



Vinci Construction Ltd

Radcliffe Hub

Precautionary Working Method Statement (Birds, bats and otter)

2482901

NOVEMBER 2023

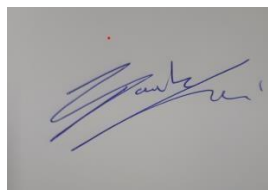
RSK GENERAL NOTES

Project No.: 2482901

Title: Radcliffe Hub – Precautionary Working Method Statement

Date: May 2024

Status: Rev 01

Author and Project manager	Amy Harris	Reviewer	Mark Lang Technical Director
Signature		Signature	
Date:	29/05/2024	Date:	29/05/2024

CLIENT & CONTRACTOR DECLARATION

The undersigned have read this Method Statement and agree to be bound by its contents

Party	Name	Organisation/role	Date
Client			
Contractor			
Ecologist			

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Where field investigations have been carried out, these have been restricted to a level of detail required to achieve the stated objectives of the work.

This work has been undertaken in accordance with the quality management system of RSK Biocensus.

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1.0 INTRODUCTION

1.1 Purpose of this document

- 1.1.1 This document details the proposed precautionary working measures necessary to mitigate the low residual risks on protected species and safeguard habitats during the redevelopment of the Radcliffe Marketplace Hub (Grid Ref SD 78581 06937). The location of the development works can be seen in *Figure 1*; site location plan) (RSK Biocensus, 2022).
- 1.1.2 This document describes non-licensable mitigation measures to be employed by works for nesting birds, otter (*Lutra lutra*) and bats.
- 1.1.3 The methods set out in this PWMS include measures to ensure otter and bats are not disturbed by lighting and noise during construction or operation and the creation of new habitats detailed in the landscape and ecological management plan (RSK Biocensus, 2023). This PWMS should be read in conjunction with the Method of Working adjacent the River Irwell, reference VB-PMG-FR-XXXX-0018 (VINCI Construction, May 2024) and PDF mark ups for River Irwell Method Statement.
- 1.1.4 The measures are based on the current information provided by Vinci Construction Ltd. Any changes to the methods set out in this PWMS will need to be agreed with the Ecological Clerk of Works (ECOW).

1.2 Summary description of development

- 1.2.1 It is understood that the development plans consist of outline planning permission for the comprehensive redevelopment of land around the existing Radcliffe Market Chambers between the River Irwell to the east and Dale Street to the west, comprising a mixed-use leisure development, engineering works and construction of new buildings and refurbishment repairs to the existing market chambers, band stand and pub. This development proposal is to provide retail, community, health, leisure uses together with ancillary and associated development including new and enhanced pedestrian/cycle routes and open spaces, car parking and vehicular access/ drop off for taxis. The development will involve the demolition of the former TSB bank and the south block, and refurbishment of the existing market chambers and basement demolition.

1.3 Roles and responsibilities

General

- 1.3.1 It is the responsibility of Vinci Construction Ltd, and any subcontractors to carry out the works in a manner which will not contravene the legislation nor the best practice measures described. It is their joint responsibility that works are conducted in accordance with the timings or methods of ecological mitigation detailed in the Method Statements. Any variations from the Method Statements may contravene legislation and therefore risk prosecution. Thus, it is their joint responsibility that no changes to the timings or methods

outlined below, are made without prior agreement from the ECoW. See Table 1 for the roles and responsibilities matrix.

Table 1 Roles and responsibilities matrix

Role	Company	Name	Contact Details
Design Coordinator	Vinci Construction Ltd	David McGuire	David.Mcguire@vinci-building.co.uk
Contracts Manager	Vinci Construction Ltd	Rob Symons	Robert.Symons@vinci-building.co.uk
Ecologist PM	RSK Biocensus	Amy Harris	amy.harris@rskbiocensus.com
Site ecologist/ECoW	RSK Biocensus	Celia Barlow	
*Correct at the time of report production but subject to change. If appointments change an updated document will be issued.			

2.0 ECOLOGICAL CONTEXT

2.1 Surrounding landscape

- 2.1.1 The 0.6 ha site is located within the south of Radcliffe. The site includes a series of buildings including active and disused commercial and residential properties. Areas of hardstanding pavement surround the buildings, with scattered trees situated within the north and south-east of the site. The site is located within a predominantly commercial area. The River Irwell defines the eastern site boundary, while commercial units are located immediately north and south of the site. Dale Street is located west of the site, with further commercial buildings located beyond. An area of deciduous woodland is located approximately 260 m south of the site, defining the River Irwell. An active railway line bordered by deciduous woodland is situated approximately 370 m east of the site, at its closest point.

2.2 Ecological constraints

- 2.2.1 A preliminary ecological appraisal (PEA) was carried out in October 2021 by RSK Biocensus (RSK Biocensus, 2021). Habitats recorded within the footprint of the works comprise a single broad UK Habitat category: 'urban' including introduced shrub, buildings and hardstanding and scattered urban trees.
- 2.2.2 A number of protected species have been recorded within the redline boundary including birds listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and bats. In addition, invasive non-native plants were recorded along the base of the river wall. *Table 2* outlines the results of the surveys completed by RSK between 2021 and 2023
- 2.2.3 Bat Emergence and Re-Entry Surveys were undertaken following guidance set out in Collins (2016). Bat surveys focused on building B1 and the River Irwell stone wall and bridge. No bats were recorded roosting onsite or within the river wall.
- 2.2.4 The development will not result in the permanent loss of habitats suitable for protected species including otter, nesting birds and foraging bats. However, there is the possibility of indirect disturbance from construction and operation lighting, noise and pollution, therefore precautionary measures are listed below to ensure protection of protected species and their habitats.
- 2.2.5 Where works are likely to result in a breach of wildlife legislation, ecological advice will need to be sought and protected species mitigation licences may be required to allow activities that would otherwise constitute an offence under wildlife legislation.

Table 2 Protected and noteworthy species

Protected Species	Context
Fish	The River Irwell is expected to offer suitable habitat for fish, such as brown trout, including commuting, foraging and spawning opportunities and refuge from predation. Contractor River Irwell protection document states electrofishing will be used to move fish before damming the flow to allow works to commence on the Radcliffe Marketplace riverside.
Bats	Bat Emergence and Re-Entry Surveys were undertaken following guidance set out in Collins (2016). Bat surveys focused on building B1 and the River Irwell stone wall and bridge. No bats were recorded roosting onsite or within the river wall.
Birds	In May 2022, a breeding bird survey was conducted based on the new Bird Survey Guidelines for assessing ecological impacts (Bird Survey & Assessment Steering Group, 2022). Those species that were confirmed as breeding appeared to be using the river corridor adjacent to the works. Sand martins were found to be nesting in the riverside wall of Radcliffe Marketplace. In addition, feral pigeons were found nesting on various buildings within the red line boundary. Note as a result of the above potential holes that could be used by nesting sand martins have been soft blocked during the non-breeding season and these will be unblocked following the completion of construction works.
Otter	During the assessment of the River Irwell it was ascertained that there were no holts/ opportunities for holts present along the eastern sites boundary, due to the limited vegetation cover and concrete walls. The River Irwell could potentially be utilised by otter whilst foraging but not for lying up or use as a holt.

3.0 PRE-COMMENCEMENT MEASURES

3.1 Pre- demolition surveys

- 3.1.1 Protected species have been recorded within the redline boundary; therefore, measures following the mitigation hierarchy are outlined to ensure impacts on protected species are avoided, mitigated or compensated for appropriately and according to published guidance.
- 3.1.2 Although, surveys have been undertaken by RSK Biocensus in 2021 - 2023, enabling works for the development are due to commence October 2023. Prior to the enabling works and demolition, a walkover survey will need to be carried out to identify any nesting feral pigeons in any buildings present onsite that will be directly impacted by the works this is because feral pigeons can nest at any time of year. If nesting pigeons are confirmed, then an ecologist will need to be consulted to provide appropriate advice.

3.2 Tool-box talks

- 3.2.1 All operatives will be briefed prior to working on the site. A tool-box talk will be provided as part of the induction process. It will ensure that all personnel working on the site are made aware of the local ecology and the procedures to be followed to avoid breaches of legislation, and measures to prevent adverse impacts on protected species that occur in and around the working areas.
- 3.2.2 Contact details for the ECoW will be provided in the project induction and displayed on-site. All operatives will remain vigilant throughout the works and report any sightings of protected species to the ecologist.
- 3.2.3 A site briefing record will be kept and signed by all personnel on the site following each tool-box talk. Tool-box talks will be repeated as new personnel join the staff.

4.0 BIRDS

4.1 Introduction

- 4.1.1 In order to reduce the low residual risk of a breach of legislation, and with reference to best practice guidelines, this Method Statement has been developed to describe mitigation measures that must be put in place where the likely impact of the proposed works risk contravening the legislation. These include measures to avoid disturbance and clear habitat that has the potential to support nesting birds.
- 4.1.2 When the non-licensable mitigation measures below are taken into account, the cumulative risks and impacts on nesting birds are considered to be negligible.

4.2 Legislation

General bird species

- 4.2.1 All species of bird are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended). The protection was extended by the CRow Act. The legislation makes it an offence to intentionally:
- kill, injure or take any wild bird;
 - take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
 - take or destroy an egg of any wild bird.

4.3 Site clearance and preparation

General bird species

- 4.3.1 To minimise impacts during construction, vegetation clearance works and building demolition will be scheduled outside of bird breeding season (March to August inclusive), where possible.
- 4.3.2 Where this is not possible due to time constraints of other species that might be present, a nesting bird check will need to be carried out by a suitably qualified ecologist no more than 48 hours prior to vegetation clearance and demolition works. If an active birds' nest is found, an exclusion zone suitable to that species will be established using dark coloured tape to ensure the nest is not disturbed until the chicks have fully fledged.
- 4.3.3 All cleared vegetation will be removed from the working area at the end of each day and destroyed or stored in a pre-agreed designated location to prevent birds and other animals attempting to nest amongst such material, unless an alternative arrangement is agreed with the ECoW.

Sand Martins

- 4.3.4 Sand martins although not recorded during the breeding bird survey at the site, it was determined that sand martins could use holes in the riverside wall for nesting. Therefore, to allow the development works to commence the holes were blocked up outside of breeding bird season to remove that nesting provision. After the development works are complete, the blocking materials will be removed to allow the original provision to continue to be used by sand martins.

4.4 General working practices

- 4.4.1 The following general practices should be followed:

- Vehicles will not be driven over habitat that has not been confirmed as unsuitable nesting bird habitat or cleared by the ECoW.
- Machinery and materials will not be stored or placed on habitat that has not been confirmed as unsuitable nesting bird habitat or cleared by the ECoW.
- During the works, site materials should not be accidentally left lying around in case animals use this as temporary shelter. All such materials should be examined for presence before they are moved/discarded/destroyed off-site.
- The working area will be clearly marked to prevent activities encroaching onto habitat or features that have not been cleared in line with this, or any other appropriate Method Statement.
- During the breeding season, no night working should take, unless otherwise agreed under specific measures with the ecologist.
- Any construction site lighting should be appropriately positioned to focus away from any identified areas of nesting.
- Fuel/chemicals/oil should be stored in secure sites within the construction area. All chemicals or materials that may harm wildlife will be safely store away and contained in such a way that they cannot be access or knocked over.

- 4.4.2 With the above control measures no effects on nesting birds are envisaged.

5.0 BATS

5.1 Introduction

- 5.1.1 In order to reduce risks of a breach of legislation to a negligible level, and with reference to best practice guidelines, this Method Statement has been developed to describe mitigation measures that must be put in place in particular locations where the likely impact of the proposed works and risk of contravening the legislation are expected to be sufficiently low. These include measures to avoid disturbance and actions to take when clearing habitat that has the potential to support roosting, foraging and commuting bats.
- 5.1.2 When the non-licensable mitigation measures below are taken into account, the cumulative risks and impacts on the local bat species are considered to be negligible.
- 5.1.3 The ECoW, will oversee and quality-control the implementation of the ecological tasks undertaken, supervised by the Contractor's supporting ecologists and determine when and where it is appropriate to apply the measures described in this Method Statement.
- 5.1.4 The ECoW will review the Method Statement to ensure its continued appropriateness. Additional mitigation may need to be introduced as required and this may include EPSM licensing via Natural England.

5.2 Legislation

- 5.2.1 All species of British bat are protected by *The Wildlife and Countryside Act 1981 (as amended)* ('the W&CA 1981'), and The Conservation of Habitats and Species Regulations 2017 (as amended).
- 5.2.2 Under Section 9 of the W&CA 1981 (Sections 9(4)(b), 9(4)(c) and 9(5) only), it is an offence to:
- intentionally or recklessly disturb a bat while it is occupying a structure or place of shelter or protection;
 - intentionally or recklessly obstruct access to any structure or place used by a bat for shelter or protection; and
 - sell, offer or expose for sale, or have in their possession or transports for the purpose of sale, any live or dead bat or any part of, or anything derived from a bat.
- 5.2.3 Regulation 43 of the Habitats Regulations makes it an offence to:
- deliberately capture, injure or kill a bat;
 - deliberately disturbs bats (which includes any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate or to affect significantly the local distribution or abundance of the species to which they belong);
 - damage or destroy a breeding site or resting place of a bat; or

- possess, control, transport, sell or exchange, or offer for sale or exchange any live or dead bat or part of a bat or anything derived from a bat or any part of a bat.

5.3 Site clearance and preparation

Pre-construction tree inspections

- 5.3.1 During the PEA, completed by RSK Biocensus in 2021, all trees onsite were assessed as having negligible potential for roosting bats, as they contained no potential roosting features and/or were of an age that could not support roosting bats in addition roosting bats were not confirmed in the river wall. Therefore, there are no additional survey requirements with regards to roosting bats.

Actions to take if a bat is found

- 5.3.2 If in the unlikely event that a bat is found at any point, works will be stopped. Any bat discovered during supervised works will be relocated by a bat-licensed ecologist to a new roosting area, such as a bat box, or left to disperse of its own accord.
- 5.3.3 In the unlikely event that a bat is discovered roosting on-site during works where the ecologist is not present, work in that area will stop immediately while the ecologist is contacted (their contact should be available on site) and further mitigation determined, in consultation with Natural England if required. A licence (or licence modification) may be required.

Potential lighting disturbance

- 5.3.4 Night-working should be avoided where possible. However, where construction lighting is required, it must be designed to minimise spillage onto adjacent areas to reduce potential disturbance to foraging bats (as close to zero as possible, and no higher than 0.5 lux). Lighting will be angled below the horizontal plane and focused on the intended area.
- 5.3.5 Any construction lighting should be similarly positioned to focus away from the River Irwell.

5.4 General working practices

- 5.4.1 The following general practices should be followed:
- The working area will be clearly marked to prevent activities encroaching onto habitat or features that have not been cleared in line with this, or any other appropriate Method Statement.
 - Fuel/chemicals/oil should be stored in secure sites within the construction area. All chemicals or materials that may harm wildlife will be safely store away and contained in such a way that they cannot be access or knocked over.
- 5.4.2 With the above control measures no impacts on either foraging or roosting bats are envisaged.

6.0 OTTER

6.1 Introduction

- 6.1.1 The PEA survey undertaken in 2021 found that the River Irwell adjacent to the main works site, although absent from holts and unsuitable due to having concrete banks, it could be used as a commuting and foraging corridor for otter, therefore otters will be passing through only. To reduce risks of a breach of the legislation to a negligible level, and with reference to best practice guidelines, this Method Statement has been developed to describe mitigation measures that must be put in place to safeguard commuting otter.
- 6.1.2 The ECoW, will oversee and quality-control the implementation of the ecological tasks undertaken, and determine when and where it is appropriate to apply the measures described in this Method Statement.

6.2 Legislation

- 6.2.1 Otter are protected by The Wildlife and Countryside Act 1981 (as amended) and are also European protected species listed on The Conservation of Species and Habitats Regulations 2017 (as amended).
- 6.2.2 Under Section 5 of the W&CA 1981, it is an offence to:
- intentionally or recklessly disturb an otter while it is occupying a structure or place of shelter or protection;
 - intentionally or recklessly obstruct access to any structure or place used by a otter for shelter or protection; and
- 6.2.3 Regulation 43 of the Habitats Regulations makes it an offence to:
- Deliberately capture or kill an otter;
 - Deliberately disturb an otter;
 - Damage or destroy a breeding site or resting place of an otter;
 - Keep, transport, sell or exchange, or offer for sale or exchange a live or dead otter or any part of an otter.

6.3 Site preparation and construction works

Pre-commencement surveys

- 6.3.1 A pre-commencement check for otter is not required given that the PEA confirmed concrete banks and low suitability for Holts being present.

River Irwell works

- 6.3.2 The proposed works that are occurring adjacent to the River Irwell are:
- Treatment / management of non-native invasive plant species adjacent to the river wall.
 - Restoration works to Market Chambers
 - Demolition of the former TSB bank and erection of a link building.
 - Market Basement – removal of windows and infilling with blockwork.

- Market Chambers – replacement of windows.
- forming three 50mm apertures through the external riverside wall to facilitate the discharge of water from the basement. The method of work will be to core drill through the wall, run a pipe through it, and to seal it appropriately.

6.3.3 To facilitate these works, access to the riverside elevation just above the stone wall of Radcliffe Market is required and therefore to enable the works to take place, two forms of temporary works are proposed:

- - Use of a floating pontoon to gain access to the river but also catch and contain any debris before it falls in the river
 - erection of a scaffold for personnel access to undertake the elevation.

6.3.4 For all of the proposed works raised here, the contractor has issued a Method of Working adjacent to the River Irwell (VINCI Construction, May 2024 and figure mark ups in Appendix B) with details of a methodology which addresses materials transport and storage. This PWMS should be read in conjunction with the River Irwell method of working.

6.3.5 Otter will still be able to commute along the river avoiding the pontoon as as there will still be river flow enabled throughout the river wall works. Erecting of the scaffolding and the works to the riverside market wall will have potential to cause temporary disturbance to commuting otter but it will be minimal, as works will occur during daylight hours and otter are most active at night and otter will likely pass by the works and forage further along the river.

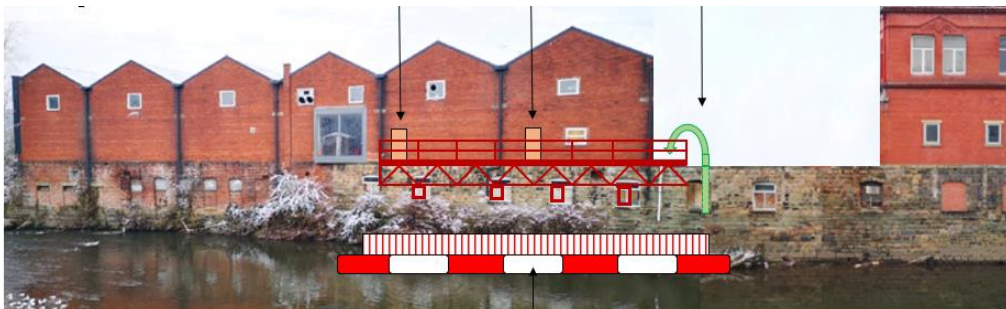


Figure 1 Proposed Pontoon and scaffolding zone for works adjacent to the River Irwell
 Use of a pontoon removes requirement for a frame dam – pontoon moved sequentially as works progress.

6.4 General working practices

- 6.4.1 Night-working will be avoided. However, where construction lighting is required, it must be designed to minimise spillage onto the River Irwell to reduce potential

disturbance to commuting otter. Lighting will be angled and focused on the construction area.

- 6.4.2 Fuel/chemicals/oil should be stored in secure sites within the construction area. All chemicals or materials that may harm wildlife will be safely store away and contained in such a way that they cannot be access or knocked over. This is detailed within the safe method of working produced by the contractor (see Section 6.3.4).
- 6.4.3 With the above control measures no effects on otters or breaches of the legislation are envisaged.

REFERENCES

Bat Conservation Trust and Institute of Lighting Professionals (2018) *Guidance Note 08/18: Bats and artificial lighting in the UK*. ILP, Rugby

Collins, J. ed. (2016). *Bat Surveys for Professional Ecologists, Good Practice Guidelines* (3rd edition). Bat Conservation Trust, London, English Nature. (2001). *Great Crested Newt Mitigation Guidelines*. English Nature, Peterborough.

Eaton, M.A., Aebischer, N.J., Brown, A.F., Hearn, R.D., Lock, L., Musgrove, A.J., Noble, D.G., Stroud, D.A., and Gregory, R.D. (2015) Birds of Conservation Concern 4: the population status of birds in the United Kingdom, Channel Islands and Isle of Man. *British Birds* 108, 708–746

VINCI Construction Ltd (2023) River Irwell Methods of Working, Radcliffe Hub Project, REV00

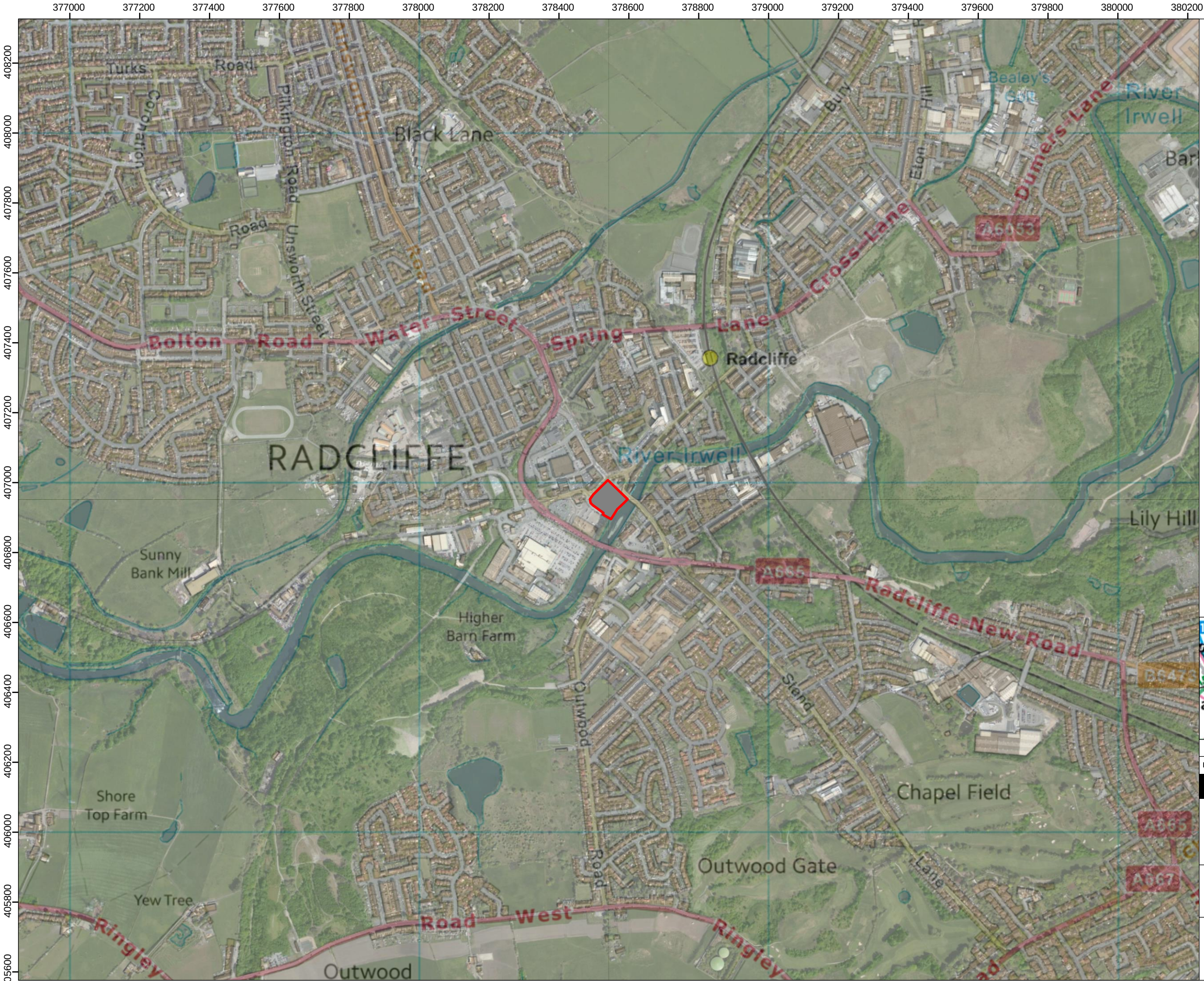
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FIGURES

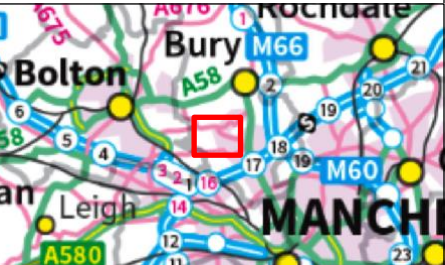
Figure 1 – Redline boundary

Figure 2 – Proposed works plan



Legend:

Site Boundary



00	02/11/2021	2482901	SP	GO	AH
Rev	Date	Description	Drn	Chk	App

Radcliffe Hub

RSK

biocensus

EXPERTS IN ECOLOGY

TITLE: Figure 1:
Site Location Plan

0125250375

Metres

SCALE: 1:10,000 @ A3

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W
E
S

REV 00

E: info@plant-ie.com W: plant-ie.com
MANCHESTER
2 Back Grafton St , Altrincham, WA14 1DY T: 0161 928 9281
LONDON
Unit 6 Waterside, 44-48 Wharf Road, London, N1 7UX T: 0207 253 5678
LIVERPOOL
Tempest 5.3, 12 Tithebarn Street, Liverpool, L2 2DT T: 0151 363 1230

Client Bury Council

River Irwell

Radcliffe Bridge

Project Radcliffe
Civic Hub

Colour: Standard
Other: See engineer's drawings for more information

CCTV
Specification subject to adoptable standards. Refer to drawing for details. Locations: Other: See engineer's drawings for more information

LIGHTING COLUMN (WSP) REMOVED AND RE-ERECTED (WSP)
Brought from store and re-erect existing road lighting column. 2m nominal height and luminaire.
Refer to WSP drawing 70092623-WSP-HLG-RICHUB-DR-LI-002
PIS for information.

LIGHTING COLUMN (WSP) PROPOSED
Proposed replace galvanized steel road lighting column (bury sign column b4730) of 10m nominal height with diameter 150mm including a post top adaptor with 60mm spigot complete with a post top mounted yellow dipstreet medium (Dip) 152 dia 10 225mm (6'6" x 10") luminaire installed at zero degrees and a new plastic city touch cone. Luminaire shall run at 50% light output and set to 150% (as agreed with traffic).

Refer to WSP drawing 70092623-WSP-HLG-RICHUB-DR-LI-002
PIS for information.

EXISTING COLUMN RETAINED (WSP)
Existing design and luminaire to remain.
Refer to WSP drawing 70092623-WSP-HLG-RICHUB-DR-LI-002
PIS for information.

BN STORAGE SCREEN
Timber board and batten 2.1m minimum high.
To include matchline gates as shown.
Locking method to be agreed with Bury Council Waste Management Team.

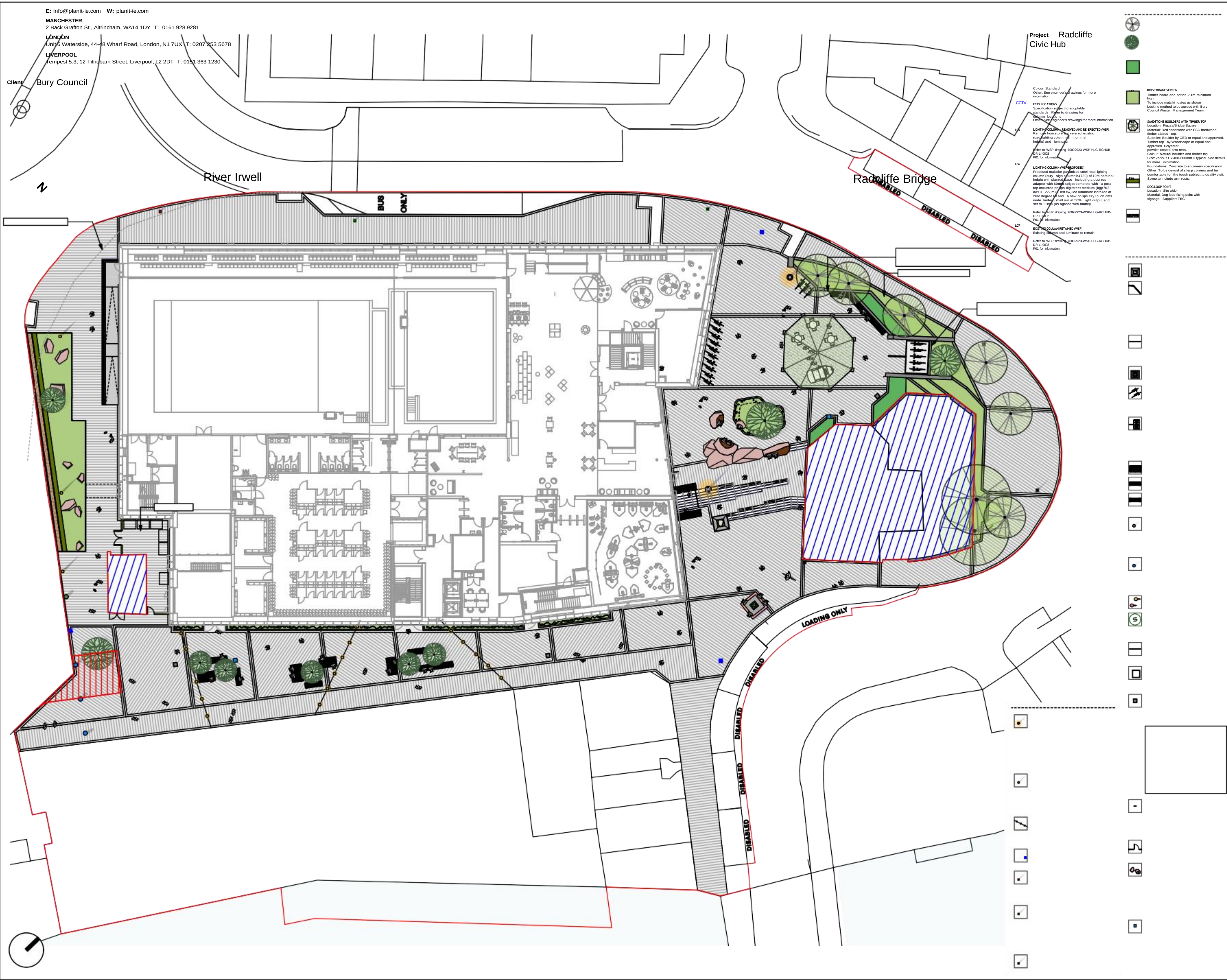
SANDSTONE BOULDERS WITH TIMBER TOP
Location: Pudding Lane Square
Material: Red sandstone with FSC hardwood timber shelled top.
Supplier: Boulder by CED or equal and approved.
Timber top: by Woodscape or equal and approved.
Polyester powder-coated wire mesh.
Colour: Natural boulder and timber top.
Size: Various L x W 400-600mm typical. See details for more information.
Other: To be devoid of sharp corners and be comfortable to the touch subject to quality visit. Some to include arm rests.

DOOR LOOP POINT
Location: Site wide
Material: Drop loop hanging point with signage.
Supplier: TBC.

Draw Title Landscape General Arrangement

Created on 04-01-2022
Created by JTO
Approved by RM
Workstage Stage 04
Size A1
Scale 1:200

Draw No. RADHUB-PIE-00-00-DR-L-0001
Suitability S3
Revision P15
© Plant I.E. Limited



APPENDIX A. WILDLIFE LEGISLATION

International Legislation

The following international conventions and directives apply to biodiversity protection in the UK. Post-'Brexit', even though European Union (EU) directives no longer directly apply to the UK, the provisions therein are enshrined in both domestic legislation and international agreements. Legislation has been enacted to ensure the regulations derived from these remain in force¹.

Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds (Birds Directive) 2009

<https://www.legislation.gov.uk/eudr/2009/147>

The Birds Directive 2009 relates to the conservation of all species of naturally occurring birds in their wild state in the territory of the EU Member States (MSs) to which the treaty applies. Under the Birds Directive, the most suitable areas of conservation of the Annex I species are to be designated as Special Protection Areas (SPAs), as part of the European Natura 2000 network. Post Brexit, SPAs are no longer considered part of Natura 2000 and are instead components of the UK's 'national site network', but their highly protected status is unchanged. Maintaining a coherent network of protected sites with overarching conservation objectives is still required in order to fulfil the commitment made by government to maintain environmental protections and continue to meet the UK's international legal obligations.

Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) 1992

<https://www.legislation.gov.uk/eudr/1992/43>

The Habitats Directive 1992 requires EU Member States to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of community interest, which are listed under Annex I, II, IV and/or V. Species listed under Annex IV are known as 'European Protected Species' (EPS) and have retained their protected status in UK domestic legislation post-Brexit.

Under the Habitats Directive, EU Member States are required to contribute to the Natura 2000 network through the designation of Special Areas of Conservation (SACs) for natural habitat types listed in Annex I and habitats of species listed in Annex II. Post Brexit, SACs are no longer considered part of the European Natura 2000 network and are instead components of the UK's 'national site network', but their highly protected status is unchanged.

The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) 1979

<https://jncc.gov.uk/our-work/the-convention-on-the-conservation-of-migratory-species-of-wild-animals/#convention-summary>

The Bonn Convention was adopted in 1979 and came into force in 1985. Contracting Parties work together to conserve migratory species and their habitats by providing strict protection for endangered migratory species (listed in Appendix I of the Convention), concluding multilateral

¹ Further information relating to England and Wales can be found here: <https://www.gov.uk/government/publications/changes-to-the-habitats-regulations-2017/changes-to-the-habitats-regulations-2017>. A similar exercise has been undertaken in Scotland and Northern Ireland.

agreements for the conservation and management of migratory species which require or would benefit from international cooperation (listed in Appendix II), and by undertaking cooperative research activities. The UK Government ratified the Bonn Convention in 1985. The current legally-binding Agreements under the Convention include EUROBATS².

The Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) 1979

<https://www.coe.int/en/web/bern-convention>

The principal aims of the Bern Convention 1979 are to ensure the conservation and protection of wild plant and animal species and their natural habitats (listed in Appendices I and II of the Convention), to increase cooperation between contracting parties, and to regulate the exploitation of those species (including migratory species) listed in Appendix III. To this end, the Bern Convention imposes legal obligations on contracting parties, protecting over 500 wild plant species and more than 1,000 wild animal species. The UK Government ratified the Bern Convention in 1982.

National Legislation

The following pieces of domestic legislation apply to biodiversity protection in the UK.

The Wildlife and Countryside Act (WCA) 1981

<https://www.legislation.gov.uk/ukpga/1981/69>

The Wildlife and Countryside Act 1981 (as amended) is the primary piece of legislation relating to nature conservation in the UK, though it has been adapted in different ways in the devolved administrations. It was initially enacted to implement the Bern Convention, Bonn Convention and the Birds Directive (described above).

The act is supplemented by provisions in the Countryside and Rights of Way (CROW) Act 2000 and the Natural Environment and Rural Communities (NERC) Act 2006. In addition to the Habitat Regulations (described below), the WCA provides protection for species listed in Schedules 1 (birds), 5 (other animals) and 8 (plants) of the Act. It provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs) in England and Wales³. It also sets out, in other schedules, important and invasive species which are legally protected or require management.

All species of bird are protected under the WCA. The legislation makes it an offence to intentionally:

- a) kill, injure or take any wild bird;
- b) take, damage, or destroy the nest of any wild bird while that nest is in use or being built; or
- c) take or destroy an egg of any wild bird.

Those species of birds listed on Schedule 1 of the WCA are afforded additional protection, which deems it an offence to intentionally or recklessly:

- a) disturb any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or

² More information available at <https://jncc.gov.uk/our-work/agreement-on-the-conservation-of-populations-of-european-bats-eurobats>

³ Duty replaced by the Nature Conservation (Scotland) Act 2004 (as amended) and the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (as amended) in those countries.

b) disturb dependent young of such a bird.

Under Section 9 of the WCA, for animals listed on Schedule 5, it is an offence in England and Wales to intentionally or recklessly:

- kill, injure or take any wild animal listed on Schedule 5*;
- possess or control any live or dead those wild animals or anything derived from it*;
- damage or destroy any structure or place which wild animals listed on Schedule 5 uses for shelter or protection*;
- disturb any such animal while it is occupying a structure or place of shelter or protection;
- obstruct access to any structure or place used by any such animal for shelter or protection; and
- sell, offer or expose for sale, or have in their possession or transports for the purpose of sale, any live or dead wild animal listed on Schedule 5 or any part of, or anything derived from such an animal.

Asterisked clauses do not apply to European Protected as these offences are included in the 'Habitats Regulations' (see below). In addition to EPS, species commonly found on development sites include water voles (*Arvicola amphibius*) and widespread species of reptiles: common lizard (*Zootoca vivipara*); slow-worm (*Anguis fragilis*); grass snake (*Natrix helvetica*); and adder (*Vipera berus*). These four reptile species receive partial protection, which prevents the intentional or deliberate killing and injuring of reptiles or offering them for sale.

Section 14(2) states that it is an offence to plant or otherwise cause to grow any plant in the wild at a place outside its native range.

There is no provision within the Act for derogation licences to be issued for the purposes of development, although Section 10 provides a defence in cases that may be considered to be: *"the incidental result of a lawful operation and could not reasonably have been avoided"* if certain conditions are met.

Section 16(i) of the Act does make provision for derogation licences to be issued *"for the purposes of preserving public health or public ... safety"*. For confirmation of this, it would be appropriate to consult Natural England.

The Conservation of Habitats and Species Regulations (Habitat Regulations) 2017

<https://www.legislation.gov.uk/ukxi/2017/1012>

The Habitats Regulations 2017 consolidated the various amendments made to the 1994 Habitat Regulations, which were developed to implement the Birds Directive and Habitats Directive at a national level, though this consolidation only applies in England and Wales.

The Regulations (as amended) provide for the designation and protection of the national site network (formerly 'Natura 2000 sites'), the adaptation of planning and other controls for those sites, and the protection of EPS (listed on Schedules 2 and 5).

The 2017 Regulations (England and Wales, Reg. 43) deems it an offence to:

- a) deliberately capture, injure or kill a wild animal of a EPS,
- b) deliberately disturb wild animals of any such species,
- c) deliberately take or destroy the eggs of such an animal, or
- d) damage or destroy a breeding site or resting place of such an animal.

For the purposes of paragraph (b), disturbance of animals includes in particular any disturbance which is likely to:

- a) impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a 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.

There are also restrictions on transport, possession and sale.

It is possible to obtain a derogation licence from Natural England to permit activities which would otherwise contravene the regulations above, including for development purposes, when certain conditions are met. Failure to satisfy the Regulations and obtain a licence where required could result in prosecution and lead to fines and possible imprisonment.

Currently (2021), all EPS are also listed on Schedule 5 of the WCA (outlined above), as it applies in England and Wales, though only some clauses of the WCA apply (Section 9 4(b), (c) and 5). EPS often encountered on development sites include GCN (*Triturus cristatus*), all species of bats and dormice (*Muscardinus avellanarius*).

Countryside and Rights of Way Act 2000

<https://www.legislation.gov.uk/ukpga/2000/37>

The Countryside and Rights of Way (CROW) Act 2000 provides for public access on foot to certain land types, amends the law for public rights of way, increases protection for SSSIs, and strengthens wildlife enforcement legislation. It applies only in England and Wales.

The Natural Environment and Rural Communities (NERC) Act 2006

<https://www.legislation.gov.uk/ukpga/2006/16>

The Natural Environment and Rural Communities (NERC) Act 2006, Section 40 requires that any public body or statutory undertaker in England must have regard to the purpose of conservation of biological diversity in a manner that is consistent with the exercise of their normal functions. This may include enhancing, restoring or protecting a population or a habitat. The intention is to help ensure that biodiversity becomes an integral consideration in the development of policies, and that decisions of public bodies work with the grain of nature and not against it.

As part of this duty, statutory undertakers must have regard to the list of habitats and species which are of principal importance for the purpose of maintaining and enhancing biodiversity. For England, the duty to compile such a list is captured under Section 41 of the NERC Act, which are accessible online via the National Archive⁴.



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