



Fletcher Fold Road

Bury

Ecological Desk Study

Prepared For: Pozzoni Architecture Limited

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Version 1.0

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Annex A: Key Ecological Legislation and National Policy

1.0 Introduction

- 1.1 The Environment Partnership (TEP) was commissioned by Pozzoni Architecture Limited on behalf of Arcon Housing Association (Bolton at Home) in October 2023, to complete Ecological Desk Studies of Fletcher Fold, Bury (hereafter referred to as 'the site').

Site Location

- 1.2 The site is located off Fletcher Fold Road to the south of Bury, Greater Manchester. The location of the site is depicted by the red line shown in Figure 1. The site is 0.9ha in size and an approximate central grid reference of the site is SD 80627 08682.
- 1.3 The site is set within a residential area with a lake to the south, River Roch and playing fields to the east, residential houses to the north and west with the A56 Manchester Road and industrial units also present to the west.

Figure 1: Site Location



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Context

- 1.4 The site is within Bury Metropolitan Borough Council.
- 1.5 The proposals for the site include the construction of an apartment complex, four bungalows and associated landscaping and infrastructure. These are shown on the Proposed Site Layout; 6017_SK010/Bury Happi Scheme/Proposed Site Layout Option 5.

2.0 Methods

Scope and Data Sources

- 2.1 The ecological Zone of Influence (ZOI) is an area defined by the ecological assessment within which valued ecological features may be subject to significant biophysical changes as a consequence of the proposed development under assessment.
- 2.2 For the purposes of this assessment, the preliminary ZOIs within which ecological features were searched for as part of this desk study were varied according to the geo-spatial and/or legal significance of the feature.
- 2.3 Table 1 summarises the scope and the preliminary ZOIs applied for this desk study. The preliminary ZOIs were applied by extending search radii of the respective distances from the Site boundary.

Table 1: Scope and preliminary ecological Zones of Influence (ZOI)

Feature	Scope	Key Source(s)	ZOI
Statutory wildlife sites:	Ramsar sites Proposed Ramsar sites Special Areas of Conservation (SAC) Possible SAC SAC with marine components Special Protection Areas (SPA) Potential SPA Marine Conservation Zones	Natural England (public sector information)	10km
	Sites of Special Scientific Interest (SSSI) National Parks National Nature Reserves (NNR) Marine Nature Reserves (MNR)	Natural England (public sector information)	5km
	Local Nature Reserves (LNR) Country Parks	Natural England (public sector information)	2km
Non-statutory wildlife sites:	Sites of Biological Importance (SBI)	GMEU Records Centre Bury Metropolitan Borough Council Bury Local Plan Policies Map ¹	2km
Notable habitats:	Ancient Woodland Habitats of principal importance	Natural England (public sector information)	500m

¹ Cadcorp SIS WebMap 9 (bury.gov.uk) accessed 30th October 2023

Feature	Scope	Key Source(s)	ZOI
	Main rivers Habitat Network / Nature Recovery Network	Natural England (public sector information) Environment Agency (public sector information) GMEU Records Centre	
Protected or notable species:	Pre-existing records for protected or notable species ² , non-native invasive species	GMEU Records Centre	2km
	Protected species licences granted by Natural England Great crested newt survey pond records (2017 – 2019) held by Natural England	Natural England (public sector information)	2km
Policy and Related Guidance	Land allocations and relevant environment / biodiversity policy Local biodiversity priority habitats and species	Bury Local Plan Policies Map Greater Manchester Biodiversity Action Plan ³	As applicable to Site

2.4 An absence of records does not indicate the absence of protected species from the search area.

2.5 Geological sites are not designated for ecology reasons and is therefore excluded from further consideration in this ecological assessment.

² Notable and protected species records may include those listed under any of the following:

- Protected species listed under Schedule 2 (animals) or Schedule 5 (plants) under the Conservation of Habitats and Species Regulations 2017 (EPS);
- Protected bird species under Schedule 1 of the Wildlife and Countryside Act 1981, as amended (WCA1);
- Protected animal species under Schedule 5 of the Wildlife and Countryside Act 1981, as amended (WCA5);
- Protected plant species under Schedule 8 of the Wildlife and Countryside Act 1981, as amended (WCA8);
- Invasive non-native plant species under Schedule 9 of the Wildlife and Countryside Act 1981, as amended (WCA9);
- Invasive Alien Species (Enforcement and Permitting) Order 2019 (IAS);
- Protection of Badgers Act 1992 (PBA);
- Species of principal importance (SPI) listed by requirements under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006;
- Red and Amber listed Birds of Conservation Concern (BRd/BAm); and
- Local Biodiversity Action Plan Species (LBAP).

³ GMLRC Projects - Greater Manchester Biodiversity Action Plan accessed 30th October 2023

3.0 Legislation and Policy

3.1 The following summarises the legislation and planning policy which may have relevance to the site. Only legislation and policy of key relevance to biodiversity are listed. Further information is provided in Annex A.

- International Conventions:
 - ▶ The Convention on Wetlands of International Importance especially as Waterfowl Habitat ('Ramsar Convention'⁴ or 'Wetlands Convention');
 - ▶ The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention⁵);
 - ▶ The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention⁶ or CMS)
 - ▶ The Convention on Biological Diversity (Biodiversity Convention⁷ or CBD)
- Conservation of Habitats and Species Regulations 2017⁸ (the 2017 Regulations);
- Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019⁹ (the 2019 Regulations);
- Wildlife and Countryside Act (WCA) 1981¹⁰;
- Environment Act 2021¹¹;
- Countryside and Rights of Way Act (CROW) 2000¹²;
- Natural Environment and Rural Communities (NERC) Act 2006¹³;
- Hedgerow Regulations 1997¹⁴;
- Protection of Badgers Act (PBA) 1992¹⁵;
- Wild Mammals (Protection) Act (WMPA) 1996¹⁶;

⁴ Convention on Wetlands of International Importance especially as Waterfowl Habitat, Ramsar, 2.2.1971 <https://www.ramsar.org/>

⁵ Convention on the Conservation of European Wildlife and Natural Habitats. Bern, 1979 <https://www.coe.int/>

⁶ Convention on the Conservation of Migratory Species of Wild Animals, Bonn, June 1979 <https://www.cms.int/>

⁷ Convention on Biological Diversity, Rio de Janeiro, June 1992 <https://www.cbd.int/>

⁸ Conservation of Habitats and Species Regulations 2017 (SI 2017/1012) <https://www.legislation.gov.uk/uksi/2017/1012/>

⁹ Conservation of Habitats and Species Regulations 2019 (SI 2019/579) <https://www.legislation.gov.uk/uksi/2019/579/>

¹⁰ Wildlife and Countryside Act 1981 c. 69 <https://www.legislation.gov.uk/ukpga/1981/69/>

¹¹ Environment Act 2021 c.30 <https://www.legislation.gov.uk/ukpga/2021/30/>

¹² Countryside and Rights of Way Act 2000 c. 37 <https://www.legislation.gov.uk/ukpga/2000/37/>

¹³ Natural Environment and Rural Communities Act 2006 c. 16 <https://www.legislation.gov.uk/ukpga/2006/16/>

¹⁴ The Hedgerow Regulations 1997 (SI 1997/1167) <https://www.legislation.gov.uk/uksi/1997/1160/>

¹⁵ Protection of Badgers Act 1992 c. 51 <https://www.legislation.gov.uk/ukpga/1992/51/>

¹⁶ Wild Mammals (Protection) Act 1996 c.3 <https://www.legislation.gov.uk/ukpga/1996/3>

- National Planning Policy Framework (NPPF) 2023¹⁷;
- Government Circular 06/2005¹⁸.

Local Planning Policy

- The current Local Plan is the Bury Unitary Development Plan (UDP) adopted 29 August 1997.
- 3.2 Bury Unitary Development Plan (UDP) acts as a guide for the future development or protection of land in the Borough and its policies and proposals currently form the basis for the Council's decisions on planning applications.
 - 3.3 The current Policies Map can be viewed by following the link below:
<https://maps.bury.gov.uk/ExternalWebMap/Map.aspx?MapName=PA>
 - 3.4 The site and adjacent land are not allocated for biodiversity purposes but is allocated as land identified for future housing development.
 - 3.5 The UDP policies document can be viewed by following the link:
<https://www.bury.gov.uk/index.aspx?articleid=10734>
 - 3.6 The following policies relate to biodiversity and nature conservation:
 - Policy EN6 Conservation of the Natural Environment, which seeks to *"retain, protect and enhance the natural environment of the Borough, particularly in relation to areas of ecological, wildlife and geological importance;"*
 - Policy EN8 Woodland and Trees, which seeks to *"support the retention of trees, woods, copses and hedgerows and encourage natural regeneration and new and replacement tree planting throughout the Borough"*.
 - Policy EN9: Landscape; and
 - Policy EN10: Environmental Improvement.
 - 3.7 The Council is now working to replace the adopted UDP with a new document called the Bury Local Plan which is due to be implemented in mid-2024. Until the new Local Plan is produced the UDP will continue to be used to make planning decisions.
 - 3.8 Together with the Places for Everyone (PfE) joint development plan, the Local Plan will form a key part of Bury's overall development plan and once adopted, these documents

¹⁷ National Planning Policy Framework (2023). Department for Levelling Up, Housing and Communities.
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

¹⁸ Office of the Deputy Prime Minister (2005) 'Government Circular: Geological and Biological Conservation – Statutory obligations and their implications within the planning system' ODPM circular 06/2005, DEFRA circular 01/2005
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7692/147570.pdf

will both be used as the basis for determining future proposals for the next 20 years or so.

3.9 The PFE policies document can be viewed by the following link: [Places for Everyone \(greatermanchester-ca.gov.uk\)](https://greatermanchester-ca.gov.uk/places-for-everyone)

3.10 The following policies relate to biodiversity and nature conservation.

- Policy JP-G 1: Valuing important Landscapes
- Policy JP-G 2: Green Infrastructure Network
- Policy JP-G 3: River Valleys and Waterways
- Policy JP-G 4: Lowland Wetlands and Mosslands
- Policy JP-G 5: Uplands
- Policy JP-G 6: Urban Green Space
- Policy JP-G 7: Trees and Woodland
- Policy JP-G 8: Standards for Greener Spaces
- Policy JP-G 9: A Net Enhancement of Biodiversity and Geodiversity
- Policy JP-G 10: The Green Belt

4.0 Biodiversity Initiatives and Strategies

Local Biodiversity Action Plans (BAP)

4.1 The LBAP document for Greater Manchester can be viewed by following the link: [GMLRC Projects - Greater Manchester Biodiversity Action Plan](#)

4.2 The LBAP includes local habitat action plans for the following priority habitats:

- ▶ Grassland
- ▶ Lowland mossland
- ▶ Ponds and lodges
- ▶ Native woodlands
- ▶ Urban managed greenspace
- ▶ Hedgerows
- ▶ Reedbeds (and bittern)
- ▶ Canals
- ▶ Uplands

4.3 The LBAP priority species for which local species action plans have been produced include:

- ▶ Bats
- ▶ Farmland Birds
- ▶ Hares
- ▶ Twite
- ▶ Willow Tit
- ▶ Black Redstart
- ▶ Great Crested Newts
- ▶ Native Black Poplar
- ▶ Water Vole

Nature Recovery Network

4.4 Habitat Network maps are produced by Natural England in response to the Lawton report (Making Space for Nature, A review of England's Wildlife Sites and Ecological Network¹⁹).

4.5 These maps provide a useful baseline for the development of a Nature Recovery Network (NRN) as required within the 25 Year Environment Plan and for LRNS proposed within the Environment Act.

¹⁹ Lawton, J.H., Brotherton, P.N.M., Brown, V.K., Elphick, C., Fitter, A.H., Forshaw, J., Haddow, R.W., Hilborne, S., Leafe, R.N., Mace, G.M., Southgate, M.P., Sutherland, W.A., Tew, T.E., Varley, J., & Wynne, G.R. (2010) *Making Space for Nature: a review of England's wildlife sites and ecological network*. Report to Defra

4.6 The Habitat Network maps in conjunction with other datasets and local knowledge can identify opportunities for biodiversity action. The Habitat Network comprises (a) Existing Habitats (HPI and associated habitats) and (b) Network Enhancement and Expansion Zones. These latter zones include:

- Network Enhancement Zone 1: Land connecting existing habitats which is likely to be suitable for habitat creation. Action in this zone to expand and join up existing habitat patches and improve the connections between them can be targeted here.
- Network Enhancement Zone 2: Land connecting existing habitats which is less likely to be suitable for habitat creation. Action in this zone that improves the biodiversity value through land management changes and/or green infrastructure provision can be targeted here.
- Fragmentation Action Zone: Land within Enhancement Zone 1 that connects existing habitats patches which are currently highly fragmented and where fragmentation could be reduced by habitat creation.
- Network Expansion Zone: Land beyond the Network Enhancement Zones with potential for expanding, linking/joining networks across the landscape.

4.7 This site does not fall within any of the above zones.

5.0 Wildlife Sites

Statutory Sites

5.1 There is one internationally significant statutory wildlife designation within 10km of the site (Figure 2). Ashclough SSSI is the only nationally significant wildlife site which is designated for geological purposes and therefore not considered further within this report. One regionally significant wildlife site is situated within 2km, as shown in Figure 5. Details of the statutory designated sites are listed in Table 2 below. Distances are calculated between the closest points. Links to data forms and citations are also provided, where applicable.

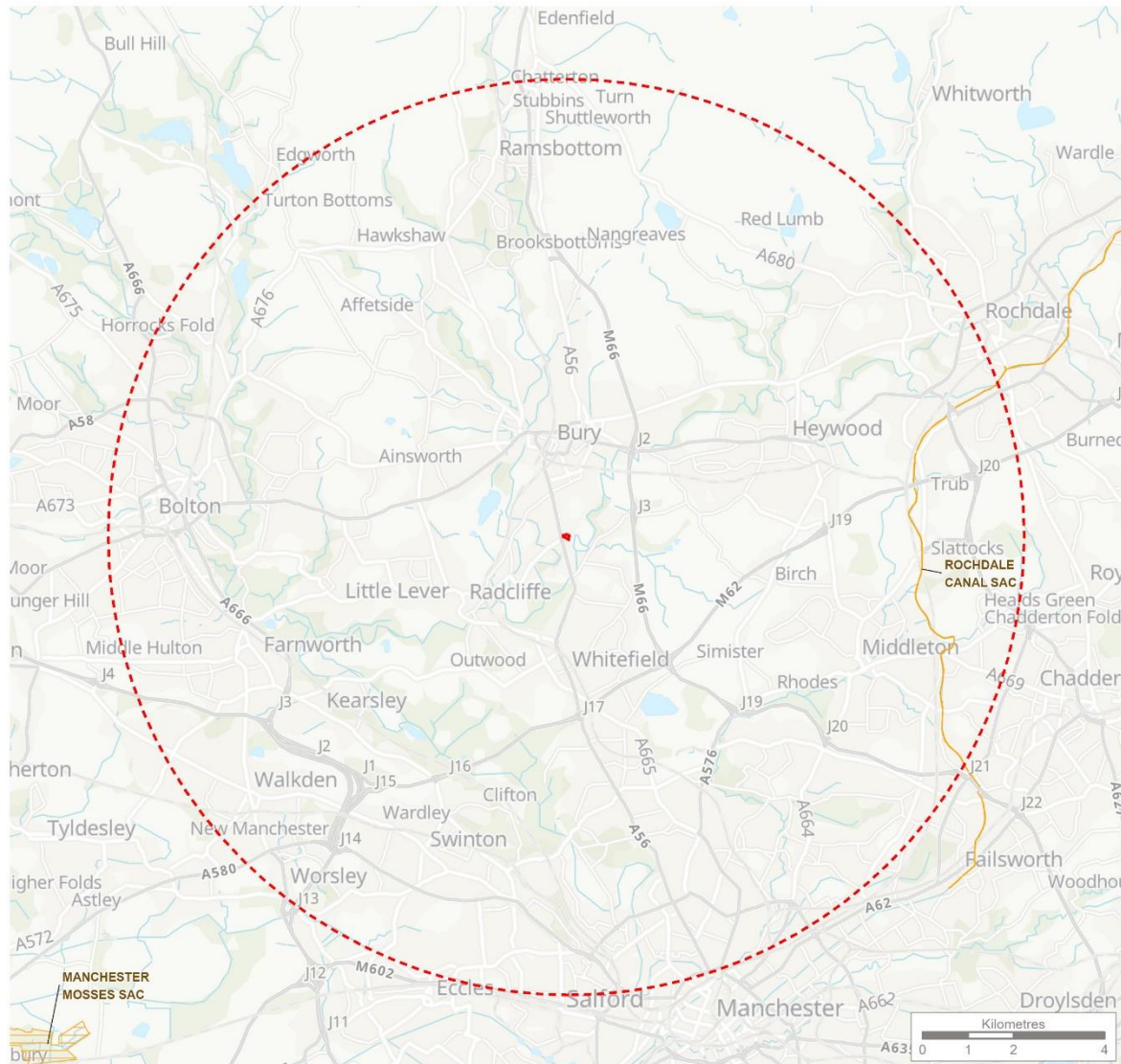
Table 2: Statutory wildlife sites

Site Name	Designation & Citation Link	Distance and Direction from Site	Reason(s) for Designation
Statutory wildlife sites of international significance within 10km of Site (Figure 2)			
Rochdale Canal	SAC (jncc.gov.uk)	Approx. 7.5km east of site	The Rochdale Canal contains important habitats for submerged aquatic plants and emergent vegetation, including extensive colonies of the nationally scarce floating water-plantain <i>Luronium natans</i> . The site also supports a diverse assemblage of aquatic flora with nine species of pondweed <i>Potamogeton</i> spp, present. The plant communities found in the Rochdale Canal are characteristic of mesotrophic water bodies, i.e., those which are moderately nutrient rich.
Statutory wildlife sites of national significance within 5km of Site (Figure 3)			
N/A	N/A	N/A	N/A
Statutory wildlife sites of regional/local significance within 5km of Site (Figure 5)			
Hollins Vale	LNR	0.78km east of site	Designated for its grasslands, woodlands and wetlands

5.2 The site lies within the Rochdale Canal SSSI and West Pennine Moors SSSI Impact Risk Zones (IRZ) (Figure 4), as determined by Natural England to identify likely impacts upon SSSIs that may result from planned development.

- 5.3 The impact risk criteria for the IRZ are summarised in Table 3. The nature of project does not match any of the potential risk criteria.

Figure 2: Statutory wildlife sites of international significance within 10km of the site



Key

- Site boundary
- Site boundary - 10km buffer
- Special Area of Conservation (SAC)

Sites searched for were as follows:

- Ramsar
- Special Protection Areas (SPA)
- Special Areas of Conservation (SAC)



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Project

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Title

Internationally Designated Sites Within a
10km Buffer

Drawing Number

G10188.002

Scale

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Date

27/10/2023

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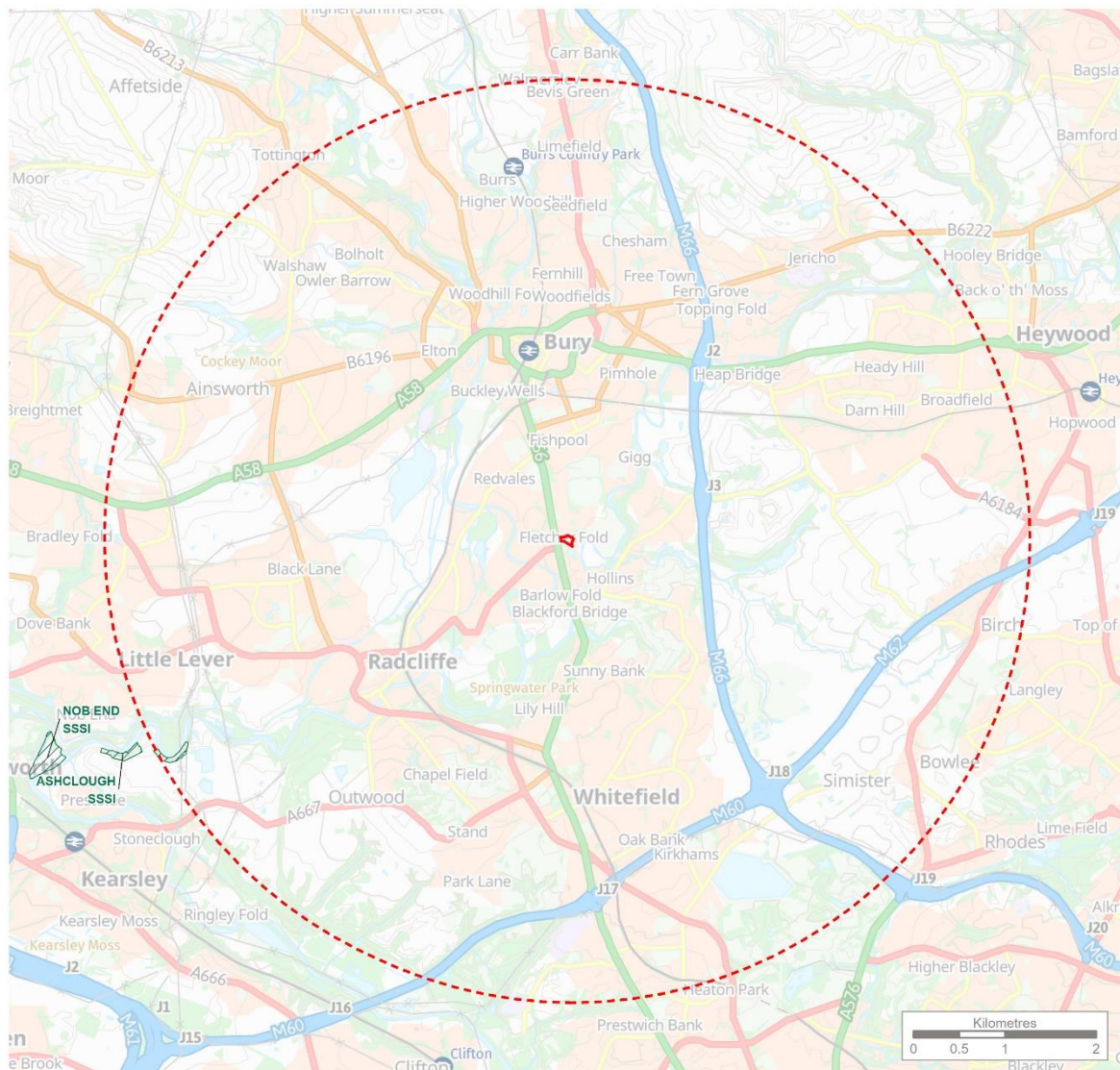
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Figure 3: Statutory wildlife sites of national significance within 5km of the site



Key

- Site boundary
- Site boundary - 5km buffer
- Sites of Special Scientific Interest (SSSI)

Sites searched for were as follows:

- Sites of Special Scientific Interest (SSSI)
- National Nature Reserve (NNR)
- Area of Outstanding Natural Beauty (AONB)



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Project
Fletcher Fold Road

Title
Nationally Designated Sites Within a 5km Buffer

Drawing Number
G10188.003

Scale
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Date
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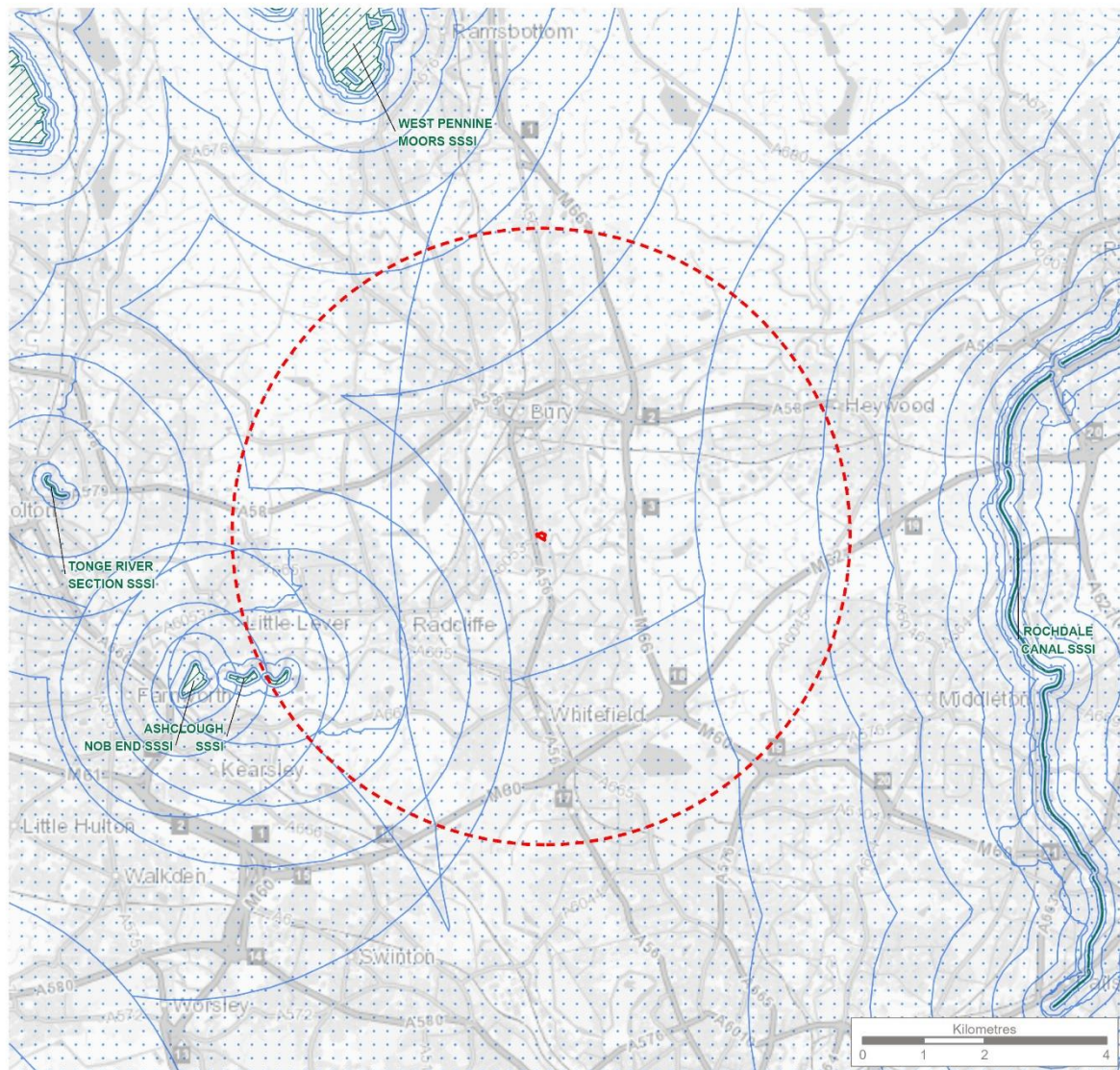
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Figure 4: SSSI Impact Risk Zones relevant to the Site (refer to Table 3 for IRZ criteria)



- Key
- Site boundary
 - Site boundary - 5km buffer
 - Sites of Special Scientific Interest (SSSI)
 - Sites of Special Scientific Interest - Impact Risk Zone

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Project

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Title

Sites of Special Scientific Interest - Impact Risk Zone

Drawing Number

G10188.006

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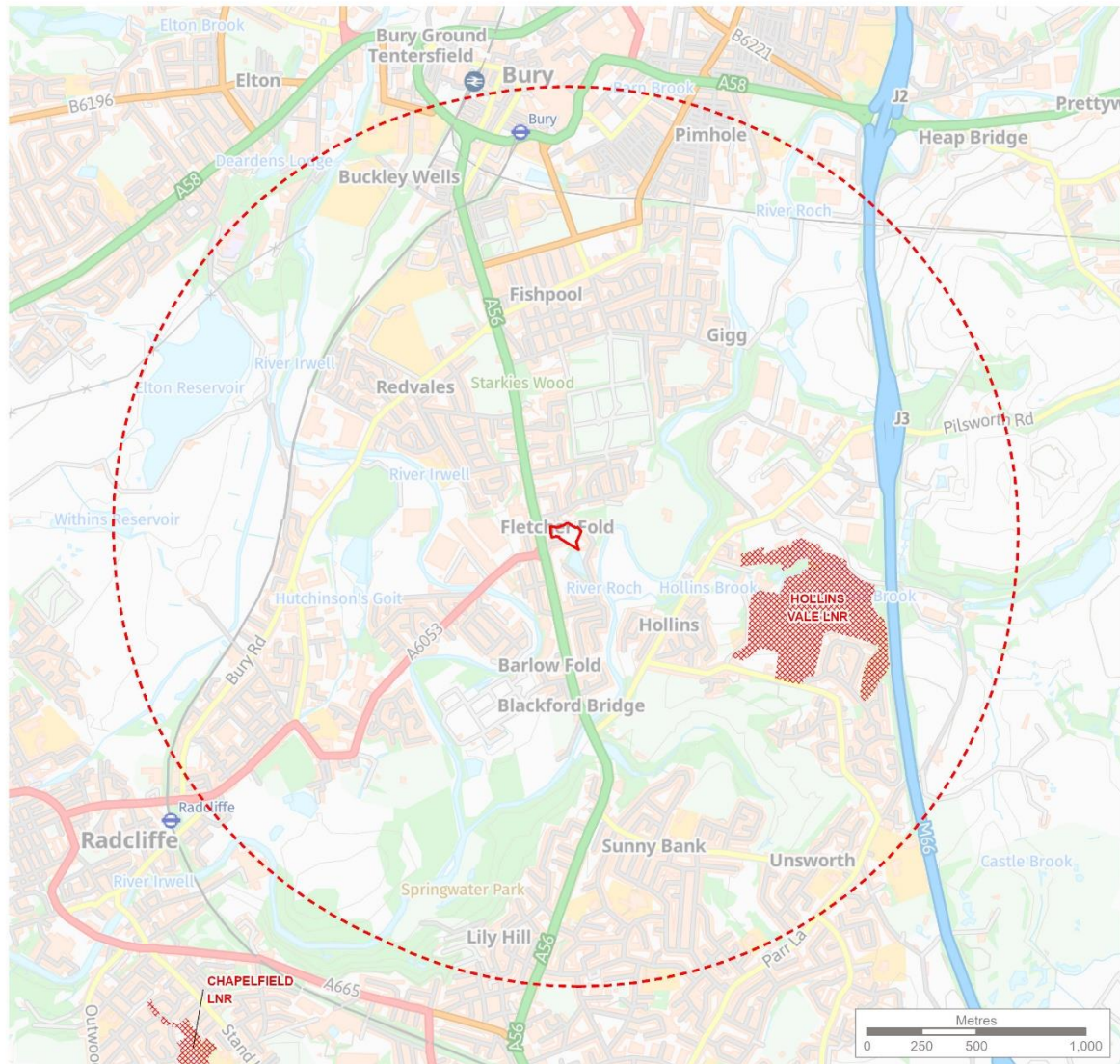
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Table 3: SSSI Impact Risk Zones crossed by the options

Proposal	Plan/project which may impact SSSI
All Planning Applications	Assessed as not likely to impact on the SSSI
Infrastructure	Airports, helipads and other aviation proposals.
Wind & Solar Energy	Assessed as not likely to impact on the SSSI
Minerals, Oil & Gas	Assessed as not likely to impact on the SSSI
Rural Non-Residential	Assessed as not likely to impact on the SSSI
Residential	Assessed as not likely to impact on the SSSI
Rural Residential	Assessed as not likely to impact on the SSSI
Air Pollution	Livestock & poultry units with floorspace > 500m ² , slurry lagoons & digestate stores > 4000m ² .
Combustion	General combustion processes >50MW energy input. Incl: energy from waste incineration, other incineration, landfill gas generation plant, pyrolysis/gasification, anaerobic digestion, sewage treatment works, other incineration/ combustion.
Waste	Assessed as not likely to impact on the SSSI
Composting	Assessed as not likely to impact on the SSSI
Discharges	Assessed as not likely to impact on the SSSI
Water Supply	Assessed as not likely to impact on the SSSI
Notes	N/A

Figure 5: Statutory wildlife sites of regional/local significance within 2km of the site



Key

- Site boundary
- Site boundary - 2km buffer
- Local Nature Reserve

Sites searched for were as follows:
- Local Nature Reserves



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Project
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Title
**Statutory Locally Designated Sites Within a
2km Buffer**

Drawing Number
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Scale
1:25,000 @ A4

Date
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Non-Statutory Wildlife Sites

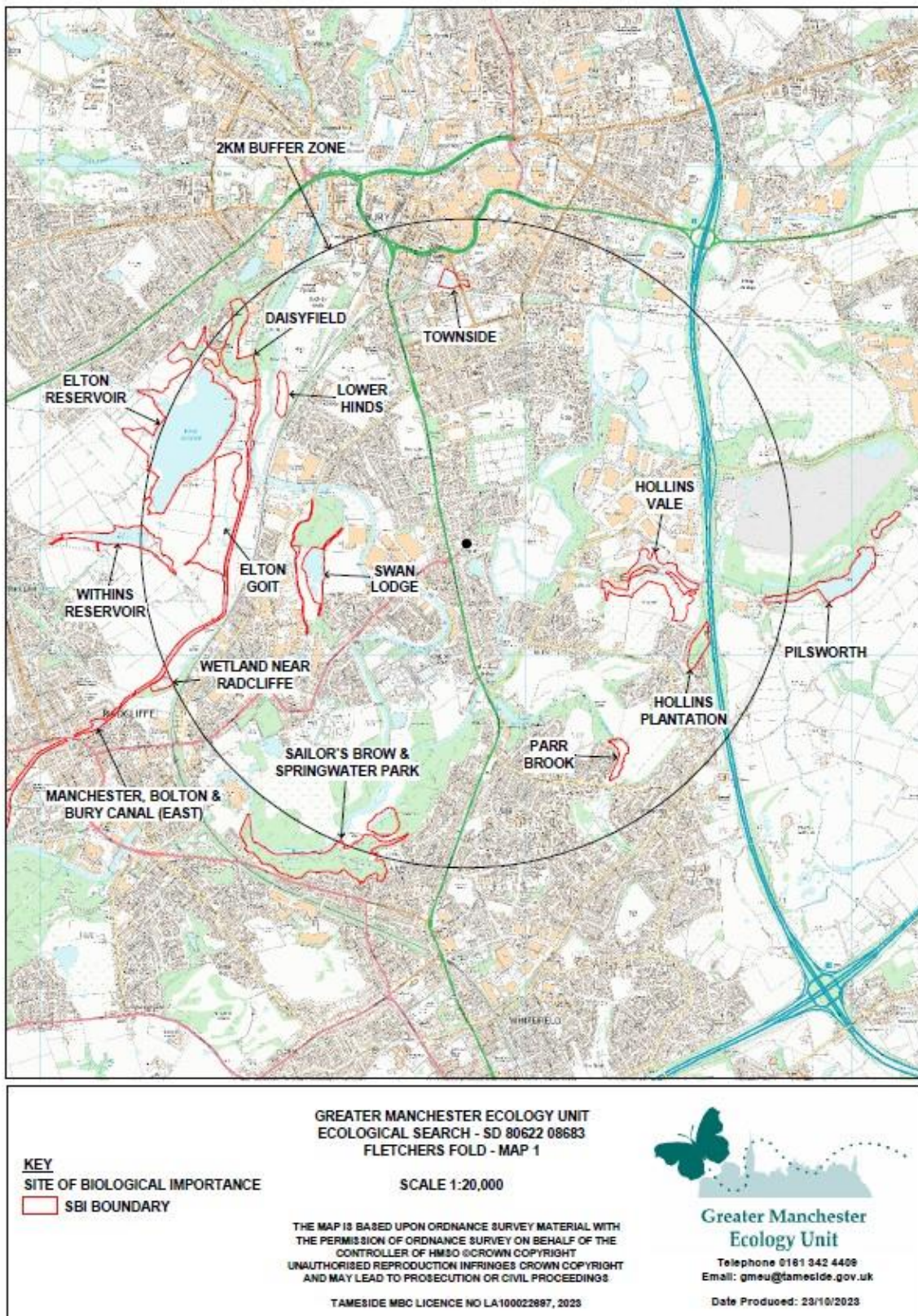
- 5.4 There are fourteen non-statutory locally designated wildlife sites within 2km of the site. These are summarised in Table 4 below and shown on Figure 6.

Table 4: Non-statutory local wildlife sites

Site Name	Status	Distance and Direction from Site	Key Interest Feature(s)
Hollins Vale	SBI	780m east of site	Designated for its grasslands, woodlands and wetlands
Swan Lodge	SBI	835m west of site	Areas of open water and running water particularly important for aquatic invertebrates.
Lower Hinds	SBI	1.4km northwest	Calcareous Grassland habitat
Elton Goit	SBI	1.4km west of site	An area of marshy pasture between the Manchester, Bolton & Bury Canal and Elton Reservoir. The site is a mosaic of marshy and improved grassland that is used as a feeding and breeding area for birds. Marshy grassland is a Greater Manchester Biodiversity Habitat. The hedgerows around the site are included in the SBI.
Manchester, Bolton & Bury Canal (East)	SBI	1.4km west of site	The canal supports a wide range of invertebrate and aquatic species including, freshwater shrimp, dragonfly, and damselfly species. The canal is a breeding site for Smooth newts. Great crested newts, and Common toad are also known to breed in ponds nearby. The site hosts several important species of aquatic plants not commonly found in Greater Manchester; Water-soldier <i>Stratiotes aloides</i> and Frogbit, <i>Hydrocharis morsus-ranae</i> .
Hollins Plantation	SBI	1.5km southeast of site	Woodlands
Townside	SBI	1.6km north of site	Pond habitats.
Parr Brook	SBI	1.6km southeast of site	Watercourse
Daisyfield	SBI	1.6km northwest of site	Habitats include; reedbed & swamps, ponds & small lodges. Grassland, aquatic invertebrates, and woodland habitats.

Site Name	Status	Distance and Direction from Site	Key Interest Feature(s)
Elton Reservoir	SBI	1.6km northwest of site	A large reservoir built to supply the Manchester, Bolton & Bury Canal. It is one of the most important reservoirs for birds in Greater Manchester. There is a long history of bird recording at this site with around 140 species recorded annually. As well as the reservoir, the SBI includes the reservoir in-flow streams together with a variety of terrestrial and aquatic habitats on the western and northern sides. Aquatic habitats in the northern area include two in-flows used by kingfishers and two ponds. The ponds support aquatic and emergent vegetation.
Sailor's Brow & Springwater Park	SBI	1.7km southwest of site	Ponds & Small Lodges; Habitat Mosaic; Aquatic Invertebrates
Pilsworth	SBI	1.8km east of site	Botanical interest
Withins Reservoir	SBI	1.9km west of site	A reservoir with associated habitats including neutral grassland, acid grassland, swap, marsh, scrub, and a stream. The reservoir is recognised for its ornithological value. The grassland habitats are Greater Manchester Biodiversity Priority Habitats.
Wetland near Radcliffe	SBI	2km southwest of site	Area of wetland known to host Smooth newts, Palmate newts, Common toad, and Common frog. Areas of marsh and swamp habitats also present.

Figure 6: Non-statutory wildlife sites within 2km of the site (map provided by GMEU)



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6.0 Notable Habitats

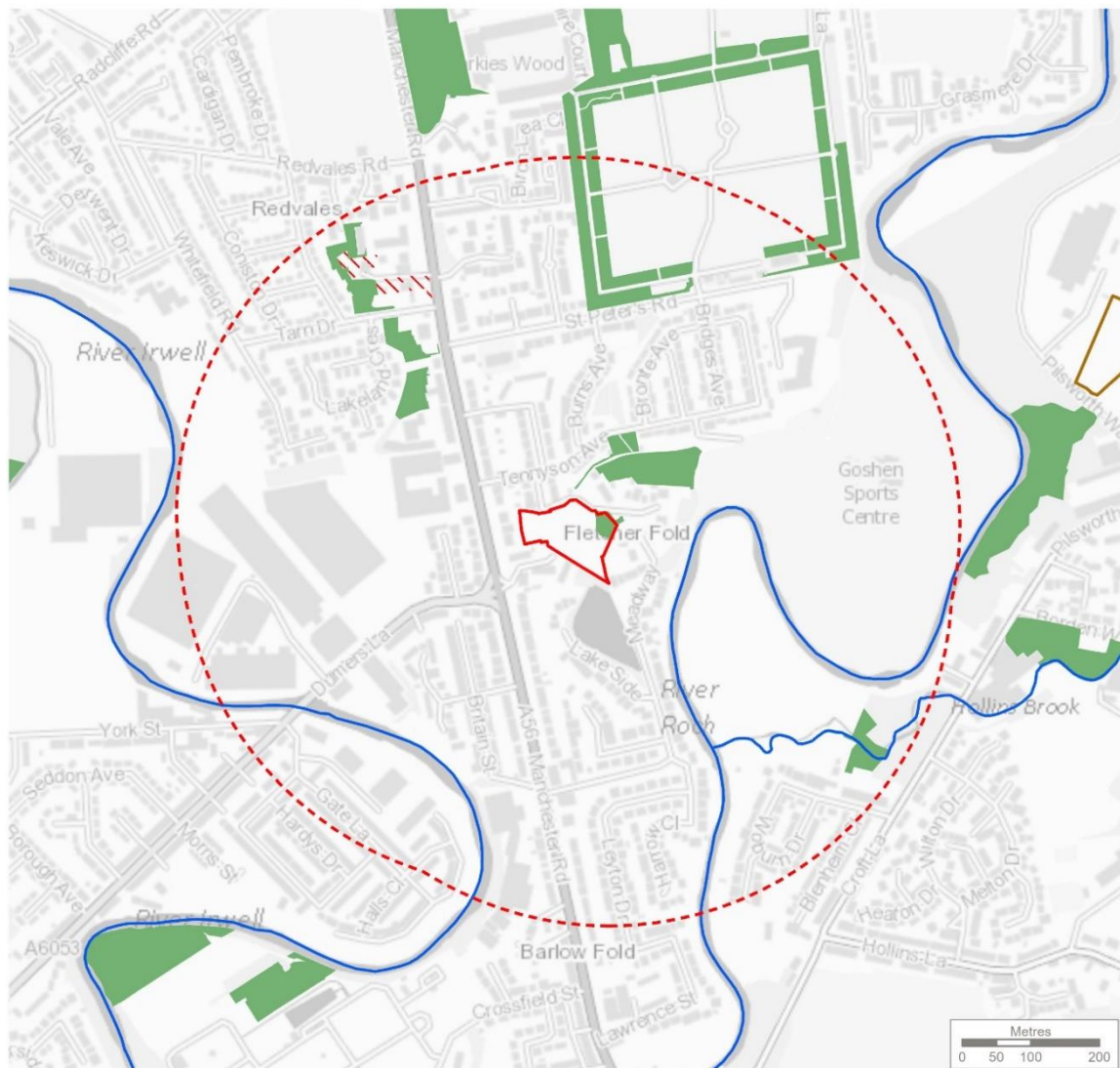
Ancient Woodland

- 6.1 A search for ancient woodland was conducted through a review of Natural England's ancient woodland inventory. No woodlands were found within the site boundary, or within the 0.5km buffer.

Habitats of Principal Importance (HPI)

- 6.2 Deciduous woodland, statutory main rivers and 'no main habitat but additional habitats present' as identified on Natural England's priority habitat inventory are present within 500m of the site (Figure 7). Deciduous woodland is mapped in the east of the site. The closest statutory main river, the River Roch, is located approx. 135m east and other additional habitats are located approximately 350m north-west.

Figure 7: Notable habitats within 2km of the site



- Key**
- Site boundary
 - Site boundary - 500m buffer
 - Statutory main rivers (England)
 - Deciduous woodland
 - No main habitat but additional habitats present
 - Open mosaic habitats on previously developed land



**THE
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Project
Fletcher Fold Road

Title
Notable Habitats Within and Adjacent to the Site

Drawing Number
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Scale
1:8,000 @ A4

Date
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Drawn
OH

Checked
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Approved
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7.0 Protected and Notable Species

Protected Species Licences

- 7.1 A review of Natural England's open datasets for granted protected species licences returned pond survey data for great crested newts between 2017 and 2019 within 2km of the site. This is summarised in Table 5 below.

Table 5: Natural England Pond Survey Data

Date	Location	GCN Present/Absent?
09/05/2016	Approx. 1.5km west of site	Present

- 7.2 Three Natural England mitigation licences have been identified within 2km of the site and these all relate to bats. These are summarised in Table 6 below.

Table 6: Natural England Mitigation Licences

Reference	Date	Species	Summary
2015-8936-EPS-MIT-1	01/05/2015 – 30/06/2020	C-PIP	Destruction of a resting place
2015-8936-EPS-MIT	01/05/2015 – 30/06/2020	C-PIP	Destruction of a resting place
2015-15221-EPS-BDX	15/09/2015 – 31/10/2015	C-PIP	Impact of a breeding site Damage of a breeding site Damage of a resting place Destruction of a breeding site Destruction of a resting place

Pre-existing Species Records

7.3 A total of 77 species records from the past 10 years were returned for within 2km of the site. These are summarised in Table 7 below.

Table 6: Summary of pre-existing species records returned by GMEU records centre

Name of Species	Relevant Legislation / Status (as assigned by GMEU records centre)	Number of records	Nearest record relevance
Amphibians			
Common Toad (<i>Bufo bufo</i>)	S41, WCA5	27	Approx 1.15km west
Great Crested Newt (<i>Triturus cristatus</i>)	S41, EPS, WCA5, LBAP	21	Approx 1.4km west
Birds			
Barn Owl (<i>Tyto alba</i>)	WCA1	39	Within 2km of site
Bar-tailed Godwit (<i>Limosa lapponica</i>)	BAm	1	Within 2km of site
Bittern (<i>Botaurus stellaris</i>)	WCA1, S41, BAm,	3	Within 2km of site
Black Redstart (<i>Phoenicurus ochruros</i>)	WCA1, BAm	2	Within 2km of site
Black-tailed Godwit (<i>Limosa limosa</i>)	WCA1, S41, BRd,	15	Within 2km of site
Bullfinch (<i>Pyrrhula pyrrhula</i>)	S41, BAm,	271	Within 2km of site
Cetti's Warbler (<i>Cettia cetti</i>)	WCA1	7	Within 2km of site
Common Redpoll (<i>Acanthis flammea</i>)	BRd	27	Within 2km of site
Common Scoter (<i>Melanitta nigra</i>)	WCA1, S41, BRd,	76	Within 2km of site
Cuckoo (<i>Cuculus canorus</i>)	S41, BRd,	2	Within 2km of site
Curlew (<i>Numenius arquata</i>)	S41, BRd,	114	Within 2km of site

Name of Species	Relevant Legislation / Status (as assigned by GMEU records centre)	Number of records	Nearest record relevance
Dunnock (<i>Prunella modularis</i>)	S41, BAm	207	Within 2km of site
Grasshopper Warbler (<i>Locustella naevia</i>)	S41, BRd,	74	Within 2km of site
Hawfinch (<i>Coccothraustes coccothraustes</i>)	S41, BRd,	5	Within 2km of site
Herring Gull (<i>Larus argentatus</i>)	S41, BRd,	167	Within 2km of site
Hobby (<i>Falco Subbuteo</i>)	WCA1	30	Within 2km of site
House Sparrow (<i>Passer domesticus</i>)	S41, BRd,	227	Within 2km of site
Kingfisher (<i>Alcedo atthis</i>)	WCA1'	199	Within 2km of site
Lapwing (<i>Vanellus vanellus</i>)	S41, BRd, , LBAP	673	Within 2km of site
Lesser Redpoll (<i>Acanthis cabaret</i>)	S41, BRd,	119	Within 2km of site
Linnet (<i>Linaria cannabina</i>)	S41, BRd, LBAP	108	Within 2km of site
Little Ringed Plover (<i>Charadrius dubius</i>)	WCA1	118	Within 2km of site
Marsh Tit (<i>Poecile palustris</i>)	S41, BRd,	2	Within 2km of site
Peregrine (<i>Falco peregrinus</i>)	WCA1	134	Within 2km of site
Reed Bunting (<i>Emberiza schoeniclus</i>)	S41, BAm, LBAP	343	Within 2km of site
Ring Ouzel (<i>Turdus torquatus</i>)	S41, BRd,	1	Within 2km of site
Scaup (<i>Aythya marila</i>)	WCA1, S41, BRd,	219	Within 2km of site

Name of Species	Relevant Legislation / Status (as assigned by GMEU records centre)	Number of records	Nearest record relevance
Skylark (<i>Alauda arvensis</i>)	S41, BRd,	179	Within 2km of site
Song Thrush (<i>Turdus philomelos</i>)	S41, BAm,	249	Within 2km of site
Spotted Flycatcher (<i>Muscicapa striata</i>)	S41, BRd,	88	Within 2km of site
Starling (<i>Sturnus vulgaris</i>)	S41, BRd, LBAP	173	Within 2km of site
Tree Pipit (<i>Anthus trivialis</i>)	S41, BRd,	28	Within 2km of site
Tree Sparrow (<i>Passer montanus</i>)	S41, BRd, LBAP	9	Within 2km of site
Willow Tit (<i>Poecile montanus</i>)	S41, BRd, LBAP	162	Within 2km of site
Wood Warbler (<i>Phylloscopus sibilatrix</i>)	S41, BRd	2	Within 2km of site
Yellow Wagtail (<i>Motacilla flava</i>)	S41, BRd, LBAP	90	Within 2km of site
Terrestrial Mammals			
Badger (<i>Meles meles</i>)	PBA	3	Approx 250m northwest
Bat sp.	EPS, S41, WCA5, LBAP	2	Within 2km of site
Brandt's Bat (<i>Myotis brandtii</i>)	EPS, WCA5, LBAP	1	Within 2km of site
Brown Hare (<i>Lepus europaeus</i>)	S41, LBAP	65	Approx 1.4km west
Brown Long-eared Bat (<i>Plecotus auritus</i>)	EPS, S41, WCA5, LBAP	5	Within 2km of site
Common Pipistrelle (<i>Pipistrellus pipistrellus</i>)	EPS, WCA5, LBAP	127	Within 2km of site
Daubenton's Bat (<i>Myotis daubentonii</i>)	EPS, WCA5, LBAP	9	Within 2km of site

Name of Species	Relevant Legislation / Status (as assigned by GMEU records centre)	Number of records	Nearest record relevance
Lesser Noctule (<i>Nyctalus leisleri</i>)	EPS, WCA5, LBAP	1	Within 2km of site
Myotis sp. (<i>Myotis sp.</i>)	EPS, WCA5, LBAP	17	Within 2km of site
Nathusius's Pipistrelle (<i>Pipistrellus nathusii</i>)	EPS, WCA5, LBAP	3	Within 2km of site
Noctule (<i>Nyctalus noctule</i>)	EPS, S41, WCA5, LBAP	19	Within 2km of site
Otter (<i>Lutra lutra</i>)	EPS, S41, WCA5	26	Within 2km of site
Pipistrelle sp. (<i>Pipistrellus</i>)	EPS, S41, WCA5, LBAP	38	Within 2km of site
Soprano Pipistrelle (<i>Pipistrellus pygmaeus</i>)	EPS, S41, WCA5, LBAP	8	Within 2km of site
Western European Hedgehog (<i>Erinaceus europaeus</i>)	S41	27	Approx 110m west
Whiskered/Brandt's Bat (<i>Myotis mystacinus</i> / <i>Myotis brandtii</i>)	EPS, WCA5, LBAP	2	Within 2km of site
Invertebrates			
Buff Ermine (<i>Spilosoma luteum</i>)	S41	1	Within 2km of site
Cinnabar (<i>Tyria jacobaeae</i>)	S41	7	Within 2km of site
Latticed Heath (<i>Chiasmia clathrate</i>)	S41	1	Within 2km of site
Small Heath (<i>Coenonympha pamphilus</i>)	S41	3	Within 2km of site
Wall (<i>Lasiommata megera</i>)	S41	1	Within 2km of site
White Ermine (<i>Spilosoma lubricipeda</i>)	S41	1	Within 2km of site

Name of Species	Relevant Legislation / Status (as assigned by GMEU records centre)	Number of records	Nearest record relevance
White-letter Hairstreak (<i>Satyrrium w-album</i>)	S41, WCA5	4	Within 2km of site
Bony Fish			
Brown Trout (<i>Salmo trutta</i>)	S41	3	Approx 560m east

Annex A: Key Ecological Legislation and National Policy

Relevant Legislation

International Conventions

- a. The UK is a Contracting Party to numerous environmental conventions, the commonest form of international agreements to encourage a coordinated response to managing the environment. Key environmental conventions ratified in the UK include:
- The Convention on Wetlands of International Importance especially as Waterfowl Habitat ('Ramsar Convention'²⁰ or 'Wetlands Convention') - provides the only international mechanism for protecting sites of global importance;
 - The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention²¹) - imposes legal obligations on contracting parties, protecting over 500 wild plant species and more than 1,000 wild animal species;
 - The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention²² or CMS) - provides strict protection for endangered migratory species. The UK has currently ratified four legally binding Agreements under the convention relating to bats (EUROBATS), African-Eurasian migratory birds (AEWA), small cetaceans in the Baltic, Irish and North Seas (ASCOBANS) and albatrosses and petrels (ACAP) in addition to five Memorandum of Understanding (MoU) and is non-party range state to a further Agreement and a further MoU;
 - The Convention Concerning the Protection of the World Cultural and Natural Heritage (UNESCO World Heritage Convention) - seeks to protect both cultural and natural heritage;
 - The Convention on Biological Diversity (Biodiversity Convention²³ or CBD) - provides a legal framework for biodiversity conservation. Within the UK, delivery of the CBD and the Strategic Plan for Biodiversity 2011-2020²⁴ is guided by the UK Post-2010 Biodiversity Framework²⁵.
- b. The legal obligations of the multiple Conventions to which the UK is a Contracting Party are enacted through a suite of national environmental legislation. The most relevant are described in the following paragraphs.

²⁰ Convention on Wetlands of International Importance especially as Waterfowl Habitat, Ramsar, 2.2.1971 <https://www.ramsar.org/>

²¹ Convention on the Conservation of European Wildlife and Natural Habitats. Bern, 1979 <https://www.coe.int/>

²² Convention on the Conservation of Migratory Species of Wild Animals, Bonn, June 1979 <https://www.cms.int/>

²³ Convention on Biological Diversity, Rio de Janeiro, June 1992 <https://www.cbd.int/>

²⁴ In October 2010, at the 10th Conference of the Parties to the CBD in Nagoya, Japan, the Parties adopted a new 'Strategic Plan for Biodiversity 2011–2020' along with its 20 'Aichi targets'. <https://www.cbd.int/sp/>

²⁵ The framework is overseen by the Environment Departments of the four UK governments working through the Four Countries' Biodiversity Group. It demonstrates how the UK, through each of the four countries, contributes to achieving the 'Aichi targets', and identifies the activities required to complement the individual country biodiversity strategies <https://jncc.gov.uk/our-work/uk-post-2010-biodiversity-framework/>

Conservation of Habitats and Species Regulations

- c. The Conservation of Habitats and Species Regulations 2017²⁶ (2017 Regulations) transposed the land and marine aspects of the Habitats Directive (Council Directive 92/43/EEC) and certain elements of the Wild Birds Directive (Directive 2009/147/EC) (known as the Nature Directives) into domestic law.
- d. The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019²⁷ (2019 Regulations) amends the 2017 Regulations to make them operable following the withdrawal of the United Kingdom from the European Union (EU). Most of the changes involve transferral of functions from European Commission to the appropriate authorities in England and Wales, also extending to Scotland and Northern Ireland and applies to Scotland and Northern Ireland (including the adjacent territorial sea to a limited degree), as regards reserved and excepted matters respectively. It also amends Section 27 of the Wildlife and Countryside Act 1981 to maintain existing protections and enforcement for species of wild birds.
- e. All other processes or terms in the 2017 Regulations remain unchanged and existing guidance and obligations (of a competent authority) remain relevant.

National Site Network

- f. Under the 2019 Regulations, Special Areas of Conservation (SAC) and Special Protection Areas (SPA) in the UK no longer form part of the EU's 'Natura 2000' ecological network, but instead (along with new SACs and SPAs designated under the 2019 Regulations) form the new National Site Network (NSN). Ramsar sites⁴ do not form part of the NSN but remain protected in the same way as SACs and SPAs.
- g. Proposals which may significantly affect a site belonging to the NSN and which are not connected with or necessary to the management of that site require (by Regulations 63 and 64 of the 2017 Regulations, as amended by Regulations 24 and 25 of the 2019 Regulations, respectively) competent authorities to undertake an Appropriate Assessment of the implications of the plan or project in view of that site's conservation objectives. This process is commonly referred to as a 'Habitats Regulations Assessment' (HRA). The assessment must consider the potential effects both of the plan/project itself and in combination with other plans or projects. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest (IROPI) and if the necessary compensatory measures can be secured.

²⁶ Conservation of Habitats and Species Regulations 2017 (SI 2017/1012) <https://www.legislation.gov.uk/uksi/2017/1012/>

²⁷ Conservation of Habitats and Species Regulations 2019 (SI 2019/579) <https://www.legislation.gov.uk/uksi/2019/579/>

Protected Species

- h. Certain animals and their breeding sites or resting places are protected under Regulation 43 of the 2017 Regulations, which makes it illegal to:
 - Deliberately capture, injure or kill any such animal or to deliberately take or destroy the eggs of such an animal;
 - Deliberately disturb such an animal; and
 - Damage or destroy a breeding site or resting place of such an animal.
- i. Disturbance is defined in the 2017 Regulations as an activity which is likely to impair a species' ability to survive, to breed or reproduce, to rear or nurture young or, in the case of animals hibernating or migratory species, to hibernate, migrate or which may affect significantly the local distribution or abundance; of the species.
- j. A bat's resting place is known as a roost site. Because bats tend to be faithful to roost sites but their biology is such that different roost site characteristics are preferred at different times of the year by different species for different functions, a bat roost is considered to be afforded protection even when it is not occupied.
- k. Certain plant species are protected under Regulation 47 of the 2017 Regulations against deliberate picking, collecting, cutting, uprooting or destruction. It is also an offence to be in possession or control and to transport any live or dead plant or part of a plant of such a species which has been taken in the wild.
- l. The 2017 Regulations (Regulation 55) enables a relevant licensing body to grant a licence for certain activities that may affect animal or plant species protected by the above provisions. The purpose must conform to one of those listed under Regulation 55(2). For most development related activities, the purpose normally relates to Regulation 55(2)(e) 'preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequence of primary importance for the environment' – commonly known as the IROPI test. Regulation 55(9) introduces two further tests that the licensing body must consider:
 - There is no satisfactory alternative; and
 - The favourable conservation status of the species concerned will be maintained and/or enhanced.
- m. Under Regulation 9(1) of the 2017 Regulations (as amended), competent authorities "must exercise their functions which are relevant to nature conservation... so as to secure compliance with the requirements of the Directives". Regulation 9(3) requires a competent authority, in exercising any of its function, to "have regard to the requirements of the Directives so far as they be affected by the exercise of those functions." Local

planning authorities must therefore consider the above three ‘tests’ when determining if planning permission should be granted for developments likely to cause an offence under the Regulations.

Wildlife and Countryside Act 1981

- n. The Wildlife and Countryside Act 1981 (as amended)²⁸ (WCA) is a major legal instrument for wildlife protection in the UK. In respect of habitats and flora, the WCA protects important habitats and/or species as Sites of Special Scientific Interest (SSSI). The designation of UK Ramsar sites⁴ has usually been underpinned through prior notification of these areas as SSSI and accordingly they receive statutory protection under the WCA.
- o. The obligations of the Bern Convention⁵ (the protection of wild plant and animal species and their natural habitats) are transposed into law for England and Wales²⁹ by the WCA. The legal requirement for the protection of migratory species listed by the Bonn Convention⁶ is also provided by the WCA.
- p. All wild birds (as defined by the WCA and with exception to species listed in Schedule 2) are protected under the WCA, which makes it illegal to:
 - Intentionally kill, injure or take any wild bird;
 - Take, damage or destroy the nest (whilst being built or in use) of any wild bird; or
 - Take or destroy the eggs of any wild bird.
- q. Special penalties are available for offences related to birds listed in Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young. The Secretary of State may also designate Areas of Special Protection (subject to exceptions) to provide further protection to birds. The WCA also prohibits certain methods of killing, injuring, or taking birds, restricts the sale and possession of captive bred birds, and sets standards for keeping birds in captivity.
- r. Certain animal species (listed under Schedule 5) of the WCA receive protection which makes it illegal (with certain exceptions) to:
 - Intentionally kill, injure or take any such animal;
 - Intentionally or recklessly damage, destroy or obstruct any place used for shelter or protection by any such animal;

²⁸ Wildlife and Countryside Act 1981 c. 69 <https://www.legislation.gov.uk/ukpga/1981/69/>

²⁹ In Scotland by the Nature Conservation (Scotland) Act 2004 (as amended) and in Northern Ireland by Wildlife (Northern Ireland) Order 1985 and the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985.

- Intentionally or recklessly disturb such animals while they occupy a place used for shelter or protection.
- s. The Environment Act (EA) 2021 amends the licensing regime under Section 16 of the WCA 1981 to enable licences to be granted (in England only) for reasons of overriding public interest. This new purpose will enable those involved in development activities to apply for a derogation under the WCA for species domestically protected under Schedule 5 of the WCA 1981.
- t. The amendments introduced by the EA 2021 at Section 16(3) requires that licensed may only be granted (in England) where:
 - there is no other satisfactory solution, and
 - the grant of the licence is not detrimental to the survival of any population of the species of animal or plant to which the licence relates.
- u. Plant species listed under Schedule 8 of the WCA 1981 are protected from unauthorised intentional picking, uprooting and destruction.
- v. It is an offence to plant or otherwise cause to grow in the wild any plant that is included in Schedule 9.

Countryside and Rights of Way Act 2000

- w. Part III of the Countryside and Rights of Way Act 2000³⁰ (CROW) deals specifically with wildlife protection and nature conservation. It requires that Government Departments have regard for the conservation of biodiversity, in accordance with the CBD. In addition, it requires that The Secretary of State publishes a list of living organisms and habitat types that are considered to be of principal importance in conserving biodiversity.
- x. CROW also amends the WCA, expanding the terms of offences to include reckless activity. It increases the legal protection of threatened species, by also making it an offence to “recklessly” obstruct access to a sheltering place used by an animal listed in Schedule 5 of the WCA or “recklessly” disturb an animal occupying such a structure or place.

Natural Environment and Rural Communities (NERC) Act 2006

- y. Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC)³¹ places a duty to conserve biodiversity on public authorities in England. It requires local

³⁰ Countryside and Rights of Way Act 2000 c. 37 <https://www.legislation.gov.uk/ukpga/2000/37/>

³¹ Natural Environment and Rural Communities Act 2006 c. 16 <https://www.legislation.gov.uk/ukpga/2006/16/>

authorities and government departments to have regard to the purposes of conserving biodiversity in a manner that is consistent with the exercise of their normal functions such as policy and decision-making. 'Conserving biodiversity' may include enhancing, restoring or protecting a population or a habitat.

- z. Section 41 requires the Secretary of State to publish and maintain lists of species and types of habitats which are regarded by Natural England to be of "principal importance" for the purposes of conserving biodiversity in England.
- aa. These habitats and species of principal importance (HPI and SPI) are drawn from earlier lists of United Kingdom Biodiversity Action Plan Priority Species and Habitats. The Section 41 (S41) lists of HPI and SPI are needed by decision-makers in local and regional authorities when carrying out their duties under Section 40 of the Act.

Environment Act 2021

- bb. The Environment Act 2021³² was passed into law in November 2021. The Act applies only to England, although many of its measures are designed to be operable across the UK with the consent of devolved administrations. The Act requires statutory long-term (15+ years) targets to be set (and monitored, reported and reviewed) in the four priority areas of waste reduction, air quality, water resources and biodiversity as well as additional targets relating to species abundance and fine particulates by 2030.
- cc. The Environment Act amends the Town and Country Planning Act 1990³³ in that planning permissions granted after the provisions come into force³⁴ are deemed to be subject to a condition prohibiting the start of development before a biodiversity gain plan has been submitted to and approved by the Local Planning Authority (LPA).
- dd. The biodiversity gain plan must demonstrate a net gain of at least 10% in the biodiversity value of the development site "as at the time the development is completed". Biodiversity net gain must be demonstrated by calculations using the biodiversity metric (currently version 3.1 published by Natural England)
- ee. The Environment Act introduces Local Nature Recovery Strategies (LNRS), a new system of spatial strategies for nature, covering the whole of England. LNRS are to be prepared and published by the 'responsible authority', namely the local authority, mayoral authority or National Park authority whose area is, or is within, the strategy area, the

³² Environment Act 2021 c.30 <https://www.legislation.gov.uk/ukpga/2021/30/>

³³ Town and Country Planning Act 1990 c. 8 <https://www.legislation.gov.uk/ukpga/1990/8/>

³⁴ The Biodiversity Gain provision of the Environment Act requires the Secretary of State to first publish detailed regulations (see s147(3) of the Act). These are anticipated in November 2023.

Broads Authority or Natural England. Section 40 of the NERC Act (duty to conserve biodiversity) makes provision about the duties of public authorities in relation to LNRS.

- ff. A ‘responsible authority’ is to be appointed to lead each LNRS area, which could include LPAs and which in mayoral combined authorities is highly likely to be the mayor. The responsible Authority must map the most valuable existing natural habitat in its area and develop a biodiversity strategy, including specific proposals for creating or improving habitats and priorities for nature recovery.
- gg. In addition to the above, the Environment Act Part 6 (Nature and biodiversity) will also:
- Strengthen the biodiversity duty through amendments to Section 40 of the NERC Act.
 - Impose a duty upon Local Authorities to consult on street tree felling;
 - Strengthen woodland protection enforcement measures;
 - Introduce Conservation Covenants (agreements between a landowner and a responsible body);
 - Protected Site Strategies (prepared and published by Natural England) to improve the conservation and management of a protected site (including SACs, SPAs listed before exit day, Sites of Community Importance (SCI)³⁵ listed before exit day and those sites proposed before exit day as SACs).
 - Species Conservation Strategies (prepared and published by Natural England) to improve the conservation status of any species of flora or fauna, with which a LPA in England and any prescribed authority must have regard so far as relevant to its functions, including when discharging its duties under the 2017 Regulations (as amended);
 - Prohibit larger UK businesses from using commodities associated with wide-scale deforestation (where ‘forest’ is defined as “an area of land of more than 0.5 hectares with a tree canopy cover of at least 10% (excluding trees planted for the purpose of producing timber or other commodities)”, which includes “land that is wholly or partly submerged in water whether temporarily or permanently”);
 - Require regulated businesses to establish a system of due diligence for each regulated commodity used in their supply chain, requires regulated businesses to report on their due diligence, introduces a due diligence enforcement system.

Hedgerow Regulations 1997

- hh. Important hedgerows are protected from removal by the Hedgerows Regulations³⁶ (as amended). Regulation 3 defines the hedgerows to which the Regulations apply.

³⁵ SCIs are established under the European Union Habitats Directive (92/43/EEC) and are (under the Habitats Directive) the pre-requisite step for establishing SACs and SPAs.

³⁶ The Hedgerow Regulations 1997 (SI 1997/1167) <https://www.legislation.gov.uk/uksi/1997/1160/>

Regulation 4 sets out the criteria for identifying “important hedgerows” including ecological, landscape or historical/cultural reasons. Under the Hedgerow Regulations it is against the law to remove or destroy certain hedgerows without permission from the local planning authority. Works to “important hedgerows” are exempt under the Hedgerow Regulations if planning consent is granted which allows their removal.

- ii. The identification of important hedgerows also provides an additional means to value hedgerows aside from their botanical value (e.g. species richness) as the assessment of importance also includes characteristics relating to maturity and structure (e.g. associated features, connectivity, integrity) which will affect the functional value of the hedgerow.

Protection of Badgers Act 1992

- jj. Badgers and their setts receive statutory protection under the Protection of Badgers Act 1992 (PBA)³⁷. This makes it an offence to wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so; or to intentionally or recklessly interfere with a sett.
- kk. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it. A badger sett is defined in the legislation as “any structure or place, which displays signs indicating current use by a badger.”

Wild Mammals (Protection) Act 1996

- ll. All UK wild mammals are afforded a degree of protection from certain cruel acts. The Act is intended to preserve animal welfare more so than nature conservation. The Act makes it an offence to use a variety of methods to intentionally cause suffering to a wild mammal. It also has exemptions including in relation to euthanasia and otherwise lawful use of certain methods of killing.

Relevant National Policy

National Planning Policy Framework

- mm. The National Planning Policy Framework (NPPF23)³⁸ sets out the Government’s planning policies for England and how these are expected to be applied at a local level in development plans and how developers should address them. The Framework places great emphasis on plans and developments contributing to sustainable development.

³⁷ Protection of Badgers Act 1992 c. 51 <https://www.legislation.gov.uk/ukpga/1992/51/>

³⁸ National Planning Policy Framework (2023). Department for Levelling Up, Housing and Communities. <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

- nn. Policy relating to sustainable design, climate resilience and green infrastructure are integrated throughout the NPPF. Relating to the planning and delivery of large-scale developments, Paragraph 22 requires that a vision should look at least 30 years ahead.
- oo. Paragraph 73 identifies a number of considerations to help guide such large-scale proposals including consideration of opportunities presented by the scope for net environmental gains, ensuring sustainable communities, quality of places, rates of delivery and establishment of Green Belt around or adjoining new developments of significant size.
- pp. Paragraph 131 states that “Planning policies and decisions should ensure that new streets are tree-lined and that opportunities are taken to incorporate trees elsewhere in developments and that appropriate measures are put in place to secure the long-term maintenance of newly planted trees, and that existing are retained where possible.”
- qq. Paragraph 153 state that plans should take a proactive approach to mitigating and adapting to climate change, considering the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts.
- rr. Furthermore paragraph 154 requires that new development should be planned to avoid increased impacts from climate change. In areas which are vulnerable from impacts of climate change these should be mitigated against and managed through suitable adaption measures, such as green infrastructure.
- ss. Part 15 Paragraphs 174 to 188 relate expressly to conserving and enhancement the natural environment. Paragraph 174 requires that planning policies and decisions should contribute to and enhance the natural and local environment by:
 - 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);
 - 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;
 - maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
 - minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
 - 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

- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

- tt. Paragraphs 175 and 176 relate designated sites, prioritising allocation of land with least environmental or amenity value, establishing a strategic approach to maintaining and enhancement landscape networks and the sensitive location and design of development within the setting of designated sites to avoid or minimise impacts upon those sites.
- uu. Paragraphs 179 to 182 specifically relate to habitats and biodiversity. Under paragraph 179, plans should identify, map and safeguard designated sites of importance for biodiversity and wider ecological networks (corridors and stepping stones) that connect them, promote conservation, restoration and enhancement of these networks, priority habitats and priority species recovery in addition to pursuing measurable biodiversity net gain.
- vv. Paragraph 180 requires local planning authorities to apply the following principles when determining planning applications:
- if significant harm 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;
 - 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;
 - development resulting in the loss or deterioration of irreplaceable habitats³⁹ should be refused, unless are wholly exceptional reasons and a suitable compensation strategy exists; and;
 - 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.”

³⁹ Noted by NPPF23 as “Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen”.

- ww. Paragraph 181 stipulates that the following should be given the same protection as habitats sites⁴⁰:
- potential Special Protection Areas and possible Special Areas of Conservation;
 - listed or proposed Ramsar sites; and
 - sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.
- xx. Paragraph 182 confirms the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
- yy. Paragraphs 183 to 188 relate to ground conditions and pollution, including light pollution. Paragraph 185(c) requires policies and planning decisions ensure that new developments limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Government Circular 06/2005

- zz. Government Circular 06/2005⁴¹ remains pertinent in national policy even though PPS9, which it originally supported, was revoked by the NPPF. NPPF23 references the Circular and the guidance contained within, namely the statutory obligations for biodiversity and geological conservation and their impact within the planning system.
- aaa. The Circular provides guidance on the protection of designated international and national nature conservation sites, non-designated sites, the conservation of species, and advice on the related issues and statutory powers.
- bbb. Part IV relates to conservation of species protected by law and confirms the presence of such a species is a material consideration for planning decisions. Paragraph 99 states *“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning*

⁴⁰ Defined by NPPF23 as “Any site which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations, including candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation, Special Protection Areas and any relevant Marine Sites”.

⁴¹ Office of the Deputy Prime Minister (2005) ‘Government Circular: Geological and Biological Conservation – Statutory obligations and their implications within the planning system’ ODPM circular 06/2005, DEFRA circular 01/2005
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7692/147570.pdf

permission is granted, otherwise all relevant material considerations may not have addressed in making the decision”.

- ccc. Paragraphs 104 to 117 summarise legal status of species afforded protection under the Habitats Regulations (now, the 2017 Regulations) and the licensing process while paragraphs 118 to 122 explain the same for species afforded protection under the WCA. Paragraphs 123 and 124 summarise the protective status of badgers under the PBA. Paragraph 124 states that *“the likelihood of disturbing a badger sett, or adversely affecting badgers’ foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions. Although consideration of the case for granting a licence is separate from the process of applying for planning permission, a planning authority should advise anyone submitting an application for development in an area where there are known to be badger setts that they must comply with the provisions of the Act”.*

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