Phase 1 Habitat Survey Report

Site: Honiton Community Centre (proposed)

Client: Bailey Partnership

Date of Survey: 9th June 2011

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Contents

Summary

This is a brief summary of findings and recommendations. For full details please read the report in its entirety.

- Construction of a building on the tarmac car park is anticipated to have limited ecological impact on habitats or protected species. However there are habitats on and adjacent to the site with the potential to support protected species (e.g. reptiles and nesting birds).
- Advice has been given if proposals are likely to affect habitat with the potential to support reptiles or nesting birds.
- Japanese knotweed (an invasive non-native plant species) is present in areas immediately adjacent to the western edge of the car park. A strategy to control and prevent spread of the plant should be implemented.
- Measures to enhance the site for biodiversity in line with Planning Policy Statement 9 (PPS9) have been given.

1. Introduction

This ecological survey was commissioned by Bailey Partnership and a Phase 1 habitat survey was carried out on the 9th June 2011 by Adam Bratt BSc (Hons), AIEEM of Acorn Ecology Ltd. The purpose of the survey was to assess the conservation value of the survey area, the likely presence of rare or protected species, to identify any features, habitats or species which would constitute potential constraints to any development which might take place, and to make recommendations for mitigation and/or further survey work, as appropriate.

1.1 Site Location

The site is located at Dowell Street Car Park adjacent to Honiton Magistrates Court in Honiton, East Devon (Grid reference ST158007). The site is adjacent to Dowell Street and is surrounded by residential and commercial properties and public buildings. A tributary of the River Otter ('The Gissage') flows within 100m to the south west of the site.

1.2 Site Description

The site is a tarmac covered car park bordered in parts by small amounts of amenity grassland, a laurel hedge, grass covered bank and scattered trees. There are no buildings within the survey area. More detailed descriptions of the habitats present are given in Section 4.

See photos in Appendix 1 and map in Appendix 2.

1.3 Proposed Development

It is proposed that a new community centre building will be constructed on the existing car park as shown in a sketch diagram dated 12.01.11 provided by Bailey Partnership. No trees or hedgerows are proposed to be removed.

2. Methods

2.1 Phase 1 Habitat Survey

The site was surveyed in accordance with the JNCC (2010) in order to produce a Phase 1 habitat map, with target notes (TN) identifying important features or the potential for any protected or notable species.

2.2 Data Search

A data search for sites designated for nature conservation or scientific interest (within 2km of the site) was undertaken using the Natural England website www.natureonthemap.org.uk. Relevant notable species records within the 10km grid square containing the site was also compiled using the National Biodiversity Network website www.nbn.org.uk. Species records included are from the previous ten years.

3. Survey Results

3.1 Habitats

3.1.1 Hard standing

The majority of the site comprises of tarmac hard standing, which is utilised as a car park. Little/ no vegetation is present in this area.

3.1.2 Amenity grassland

Small areas of amenity grassland are present along the southwestern boundary of the site. This appears to be regularly mown and comprises of meadow grasses (*Poa sp.),* cocksfoot, yorkshire fog, perennial ryegrass, dandelion, daisy, creeping buttercup, ribwort plantain, black medick, prickly sow-thistle, broad leaved dock, creeping cinquefoil and ivy leaved speedwell. Small amounts of nettle, garlic mustard and common mallow are present too.

3.1.3 Poor semi-improved grassland

Bordering the site to the west (beyond a laurel hedge) is a narrow strip of unmown, poor semi-improved grassland. Grasses including fescues, yorkshire fog, sweet vernal grass, cocks foot and common bent are dominant. Other plant species include cleavers, prickly sow thistle, black medick, herb robert, ribwort plantain, ground elder, ivy leaved speedwell, broad leaved dock, wood avens, willow herb sp. and horsetail.

3.1.4 Scattered trees

Scattered trees border parts of the site. These include cypress, rowan, pedunculate oak, cherry, ash, silver birch and sycamore.

3.1.5 Introduced shrub

An ornamental hedge comprising of cherry laurel borders the car park to the west. The majority of the hedge is well established, although more recent planting has been undertaken at its northern end.

3.1.6 Tall ruderal

A small patch of tall ruderal vegetation dominated by nettles and hogweed is present at the southern extreme of the site.

3.1.7 Earth bank

An earth bank covered predominantly in grasses forms part of the boundary of the site bordering Dowell Street. Other plant species present include common sorrel, nettle, catsear, white clover, dandelion, daffodil, broad leaved dock and musk mallow. A single pedunculate oak tree is present upon the bank.

3.2 Species

3.2.1 Bats

There are records of six species of bat within the 10km grid square containing the survey site. However there is low/no potential for bats to roost within the survey area due to lack of buildings or trees with obvious roosting potential.

It is however possible that bat species may forage over the site, particularly the vegetated areas along the western boundary of the car park.

3.2.2 Dormice

There are records of dormice (*Muscardinus avellanarius*) within the same 10km grid square containing the survey site.

Dormice are known to use woodland, hedgerows and scrub in Devon. However the ornamental laurel hedgerow forming the western boundary of the site is considered suboptimal habitat due to the poor species diversity and the poor connectivity to other suitable habitat.

3.2.3 Reptiles

There are no recent records of reptiles in the locality. However common reptile species are widespread and common in Devon, especially slow worms (*Anguis fragilis*).

The strip of poor-semi-improved grassland to the west of the car park has some potential to support common reptile species such as slow worms (TN3). However, the mown amenity grassland is considered suboptimal habitat for common reptile species due to regular disturbance by mowers and poor vegetative cover.

3.2.4 Badgers

There are records of badger (*Meles meles*) within the same 10km grid square containing the survey site. Badgers are frequently found in most parts of Devon.

No signs of badger were noted during the survey, however badgers are often found in urban areas and it is possible that they may occasionally access and forage within the strip of grassland to the west of the car park.

3.2.5 Birds

There is potential for common bird species to nest within the laurel hedge and trees surrounding the site.

3.2.6 Plant species

No legally protected plant species were noted on site. There was however Japanese knotweed (an invasive non-native plant species) noted within areas of poor semi-improved and amenity grassland at the north western end of the car park (TN1). Knotweed stems were generally small (<50cm in height), possibly indicative of previous herbicide treatment. A map of approximate distribution of visible knotweed stems on the site is given in Figure 6 in Appendix 3.

3.3 Survey Constraints

The survey was conducted at a time of year when most plants can be idenitifed, and full access around the site was available. Therefore there were no obvious constraints to undertaking the survey.

3.4 Data Search Results

3.4.1 Designated sites

There are no sites designated for nature conservation within 2km of the survey site (source www.natureonthemap.org.uk).

3.4.2 Notable species records

Table 1. Relevant notable species records (source www.nbn.org.uk).

Common name	Scientific name
Common pipistrelle (bat)	*Pipistrellus pipistrellus*
Brown long-eared (bat)	*Plecotus auritus*
Daubenton's (bat)	*Myotis daubentonii*
Lesser horseshoe (bat)	*Rhinolophus hipposideros*
Leisler's (bat)	*Nyctalus leisleri*
Serotine (bat)	*Eptesicus serotinus*
Hazel dormouse	*Muscardinus avellanarius*
Badger	*Meles meles*

The absence of recent records for certain species in this area is more likely to be due to the lack of survey effort or the non-submission of records, rather than the absence of these species.

4. Evaluation

Please note that all conclusions and recommendations are based upon the current survey findings and on the proposal outlined in 1.3 above. If habitats within the site change then the potential for protected species to use the site may change accordingly and re survey of the site may be necessary in the future.

4.1 Habitats

The site is dominated by tarmac hard standing and surrounded by small areas of vegetated habitats. None of the habitats on site are UK Biodiversity Action Plan Habitats (UK BAP Habitats) and all habitats present are considered common in Devon. The habitats on site are therefore not of high conservation importance. However habitats surrounding the car park (e.g. grassland and trees) do have the potential to support protected species. See Section 4.2 for more details.

4.2 Species

4.2.1 Bats

Bats are protected under Schedule 5 of the Wildlife and Countryside Act (1981) and Schedule 2 of the Conservation of Habitats and Species Regulations (2010) (see Section 6 for more details).

The proposed construction of the community centre on an area of tarmac hard standing is assessed as having no/negligible impacts on any potential bat roost sites or foraging habitat in the locality. No further survey for bat species is therefore recommended.

To minimise potential disturbance to foraging bats, it is recommended that no additional artificial lighting is installed in areas which could illuminate the vegetation to the west of the car park.

4.2.2 Dormice

Dormice are protected under Schedule 5 of the Wildlife and Countryside Act (1981) and Schedule 2 of the Conservation of Habitats and Species Regulations (2010) (see Section 6 for more details).

It is anticipated that there is negligible potential for dormice to be present within the site, and the proposed construction of the community centre is not anticipated to impact on dormice or habitat with the potential to support dormice. No further survey for dormice is recommended.

4.2.3 Reptiles

Common reptile species are protected under Schedule 5 of the Wildlife and Countryside Act (1981) from being killed or injured (see Section 6 for more details).

Poor semi-improved grassland to the west of the car park has potential to support common reptile species. If areas of poor semi-improved grassland will be affected by the proposed works (e.g. scraping/clearing vegetation, storing of equipment, digging of trenches etc) then there is potential for reptile species to be killed or injured, so a strategy to protect reptiles should be devised and implemented.

A strategy to protect reptiles would typically involve translocating reptiles from the affected habitat to an area of suitable habitat nearby. Survey for (or translocation of) reptiles must take place between April/May and September, when reptile species are active.

4.2.4 Badgers

Badgers are protected under the Badgers Act (1992) (see Section 6 for more details).

No signs of badgers were noted during the survey although there is some potential for badgers to access the vegetated grassland strip to the west of the car park. However the proposed construction of the community centre is not anticipated to affect badgers (either by impacting on a sett or foraging habitat) and therefore no further survey for badgers is recommended.

4.2.5 Birds

There is potential for common bird species to nest with the laurel hedge and trees surrounding the site. Under the Wildlife and Countryside Act 1981 it is illegal to take, damage or destroy the nests of wild birds whilst being built or in use (see Section 6 for more details). However, it is not an offence to carry out work in areas that they use, outside of the nesting period. Therefore it is recommended that any works which would result in the clearance of areas of laurel hedge, trees or scrub is carried out during the period between end of September and end of February to avoid the breeding season.

If works to remove areas of vegetation which could be used by nesting birds need to be carried out during the nesting period (March to September) a check should be made the day before the works are due to commence. Any birds nesting should be left to complete their breeding (i.e. until the young have fully fledged) before carrying out the vegetation removal. An ecologist can help with this.

4.2.6 Plants

No legally protected plant species were identified on the site. However an area of Japanese knotweed (an invasive non-native plant species) is present on the periphery of the western edge of the car park.

Japanese knotweed is listed under Schedule 9, Section 14 of the Wildlife and Countryside Act 1981 and is also listed as controlled waste under the Environmental Protection Act 1990. A strategy to control and prevent spread of the plant should be implemented prior to any development which would be likely to cause it to spread (See Section 6.3.4 for more details). This could include instigating a control programme on site or removal of any plant material (and soil containing the plant material) to a specialist facility.

Further advice and information can be obtained through the Devon Knotweed Forum on http://www.devon.gov.uk/index/environmentplanning/natural_environment/biodiversity/japanese_knotweed.htm. Alternatively a specialist contractor could be contacted to assist in formulating a control strategy.

Japanese knotweed can spread vegetatively from crown, stem or rhizome. Even tiny fragments of cut crown, stem or rhizome are capable of producing a new plant. Therefore scraping of the ground near to the current area of knotweed growth could cause the plant to spread. Strimming must also be avoided.

5. Avoidance, Mitigation and Enhancement

Planning Policy Statement 9 (PPS9) states that **planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests.** The following measures are aimed at reducing impacts on biodiversity and ensuring long term ecological enhancements as a result of this development.

Table 2. Measures to enhance the site for biodiversity.

Measure	Reason
Install a Schwegler 1FR bat tube[1] within the new building. Position the tube facing the vegetated western edge of the car park. Such a tube should be positioned high on the building at a wall top, and can be fitted flush with the wall. Light spill directly onto the tube should be avoided.	To provide new purpose designed roosting opportunities for crevice dwelling bat species.
Install a Schwegler 1SP Sparrow Terrace[1] within the walls of the new building. Site the box at a height of at least 3m facing in a northerly direction.	To provide new purpose designed roosting opportunities for house sparrows (a bird of conservation concern recorded in the locality).
Create a landscaping plan for the site which	To create new nesting and foraging habitat

includes planting of native, locally typical species such as oak, ash, hawthorn, willow, holly and field maple.	for a variety of bird and small mammals species.

[1]Bat tubes and bird boxes available at www.alanaecology.com.

For more information on implementing these measures please contact Acorn Ecology Ltd.

6. Wildlife and the Law

6.1 European Protected Species

The Bern Convention (The Convention on the conservation of European Wildlife and Natural Habitats) was adopted in 1979 and came into force in 1982. To implement this agreement, the European Community adopted the EC Habitats Directive.

The EC habitats directive has been transposed into UK legislation by the Wildlife and Countryside Act, 1981 (as amended) and the Conservation of Habitats and Species Regulations, 2010. The Countryside and Rights of Way Act (CRoW), 2000 strengthened the existing wildlife legislation in the UK.

The UK has also signed The Bonn Convention (The Convention on the Conservation of Migratory Species of Wild Animals) and is therefore party to various agreements.

6.1.1 Bats

All 17 species of bats are protected under Schedules 5 and 6 of the Wildlife and Countryside Act 1981(and as amended) and are also protected under Schedule 2 of the Conservation of Habitats and Species Regulations 2010. They are listed under Appendix III of the Bern Convention and Annex IV of the EC Habitats Directive. Bats and their habitats are also listed under Appendix II of The Bonn Convention and therefore the UK has an obligation to protect their habitat, including links to important feeding areas.

6.1.2 Common Dormouse

Dormice are classified as Lower Risk-near threatened by the IUCN (International Union for the Conservation of Nature and Natural Resources) Red List and Vulnerable in the UK. They are listed under Appendix III of the Bern Convention and Annex IV of the European Habitats & Species Directive. In the UK they are protected under Schedule 5 of the Wildlife and Countryside Act, 1981 (and as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2010.

6.2 Legislation Relating to European Protected Species

In relation to a development a person commits an offence if they—

- Deliberately captures, injures or kills a European Protected Species
- Deliberately or recklessly disturbs wild animals of any such species in such a way as to be likely significantly to affect:
  - (i) the ability of any significant group of animals to survive, breed, or rear or nurture their young; or
  - (ii) the local distribution or abundance of that species;
- Damages or destroys a breeding site or resting place (even if unintentional or when the animal is not present)
- Intentionally or recklessly obstructs access to a structure or place used for protection or shelter
- This legislation applies, regardless of the life stage (including eggs).

A European Protected Species Licence is required to carry out any activity that would otherwise involve committing an offence.

6.3 Other Protected Species

6.3.1 Nesting Birds

All wild birds are protected under part 1 of the Wildlife and Countryside Act, 1981. Therefore, in the UK it is an offence to:

- Take, damage or destroy the nest of any wild bird whilst it is being built or in use.
- Kill, injure or take any wild bird
- Take or destroy the eggs of any wild bird

To avoid committing an offence no works should be carried out on a structure/ feature that is being used by nesting birds. Nesting is deemed to be over when the young have fully fledged.

Certain species which are listed in Schedule 1 of the Wildlife and Countryside Act receive special protection. In these cases any form of intentional or reckless disturbance when they are nesting or rearing dependant young, constitutes an offence.

6.3.2 Reptiles

Common lizard, slow worm, adder and grass snake are all protected under Schedule 5 of the Wildlife and Countryside Act, 1981 against intentional injuring, killing or selling.

For development sites in **England, Wales or Scotland,** to avoid prosecution under the ***Wildlife and Countryside Act 1981 (as amended)***, wherever works will impact on slow worms, common lizards, adders and/or grass snakes there must be evidence that every reasonable effort was made to avoid

breaking the law – including proof of adequate surveys and mitigation plans. Mitigation measures should, ideally, be agreed with the relevant SNCO (in this case Natural England).

Only the sand lizard and smooth snake are fully protected under the Wildlife and Countryside Act, 1981 (Section 9) and Regulation 9 of the Conservation of Habitats and Species Regulations 2010 against killing, injuring, capture, damaging or destroying a breeding or resting site, intentionally obstructing access to a place used for shelter, keeping, transporting or selling. This means that not only are the animals themselves protected but so are their habitats. These species do not occur in Devon outside specific nature reserves.

6.3.3 Badger

Badgers are fully protected in the UK by the Protection of Badgers Act, 1992 and by Schedule 6 of the Wildlife and Countryside Act, 1981(as amended). This makes it an offence to:

- Willfully kill, injure, take, possess or cruelly treat a badger
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett.
- Disturb a badger while it is occupying a sett. Disturbance could include digging or scrub clearance within 30m of the sett, and therefore advice should be sought before carrying out such activities.

Badgers are mainly protected due to persecution in the past and are not rare, especially in the South West.

6.3.4 Japanese Knotweed

In the UK there are two main pieces of legislation that cover Japanese Knotweed. These are: *Wildlife and Countryside Act 1981* Listed under Schedule 9, Section 14 of the Act, it is an offence to plant or otherwise cause the species to grow in the wild.

Environmental Protection Act 1990 Japanese Knotweed is classed as 'controlled waste' and as such must be disposed of safely at a licensed landfill site according to the Environmental Protection Act (Duty of Care) Regulations 1991. Soil containing rhizome material can be regarded as contaminated and, if taken off a site, must be disposed of at a suitably licensed landfill site and buried to a depth of at least 5 m.

An offence under the Wildlife and Countryside Act can result in a criminal prosecution. An infringement under the Environmental Protection Act can result in enforcement action being taken by the Environment Agency which can result in an unlimited fine. You can also be held liable for costs incurred from the spread of Knotweed into adjacent properties and for the disposal of infested soil off site during development which later leads to the spread of Knotweed onto another site.

6.4 Planning Policy Statement 9

Planning Policy Statement 9 (PPS9) sets out national planning policies on the protection of biodiversity and geological conservation. Circular 06/05 (DEFRA 01/05): Biodiversity and Geological Conservation: Statutory Obligations and Their Impact within The Planning System provides administrative guidance on application of the law in England relating to planning and nature conservation. Para 98 states 'The presence of protected species is a material consideration when a

planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. … They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of the species … For European protected species further strict provisions apply … to which the planning authorities must have regard.'

Key principles of PPS9

Regional planning bodies and local planning authorities should adhere to the following key principles to ensure that the potential impacts of planning decisions on biodiversity and geological conservation are fully considered.

i. Development plan policies and planning decisions should be based upon up-to-date information about the environmental characteristics of their areas. These characteristics should include the relevant biodiversity and geological resources of the area. In reviewing environmental characteristics local authorities should assess the potential to sustain and enhance those resources.

ii. Plan policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests. In taking decisions, **local planning authorities should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; and to biodiversity and geological interests within the wider environment.**

iii. Plan policies on the form and location of development should take a strategic approach to the conservation, enhancement and restoration of biodiversity and geology, and recognise the contributions that sites, areas and features, both individually and in combination, make to conserving these resources.

iv. Plan policies should promote opportunities for the incorporation of beneficial biodiversity and geological features within the design of development.

v. Development proposals where the principal objective is to **conserve or enhance biodiversity** and geological conservation interests should be permitted.

vi. The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

7. References

Handbook for Phase 1 habitat survey (1990) Joint Nature Conservation Committee

Herpetofauna Worker's Manual (2003) Joint Nature Conservation Committee

Williams C (2010) *Biodiversity For Low And Zero Carbon Buildings: A Technical Guide for New Build*, Bat Conservation Trust

8. Appendices

Appendix 1. Site Photographs

Figure 1. Car park viewed to the north.

Figure 2. Laurel hedge on western boundary of car park. Note: Japanese knotweed (circled).

Figure 3. Japanese knotweed on site.

Figure 4. Poor semi-improved grassland and scattered trees to west of car park. Viewed to the south. Japanese knotweed present in places.

Appendix 2. Phase 1 Habitat Map Showing Features

Figure 5. Phase 1 habitat survey map.

H	Hard standing		Scattered broadleaved trees
SI	Poor semi-improved grassland		Scattered coniferous trees
	Amenity grassland		Earth bank
	Introduced shrub	1	Target note (see next page)
	Tall ruderal		

Table 2. Target notes

Target note number	Note
1	Centre of Japanese knotweed distribution. See Figure 6 in Appendix 3 for approximate extent and distribution of Japanese knotweed on site.
2	Approximate centre of new community centre building.
3	Poor semi-improved grassland. Potential for common reptile species to be present.

Appendix 3. Japanese knotweed Distribution

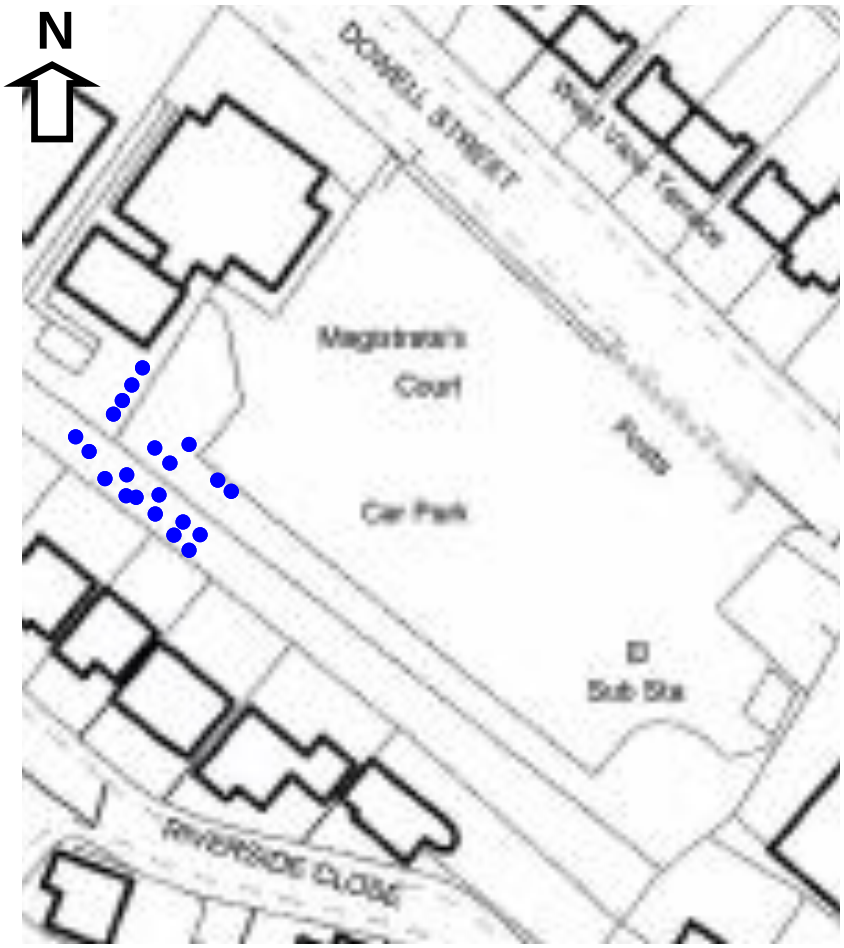

Figure 6. Approximate distribution of Japanese knotweed stems identified during survey.