

APPENDIX H. SITE CONSTRAINTS

H.1 General issues to consider:

- H.1.1 The impact of site constraints should be assessed and evaluated at an early stage in the design of the development and designs modified accordingly and where possible mitigated.**
- H.1.2** Development at some sites may be restricted by physical, environmental or legal factors and require special measures to be taken before an application is submitted and permission is granted. An on-site and desktop analysis of the site and the surrounding area should be carried out to identify constraints (features and hazards). Consultation with the local community and wider may also provide vital local knowledge.
- H.1.3** The list in H1.11 identifies possible site constraints that should be investigated. Attention should be given at the early design stage to protect, mitigate against harm and to create a good quality development that incorporates and optimises the features of the area within the development. Many of the constraints can be used positively to create distinctive and inspirational developments by using innovative design solutions.
- H.1.4** This list is not conclusive and the onus is put on the applicant to identify any further constraints that may apply to the site through new legislation or other means.

H.1.5 Internationally designated sites:

- Special Protection Areas (SPAs) classified under the EC Birds Directive 1979 (amended 2003);
- Special Areas of Conservation (SACs) designated under the EC Habitats Directive 1992;
- Ramsar sites listed under the provisions of the Ramsar convention on wetlands of international importance.

H.1.6 Nationally designated sites:

- Sites of Special Scientific Interest (SSSI).

H.1.7 Locally designated nature areas and Conservation of species protected by Law:

- Local Nature Reserves (LNRs) - statutory designation under Section 21 of the National Parks and Access to the Countryside Act 1949;
- Sites of Importance to Nature Conservation (SINCs) - non-statutory designation by the City Council;
- Protection afforded to species under the Habitats Regulations;
- Protection afforded to species under the European Union Habitats Directive 1992;
- Protection afforded to species by the Wildlife and Countryside Act 1981 (as amended);
- Protection of Badgers Act 1992.

H.1.8 Tree protection:

- Protection afforded to trees through tree preservation orders under Part VIII of the Town and Country Planning Act 1990 and in the Town and Country Planning (Trees) Regulations 1999 and its amendments in Section 23 of the Planning and Compensation Act 1991;
- Protection afforded to trees through Conservation Areas under Part II of the Planning (Listed Buildings and Conservation Areas) Act 1990.

H.1.9 Party Wall etc Act 1996.

The Act provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings. Adjoining owners can agree with the building owner's proposals or reach agreement with the building owner on changes in the way the works are to be carried out, and in their timing. Where

there is no written consent or agreement, the Act provides for the resolution of 'disputes'.

The Act specifically covers:

- Various work that is going to be carried out directly to an existing party wall or structure;
- New building at or astride the boundary line between properties;
- Excavation within 3 or 6 metres of a neighbouring building(s) or structure(s), depending on the depth of the hole or proposed foundations.

H.1.10 Conservation of habitats and species outside of designated area:

- Habitats and species in UK;
- Local Biodiversity Action Plans;
- Landscape features of major importance for wild flora and fauna;
- Water/Riverside/Coast/Estuary;
- Woodlands, trees and hedgerows;
- Open space.

H.1.11 Other constraints:

- Listed buildings;
- Locally listed buildings;
- Conservation Areas;
- Parks and Gardens of Special Historic Interest;
- Archaeology;
- Flood risk;
- Highways;
- Railways;
- High voltage overhead lines/Pylons;
- Telecoms and utilities;
- Aerodrome;
- Land instability/slippage;
- Land contamination (on and off site);
- Contaminated land;
- Topography;
- Air quality management areas;
- Noise pollution;
- Light pollution;
- Water Quality;
- Adjacent hazardous industrial uses;
- Rights of way, common land access rights etc;
- Constraints specific to restrictive covenants and deeds.