Plot 7, Dearn Valley Parkway

Preliminary Ecological Appraisal Report

On Behalf of McDonald's Restaurants Ltd.

Version 1 | June 2020

Document Control

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This report does not purport to provide legal advice. This report provides baseline ecological conditions for the aforementioned site and is considered relevant for a period of no more than 12 months.

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Ecological Risk Assessment

The following Ecological Risk Assessment provides an infographics summary of the requirements, including further survey and mitigation, and the enhancement measures, to comply with relevant legislation and policy, and achieve biodiversity net gain, made following a Preliminary Ecological Appraisal Survey of Plot 7, Dearn Valley Parkway , supporting the development of a McDonald's Restaurant, with associated access and Drive-thru facilities.

This Eco RA is not intended as a substitute for reading the full report as set out in the proceeding pages.

Risk Code Key		
	**High Risk**	Ecological issue(s) requiring further survey work and/or mitigation prior to planning application
	**Moderate Risk**	Ecological issue(s) requiring mitigation without requiring further survey
	**Low Risk**	No significant ecological issues identified. No further action required.

Risk Code	Factor	Comments and Actions Required	Timings
	Habitats	Habitats on site include semi-improved grassland, tall ruderal, and ephemeral / short perennial. These are expected to be cleared to facilitate the development. **Requirements:** Open areas to be seeded with a species-rich amenity mix and managed sympathetically. Amenity shrubs, trees, and planting to utilise native species, preferably those beneficial to pollinators. Boundaries to use native hedge plants, of at least 6 varieties, to create a species-rich hedge around the Site boundary, managed sympathetically. **Enhancements:** Invertebrate boxes or bee towers installed around site boundaries. Three of the former or one of the latter is an appropriate amount for the size of the Site.	 Design stage Design stage Design stage Design stage
	Great crested newts	A pond with confirmed great crested newt presence is 150m to the northeast of the Site. The Site is largely isolated by hardstanding and buildings from the pond. **Requirements:** Produce a Method Statement detailing safe procedures for clearance and construction of the Site.	 Pre-construction
	Birds	No nesting habitat is present on site. Foraging habitat for a variety of species is present on site. **Requirements:** Suitable landscaping to provide foraging habitat for birds. **Enhancements:** Three standard passerine boxes installed on the Site boundary. One pole mounted kestrel box in a corner of the Site.	 Design stage Design stage

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Risk Code	Factor	Comments and Actions Required	Timings
	Statutory and Non-Statutory Sites of Nature Conservation Bats Reptiles	Discussed but no mitigation required.	

1 Introduction

1.1 Background

Practical Ecology Ltd was commissioned by McDonald's Restaurants Ltd to undertake a Preliminary Ecological Appraisal (PEA) of Plot 7, Kestrel Way, Dearn Valley Parkway, herein referred to as "the Site".

This report presents ecological information gathered during a desk study and an ecological walkover survey of the Site undertaken on 10th June 2020.

The purpose of this report is to provide baseline ecological information pertaining to the Site, alongside the rationale for required further surveys and mitigation as deemed appropriate to ensure compliance with legislation and policy, and recommend enhancement measures to achieve biodiversity net-gain.

Ecological baseline information for the Site is crucial to ensure potential effects of the development upon flora and fauna can be suitably managed. Furthermore, any constraints upon the proposed development of the Site, imposed by site ecology, can be assessed. Enhancement measures are presented which allow site biodiversity to be improved, whilst considering the legal requirements and best practice regarding protected species and/or habitats.

1.2 The Site

The Site (Figure 1) is approximately 0.49ha (central OS grid reference SE 3512 0085, postcode S70 5SZ) and lies in South Yorkshire, to the east of the M1 motorway between Sheffield and Barnsley. Specifically, the Site occupies Plot 7 of the mixed commercial estate of Gateway 36 off Rockingham Roundabout on the A6195 Dearn Valley Parkway. The Site is bounded to the northwest by Kestrel Way, the southwest by the Dearne Valley Farm Inn, and the southeast by Dearn Valley Parkway. The Site comprises of ruderal and ephemeral growth. Previously, the Site had been cleared in 2015 as part of the development of the commercial estate in which it lies. The ecological survey undertaken as part of that development, by Applied Ecological Services Ltd. Noted that "the site … is a restored surface mine supporting limited habitat types and a low species diversity."[1] The Phase 1 Habitat Map in the same report shows the habitat over the Site as semi-improved grassland. This same habitat occupies most of the site now (see Section 3.2.2), and it can therefore be assumed that the ecological features present prior to the earlier clearance have now re-established.

1.3 Proposed Development

The proposals include the construction of a McDonald's Restaurant and Drive-Thru facility, with associated access and parking. A proposal plan is included in Appendix 1 (Drawing number: 11627_AEW_8415_F004 Rev. A, courtesy of AEW Architects).

1.4 BREEAM

It is understood that this development is to be assessed under the 2018 BREEAM UK New Construction Non-domestic Buildings criteria. This assessment awards credits based on sustainable practices, including the protection and enhancement of the Site's ecology. This is assessed under five sections entitled Land Use and Ecology (LE).

This PEA Report allows credits to be achieved in Section LE02, being an appraisal of the risks and opportunities for ecology on the Site. Specific recommendations are also given to achieve credits in LE03 – LE05, whilst also

[1] AES Ltd., 2014. Ecological Evaluation / Technical Summary, Rockingham. AES Ltd., Ramshaw, UK.

ensuring the development proceeds lawfully and in line with best practice and industry guidance. Recommendations are given based on the CIEEM mitigation hierarchy of Avoid, Mitigate, Compensate, and Enhance, which aligns with the BREEAM mitigation hierarchy.

An important part of the BREEAM assessment is collaboration between the project team and representative stakeholders. This report should therefore be shared with relevant project team members and disseminated to stakeholders. These stakeholders should be identified at the earliest opportunity and liaised with over the course of the project.

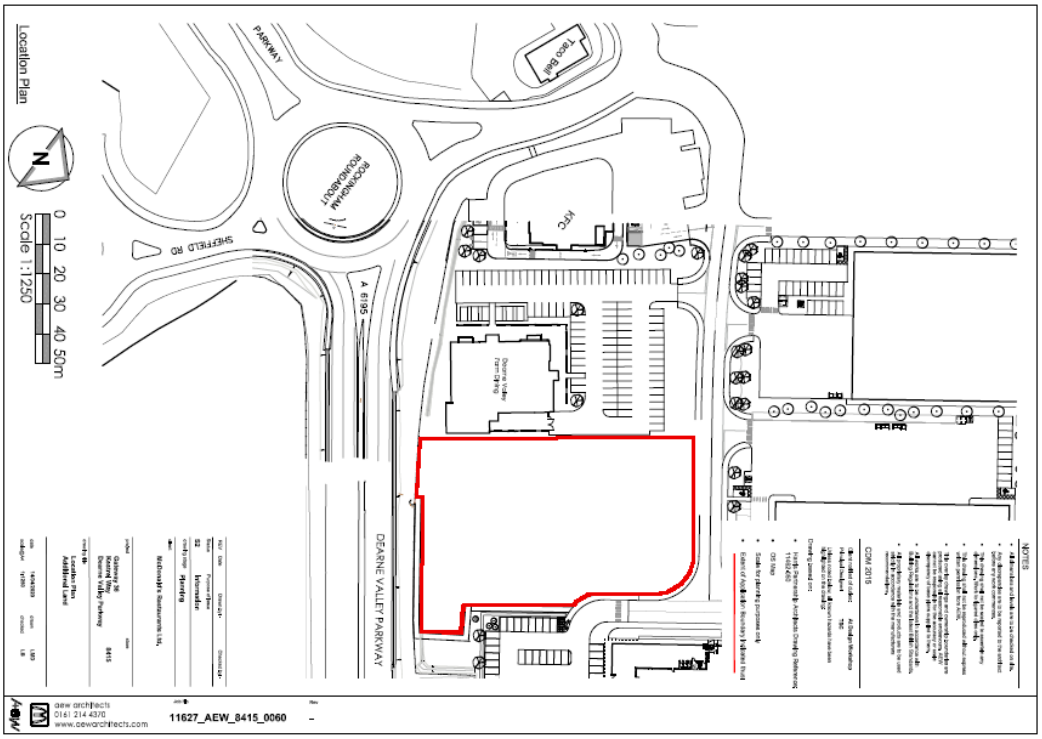


Figure 1: Site Boundary

2 Methods of Assessment

2.1 Desk Study

A Desk Study was undertaken by Alexander Hendry MSc, a Graduate Ecologist and Qualifying Member of CIEEM, on 9th June 2020.

The Desk Study included a search for Statutory Sites of Nature Conservation Importance and Priority Habitats[1] within 1km of the Site was undertaken using the Multi Agency Geographical Information for the Countryside (MAGIC)[2].

Ordnance Survey maps and aerial photographs from online sources were consulted to identify the presence of any water bodies within 500m of the Site.

Records of protected species, notable species, invasive species, and non-statutory sites from within 1km of the Site were procured from Sheffield Biological Records Centre[3] as part of this desk-based study and are presented in this report. Records provided by the record centre that are more than ten years old are only reported on if they are deemed to still be relevant.

The relevant Local Biodiversity Action Plan, Barnsley BAP[4], was consulted to determine whether species and habitats identified (by both the desk study and the field survey) on and around the Site are subject to specific action plans. The list of UK Biodiversity Action Plan (UK BAP) species[5] was also consulted as this remains an important reference source, despite being succeeded by the UK Post-2010 Biodiversity Framework[6].

2.2 Preliminary Ecological Appraisal Site Survey

A Preliminary Ecological Appraisal survey of the Site was undertaken on 10th June 2020 by Nick Townsend MSc, a Field Assistant with over 18 months of experience in undertaking PEA surveys.

This survey assessed the value of onsite and adjacent habitats and their potential to support protected or notable species and habitats following the Guidelines for Preliminary Ecological Appraisal[7] published by the Chartered Institute for Ecological and Environmental Management (CIEEM).

Habitats

Habitats were classified as per the criteria set out in the Handbook for The UK Habitat Classification[8] with the prescribed habitat primary and relevant secondary habitat codes included. Habitats were checked against the definitions for Priority Habitats. Priority Habitats are those which are identified as a Habitat of Principal Importance in England under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006[1].

European Protected Species

Following the UK exit from the European Union (EU), species formerly protected under the Habitat Regulations are now considered to be protected under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019[9] and will continue to be referred to as European Protected Species (EPS). Further legislative details regarding protected species are included in Appendix 4.

Great Crested Newt (Triturus cristatus)

Great crested newts use both terrestrial and aquatic habitat within their lifecycle, with all habitat used legally protected. The terrestrial and, if present, aquatic habitats onsite were assessed for their value and suitability for great crested newts. The proximity of ponds within 500m and any habitat linking such ponds to the Site was also assessed as an important factor determining the likelihood of the species being present onsite. Any ponds present onsite or accessible during the survey were assessed using the Habitat Suitability Index (HSI) Assessment[10] where appropriate.

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Bats

Any trees or buildings present onsite were assessed for their suitability for roosting bats using the protocol set out in Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd ed)[11]. Where necessary this included the use of binoculars to allow for a ground level assessment to search for signs such as staining and/or droppings sometimes found around roost entrances. Internal inspections of buildings or loft voids was undertaken where possible, using ladders and crawling boards if appropriate. It is noted that a lack of evidence of roosting bats, such as presence of bats, droppings, or staining, does not correlate to a lack or presence or a lack of suitability.

Habitats were assessed for their suitability for foraging and commuting bats, as set out in Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd ed)[11].

Hazel Dormice (Muscardinus avellanarius)

The Dormouse Conservation Handbook (2nd Ed.)[12] provides a level of guidance on assessing a site where the status of hazel dormice is unknown. This assessment is made based upon historical records as well as the habitat and plant species present on and adjacent to the Site. As hazel dormice have a large range, a lack of evidence does not correlate to a lack of presence.

Otter (Lutra lutra) | *White Clawed Crayfish (Austropotamobius pallipes)*

Suitable waterbodies (if present) on or adjacent to the Site were assessed for their suitability to support these species, where access was possible. Any incidental evidence of the presence of these species on site (e.g. burrows, holts, spraints, foraging signs) was also recorded.

Other species

Protected under the Wildlife and Countryside Act 1981[13] or further specific legislation, further detailed within Appendix 4.

Birds

Habitats on site were assessed for their potential to support nesting birds as well as important numbers of breeding and wintering birds.

Reptiles

Terrestrial habitats on site were assessed for their potential to support common reptile species, based on factors including vegetation structure and composition, and the availability of shelter and foraging resources. All UK reptiles are protected, with rare species (smooth snake (*Coronella austriaca*) and sand lizard (*Lacerta agilis*) also given EPS status.

Water Vole (Arvicolus amphibius)

Suitable waterbodies (if present) on or adjacent to the Site were assessed for their suitability to support these species, where access was possible. Any incidental evidence of the presence of these species on site (e.g. burrows, holts, spraints, foraging signs) was also recorded.

Badger (Meles meles)

Habitats on site were assessed for their suitability for badger foraging and sett building. Any incidental evidence of the presence of badgers on site (e.g. setts, paths, prints, foraging signs, and latrines) was also recorded.

Priority Species

Habitats on site were assessed for their suitability for Priority Species. Priority Species are those listed as of Principal Importance in England under Section 41 of the NERC Act 2006[14], those listed as Local Priority Species, or those that feature on the relevant Local Biodiversity Action Plan. Any incidental evidence of the presence of

these species on site was also recorded. The presence of rare or notable plant species, such as red data list species[15], was also noted.

Invasive Species

A search was made for evidence of the presence of invasive plant species listed in Schedule 9 of the Wildlife and Countryside Act 1981 as they are subject to strict legal control.

2.3 Enhancements for Biodiversity Net Gain

In accordance with policy set out in the National Planning Policy Framework (NPPF)[16] all new developments are required to deliver a net gain in biodiversity. Following mitigation and compensation requirements to avoid a net loss of biodiversity, this report seeks to provide suitable Site-specific habitat and species enhancements which will provide the biodiversity net gain required as part of the NPPF.

2.4 Limitations to Survey

Due to the seasonal behaviour of animals and the seasonal growth patterns of plants, ecological surveys may be limited by the time of year in which they are undertaken. Some plant species are not readily identifiable in June as they emerge at other times of the year. Many animals in the UK have variable detectability throughout the year due to seasonal behaviour, including hibernation and migration. Therefore, this survey may not provide a complete list of the plants and animals present, or which may utilise the Site throughout the year.

As part of standard practice, a data search has been undertaken from the local biological record centre. This is not considered to be a complete list of species present and is better considered to be a list of species recorded, with many species known to be under recorded.

However, these limitations are not considered to have affected the accuracy of the assessment or the recommendations provided in this report and, where considered necessary, recommendations for further survey have been made to overcome these limitations.

This report presents conditions and recommendations for the Site based on the state of the Site during the survey visit. Any changes to the Site prior to development, including changes in the management of the Site habitats will therefore potentially invalidate this report and its recommendations.

3 Existing Conditions and Assessment of Effects

3.1 Summary

The following sites, species or ecological features have the potential to be affected by the development, or their presence has been detected during the desk study or data search. As such, they are discussed further in this report and action points, mitigation and compensation measures are recommended as necessary:

- Habitats
- Statutory and Non-Statutory Sites of Nature Conservation
- Great Crested Newts
- Bats
- Birds
- Reptiles
- Badgers
- Priority & Notable Species (Fauna and Flora)

The following species are very unlikely to occur on the Site, in adjacent habitats either due to a lack of suitable habitat or as they have localised distributions in the UK. As such, the proposed development does not pose a threat to the following species and they are not discussed further as no further survey or mitigation is considered necessary:

- White-Clawed Crayfish
- Hazel Dormice
- Water Vole
- Otter
- Invasive Species

Details of the legislation protecting ecological features is given in Appendix 4.

Site photos are included in Appendix 3.

3.2 Site Description and Habitats

3.2.1 Desk Study

The desk study returned the following records of notable habitats within 1km of the Site:

- 24 parcels of Deciduous Woodland (Priority Habitat Inventory)

None of these parcels are proximal to the Site, with a large block of habitat to the northeast, and several smaller blocks to the southwest.

3.2.2 Field Survey

Habitats noted on the Site were assessed using the Handbook for Phase 1 Habitat Survey[17] and included semi-improved grassland, tall ruderal, and ephemeral / short perennial. A Phase 1 Habitat Map is included in Appendix 2.

Semi-improved Grassland

The majority of the Site comprised of this habitat type, which had grown rank and was interspersed with tall ruderal and ephemeral / short perennial. Grass species present included: meadow foxtail (*Alopecurus pratensis*), false oat-grass (*Arrhenatherum elatius*), common couch (*Elymus repens*), perennial rye-grass (*Lolium perenne*), and rough meadow-grass (*Poa trivialis*). Herb species present included: buddleja, spear thistle (*Cirsium vulgare*), teasel (*Dipsacus fullonum*), willowherb (*Epylobium* sp.), cleavers (*Galium aparine*), bristly ox-tongue (*Helminthotheca echioides*), ragwort (*Jacobaea vulgaris*), ribwort plantain (*Plantago lanceolata*), creeping buttercup (*Ranunculus repens*), broad-leaved dock (*Rumex obtusifolius*), white clover (*Trifolium alba*), red clover (*Trifolium pratense*), and common nettle (*Urtica dioica*).

Tall ruderal

Patches of the site amongst the grassland comprised this habitat type. In addition to the grasses noted above, species here included: spear thistle, crested dogs tail (*Cynosurus cristatus*), cock's-foot (*Dactylis glomerata*), teasel, oxeye daisy (*Leucanthemum vulgare*), black medic (*Medicago lupulina*), ribwort plantain, buttercup (*Ranunculus* sp.), broad-leaved dock, red clover, and yellow oat grass (*Trisetum flavescens*).

Ephemeral / short perennial

Patches of the site amongst the grassland comprised this habitat type. Species here included:

buddleja, spear thistle, hawksbeard (*Crepis* sp.), crested dogs tail, willowherb, lesser celandine (*Ficaria verna*), bristly oxtongue, ragwort, birds foot trefoil (*Lotus corniculatus*), dwarf mallow (*Malva neglecta*), black medic, ribwort plantain, buttercup, dock, weld (*Ruseda luteola*), groundsel (*Senecio vulgaris*), dandelion (*Taraxacum* agg.), white clover, red clover, and yellow oat grass.

3.2.3 Assessment of Effects

The Site is expected to be cleared in its entirety. This will result in the loss of the above habitats, which are common and ubiquitous. They nonetheless have value, and support a range of species, notably invertebrates. The following requirements are therefore necessary to mitigate the loss of these habitats.

3.2.4 Requirements

Landscape proposals should incorporate the following habitat compensation:

- Open areas to be seeded with a species-rich amenity mix and managed sympathetically (reduced mowing regime during flowering season, i.e. once every three weeks May – September).

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- Amenity shrubs, trees, and planting to utilise native species, preferably those beneficial to pollinators[2].
- Boundaries to use native hedge plants, of at least 6 varieties, to create a species-rich hedge around the Site boundary. This should be managed sympathetically (not cut during nesting bird season; cut on a 3 year rotation with 1/3 of the hedge cut each year).

3.2.5 Enhancements for Biodiversity Net Gain

Being of value to invertebrates, invertebrate boxes or bee towers installed around site boundaries will benefit this group. Three of the former or one of the latter is an appropriate amount for the size of the Site.

3.2.6 Considerations for BREEAM

To achieve credits associated with LE04 and LE05, Landscape Proposals should be drawn up in collaboration with an ecologist and follow the habitat requirements set out above. Additionally, a Landscape and Ecology Management Plan (LEcMP) should be developed in collaboration with an ecologist to ensure the appropriate management of these habitats going forward.

A Biodiversity Enhancement Plan (BEP) should be created by an ecologist to show the appropriate location and ongoing management of the enhancement measures suggested, to achieve credits in LE04.

[2] https://www.rhs.org.uk/science/conservation-biodiversity/wildlife/plants-for-pollinators

3.3 Statutory and Non-Statutory Sites of Nature Conservation

3.3.1 Desk Study

The desk study returned no records for Statutory Sites, and one record of a Non-Statutory Site. The site is Short Wood and Hay Green Local Wildlife Site (LWS), which lies 600m to the northeast of the Site. This is an area of woodland and semi-improved grassland and does not share similarities in species-composition to the Site. The

The Site does not lie in an Impact Risk Zone (IRZ) for any sites.

3.3.2 Assessment of Effects

It is considered unlikely that this development will impact designated sites as there are none similar within 1km the Site. This is corroborated by the fact that the Site does not fall within an IRZ.

3.3.3 Requirements

No mitigation is required for designated sites.

3.4 Great Crested Newts

3.4.1 Desk Study

The desk study returned five records of great crested newts. The closest record was from Pond 1, 150m NE of the Site, from surveys conducted in 2014 in preparation for the development of the wider commercial estate.

A total of 4 ponds were identified within 500m of the proposed development (Figure 2). Details of each pond are provided in Table 1, below.

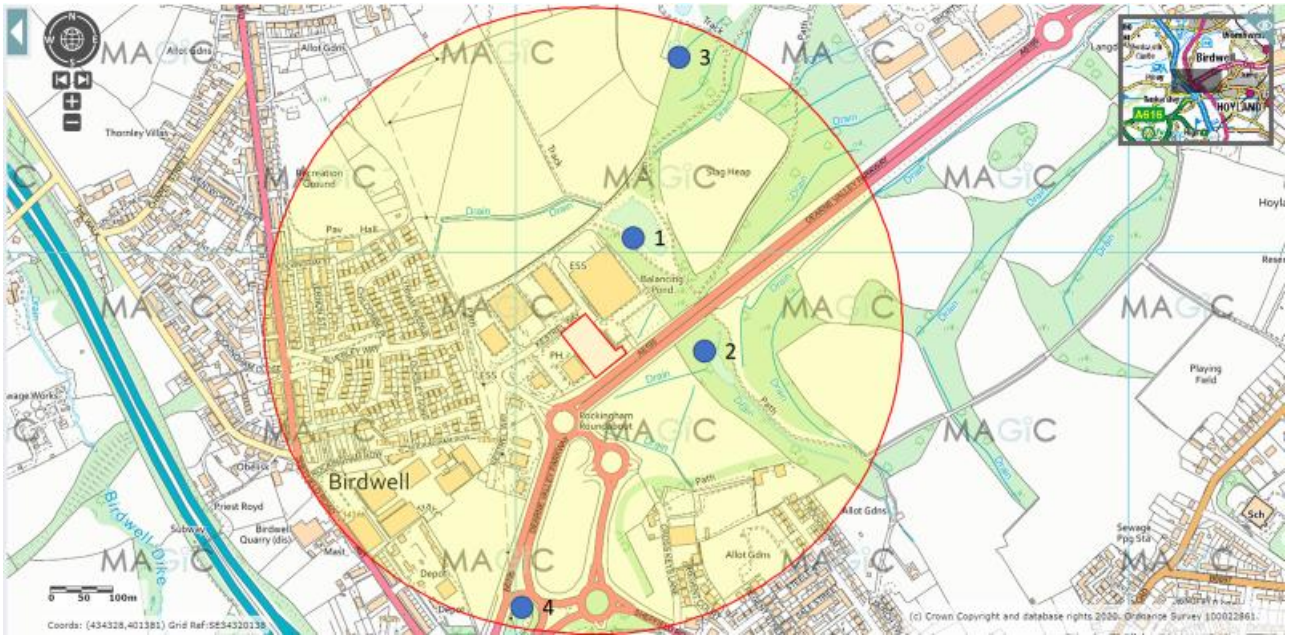


Figure 2: Ponds within 500m of the Proposed Development

Table 1: Pond Details

Pond #	Distance (m)	Direction	Visited	HSI Score[10]	Dispersal Barriers to the Site
1	150	NE	Y	0.88	Moderate – car park, building. Small corridor of connective habitat (grassland) to SE of site.
2	185	SE	Y	0.82	Major – major road
3	445	NE	Y	0.76	Major – distance, car park, building.
4	475	S	Y	0.76	Major – major roads

3.4.2 Field Survey

No suitable breeding habitat, in the form of ponds, was noted on the Site.

Suitable foraging habitat was present in the form of rough grassland with tall ruderal growth. There was no suitable refuge or shelter habitat on site.

The Site is isolated from any potential breeding habitat nearby by a combination of buildings and hardstanding, including car parks and roads.

3.4.3 Assessment of Effects

It is considered unlikely that great crested newts will be encountered on site. Great crested newts primarily remain within 100m of breeding ponds and are rarely present outside 250m from a breeding pond without suitable connecting habitat and reduced habitat within 250m of a pond[18]. Hence, even though it is known that the ponds within 500m host populations of great crested newts, the lack of connectivity between these ponds and the Site significantly reduces the likelihood of great crested newt presence on site.

Given the proximity of the record, however, there remains a residual risk of encountering this species on site during clearance or construction.

3.4.4 Requirements

Produce a Method Statement detailing safe procedures for clearance and construction of the Site, thereby minimising the risk of encountering, injuring, or killing individuals.

3.4.5 Considerations for BREEAM

The Method Statement should be incorporated into a Construction Environmental Management Plan (CEMP) to achieve credits for LE03.

3.5 Bats

3.5.1 Desk Study

No records of bats were returned by the desk study.

3.5.2 Field Survey

No buildings or trees were present on site to offer roost potential for bats.

The tall ruderal habitat on site offers low suitability foraging and commuting habitat for bats, but the functional isolation of the Site and the high light levels from adjacent roads and buildings reduce this suitability.

3.5.3 Assessment of Effects

The development is unlikely to impact bat roosts, as no suitable roosting habitat exists on site. There is a low likelihood of the development impacting commuting and foraging bats.

3.5.4 Requirements

No mitigation is required for this species.

3.6 Birds

3.6.1 Desk Study

Records of species returned by the data search included notable[19] species, for which suitable on-site habitat existed. These species are shown in Table 2.

Table 2: Notable species of bird returned by the data search, for which suitable on-site habitat exists

Species		Protection			
Scientific Name	Common Name	Schedule 1 WCA	BoCC Status	National Priority	Local Priority
Turdus philomelos	Song Thrush			✓	
Turdus viscivorus	Mistle Thrush				
Apus apus	Swift				
Falco tinnunculus	Kestrel				
Passer domesticus	House Sparrow			✓	
Prunella modularis	Dunnock			✓	
Sturnus vulgaris	Starling			✓	
Tyto alba	Barn Owl	✓			

3.6.2 Field Survey

No suitable nesting habitat was present on site. The tall ruderal on site was not dense enough to offer nesting suitability. Foraging habitat for a variety of granivorous and insectivorous birds was present on site.

3.6.3 Assessment of Effects

The clearance of the Site will result in the removal of foraging habitat for birds.

3.6.4 Requirements

Suitable landscaping as described in Section 3.2.4 will ensure this foraging resource remains post-development.

3.6.5 Enhancements for Biodiversity Net Gain

Three standard passerine boxes installed on the Site boundary will create nesting provision for birds. One pole mounted kestrel (*Falco tinnunculus*) box will provide nesting opportunities for this species, which is a Local Priority Species.

3.6.6 Considerations for BREEAM

A Biodiversity Enhancement Plan (BEP) should be created by an ecologist to show the appropriate location and ongoing management of the enhancement measures suggested, to achieve credits in LE04.

3.7 Reptiles

3.7.1 Desk Study

The desk study returned 1 record for grass snake (*Natrix helvetica*), from 2016 c.750m northeast of the Site.

3.7.2 Field Survey

The habitats on site provided low suitability foraging habitat for reptiles, notably common lizard (*Zootoca vivipara*), and slow worm (*Anguis fragilis*). However, there was a lack of suitable shelter habitat. The Site is additionally isolated from the wider area and is too small to host an independent population of reptiles.

3.7.3 Assessment of Effects

Given the Site's recent history of clearance, its current isolation, and the lack of shelter habitat, it is considered unlikely that reptiles will have colonised the site since its clearance. The risk of encountering reptiles on site is therefore suitably low to not warrant further consideration.

3.7.4 Requirements

No mitigation is required with regards to this species.

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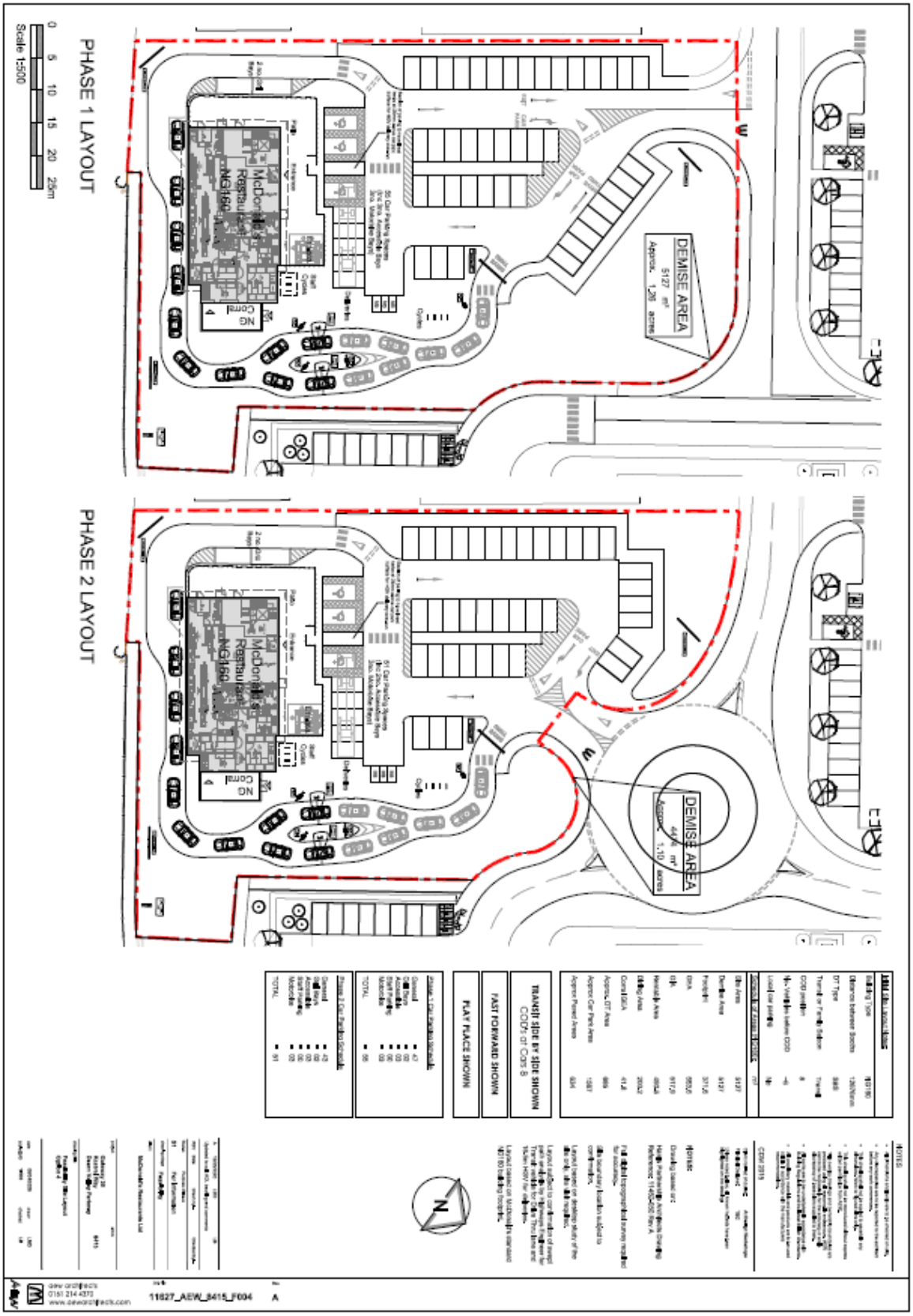
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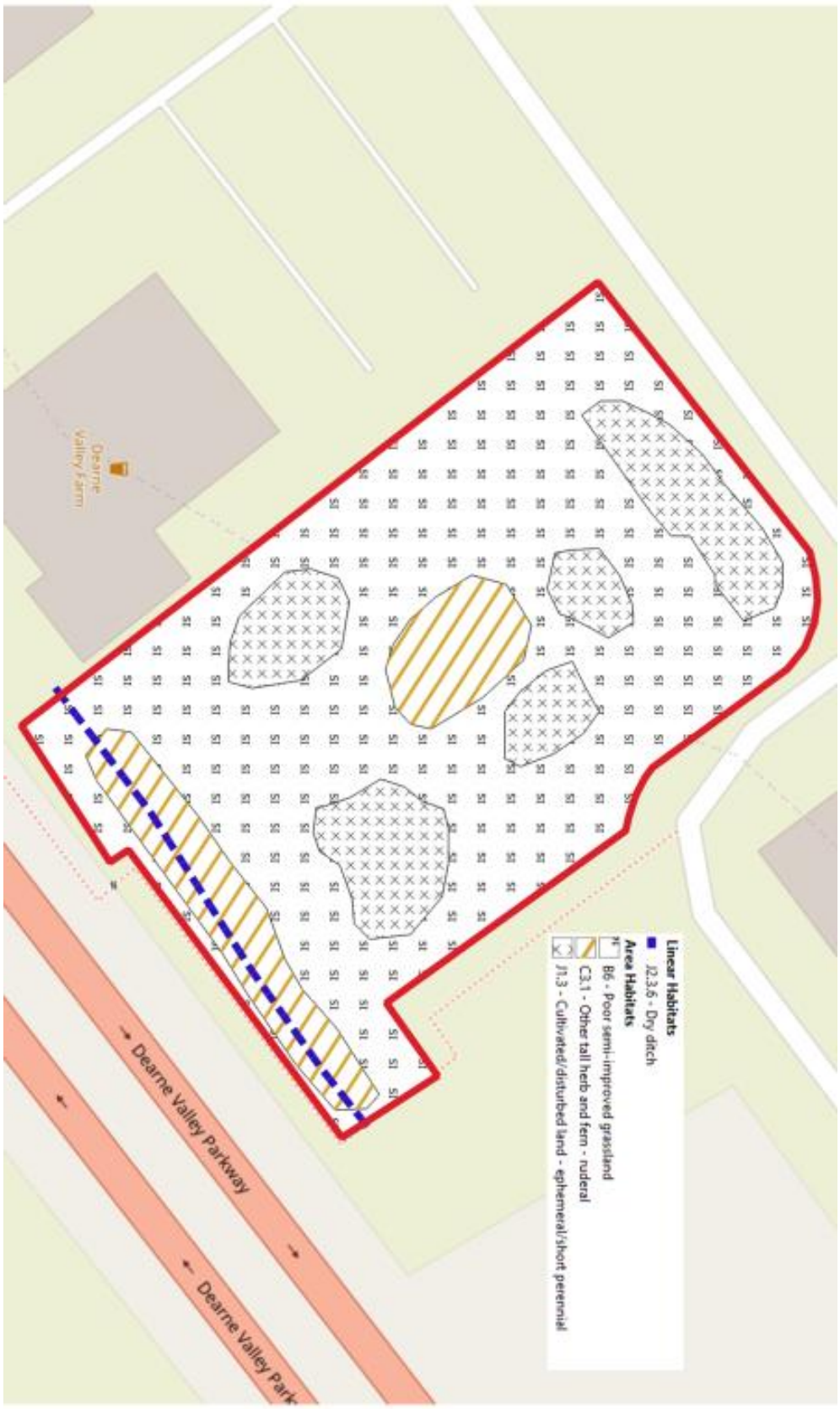
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Appendix 1: Proposed Site Plan



Appendix 2: Phase 1 Habitat Plan



Appendix 3: Site Photographs























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Appendix 4: Legislation

The following sections outline the legislation protecting each species or group of species where appropriate which have been considered as part of the preceding report.
Important notes:

- Practical Ecology Ltd's reports do **not** purport legal advice.
- The outline of legislation provided is not comprehensive and the original texts of the relevant legislation must be referred to for a full list of offences.

European Protected Species

Overview

The Bern Convention (The Convention on the Conservation of European Wildlife and Natural Habitats) was adopted in 1979. To implement the agreement, the European Community adopted the EC Habitats Directive.
The EC Habitats Directive has been written into UK law in the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). The Conservation of Habitats and Species Regulations 2017 (as amended) provides safeguards for European Protected Sites and Species (as listed in the Habitats Directive). This has recently been amended by the Conservation of Habitats and Species Regulations (amendments) (EU Exit) (2019) which continue the same provision for European protected species, licensing requirements and protected areas after the UK's exist from the European Union. In addition, the Countryside and Rights of Way Act 2000 strengthened the wildlife legislation in the UK. In relation to development, a person commits an offence regarding a species protected under Regulation 41 of The Conservation of Habitats and Species Regulations 2017 (as amended) if they:

- Deliberately capture, injure or kill an EPS;
- Deliberately or recklessly disturb wild animals of any such species in such a way as to be likely to significantly affect;
    - The ability of any significant group of animals to survive, breed or rear of nurture their young;
    - The local distribution or abundance of that species.
- Damages or destroys a breeding site or resting place (even if unintentional or when the animal is not present);
- Intentionally or recklessly obstructs access to a structure or place used for protection or shelter; and
- This applies regardless of the life stage (i.e. eggs, young, adult).

The following sections outline the offences that can be committed against each species or group of species which are protected by European law and tranches of UK law which strengthen that protection.

Great Crested Newts (*Triturus cristatus*)

Great crested newts and their breeding sites (ponds) or resting places are protected under Regulation 41 of The Conservation of Habitats and Species Regulations 2017 (as amended) and Section 9 of the Wildlife and Countryside Act 1981.
It is an offence to:

- intentionally or recklessly kill, injure or handle a great crested newt;
- to possess a great crested newt (whether live or dead);
- disturb a great crested newt – this includes in particular:
    - Any disturbance or obstruction which is likely to impair their ability to survive, breed or reproduce, or to rear or nurture their young; or
    - Any disturbance or obstruction that impairs their ability to hibernate or affecting their local distribution and abundance;
- sell or offer a great crested newt for sale without a licence.

It is also an offence to intentionally or recklessly damage, destroy or obstruct access to any place used by great crested newts for shelter, whether they are present or not.

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Bats

All species of bat and their breeding sites or resting places (roosts) are protected under Regulation 41 of The Conservation of Habitats and Species Regulations 2017 (as amended) and Section 9 of the Wildlife and Countryside Act 1981.
It is an offence to:

- intentionally kill, injure or handle a bat;
- to possess a bat (whether live or dead);
- disturb a roosting bat; or
- sell or offer a bat for sale without a licence.

It is also an offence to intentionally or recklessly damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.
A roost is defined as 'any structure or place which (a bat) uses for shelter or protection'. As bats tend to reuse the same roosts, legal opinion is that a roost is protected whether or not bats are present at the time of the survey.

Otter (*Lutra lutra*)

Otters and their breeding sites (holts) or resting places are protected under Regulation 41 of The Conservation of Habitats and Species Regulations 2017 (as amended) and Section 9 of the Wildlife and Countryside Act 1981.
It is an offence to:

- Deliberately or recklessly capture, kill, disturb or injure otters;
- Deliberately or recklessly damage or destroy a breeding or resting place;
- Deliberately or recklessly obstruct access to their resting or sheltering places; or
- possess, sell, control or transport live or dead otters, or parts of otters.

Common dormouse (*Muscardinus avellanarius*)

Common dormice and their breeding sites or resting places are protected under Regulation 41 of The Conservation of Habitats and Species Regulations 2017 (as amended) and Section 9 of the Wildlife and Countryside Act 1981.
It is an offence to:

- Deliberately or recklessly capture, kill, disturb or injure common dormice;
- Deliberately or recklessly damage or destroy a breeding or resting place;
- Deliberately or recklessly disturb a common dormouse whilst in structure or place of shelter or protection;
- Deliberately or recklessly obstruct access to their resting or sheltering places; or
- possess, sell, control or transport live or dead common dormice, or parts of common dormice.

Other Species

Badgers (*Meles meles*)

Badgers are fully protected in the UK by the Protection of Badgers Act, 1992 and by Schedule 6 of the Wildlife and Countryside Act 1981 as amended. The Protection of Badgers Act 1992 was introduced in recognition of the additional threats that badgers face from illegal badger digging and baiting. Under the Act, it is an offence *inter alia* to:

- Wilfully kill, injure or take a badger, or to attempt to do so;
- Cruelly ill-treat a badger; or
- Intentionally or recklessly interfere with a badger sett by;
    - damaging a sett or any part of one;
    - destroying a sett;
    - obstructing access to or any entrance of a sett;
    - causing a dog to enter a sett; or
    - disturbing a badger when it is occupying a sett.

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The purpose of this legislation is to ensure that badgers are humanely treated.

Water Vole (*Arvicola terrestris*)

Water vole and their breeding sites or resting places (burrows) are protected under Schedule 5 of the Wildlife and Countryside Act 1981. It is an offence to:

- Deliberately or recklessly capture, kill, disturb or injure water voles;
- Deliberately or recklessly damage or destroy a breeding or resting place;
- Deliberately or recklessly disturb a water vole whilst in structure or place of shelter or protection;
- Deliberately or recklessly obstruct access to their resting or sheltering places; or
- Possess, sell, control or transport live or dead water voles, or parts of water voles.

NB: In the case of water voles, a place of shelter or breeding or resting place is only likely to constitute an 'active' burrow.

Reptiles

All six of the UK's reptile species are protected under the Wildlife and Countryside Act 1981 (as amended).
Of the more common reptiles, it is illegal to intentionally kill or injure common lizard (*Zootoca vivipara*), slow worm (*Anguis fragilis*), an adder (*Vipera berus*) and grass snake (*Natrix helvetica*).

White-Clawed Crayfish (*Austropotomobius pallipes*)

The Wildlife and Countryside Act 1981 (as amended) makes it an offence to:

- Take a white-clawed crayfish from the wild;
- Sell or offer the sale of a whole or any part of a white-clawed crayfish.

This applies to all life stages.

Birds

The Wildlife and Countryside Act 1981 (as amended) makes it an offence to:

- intentionally kill, injure or take any wild bird;
- intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built;
- intentionally take or destroy the nest or eggs of any wild bird. [Special penalties are liable for these offences involving birds listed on **Schedule 1**].

Birds listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) have an additional level of protection. With regards to these species, it is it is an offence to deliberately or recklessly:

- disturb them whilst they are nesting, building a nest, in or near a nest that contains their young;
- disturb their dependent young.

Invasive Species

Certain species of plants and animals that do not naturally occur in Great Britain have become established in the wild and represent a threat to the natural fauna and flora. Section 14 of the Wildlife & Countryside Act 1981 (as amended) prohibits the release of any animal species that are 'not ordinarily resident or is not a regular visitor to Great Britain in a wild state'. Therefore, under Section 14 it is an offence to allow the establishment of plant species listed on Schedule 9 Part 2 in the wild.

Wild Mammals

Mammal species not of primary conservation concern do receive protection from unnecessary suffering through the Wild Mammals Protection Act (1996).