

## Viking CCS Pipeline

# 9.33 Outline Precautionary Working Method Statement

Document Reference: EN070008/EXAM/9.33

Applicant: Chrysaor Production (U.K.) Limited,  
a Harbour Energy Company  
PINS Reference: EN070008  
Planning Act 2008 (as amended)  
The Infrastructure Planning (Applications: Prescribed Forms  
and Procedure) Regulations 2009 - Regulation 5(2)(q)  
Date: July 2024

<b>PINS Reference</b>	<b>Document Reference</b>	<b>Document Revision</b>	<b>Date</b>
EN070008	EN070008/EXAM/9.33	Version 1	June 2024

<b>Prepared by</b>	<b>Checked by</b>	<b>Verified by</b>	<b>Approved by</b>
KA	FS	AD	NP
Associate Director	Principal	Associate Director	EIA Technical Director

Prepared by:

AECOM Limited  
One Trinity Gardens, First Floor  
Quayside  
Newcastle-upon-Tyne NE1 2HF  
United Kingdom

T: +44 (191) 224 6500  
aecom.com

## Table of Contents

1. Introduction.....	1
Background.....	1
Proposed Development.....	1
Scope of this Outline Precautionary Working Method Statement.....	2
Licence Applications.....	3
2. Pre-construction Actions.....	5
Appointment of an Ecological Clerk of Works .....	5
Pre-Construction Walkover Survey .....	5
3. Precautionary Working Methods .....	6
Toolbox Talk .....	6
Breeding Birds .....	6
All bird species.....	6
Schedule 1 Bird Species.....	7
Common Reptile Species.....	7
Roosting Bats.....	8
Otter .....	8
Other Species / Mammals.....	9
4. Programme of Works.....	10
5. References.....	11
Appendix A Relevant Legislation.....	12
Appendix B Toolbox Talk Record of Attendance.....	16
Appendix C ECoW Site Diary and Sign-off Sheet .....	17

## Tables

Table 1: Protected and Notable Species covered by this OPWMS .....	3
Table 2: Programme of Works.....	10

# 1. Introduction

## Background

- 1.1 This Outline Precautionary Working Method Statement (OPWMS) has been prepared by AECOM, to support the works required for the Viking Carbon Capture and Storage (CCS) project. The works have the potential to affect reptile species, therefore this OPWMS details appropriate and proportionate ecological avoidance and mitigation measures relating to specific ecological features. This OPWMS has been prepared with reference to the following documents:
- Ecology and Biodiversity Chapter of the Environmental Statement (Chapter 6, Volume II);
  - Phase 1 habitat survey Report (Appendix 6-1, Volume IV);
  - Bat Survey Report (Appendix 6-2, Volume IV);
  - Otter and Water Vole Report (Appendix 6-3, Volume IV);
  - Badger Survey Report (Appendix 6-4, Volume IV);
  - Ornithology Baseline (Appendix 6-7, Volume IV);
  - Ornithology Baseline and Impact Assessment Report (Confidential) (Appendix 6-8, Volume IV); and
  - Great Crested Newt District Level Licence (Appendix 6-9, Volume IV).
- 1.2 In addition to the above documents, this OPWMS should be read with reference to the Report to Inform Habitats Regulations Assessment (Document), the Outline Landscape and Ecological Management Plan (OLEMP) (Document 6.5) and the Outline Construction and Environmental Management Plan (OCEMP).
- 1.3 This OPWMS is designed to be a working document and will be updated once planning consent has been granted. The contents of this document will be reviewed and updated as necessary to reflect the final scheme design and any updated ecological survey data. If the methods of working outlined in this document are implemented in full for the species discussed within this document, the proposed works would not result in a breach of legislation.

## Proposed Development

- 1.4 The Viking CCS Pipeline ('the Proposed Development') comprises a new 24 inch (") (609 mm) diameter onshore pipeline of approximately 55.5 km in length, which will transport Carbon Dioxide (CO<sub>2</sub>) from the Immingham industrial area to the Theddlethorpe area on the Lincolnshire coast, where it will connect into the existing 36" (921 mm) diameter offshore Lincolnshire Offshore Gas Gathering System (LOGGS) pipeline.
- 1.5 The Proposed Development is an integral part of the overall Viking CCS Project, which intends to transport compressed and conditioned CO<sub>2</sub> received at a facility at Immingham to store in depleted gas reservoirs under the Southern North Sea. The offshore elements of the Viking CCS Project, including the transport of CO<sub>2</sub> through the

LOGGS pipeline to the Viking gas fields under the North Sea, are subject to a separate consenting process.

1.6 The key components of the Proposed Development comprise:

- The Immingham Facility;
- Approximately 55.5 km 24" onshore steel pipeline (including cathodic protection);
- Three Block Valve Stations;
- The Theddlethorpe Facility;
- Existing LOGGS pipeline and isolation valve to the extent of the Order Limits at Mean;
- Low Water Springs (MLWS);
- Permanent access to facilities;
- Mitigation and landscaping works;
- Temporary construction compounds, laydown, parking, and welfare facilities; and
- Temporary access points during construction.

## **Scope of this Outline Precautionary Working Method Statement**

- 1.7 This OPWMS sets out measures to avoid working in areas of the Site where impacts to protected or notable species may occur. Where this is not possible and construction works are required in areas where notable or protected habitats or species are likely to be present, mitigation measures are provided. This report outlines the methodologies proposed to avoid and minimise impacts to protected or notable species.
- 1.8 The avoidance and mitigation measures outlined in this OPWMS are based on desk study records; the ecology surveys undertaken to inform the Viking CCS project; and specialist knowledge of the habitats and species concerned, including the legal protection they are afforded, the timing, duration and methods of the construction works.
- 1.9 Based on the current Site conditions, if the methods of working outlined in this document are implemented in full for the species listed in Table 1, the proposed works would not reasonably result in a breach of relevant wildlife legislation and no further detailed mitigation, such as the need for a protected species mitigation licence, is required to proceed with the works.
- 1.10 Species covered by this OPWMS are summarised in Table 1 below. Legislation relating to the ecological features listed in Table 1 is included in Appendix A.

**Table 1: Protected and Notable Species covered by this OPWMS**

Feature	Importance	Potential Impacts and Effects
Breeding birds (including Wildlife and Countryside Act (WCA) Schedule 1 species)	National	<p>Risk of direct mortality of individual adults and young and/or destruction of eggs and active nests as a result of habitat clearance and construction activities.</p> <p>In addition to the above risks of mortality and destruction of eggs and young, there is a risk of disturbance of WCA Schedule 1 (Ref 1) birds and their dependent young during the nesting period.</p> <p>Such occurrences would be a legal offence under the WCA (Ref 1).</p>
Common reptiles (slow worm ( <i>Anguis fragilis</i> ), grass snake ( <i>Natrix helvetica</i> ), common lizard ( <i>Zootoca vivipara</i> ) and adder ( <i>Vipera berus</i> ))	Local	<p>There is a risk of direct mortality and / or killing and / or injury of common reptile species as a result of habitat clearance and construction activities. This would be a legal offence under the Wildlife and Countryside Act 1981 (as amended) (WCA) (Ref 1).</p>
Roosting bats	Local	<p>Trees within the Development Consent Order (DCO) site boundary have suitability to support roosting bats. Bat roosts have been identified within T10 and T35 (Appendix 6-2, Volume IV). Roosting bats are protected under the WCA (Ref 1) and The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) (Ref 2). No trees with roosting bats will be removed however they may be subject to disturbance such as noise, vibration and lighting.</p>
Otter ( <i>Lutra lutra</i> )	County	<p>Habitats within the DCO Site Boundary are used by foraging and commuting otter. Otter and their resting places are protected under the Habitats Regulations (Ref 2) and the WCA (Ref 1). Risk of disturbance to foraging and commuting otter during construction activities.</p>
Other mammals	Local	<p>Risk of killing or injury to mammal species within the DCO Site.</p>

## Licence Applications

1.11 Licences for the following species will be obtained in advance of works commencing:

- Great crested newt (*Triturus cristatus*) (district level licence),
- Badger (*Meles meles*), and

- Water vole.

1.12 Updated surveys will be completed for badger and water vole to inform the licence applications.

1.13 This method statement does not cover the above three species as mitigation measures will be detailed within individual methods statements for each licence application.

## 2. Pre-construction Actions

### Appointment of an Ecological Clerk of Works

- 2.1 The role of the Ecological Clerk of Works (ECoW) is detailed within the draft OCEMP (ES Appendix 3-1). The ECoW will be appointed for the duration of the construction phase, including any pre-construction surveys/ checks.

### Pre-Construction Walkover Survey

- 2.2 Prior to works commencing, an ecological walkover will be undertaken by the ECoW. The purpose of the walkover is to look for any new potential ecological constraints and any that may not have been identified by earlier survey work or included in the existing baseline information. Should the scope of works or baseline conditions and associated constraints differ from those detailed within the ES Chapter or Technical Appendices, further mitigation may be required. The walkover survey will cover the DCO Site Boundary, plus a 50 m buffer to identify the following, if present:
- Any new trees and vegetation with suitability to support nesting birds and identification of active bird nests;
  - Trees with features that have suitability to support roosting bats;
  - Common species of reptile and potential reptile habitat that may be used as places of shelter or by hibernating reptiles;
  - Otter field signs, including their holts or potential holts;
  - Potential hibernacula for hedgehog (*Erinaceus europaeus*); and
  - Any other ecological features that may present a constraint to the works.



## 3. Precautionary Working Methods

### Toolbox Talk

- 3.1 The ECoW will deliver a Toolbox Talk (TBT) to the Project Manager or Site Manager, Principal Contractor and all Site Staff as appropriate (roles and responsibilities will to be defined within the Final CEMP), prior to commencement of any works. The ECoW will outline the avoidance and mitigation measures to be implemented prior to and during the works, which are detailed in this document.
- 3.2 The ECoW will outline where they will need to be present prior to and during works, and where works can proceed in their absence whilst still following the measures outlined within the final PWMS. Should this be the case, site staff will be responsible for ensuring that the measures outlined in the PWMS are implemented and adhered to.
- 3.3 If the ECoW or appointed representative(s) identify any issues in relation to ecology or consider that the OPWMS is not being adhered to at any point, the client will be contacted, and measures will be taken to resolve any issues. If the client, site manager or principal contractor identifies any ecology issues, the ECoW will be contacted for advice.

### Breeding Birds

#### All bird species

- 3.4 The Site has potential to support nesting birds including those listed on Schedule 1 of the WCA (Ref 1). The proposed works programme will overlap the core nesting bird season, which is March to August, inclusive, although geographical and species variations do exist. Furthermore, wild birds, their eggs, young and active nests are protected at all times. Therefore, the measures outlined below may be required at any time of year, albeit they are considerably less likely to be required outside of the core breeding season.
- 3.5 Breeding birds may occupy a range of habitats that are present within the DCO Site, and this may include ground-nesting species that are associated with reedbeds, grassland, arable and sparsely vegetated/bare ground habitats. The suitability of habitat should be evaluated by the ECoW in advance of any works, including the location of access routes. Where suitable habitat is identified and there is a risk that breeding birds may be present then the following measures should be implemented:
  - In advance of works the ECoW shall liaise with the contractor to demarcate the required working areas, including those required for vehicular access;
  - Where avoidance of suitable nesting habitat is not possible, then the ECoW will complete a nesting bird check in advance of any works. This should take place no more than 24-48 hours prior to the start of the works;
  - If an active nest is identified, then the ECoW will advise on an appropriate stand-off to ensure protection of the nest. The extent of the stand-off will depend upon the species and may also be location and habitat-specific. The stand-off will be clearly demarcated using bunting, signage or similar, and no works will take place

in that area until the ECoW confirms that the chicks have fledged or the nest is inactive.

## Schedule 1 Bird Species

- 3.6 The ornithological baseline that informed the assessment of potential impacts of the Proposed Development included the following breeding WCA Schedule 1 birds with the potential to be directly affected during the construction phase: avocet (*Recurvirostra avosetta*), little ringed plover (*Charadrius dubius*), Cetti's warbler (*Cettia cetti*), kingfisher (*Alcedo atthis*), barn owl (*Tyto alba*), hobby (*Falco subbuteo*) and peregrine (*Falco peregrinus*).
- 3.7 For all species, where suitable habitats occur and/ or there are previous known occurrences of breeding recorded as part of the pre-application baseline adjacent to or within the footprint of the Proposed Development, pre-works checks for breeding activity will be carried out by a suitably experienced and qualified ornithologist or ECoW no more than 48 hours in advance of site clearance or the onset of construction works. Such surveys will be required up to 200 m from the working area<sup>1</sup> for all species listed above, except for peregrine, for which the habitats surveyed will be up to 500 m from the working area. These distances are as stipulated in the Environmental Statement accompanying the DCO application for the Proposed Development and are based on published disturbance distances and best practice, where these are available (Ref 3 and Ref 4).
- 3.8 The objective of the pre-construction surveys is to establish the locations of nest sites or, where this is not possible, to identify broad areas where nesting is confirmed or is strongly suspected to be occurring. At such locations, suitable stand offs will be set out by the ECoW within which works will not occur until breeding is completed.
- 3.9 Ongoing checks will be required throughout the working period to monitor breeding activity such that:
- Suitable stand offs around known or suspected nest sites can be allocated, and these can be adjusted as required in light of ongoing observations of breeding activity and the progressions of site clearance/construction; and
  - should nests or nesting attempts be abandoned for reasons not connected with the Proposed Development, the stand offs can be removed.
- 3.10 It is recommended that checks are made daily or at intervals determined at the discretion of an experienced ornithologist (or the ECoW under advisement from a specialist ornithologist if required).
- 3.11 Stand-off areas will be clearly marked on the ground using tape, fencing, marker posts or other suitable means as required to ensure that no site workers or plant enter the area(s) accidentally.

## Common Reptile Species

- 3.12 Prior to the works commencing, the suitability of the habitat will be assessed by the ECoW. This assessment will be undertaken using professional judgement, taking note of features that are important for reptiles, including vegetation structure, aspect,

---

<sup>1</sup> Or a suitable site or species-specific distance as determined by the ornithologist/ECoW.

topography, connectivity to other suitable habitat, refuge/hibernation potential and the presence of suitable egg-laying habitat.

3.13 If works or access routes are proposed in an area with suitability for reptiles, then the works will ideally be re-located, where possible, to avoid the suitable reptile habitat. Where relocation and avoidance are not possible, then the following measures will be put in place to avoid the risk of harm to reptiles:

- Any work affecting reptile hibernation habitat will be completed under an ecological watching brief in the presence of the ECoW and only during suitable weather conditions (bright spells with little wind and when temperatures 9°C or above) in the reptile active period, i.e., mid-March to mid-October, inclusive;
- In advance of intrusive work affecting other areas of suitable habitat (i.e., non-hibernation habitat) in the reptile active period, the area will be hand searched by the ECoW prior to any works or the vegetation managed to discourage reptiles from the working area. This will only be completed during suitable weather conditions and will involve the phased mowing or strimming of vegetation towards areas of retained reptile habitat. Vegetation will first be cut to a height of 250 mm using a strimmer and then after at least 2 hours cut to 100 mm or less; and
- If reptiles are encountered at any time, then works in that area will cease until the reptiles have moved from the working area.

3.14 Implementation of the mitigation measures outlined above will protect reptiles during the works from intentional killing or injury. It is therefore reasonably unlikely that the works will lead to an offence being committed in relation to common species of reptile, and no translocation of animals is required.

## Roosting Bats

3.15 Where trees have confirmed roosts, the ECoW will demarcate a buffer of 10 m to avoid disturbance. The ECoW will review construction lighting plans and provide guidance to avoid disturbance of bat roosting, foraging and commuting habitat.

## Otter

3.16 No evidence of otter holts or breeding sites were recorded within the DCO Site, however evidence of foraging and commuting otter was confirmed.

3.17 Prior to works commencing a check for otter will be carried out by the ECoW. If an otter holt is discovered, then the works in proximity to the holt must cease and a stand-off buffer in which no works will occur established. The size of the work exclusion buffer will be determined by the ECoW to help ensure compliance with the legislation that affords protection to this species. The ECoW will provide advice on the next steps to be taken, which could potentially involve applying for a Natural England protected species licence application if disturbance was unavoidable.

3.18 Implementation of the mitigation measures outlined above will help protect otter during the works from deliberate killing or injury, damage or destruction of their breeding or resting sites, or deliberate disturbance that is likely a) to impair their ability (i) to survive, to breed or reproduce, or to rear or nurture their young; or b) to affect significantly the local distribution or abundance of otter. It is therefore

reasonably unlikely that the works will lead to an offence being committed under the Habitats Regulations (Ref 2) in relation to otter.

## Other Species / Mammals

- 3.19 Any excavations will be filled or covered overnight. If this is not possible, one side of the excavation will be graded or partially graded so that it provides an escape ramp to prevent any animals becoming trapped. All excavations will be checked for animals the following morning by the ECoW or appointed representatives before proceeding with works. If a protected species is found, the animal will not be touched, and advice will be sought from the ECoW.
- 3.20 Plant and materials will not be stored on Site if possible. Where on-site storage is required, plant and material will be stored on areas of hardstanding or bare ground, and anything left on Site overnight will be carefully checked by hand for the presence of animals such as birds or hedgehogs, the following morning before being moved.
- 3.21 If a hedgehog is found in harm's way (e.g., along an access route), the ECoW will carefully relocate the animal to a suitable area of habitat in the locality, outside of the working areas. Any brown hare (*Lepus europaeus*) found will be left to vacate the area and works will not proceed in that area until the ECoW has confirmed that the animal has moved on. Any piles of arisings will be removed from Site, as otherwise hedgehog (and other small mammals) may use them for refuge/hibernation.
- 3.22 Species such as brown hare and hedgehog are also included on Section 41 of the Natural Environment and Rural Communities Act 2006 (Ref 5).
- 3.23 Works areas and access routes shall be assessed by the ECoW to make sure that no wildlife legislation is contravened.
- 3.24 Note: If whilst undertaking the works, any other protected species (or suspected protected species) not referred to above is recorded within or near the works location, all works at that location should stop immediately and the ECoW contacted. The ECoW will assess the situation and will advise of any mitigation requirements which should be implemented to enable lawful completion of the works (where/ if applicable).**

## 4. Programme of Works

4.1 Table 2 summarises the programme of works that are required to deliver the Proposed Development, along with the timings of ecologically sensitive works and who is responsible for delivering those works.

**Table 2: Programme of Works**

<b>Activity</b>	<b>Timeframe</b>	<b>Who is Responsible for the Activity</b>	<b>Who will undertake the Activity</b>
Ecological Site walkover (including checks for otter)	No more than 48 hours prior to works commencing.	Principal Contractor	ECoW
Toolbox Talk (TBT)	Prior to any Site works commencing and repeated for any new site staff.	Site Manager	ECoW
Updates to TBT	As required	Site Manager	ECoW and ecological representative
Nesting bird checks	No more than 24-48 hours prior to the removal and disturbance of vegetation.	Site Manager	ECoW / Ornithologist
Reptile Checks	Immediately prior to site clearance	Site Manager	ECoW

4.2 The ECoW and Site Manager will be responsible for maintaining a diary of the works completed as they are set out in Table 4-1 above, including any deviations from the indicative programme and reasons for those deviations, Appendix B and C. The diary also acts as a certificate of completion to confirm that the works have been undertaken in accordance with the mitigation requirements set out above.

## 5. References

Ref 1 Wildlife and Countryside Act 1981 (as amended) [Online] Available at  
<https://www.legislation.gov.uk/ukpga/1981/69>.

Ref 2 The Conservation of Habitats and Species Regulations 2017 [Online] Available at  
<https://www.legislation.gov.uk/uksi/2017/1012/contents/made>.

Ref 3 Goodship, N.M. and Furness, R.W. (2022) Disturbance Distances Review: An updated literature review of disturbance distances of selected bird species. A report from MacArthur Green to NatureScot - Research Report 1283. Accessed online June 2023:



Ref 4 Shawyer, C. R. (2011) Barn Owl *Tyto alba* Survey Methodology and Techniques for use in Ecological Assessment: Developing Best Practice in Survey and Reporting. IEEM, Winchester.

Ref 5 Natural Environment and Rural Communities Act 2006 [Online] Available at:  
<https://www.legislation.gov.uk/ukpga/2006/16/contents>.

# Appendix A Relevant Legislation

The UK is no longer a member of the European Union (EU). EU legislation as it applied to the UK on 31 December 2020 is now a part of UK domestic legislation. EU legislation which applied directly or indirectly to the UK before 11.00 p.m. on 31 December 2020 has been retained in UK law as a form of domestic legislation known as 'retained EU legislation'.

The Secretary of State for the Environment, Food and Rural Affairs and Welsh Ministers have made changes to parts of the *Conservation of Habitats and Species Regulations 2017* (referred to as the 2017 Regulations) so that they operate effectively. Most of these changes involve transferring functions from the European Commission to the appropriate authorities in England. All other processes or terms in the 2017 Regulations remain unchanged and existing guidance is still relevant. They are known as the *Conservation of Habitats and Species Regulations 2017* (as amended).

## The Conservation of Habitats and Species and Planning Regulations 2017 (as amended)

The Habitats Regulations consolidate all the various amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994 in respect of England and Wales. The 1994 Regulations transposed Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive) into national law. The Regulations came into force on 30th October 1994. In Scotland the Habitats Directive is transposed through a combination of the Habitats Regulations 2010 (in relation to reserved matters) and the 1994 Regulations. The Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995 (as amended) transpose the Habitats Directive in relation to Northern Ireland.

The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

Under the Regulations, competent authorities i.e. any Minister, Government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive.

The Regulations place a duty on the Secretary of State to propose a list of sites which are important for either habitats or species (listed in Annexes I and II of the Habitats Directive respectively) to the European Commission. Once the Commission and EU Member States have agreed that the sites submitted are worthy of designation, they are identified as Sites of Community Importance (SCIs). The EU Member States must then designate these sites as Special Areas of Conservation (SACs) within six years. The Regulations also require the compilation and maintenance of a register of European sites, to include SACs and Special Protection Areas (SPAs) classified under Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive). These sites form a network termed Natura 2000.

The Regulations enable the country agencies to enter into management agreements on land within or adjacent to a European site, in order to secure its conservation. If the agency is unable to conclude such an agreement, or if an agreement is breached, it may acquire the interest in the land compulsorily. The agency may also use its powers to make byelaws to protect European sites. The Regulations also provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through Appropriate Assessment that the proposed

operation will not adversely affect the integrity of the site. When considering potentially damaging operations, the country agencies apply the precautionary principle' i.e. consent cannot be given unless it is ascertained that there will be no adverse effect on the integrity of the site.

In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest. In such instances the Secretary of State must secure compensation to ensure the overall integrity of the Natura 2000 system. The country agencies are required to review consents previously granted under the Wildlife and Countryside Act 1981 for land within a European site and may modify or withdraw those that are incompatible with the conservation objectives of the site.

The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2 (species relevant to this Proposed Development include all bat species, and otter), or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild population of the species concerned.

The Regulations make special provisions for the protection of European marine sites, requiring the country agencies to advise other authorities of the conservation objectives for a site, and of the operations which may affect its integrity. The Regulations also enable the establishment of management schemes and byelaws by the relevant authorities and country agencies respectively, for the management and protection of European marine sites.

#### Wildlife and Countryside Act 1981 (as amended)

The Wildlife and Countryside Act 1981 is the major domestic legal instrument for wildlife protection in the UK, and is the primary means by which the following are implemented:

- The Convention on the Conservation of European Wildlife and Natural Habitats ('the Bern Convention'); and
- The Council Directive 79/409/EEC on the Conservation of Wild birds (the 'Bird Directive').

#### Natural Environment and Rural Communities (NERC) Act 2006

The Natural Environment and Rural Communities (NERC) Act came into force on 1st October 2006. Section 41 (S41) of the Act required 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 list was drawn up in consultation with Natural England, as required by the Act.

The S41 list is used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under Section 40 of the Natural Environment and Rural Communities Act 2006, to have regard to the conservation of biodiversity in England, when carrying out their normal functions.



Fifty-six habitats of principal importance are included on the S41 list. These are all the habitats in England that were identified as requiring action in the (now withdrawn) UK Biodiversity Action Plan (UK BAP) and continue to be regarded as conservation priorities in the subsequent UK Post-2010 Biodiversity Framework. They include terrestrial habitats such as upland hay meadows to lowland mixed deciduous woodland, and freshwater and marine habitats such as ponds and subtidal sands and gravels.

There are 943 species of principal importance included on the S41 list. These are the species found in England which were identified as requiring action under the (now withdrawn) UK BAP and which continue to be regarded as conservation priorities under the UK Post-2010 Biodiversity Framework. In addition, the hen harrier has also been included on the list because without continued conservation action it is unlikely that the hen harrier population will increase from its current very low levels in England.

### Protection of Badgers Act 1992

Badgers and their setts (burrows) are protected under the Act. This makes it an offence to kill or take a badger, to cruelly ill-treat a badger, or to interfere with a badger sett, including disturbing a badger while it is occupying a sett.

Licences to permit otherwise prohibited actions can be granted under Section 10 of the Act for various purposes. This includes licences to interfere with a badger sett for the purpose of development as defined by Section 55(1) of the Town and Country Planning Act 1990.

Licences may be granted in order to close down setts, or parts of setts, prior to development or to permit activities close to a badger sett that might result in disturbance. A licence will be required if a sett is likely to be damaged or destroyed in the course of development or if the badger(s) occupying the sett will be disturbed.

Licences can be applied for at any time, but a licence for development will not normally be issued unless full planning permission has been granted. The closure of setts under licence is normally only permitted during July to November, inclusive.

### Protected Species

#### Bats/ Otter

These species, known as European Protected Species, are protected under Regulation 43 of the 2017 Regulations as amended by the 2019 Regulations. This makes it an offence to deliberately capture, injure or kill an animal; deliberately disturb an animal; or damage or destroy a breeding site or resting place used by an animal.

Deliberate capture or killing is taken to include “accepting the possibility” of such capture or killing. Deliberate disturbance of animals includes in particular any disturbance which is likely a) to impair their ability (i) to survive, to breed or reproduce, or to rear or nurture their young, or (ii) in the case of animals of hibernating or migratory species, to hibernate or migrate; or b) to affect significantly the local distribution or abundance of the species to which they belong.

Where development works are at risk of causing one or more of the offences listed above, a mitigation licence from Natural England can be obtained to facilitate the works that would otherwise be illegal.

These species are also protected under Schedule 5 of the *Wildlife and Countryside Act 1981* (as amended). This makes it an offence to intentionally or recklessly obstruct access to any structure or place used for shelter or protection or disturb an animal in such a place.

Lower levels of disturbance not covered by the *Conservation of Habitats and Species Regulations 2017* (as amended) remain an offence under the *Wildlife and Countryside Act 1981* (as amended) although a defence is available where such actions are the incidental result of a lawful activity that could not reasonably be avoided.

### Nesting Birds

All wild birds are protected under the *Wildlife and Countryside Act 1981* (as amended), with some species afforded greater protection under Schedule 1 of the *Wildlife and Countryside Act 1981* (as amended). In addition to the protection from killing or taking that all birds receive; Schedule 1 birds and their young must not be disturbed at the nest.

There are no licensing purposes that explicitly cover development activities affecting wild birds.

### Common Species of Reptile (common lizard, slow worm, grass snake and adder)

Common species of reptile are protected against intentional killing and injury under Schedule 5 of the *Wildlife and Countryside Act 1981* (as amended). There is no requirement for a licence where development works affect common species of reptiles. Instead, Natural England advise that where reptiles are present, they should be protected from any harm that might arise during the development works through appropriate mitigation.

### Invasive Non-native Plant Species

There are several legislative instruments within the UK and England which relate to INNS, with the aim of preventing or reducing their negative economic and environmental impacts. Essentially, this legislation makes it an offence to plant, or otherwise cause to grow (including allowing to spread), listed species in the wild (as per the *Wildlife and Countryside Act 1981* (as amended) and the *Invasive Alien Species (Enforcement and Permitting) Order 2019* (as amended). If transported off-site, there is a duty of care with regards to the disposal of any part of the plant that may facilitate establishment in the wild and cause environmental harm (as per the *Environmental Protection Act 1990*).



# Appendix C ECoW Site Diary and Sign-off Sheet

<b>AECOM</b>	<b>Viking CCS</b>
<b>Site Name</b> <i>(if different from Project)</i>	
<b>Date of Visit</b>	
<b>Name and Role of Staff undertaking the visit</b>	
<b>Weather Conditions</b>	
<b>Site Works Undertaken</b>	
<b>Deviations from Agreed Works</b> <i>(including timings, methodologies and mitigation strategies)</i>	
<b>I certify that reasonable professional skill and care has been exercised in undertaking the above works and this diary is an accurate account of those works</b>	

