

An aerial photograph of Gatwick Airport's northern runway and taxiway. The runway is a long, straight concrete strip with white markings, including the number '26' and the letter 'L'. Several aircraft are visible on the taxiway and runway. In the foreground, a large white Airbus A380 is taxiing. To its left, a smaller white aircraft is also taxiing. Further back, another white aircraft is visible. In the bottom left corner, a red and white EasyJet aircraft is taxiing. The surrounding area includes green grass, taxiway lights, and airport infrastructure like buildings and a control tower in the distance.

YOUR LONDON AIRPORT
Gatwick

Our northern runway: making best use of Gatwick

Preliminary Environmental Information Report
Appendix 9.2.1: Ecology and Nature Conservation Legislation
September 2021

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1 Introduction

1.1 General

1.1.1 This document forms Appendix 9.2.1 of the Preliminary Environmental Information Report (PEIR) prepared on behalf of Gatwick Airport Limited (GAL). The PEIR presents the preliminary findings of the Environmental Impact Assessment (EIA) process for the proposal to make best use of Gatwick Airport's existing runways (referred to within this report as 'the Project'). The Project proposes alterations to the existing northern runway which, together with the lifting of the current restrictions on its use, would enable dual runway operations. The Project includes the development of a range of infrastructure and facilities which, with the alterations to the northern runway, would enable the airport passenger and aircraft operations to increase. Further details regarding the components of the Project can be found in the Chapter 5: Project Description.

1.1.2 This document provides the relevant legislation for Chapter 9: Ecology and Nature Conservation for the Project.

2 Legislation

2.1 Relevant Guidance

2.1.1 The assessment takes into account the most recent published guidance from the Chartered Institute of Ecology and Environmental Management (CIEEM) (CIEEM, 2019). The guidance aims to promote good practice in the assessment of ecological impacts in terrestrial, freshwater and marine environments in the UK.

2.1.2 In addition, the information prepared in the PEIR has been prepared with reference to the Guidelines for Preliminary Ecological Appraisal (CIEEM, 2017).

2.2 The Conservation of Habitats and Species Regulations 2017

2.2.1 The Conservation of Habitats and Species Regulations 2017, as amended ('the Habitats Regulations') transpose into domestic law the European Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) as well as elements of the Birds Directive (referred to further below). The

2017 legislation supersedes the earlier legislation from 2010 and 1994.

2.2.2 Individual species (such as otter *Lutra lutra* and dormouse *Muscardinus avellanarius*) and species groups (including all native UK bat *Chiroptera* species) receive a high level of protection under the Habitat Regulations.

2.3 The Wildlife and Countryside Act 1981

2.3.1 The Wildlife and Countryside Act 1981 (as amended) is the principal legislative protection for wildlife within England. It establishes protection for certain species of plant and animals and allows for the protection in law of various designated sites. It also consolidates and amends earlier national legislation to implement the European Directive 2009/147/EC on the conservation of wild birds (The Birds Directive) in the UK. Individual species receive different levels of protection under the act. Special Protection Areas (SPAs) were designated under the Wildlife and Countryside Act 1981 where sites and their habitats support significant numbers of wild birds.

2.4 The Countryside and Rights of Way Act 2000

2.4.1 The Wildlife and Countryside Act 1981 has been amended and reinforced in England and Wales by the Countryside and Rights of Way Act (CRoW) Act 2000 (as amended). The CRoW Act increases protection for Sites of Special Scientific Interest (SSSIs) as well as strengthening wildlife enforcement legislation.

2.5 The Natural Environment and Rural Communities Act 2006

2.5.1 The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on all public authorities to have regard to the purpose of conserving biodiversity.

2.5.2 Section 40 of the NERC Act 2006 imposes a duty on all public bodies including local and national government to have regard to biodiversity in the exercise of all of their functions, with particular regard to the species of conservation priority and is often referred to as 'the biodiversity duty'.

2.5.3 In England, Section 41 of the NERC Act lists the species and habitats of highest importance for conserving biodiversity (derived from the original UK Biodiversity Action Plan (BAP) priorities). The Section 41 list is a definitive reference for all public bodies in England (statutory and non-statutory) and is a guide for decision-makers when implementing their statutory duties to have regard

to the conservation of biodiversity. This 'biodiversity duty' includes taking steps to promote the restoration and enhancement of the populations of Section 41 species.

2.5.4 Section 41 species include a number of native bat species (including greater horseshoe bat *Rhinolophus ferrumequinum* and lesser horseshoe bat *Rhinolophus hipposideros*, noctule *Nyctalus noctula*, soprano pipistrelle *Pipistrellus pygmaeus*, and brown long-eared bat *Plecotus auritus*), dormouse *Muscardinus avellanarius*, hedgehog *Erinaceus europaeus*, brown hare *Lepus europaeus*, a number of bird species associated with grassland and woodland habitats, slow worm *Anguis fragilis*, and great crested newt *Triturus cristatus* amongst others. All these species are of conservation concern and have suffered long-term population decline.

2.6 The Hedgerow Regulations 1997

2.6.1 The Hedgerow Regulations 1997 protect hedgerows from removal, with particular protection for 'important' hedgerows. 'Important' hedgerows are defined in the Regulations.

2.6.2 The Regulations apply to any hedgerow growing in, or adjacent to any common land, protected land (Local Nature Reserves (LNRs) and Site of Special Scientific Interest (SSSIs)), or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys, if it: (a) has a continuous length of, or exceeding, 20 m; or (b) it has a continuous length of less than 20 m and, at each end, meets another hedgerow.

2.7 Wild Mammals Protection Act 1996

2.7.1 The Wild Mammals Protection Act 1996 protects any wild mammal from unnecessary suffering that includes, mutilation, kicking, beating, impaling, stabbing, burning, stoning, crushing, drowning, dragging or asphyxiating.

2.7.2 The Act applies to all wild mammals with the exception of killing a mammal as an act of mercy where it can be proven the mammal had been seriously disabled if not injured unlawfully or there is no reasonable chance of its recovery.

2.8 Legal Protection and Conservation Status afforded to specific Species

Badgers

2.8.1 Under the Protection of Badgers Act (PBA) 1992, badgers *Meles meles* are protected from killing, injuring or disturbance while

occupying a sett, and their setts are protected from obstruction, damage or destruction.

Bats

- 2.8.2 All bats and their breeding and nesting sites (roosts) are protected under the Habitats Regulations and the Wildlife and Countryside Act 1981.
- 2.8.3 Any disturbance of a roost due to development must be licensed. The legislation protects roost sites and consideration needs to be given to circumstances where loss of foraging habitat could indirectly result in the loss of the roost.

Breeding Birds

- 2.8.4 Nesting birds are protected under the Wildlife and Countryside Act 1981, which makes it an offence to intentionally kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs.
- 2.8.5 In addition to this, for some rarer species (listed on Schedule 1 of the Act), it is an offence to intentionally or recklessly disturb them while they are nest building or at or near a nest with eggs or young, or to disturb the dependent young of such a bird.

Dormice

- 2.8.6 Dormice are protected under Schedule 5 of the Wildlife and Countryside Act 1981. Dormice are also included on Schedule 2 of the Habitat Regulations 2017 as European Protected Species (EPS). They are also listed on Section 41 of the NERC Act 2006.

Amphibians

- 2.8.7 The great crested newt (GCN) is an EPS and, as such, is afforded protection under the Habitat Regulations. It is also protected under the Wildlife and Countryside Act 1981 which makes it an offence to intentionally kill, injure or take GCN or to damage, destroy or obstruct access to any structure or place used for shelter or protection.
- 2.8.8 In addition to this, it is an offence to intentionally or recklessly disturb them while they are occupying a structure or place used for that purpose.
- 2.8.9 Other common amphibians, such as common frog *Rana temporaria*, toad *Bufo bufo*, smooth newt *Lissotriton vulgaris* and palmate newt *Lissotriton helveticus* are protected against sale only under the Wildlife and Countryside Act 1981 (as amended).

Otters

- 2.8.10 Otters are listed as protected under Schedule 5 of the Wildlife and Countryside Act 1981 and Section 41 of the NERC Act 2006.

Reptiles

- 2.8.11 All native British species of reptiles are protected under the Wildlife and Countryside Act 1981. The four most widespread reptile species (grass snake *Natrix natrix*, slow worm, common lizard *Zootoca vivipara* and adder *Vipera berus*) are protected from intentional killing or injury.

Water Voles

- 2.8.12 Water voles are listed in Schedule 5 of the Wildlife and Countryside Act 1981 (as amended), which affords them special protection under Section 9, as amended by the CROW Act 2000.
- 2.8.13 The water vole is listed as being a Species of Principal Importance in England, in Section 41 of the NERC Act 2006

3 References

3.1 Guidance

British Standards Institution (2013) Biodiversity – Code of Practice for Planning and Development: BS 42020:2013.

Chartered Institute of Ecology and Environmental Management (2017) Guidelines for Preliminary Ecological Appraisal.

Chartered Institute of Ecology and Environmental Management (2019) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine.

Institute of Environmental Assessment (1995) Guidelines for Baseline Ecological Assessment.

Ministry of Housing, Communities and Local Government (2019) Planning Practice Guidance: Natural Environment – Biodiversity, Ecosystems and Green Infrastructure.

3.2 Legislation

Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds.

The Conservation of Habitats and Species Regulations 2017.

The Countryside and Rights of Way Act 2000.

The Hedgerow Regulations 1997.

The Natural Environment and Rural Communities Act 2006.

The Protection of Badgers Act 1992.

The Wildlife and Countryside Act 1981.

The Wild Mammals (Protection) Act 1996.

4 Glossary

Table 4.1.1: Glossary of Terms

Term	Description
BAP	Biodiversity Action Plan
CIEEM	Chartered Institute of Ecology and Environmental Management
CROW	Countryside and Rights of Way Act
EIA	Environmental Impact Assessment
EPS	European Protected Site
GAL	Gatwick Airport Limited
GCN	Great Crested Newt
LNR	Local Nature Reserve
NERC	Natural Environment and Rural Communities
PBA	Protection of Badgers
PEIR	Preliminary Environmental Information Report
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest