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PRELIMINARY ECOLOGICAL APPRAISAL

At

Billberry Close
Whitefield
Bury
Greater Manchester
M45 8BL

NGR: SD 81690 05915

Prepared for:	Andrew Dempsey, Venturia Ltd c/o William Fulster
Written by:	Robert Mooney, UES Graduate Ecologist
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A handwritten signature in black ink that reads 'K James'.

Date:	20 th December 2022
UES reference:	UES03928/02



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EXECUTIVE SUMMARY

United Environmental Services Ltd (UES) was commissioned by William Fulster to carry out a baseline ecological survey of a parcel of land off Billberry Close in Whitefield, Greater Manchester. A desk study and preliminary ecological appraisal (PEA) survey were undertaken on 21st November 2022, including searches using the Multi Agency Geographic Information Centre (MAGIC).

The PEA provides an assessment of potential ecological impacts associated with the development of the land parcel. The development proposals include the construction of ten residential properties with associated gardens, driveways and an access road.

The land parcel has an area of approximately 0.3ha and is dominated by amenity grassland. A line of scrub extends along the north, east and west site boundaries, and a section of introduced shrub is present in the northwest corner with a species-poor hedge to the rear. Several scattered trees are present, concentrated in the eastern section of scrub.

The results of the survey combined with the results of the desk study have highlighted the requirement for further work in relation to the following habitats and species:

- **Breeding birds** – site clearance, tree felling, arboricultural works and vegetation clearance are to take place outside of the breeding bird season and should not be undertaken from March to August inclusive. If not possible and works need to take place during this period, a targeted nest survey is to be undertaken immediately prior to the works by a suitably qualified ecologist or an ecological clerk of works appointed to oversee the works.
- **Hedgerows and trees** – generic issues relating to root protection areas.
- **Invasive species** – Japanese knotweed *Fallopia japonica* to be eradicated prior to the commencement of works.

Mitigation measures, as detailed in section 4, should be adhered to, which may in some cases negate the need for further survey work.

The development also presents an opportunity to improve the habitats on site for wildlife. The inclusion of nest boxes will provide suitable nesting features in the long term.

This report should be read with appendices 1 to 5, which include results of the desk study, GIS phase 1 habitat mapping, photographs of site and relevant statutory guidance.

1 INTRODUCTION

1.1 Author, surveyors, qualifications and scope of study area

This report is written by Robert Mooney MSc, UES Graduate Ecologist. Robert holds a level 3 Botanical Society for Britain and Ireland (BSBI) field identification skills certificate (FISC), which certifies him as competent to undertake phase 1 habitat surveys. Other surveyors include:

- Tom Kenwright BSc MSc, UES Senior Ecologist. Tom holds a level 5 BSBI FISC, which certifies him as competent to undertake phase 1 habitat and national vegetation classification (NVC) surveys.

The report provides an assessment of the potential ecological impacts associated with the proposed development of a parcel of land off Billberry Close, Whitefield.

The zone of influence considered within the scope of the survey includes all land within the red line boundary. Where relevant, other ecological resources, receptors and important habitats which are spatially separate from the site are considered.

1.2 Survey objectives

UES was commissioned in November 2022 to conduct a PEA of the proposed development site. This was completed in order to:

- Establish baseline conditions and determine the importance of ecological features present or potentially present within the survey area
- Identify key ecological constraints to the project
- Make recommendations for design options to avoid significant effects on important ecological resources at an early stage of development planning
- Identify potential requirement for further surveys for nationally or internationally protected species which may be present on site
- Identify potential requirement for mitigation or compensation, including measures that may be required based on further surveys

1.3 Proposed development

The proposed development involves the construction of seven residential dwellings with associated parking and gardens.

1.4 Structure of the report

This report is a baseline appraisal that forms the basis for further ecological surveys and Environmental Impact Assessments (EIA) if required. In the majority of cases the preliminary ecological assessment will not provide all the ecological data required by the Local Planning



Authority to determine an application, especially in the event that protected habitat or species issues are present or likely.

This report should be read with appendices 1 to 5, which include results of the desk study, GIS phase 1 habitat mapping, photographs of site and relevant statutory guidance.

2 METHODOLOGY

This PEA comprises a desk study and a field survey. The desk study is conducted in order to collate ecological information on species and / or habitats of interest that may be present. The field survey is conducted in order to assess the habitats and their importance, both on site and in the context of their wider surroundings.

2.1 Desk study

The following resources were used to inform the desk study:

- National – Using the UK government’s MAGIC website, statutorily protected sites were scoped to a distance of 10km from the application site.
- Local – UES has not been commissioned to undertake an environmental records search at this point.

2.2 Field survey

An ecological walkover survey was carried out on 21st November 2022 by Tom Kenwright and Robert Mooney. The purpose of the survey was to identify, record and map dominant habitat types within the development area and highlight any further species surveys that may be required based on the quality of those habitats. When conducting the surveys particular focus was concentrated on the following species and habitat features:

- | | |
|------------------|-------------------------|
| • Amphibians | • Hedgerows |
| • Reptiles | • Plant communities |
| • Badger | • Invasive species |
| • Bats | • Otter |
| • Hazel dormouse | • Water vole |
| • Birds | • White-clawed crayfish |
| • Trees | |

The habitats were assessed by using the phase 1 habitat survey technique, which is a system for environmental audit widely used within the environmental consultancy field. The survey was undertaken in accordance with the methodology in the ‘Handbook for phase 1 habitat survey - A technique for environmental audit’ (JNCC, 2010) as recommended by Natural England, and in the “Guidelines for Preliminary Ecological Appraisal” (CIEEM, 2017).

The survey area encompasses all of the land within the development footprint and the land to a distance of 30m outside it where accessible. In line with recognised guidelines, ponds were also scoped to a distance of 500m (250m radius from the survey area).

The phase 1 habitat survey methodology was extended to record any signs of habitats suitable to support protected / invasive species and any incidental observations of other noteworthy species.



2.3 Survey limitations

The survey was conducted in November when not all plants are readily identifiable. However sufficient vegetative identification was possible to allow a robust assessment of habitats to be undertaken.

3 RESULTS

3.1 Desk study

A desk study was conducted for the proposed development site and surrounding area. Statutorily protected sites were scoped to a distance of 10km. Further results of the desk study can be found at Appendix 1 – Desk study.

3.1.1 Protected sites

There are three statutorily protected sites within 2km of the proposed development site:

- Hollins Vale LNR¹
“Hollins Vale is a farmland reserve with areas of woodland and wetland adding to its wildlife diversity. The woods have abundant bluebells and lesser celandines as well as some wood anemone and violets. The grassland is grazed by cows and is rich in flowers. One area previously used for growing potatoes has plants such as devil's-bit-scabious, pignut and harebell. There are many birds and butterflies.”
- Mere Clough LNR
“Large woodland, important for bird life.”
- Philip's Park LNR
“Semi-natural woodland with wildflowers characteristic of ancient woodlands. Some open glades have remnant heathland. Species rich meadows with willow scrub. There are 4 mill lodges, 2 mill ponds and some seasonal ponds. The woodland is dominated by oak, sycamore, birch, hawthorn and holly with willow and alder in the valley bottom. The species rich meadows include cuckoo flower, common spotted orchid, black knapweed, tufted vetch, and bird's-foot-trefoil. Butterflies such as orange tip and meadow brown are abundant.”

The proposed development site lies within a SSSI² Impact Risk Zone (IRZ) within which Natural England do not request that they are consulted on residential developments

There are a further 22 statutorily protected sites (designated for ecological reasons) within 2 – 10km of site:

- | | |
|-------------------------------|--|
| • Alkrington Woods LNR | • Kirklees Valley LNR |
| • Ashclough SSSI | • Leverhulme LNR |
| • Blackleach Country Park LNR | • Moses Gate LNR |
| • Blackley Forest LNR | • Nob End LNR SSSI |
| • Boggart Hole Clough | • Rochdale Canal SAC ³ SSSI |
| • Chapelfield LNR | • Seven Acres LNR |
| • Chesham Woods LNR | • The Cliff / Kersal Dale LNR |
| • Clayton Vale LNR | • Three Sisters (Salford) LNR |
| • Clifton Country Park LNR | • Tonge River Section SSSI |
| • Hopwood Woodlands LNR | • Trafford Ecology Park LNR |
| • Kersal Moor LNR | • Worsley Woods LNR |

¹ Local Nature Reserve

² Site of Special Scientific Interest

³ Special Conservation Area

3.2 Baseline conditions – Habitats

The results of the PEA are also shown on the accompanying map at Appendix 2 – Phase 1 habitat plan. Habitats are colour-coded in accordance with the phase 1 standard. A full botanical species list for each habitat is provided at Appendix 5.

The local area predominantly consists of arable fields intersected by drainage channels. The following principle habitat types were characterised on site:

- A2.1 Dense scrub
- A3.3 Scattered mixed trees
- J1.2 Amenity grassland
- J1.4 Introduced shrub
- J2.1.2 Intact, species-poor hedge
- J2.4 Fence
- J5 Hardstanding

3.2.1 A2.1 Dense scrub

A line of scrub extends along the eastern half of the northern boundary and down along the eastern boundary (see Appendix 4, Photograph 1). Another, more managed section, is present along the western boundary adjacent to the footpath (see Photograph 2).

Species present include: hazel *Corylus avellana*, goat willow *Salix caprea*, blackthorn *Prunus spinosa*, hawthorn *Crataegus monogyna*, and common dogwood *Cornus sanguinea*.

3.2.2 A3.3 Scattered mixed trees

There are a number of trees scattered on and around the site. The majority of these are found in the scrub along the eastern site boundary, including a non-native birch *Betula* sp., Norway maple *Acer platanoides*, and a cypress *Cupressus* sp. (Photograph 3). Additionally, a hornbeam *Carpinus betulus* is present on the northern site boundary, and a silver birch *Betula pendula* on the western boundary. Ivy *Hedera helix* cover is present on the silver birch.

3.2.3 J1.2 Amenity grassland

The majority of the site comprises amenity grassland (see Photograph 4). The sward is dominated by perennial ryegrass *Lolium perenne*. Other species present include annual meadow grass *Poa annua*, red fescue *Festuca rubra*, and dandelion *Taraxacum officinale* agg.. Species diversity is higher towards the edge of the sward, where species such as shepherd's purse *Capsella bursa-pastoris*, smooth sow-thistle *Sonchus oleraceus*, and common field speedwell *Veronica persica* are present.

3.2.4 J1.4 Introduced shrub

A small strip of introduced shrub is present on the western half of the northern site boundary (see Photograph 5).



3.2.5 J2.1.2 Intact, species-poor hedge

There is one hedge on site, which is considered to be species-poor. This is an amenity trimmed hawthorn hedge found along the western half of the northern site boundary, to the rear of the introduced shrub (see Photograph 6). It measures approximately 1.3m high and 1m wide.

3.2.6 J2.4 Fence

The northern site boundary is demarcated by wooden and concrete fencing, separating the site from adjacent residential properties (see Photograph 7).

3.2.7 J5 Hardstanding

A hardstanding path runs north-west/south-east across the site, while another runs along Albert Road by the site's western boundary.

3.3 Baseline conditions – Protected species or resources

As part of the PEA, specific observations of wildlife were also recorded. Wildlife observations focused on protected species, invasive species or species of conservation concern. Habitats with potential to support protected species were noted with a view to follow up surveys if required.

3.3.1 Amphibians & reptiles

There are no mapped ponds within 250m of the proposed development site.

The amenity grassland which dominates the site provides low-quality habitat for reptiles and amphibians. The dense scrub by the northern and eastern boundaries of the development will provide more suitable habitat, providing foraging and commuting opportunities, however given the lack of waterbodies or connectivity to higher-quality habitats, the presence of GCN or reptiles on site is considered unlikely.

3.3.2 Badger

No evidence of badger activity, such as mammal tracks or latrines, was observed on site during the walkover survey. Additionally, due to the site's flat topography and proximity to housing, the site is considered unsuitable for sett building.

Badgers are not considered to be present on site or within the immediate vicinity of the site.

3.3.3 Bats

There are no buildings on site which could be used by roosting bats. Many of the trees on site are not mature and none of the trees feature suitable roosting features. However, the dense



scrub featuring scattered trees will provide a source of invertebrate prey and provide suitable commuting habitat.

3.3.4 Hazel dormouse

The habitats on site are relatively unsuitable for hazel dormice *Muscardinus avellanarius*, with honeysuckle *Lonicera periclymenum* absent from the habitats around the development footprint. The small size of the habitats present further diminishes their suitability.

Hazel dormice are not considered to be present on site or within the immediate vicinity of the site.

3.3.5 Birds

Although a targeted bird survey was not conducted during the site visit, the following bird species were recorded whilst on site: carrion crow *Corvus corvone*, woodpigeon *Columba palumbus*, robin *Erithacus rubecula*, blackbird *Turdus merula* and house sparrow *Passer domesticus*. The house sparrows were observed among the dense scrub along the northern site boundary (see Appendix 2, Target note 1)

Of these species mentioned above, the house sparrow is listed on the most recent birds of conservation concern “red list”. The woodpigeon is included is listed on the “amber list”.

Areas of dense scrub, hedgerows, and trees all provide suitable nesting opportunities for breeding birds in the summer.

3.3.6 Trees

There are no tree species on site which are afforded statutory protection.

3.3.7 Hedgerows

There is one two species-poor hedgerow on site. It is unlikely that this hedgerow will qualify as “important” for ecological or historical reasons under the Hedgerow Regulations.

3.3.8 Plant communities

No plant communities or individual species were recorded on site which are afforded statutory protection in their own right.

3.3.9 Invasive species

A stand of Japanese knotweed is present amongst the scrub along the northern site boundary (see Photograph 8 and Target note 2).



3.3.10 Otter, water vole and white-clawed crayfish

There are no watercourses on or within the immediate vicinity of the site, with the nearest being Castle Brook, located approximately 1.3km to the north-east of the site. It is considered that otter, water vole and white-clawed crayfish are not present on the site or within the immediate vicinity of the site.



4 EVALUATION AND RECOMMENDATIONS

This section provides a brief assessment of the likely impacts associated with the proposed development on the receptors identified during the walkover survey and desk study. It also includes any mitigation and compensation measures which may be required for the proposed development to proceed.

4.1 Habitats

4.1.1 Designated sites

The sites identified during the desk study were cross-referenced with the survey area relevant to this report. The closest statutorily protected site is Mere Clough LNR, which lies approximately 1.7km to the south-west of the proposed development site.

Given the distances from site and the scale of development, it is considered unlikely that the proposed development will have any direct or indirect impact on this or any other local designated sites.

4.1.2 Hedgerows

There is one species-poor hedgerow on the site.

Construction impacts

A section of this hedge is to be removed as part of the proposed development. Construction activities too close to the root protection areas (RPAs) of the retained section could cause permanent damage.

Mitigation

Any works close to the retained section of hedge should be mindful of the hedgerow and its root protection area (RPA).

Compensation

The removed hedgerow is to be replaced as part of the proposed landscaping scheme. Native species to be planted only.

Operational impacts

No operational impacts are envisaged.

4.1.3 Trees

There are a number of trees on the site, which vary in condition and maturity.



Construction impacts

Four trees are to be removed as part of the proposed development. Site clearance may also result in damage to any trees which are to be retained.

Mitigation

Root protection areas should be established and implemented around the trees which are to be retained. These areas should be adequately protected by appropriately designed protective barriers and ground protection throughout the entire development process.

Compensation

The removed trees are to be replaced as part of the proposed landscaping scheme. Native species to be planted only.

Operational impacts

No operational impacts are envisaged.

4.2 Species

4.2.1 Birds

There are a number of habitats, such as hedgerows, dense scrub and mature trees which could support breeding birds.

Construction impacts

Site clearance, tree felling, arboricultural works and vegetation removal could result in the direct loss of nests, any individuals within the nests and of available nesting territories if conducted during the breeding season.

Mitigation

Site clearance, tree felling, arboricultural works and vegetation removal (including enabling works) are to take place outside of the breeding bird season and should not be undertaken from March to August inclusive. If this is not possible and works need to take place between this period, a targeted breeding bird nest scoping survey should be conducted by a suitably qualified ecologist immediately prior to the works, or an ecological clerk of works appointed to oversee the works.

Compensation and enhancement

The proposed landscaping will ensure that suitable foraging and nesting habitat is retained on site for birds. This includes retaining trees, hedgerows and scrub, where feasible, and replacing lost habitats with new tree and hedgerow planting. Native species are to be planted which should include:

- Berry and nut bearing shrub species to encourage winter birds
- A variety of species which develop a mosaic of structures to support breeding birds



- Plants with nectar bearing flowers to encourage invertebrates (such as bees, flies, beetles and butterflies)

The provision of bird boxes will also compensate for the loss of nesting habitat on site in the interim while planting becomes established. Bird boxes that could be used on site include:

- Schwegler 1B nest box (affixed to trees)
- Schwegler 1SP sparrow terrace (affixed to building below the eaves)
- Schwegler 2H robin nest box (affixed to trees)
- Schwegler 3S starling nest box (affixed to trees or buildings)
- Schwegler 1MR Avianex box (affixed to trees or buildings)

The bird boxes should be sited at a minimum height of three metres. Unless there are trees which shade the box during the day, the boxes should be oriented between north and east, thus avoiding strong sunlight and the wettest winds.

Operational impacts

Inappropriate management of the habitats on site could degrade them and render them unsuitable for wildlife.

Mitigation

It is important to implement good horticultural practice in any landscaping scheme, including the use of peat-free composts, mulches and soil conditioners. The use of pesticides (herbicides, insecticides, fungicides and slug pellets) should be discouraged to prevent fatal effects on the food chain. Any pesticides used should be non-residual.

Excessive removal or pruning of trees, hedgerows and scrub should be avoided to maximise the growth and plant matter available to wildlife. Pruning should be left until late winter to leave seeds and berries for wintering wildlife and to ensure no impact on breeding and nesting birds.

4.2.2 Invasive species

A stand of Japanese knotweed is present in the northeast of site. Japanese knotweed is listed under Schedule 9 of the Wildlife and Countryside Act 1981. As such, it is an offence to plant or otherwise cause this species to grow in the wild.

Construction impacts

Site clearance and setting out could result in the disturbance and dispersal of Japanese knotweed on and off site.

Mitigation

Invasive species will need to be eradicated prior to the start of works on site in order to ensure that they do not spread across the site or onto adjacent areas. It is essential that a competent and qualified person carries out any herbicide treatment.



Operational impacts

If Japanese knotweed is eradicated prior to the start of works on site, no further operational impacts are envisaged. However, complete eradication is an ongoing process, and if it is not treated as such, it can return and continue to spread. This could become more acute with increased activity on site.



5 CONCLUSION

The proposed development site has an area of approximately 0.3ha and is dominated by amenity grassland. A line of scrub extends along the north, east and west site boundaries, and a section of introduced shrub is present in the northwest corner with a species-poor hedge to the rear. Several scattered trees are present, concentrated in the eastern section of scrub.

The preliminary ecological appraisal has highlighted potential issues with the following ecological receptors on or adjacent to site: trees and hedgerows, invasive species, and breeding birds. Provided these issues are addressed in accordance with the recommendations detailed in this report, the development may proceed without adversely impacting the aforementioned ecological receptors.

The development also presents an opportunity to enhance the habitats available to wildlife on site. The provisioning of bird nest boxes on site will provide improved nesting opportunities in the long-term.



6 REFERENCES

CIEEM (2017). *Guidelines for Preliminary Ecological Appraisal* (Second Edition).

DEFRA (2019). *MAG/C* [online]. Available at: <http://magic.defra.gov.uk/>.

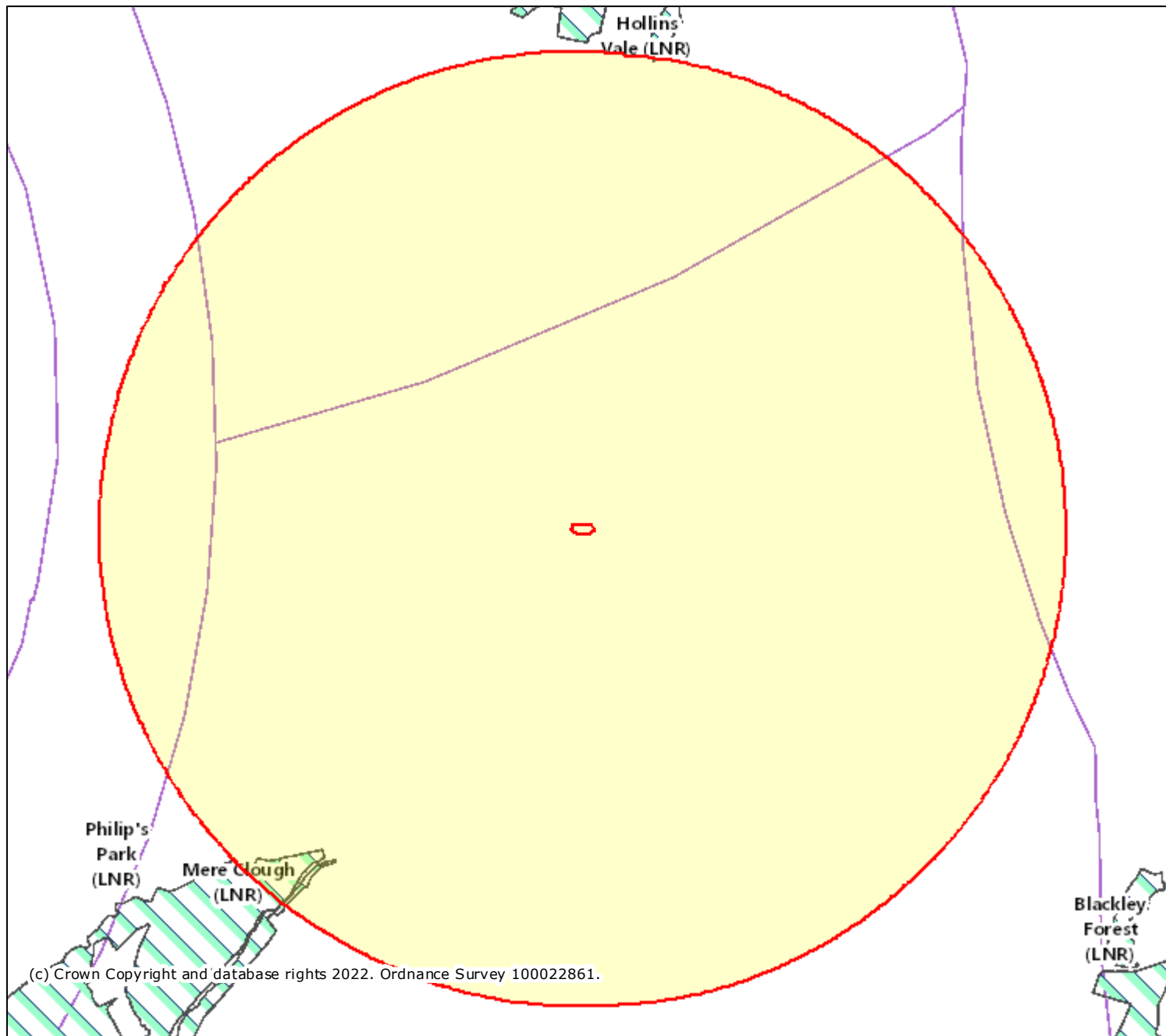
JNCC (2010). *Handbook for Phase 1 habitat survey: A technique for environmental audit*.

MHCLG (2021). National Planning Policy Framework (NPPF).



APPENDICES

Appendix 1 – Desk study

**Legend**

-  Areas of Outstanding Natural Beauty (England)
-  Local Nature Reserves (England)
-  National Nature Reserves (England)
-  National Parks (England)
-  Ramsar Sites (England)
-  Sites of Special Scientific Interest (England)
- SSSI Impact Risk Zones - to assess planning applications for likely impacts on SSSIs/SACs/SPAs & Ramsar sites (England)
- 
-  Special Areas of Conservation (England)
-  Special Protection Areas (England)
-  Biosphere Reserves (England)

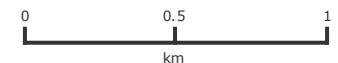
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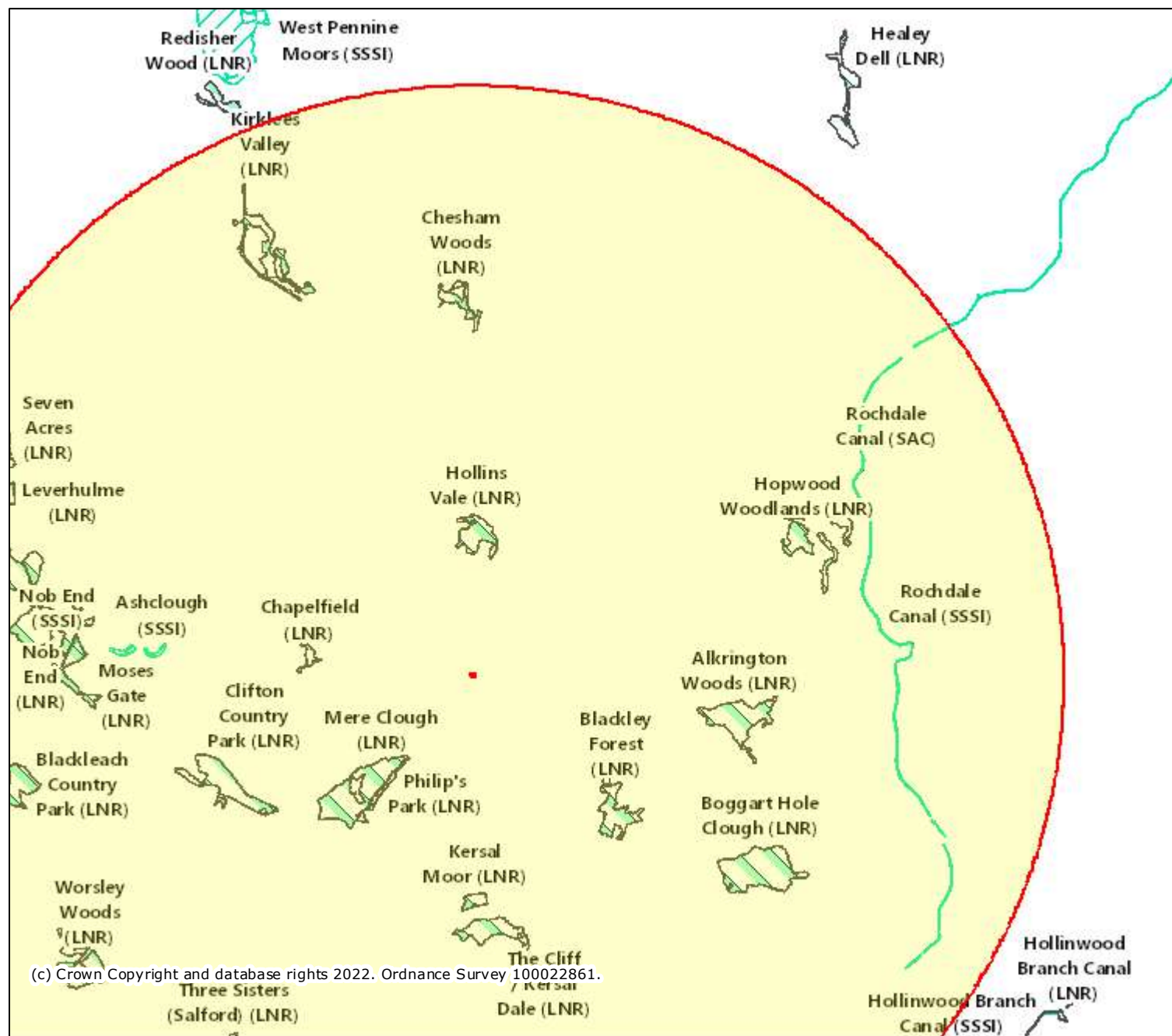
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Legend

- Areas of Outstanding Natural Beauty (England)
- Local Nature Reserves (England)
- National Nature Reserves (England)
- National Parks (England)
- Ramsar Sites (England)
- Sites of Special Scientific Interest (England)
- Special Areas of Conservation (England)
- Special Protection Areas (England)
- Biosphere Reserves (England)

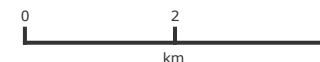
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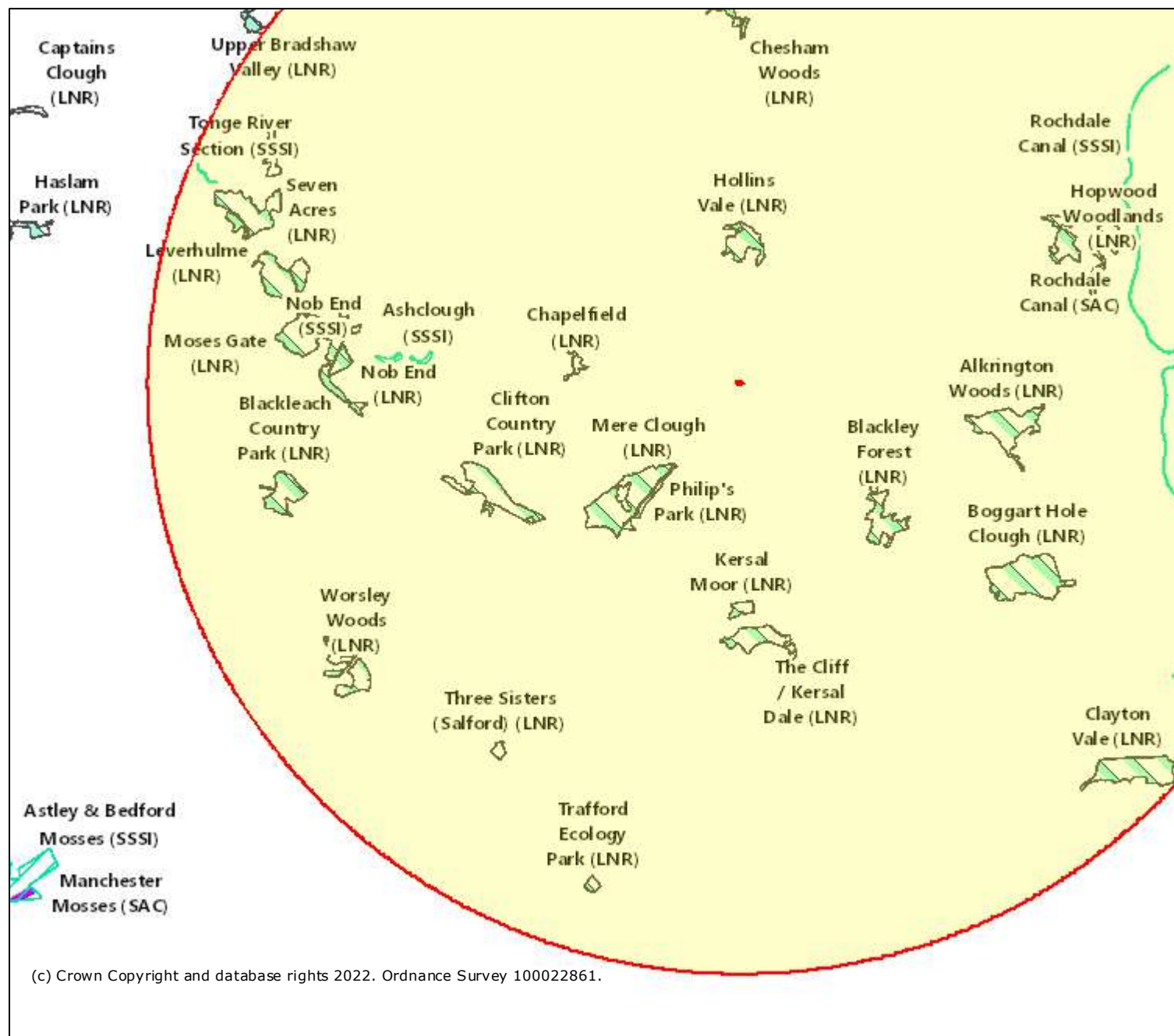
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- Ramsar Sites (England)
- Sites of Special Scientific Interest (England)
- Special Areas of Conservation (England)
- Special Protection Areas (England)
- Biosphere Reserves (England)

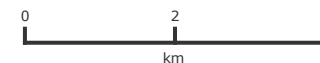
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Appendix 2 – Phase 1 habitat plan

- Target Note 1 - House sparrows
- Target Note 2 - Japanese knotweed



Preliminary Ecological Appraisal

Site: Billberry Close,
Whitefield
NGR: SD 81690 05915
Author: Robert Mooney
Date: 15/12/2022



- KEY:**
- | | |
|---------------------------------|--------------------------------------|
| A2.1 - Scrub - dense/continuous | J2.1.2 - Intact hedge - species-poor |
| A3.3 - Mixed scattered trees | J2.4 - Fence |
| J1.2 - Amenity grassland | J5 - Hardstanding |
| J1.4 - Introduced shrub | Target Notes |
| | Survey boundary |

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Appendix 3 – Aerial photographs



Billberry Close, Whitefield

Close aerial photograph

— Development boundary





Billberry Close, Whitefield

Wide aerial photograph



Site location





Appendix 4 – Photographs



Photograph 1 – Example of the dense scrub on site.



Photograph 2 – Trimmed western section of dense scrub.



Photograph 3 – Broadleaved trees amongst the scrub by the site's eastern boundary.



Photograph 4 – The amenity sward on site.



Photograph 5 – Introduced shrub at the north-west of the site.



Photograph 6 – Hedge 1.



Photograph 7 – Fencing along northern site boundary.



Photograph 8 – Stand of Japanese knotweed amongst the dense scrub.



Appendix 5 – Botanical species list

Scientific name	Common name	Habitats			
		A2.1 Dense scrub	A3.3 Scattered mixed trees	J1.2 Amenity grassland	J2.1.2 Intact, species- poor hedge
<i>Acer platanoides</i>	Norway Maple		X		
<i>Bellis perennis</i>	Common Daisy			X	
<i>Betula</i>	Birch sp.		X		
<i>Betula pendula</i>	Silver birch		X		
<i>Calystegia sepium</i>	Hedge Bindweed	X			
<i>Capsella bursa-pastoris</i>	Shepherd's-purse			X	
<i>Cardamine flexuosa</i>	Wavy Bitter-cress			X	
<i>Cardamine pratensis</i>	Cuckooflower			X	
<i>Carpinus betulus</i>	Hornbeam		X		
<i>Cornus sanguinea</i>	Common dogwood	X			X
<i>Crataegus monogyna</i>	Common hawthorn	X			X
<i>Cupressaceae</i>	Cypress sp.		X		
<i>Fallopia japonica</i>	Japanese Knotweed	X			
<i>Festuca rubra</i>	Red Fescue			X	
<i>Fraxinus excelsior</i>	Ash		X		
<i>Galium aparine</i>	Cleavers	X			
<i>Geranium robertianum</i>	Herb-Robert	X			
<i>Geum urbanum</i>	Herb Bennet	X			
<i>Helix hedera</i>	Ivy		X		X
<i>Holcus lanatus</i>	Yorkshire-fog			X	
<i>Ilex aquifolium</i>	Holly	X			
<i>Lolium perenne</i>	Perennial Rye-grass			X	
<i>Plantago lanceolata</i>	Ribwort Plantain			X	
<i>Poa annua</i>	Annual Meadow-grass			X	
<i>Prunus avium</i>	Wild Cherry		X		
<i>Prunus laurocerasus</i>	Cherry Laurel	X			
<i>Prunus spinosa</i>	Blackthorn	X			
<i>Ranunculus repens</i>	Creeping Buttercup			X	
<i>Rosa</i>	Rose sp.	X			
<i>Rumex obtusifolius</i>	Broad-leaved Dock	X			
<i>Salix</i>	Willow sp.		X		
<i>Sambucus nigra</i>	Elder	X			
<i>Senecio vulgaris</i>	Groundsel			X	
<i>Sonchus oleraceus</i>	Smooth Sow-thistle			X	
<i>Stellaria media</i>	Common Chickweed			X	
<i>Symphoricarpos albus</i>	Snowberry	X			
<i>Taraxacum officinale</i> agg.	Dandelion			X	
<i>Trifolium repens</i>	White Clover			X	
<i>Urtica dioica</i>	Common Nettle	X			X
<i>Veronica persica</i>	Common Field-speedwell			X	
<i>Vinca</i>	Periwinkle sp.	X			



Appendix 6 – Planning and statutory context

Ecological assessments

Ecological assessments play an important part within the planning context; they include an initial assessment which highlights any specific interests of a site. From the initial site assessment, the surveyor assesses the suitability of habitats within the site to support protected species and makes recommendations for further survey works if required. The following paragraphs provide a brief interpretation of legislative protection in relation to the following species and habitats:

Amphibians	Trees
Great crested newts	Hedgerows
Other amphibians	Invasive plant species
Reptiles	Otters
Badgers	Water voles
Hazel dormouse	White-clawed crayfish
Bats	Planning policy
Birds	

Amphibians

Great crested newts

Great crested newts (GCN) *Triturus cristatus* and their habitat (aquatic and terrestrial) are afforded full protection by the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Amendment (EU exit) Regulations 2019. If both national and international legislation are taken together, it is an offence to:

- Deliberately, intentionally or recklessly kill, injure or capture GCN
- Deliberately, intentionally or recklessly disturb GCN in such a way to be likely to significantly affect:
 - their ability to survive, breed, reproduce, rear or nurture their young
 - their ability to hibernate or migrate
 - their local distribution or abundance
- Deliberately, intentionally or recklessly take or destroy the eggs of GCN
- Damage or destroy breeding sites or resting places of GCN
- Intentionally or recklessly disturb sheltering GCN, or obstruct access to their resting place
- Keep, transport, sell or exchange, or offer for sale or exchange any live or dead GCN, any part of GCN or anything derived from GCN

Penalties for offences include fines of up to £5000, plus up to six months imprisonment, for each offence committed.

GCN are also protected by the Protection of Animals Act 1911, which prohibits cruelty and mistreatment. Releasing a GCN in such a way as to cause undue suffering may be an offence under the Abandonment of Animals Act 1960.

In addition to the above, there are various statutory provisions relating to the transport of animals, designed to ensure their welfare. GCN are also listed under Section 41 of the NERC Act (see bats section for further details).

It is important to identify the presence of GCN individuals and also to identify suitable habitat on sites so that legal obligations regarding this species can be observed. If a survey identifies the presence of GCN on the site, an assessment of the population size class is required. This can then inform a mitigation scheme, which would need to be developed in liaison with the local Natural England team, and which minimises direct threats to newts and compensates for any loss of habitat. A licence issued by Natural England is required for the legal implementation of a mitigation scheme.

A Natural England mitigation licence application requires a Mitigation Method Statement and a Reasoned Statement of Application. The Mitigation Method Statement contains details of the proposed mitigation works. The Reasoned Statement needs to provide a rational and reasoned justification as to why the

proposed development meets the requirements of the Conservation (National Habitats & c.) regulations 1994, namely Regulations 44(2)(e), (f) or (g), and 44(3)(a).

Other amphibians

More common British amphibians, such as common frog *Rana temporaria*, common toad *Bufo bufo*, smooth newt *Triturus vulgaris* and palmate newt *Triturus helveticus* are protected only by Section 9(5) of the Wildlife and Countryside Act 1981 (as amended). This section prohibits sale, barter, exchange, transporting for sale and advertising to sell or to buy.

The above named species are also listed as UK Species of Conservation Concern. Due to general declines in most British amphibian species in recent years, many local authorities require amphibian surveys as a planning condition, or as part of environmental information submitted as part of a planning application, even where the presence of GCN is ruled out.

Natterjack toad *Bufo calamita* and pool frog *Pelophylax lessonae* are also offered the same level of protection as GCN, through the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017.

Natterjack toad, common toad and pool frog are also listed under Section 41 of the NERC Act (see bats section for further details).

Water bodies that support all five (more common) species of British amphibians in high numbers, may be afforded protection in local plans, as Sites of Importance for Nature Conservation (SINC), or a similar equivalent, for sites of local importance. A site may require statutory protection as a Site of Special Scientific Interest (SSSI).

Reptiles

Common lizard *Zootoca vivipara*, slow-worm *Anguis fragilis*, grass snake *Natrix natrix* and adder *Vipera berus* are protected under the Wildlife and Countryside Act 1981 (as amended). They are listed as a Schedule 5 species therefore part of Section 9(1) and section 9(5) apply. The Countryside and Rights of Way Act 2000 also strengthens their protection. It is offence to:

- Intentionally or recklessly kill or injure any of the species listed above
- Sell, offer, advertise or transport for sale a live or dead animal of the species listed above

If a proposed development is likely to have an impact on these reptiles the local statutory nature conservation organisation must be consulted.

Sand lizard *Lacerta agilis* and smooth snake *Coronella austriaca* receive full protection under the Wildlife and Countryside Act 1981 (as amended) and Conservation of Habitats and Species Regulations 2017. Read together, it is an offence to:

- Deliberately, intentionally or recklessly kill, injure or capture any sand lizards or smooth snakes
- Deliberately, intentionally or recklessly disturb sand lizards or smooth snakes in such a way to be likely to significantly affect:
 - their ability to survive, breed, reproduce, rear or nurture their young
 - their ability to hibernate or migrate
 - their local distribution or abundance
- Deliberately, intentionally or recklessly take or destroy the eggs of such an animal
- Damage or destroy breeding sites or resting places of such animals
- Intentionally or recklessly disturb sheltering sand lizards or smooth snakes, or obstruct access to their resting place
- Keep, transport, sell or exchange, or offer for sale or exchange any live or dead sand lizards or smooth snakes, any part of such an animal or anything derived from such an animal

Penalties for offences include fines of up to £5000, plus up to six months imprisonment, for each offence committed.

All reptile species are also listed under Section 41 of the NERC Act (see bats section for further details).

Badgers

European badgers *Meles meles* and their habitat are protected under The Protection of Badgers Act 1992 and are also included on Schedule 6 of the Wildlife and Countryside Act 1981, and Appendix III of the Bern Convention. The legislation affords badgers protection against deliberate harm or injury making it an offence to:

- Wilfully kill, injure, take, possess or cruelly ill-treat a badger (or attempt to do so)
- To interfere with a sett by damaging or destroying it
- To obstruct access to, or entrance of, a badger sett
- To disturb a badger whilst it is occupying a sett

Penalties for offences include fines of up to £5000, plus up to six months imprisonment, for each offence committed.

Works that disturb badgers whilst they are occupying a sett are illegal without a licence. Disturbance can occur even without direct interference or damage to the sett in question. In general, the following activities are likely to require a licence:

- Use of heavy machinery or significant earth moving within 30m of a sett
- Use of lighter machinery (usually any wheeled vehicles) within 20m of a sett
- Any digging, chain saw use or scrub clearance within 10m of a sett

Hazel dormouse

Hazel dormice *Muscardinus avellanarius* are offered full protection through the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017. If both national and international legislation are taken together, it is an offence to:

- Deliberately, intentionally or recklessly kill, injure or capture dormice
- Deliberately, intentionally or recklessly disturb dormice in such a way to be likely to significantly affect:
 - their ability to survive, breed, reproduce, rear or nurture their young
 - their ability to hibernate or migrate
 - their local distribution or abundance
- Damage or destroy breeding sites or resting places of dormice
- Intentionally or recklessly disturb sheltering dormice, or obstruct access to their resting place
- Keep, transport, sell or exchange, or offer for sale or exchange any live or dead dormouse, any part of a dormouse or anything derived from a dormouse

Penalties for offences include fines of up to £5000, plus up to six months imprisonment, for each offence committed.

Dormice are also listed under Section 41 of the NERC Act (see bats section for further details).

Bats

In the United Kingdom, all species of bat and their roosts are afforded full protection under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (known as the "Habitats Regulations"). The Wildlife and Countryside Act is the domestic implementation of the Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) and was amended by the Countryside and Rights of Way Act 2000. This makes it an offence to:

- Deliberately, intentionally or recklessly kill, injure or capture a bat

- Deliberately, intentionally or recklessly disturb a bat while it is occupying a structure or place that it uses for shelter or protection
- Deliberately, intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection (even if the bat is not present at the time)
- Keep, transport, sell or exchange, or offer for sale or exchange any live or dead bat, any part of a bat or anything derived from a bat

Under UK law, a bat roost is *any structure or place which any wild [bat] ... uses for shelter or protection*. As bats often reuse the same roosts, legal opinion is that a roost is protected whether or not the bats are present at the time of the activity taking place.

Penalties for offences include fines of up to £5000, plus up to six months imprisonment, for each offence committed.

If an activity is likely to result in any of the above offences, a licence can be applied for to derogate from the protection afforded. These licences must provide appropriate mitigation and are issued by Natural England.

A Natural England mitigation licence application requires a Mitigation Method Statement and, in many cases, a Reasoned Statement of Application. The Mitigation Method Statement contains details of the proposed mitigation works. The Reasoned Statement needs to provide a rational and reasoned justification as to why the proposed development meets the requirements of the Conservation (National Habitats & c.) regulations 1994, namely Regulations 44(2)(e), (f) or (g), and 44(3)(a).

The Natural Environment and Rural Communities (NERC) Act 2006 lists the following bat species as species of principle importance under Section 41:

- Barbastelle *Barbastella barbastellus*
- Bechstein's bat *Myotis bechsteinii*
- Noctule *Nyctalus noctula*
- Soprano Pipistrelle *Pipistrellus pygmaeus*
- Brown Long-eared bat *Plecotus auritus*
- Greater Horseshoe *Rhinolophus ferrumequinum*
- Lesser Horseshoe *Rhinolophus hipposideros*

Section 40 requires every public body in the exercising of its functions 'have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity' (all biodiversity and not just section 41 species and habitats); therefore making these bats a material consideration in the planning process and requiring a detailed ecological bat survey before planning permission can be granted.

Birds

All wild birds, their nests and young are protected throughout England and Wales by the Wildlife & Countryside Act 1981 (as amended). It is illegal to kill, injure or take any wild bird, or damage or destroy the nest or eggs of breeding birds. The legislation applies to all bird species, common and rare.

In addition to the protection afforded to all wild birds, more vulnerable species listed on Schedule 1 of the Act receive enhanced protection when breeding. Schedule 1 species, including their dependent young, are protected from intentional or reckless disturbance whilst at or near the nest, in addition to the protection afforded the more common species.

The NERC Act offers further protection to the nests of some species that regularly re-use their nests, even when the nests are not in use.

The leading governmental and non-governmental conservation organisations in the UK have reviewed the population status' of 244 UK bird species. "Birds of Conservation Concern 4: the Red List for Birds" is the most recent publication summarising their findings. Three lists, Red, Amber and Green, have been produced based on the most up-to-date evidence available and criteria include conservation status at global and European levels and, within the UK: historical decline, trends in population and range, rarity,

localised distribution and international importance. These lists are a valuable resource when considering conservation priorities.

Trees

Trees may be protected on an individual or group level through a Tree Preservation Order (TPO). In order to carry out works to trees with a TPO, prior written consent must be obtained from the Local Planning Authority. Trees may also be protected through a condition of planning consent or designated conservation areas.

Hedgerows

The Hedgerow Regulations are made under Section 97 of the Environment Act 1995 and came into operation on 1st of June 1997. They aim to protect important hedgerows in the countryside by controlling their removal through a system of notification to the Local Planning Authority.

A hedgerow can only be considered for classification as “important” if it, or the hedgerow of which the section belongs to is over 20m in length (or which meets a hedgerow at either end) and has existed for 30 years or more.

Invasive plant species

A number of invasive, non-native plant species are listed under Schedule 9 (Part II) of the Wildlife and Countryside Act 1981 (as amended). The most commonly encountered listed species in ecological surveys are Japanese knotweed *Fallopia japonica*, Montbretia *Crocasmia x crocosmiiflora* and variegated yellow archangel *Lamium galeobdolon subsp. argentatum*. Section 14(2) of this Act makes it an offence to *plant or otherwise cause to grow in the wild* any plant listed on Schedule 9 (Part II). These provisions are necessary to prevent the establishment of non-native species which may be detrimental to our native wildlife.

A number of invasive, non-native plants species are listed under Schedule 2 (Part II) of the Invasive Alien Species (Enforcement and Permitting) Order 2019. The most commonly encountered listed species in ecological surveys are Himalayan balsam *Impatiens glandulifera* and giant hogweed *Heracleum mantegazzianum*. Section 3 of this Act make it an offence to *plant or otherwise causes to grow in the wild* any plant which is listed on Schedule 2 (Part II). These provisions are necessary to prevent the establishment of non-native species which may be detrimental to our native wildlife.

Soil or plant material contaminated with non-native and invasive plants can cause ecological damage and may be classified as controlled waste. It is an offence to keep, treat or dispose of waste that could harm the environment or human health. If there is any doubt, contact the local authority or Environment Agency.

Otters

European otter *Lutra lutra* are offered full protection through the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017. If both national and international legislation are taken together, it is an offence to:

- Deliberately, intentionally or recklessly kill, injure or capture otters
- Deliberately, intentionally or recklessly disturb otters in such a way to be likely to significantly affect:
 - their ability to survive, breed, reproduce, rear or nurture their young
 - their ability to migrate
 - their local distribution or abundance
- Damage or destroy breeding sites or resting places of otters
- Intentionally or recklessly disturb sheltering otters, or obstruct access to their resting place
- Keep, transport, sell or exchange, or offer for sale or exchange any live or dead otter, any part of an otter or anything derived from otter

Penalties for offences include fines of up to £5000, plus up to six months imprisonment, for each offence committed.

Otters are also listed under Section 41 of the NERC Act (see bats section for further details).

Water voles

Water voles *Arvicola amphibius* are protected by the provisions of Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). This makes it an offence to:

- Intentionally kill, injure or take water vole
- Possess or control live or dead water vole or any part of a water vole
- Intentionally or recklessly damage destroy or obstruct access to any structure or place which a water vole uses for shelter or protection, or disturb water vole using such a place
- Sell, offer, advertise or transport live or dead water voles for sale

Licences are available from Natural England to allow activities that would otherwise be an offence, including:

- Scientific or educational purposes
- For the purposes of ringing or marking
- Conserving wild animals or introducing them into particular areas
- Preserving public health or public safety
- Preventing the spread of disease
- Preventing serious damage to any form of property or to fisheries

Penalties for offences include fines of up to £5000, plus up to six months imprisonment, for each offence committed.

Water voles are also listed under Section 41 of the NERC Act (see bats section for further details).

White-clawed crayfish

White-clawed crayfish *Austropotomobius pallipes* are protected under the Wildlife and Countryside Act 1981 (as amended). They are listed as a Schedule 5 species therefore part of Section 9(1) and section 9(5) apply. The Countryside and Rights of Way Act 2000 also strengthens their protection. It is offence to:

- Intentionally or recklessly kill or injure white-clawed crayfish
- Sell, offer, advertise or transport for sale a live or dead white-clawed crayfish

If a proposed development is likely to have an impact on white-clawed crayfish then the local statutory nature conservation organisation must be consulted.

Penalties for offences include fines of up to £5000, plus up to six months imprisonment, for each offence committed.

Their inclusion on the EC Habitats Directive allows areas to be designated as Special Areas of Conservation (SAC) for the presence of white-clawed crayfish. Such a designation brings legal protection under the Conservation of Habitats Regulations 2017, this includes how the site is managed and what development can occur on and in proximity to these sites.

White-clawed crayfish are also listed under Section 41 of the NERC Act (see bats section for further details).

Planning policy

The National Planning Policy Framework 2021 (NPPF) provides guidance on the interpretation of the law in relation to the natural environment and development.

National Planning Guidance is issued in the form of the National Planning Policy Framework 2021 (NPPF). The most relevant section is 15: Conserving and enhancing the natural environment.

Key relevant principles stated in 15: Conserving and enhancing the natural environment are;

- 174.** Planning policies and decisions should contribute to and enhance the natural and local environment by:
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
 - c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
 - 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;
 - e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
 - f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- 179.** To protect and enhance biodiversity and geodiversity, plans should:
- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity⁶¹; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation⁶²; and
 - 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
- 180.** When determining planning applications, local planning authorities should apply the following principles:
- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
 - b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
 - c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁶³ and a suitable compensation strategy exists; and
 - d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

