

**PROPOSAL: CONVERSION OF EXISTING PROPERTY TO FORM 4 SELF CONTAINED APARTMENTS WITH SHARED STAFF ACCOMMODATION AND COMMUNAL AREAS WITH NEW LEVEL PATIO TO REAR.**

**LOCATION: BRENDON HOUSE RESIDENTIAL HOME, BRENDON AVENUE, S40 4NJ**

**1.0 CONSULTATIONS**

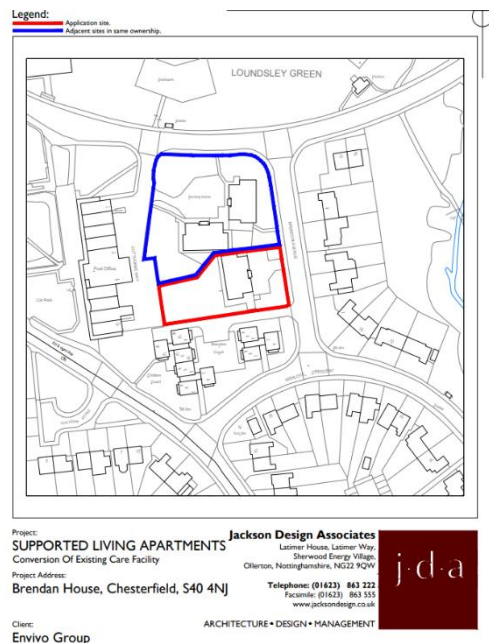
Ward Members	No representations received
Strategic Planning	No policy objections to the proposed change of use subject to consideration of biodiversity net gain requirements and CIL
Environmental Health	No objections in principle. Suggest a limit on the hours of construction to 8am to 5pm Monday to Friday, 9am to 1pm Saturday and no work on Sunday or Public Holiday.
Design Services Drainage	Not shown to be at risk of flooding, according to the Environment Agency Flood Maps. Any amendments to existing drainage on site may require Building Control approval. Any new connections to the public sewerage system will require prior approval from Yorkshire Water
Yorkshire Water	No observation comments are required from Yorkshire Water
Local Highways Authority	No highway safety comments to make on the basis the existing parking arrangements will be retained for staff / visitors.
Tree Officer	Requested further information regarding the proposed excavation works required for retaining wall. The agent provided additional information and the Council's Tree Officer confirmed that the proposed works will not directly affect the retained protected trees

however because the proposed works will require excavations and the use of mechanical equipment, a tree protection condition should be attached if consent is granted to the application.

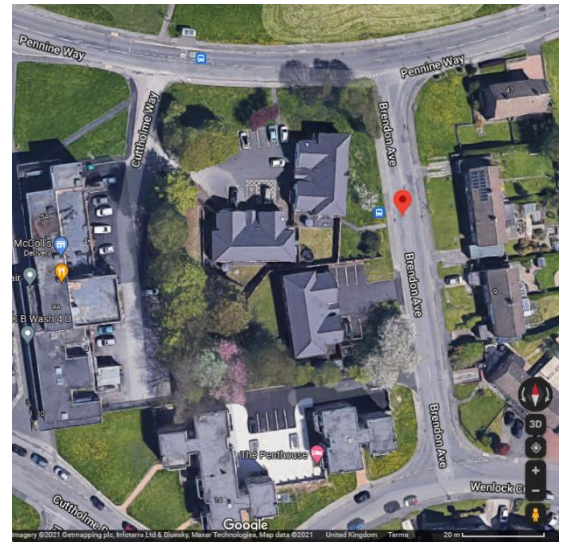
Representations Two representations received from one adjoining neighbours (see report for summary)

## 2.0 THE SITE

2.1 The site subject of this application is situated to the east of Loundsley Green Local Centre. The site is unallocated on the adopted Local Plan policies Map. Vehicular access to the site is taken from Brendon Avenue.



Extract of submitted location plan ©



Aerial photograph of site from Google Maps ©

2.2 Consent was granted in 2016 for the re-development of the site and for the erection of 3 two storey 8 bedroom houses for people with learning disabilities and complex needs (see site history). The site therefore consists of three individual houses known as Loundsley House, Brendon House and Pennine House all owned and operated by the same applicant Heathcotes Care Limited. A separate application has also been submitted for works to Loundsley House (see site history CHE/21/00557/FUL).

2.3 The site has a number of trees protected by Tree Preservation Order: 4901.297 Brendon Avenue, Loundsley Green (2010).

### **3.0 SITE HISTORY**

3.1 CHE/15/00372/FUL - Erection of 3 two storey 8 bedroom homes for people with learning disabilities and complex needs including associated hard and soft landscaping (amended by revised plans received on 9th November 2015) – **CONDITIONAL PERMISSION (12.01.2016)**

3.2 CHE/18/00346/REM1 - Variation of condition 14 (planting scheme) of CHE/15/00372/FUL - (erection of 3 two storey 8 bedroom homes for people with learning disabilities and complex needs) as the approved planting scheme specified plants will not thrive in the soil conditions on site – **CONDITIONAL PERMISSION (22.06.2018)**

3.3 CHE/21/00557/FUL - Change of use and alterations to existing ground floor to create a self-contained, single bedroom supported living apartment (C3A) – **CONDITIONAL PERMISSION (08.10.2021)**

### **4.0 THE PROPOSAL**

4.1 The application seeks consent for the conversion of the existing 8 bedroom care facility (C2) to create four one bedroom supported living apartments (C3A) with shared communal space and support staff facilities. No extensions are proposed to the building to accommodate the change of use.

4.2 External alterations proposed as part of the development including

- Blocking up two window openings and one door opening at ground floor, to be replaced with facing brickwork and mortar pointing to match existing.
- Changing two existing french doors to single glazed doors with adjacent glazed screen at ground floor
- Replacing 4 windows with external access glazed doors at ground floor

4.3 The application also includes the creation of a patio to the west of the building to create an area with level access and a small retaining wall.

4.4 The application is assessed on the basis of the submitted plans and supporting documents

## **5.0 CONSIDERATIONS**

### **5.1 Planning Policy**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

### **5.2 Chesterfield Borough Local Plan 2018 – 2035**

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development
- CLP4 Range of Housing
- CLP13 Managing the water cycle
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

### **5.3 Other Relevant Policy and Documents**

- National Planning Policy Framework (NPPF)
- 'Successful Places' Supplementary Planning Document

### **5.4 Principle of Development**

#### **Relevant Policies**

5.4.1 In assessing the principle of development policies CLP1, CLP2 and CLP4. For full wording of policies see the Chesterfield Borough Local Plan 2018 – 2035 and NPPF.

5.4.2 A residential (C2) use was previously accepted in this location as part of application CHE/15/00372/FUL. The existing site is located within walking distance of facilities at the Loundsley Green Local Centre with access to public transport links and walking/cycling connections and therefore accords with Local Plan policies CLP1

and CLP2. The proposal will contribute to providing a range of housing in the Borough and accords with CLP4.

## **5.5 Design and Appearance of the Proposal**

### **Relevant Policies**

- 5.5.1 Local Plan policy CLP20 requires development to identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials. For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.
- 5.5.2 No extensions are proposed to the building as part of the application with limited external alterations to doors/windows at ground floor level as set out in paragraph 4.2 and as detailed on the submitted plans. The proposed door and window alterations are considered to be acceptable in design and appearance, reflecting the character and existing fenestration design within the building.
- 5.5.3 The proposed patio to the west of the building measures a maximum of 13m x 5.8m in area with a retaining wall formed of gabion baskets with a post and rail fence attached for safety.
- 5.5.4 The proposal is considered to be acceptable in design and appearance and therefore accords with Local Plan policy CLP20.

## **5.6 Impact on Neighbouring Residential Amenity**

- 5.6.1 Local Plan policy CLP14 and CLP20 requires development to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts. For full wording of policy see the Chesterfield Borough Local Plan 2018 – 2035.
- 5.6.2 The application seeks for the change of the existing floorspace from an 8 bedroom care facility to a 4 single bedroom self-contained apartments with staff facilities and communal space.

Overall, the proposal will reduce the number of occupants in the building, with limited external alterations to the existing building and no extensions which would unduly harm the residential occupants of the surrounding properties. In terms of loss of light or privacy, noise/disturbance etc there are no concerns which suggest that a refusal is warranted.

5.6.3 The Council's Environmental Health Officer recommended that a working hours condition be imposed to protect the amenity of the surrounding neighbours/residents during construction.

5.6.4 Subject to a working hours condition it is considered that the proposal accords with Local Plan policies CLP14 and CLP20.

## **5.7 Highways Safety and Parking Provision**

5.7.1 Local Plan policies CLP20 and CLP22 requires development to provide adequate and safe vehicle access and parking

5.7.2 The existing site is served by dedicated off-street parking for staff and visitors. No alterations are proposed to the existing off-street parking arrangements. No highways safety concerns were raised by the Local Highways Authority.

5.7.3 The proposal is therefore considered to accord with principles of CLP20 and CLP22 of the Local Plan.

## **5.8 Flood Risk and Drainage**

5.8.1 Local Plan policy CLP13 requires consideration of flood risk for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere.

5.8.3 The application site is located in 'Flood Zone 1' as defined by the Environment Agency and is therefore considered to be at low risk of flooding. The proposed patio area will link with existing drainage channels and the surface water will be contained within the application site.

5.8.4 Yorkshire Water were consulted and stated that no observation comments were required. The Council's Drainage Engineer highlighted that any amendments to existing drainage may require

Building Control consent and any new connections to the public sewerage network will require prior approval from Yorkshire Water.

5.7.3 The proposal is therefore considered to accord with principles of CLP13 of the Local Plan.

## **5.10 Biodiversity and Impact on Protected Trees**

5.10.1 The NPFF and Local Plan policy CLP16 requires proposals to provide a net gain in biodiversity.

5.10.2 The application site has a number of trees protected by tree preservation order 297.2010. The proposed works to the garden area therefore need further consideration regarding the potential impact on the root protection area of the surrounding protected trees.

5.10.3 The Tree Officer reviewed the submission and initially requested that a condition be imposed with tree protection measures to be submitted to and approved in writing by the Local Planning Authority. Revised details were provided on 14.10.2021 and the Tree Officer recommended that a condition be imposed for tree protection measures in accordance with the revised plan.

5.10.4 To achieve a net gain in biodiversity the applicant confirmed by email that 2 or 3 bird boxes and a bug hotel can be provided. It is recommended that a condition be imposed to secure the enhancements with an explanatory footnote attached to the decision.

5.10.5 On the basis of relevant conditions covering the above the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

## **5.12 Developer Contributions and Community Infrastructure Levy**

5.12.1 Having regard to the nature of the application proposals the development comprises the creation of a new dwelling and is therefore CIL Liable.

5.12.2 The proposed residential dwelling would be liable for CIL. However it is noted that the site falls within the £50 charging rate area. The proposal involves the change of use of existing floorspace which

has been demonstrated to be in lawful use therefore the CIL charge is zero.

		A		B	C	D	E
Development type	Proposed floor space (GIA in Sq. m)	Less Existing (Demolition or change of use) (GIA in Sq.m)	Net Area (GIA in Sq. m)	CIL Rate	Index permission	Index Charging schedule 2020	CIL Charge
Residential (C3)	357	357	0	£50 (Medium Zone)	333	288	£0

## 6.0 REPRESENTATIONS

6.1 The statutory period of consultations has expired and two letters of representation have been received as a result from one resident at Brendon House (summarised below)

- Applicant has not replaced trees felled during last development
- We do not need more tarmac and paving and there is less than to soak up heavy rain due to the car park
- Already had enough noise and disruption over last 6 years
- Protect the existing tree, shrubs and wildlife and stop encroaching on remaining greenspace
- Not enough time has been allowed for objections as staff are working at home
- Private houses on Brendon Avenue have been mentioned but not Brendon Court which is nearer
- Altering doors and windows is not a minor issue for residents
- Considerable difference in how the property will be used in the future and is bound to be noisy impacting residents

6.2 **Officer comments**

- ***Replacement planting and alterations to the approved landscaping scheme – see site history***
- ***Proposed patio is located to the rear of the building and will utilise existing drainage channels, containing surface water within the application site.***
- ***The loss of an area of lawn to the rear of the building to be replaced with a patio is not considered to impact the visual amenity and character of the area. The application does not***



***propose the removal of any trees and includes biodiversity enhancements which can be controlled by condition.***

- ***Consultation for a minimum of 23 days has been undertaken in accordance with the requirements of the Town and Country Planning Act including letters and site notices.***
- ***The application proposes the creation for 4 one bedroom self-contained apartments reducing the number of residents occupying the building. On the basis of the previously approved use it is considered that the proposal will not adversely impact on the neighbouring residents amenity such that refusal of the case is warranted***

## **7.0 HUMAN RIGHTS ACT 1998**

- 7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> October 2000, an Authority must be in a position to show:
- Its action is in accordance with clearly established law
  - The objective is sufficiently important to justify the action taken
  - The decisions taken are objective and not irrational or arbitrary
  - The methods used are no more than are necessary to accomplish the legitimate objective
  - The interference impairs as little as possible the right or freedom
- 7.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

## **8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

- 8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.
- 8.2 The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.

## **9.0**      **CONCLUSION**

9.1      Overall subject to conditions the proposal complies with Local Plan policies CLP1, CLP2, CLP3, CLP6, CLP13, CLP14, CLP16, CLP20, CLP21, CLP22 and SS5 and the National Planning Policy Framework.

## **10.0**     **RECOMMENDATION**

10.1     Approve subject to the following conditions:

### **Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.

2. The development hereby approved shall only be carried out in full accordance with the approved plans and documents (listed below) with the exception of any approved non material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

- Proposed GA Layout, Ground & First Floor, drawing number 21-2346 (02) 0004 Revision P01 (received 23.07.2021)
- Proposed Elevations, drawing number 21-2346 (02) 005 P01 (received 23.07.2021)
- Proposed Site Plan and Construction Details, drawing number 21\_2346 \_(90)02 Revision P05 (received 14.10.2021)

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

3. No construction or demolition works, movement of construction traffic, or deliveries related to the construction of the hereby approved development to and from the premises, shall occur other than between 0800 and 1700 hours weekdays, and 0900 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays. The term 'construction work' shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.

Reason - To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with CLP20 and CLP14

#### 4. Tree protection condition

- All trees which are being retained on site or which will be affected should be protected by barriers and or ground protection as recommended in BS 5837 'Trees in Relation to Design, demolition and construction - Recommendations' 2012. As a minimum, Heras fencing with suitable support should be used on this occasion unless otherwise approved in writing by the Local Planning Authority.
- Vertical barriers should be erected, and/or ground protection installed before any materials or machinery are brought onto the site and before any demolition, development or stripping of soil commences. The protected areas should be regarded as sacrosanct, and once erected, barriers and ground protection should not be removed or altered without prior approval of the local planning authority.
- No operations, excavations or storage of materials will take place within the Root Protection Area which has been calculated at 6 metres from the stems of the 2 nearest trees to the new patio area and gabion baskets and as shown on drawing 21\_2346\_(90)02 Rev P05. Notices should be attached to the fencing at regular intervals to this effect.
- Any roots, if exposed, should be wrapped in dry, clean hessian sacking to prevent desiccation and to protect from rapid temperature changes. Any wrapping should be removed before back filling which should take place as soon as possible.
- Roots smaller than 25mm diameter may be pruned back, preferably to a side branch, using a proprietary cutting tool such as secateurs or hand saws. Roots larger than 25mm should only be severed following consultation with the Council's Tree Officer, as they may be essential to the tree's health and stability. Prior to back filling, any hessian wrapping should be removed and retained roots should be surrounded with sharp sand (builders' sand should not be used because of its high salt content which is harmful to tree roots) or other loose granular fill, before the soil is replaced.
- There shall be no pruning of the protected trees (TPO 4901.297) on the site unless a formal application is submitted

for consideration and approved by the Local Planning Authority in writing.

The development thereafter shall be implemented in strict accordance with the conditions above.

**Reason** - Required to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality pursuant to section 197 of the Town and Country Planning Act 1990

5. Within 2 months of the commencement of the development hereby approved,
  - Two bird boxes shall be installed/integrated into the development site.
  - One bug hotel

The biodiversity enhancement shall thereafter be retained and maintained throughout the life of the development.

Reason - In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 175 of the National Planning Policy Framework.

### **Informative Notes**

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. There should be no storage of materials or other construction activity on the soft landscaped areas to protect the rooting environment of the trees protected by tree preservation order.
3. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems

can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: [www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property-specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.

4. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
5. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000, Habitats Regulations 2017. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation.
6. Informative guidance in respect of condition 5
  - Bird/owl/bat boxes
    - (Locating your nestbox: Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.
    - You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.
    - The number of nestboxes which can be placed in a garden depends on the species you wish to attract.

Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.

- Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)
- (Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)
- Biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats.
- Measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance.
- Holes in fences and boundary treatment to allow species such as hedgehog to move across the site.
- Bee bricks.

<b>Species</b>	<b>Potential Enhancement Measure</b>	<b>Notes</b>
<b>Wildflowers</b>	<p><b>Native wildflower meadow areas:</b> as an alternative to amenity grassland.</p> <p><b>Wildflower verges.</b></p>	<p>Wildflower meadow can be added where there is grassed verge / communal garden space as well as within residential gardens or as part of wider landscaping schemes.</p> <p>Advice for creating and maintaining a wild patch is available on the <a href="#">Wildlife Trust website</a> and through <a href="#">Flora Locale</a>.</p>

<p><b>Birds</b></p>	<p><b>Bird Boxes and other nesting features:</b> (such as stone ledges and wooden cladding).  <b>Native species planting and boundary features:</b> Berry and seed producing shrubs are particularly beneficial for wildlife and include: Barberry, Blackthorn, Common Dogwood, Guelder Rose Hawthorn and Spindle berry.</p>	<p>Particularly where adjoining natural areas such as woodland, areas of priority habitat and the river and canal environment. For guidance on installing bird boxes including minimum height see: <a href="https://www.bto.org/how-you-can-help/providing-birds/putting-nest-boxes-birds/putting-nest-box">https://www.bto.org/how-you-can-help/providing-birds/putting-nest-boxes-birds/putting-nest-box</a>  Generally, boxes should be sheltered from prevailing wind, rain and strong sunlight. Check local records (Magic portal and DWT advice) for target species.</p>
<p><b>Invertebrates</b></p>	<p><b>Bug hotels and log piles with stones:</b> particularly near ponds.  <b>South facing banks:</b> with some bare ground.  <b>Rough or natural stone walls with holes</b> for invertebrates to use.  <b>Brown roofs with a range of substrates</b> these are</p>	<p>Examples of living roof projects are available on the Buglife web page: <a href="https://www.buglife.org.uk/our-work/living-roof-projects/">https://www.buglife.org.uk/our-work/living-roof-projects/</a></p>



	particularly recommended on brownfield sites where open mosaic habitat may have been lost. The substrate does not have to cover the entire roof.	
--	--	--