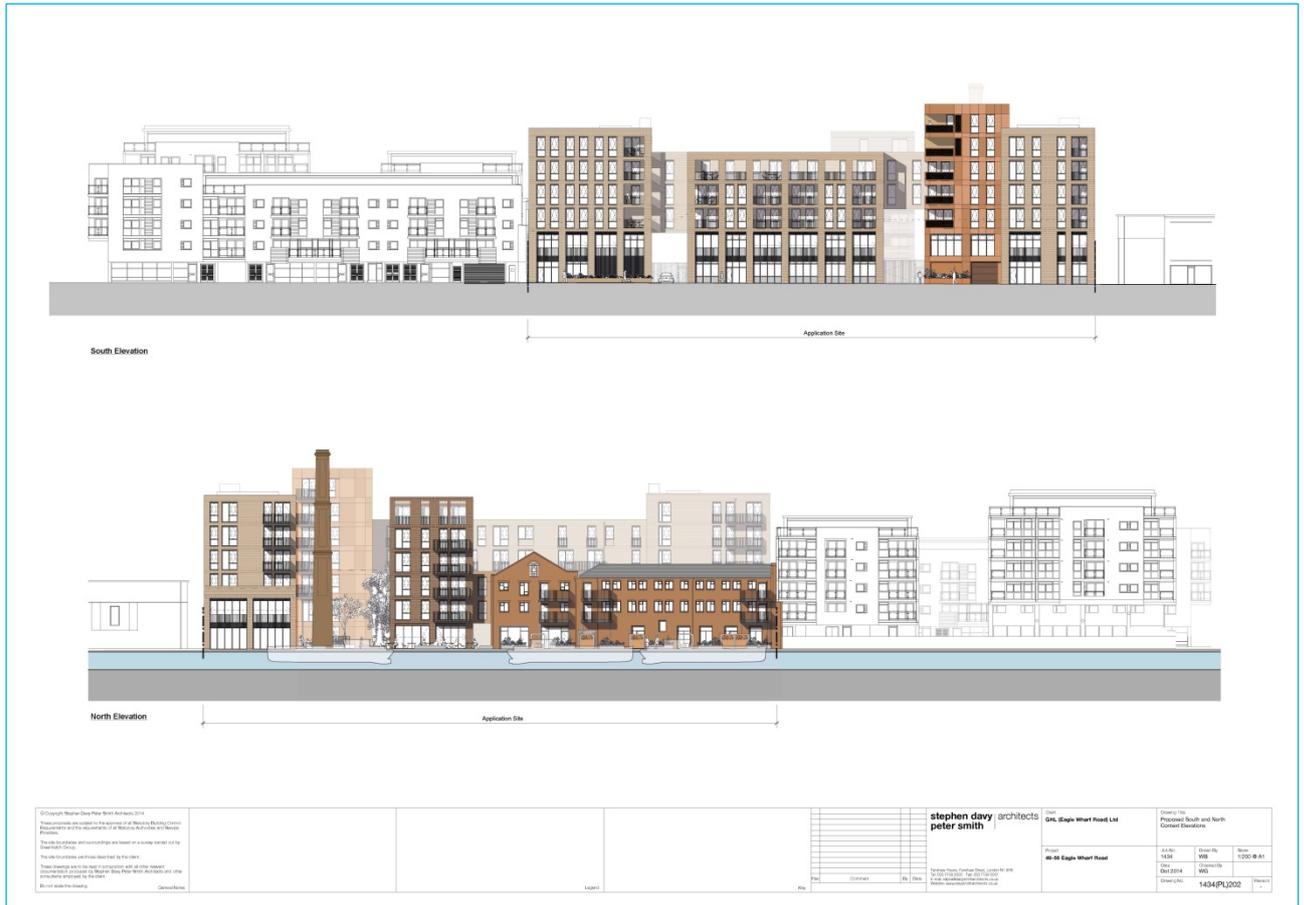


Fig. 5: Proposed south and north context elevations (Drawing 1434(PL)202, dated October 2014). For a larger plan see the pdf document submitted with planning application.

7. METHOD

SURVEY DETAILS

| | |
|---------------|--|
| Survey: | 15th October 2014 |
| Surveyor (s): | James Madden MSc BSc (Hons) Grad CIEEM |
| Weather: | Dry, clear and sunny. |

SURVEY METHOD

- 7.1. The survey comprised a site walkover and ecological assessment of habitats. Vegetation was classified according to the standardised habitat descriptions (JNCC 2003; 2010).
- 7.2. The survey included an assessment of the potential of the site to support legally protected species. ARG UK (2010) Advice note 5: Great crested newt habitat suitability index (ARG (UK), 2010) and Bat Surveys: Good Practice Guidelines (BCT, 2012) have been used to assess the likelihood that animals will be present.
- 7.3. Any evidence or known occurrence of invasive plant species listed on Schedule 9 of the Wildlife and Countryside Act (WCA) 1981 (as amended), for example Japanese knotweed (*Fallopia japonica*), were noted.

DESK STUDY

- 7.4. The Multi Agency Geographic Information for the Countryside (MAGIC) website was used to obtain information about statutory designated sites, such as Sites of Scientific Interest (SSSI) and National Nature Reserves (NNR), within 2km of the survey site.
- 7.5. The search radius was extended to 5km when examining potential effects on International level designated sites.

ASSESSMENT AND EVALUATION

- 7.6. The ecological assessment has been conducted in accordance with CIEEM 2013.
- 7.7. Where possible, the evaluation of ecological features has followed industry standard guidelines (IEEM 2006).
- 7.8. Habitat criteria listed in best practice guidelines for individual species or species groups, such as Oldham *et al.* (2000), ARG (2010) and BCT (2012), have been used to assess the suitability of habitats to support protected and/or notable species. Gilbert *et al.* (1998) has been used to inform best practice for bird survey methods.
- 7.9. Where best practice guidelines are unavailable or unclear, experienced ecologists have used their judgement to categorise the suitability of habitats to support protected or notable species.
- 7.10. The need and scope for further protected species surveys has been determined on the basis of the suitability of the habitats to support protected species, the potential impacts of the proposed development and the nature of the legal protection afforded to the species most likely to be present.
- 7.11. Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 has been used to identify habitats and species considered to be of conservation priority on a national scale. These are

also called Habitats or Species of Principal Importance. The value of these habitats and species are recognised in the National Planning Policy Framework (NPPF).

- 7.12. County and local biodiversity action plans (BAPs), as well as county Red lists, have been used to identify species and habitats that are likely to be of conservation priority at a local level.
- 7.13. Although it does not offer any legal protection, The Birds of Conservation Concern 3 (2009) provides guidance on the conservation status of UK bird species. Thus it can be used to inform judgements on the ecological value of bird populations and the habitats that they rely on, particularly at a local level. Red status species are those species of highest conservation concern and green status species are those of low or no conservation concern. Amber status species are those species of some conservation concern.
- 7.14. A summary of relevant wildlife legislation and national planning policies can be found in Appendix 1.

ZONE OF INFLUENCE

- 7.15. The potential impact of a development is not always limited to the boundaries of the site concerned. A development may also have the potential to impact on ecologically valuable sites, habitats or species beyond the site boundaries. The area over which a development may impact ecologically valuable receptors is known as the Zone of Influence (Zol).
- 7.16. The Zol is determined by the source/type of impact, a potential pathway for that impact and the location and sensitivity of the ecologically valuable receptor beyond the boundary.
- 7.17. Potential sources of impact associated with the proposed development include indirect impacts, such as light spillage onto the adjacent canal and run-off of materials and liquids during construction.
- 7.18. Without appropriate mitigation development proposals have the potential to cause indirect effects to species and habitats associated with the adjacent Regent's Canal.
- 7.19. With appropriate mitigation however the risk of indirect impacts on the canal should be reduced and therefore the extent of the Zol along the canal would be minimised.

SURVEY LIMITATIONS

- 7.20. The ecological appraisal provides an initial view of the likelihood of protected and notable species occurring on site. This is based on the suitability of the habitat, any previous surveys of the site and any direct evidence of presence. The initial survey does not constitute a full and definite survey of any protected species group and is only valid at the time the survey was undertaken.
- 7.21. The ecological appraisal did not include an internal inspection of the buildings for bats. However, an internal inspection carried out by Lloyd Bore Ltd in August 2012 found no signs of bats and found no suitable internal roosting opportunities for bats.
- 7.22. A biological records search was not conducted, however because of the location of the site and habitats present this is not considered to be a significant limitation.
- 7.23. Overall, the survey and ecological appraisal are considered to provide a robust assessment of the site's ecological conditions and therefore suitable to fulfil the aims of the report.

8. SURVEY RESULTS

DESIGNATED SITES

Statutory protected sites

- 8.1. Lee Valley Special Protection Areas (SPA) and Ramsar site lies approximately 4.95km to the north-east of the development site.
- 8.2. Barnsbury Wood Local Nature Reserve (LNR) lies approximately 1.65km to the north-west of the development site.

Non-statutory sites

- 8.3. Regent's Canal Site of Metropolitan Importance for Nature Conservation lies adjacent to the north of the site.

HABITATS

- 8.4. The development site comprises a building complex consisting of two and three-storey buildings, a three-storey 19th Century warehouse, a former industrial chimney and a party wall that runs along the length of the western boundary. An open courtyard comprising hard standing lies near the centre of the site. There are 14 planters located within the courtyard.
- 8.5. There is wooden decking beyond the site boundary floating on the Regent's Canal. There are six planters attached to the north facing wall of the existing building complex, overhanging the decking.

FLORA

- 8.6. Plant species present within the development area include buddleia (*Buddleia davidii*), box (*Buxus sempervirens*), purple toadflax (*Linaria purpurea*), herb robert (*Geranium robertianum*), *Pteridophyta* sp., *Umbelliferae* sp., holly (*Ilex aquifolium*), ivy (*Hedera helix*), bay (*Laurus nobilis*), laurel (*Aucuba japonica*), common hyacinth (*Hyacinthus orientalis*), sun spurge (*Euphorbia helioscopia*), Magnolia sp., and chickweed (*Stellaria media*).
- 8.7. There are no trees within the site.
- 8.8. The site is unlikely to support legally protected or notable plants.
- 8.9. No evidence of Schedule 9 plants were found during the site survey.

INVERTEBRATES (INCLUDING WHITE CLAWED CRAYFISH)

- 8.10. The site is only likely to support common and widespread invertebrate species.
- 8.11. The canal habitat in the vicinity of the development site does not provide suitable habitat to support white-clawed crayfish (*Austropotamobius pallipes*).

GREAT CRESTED NEWTS AND OTHER AMPHIBIANS

- 8.12. There are two water bodies within 250m of the development site:
 - WB1 is Regent's Canal that runs along the northern site boundary.
 - WB2 is a pond located approximately 220m north-west of the site within a private residence.

- 8.13. Habitat on site comprising buildings and hard standing does not provide habitat for great crested newts (*Triturus cristatus*).
- 8.14. The surrounding landscape immediately beyond the site does not provide suitable habitat for great crested newt.

REPTILES

- 8.15. Habitat on site comprising buildings and hard standing do not provide suitable habitat for reptiles.

BIRDS

- 8.16. The ornamental shrubs present within the planters in the development area provide negligible nesting opportunities for common and widespread birds.
- 8.17. The buildings on site provide low potential for common nesting birds such as feral pigeon (*Columba livia domestica*).
- 8.18. Buildings provide low potential for breeding black redstart (*Phoenicurus ochruros*), which is listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended).
- 8.19. Breeding black redstarts have been recorded in the Borough of Hackney (www.blackredstarts.org.uk, 2014).

WATER VOLES

- 8.20. The banks of the canal in the vicinity of the development site comprise vertical concrete and brick edges and are as such are unsuitable for water vole (*Arvicola amphibius*) burrows.

HAZEL DORMICE

- 8.21. Habitat on site comprising buildings and hard standing do not provide habitat or hazel dormouse (*Muscardinus avellanarius*).

BADGERS

- 8.22. Habitat on site comprising buildings and hard standing do not provide habitat for badgers (*Meles meles*).

OTTERS

- 8.23. The habitats within the canal adjacent to the development site do not provide suitable resting sites or potential holt sites for otter (*Lutra lutra*).
- 8.24. No signs of otter were recorded during a thorough inspection of the canal bank adjacent to the development site.

BATS

- 8.25. The buildings are of a modern design and construction, with a complex of flat and pitched roofs, and are in a reasonable condition of maintenance.
- 8.26. Externally there are some features that offer limited opportunities for roosting bats, such as gaps and crevices under corrugated roof sheeting and between fascia boards and walls. These may be used by occasional, individual roosting bats, during the summer.

- 8.27. An internal inspection was carried out by Lloyd Bore Ltd in August 2012 (Ref: 1973 / R01). This 2012 survey included an inspection of the basement of the main studio building and found it to be well sealed with no obvious access points for bats. All buildings and warehouses inspected in 2012 were found to be open to the ceiling with no notable roof spaces.
- 8.28. Apart from the adjacent canal, the habitat present within and surrounding the proposed development provides poor quality foraging habitat.
- 8.29. Overall, the buildings are considered to have negligible to low potential for roosting bats.
- 8.30. The adjacent Regent's Canal may provide foraging habitat and a commuting corridor for bats.

9. PHOTOGRAPHS



Photo 1: Southern elevation facing Eagle Wharf Road



Photo 2: Northern elevation showing wooden decking over canal.



Photo 3: Development site showing Regent's Canal (looking north-east).

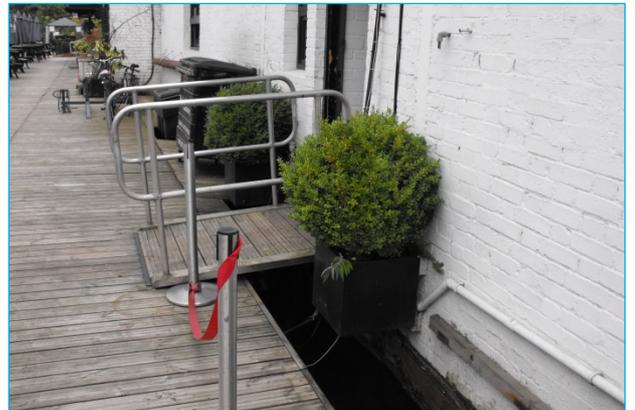


Photo 4: Planters attached to the northern elevation of the building complex overhanging canal.



Photo 5: Building complex viewed from courtyard.



Photo 6: Planters located within courtyard.

10. EVALUATION AND RECOMMENDATIONS

DESIGNATED SITES

- 10.1. Lee Valley SPA and Ramsar site is located approximately 4.95km to the north-east of the proposed development. Barnsbury Wood LNR lies approximately 1.65km to the north-west of the survey site.
- 10.2. The proposals will not impact directly or indirectly on these statutory designated sites.

Non-statutory sites

- 10.3. Regent's Canal is designated a Site of Metropolitan Importance for Nature Conservation, lies adjacent to the north of the site.
- 10.4. The canal, which is situated outside of the development site, has the potential to be impacted indirectly by proposals without appropriate avoidance and mitigation measures.
- 10.5. Standard Environment Agency Pollution Prevention Guidelines should be followed during construction to minimise the risk of ecological impacts on the canal arising from fuel or chemical spillages.
- 10.6. Mitigation measures to minimise external light spillage onto the canal with regard to bats are recommended (see below).

HABITATS

- 10.7. There are no habitats of ecological value within the development site.

FLORA

- 10.8. The site is unlikely to support legally protected or notable plants.
- 10.9. No further surveys are required.

INVERTEBRATES (INCLUDING WHITE CLAWED CRAYFISH)

- 10.10. The site is likely to be of negligible value for invertebrates.
- 10.11. The canal habitat adjacent to the site will not be directly impacted by the development proposals.
- 10.12. No further surveys are required.

GREAT CRESTED NEWTS AND OTHER AMPHIBIANS

- 10.13. Great crested newts are afforded protection by the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).
- 10.14. Great crested newts are most commonly found within 250m of water bodies (English Nature, 2001, 2004; Natural England, 2013). They are less likely to be found in habitats beyond 250m.
- 10.15. There are two water bodies within 250m of the site boundary.
- 10.16. WB1 (Regent's Canal) does not afford suitable aquatic habitat for great crested newt because it supports fish. Fish are known to be major predators of great crested newt larvae.

- 10.17. WB2 located 220m to the north-west is isolated from the site by Regent's Canal and the surrounding dense urban development, including buildings and roads. These will act as a major barrier to prevent the dispersal of this species.
- 10.18. It is very unlikely that great crested newt and other amphibians are present within the development site or surrounds, therefore no further survey work is required.

REPTILES

- 10.19. The development site does not provide habitat to support reptiles.
- 10.20. No further surveys are required.

BIRDS

- 10.21. Nesting birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981 (as amended).
- 10.22. The site is of low ecological value for birds. However, the presence of nesting black redstart within the building complex cannot be ruled out.
- 10.23. Therefore, appropriate avoidance and mitigation measures are recommended:
- 10.24. Nesting habitat (including buildings) should ideally be removed during the period October to February (inclusive) to avoid the bird nesting season.
- 10.25. Alternatively, if this is not possible, further survey work is recommended prior to construction. One survey should be conducted in suitable weather approximately one week prior to demolition commencing. If breeding black red start is found, appropriate avoidance and mitigation measures will be required to ensure works to not disturb birds whilst they are breeding.
- 10.26. A check for other nesting birds (i.e. not just black redstart) should be undertaken by a suitably qualified ecologist prior to works. Any active nests will need to be left in situ until birds have stopped using them.

WATER VOLES

- 10.27. The banks of the canal adjacent to the development site are unsuitable for water vole burrows as they comprise vertical brick and concrete edges.
- 10.28. No burrows or signs of water vole were recorded during a thorough inspection of the canal bank.
- 10.29. No further survey work is required.

HAZEL DORMOUSE

- 10.30. The site has no value for dormice.
- 10.31. No further surveys are required.

BADGER

- 10.32. The site has no value for badger.
- 10.33. No further surveys are required.

OTTER

- 10.34. It is unlikely that otters will be within or adjacent to the site and therefore they will not pose a constraint to development.
- 10.35. No further surveys are required.

BATS

- 10.36. Bat roosts are afforded legal protection by the Conservation of Habitat and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).
- 10.37. The buildings within the development site are considered to provide negligible to low bat roosting potential. However the possibility of an occasional, itinerant bat roosting under features such as corrugated roof sheeting during the summer cannot be entirely ruled out.
- 10.38. As a precaution, the corrugated roof sheeting and fascia boards within the courtyard on the west and south facing elevations should be carefully removed by hand and inspected for bats. Ideally this work should be undertaken between late October and early April.
- 10.39. Should a bat be found, works should cease in the areas where the bat was found and a suitably qualified and licenced bat ecologist be contacted.
- 10.40. If roosting bats are found, further survey work and a European Protected Species Mitigation Licence will be needed before demolition works to the building could commence.
- 10.41. Regent's Canal provides potential foraging habitat and is a potential commuting corridor for bats. Without appropriate mitigation the proposed buildings have the potential to cause disturbance to bats through light spillage onto Regent's Canal.
- 10.42. The following mitigation is recommended to minimise the effects of lighting on bats where safety and secure by design constraints allow:
- The lighting within the development will be designed to minimize light spillage on the canal so that light spillage is minimised;
 - Any security lighting should be located no higher than 2.5m. All such lights should be hooded, cowled or shielded to angle light directly to the ground where it is needed and prevent light spillage and pollution. Security lighting should be motion sensitive only. A manufacturer of 'night sky friendly' lighting such as www.dark-sky-lighting.co.uk will be able to advise further on lighting styles available; and
 - Pedestrian lighting along footpaths should be as low level as guidelines / health and safety permit, and use hoods to direct light to the ground. The light should be below 3 lux at ground level;

11. ECOLOGICAL ENHANCEMENT MEASURES

GENERAL RECOMMENDATIONS

- 11.1. Native shrub and tree species could be planted within the site and around the site boundaries especially along the canal.
- 11.2. Climbers, such as honeysuckle (*Lonicera periclymenum*) and clematis (*Clematis vitalba*) could be planted against the new building.
- 11.3. The potential to install two bat bricks, which are installed into the wall of the building, should be investigated. These should be located on the northern elevation adjacent to the canal. Examples of potentially suitable bat bricks include Ibstock enclosed bat box, Schwegler wall-mounted bat shelter 2FE or a Norfolk bat brick, dependent on the design and materials of the external building walls.
- 11.4. If bat bricks are installed, they should be placed away from any light fixtures and at a height of at least 4m.

12. REFERENCES

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- Multi-agency Geographic Information for the Countryside (MAGIC) Interactive Map. Department for Environment, Food and Rural Affairs. Available from: <http://magic.defra.gov.uk>. [Accessed: 03/11/2014]
- Natural England (2008) Natural Environment and Rural Communities (NERC) Act 2006: Section 41: Habitats and Species of Principal Importance in England. Available from: <http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>.
- Natural England (2013). Template for method statement to support application under Regulation (53(2)(e) in respect of great crested newts *Triturus cristatus* (WML-A14-2).
- Oldham, R.S., Keeble, J., Swan, M.J.S and Jeffcote, M (2000). Evaluating the suitability of habitat for the great crested newt (*Triturus cristatus*). Herpetological Journal, 10, 143-155.

13. APPENDIX 1

SUMMARY OF WILDLIFE LEGISLATION

- 13.1. The level of protection afforded to protected species varies dependent on the associated legislation. A full list of protected species and their specific legal protection is provided within the Schedules and/or Sections of the associated legislation. Case law may further clarify the nature of the legal protection afforded to species.
- 13.2. The legal protection afforded to protected species overrides all planning decisions.
- European Protected Species (EPS) - and the Conservation of Habitats and Species Regulations 2010 (as amended)*
- 13.3. European Protected Species (EPS) are afforded the highest level of protection through the Conservation of Habitats and Species Regulations 2010 (as amended). EPS are also afforded legal protection by parts of the Wildlife and Countryside Act 1981 (as amended).
- 13.4. There are a number of relatively common and widespread EPS. These include great crested newt, all species of UK bat, dormice and otter.
- 13.5. There are other species of plant and animal that are also EPS, but generally these are more scarce / rare and are restricted to narrow geographies or specific habitat types. Examples of this latter group include natterjack toad (*Epidalea calamita*), sand lizard (*Lacerta agilis*) and smooth snake (*Coronella austriaca*).
- 13.6. In general, any person and/or activity that:-
- Damages or destroys a breeding or resting place of an EPS. (This is sometimes referred to as the strict liability or absolute offence);
 - Deliberately captures, injures or kills an EPS (including their eggs);
 - Deliberately disturbs an EPS, and in particular disturbance likely to impair animals ability to survive, breed or nurture young, their ability to hibernate and migrate and disturbance likely to have a significant effect on local distribution and abundance;
 - Intentionally or recklessly disturbs an EPS while occupying a structure or place used for shelter and/or protection (Wildlife and Countryside Act 1981 (as amended)); and
 - Intentionally or recklessly obstructs access to any structure or place that an EPS uses for shelter or protection (Wildlife and Countryside Act 1981 (as amended)).
 - ...may be guilty of an offence.
- 13.7. The legislation applies to the egg, larval and adult life stages of great crested newts and to bat roosts even when they are not occupied.
- 13.8. Maximum penalties are punishable with fines up to £5,000 per offence and up to 6 months imprisonment. Actions affecting multiple animals can be construed as separate offences and therefore penalties can be applied per animal impacted.
- 13.9. Under certain circumstances licences can be granted by the Statutory Nature Conservation Organisation (Natural England in England) to permit actions that would otherwise be unlawful.

- 13.10. There are some very specific defences associated with the Conservation of Habitats and Species Regulations 2010 (as amended). However these are unlikely to apply to construction related projects. The Sections of the Regulations provide further details of these defences.
- 13.11. The Wildlife and Countryside Act (1981) includes defence for those aspects of the legislation that apply to an EPS. These defences are unlikely to apply to construction related projects and do not apply to those acts included in the Conservation of Habitats and Species Regulations 2010 (as amended). The Schedules of the Act provide further details of defences.
- 13.12. Local authorities have obligations under sections 40 and 41 of the Natural Environment and Rural Communities Act (NERC) 2006 to have regard to the purpose of conserving biodiversity in carrying out their duties. The majority of EPS are listed on Section 41 the NERC Act.

Wildlife and Countryside Act 1981 (as amended)

- 13.13. The level of protection afforded to species listed on the Wildlife and Countryside Act 1981 (as amended) varies considerably.
- 13.14. 'Fully protected species', such as water vole, are afforded the highest level of protection. Any person who intentionally kills, injures, or takes 'fully protected species', or who intentionally or recklessly damages or destroys a structure or place used for shelter and/or protection, disturbs the animal whilst occupying a structure and/or place used for shelter and protection, or obstructs access to any structure and/or place used for shelter or protection is likely to have committed an offence.
- 13.15. Other species, such as common reptiles, are afforded less protection and for these species it may only be an offence to intentionally or recklessly kill or injure animals.
- 13.16. All active bird nests, eggs and young are protected from intentional destruction. Schedule 1 listed birds are also protected from intentional and reckless disturbance whilst breeding.
- 13.17. Schedule 9 of The Wildlife and Countryside Act lists plant species for which it is an offence for a person to plant, or otherwise cause to grow in the wild. Schedule 9 also lists animals for which it is an offence to release into the wild.

The Protection of Badgers Act 1992 (as amended)

- 13.18. The Protection of Badgers Act (1992) makes it an offence to wilfully kill, injure, take or ill-treat a badger and to interfere with a sett, including damage, disturbance and obstruction.

The Protection of Mammals Act 1996 (as amended)

- 13.19. The Protection of Mammals Act (1996) provides protection for all wild mammals against certain cruel acts with the intention of causing unnecessary suffering, including crushing and asphyxiation.

The Natural Environment and Rural Communities Act 2006 (as amended)

- 13.20. Section 41 (S41) of the Natural Environment and Rural Communities (NERC) Act (2006) requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England. The S41 list is used to guide decision-makers, including local and regional authorities, in implementing their duty under Section 40 of the act to have regard to the conservation of biodiversity in England when carrying out their normal functions.
- 13.21. S41 lists 56 habitats and 943 species of principal importance.
- 13.22. Section 42 of the NERC Act relates to Wales.

Environment Protection Act 1990 (as amended)

- 13.23. Japanese Knotweed is classed as 'controlled waste' and if taken off site it must be disposed of safely at a licensed landfill site. Soil containing rhizome material should also be regarded as contaminated and treated accordingly.

Statutory Protected Sites

- 13.24. Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) are afforded protection under the Conservation of Habitats and Species Regulations 2010 (as amended). Ramsar sites, which are designated under the Convention on Wetlands of International Importance (1971), are afforded the same level of protection as SPAs and SACs via national planning policy.
- 13.25. Sites of Species Scientific Interest (SSSI) are afforded protection by the Wildlife and Countryside Act 1981 (as amended).
- 13.26. National Nature Reserves (NNRs) are declared by the statutory country conservation agencies under the National Parks and Access to the Countryside Act 1949 (as amended) and the Wildlife and Countryside Act 1981 (as amended). They are managed to conserve their habitats or to provide special opportunities for scientific study of the habitats communities and species represented within them. In addition they may be managed to provide public recreation that is compatible with their natural heritage interests (JNCC website).
- 13.27. Local Nature Reserves (LNRs) are declared by local authorities after consultation with the relevant statutory nature conservation agency under the National Parks and Access to the Countryside Act 1949 (as amended). LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature (JNCC website).

Non-Statutory Protected Sites

- 13.28. Non-statutory sites may be given various titles, including Local Wildlife Sites (LWS), Sites of Importance for Nature Conservation (SINCs), Sites of Nature Conservation Importance (SNCIs) and County Wildlife Sites (CWS).
- 13.29. These sites are not normally legally protected but are recognised in the planning system and are afforded some protection through planning policy.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

- 13.30. In addition to primary legislation, the government published the National Planning Policy Framework on 27 March 2012 to make the planning system less complex and more accessible. Within this, Chapter 11 is headed - Conserving and enhancing the natural environment (Sections 109 to 125).
- 13.31. Of particular relevance are the following statements:
- That the planning system should contribute to and enhance the natural and local environment by, amongst other things, 'minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity,' (Section 109); and
 - Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife...will be judged (Section 113).

- 13.32. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles (Section 118):
- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequate mitigated, or, as a last resort, compensated for, then planning permission should be refused; and
 - Opportunities to incorporate biodiversity in and around developments should be encouraged.
- 13.33. The presumption in favour of sustainable development (para. 14 of the Framework) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined (Section 119).