
PRELIMINARY ECOLOGICAL APPRIASAL

Land off Wakefield Road, Athersley, Barnsley

Harworth Group



**Applied Ecological Services Ltd
Ramshaw House, Ramshaw
County Durham
DL14 0NG**

**www.aes-ltd.com
info@aes-ltd.com
01388 835084**

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The report refers, within the limitations stated, to the environment of the site in the context of the surrounding area at the time of the inspections. Environmental conditions can vary and no guarantee is given as to the possibility of changes in the environment of the site and surrounding area at differing times. The details within this report will be determined by a number of factors including; its original purpose, the Client's instructions, passage of time, advances in technology and techniques, changes in legislation etc. and therefore may require future re-assessment.

Note that the recommendations within this report should be reviewed (and reassessed if necessary) should there be any changes to the red line boundary or development proposals upon which this report was based on.

Report Reference & History: Document 1, V2.

Issue Status	Prepared by:	Approved / Date
Version 1	Dr Caroline Hillier MCIEEM	17/07/2017
Version 2	Dr Caroline Hillier MCIEEM	22/04/2021
Client issue	Charlotte Mercer M.Sc, B.Sc (Hons)	30/04/2021

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EXECUTIVE SUMMARY

CONTENTS	SUMMARY
Site Location	Land off Wakefield Road, Athersley, Barnsley, South Yorkshire
Approximate Central Grid Reference	SE 34777 08827
Proposals	Planning application for engineering works (related to land contamination at the site) and partial drilling and grouting of the site. The proposals also seek the discharge of condition 12 (land contamination) of planning application ref: 2017/1451
Scope of this Survey(s)	Verification of Extended phase 1 habitat survey including a risk assessment for protected / notable species and invasive species.
Designated Sites	There is one statutory site and two non-statutory sites within the 2km search area. <ul style="list-style-type: none"> • Dearne Valley Park LNR; • Barnsley Canal at Wilthorpe LWS, and • Old Mill Lane LWS.
Priority Habitats	<ul style="list-style-type: none"> • Hedgerow • Semi-improved neutral grassland
Protected / Priority Species	The site supports, or has the potential to support the following protected and priority species: <ul style="list-style-type: none"> • foraging and commuting bats; • breeding/nesting birds; • terrestrial invertebrates, and • hedgehog.
Recommendations for Further Survey	None, unless vegetation is being cleared in the bird nesting season and then checking surveys will be required.
Reasonable Avoidance Measures	<ul style="list-style-type: none"> • Avoid vegetation removal during the bird nesting period if possible or undertake breeding bird checking surveys. • Protect retained features such as hedgerows and trees during the remediation works as per TEP tree survey recommendations / British Standard BS 5837: 2012. • If additional lighting is required to undertake the works implement a sensitive lighting regime.
Recommendation for enhancements to the site	N/A.

* The whole of the report must be read as other sections of the report may contain information which puts the findings in any executive summary into context.

1.0 INTRODUCTION

BACKGROUND

- 1.1 Applied Ecological Services Ltd. (AES-LTD) was originally commissioned to undertake an Extended Phase 1 Habitat Survey including a protected species risk assessment, within an area of land off Wakefield Road, Athersley, Barnsley, South Yorkshire S71 1NX during 2017. Following survey of the site, further dedicated surveys were recommended and subsequently undertaken for amphibians, breeding birds and bats. Survey information and reporting was used to provide an assessment of those potential ecological constraints to the development of the site along with recommendations for mitigation and site enhancement.
- 1.2 In April 2021 AES-LTD were further instructed to verify the existing habitat survey data for a smaller area in the north of the site, to update the habitat survey plan and identify habitats and species that are present within the site boundary and to provide baseline data of the site and highlight areas for further investigation that may provide a constraint to development.
- 1.3 The land within the site boundary at Athersley is subject to land remediation works due to contamination. The site is situated 2.44km north north east of the centre of Barnsley within a semi-rural setting. The centre of the site is at OS grid reference SE 34777 08827.
- 1.4 The site comprises improved, semi-improved and amenity grassland, defunct and continuous hedgerows, fences, stone and brick walls, scattered and dense scrub, scattered trees, ephemeral/short perennial grassland (ESP) and a watercourse and is bounded to the south by an area of plantation woodland.

2.0 THE PROPOSED DEVELOPMENT

SITE LOCATION

- 2.1 The survey area (red line boundary) covers approximately 3.9ha (9.8 acres) and is located at grid reference SE 34777 08827 (approximate central point). The survey area will be referred to as the site or the survey area within the report and it is situated just west of Wakefield Road (A61).

Figure 1: Site Location



- 2.2 The proposals are understood to be a planning application for engineering works (related to land contamination at the site) and partial drilling and grouting of the site. The proposals also seek the discharge of condition 12 (land contamination) of planning application ref: 2017/1451.

3.0 SURVEY AND SITE ASSESSMENT METHODS

DESK STUDY

3.1 In order to compile existing baseline information, relevant ecological information was requested from the following organisations which for the purposes of this report, included:

- Multi Agency Geographic Information for the Countryside (Magic) website;
- Sheffield Biological Records Centre (SBRC);

3.2 A 5km radius was searched for sites of International nature conservation importance, such as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), and a 2km radius for statutory sites of national, regional and local importance, such as Sites of Special Scientific Interest (SSSIs) and Local Nature Reserves (LNRs), and non-statutory designated sites such as Local Wildlife Sites (LWS) and also for records of protected and notable species.

3.3 Further inspection, using colour 1:25,000 OS base maps (www.ordnancesurvey.co.uk) and aerial photographs from Google Earth (www.maps.google.co.uk), was also undertaken in order to provide additional context and identify any features of potential importance for nature conservation in the wider area.

FIELD SURVEY

HABITATS / FLORA

3.4 The site was surveyed on the 3rd May and 19th June, 2017 by Charlotte Mercer MSc, BSc (Hons) and Dr Caroline Hillier MSc BSc (Hons) MCIEEM. The northern part of the site was re-surveyed on 19th April 2021 by Dr Caroline Hillier. Charlotte is principal ecologist and company director and Caroline is senior ecologist, both are experienced field biologists with Applied Ecological Services Ltd (AES-LTD). Caroline holds Natural England Survey licences for both bats (2015-155181-CLS-CLS) and great crested newt (2015-16700-CLS-CLS). The habitat survey was undertaken using the standard Extended Phase 1 Habitat Survey methodology (JNCC, 2010)¹ as recommended by Natural England to identify specific habitats of ecological interest. Target notes were used to record features of interest or specific habitats and species identified

¹ JNCC, (2010), Handbook for Phase 1 habitat survey - a technique for environmental audit.

during the survey. Whilst a species list should not be regarded as exhaustive, sufficient information was gained during the survey to enable classification and assessment of major habitat types.

- 3.5 Any habitats suitable for, or features with the potential to support, protected or notable species were also assessed and recorded.
- 3.6 Checks for notifiable plant species, such as Japanese knotweed *Fallopia japonica* were also made during the survey.

SURVEY LIMITATIONS

- 3.7 The habitat survey was undertaken early in the season, however habitats present on site were easily identifiable. The timing of the survey is not considered a significant constraint.

ECOLOGICAL APPRAISAL OF THE SITE

- 3.8 The preliminary appraisal of the site forms a baseline to inform any likely ecological constraints to development and whether additional information is required. Where relevant, the ecological appraisal considers policy and legislative protection afforded to specific habitats and species. A summary of key policy and wildlife legislation is provided in **Appendix 2**.

4.0 RESULTS

DESKTOP ASSESSMENT

- 4.1 A search for statutory sites of national, regional and local importance using Magic website indicates that there is one Local Nature Reserve (LNR) within a 2km radius of the site. Sheffield Biological Records Centre indicates the presence of two non-statutory designated sites comprising two Local Wildlife Sites (LWS), a further LWS Cliff Wood was located just out of the 2km buffer.

DESIGNATED SITES

- 4.2 There is one statutory site and two non-statutory designated sites within 2km of the site boundary (**Table 1**). The location of the statutory and non-statutory designated sites within 2km of the survey area are illustrated on **Drawing 1**.

Table 1: Statutory and non-statutory designated sites

Designation	Site Name & Description	Grid Ref.	Distance & Direction from Site
LNR	Dearne Valley Park Acidic oak woodland with mosaic of wetland habitats	SE 360 069	1.30km SSE
LWS	Barnsley Canal at Wilthorpe Woodland / wet pasture & standing water	SE 337 084	0.49km SW
LWS	Old Mill Lane Deciduous woodland, wetland and grassland	SE 348 075	0.62km SSE

- 4.3 Local Nature Reserve (or LNR) is a statutory designation made under Section 21 of the National Parks and Access to the Countryside Act 1949, and amended by Schedule 11 of the Natural Environment and Rural Communities Act 2006, by principal local authorities. LNRs are designated for their nature conservation interest, local importance for education or research, and they provide an opportunity for informal enjoyment of nature by the public.
- 4.4 Local Wildlife Sites (LWS) are areas of land which are rich in wildlife and are equivalent to Sites of Importance for Nature Conservation (SNCI). Criteria for selection take in threats and declines in certain species, national priorities and local distinctiveness. The LWS system is managed, in partnership, by The Wildlife Trust, local authorities, statutory nature conservation agencies, local naturalists and landowners. Local Wildlife Sites were previously

known as County Wildlife Site (CWS) in the past. LWS are non-statutory sites of County level importance, and protected under planning policies of the component district authorities.

ECOLOGICAL RECORDS

- 4.5 The data search with the Local Records Centre was updated to identify any new records since the original 2017 request and Sheffield Biological Records Centre (SBRC) returned 1596 protected and priority species records within 2km of the site on **20th April 2021**. These data were filtered to the last 10 years (2011-2021) leaving 727 records.
- 4.6 The location of protected species records in relation to the site is illustrated on **Drawing 2**.

PROTECTED SPECIES

Great crested newt

- 4.7 SBRC returned 12 records of GCN, seven from around the same location described as Barnsley Canal at Wilthorpe LWS or Darton 1.1km to the south west. All the records of GCN are located on the opposite side of the River Dearne to the site, a considerable barrier to the movement of GCN.

Mammals

Bats

- 4.8 SBRC returned 88 records of bats from the last 10 years, only one of which was a roost record. The only roost was of **Daubenton's bats** *Myotis daubentonii* associated with the bridge carrying Old Mill Lane over the River Dearne 0.43km south south east of the site. The remaining records were of bats foraging and in flight (commuting) in the area and included **common pipistrelle** *Pipistrellus pipistrellus*, **soprano pipistrelle** *Pipistrellus pygmaeus*, **pipistrelle bat** *Pipistrellus sp.*, **Daubenton's bat**, **noctule** *Nyctalus noctula* and **unidentified bats**.
- 4.9 Consultation with South Yorkshire Bat Group in 2017 returned 15 roost records; the closest record (x2 records for same roost) was from 2010 for a private house, species unknown, 0.83km to the east of the site boundary. Ten of the records were for the same roost spanning between the years 2010 – 2013, a roost of **Daubenton's bats** at a culvert / bridge on the River

Dearne at Old Mill Lane (as above). One of the records was for a **common pipistrelle** roost from 2014 from a private house located 1.98km to the south of the site boundary. Two records were from Monk Bretton, both private houses from 2007 and 2009 respectively; the first a roost of **common pipistrelle** located 1.74 km to the south east and the second of a roost of **pipistrelle species** located 2.01 km to the south east of the site. Nine of the records were of bat care i.e. for when a bat had been injured and collected and were from various locations. The rest of the records were of bats foraging or commuting, with the majority of the records from the River Dearne or Wilthorpe Marsh. Species represented in the records were **common pipistrelle**, **soprano pipistrelle**, **Daubenton's**, **noctule** and one **Leiser's** *Nyctalus leisleri* record (Wilthorpe Road, 2.39km the south south west of the site boundary).

- 4.10 A search on Magic website on 22nd April 2021 for granted European Protected Species Applications indicates that there is still only one licence applications relating to bats within 2km of the site. The application is EPSM 2013-6477 for the destruction of a resting place of common pipistrelle bats between 18th October 2013 and 30th September 2014, 1.5km to the south, south west of the site.

Otter

- 4.11 SBRC returned two records of **otter** *Lutra lutra* from Old Mill Lane LWS to the south east of the site.

Water vole

- 4.12 SBRC returned 48 contemporary records of **water vole** *Arvicola amphibius* within the search area. The majority of records were associated with the large pond at Athersley Memorial Park, 1.4km to the north east.

Badger

- 4.13 Due to the ongoing persecution of badger details of their location are not detailed in this report. SBRC returned one contemporary record of **badger** *Meles meles* within the 2km search area, the record was approximately 1.45km from the site.
- 4.14 The original data search obtained badger records from South Yorkshire Badger Group and they reported a badger killed on a road a minimum of 0.56km from the site.

Bird species

4.15 SBRC returned 492 bird records comprising 62 species within a 2km radius of the site. The records include ten birds protected under schedule 1 part 1 of the Wildlife and Countryside Act 1981 (as amended). The majority of the protected bird species are recorded at Willthorpe Marsh, Fleets wetland area at Old Mill Lane LWS and Barnsley Canal at Wilthorpe and include the following species:

- **black-tailed godwit** *Limosa limosa*;
- **Cetti's warbler** *Cettia cetti*;
- **fieldfare** *Turdus pilaris*;
- **greylag goose** *Anser anser*;
- **green sandpiper** *Tringa ochropus*;
- **kingfisher** *Alcedo attis*;
- **little-ringed plover** *Charadrius dubius*;
- **peregrine** *Falco peregrinus*;
- **red kite** *Milvus milvus*;
- **redwing** *Turdus iliacus*;

Crustaceans

4.16 SBRC returned two historical records of **white-clawed crayfish** *Austropotamobius pallipes* from the River Dearne at Old Mill Lane LWS, both from 2010.

Plants

4.17 SBRC returned nine records of native **bluebell** *Hyacinthoides non-scripta* within the 2km search area. The records related to Barnsley Canal at Wilthorpe LWS and Monk Bretton Park.

PRIORITY SPECIES

Amphibians

4.18 Common toad, common frog and smooth newt are recorded at the Barnsley Canal at Wilthorpe LWS and from ponds at Darton in the wider area. Toad are UK BAP priority species.

Birds

4.19 SBRC returned 492 bird records comprising 62 species within a 2km radius of the site. The majority of the records related to Wilthorpe Marsh and Barnsley Canal at Wilthorpe. There were

16 records of house sparrow recorded at various locations across the 2km buffer to the site. Lapwing and grey partridge are also Barnsley Biodiversity Action Plan priority species. The records included ten species that were UK BAP Priority species:

- **cuckoo** *Cuculus canorus*;
- **curlew** *Numenius arquata*;
- **grasshopper warbler** *Locustella naevia*;
- **grey partridge** *Perdix perdix*;
- **house sparrow** *Passer domesticus*;
- **lapwing** *Vanellus vanellus*;
- **reed bunting** *Emberiza schoeniclus*;
- **tree sparrow** *Passer montanus*;
- **tree pipit** *Anthus trivialis*, and
- **yellowhammer** *Emberiza citronella*.

Mammals

- 4.20 SBRC holds two records of **hedgehog** *Erinaceus europaeus*, a UKBAP and Barnsley BAP species. One record is 1.1km to the north west, the other id for the adjacent 10km grid square to the east.

Fish

- 4.21 SBRC returned one record of **brown/sea trout** *Salmo trutta* on the River Dearne at Old Mill, Barnsley, 1.4km to the south south east of the site.

Terrestrial invertebrates

- 4.22 25 records of terrestrial invertebrates were provided, comprising six species that are UK BAP priority species. The records are from Mapplewell Tip, North Gawber, Willthorpe marsh and Barsley Canal at Wilthorpe, Old Road, Smithies and the Fleets. Species recorded in the area include **dingy skipper** *Erynnis tages*, **small heath** *Coenonympha pamphilus*, **cinnabar** *Tyria jacobaeae*, **dark-barred twin-spot carpet** *Xanthorhoe ferrugata*, **shaded broad-bar** *Scotopteryx chenopodiata* and **small square-spot** *Diarsia rubi*

Plants

- 4.23 SBRC provided no records of BAP priority species of plants, or any nationally scarce or red listed species.

INVASIVE/NON-NATIVE SPECIES

- 4.24 SBRC did not return any records of invasive non-native species.

FIELD SURVEY

GENERAL SITE DESCRIPTION - HABITATS

- 4.25 Habitats within the survey area include amenity grassland, improved pasture, semi-improved neutral grassland, ephemeral/short perennial grassland, a watercourse, scattered and dense scrub, hedgerows, fences, stone walls and bare ground. At the periphery there is an area of plantation woodland to the south outside of the site boundary (third party trees), but the tree canopy overhangs the survey area.
- 4.26 The locations of the habitats described in the following sections can be found on the Phase I Habitat Plan **Drawing 3**.

IMPROVED PASTURE

- 4.27 To the east of East Gawber Farm there is a field of improved pasture (T1). This grassland is characterised by abundant perennial rye-grass *Lolium perenne* with locally abundant false-oat-grass *Arrhenatherum elatius*, frequent Yorkshire fog *Holcus lanatus*, meadow foxtail *Alopecurus pratensis* and occasional cock's-foot *Dactylis glomerata*. Herbaceous species typically include meadow buttercup *Ranunculus acris*, white clover *Trifolium repens*, ribwort plantain *Plantago lanceolata*, broad-leaved dock *Rumex obtusifolius*, black medic *Medicago lupulina*, nettle *Urtica dioica*, common mouse-ear *Cerastium fontanum*, red clover *Trifolium pratense*, dandelion *Taraxacum officinalis*, cow parsley *Anthriscus sylvestris* and black knapweed *Centaurea nigra*.

DENSE SCRUB

- 4.28 T2 is an area of dense bramble *Rubus fruticosus agg.* scrub at the northern boundary of the field of improved pasture. Species include locally abundant bramble, occasional elder *Sambucus nigra*, nettle, creeping thistle *Cirsium arvense*, and hedge bindweed *Calystegia sepium*. Other

areas of dense bramble scrub or dense hawthorn scrub have developed along the walls along the eastern boundary of the site.

- 4.29 Within the eastern field there is a linear depression and primarily along the length of this there are areas of dense scrub. T5 comprises bramble and hawthorn. Some areas of scrub, such as T7, also include a semi-mature ash *Fraxinus excelsior* and locally frequent crab apple *Malus sylvestris* in addition to frequent hawthorn, locally abundant bramble and occasional dog-rose. Honeysuckle *Lonicera periclymenum* is locally abundant climbing through the scrub. Other species include rosebay willowherb *Chamerion angustifolium*, creeping thistle, nettle and wood sage *Teucrium scorodonia*. T8 and T10 are dominated by hawthorn with bramble underscrub. To the north of the plantation woodland, T9 represents dense thickets of bramble with areas of suckering blackthorn.

PLANTATION WOODLAND

- 4.30 T12 is a relatively young plantation woodland, a linear feature planted as a screen along the boundary of the adjacent Stagecoach Depot. The trees are outwith the site but the tree canopy overhangs into site. Species include sycamore, silver birch *Betula pendula*, goat willow, grey willow, hawthorn, ash *Fraxinus excelsior* and Norway spruce *Picea abies*.

HEDGEROWS

- 4.31 T3 is a row of hawthorn *Crataegus monogyna*, probably a remnant of a hedgerow which is now defunct and overgrown. The shrubs reach a height of approximately 6m and a width of 3m. Other species include frequent blackthorn, occasional dog-rose *Rosa canina agg.* and locally abundant bramble.
- 4.32 T15 is described as a linear boundary feature comprising of self-set trees along either side of a dirt access track. Very dense in places to the southern end of the group with scattered self-set trees towards the northern end. Species include grey willow, silver birch and hawthorn with locally abundant suckering blackthorn. The majority of this feature would not be classed as a hedgerow.

EPHEMERAL/SHORT PERERNNIAL GRASSLAND

- 4.33 T4 is an area of ephemeral/short perennial grassland (ESP) to the south of the driveway leading to East Gawber Farm. The ESP is associated with an area of compacted hardcore to the south of the driveway which is vegetated by an open grassland. Grasses include frequent perennial rye-grass, creeping bent *Agrostis stolonifera*, squirrel-tail fescue *Vulpia bromoides* and occasional Yorkshire fog and false oat-grass. Herbaceous species include pineapple weed *Matricaria discoidea*, bird's-foot-trefoil *Lotus corniculatus*, mouse-ear hawkweed *Hieraceum pilosella*, yarrow *Achillea millefolium*, common cat's-ear *Hypochaeris radicata*, black medic, common ragwort *Senecio jacobaea* and dove's-foot crane's-bill *Geranium molle*.

SEMI-IMPROVED NEUTRAL GRASSLAND

- 4.34 The site comprises several fields of semi-improved neutral grassland divided by fences, some of which are temporary and a hedgerow. To the east of the site the largest grassland unit is more species diverse (T6). Grasses within the sward include locally abundant false oat-grass and red fescue *Festuca rubra*, locally frequent sterile brome *Bromus sterilis* with frequent creeping bent, common bent *Agrostis capillaris*, meadow foxtail, perennial rye-grass, soft brome *Bromus hordaceus*, Yorkshire fog and occasional cock's-foot. Field wood-rush *Luzula campestris* was also locally abundant on some of the grassy slopes. Herbaceous species were quite diverse and included common sorrel *Rumex acetosa*, creeping cinquefoil *Potentilla reptans*, red dead-nettle *Lamium purpurea*, cow parsley, common vetch *Vicia sativa*, cleavers *Galium aparine*, meadow buttercup, creeping buttercup *Ranunculus repens*, broad-leaved dock, ribwort plantain, mouse-ear hawkweed, black knapweed, white dead-nettle *Lamium album*, nettle, bird's-foot-trefoil, common ragwort, germander speedwell *Veronica chamaedrys*, daisy *Bellis perennis*, dandelion, common field speedwell *Veronica persica*, yarrow, white campion *Silene latifolia*, red clover, redshank *Persicaria maculosa*, common knotgrass *Polygonum aviculare*, common spotted orchid *Dactylorhiza fuchsia*, northern marsh orchid *D. purpurella*, purple toadflax *Linaria purpurea*, common toadflax *L. vulgaris*, wood sage, red bartsia *Odontites vernus*, colt's-foot *Tussilago farfara*, rosebay willowherb, self-heal *Prunella vulgaris*, common mouse-ear, perforate St John's-wort *Hypericum perforatum*, common cat's-ear, field bindweed *Convolvulus arvensis*, oxeye daisy *Leucanthemum vulgare*, cut-leaved crane's-bill *Geranium dissectum*, dove's-foot crane's-bill, creeping thistle and spear thistle *Cirsium vulgare*. There is also locally abundant pointed spear-moss *Calliergonella cuspidata* and occasional common earthballs *Scleroderma citrinum*.

- 4.35 The semi-improved pasture to the west of the site (T12) is more heavily grazed and less species diverse than the grassland to the east. The sward is a similar composition to that of T6; herbaceous species include locally abundant creeping buttercup and creeping cinquefoil with locally frequent red bartsia, greater plantain, white clover and frequent dandelion, black knapweed. Occasionally recorded species included bird's-foot-trefoil, common mouse-ear, meadowsweet *Filipendula ulmaria*, meadow buttercup, common toadflax, broad-leaved dock and meadow vetchling *Lathyrus pratensis*.

AMENITY GRASSLAND

- 4.36 Lawned area (T18) which is part of the garden associated with East Gawber Farm. The lawn is a typical perennial rye-grass mix with common species such as daisy, dandelion, greater plantain *Plantago major* and white clover.

WATERCOURSE

- 4.37 T16 is shown on the plan as a watercourse. This waterbody arises at an area where two culverts discharge, one appears to discharge surface water and the other sewage effluent. These outfall pipes lead to the area to the south of the site being periodically flooded resulting in an area of swamp. The channel is polluted and heavily shaded and there is no in-channel vegetation associated with it.

SCATTERED SCRUB

- 4.38 Scattered scrub throughout the site was mostly hawthorn with the occasional dog-rose and bramble underscrub.

HARD STANDING/BARE GROUND

- 4.39 Mostly comprises the Tarmacadam driveway to East Gawber Farm and areas of hardstanding for stored materials and a dirt track along the north western boundary of the western field of semi-improved pasture.

SCATTERED TREES

- 4.40 Scattered trees include silver birch *Betula pendula*, ash and willows.

RUBBLE

- 4.41 To the west of the site within the area of bare ground there is a large rubble pile which appears to be composed of bricks, stone and concrete.

OTHER BOUNDARY FEATURES

- 4.42 Boundary features within and at the periphery of the site included stone walls, brick walls, post and rail and post and wire fences.

FAUNA

- 4.43 Fauna recorded during the phase 1 habitat surveys included meadow brown *Maniola jurtina*, large white *Pieris brassicae*, speckled wood *Pararge aegeria*, common blue *Polyommatus icarus*, painted lady *Vanessa cardui*, common hawker *Aeshna juncea*, rabbit *Oryctolagus cuniculus*, fox *Vulpes vulpes*, St Marks fly *Bibio marci*, wood pigeon *Columba palumbus*, magpie *Pica pica*, crow *Corvus corone*, robin *Erithacus rubecula*, great tit *Parus major*, pheasant *Phasianus colchicus* and blackbird *Turdus merula*.

5.0 SITE ASSESSMENT & EVALUATION

STATUTORY & NON-STATUTORY SITES

- 5.1 There are no statutory or non-statutory sites within the survey area. The nearest site of conservation interest within a 2km radius of the site is **Barnsley Canal at Wilthorpe LWS** located 0.49km to the south west of the site. No negative direct or indirect impacts on this LWS or any of the other statutory and non-statutory sites in the local area is anticipated as a result of the ground remediation works.

HABITATS

- 5.2 The results of the updated habitat survey show that there has been no significant change within the survey area since the original habitat survey undertaken in 2017. The main difference was that existing areas of dense scrub had increased in size, with some areas of dense bramble scrub merging and small areas of dense bramble scrub or dense hawthorn scrub have developed along the walls along the eastern boundary of the site. Since there has been no significant change in the vegetation or changes to the management of habitats present on site in the intervening years it is likely that there has been no significant change in the ecological function of the site, i.e. the species accounts in the protected and priority species assessment section will remain valid unless otherwise stated.
- 5.3 There are no protected or notable plant species recorded within the survey area.
- 5.4 Potential UK BAP, NERC S.41 and Local BAP priority habitats within the survey area include:
- hedgerows (UK BAP, S.41 & local BAP);
 - rivers and streams (UK BAP, S.41 & local BAP)
 - semi-improved neutral grassland (local BAP)
- 5.5 Hedgerows are defined as any boundary line of trees or shrubs over 20m long and less than 5m wide, and where any gaps between the trees or shrub species are less than 20m wide. Continuous native hedgerow such as T3 and parts of the linear feature (T15) fulfil the criteria to be considered a priority habitat and are considered to be of local conservation interest.

- 5.6 The watercourse is shown on hydrological plans as an open sewer. The watercourse within the site would **not** therefore be considered to fulfil the criteria to be classified as a priority habitat.
- 5.7 All unimproved and semi-improved grassland is considered to be locally important for nature conservation in Barnsley. The more species-diverse semi-improved neutral grassland to the east of the site (T6) and associated features such as scrub etc. would be considered to be of local conservation interest.
- 5.8 The details of the planning application are for engineering works to address contamination and partial drilling and grouting. The plan (Drawing No. P17-172-101, RLRE April 2021) shows that works within the red line boundary to address land contamination involve remediation works for an area contaminated with coal tar, capping two areas of made ground, drilling and grouting of an area of shallow workings and treatment required for up to two mineshafts. The works are restricted to the semi-improved neutral grassland with some minimal impact on areas of dense scrub, two scattered trees (a hawthorn and a silver birch) and the northern end of the linear feature labelled T15.
- 5.9 Habitats that will be directly impacted as a result of the contaminated land remediation works include:
- Semi-improved neutral grassland;
 - Dense scrub;
 - Scattered trees (1 no hawthorn, 1 no. silver birch), and
 - The northern section of the hedgerow/linear feature (T15).

PROTECTED AND PRIORITY SPECIES

Amphibians

- 5.10 Great crested newt are recorded within 2km of the site, but all the records of GCN are located on the opposite side of the River Dearne to the site, a considerable barrier to the movement of GCN. The grassland and scrub habitat have potential to provide terrestrial habitat for amphibians. The area of swamp and a wetland outwith the site to the south, was surveyed for the presence of great crested newt during May and June 2017 by AES-LTD. The swamp was dry by the 3rd survey visit (3rd June 2017). No GCN were recorded during the course of the surveys,

with only common frog tadpoles found in the swamp and froglets and common toad tadpoles/toadlets recorded in the wetland. The results of the survey were detailed in full in the Great Crested Newt and other Amphibian Species Survey Report (AES-LTD, 2017).

- 5.11 The habitat condition of the swamp area has deteriorated significantly since the initial habitat survey in 2017. It is noted that in the interim there has been a pollution incident relating to this area, the swamp (the only waterbody within 500m of the application red line boundary) was practically dry at the time of the site visit, but there was a strong smell of engine oil and previous high-water levels were evident due to the dead vegetation as the water subsided suggesting a substantial pollution incident had occurred. This habitat is no longer suitable for local amphibians.

White-clawed crayfish

- 5.12 SBRC returned two historical records of white clawed crayfish from the River Dearne at Old Mill Lane LWS. The watercourse within the survey area does not provide habitat suitable for white-clawed crayfish and they are not considered an ecological constraint for the development.

Bats

- 5.13 There are no buildings within the survey area, so there is no potential use of buildings by roosting bats. Individual trees within the site didn't have any roosting opportunities for bats and neither did the trees outside of the site adjacent to the survey area boundary. Many were of a similar age, planted for screening the Stagecoach depot. All of the trees were of an insufficient girth to be considered suitable for roosting bats. The waterbody, scrub, trees and hedgerows have the potential to provide foraging habitat and flyways for local bats. Bat activity surveys were undertaken throughout the active season (monthly) between May and September 2017 and comprised transect surveys and the deployment of static detectors. Bat activity across the site was generally low with episodes of moderate bat activity noted. Most of the bats were common pipistrelle with lower numbers of soprano pipistrelle and noctule and rarely recorded brown long-eared bats and *Myotis sp.*

Water vole

- 5.14 There is a watercourse within the site, but it is shaded, polluted with sewage effluent and more recently what appears to be engine oil, it has shallow unvegetated banks and is

ecologically disconnected from surrounding watercourses as it is culverted upstream and downstream of the reach of watercourse. No field signs indicative of the presence of water vole were noted during the survey and the habitats on site are sub-optimal for water vole. Water vole are not considered an ecological constraint for the development.

Otter

- 5.15 Otter are present in the wider Dearne catchment, but the watercourse within the site is highly unsuitable for otters, for the reasons stated above, and otter are not considered to be an ecological constraint for the development.

Badger

- 5.16 There were two badger records returned within the 2km search area. There were no characteristic field signs of badger such as setts, latrines, hairs or footprints recorded within the site. Badgers are a mobile species and could potentially colonise the area as there is suitable foraging habitat within the site and the surrounding area, but due to the paucity of records in the wider area and lack of field signs badger are not considered an ecological constraint for the development of the site.

Birds/nesting birds

- 5.17 Ten species of bird protected under Schedule 1 part 1 of the Wildlife & Countryside Act (1981) as amended are recorded within 2km of the site. No protected bird species were recorded throughout the course of the breeding bird surveys undertaken by AES-LTD in 2017. Of the Schedule 1 birds recorded in the 2km search area only fieldfare and redwing may occur on site as the area does provide foraging habitat for winter migrants.
- 5.18 SBRC provided records of ten BAP priority species within 2km of the site. During the course of the breeding bird surveys (2017) 40 species of bird were recorded; of these species, 26 were confirmed, probable or possible breeders within the application site. This included eight species that are of conservation interest being listed on the UKBAP / NERC S.41 or are Birds of Conservation Concern (bullfinch, dunnock, house sparrow, mistle thrush, common whitethroat, linnet, song thrush and willow warbler). The avian fauna of the site is detailed in full in the breeding bird survey report (AES-LTD, 2017).

Hedgehog

- 5.19 Hedgehogs are widespread mammals found in most lowland habitats, but are most commonly seen in areas where there is grassland close to woodland, scrub or hedgerow. Urban and suburban gardens have become particularly important to hedgehogs seeking food and nest sites. The site does provide foraging habitat suitable for hedgehogs if they accessed the site. The surrounding stone walls and fencing and busy roads surrounding the site could inhibit movement onto the site. The area has suitable habitat for foraging hedgehog, but it is unlikely to be an important resource for the local population.

Terrestrial invertebrates

- 5.20 Six species of terrestrial invertebrates that are UK BAP priority species were recorded in the 2km search area. The grasslands, hedgerow and scrub habitats are likely to provide food plants and shelter for a number of the common and widespread BAP priority species. For example, the grassland sward comprises fescues, bent and herbaceous species that are food plants for wall and small heath, but the site is not a particularly unique resource and terrestrial invertebrates are not considered an ecological constraint for the remediation works.

Brown/sea trout

- 5.21 Brown/sea trout are present within the River Dearne catchment. The watercourse on site is not suitable for trout and they are not considered an ecological constraint for the land remediation works.

6.0 SUMMARY & RECOMMENDATIONS

SUMMARY

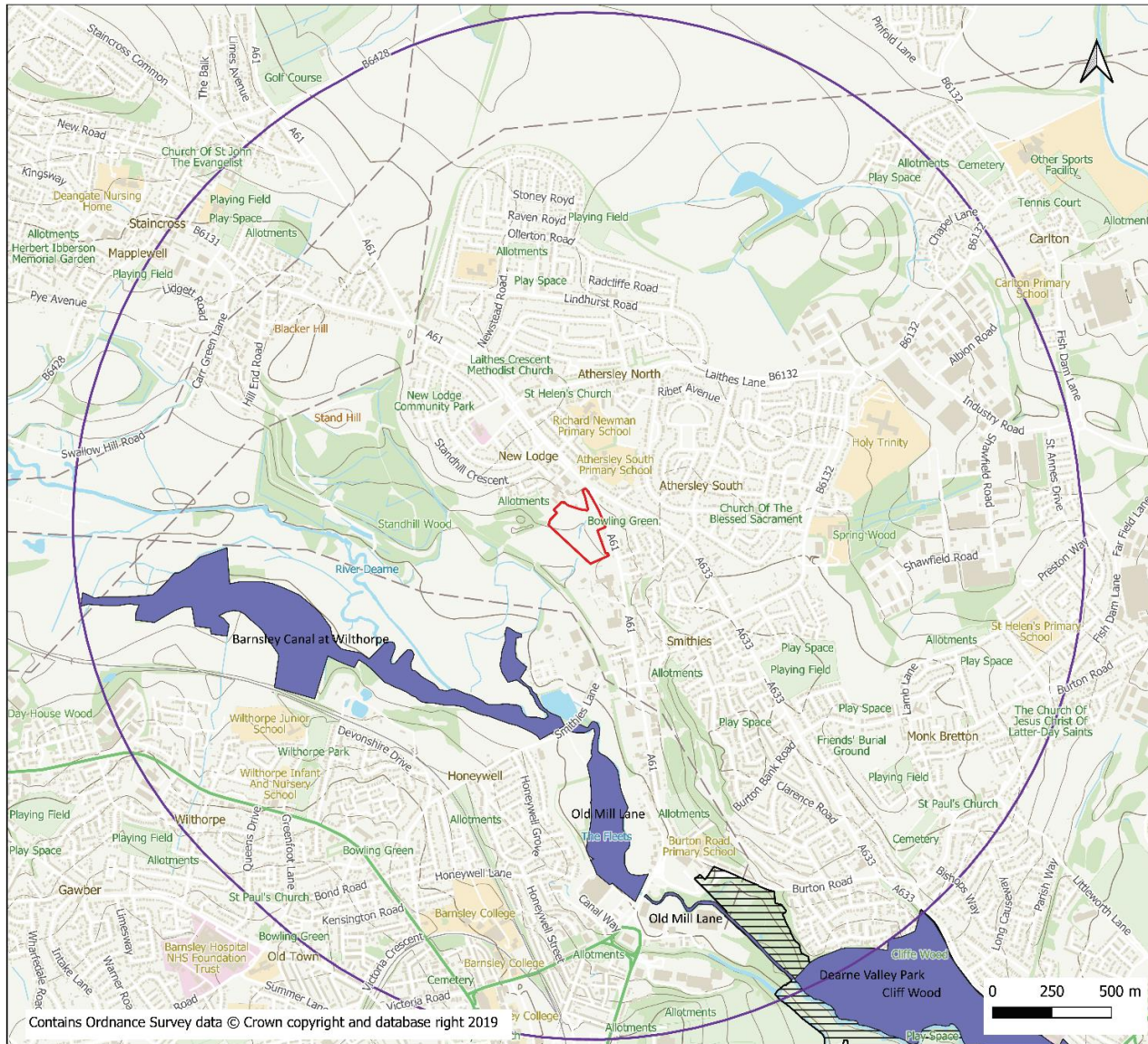
- 6.1 There is one statutory site and two non-statutory designated sites within 2km of the site boundary. No negative impact is expected on any statutory or non-statutory sites of nature conservation interest as a result of the land remediation works, there is no feasible mechanism by which the works could negatively impact upon them.
- 6.2 The results of the updated habitat survey indicate that there has been no significant change within the survey area since the original habitat survey undertaken in 2017. As a result it is likely that there has been no significant change in the ecological function of the site.
- 6.3 Habitats that will be directly impacted as a result of the contaminated land remediation works include:
- Semi-improved neutral grassland;
 - Dense scrub;
 - Scattered trees (1 no hawthorn, 1 no. silver birch), and
 - The northern section of the hedgerow/linear feature (T15).
- 6.4 The land off Wakefield Road supports a range of habitat types and has some potential for protected/priority species to be present. These include:
- foraging and commuting bats;
 - breeding/nesting birds;
 - terrestrial invertebrates, and
 - hedgehog

RECOMMENDATIONS





- 6.5 It is recommended that any vegetation clearance be undertaken outside of the bird breeding season. This includes all ground level vegetation as well as scrub, hedgerows and standard trees. The bird breeding season can extend from March until August (inclusive), weather and species depending, but generally birds have completed breeding by the end of July. Where vegetation clearance cannot be undertaken outside the bird breeding season, all such areas

would be subject to a thorough walkover survey by a suitably qualified ecologist prior to any clearance or disturbance work being undertaken.

- 6.6 Works should only be undertaken during daylight hours. In the unlikely event that additional lighting is required during the works continuing into the evening, it is recommended that a sensitive lighting regime is implemented. To minimise impact on foraging and commuting bats a sympathetic lighting strategy which avoids strong illumination of the hedgerows and tree lines/scrub will be implemented.
- 6.7 The ground remediation works have the potential to impact on retained features, not directly affected by the works, such as hedgerows and scrub. Arboricultural survey has been undertaken by TEP (See TEP Tree survey report and Tree Constraints Plan ref. D6401.02.001 for further details). Recommendations have been made by TEP (which adhere to the guidelines in British Standard BS 5837: 2012) to implement measures to prevent root damage, for example, protective measures to prevent heavy plant vehicles etc. from entering the root protection area.



Key:

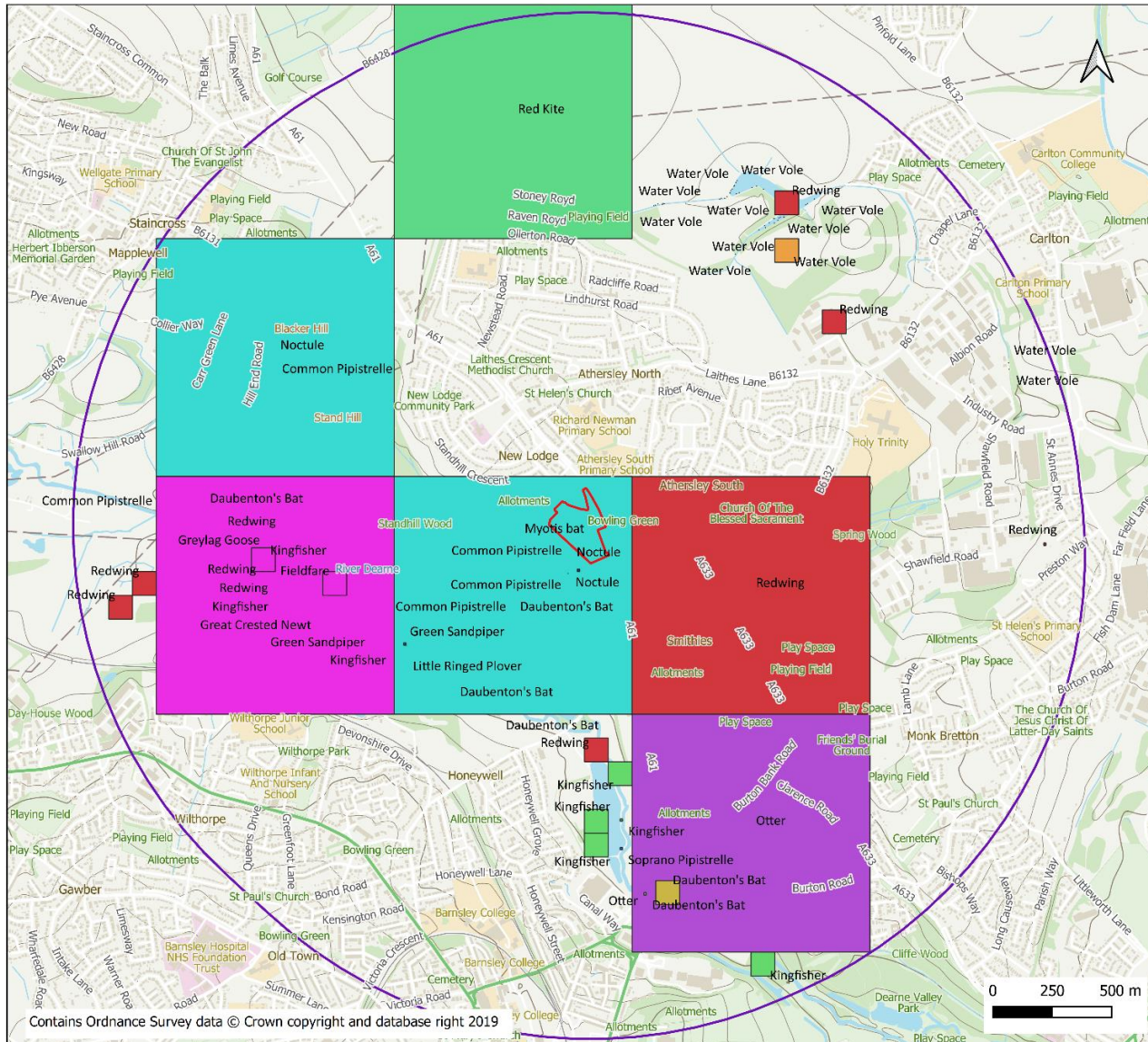
-  Site boundary
-  2km search area
-  Local Wildlife Sites (LWS)
-  Local Nature Reserves (LNR)

**Land off Wakefield Road,
Athersley, Barnsley.**

Drawing 1: Statutory & non-statutory sites



Applied Ecological Services Ltd.
Ramshaw House, Ramshaw
Co. Durham.
DL14 0NG
Tel: 01388 835084
Web: www.aes-ltd.com
Email: info@aes-ltd.com



Key:


- Site boundary
- 2km search area

SBRC Protected species records

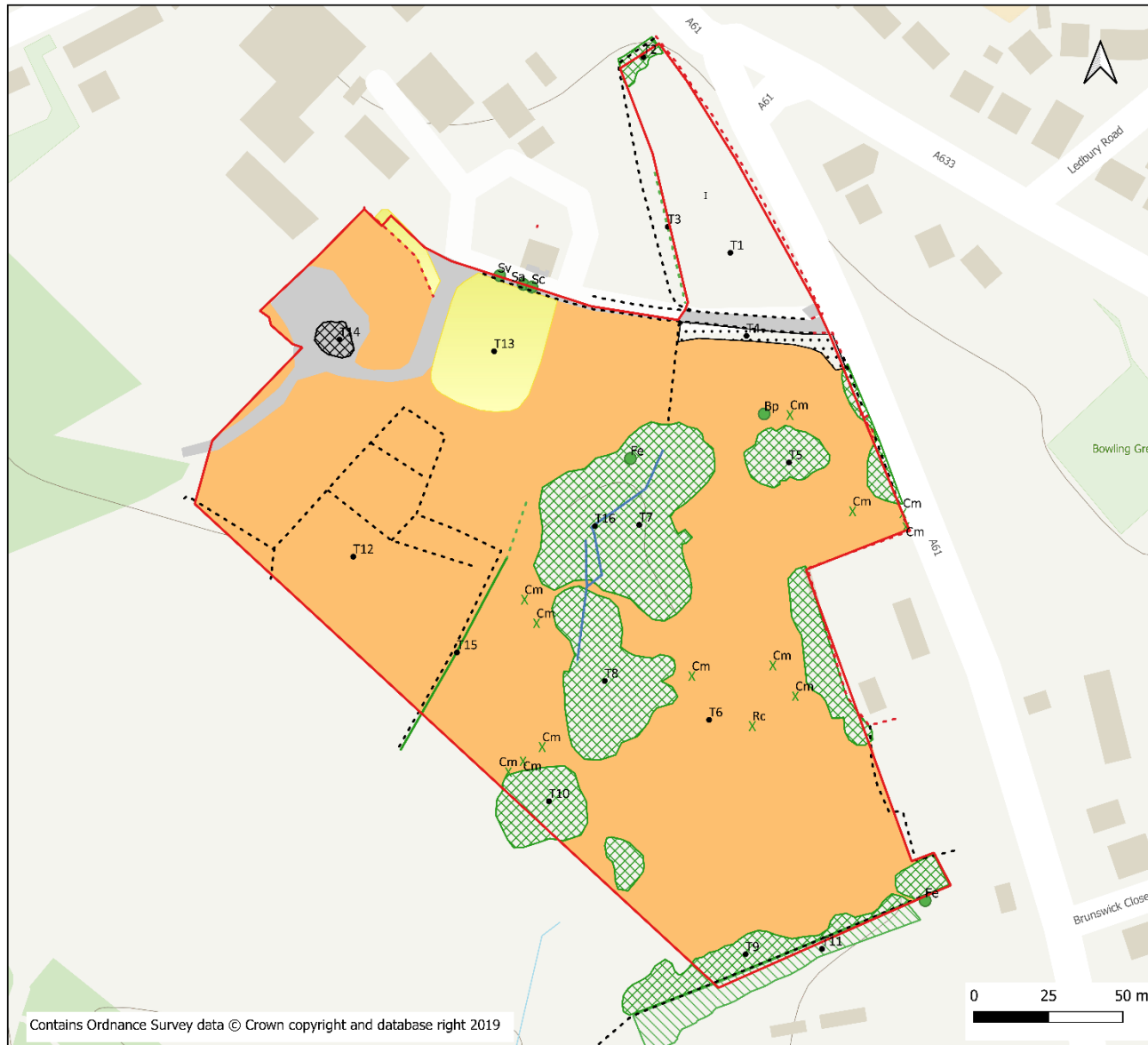
- Great Crested Newt
- Brown Long-eared Bat
- Common Pipistrelle
- Daubenton's Bat
- Myotis bat
- Noctule
- Soprano Pipistrelle
- Otter
- Water Vole
- Black-tailed Godwit
- Cetti's Warbler
- Fieldfare
- Green Sandpiper
- Greylag Goose
- Kingfisher
- Little Ringed Plover
- Red Kite
- Redwing

**Land off Wakefield Road,
Athersley, Barnsley.**

Drawing 2: Protected species records



Applied Ecological Services Ltd.
 Ramshaw House, Ramshaw
 Co. Durham.
 DL14 0NG
 Tel: 01388 835084
 Web: www.aes-ltd.com
 Email: info@aes-ltd.com



Key:

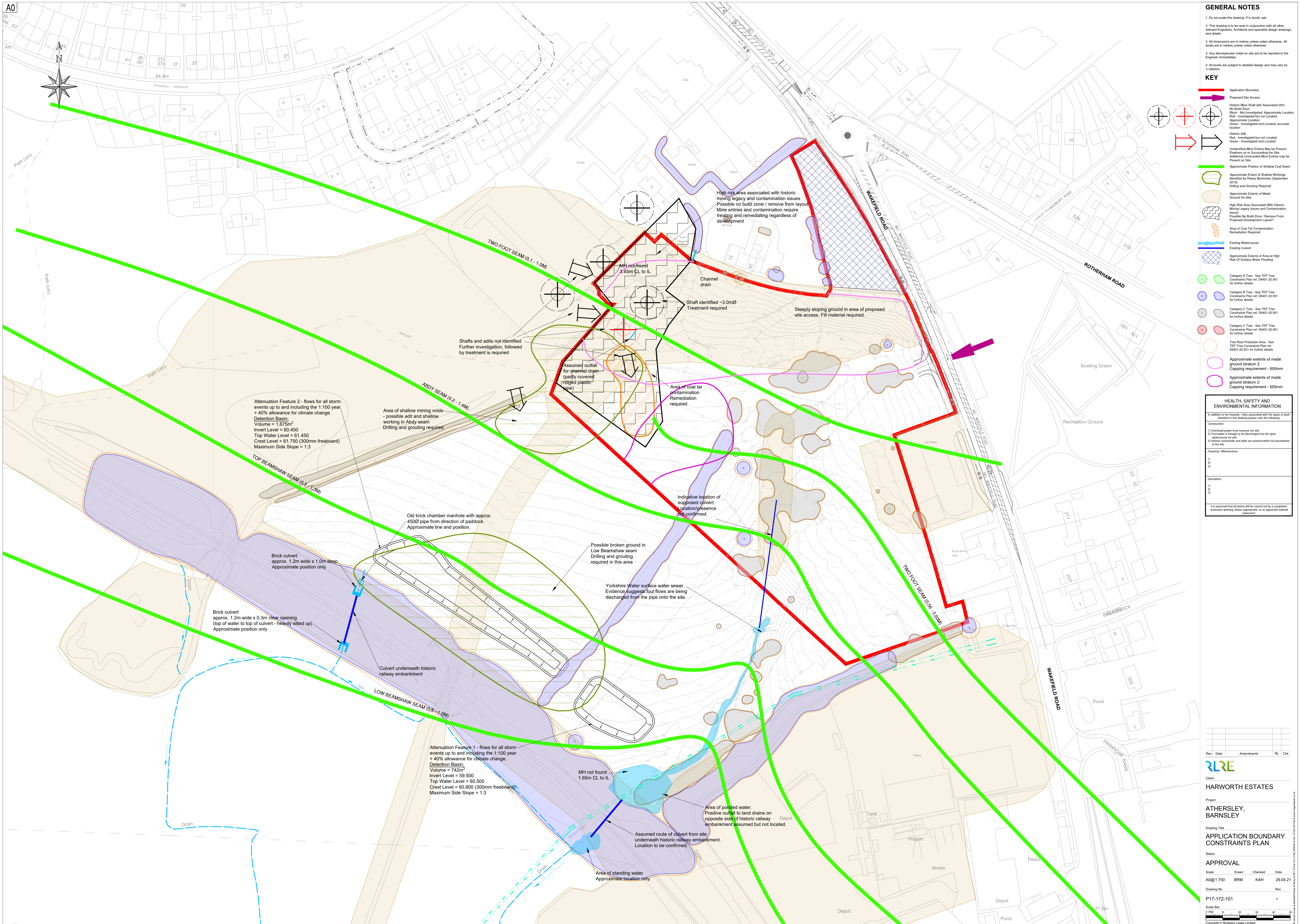
- Site boundary
- Target note
- Trees
- Hedgerow
- Defunct hedgerow
- Plantation woodland
- Dense scrub
- X Scattered scrub
- Watercourse
- Semi-improved grassland
- Amenity Grassland
- Improved grassland
- ESP
- rubble pile
- Bare ground
- Stone Wall
- Fence

Land off Wakefield Road,
Athersley, Barnsley.

Drawing 3: Habitat survey plan



Applied Ecological Services Ltd.
Ramshaw House, Ramshaw
Co. Durham,
DL14 0NG
Tel: 01388 835084
Web: www.aes-ltd.com
Email: info@aes-ltd.com



GENERAL NOTES

1. Do not scale this drawing. If in doubt, ask.
2. This drawing is to be read in conjunction with all other relevant Engineers, Architects and specialist design drawings and details.
3. All dimensions are in metres unless noted otherwise. All levels are in metres unless noted otherwise.
4. Any discrepancies noted on site are to be reported to the Engineer immediately.
5. All levels are subject to detailed design and may vary +/-0.050m.

KEY

- Application Boundary
- Proposed Shaft Access
- Historic Mine Shaft with Associated 20m No-Build Zone - Black - Not Investigated; Approximate Location
- Red - Investigated but not Located; Approximate Location
- Green - Investigated and Located, accurate location
- Historic Adit
- Red - Investigated but not Located
- Green - Investigated and Located
- Underlined Mine Entries May be Present Elsewhere on or Surrounding the Site. Additional Unrecorded Mine Entries may be Present on Site.
- Approximate Position of Shallow Coal Seam
- Approximate Extent of Shallow Workings identified by Rotary Boreholes (September 2019) Drilling and Grouting Required
- Approximate Extent of Made Ground
- High Risk Area Associated With Historic Mining Legacy Issues and Contamination Issues
- Possible No-Build Zone / Remove From Proposed Development Layout?
- Area of Coal Tar Contamination Remediation Required
- Existing Watercourse
- Existing Culvert
- Approximate Extent of Area at High Risk Of Surface Water Flooding
- Category A Tree - See TEP Tree Constraints Plan ref. D6401.02.001 for further details
- Category B Tree - See TEP Tree Constraints Plan ref. D6401.02.001 for further details
- Category C Tree - See TEP Tree Constraints Plan ref. D6401.02.001 for further details
- Category U Tree - See TEP Tree Constraints Plan ref. D6401.02.001 for further details
- Tree Root Protection Area - See TEP Tree Constraints Plan ref. D6401.02.001 for further details
- Approximate extents of made ground stratum 2; Capping requirement - 600mm
- Approximate extents of made ground stratum 2; Capping requirement - 500mm

HEALTH, SAFETY AND ENVIRONMENTAL INFORMATION

In addition to the hazards / risks associated with the types of work detailed on this drawing please note the following:

Construction:

- 1) Overhead power lines traverse the site
- 2) Fuel water is thought to be discharged into the open watercourse on site
- 3) Historic mine shafts and adits are present within the boundaries of the site

Clearing / Maintenance:

- 1)
- 2)
- 3)

Demolition:

- 1)
- 2)
- 3)

It is assumed that all works will be carried out by a competent contractor working, where appropriate, to an approved method statement.

Rev. Date Amendments By / Ck

RLRE

Client
HARWORTH ESTATES

Project
ATHERSLEY, BARNSELY

Drawing Title
APPLICATION BOUNDARY CONSTRAINTS PLAN

Status
APPROVAL

Scale	Drawn	Checked	Date
A0@1:750	BRM	KAH	29.04.21

Drawing No. Rev.

P17-172-101

Scale Bar:
1:750

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APPENDIX 1: PHOTOGRAPHS



Photograph 1 Improved pasture (T1), dense scrub (T2) and defunct hedgerow (T3).



Photograph 2 Semi-improved neutral grassland (T6), dense scrub (T5 & T7), scattered scrub.



Photograph 3 Hedgerow (T15).



Photograph 4 Semi-improved pasture (T12), bare ground with rubble pile and amenity grassland (T18).



Photograph 5 Watercourse (T16).



Photograph 6 ESP vegetation (T4) at northern periphery of semi-improved neutral grassland (T6).

APPENDIX 2: LEGISLATION & POLICY

LEGISLATION

Habitat Regulations

The Conservation of Habitats and Species Regulations 2017 has been amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. The 2017 Regulations are one of the pieces of domestic law that 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) in England and Wales.

The main changes to the 2017 Regulations are:

- the creation of a national site network within the UK territory comprising the protected sites already designated under the Nature Directives, and any further sites designated under these Regulations
- the establishment of management objectives for the national site network (the ‘network objectives’);
- a duty for appropriate authorities to manage and where necessary adapt the national site network as a whole to achieve the network objectives;
- an amended process for the designation of Special Areas of Conservation (SACs);
- arrangements for reporting on the implementation of the Regulations, given that the UK no longer provides reports to the European Commission;
- arrangements replacing the European Commission’s functions with regard to the imperative reasons of overriding public interest (IROPI) test where a plan or project affects a priority habitat or species;
- arrangements for amending the schedules to the Regulations and the annexes to the Nature Directives that apply to the UK.

The 2017 Regulations (Regulation 9(1)), as amended by the 2019 Regulations, require the Secretary of State and Welsh Ministers to secure compliance with the requirements of the Nature Directives. Any new powers in the 2019 Regulations must be exercised in line with the Directives and retained EU case law up to 1 January 2021.

SACs and Special Protection Areas (SPAs) in the UK no longer form part of the EU's Natura 2000 ecological network. The 2019 Regulations have created a national site network on land and at sea, including both the inshore and offshore marine areas in the UK. The national site network includes:

- existing SACs and SPAs
- new SACs and SPAs designated under these Regulations

Any references to Natura 2000 in the 2017 Regulations and in guidance now refers to the new national site network.

Designated Wetlands of International Importance (known as Ramsar sites) do not form part of the national site network. Many Ramsar sites overlap with SACs and SPAs, and may be designated for the same or different species and habitats. All Ramsar sites remain protected in the same way as SACs and SPAs.

It is an offence to deliberately capture, kill or disturb² wild animals listed under Schedule 2) of the Regulations (such as all bat species and great crested newts). It is also an offence to damage or destroy a breeding site or resting place of such an animal (even if the animal is not present at the time). The prohibited methods of capturing and killing wild animals, which are listed in the main body of the Regulations, are transferred into new schedules to allow for future amendments. Any proposed changes will be subject to public consultation and will be made using statutory instruments.

Changes to Annex IV of the Habitats Directive and Schedules 2 (list of European Protected Species of animal) or 5 (list of European Protected Species of plant) of the Regulations will require an affirmative statutory instrument and be debated by Parliament or Senedd Cymru. This will ensure appropriate scrutiny of the changes and replicates procedures formerly undertaken by the European Commission.

As statutory nature conservation bodies, Natural England, NRW and JNCC will provide technical or scientific advice to the Secretary of State and Welsh Ministers on any proposed amendments.

² Disturbance, as defined by the Conservation of Habitats and Species Regulations 2010, includes in particular any action which impairs the ability of animals to survive, breed, rear their young, hibernate or migrate (where relevant); or which affects significantly the local distribution or abundance of the species.

Wildlife & Countryside Act

The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act (CROW) 2000 and the Natural Environment and Rural Communities Act (NERC) 2006, consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention), making it an offence to:

- Intentionally kill, injure or take any wild animal listed under Schedule 5 to the Act; intentionally or recklessly damage, destroy or obstruct any place used for shelter or protection by any wild animal listed under Schedule 5 to the Act; intentionally or recklessly disturb certain Schedule 5 animal species while they occupy a place used for shelter or protection; and
- Pick or uproot any wild plant listed under Schedule 8 of the Act. Sites of Special Scientific Interest (SSSI) are designated under this Act.

The Bern Convention

The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) was adopted in Bern, Switzerland in 1979, and came into force in 1982. It is a binding international legal instrument for nature conservation that covers the natural heritage of the European continent and some African states.

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

The UK Government ratified the Bern Convention in 1982. The obligations of the Convention are transposed into UK law by means of the Wildlife and Countryside Act (1981 as amended), Nature Conservation (Scotland) Act 2004 (as amended), Wildlife (Northern Ireland) Order 1985, and the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985.

The Wildlife and Countryside Act 1981 is also amended post Brexit to ensure that species of wild birds found in or regularly visiting either the UK or the European territory of a Member State will continue to be protected.

National Planning Policy Framework

The Government revised the National Planning Policy Framework (NPPF) on 19th February 2019. This revised document replaces the previous National Planning Policy Framework published in March 2012 and revised in July 2018. This sets out new guidance for local authorities, focusing on helping to produce planning policies that are clear and easier to understand. The NPPF is effective immediately; however, the local plans are still valid, for the time being, even if they have been produced prior to the revised NPPF. There is emphasis on the need for economic growth through designing planning policies which are in favour of development but this will not be achieved in isolation from social and environmental development.

Section 11 sets out policies to promote an effective use of land in meeting the needs for homes and other uses, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions. Section 11 states that strategic policies should be clearly set out that makes as much use as possible of previously-developed or brownfield land. Section 15 sets out the requirements for conserving and enhancing the natural environment. The NPPF asks that valued landscapes are protected and enhanced. Sites of biodiversity or geological value and soils are protected commensurate with their statutory status or identified quality in the local development plan. The document also requires the recognition of the intrinsic character and beauty of the countryside, maintaining the character of the undeveloped coast whilst improving public access to it where appropriate and most importantly minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. It also asks that new and existing development is prevented from contributing to, or being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air water or noise pollution or land instability. It is demanded that 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. Finally, it requires that where appropriate remediating and mitigation of despoiled, degraded, derelict, contaminated and unstable land is carried out.

The Framework is guidance for local planning authorities on the content of their Local Plans but is also a material consideration in determining planning applications. The NPPF and revised NPPF has replaced much existing planning policy guidance, including Planning Policy Statement 9: Biological and Geological Conservation. However, the government circular 06/05: Biodiversity and Geological

Conservation - Statutory Obligations and their Impact within the Planning System, which accompanied PPS9 remains valid.

Biodiversity Action Plans / Biodiversity 2020

The UK Biodiversity Action Plan (UKBAP) (Anon, 1995) was organised to fulfil the Rio Convention on Biological Diversity in 1992, to which the UK is a signatory. A list of national priority species and habitats has been produced with all listed species/habitats having specific action plans defining the measures required to ensure their conservation. Regional and local BAPs have also been organised to develop plans for species/habitats of nature conservation importance at regional and local levels.

The 'UK Post-2010 Biodiversity Framework', published in July 2012, succeeds the UK BAP and 'Conserving Biodiversity – the UK Approach', and is the result of a change in strategic thinking following the publication of the CBD's 'Strategic Plan for Biodiversity 2011–2020' and its 20 'Aichi Biodiversity Targets', at Nagoya, Japan in October 2010, and the launch of the new EU Biodiversity Strategy (EUBS) in May 2011. The Framework demonstrates how the work of the four countries and the UK contributes to achieving the Aichi Biodiversity Targets, and identifies the activities required to complement the country biodiversity strategies in achieving the targets. The UKBAP is no longer an active strategy, and has been replaced by biodiversity strategies in England, Northern Ireland, Scotland and Wales. While the UKBAP is no longer an active policy, species listed on the UKBAP have been incorporated into the new biodiversity strategies for each country. In England under Biodiversity 2020: A strategy for England's wildlife and ecosystem services and under section 41 of The Natural Environment and Rural Communities (NERC) Act 2006, where UKBAP species were recognised as of principal importance for the conservation of biodiversity. Section 40 of the NERC Act 2006 requires all public bodies to have regard for biodiversity conservation when carrying out their function. This is commonly referred to as the 'biodiversity duty'.

Local Development Plans

County, District and Local Councils have Structure Plans and other policy documents that include targets and policies which aim to maintain and enhance biodiversity. These are used by Planning Authorities to inform planning decisions.

Natural Environment and Rural Communities (NERC) Act (2006)

Public authorities have a duty to conserve biodiversity under the Natural Environment and Rural Communities (NERC) Act, which came into force in 2006. This states that ‘any public body or statutory undertaker in England and Wales must have regard to the purpose of conservation of biological diversity in the exercise of their function and that decisions of public bodies work with the grain of nature and not against it’ (Part 3, Paragraph 60). The Act also includes a range of measures to strengthen the protection of wildlife and habitats.

WILDLIFE LEGISLATION

In addition to the above, a range of legislation is in place to ensure that habitats and species of conservation importance are protected from harm, either directly or indirectly. A summary of this legislation is given in the Table below: **Overview of Key Legislation**

Overview of Key Legislation

Legislation	Relevance
The Conservation of Habitats and Species Regulations 2017 (as amended)	<p>This transposes the EC Habitats Directive 1992 (<i>Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna</i>) and the EC Birds Directive 1979 (<i>Council Directive 79/409/EEC on the protection of wild birds</i>) into UK law.</p> <p>Annexes I and II of the Habitats Directive list (respectively) habitats and species for which member states are required to establish and monitor SACs. The EC Birds Directive provides a similar network of sites (SPAs) for all rare or vulnerable species listed in Annex I and all regularly occurring migratory species, with particular focus on wetlands of international importance. Together with SACs, SPAs form a network of pan-European protected areas known as ‘Natura 2000’ sites.</p> <p>The Habitats Regulations also make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4.</p>
The Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention 1979)	The Bern Convention continues to ensure conservation and protection of all wild plant and animal species and their natural habitats (listed in Appendices I and II of the Convention), to increase cooperation between contracting parties, and to afford special protection to the most vulnerable or threatened species (including migratory species).
The Wildlife and Countryside Act (WCA) 1981 (as amended)	The WCA is the primary UK mechanism for statutory site designation (Sites of Special Scientific Interest, SSSIs) and the protection of individual species listed under Schedules 1, 2, 5 and 8 of the Act, each subject to varying levels of protection
The Countryside and Rights of Way Act 2000	This legislation strengthens the provision of the 1981 WCA (as amended), both in respect of statutory sites such as SSSIs and protected species. It also places a statutory obligation on Local Authorities and other public bodies to further conservation of biodiversity in the exercise of their functions, thus providing a statutory basis to the Biodiversity Action Plan



	(BAP) process, which began in 1994. Section 74 of the Act lists the habitat types and species of principal importance in England.
Hedgerow Regulations 1997	The Hedgerow Regulations 1997 are intended to protect important countryside hedges from destruction or damage in England and Wales.
Natural Environment and Rural Communities Act 2006	The 'NERC' Act makes provision in respect of biodiversity, pesticides harmful to wildlife, protection of birds and invasive non-native species. Section 40 of the act also introduced a new duty on public bodies to have regard to the purpose of conserving biodiversity in the exercise of their functions.

Due to its location the site may have the potential to support or provide habitat for a number of those species protected by the various pieces of legislation summarised above. A summary of the key legislation for protected species is given in the Table: **Key Legislation for protected species**

Key Legislation for protected species

Species	Key legal protection
Bats (all species)	<p>All European species of bat are listed on Annex IV of the EC Habitats Directive as being in need of "strict protection". This is implemented in Britain under The Conservation of Habitats and Species Regulations 2017 (as amended). All British bats are included on Schedule 5 of the WCA (1981) and the whole of Section 9 of The Act applies to European bat species. In summary, the above legislation collectively prohibits the following:</p> <ul style="list-style-type: none"> • Deliberately or recklessly capturing, injuring, taking or killing of a bat; • Deliberately or recklessly harassing a bat; • Intentionally or recklessly disturbing of a bat in its place of rest (roost), or which is used for protection or rearing young; • Deliberately or recklessly damaging, destroying or obstructing access to any resting place or breeding area used by bats; • Deliberately or recklessly disturbing a bat in any way which is likely to significantly affect the local populations of the species, either through affecting their distribution or abundance, or affect any individuals ability to survive, reproduce or rear young; • Possession or advertisement/sale/exchange of a bat (dead or alive) or any part of a bat. <p>In England, licences are issued by Natural England for any actions that may compromise the protection of a European protected species, including bats, under the Habitats Regulations 2017 (as amended). This includes all developments, regardless of whether or not they require planning permission. Bats are also protected by the Wild Mammals (Protection) Act 1996 and selected species are listed on the UK Biodiversity Action Plan (BAP) and Local Biodiversity Action Plans (LBAP).</p>
Great crested newt	<p>Great crested newts are protected under European and British law, having the same level of protection as bats (see above). Licenses are issued by Natural England for any actions that may compromise the protection of this species, under the Habitat Regulations 2017 (as amended). This includes all developments, regardless of whether or not they require planning permission. The species is also listed on the UK and Local BAPs.</p>
Otter	<p>Otter are protected under European and British law and receive the same level of protection as bats (see above.) The species is listed under Annex II and IV of the Habitats Directive, which is implemented in Britain under The Conservation of Habitats and Species Regulations 2017 (as amended). Otter are also protected under Schedules 5 and 6 of the</p>



Species	Key legal protection
	<p>WCA 1981, The Wild Mammals (Protection) Act 1996 and are listed as a priority species in Appendix II of the Bern Convention. The species is also listed on the UK and Local BAPs.</p>
Water Vole	<p>Water vole is protected under Schedule 5 of the WCA 1981 (as amended). This makes it an offence to:</p> <ul style="list-style-type: none"> • Intentionally kill, injure or take water voles; • Possess or control the species; • Damage or destroy any place used by water vole for shelter or protection; • Disturb water vole while they occupy such places of shelter; • Sell, possess or transport water vole for the purpose of sale; and • Advertise the buying or selling of water vole. <p>The species is also protected under the Wild Mammals (Protection) Act 1996 and listed on the UK and Local BAPs.</p>
Birds	<p>The majority of bird species, with the exception of some species listed on Schedule 2, are protected under the WCA 1981 (as amended). This makes it an offence to intentionally or recklessly:</p> <ul style="list-style-type: none"> • Kill, injure or take any wild bird; • Take, damage or destroy any nest which is in use or being built; and • Take, damage or destroy the eggs of any such bird. <p>Additional protection against disturbance whilst at the nest is also afforded to any bird species, whether an adult bird or their dependant young, which is listed on Schedule 1 of the Act.</p> <p>Council Directive 2009/147/EC on the conservation of wild birds (the 'Birds Directive') provides for the conservation and management of all wild bird species naturally occurring in the European Union, their nests, eggs and habitats. The Birds Directive bans activities that directly threaten birds (e.g. deliberate killing and destruction of nests and young), regulates hunting of selected species, bans non-selective and large scale killing of birds, and promotes research for bird conservation and management.</p> <p>Article 4(4) of the Birds Directive requires that member states "should strive to avoid pollution or deterioration of habitats." The Conservation of Habitats and Species (Amendment) Regulations 2012 provide a fuller transposition of the Birds Directive into English law. Regulation 8 introduces a new Regulation 9A to the Habitats Regulations for duties of appropriate authorities in relation to wild bird habitat. Regulation 9A(3) addresses the transposition of Article 2 of the Birds Directive, while Regulation 9A(8), requiring competent authorities to "use all reasonable endeavours" to "avoid any pollution or deterioration of habitats of wild birds."</p> <p>Certain species are also listed as being of priority conservation importance on the UK and Local BAPs.</p>
Badger	<p>Badger are protected under the Protection of Badgers Act 1992, which makes it an offence to:</p> <ul style="list-style-type: none"> • Knowingly kill, capture, injure or disturb any individual; • Intentionally damage or destroy a badger sett, or any part thereof; • Obstruct access to an area which is used for breeding, resting or shelter; and • Disturb a badger while it is using any place used for breeding, resting or shelter. <p>The species is also protected by the Wild Mammals (Protection) Act 1996.</p>



Species	Key legal protection
Reptiles	<p>All common reptile species (common lizard, slow-worm, grass snake and adder) are partially protected under Sections 9(1) and 9(5) of Schedule of the Wildlife and Countryside Act 1981 (as amended). This legislation protects these animals from:</p> <ul style="list-style-type: none">• intentional killing and injury;• selling, offering for sale, possessing or transporting for the purpose of sale or publishing advertisements to buy or sell a protected species. <p>The more threatened species of reptile, smooth snake and sand lizard are fully protected under Schedule 5 (Section 9) and under schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended), which designate them 'European protected species'. It is an offence to capture, possess, disturb, kill, injure, or trade in individuals of these species. In addition, it is an offence to damage or destroy the places they use for breeding or resting.</p>
White-clawed crayfish	<p>This species is listed under the European Union's (EU) Habitat and Species Directive 2017 (as amended) and is therefore a European Protected Species. It is also listed under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). It is also classified as Endangered in the IUCN Red List of Endangered Species and included as a Priority Species under the Bern Convention. It is also a priority under the UK Biodiversity Action Plan (BAP) and Local BAPS.</p> <p>As a result of this and other relevant crayfish legislation such as the Prohibition of Keeping of Live Fish (Crayfish) Order 1996, a series of licences are needed for working with white-clawed and non-native crayfish.</p>

INVASIVE SPECIES

Invasive species are plant and animal species which are prohibited from release into the wild.

There is an extensive list of plants (currently 42) which are set out in section 14(2) of the WCA 1981 (as amended) which states that '*if any person plants or otherwise causes to grow in the wild any plant which is included in Part II of Schedule 9, he shall be guilty of an offence.*'

The most widespread of these are Japanese knotweed *Fallopia japonica* and giant hogweed *Heracleum mantegazzianum* which are also covered by several pieces of legislation. The Environmental Protection Act 1990 (as amended) is a broad ranging piece of legislation that singles out Japanese knotweed and giant hogweed for special mention. The Act places a 'Duty of Care' on the producer and anyone they employ to dispose of soil or other material contaminated with Japanese knotweed or giant hogweed, such material becomes a controlled waste, which can only be taken to licensed landfill and must be dealt with in an appropriate way.