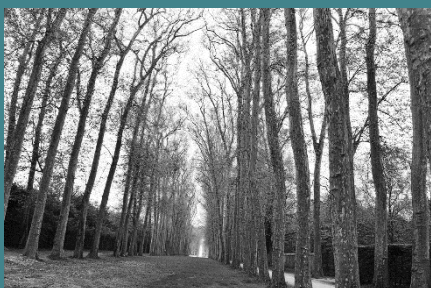


FPCR | environment
& design



SPECIES MITIGATION AND ENHANCEMENT PLAN

Client

Bloor Homes

Project

Normandy Way,

Hinckley

Date

November 2024

CONTENTS

1.0 INTRODUCTION 2

2.0 LEGISLATION AND PLANNING POLICY 3

3.0 MITIGATION 4

4.0 RECOMMENDATIONS 7

APPENDIX A: LEGISLATION AND POLICY 0

FIGURES

Figure 1: Bat and Bird Box Plan

Rev	Issue Status	Prepared/Date	Approved/Date
-	Final	PA/10/12/24l	AJB/02/12/24

1.0 INTRODUCTION

- 1.1 The following document has been produced on behalf of Bloor Homes who have submitted a Reserved Matters application for Phase 4 (23/00574/REM). The proposals for Phase 4 are shown on the Proposed Site Layout (Ref: EM100-LS-021j (Site Landscaping overview Ph4) Bloor Homes).

Background

- 1.2 The purpose of the Species mitigation and enhancement plan is to discharge a condition 17 which states:

"No development shall take place until a species mitigation and enhancement strategy has been submitted to and approved in writing by the LPA. As a minimum, this should detail the reasonable avoidance measures for badgers and great crested newts during the construction process, and enhancement measures such as integrated bird and bat boxes and native planting. Any enhancement measures need to be shown on all relevant submitted plans/elevations . All works are to proceed strictly in accordance with the approved scheme unless otherwise agreed in writing by the LPA."

- 1.3 A site visit was carried out on 12th June 2024 to inform Conditions 19 and 20. The aims of the site visit were to:
- Review the habitats on-site and their potential to support protected species.
 - Determine whether any further surveys are required to inform mitigation where necessary.
- 1.4 Prior to the site visit, previous ecological reporting was reviewed as background information and to aid in directing the scope of survey. This included the 'Discharge of Conditions 14, 19 and 20 (15/00118/OUT)' produced by Ecology Solutions in July 2020 and the Ecological Creation and Habitat Management Plan produced by RSK in November 2014.

2.0 LEGISLATION AND PLANNING POLICY

2.1 Detail on the relevant national and local policy and legislation for ecology in relation to development sites are provided in Appendix A. The national policy and legislation most relevant here are:

- The Conservation of Habitats and Species Regulations (“The Habitats Regulations”) (Amendment) 2017 in relation to the European Protected Species (EPS) great crested newt, (GCN), bats (all species) and dormouse; and European protected sites i.e. Special Areas of Conservation (SAC), Special Protection Areas (SPAs) and Internationally protected “Ramsar Sites” (collectively known as “Natura 2000 sites”). Annex II bat species are of particular relevance in relation to SACs designated for bats.
- The Wildlife and Countryside Act 1981 (WCA) (as amended) in relation to all wild birds (including Schedule 1 species), other animals (notably Schedule 5 species), flora (those listed in Schedules 8 and 9) and Sites of Special Scientific Interest (SSSI);
- Protection of Badgers Act 1992;
- Natural Environmental and Rural Communities (NERC) Act 2006 in relation to various priority species and habitats;
- Hedgerow Regulations 1997 made under Section 97 of the Environment Act 1995;
- National Planning Policy Framework (NPPF) (2019);
- Local Nature Reserves (LNR) as designated most recently by the NERC Act 2006;
- Non-statutory protected local sites including County Wildlife Sites (CWS), Sites of Importance for Nature Conservation (SINC), Local Wildlife Sites (LWS) and Ancient Woodland Inventory (AWI) sites;
- Local Biodiversity Action Plans (LBAP);
- Birds of Conservation Concern (BoCC); and,
- The Environment Act 2021.

3.0 METHODOLOGY

3.1 The following outlines the survey methodologies used during the site visit.

Habitats

3.2 A field survey was conducted on 12th June 2024 by a suitably experienced ecologist from FPCR. Habitats were identified and mapped broadly following the UKHab Classification System¹, with minor departures from this methodology to allow for compatibility with the Defra metric where applicable. and comprised a systematic walk over the Site to classify the broad habitat types and identify any Habitats of Principal Importance (HPI) for the conservation of biodiversity as listed within Section 41 (S41) of the Natural Environment and Rural Communities (NERC) Act (2006).

Fauna

3.3 During the UKHab survey, observations, identification and signs of any species protected under the following list of Acts and Regulations (collectively referred to herein as 'Protected Species') were recorded:

- Schedule 1 of the Wildlife and Countryside Act 1981 (as amended);
- The Protection of Badgers Act 1992; and
- The Conservation of Habitats and Species Regulations 2017 (as amended).

3.4 Consideration was also given to the existence and use of the Site by other fauna listed as one or more of the following (collectively referred to herein as 'Notable Species'):

- Species of Principal Importance (SPI) for the conservation of biodiversity in England on the Natural Environment and Rural Communities (NERC) Act, Section 41 (S41);
- species listed on any Local Biodiversity Action Plan (LBAP) initiatives; and

Red Data Book (RDB) species.

3.5 The likely presence or absence of protected and notable species has been assessed by a number of factors including the availability or suitable habitat, connectivity, known species distribution, local records and an understanding of the ecology and habitats requirement of the individual species assessed

Invasive non Native Species

3.6 Consideration was given as to the presence of invasive species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) (WCA 1981)²

¹ UKHab Ltd (2023). UK Habitat Classification Version 2.0 (at <https://ukhab.org>)

² Act of Parliament, (1981). The Wildlife and Countryside Act 1981 (as amended), London: HMSO.

4.0 RESULTS AND DISCUSSION

Badgers

- 4.10 No evidence of badger was recorded within the phase 4 site boundary or within 30m of the site boundary. High levels of construction activity in the area around the site suggest that badgers are unlikely to use the site for sett construction.
- 4.1 Badgers can unpredictably excavate new setts at any time, so prior to construction a full update badger survey should be undertaken to identify any new setts and also to accurately map any existing runs to inform any necessary mitigation. If any newly excavated setts cannot be retained within the plans, then it will be necessary close these setts under an appropriate licence. It is very unlikely that such an exclusion and closure would involve a main sett and therefore it is unlikely that a replacement sett would be required. Any sett closure could only be undertaken between July and November (inclusive)
- 4.2 If works do not commence within 6 months of the badger survey then an updated survey to determine if badgers have established within the site will be required. If a sett is later identified further mitigation will be required and may also require a licence from Natural England.
- 4.3 To ensure that no impacts occur to Badgers during any construction activities all contractors working on the site should be briefed regarding the potential presence of Badgers.
- 4.4 Any excavations such as trenches within the site that are to be left open overnight should be covered or have a means of escape, such as a slope or wooden plank..
- 4.5 Any trenches or pits should be inspected each morning to ensure no Badgers have become trapped overnight.
- 4.6 The storage of topsoil or other 'soft' building materials on site should be given careful consideration. Badgers could adopt such mounds as setts, which would then be afforded the same protection as established setts. Such mounds should be regularly inspected to check for use by Badgers.

Great Crested Newts

- 4.7 According to the 2020 reporting by Ecology Solutions, great crested newts *Triturus cristatus* have been recorded within ponds within 1km of site (located approximately 630m north-west). However, as the majority of the site was previously arable fields, it was not considered suitable for great crested newts. A precautionary approach to site clearance was proposed on a phase-by-phase basis. As part of this approach, newt exclusion fencing was installed along the boundary of the wider site to prevent great crested newt from entering the development site during construction.
- 4.8 Great crested newts have previously been recorded in a pond approx. 440m northwest of the site. Amphibian exclusion fencing has subsequently been installed to prevent great crested newts ranging into the site. A single pond is located within the phase 4 site boundary. This pond is an attenuation pond for previous phases and was installed after the amphibian exclusion fencing was installed, therefore it is considered highly unlikely for great crested newts to be present within this pond. The habitat surrounding this pond are largely unsuitable for amphibians as they comprise areas of building site and sparsely vegetated land that was formerly arable farmland.

- 4.9 No further surveys or mitigation is considered to be required for great crested newts. In the unlikely event that great crested newt are noted on-site during works, all works should cease and further advice sought immediately from a suitably experienced Ecologist.
- 4.10 In the event that other amphibians are observed during works they may be transported to a place of shelter within suitable retained and unaffected habitats.
- 4.11 Materials to be stored should be raised from the ground by storing on pallets to prevent fauna using these for shelter.

Bats

- 4.12 The site provides negligible value to foraging bats. Adjacent to the northern boundary of Phase 4, is a section of the protected water vole corridor (Appendix A). In addition, a hedgerow runs adjacent to the east of the site. These provide potential commuting routes for bat species. As the newly created balancing pond establishes and despite the creation of an internal road that will bisect this, the value of the connectivity provided between the water vole corridor and the ecological area will likely increase in terms of both commuting and foraging habitat for bats.
- 4.13 During the construction phase artificial lighting should be directed away from these peripheral habitats to minimise any disturbance to bats that may utilise the habitats.

Enhancements

- 4.14 Figure 1 shows the locations of 10 new integrated bat boxes. It has been suggested that Ibstock Enclosed bat boxes are utilise, these would be integrated into the wall of the building at a height of between 3m and 6m. The facing on these boxes can be customised to match the facing bricks on the new buildings and therefore is quite discreet. Other boxes could be utilised if necessary, however, this should be agreed with an FPCR ecologist beforehand.
- 4.15 The principal of the location of these boxes is so that they are located close to potential commuting and foraging habitat for bats and so that they provide roosting opportunities in a range of different aspects and therefore offer a range of microclimates for different species and seasonal requirements.

Birds

- 4.16 Under the Wildlife and Countryside Act 1981 (WCA) (as amended) it is an offence to intentionally or recklessly take, damage or destroy the nest of any wild bird while that nest is in use or being built (also [take, damage or destroy the nest of a wild bird included in Schedule ZA1] under the Natural Environment and Rural Communities Act 2006). For birds listed on Schedule 1 of the WCA, protection extends to offences relating to the intentional or reckless disturbance of these birds while at their nests or their dependent young.
- 4.17 The majority of species recorded within the site during surveys undertaken were common and widespread. It is considered that the hedgerow, and grassland within the site offer suitable nesting and foraging opportunities for birds.
- 4.18 Evidence of potential breeding skylark *Alauda arvensis* was recorded on site in the centre of the field. Though a nest was not recorded the behaviour of the birds suggested that a nest was located within the area.

- 4.19 It is therefore recommended that construction activity is avoided within the field during the nesting bird season. If any works are required, then an Ecological Clerk of Works (ECoW) should undertake a nesting bird check to identify a suitable exclusion zone to be implemented prior to works commencing. If nesting birds are found to be present during checks then works within the exclusion zone would need to be delayed until young have fledged.

Enhancements

- 4.20 Figure 1 shows the locations of 10 bird boxes comprising 5 swift boxes and 5 sparrow boxes
- 4.21 Bird boxes will be installed on buildings as per the plan. These will cater for a variety of species that rely on buildings for nesting, including common swift *Apus apus*, and house sparrow *Passer domesticus*. Box location and placement should follow the following criteria:
- at least five metres clear below and in front of box;
 - away from doors, windows, tall trees, and bushes;
 - do not locate in cold windy or shady alleys.
- 4.22 House sparrow boxes can be installed at any height above four metres and gable ends are ideal. Outbuildings such as garages can also have house sparrow terraces installed. Boxes should be away from windows and doors and must be located within five metres of vegetation such as trees and shrubs within gardens.
- 4.23 If the proposed locations of the bird boxes require amending due to incompatible locations or it is required that other brands//styles of bird boxes are used, , this should be agreed with an FPCR ecologist beforehand and any amendments would follow the above principal and target the same species .

740.0.0.0.0.

APPENDIX A: LEGISLATION AND POLICY

The Environment Act 2021;

Relevant elements in the Act include:

- All new developments to deliver 10% increase in biodiversity (biodiversity net gains), to be managed for at least 30 years (reviewable by the Secretary of State)
- Biodiversity Gain Site Register to be implemented and maintained for at least 30 years after the site scheme has completed, subject to review
- Introduction of Local Nature Recovery Strategies (LNRSS) – new spatial strategies to cover the entirety of England – led by a “responsible authority” in each area. Statutory guidance to be given to Local Planning Authorities (LPAs) explaining how they should take account of the LNRSS
- Introduction of a new Species Conservation Strategy – which places a duty on LPAs to cooperate with Natural England and other LPAs etc to safeguard the future of ‘at risk’ species
- Introduction of the 5 Principles to which organisations must have regard: (i) Integration (environmental protection should be integrated into the making of policies); (ii) Prevention (preventative action should be taken to avert environmental damage); (iii) Precautionary (a precautionary approach should be taken to the possibility of environmental harm); (iv) Rectification At Source (where possible any environmental harm should be rectified at source); and (v) Polluter Pays (the person(s) who causes the harm must suffer the financial penalty both in terms of mitigation and compensation)
- Long-term (at least 15 years, starting in 2022) legally binding targets on air quality, biodiversity, water, resource efficiency and waste reduction

The Natural Environmental and Rural Communities (NERC) Act 2006

Section 41 (S41) of the Natural Environment and Rural Communities Act (2006) places a duty on the Secretary of State to publish, review and revise lists of living organisms and types of habitat in England that are of principal importance for the purpose of conserving English biodiversity, and to consult Natural England before doing so.

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.

Habitats

The degree to which habitats and species receive consideration within the planning system relies on many mechanisms, including:

- Inclusion within a specific policy, for example veteran trees, ancient woodland and linear habitats within the National Planning Policy Framework (NPPF), or local planning policies;
- A non-statutory site designation (e.g. Local Wildlife Site);

- Habitats considered as Habitats of Principal Importance for the conservation of biodiversity and species considered as Species of Principal Importance for the conservation of biodiversity as listed within Section 41 of the NERC Act (2006); and
- Habitats identified as being a Priority Habitat and species identified as being a Priority Species within the local Biodiversity Action Plan.

Hedgerow Regulations 1997 made under Section 97 of the Environment Act 1995.

Article 10 of the Habitats Directive requires that “Member states shall endeavour. To encourage the management of features of the landscape which are of major importance to wild fauna and flora. Such features are those, which by virtue of their linear and continuous structure, or their function as stepping stones are essential for the migration, dispersal and genetic exchange of wild species” Examples given in the Directive include traditional field boundary systems (such as hedgerows).

The aim of the Hedgerow Regulations 1997, according to guidance produced by the Department of the Environment, is to ‘protect important hedgerows in the countryside by controlling their removal through a system of notification. In summary, the guidance states that the system is concerned with the removal of hedgerows, either in whole or in part, and covers and which results in the destruction of a hedgerow. The procedure in the Regulations is triggered only when land managers or utility operators want to remove a hedgerow. Firstly, the applicant must notify the local planning authority, providing details of the hedgerow and setting out their reasons for wanting to remove the hedgerow. The local planning authority typically has 42 days from receipt of notification in which to give or refuse consent, taking account not only of whether the hedgerow is important, but also of the reasons for removing it. If the authority does not respond within this period, the hedgerow may be removed. The system is in favour of protecting and retaining important hedgerows, though the local planning authority cannot refuse consent if the hedgerow is not important.

The Hedgerow Regulations set out criteria that must be used by the local planning authority in determining which hedgerows are important. The criteria relate to the value of hedgerows from an archaeological, historical, wildlife and landscape perspective.

Protected/Notable Species

Principal pieces of legislation protecting wild species are Part 1 of the Wildlife and Countryside Act 1981 (as amended) (WCA) and the Conservation of Habitats and Species Regulations 2017 (as amended). Some species, for example badgers, also have their own protective legislation (Protection of Badger Act 1992). The impact that this legislation has on the Planning system is outlined in ODPM 06/2005 Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System.

This guidance states that as the presence of protected species is a material consideration in any planning decision and it is therefore essential that the presence or otherwise of protected species, and the extent to which they are affected by proposals, is established prior to planning permission being granted. Furthermore, where protected species are present and proposals may result in harm to the species or its habitat, steps should be taken to ensure the long-term protection of the species, such as through attaching appropriate planning conditions for example.

In addition to protected species, there are those that are otherwise of conservation merit, such as those listed as species of principal importance for the purpose of conserving biodiversity under the Natural Environment and Rural Communities (NERC) Act 2006. These are recognised in the NPPF which advises that when determining planning applications, LPA's should aim to conserve and enhance biodiversity by applying a set of principles including:

- If significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- Development proposals where the primary objective is to conserve or enhance biodiversity should be encouraged.

Bats

Bats and their habitats are protected under the Wildlife and Countryside Act 1981 (as amended) and by the Conservation of Habitats and Species Regulations 2018 (as amended). In summary this makes it an offence to damage destroy or obstruct any place used by bats for breeding and shelter, disturb a bat, or kill, injure or take a bat. Seven bat species are listed as Species of Principal Importance under the provisions of the NERC Act 2006.

Badgers

Badgers are protected under the Protection of Badgers Act 1992. It is illegal to wilfully kill, injure, take, possess or cruelly ill-treat a badger, or attempt to do so; to intentionally or recklessly interfere with a badger sett by damaging or destroying it; to obstruct access, or any entrance of, a badger sett and to disturb a badger when it is occupying a sett.

A badger sett is defined as '*any structure or place, which displays signs indicating current use, by a badger.*' This can include culverts, pipes and holes under sheds, piles of boulders, old mines and quarries, etc. 'Current use' does not simply mean 'current occupation' and for licensing purposes it is defined as 'any sett within an occupied badger territory regardless of when it may have last been used'.

Licences are granted by Natural England to interfere with badger setts for development purposes. Licences are not normally issued during the breeding season, which is between 30th November and 1st July, and cannot be issued retrospectively.

Birds

The Wildlife and Countryside Act 1981 (as amended) is the principal legislation affording protection to UK wild birds. Under this legislation all birds, their nests and eggs are protected bylaw and it is an offence, with certain exceptions to recklessly or intentionally:

- Kill, injure or take any wild bird;
- Take, damage or destroy the nest of any wild bird while in use or being built;
- Take or destroy the egg of any wild bird.

Species listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) are specially protected at all times.

Great Crested Newts

Great crested newts and the places they use for shelter or protection are protected under European law through Annexes 2 and 4 of the EU Habitats and Species Directive, the Bern Convention and the Conservation of Habitats & Species Regulations 2017; and in the UK through Schedule 2 of the Wildlife and Countryside Act 1981 (as amended). In summary it is an offence to deliberately or recklessly to take, injure or kill a great crested newt; to intentionally or recklessly damage, destroy or obstruct access to any structure or place used for breeding, shelter or protection by the species; intentionally or recklessly disturb while it is occupying a structure or place which it uses for such purpose; or intentionally take or destroy the eggs of a great crested newt.

Reptiles

All common reptile species, including grass snake, slow worm, common lizard and adder are partially protected under the Wildlife and Countryside Act 1981. In summary this legislation protects the species from intentional killing, injury or sale, offering for sale, or possessing, transporting or publishing advertisements for the purposes of sale.

Other guidance

Birds of Conservation Concern

- 4.24 Leading governmental and non-governmental conservation organisations in the UK have reviewed the population status of 244 bird species regularly found in Britain and, using standardised criteria, have assessed and assigned all bird species onto lists of conservation concern³.
- 4.25 Birds are placed into one of three lists - Red, Amber or Green and although these listings offer no further legal protection, they are meant to guide conservation action for the individual species. The listings reflect an individual species' global and European conservation status as well as that within the UK and additionally measure the importance of the UK population in international terms.

Wild mammals

- 4.26 Under the Wild Mammals (Protection) Act 1996, it is an offence to kill or injure any wild mammals by various means, including crushing and suffocating; therefore, consideration must be given to the humane exclusion or destruction of foxes and rabbits before work starts.

Planning Policy

National Planning Policy Framework (2023)⁴

The NPPF (2023) in particular seeks to ensure that the planning system contributes to and enhances the natural and local environment, protect and enhance biodiversity and geodiversity by:

³ Eaton et al (2015), Birds of Conservation Concern 4: the population status of birds in the UK, Channel Islands and Isle of Man. British Birds 108, 708-746. <https://britishbirds.co.uk/wp-content/uploads/2014/07/BoCC4.pdf>

⁴ [National Planning Policy Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/662622/nppf-2023.pdf)

“180. d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

185. b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.”

Local planning policy

The Harrogate District Local Plan 2014 - 2035⁵, contains several policies relevant to this application, including:

Policy NE3 -Protecting the Natural Environment

This will be achieved by:

- “Considering proposals which would have a direct or indirect impact on a site protected under international or national legislation, including its features of interest or species, within the context of the statutory protection afforded to them;
- Permitting development that affects the interest features of local sites only where an appraisal has considered alternate sites and demonstrated that significant harm can be avoided, adequately mitigated, or, if either criteria cannot be achieved, compensated for;
- Permitting proposals which would impact on UK priority habitats and priority species or priority habitats, networks and species identified in the Harrogate Biodiversity Action Plan, or successive document, only where significant harm can be avoided or adequately mitigated for;
- Refusing planning permission for development resulting in the loss or deterioration of irreplaceable habitats, including historic wetlands and species-rich grasslands, ancient woodland, including ancient semi-natural woodland and plantations on ancient woodland, and aged or veteran trees, unless the need for and benefits of the development in that location clearly outweigh the loss;
- Requiring proposals for major developments to avoid any net loss of biodiversity and supporting schemes which achieve a net gain;
- Requiring proposals to increase connectivity of habitats by locating features which enlarge, connect or support existing green corridors and natural and semi-natural green spaces in line with policy NE5 Green and Blue Infrastructure and the Green Infrastructure Supplementary Planning Document (2014) (or successive document);

⁵ [EN020024-000615-North Yorkshire Council - Responses to the Examining Authority's Written Questions \(ExQ1\). 4.pdf \(planninginspectorate.gov.uk\)](#)

- Requiring proposals to make use of opportunities to restore and re-create priority habitats and other natural habitats within development schemes.

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH

Company No. 07128076. [T] 01509 672772 [E] mail@fpcr.co.uk [W] www.fpcr.co.uk

This report is the property of FPCR Environment and Design Ltd and is issued on the condition it is not reproduced, retained or disclosed to any unauthorised person, either wholly or in part without the written consent of FPCR Environment and Design Ltd. Ordnance Survey material is used with permission of The Controller of HMSO, Crown copyright 100019980.



This drawing is the property of FPCR Environment and Design Ltd and is issued on the condition it is not reproduced, retained or disclosed to any unauthorised person, either wholly or in part without written consent of FPCR Environment and Design Ltd

Ordnance Survey material - Crown Copyright. All rights reserved. Licence Number: 100019980 (Centremapslive.com)



Key:

- Site Boundary
- Bat boxes
- Swift boxes
- Sparrow boxes
- House Martin and Swallow boxes
- (Integrated) Starling boxes

Image ref	Target Species/Taxa	Product*	Quantity
1	Bats	Ibstock Enclosed Bat Box 'B'	8
2	Swifts	No. 17 Schwegeler Swift Nest Box (Single Cavity)	4
3	Sparrows	Vivara Pro Woodstone House Sparrow Nest Box NHB5 201458	4
4	House Martins & Swallows	House Martin & Swallow Nest No. 9A	4
5	Starlings	Integrated Starling Box	4

* Or equivalent

date 02/12/24
drwn/chkd HK / AJB

client
Bloor Homes
project
Normandy Way,
Hinckley

title SPECIES ENHANCEMENT PLAN
scale 1:1,198 @ A3

number
rev

FIGURE 1