

SITE 2 SHEFFIELD ROAD, PENISTONE
EXTENDED PHASE 1 HABITAT SURVEY

A Report to Yorkshire Land Limited

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June 2013

SITE 2 SHEFFIELD ROAD, PENISTONE
EXTENDED PHASE 1 HABITAT SURVEY

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01 OF 02

01 YORKSHIRE LAND LIMITED
02 MIDDLEMARCH ENVIRONMENTAL LTD

This report was compiled by:
Ian Hayes MSc. Grad CIEEM

*The contents of this report are the responsibility of Middlemarch Environmental Ltd.
It should be noted that, whilst every effort is made to meet the client's brief,
no site investigation can ensure complete assessment
or prediction of the natural environment.*

Contract Number C114514

June 2013

EXECUTIVE SUMMARY

Middlemarch Environmental Ltd was commissioned by Yorkshire Land Limited to carry out an initial ecological appraisal at a site at Sheffield Road, Penistone. To fulfill this brief an ecological desk study and Extended Phase 1 Habitat Survey were undertaken.

The ecological desk study revealed no nature conservation sites within 1 km of the survey area. However, the desk study did provide records for a number of protected and notable species including mammals and birds.

The Extended Phase I Habitat Survey was undertaken on 4th June 2013 by Ian Hayes, Ecological Consultant. At the time of the survey, the site consisted mainly of hardstanding colonised by short perennial vegetation with scattered trees, and scrub and a strip of poor semi-improved grassland along the eastern boundary. Two concrete structures were located on site and believed to be supports for a building now removed.

In order to ensure compliance with wildlife legislation and relevant planning policy, the following works are recommended:

- **Nesting Birds:** To ensure compliance with the Wildlife and Countryside Act 1981 (as amended), vegetation clearance should be undertaken outside the nesting bird season. If this is not possible then any vegetation that is to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing.
- **Dingy Skipper:** The dingy skipper *Erynnis tages* is a UK Species of National Importance and a local BAP species and, as there is sufficient habitat for this species, it is recommended that a mitigation strategy be agreed to maintain the local population.
- **Reptiles:** To ensure compliance with the Wildlife and Countryside Act 1981 (as amended), vegetation must be removed under supervision of a suitably qualified ecologist.
- **Terrestrial Mammals including Hedgehog:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape.
- **Japanese Knotweed:** To ensure compliance with the Wildlife and Countryside Act 1981 (as amended) the works must not cause Japanese knotweed to spread. Therefore it is recommended that a Japanese knotweed survey be completed and a Method Statement developed to ensure that the proposed works do not result in the spread of this invasive non-native species.

Recommendations regarding habitat enhancement and the protection of BAP habitats and trees have also been made and can be viewed in Section 6.

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1. INTRODUCTION

1.1 PROJECT BACKGROUND

In June 2013 Yorkshire Land Limited commissioned Middlemarch Environmental Ltd to undertake an initial ecological appraisal of the site of a proposed development at Sheffield Road, Penistone. It is understood that the site will be developed as part of an adjacent development which currently includes the construction of 44 residential units with associated infrastructure and landscaping.

Middlemarch Environmental Ltd has also carried out an Extended Phase 1 Habitat Survey, a bat survey and an arboricultural survey for The Co-Operative Group on the site adjacent to this. The findings of these surveys are detailed in Middlemarch Environmental Ltd Reports RT-MME-113193-01, RT-MME-113193-02 and RT-MME-113193-03 respectively.

To fulfil the above brief to assess the existing ecological interest of the site, a desk study and an Extended Phase 1 Habitat Survey were undertaken on 4th June 2013.

1.2 SITE DESCRIPTION

The site is centred at National Grid Reference SE 252 032 and measures approximately 0.4 ha in area. The site is located in the eastern outskirts of Penistone off the B6462 in the Metropolitan Borough of Barnsley, South Yorkshire. The surrounding landscape comprised a mixture of built up areas with roads and residential dwellings, small scale industrial buildings and a railway line to the south west. The River Don is located 50 m north of the site. The site consisted of mainly of bare ground colonised by short perennial vegetation but also contained scattered scrub, scattered trees and tall ruderal vegetation. Two concrete structures were located in the south of the site believed to be supports for a structure since demolished.

2. METHODOLOGIES

2.1 DESK STUDY

A desk study was undertaken to determine the presence of any designated nature conservation sites and protected species that have been recorded within a 1 km radius of the site. This involved contacting appropriate statutory and non-statutory organisations which hold ecological data relating to the survey area. Middlemarch Environmental Ltd then assimilated and reviewed the desk study data provided by these organisations.

The consultees for the Desk Study were:

- Natural England - *MAGIC* website for statutory conservation sites; and,
- Sheffield Biological Records Centre.

The data collected from these consultees is discussed in Section 3. Selected data are provided in Appendix 1. Data from Sheffield Biological Records Centre can be provided upon request.

2.2 EXTENDED PHASE 1 HABITAT SURVEY

An Extended Phase 1 Habitat Survey was conducted following the methodology of the Joint Nature Conservation Committee (JNCC, 2010) and the Institute of Environmental Assessment (IEA, 1995). Phase 1 Habitat Survey is a standard technique for classifying and mapping British habitats. The aim is to provide a record of habitats that are present on site. During the survey, the presence, or potential presence, of protected species was noted. Data recorded during the field survey is discussed in Section 4.

Whilst every effort is made to notify the client of any plant species listed on Schedule 9 of the Wildlife and Countryside Act (1981, as amended) present on site, it should be noted that this is not a specific survey for these species.

3. DESK STUDY RESULTS

3.1 INTRODUCTION

All relevant ecological data provided by the consultees was reviewed and the results from these investigations are summarised below in Sections 3.2 and 3.3. Selected data is provided in Appendix 1.

3.2 NATURE CONSERVATION SITES

Reference to the Multi Agency Geographical Information for the Countryside (MAGIC) website and the local biodiversity information indicates that no nature conservation sites with statutory protection and no nature conservation sites with non-statutory protection occur within a 1 km radius of the survey area.

Two areas of ancient woodland occur within a 1 km radius of the site. Shrogg Wood is located approximately 620 m north east of the site and Spring Vale Wood approximately 570 m east of the site.

3.3 PROTECTED SPECIES

Table 3.2 provides a summary of protected species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area. Relevant records of UK and local Biodiversity Action Plan species have also been included within this table.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Species of Principal Importance?	Local BAP?	Legislation / Conservation Status
Mammals						
Bats						
Brandt's bat <i>Myotis brandti</i>	1	1990	570 m north west	-	✓	ECH 4, WCA 5, WCA 6
Noctule <i>Nyctalus noctula</i>	2	1991	570 m north west	✓	✓	ECH 4, WCA 5, WCA 6
Pipistrelle <i>Pipistrellus pipistrellus</i>	13	1997	220 m north west	-	✓	ECH 4, WCA 5, WCA 6
Soprano pipistrelle <i>Pipistrellus pygmaeus</i>	1	2001	950 m west	✓	✓	ECH 4, WCA 5, WCA 6
Unidentified bat <i>Chiroptera</i> sp.	7	2008	570 m north west	-	✓	ECH 4, WCA 5, WCA 6
Whiskered bat <i>Myotis mystacinus</i>	1	1987	570 m north west	-	✓	ECH 2, ECH 4, WCA 5, WCA 6

Table 3.2: Summary of Protected/Notable Species Records Within 1 km Radius of Study Site.
Continues.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Species of Principal Importance?	Local BAP?	Legislation / Conservation Status
Mammals						
Other						
Brown hare <i>Lepus europaeus</i>	1	Historic	600 m west	✓	-	-
Hedgehog <i>Erinaceus europaeus</i>	4	1983	450 m south west	✓	✓	WCA 6
Key: ECH 2: Annex II of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest whose conservation requires the designation of Special Areas of Conservation. ECH 4: Annex IV of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest in need of strict protection. WCA 5: Schedule 5 of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). WCA 6: Schedule 6 of Wildlife and Countryside Act 1981 (as amended). Animals which may not be killed or taken by certain methods. UK BAP: United Kingdom Biodiversity Action Plan. Local BAP: Barnsley Local Biodiversity Action Plan NERC S.41: Natural Environment and Rural Communities Act 2006, Section 41: Habitats and Species of Principal Importance in England. Note. This table does not include reference to the Berne Convention (Convention on the Conservation of European Wildlife and Natural Habitats), the Bonn Convention on the Conservation of Migratory Species of Wild Animals or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).						

Table 3.2. Continued: Summary of Protected/Notable Species Records Within 1 km Radius of Study Site

In addition to the records provided in Table 3.1, records of numerous notable bird species were provided. Many of these species are listed on the UK BAP and could utilise the habitats on site including house sparrow *Passer domesticus* (RSPB Red List), starling *Sturnus vulgaris* (RSPB Red List) and yellowhammer *Emberiza citrinella* (RSPB Red List). A number of common plant, moss, lichen and invertebrate species were also recorded in the ecological desk study. The details of these are provided in Appendix 1.

3.4 INVASIVE SPECIES

The ecological desk study identified no invasive species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

3.5 PREVIOUS ECOLOGICAL SURVEYS

In April 2009 the Co-Operative Group commissioned Entec UK Ltd to undertake an initial ecological appraisal of the site of a proposed development at Sheffield Road, Penistone. This included undertaking a desk study and an Extended Phase 1 Habitat Survey of the proposed development site.

4. EXTENDED PHASE 1 HABITAT SURVEY

4.1 INTRODUCTION

The results of the Extended Phase 1 Habitat Survey are presented in Section 4.2. An annotated Extended Phase 1 Habitat Survey Drawing (Middlemarch Environmental Ltd Drawing C114514-01) is attached in Appendix 2. This drawing illustrates the location and extent of all habitat types recorded on site. Any notable features or features too small to map are detailed using target notes.

The survey was carried out on 4th June 2013 by Ian Hayes, Ecological Consultant. Table 4.1 details the weather conditions at the time of the survey.

Parameter	Condition
Temperature (°C)	17
Cloud (%)	25
Wind (Beaufort)	F1-2
Precipitation	Dry

Table 4.1: Weather Conditions During Survey Period

4.2 SURVEY CONSTRAINTS

There were no survey constraints. Access was available to all areas of the site during the survey.

4.3 HABITATS

The following habitat types were recorded on site during the field survey:

- Fence
- Hardstanding and other structures
- Poor semi-improved grassland
- Scattered scrub
- Scattered broadleaved trees
- Tall ruderal vegetation

These habitats are described below. They are ordered alphabetically, not in order of ecological importance.

Fence

A wooden fence is present along the eastern boundary within the poor semi-improved grassland habitat. This fence did not support any notable vegetation. On the western boundary of the site was a mixture of pallisade and wire fencing, again these did not support any vegetation.

Hardstanding and other structures

Hardstanding in the form of crushed stone was noted covering the northern part and much of the central area of the site. This had become colonised in many areas with short perennial vegetation with the dominant species being bird's foot trefoil *Lotus corniculatus*. Other species noted included tufted vetch *Vicia cracca*, black meddock *Medicago lupulina*, Herb-Robert *Geranium robertianum* and wild strawberry *Fragaria vesca*. In the south of the site were two long concrete structures measuring approximately 40 m long and 50 cm at the highest point. These supported no notable vegetation.

Poor semi-improved grassland

This habitat was located on the southern boundary of the site adjacent to the fence and also contained frequent tall ruderal vegetation. The sward was high with a maximum height of approximately 80 cm. Species recorded within this habitat included perennial rye grass *Lolium perenne*, cock's-foot *Dactylis glomerata* (both dominant), ribwort plantain *Plantago lanceolata*, dandelion *Taraxacum officinale* agg., clover *Trifolium* sp., rosebay willowherb *Chamerion angustifolium*, spear thistle *Cirsium vulgare*, nettle *Urtica dioica*, red fescue *Festuca rubra*, birds-foot trefoil *Lotus corniculatus*, Yorkshire fog *Holcus lanatus*, false oat grass *Arrhenatherum elatius*, umbellifers, vetch *Vicia* sp., dock *Rumex* sp. and teasel *Dipsacus fullonum*.

Scattered scrub

Scattered scrub was present in the north east of the site adjacent to the previously surveyed area. The dominant species here was broom *Cytisus scoparius*. Growing in between were bird's foot trefoil and grass species such as cock's foot *Dactylis glomerata* and Yorkshire fog.

Scattered broadleaved trees

A number of broadleaved trees were present along the western boundary of the site and around the gate entrance off Lairds Way including silver birch *Betula pendula* and willow *Salix* sp. The trees were approximately 8 m in height and were young with no features such as cracks, holes or rot suitable for roosting bats or other fauna to use. .

Tall ruderal vegetation

Tall ruderal vegetation was located in the south of the site adjacent to the wooden fence and on the northern boundary of the site adjacent to the previously surveyed area. This habitat mainly comprised of patches of nettle *Urtica dioica*, broad leaved dock *Rumex obtusifolius* and teasel with red fescue and scattered bramble *Rubus fruticosus* agg. scrub.

4.4 FAUNA

During the survey field signs of faunal species were noted and mapped. The time of year at which the survey is undertaken will affect species or field signs directly recorded during the survey.

Evidence of the following faunal species was observed on site:

A range of common bird species, including carrion crow *Corvus corone*, blue tit *Cyanistes caeruleus* and goldfinch *Carduelis carduelis* were recorded on site during the field survey. In addition the following butterfly species were also noted small white *Pieris rapae*, speckled wood *Pararge aegeria* and dingy skipper *Erynnis tages*.

4.5 INVASIVE PLANT SPECIES

Two stands of the invasive, non native plant species Japanese knotweed *Fallopia japonica* were recorded during the field survey. This species is listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). As such, it is an offence to cause it to grow or spread in the wild.

5. DISCUSSIONS AND CONCLUSIONS

5.1 SUMMARY OF PROPOSALS

It is understood that an outline planning application for 44 units will be submitted for the adjacent site, and that the current site will be included as part of the development area. The precise details of the development have not been finalised at this stage.

A precautionary approach has been adopted when discussing which habitats/species are notable considerations. The discussion and recommendations should be reviewed and amended, where appropriate, once the proposals are finalised.

5.2 NATURE CONSERVATION SITES

No nature conservation sites were recorded within a 1 km radius of the site.

5.3 HABITATS

The ecological importance of the habitats present on site is determined by their presence on the list of UK Habitats of Principal Importance and on the Local BAP. It also takes into account the intrinsic value of the habitat e.g. mature trees which cannot easily be replaced. Those habitats which meet any of these criteria and are considered likely to be impacted by the proposals are highlighted as notable considerations. This is summarised in Table 5.1 and further discussed in the text below.

Habitat type	UK Habitats of Principal Importance?	Local BAP?	Will habitat be impacted?	Is habitat a notable consideration?
Fence	-	-	Potentially	No
Hardstanding and other structures	-	-	Potentially	No
Poor semi improved Grassland	-	-	Yes	No
Scattered scrub	-	-	Yes	No
Scattered broadleaved trees	-	-	Potentially	No
Tall ruderal vegetation	-	-	Potentially	No
Wall	-	-	Potentially	No

Table 5.1: Summary of Ecological Importance of Habitats on Site

The habitats are not notable as they are of low ecological value, are common in the local area, are of a small size or can easily be replaced.

5.4 PROTECTED/NOTABLE SPECIES

Table 5.2 and the discussion below consider any species identified within the desk study or where potentially suitable habitat is present.

Species / Species Group	Suitable Habitats Within Survey Area	Could Species be Impacted, if Present?
Badgers	Poor semi-improved grassland	Yes
Bats	Poor semi-improved grassland, scattered scrub, scattered trees	No
Birds	Scattered scrub, scattered trees	Yes
Butterflies	Short perennial vegetation	Yes
Great Crested Newts	Poor semi-improved grassland, scrub	Yes
Other - Hedgehog	Poor semi-improved grassland	Yes
Reptiles	Poor semi-improved grassland	Yes

Table 5.2: Summary of Ecological Importance of Species on Site

Badgers

The desk study identified no records of badgers within the 1 km search area. The site contains some suitable badger foraging habitat but no sett building habitat. No evidence of badger activity on site such as setts, latrines, hairs or tracks was recorded during the field survey. Badgers are not a notable consideration with respect to the site's development.

Bats

The desk study identified several records of bats within the 1 km search area including noctule and common pipistrelle. The scrub habitats offer foraging/commuting habitat for a variety of bat species however there were not potential roosting opportunities on site. As a result, bats are not a notable consideration in relation to the proposed works.

Birds

The desk study identified records of a number of bird species including several that may be found in the proposed development site. During the field survey the scattered trees and scrub vegetation was used by a range of common bird species. These habitats also have the potential to support nesting birds, which are protected under the Wildlife and Countryside Act (as amended). As these habitats will be affected by the proposed works, nesting birds are a notable consideration and a recommendation is made in Section 6.3.

Butterflies

The desk study did not reveal any records of butterflies within the 1 km search area. However during the field survey dingy skipper *Erynnis tages* was noted feeding on the bird's foot trefoil, this is a UK species of Principal Importance, a local BAP species and is listed as Vulnerable on the Butterfly Red List for Great Britain (Fox et al. 2010). As the short perennial habitat will potentially be affected by the proposed works, butterflies are of notable concern and a recommendation is made in Section 6.3.

Great Crested Newt

No records of great crested newt were recorded within 1 km of the site. No waterbodies are present on site but terrestrial habitat is present for the species. From reference to Ordnance Survey 1:25,000 maps it appears that there are no water bodies located within a 500 m radius of the proposed development. It is therefore considered highly unlikely that any great crested newts would be present within the terrestrial habitats on the site. In addition the roads, railway line and the River Don pose a significant barrier to the species' movement within the local area.

Other - Hedgehog

The desk study identified records of hedgehogs within the 1 km search area which is a UK species of Principal Importance. There are suitable foraging habitats for this species and as such it is a notable consideration.

Reptiles

The desk study returned no records of reptiles within the search area. The site contains small areas of suitable reptile habitat including poor semi-improved grassland and scrub and is adjacent to a railway line (a known dispersal corridor for reptile species). Reptiles are therefore a notable consideration with respect to the proposed works. Recommendations have been made in Section 6.3.

A summary of legislation relevant to the ecology of the site is included in Appendix 3.

5.5 INVASIVE PLANT SPECIES

Two stands of the invasive, non native plant species Japanese knotweed *Fallopia japonica* were recorded during the field survey. This species is listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). As such, it is an offence to cause it to grow or spread in the wild. As such, a recommendation is made in Section 6.4.

6. RECOMMENDATIONS

All recommendations made below are subject to change once the details of the proposed works are finalised. Once the extent of the proposed development is known all recommendations should be reviewed and amended as appropriate.

6.1 NATURE CONSERVATION SITES

No recommendations are made.

6.2 HABITATS

The following recommendations are made regarding the habitats present on site:

- **Habitat Loss & Enhancement:** In accordance with the provision of Chapter 11 of the National Planning Policy Framework (Conserving and Enhancing the Natural Environment) and Local Planning Policy, a biodiversity enhancement plan should be incorporated into the landscaping scheme of any proposed works to maximise the ecological value of the site. This will involve, for example, the planting of native seed/fruit bearing species which will be of value to wildlife and creation of open flower-rich habitats for bees.
- **Trees:** Any trees and/or hedgerows on site, or overhanging the site, which are not to be removed as a part of any proposed works should be protected in accordance with British Standard 5837: 2012 "Trees in relation to design, demolition and construction - recommendations". Protection should be installed on site prior to the commencement of any works on site.

6.3 PROTECTED / NOTABLE SPECIES

The following recommendations are made regarding protected species that are potentially present on site:

- **Nesting Birds:** To ensure compliance with the Wildlife and Countryside Act 1981 (as amended), vegetation clearance should be undertaken outside the nesting bird season. The nesting bird season is weather dependent but generally extends between March and September inclusive. If this is not possible then any vegetation that is to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing. If birds are found to be nesting any works which may affect them would have to be delayed until the young have fledged and the nest has been abandoned naturally.
- **Dingy Skipper:** The dingy skipper *Erynnis tages* is a UK Species of National Importance and a local BAP species and, as there was a reasonable amount of suitable habitat for this species, it is recommended that a mitigation strategy be agreed to protect this local population.
- **Reptiles:** To ensure compliance with the Wildlife and Countryside Act 1981 (as amended), vegetation must be removed under supervision of a suitably qualified ecologist.

- **Terrestrial Mammals including Hedgehog:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape.

6.4 INVASIVE PLANT SPECIES

- **Japanese Knotweed:** To ensure compliance with the Wildlife and Countryside Act 1981 (as amended) the works must not cause Japanese knotweed to spread. Japanese knotweed can spread from rhizomes in soil within a 7 m radius of the stand of the plant. Therefore it is recommended that a Japanese knotweed survey be completed and a Method Statement developed to ensure that the proposed works do not result in the spread of this invasive non-native species. The optimal time for survey is between April and September.

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APPENDICES

- APPENDIX 1: Desk Study Data
- APPENDIX 2: Middlemarch Environmental Ltd Drawing C114514--01
Extended Phase 1 Habitat Survey
- APPENDIX 3: Overview of Relevant Legislation

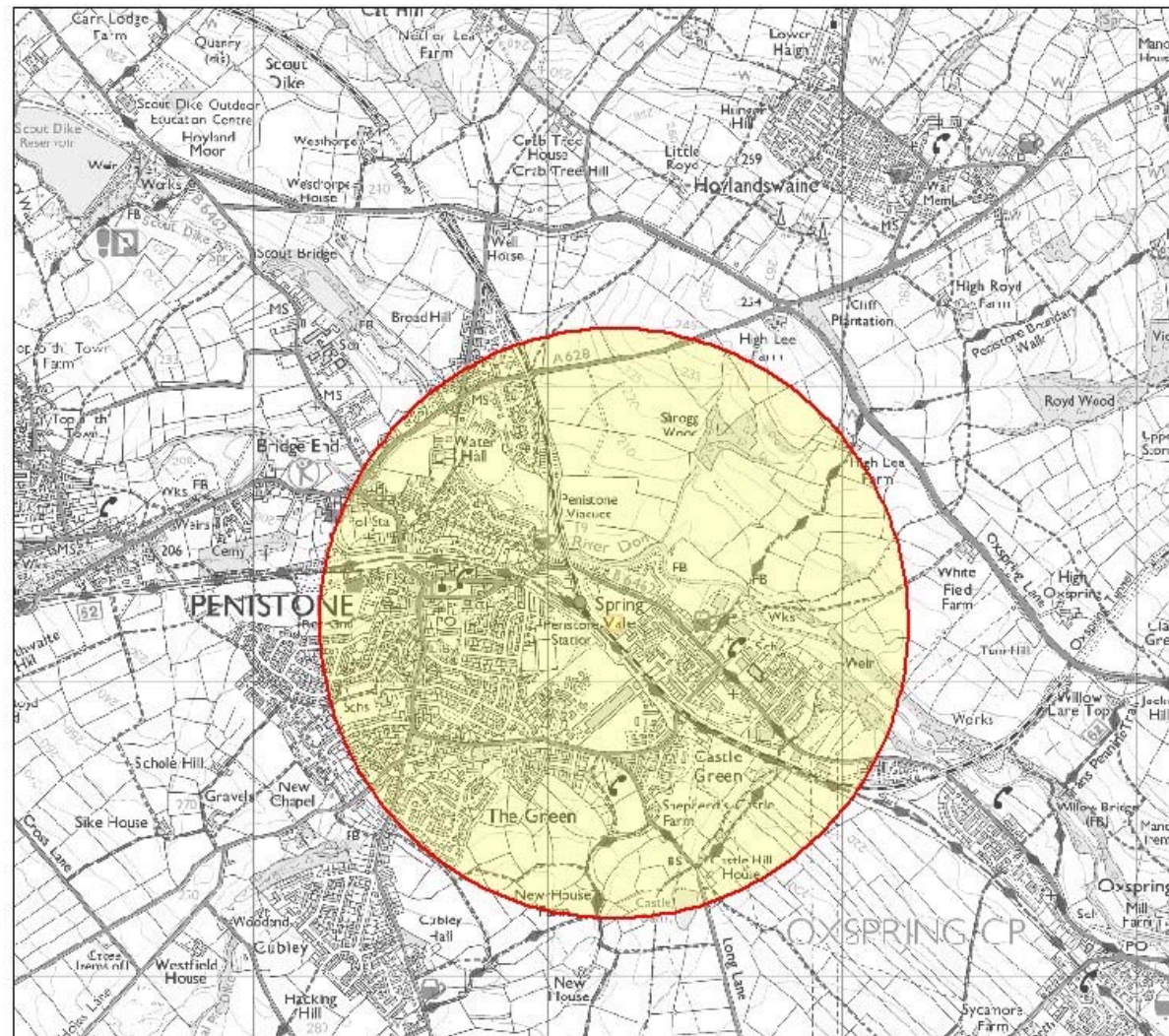
APPENDIX 1

Desk Study Data

The data contained in this appendix is confidential and cannot be reproduced.



Site 2 Sheffield Road



Legend

- | | | |
|---------------------------------------|---|---|
| Environment Sensitive Areas (England) | National Parks: Lake District and Yorkshire Dales Variation Orders 2012 - subject to confirmation (England) | Special Areas of Conservation (England) |
| Local Nature Reserves (England) | Ramsar Sites (England) | Special Protection Areas (England) |
| National Nature Reserves (England) | Sites of Special Scientific Interest (England) | |
| National Parks (England) | | |

Projection = OSGB36

xmin = 421000

ymin = 401500

xmax = 429400

ymax = 405600

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APPENDIX 2

Middlemarch Environmental Ltd Drawing C114514-01
Extended Phase 1 Habitat Survey



C114514-01

Legend

Site boundary

Scattered broad-leaved trees

Scattered scrub

Fence

Wall

Ephemeral vegetation

Hardstanding

SI

Poor semi-improved grassland

Tall ruderal

Target notes:

1 Concrete support

2 Japanese Knotweed stand

Project

Site 2 Sheffield Road, Penistone, Ellesmere Port

Drawing

Extended Phase 1 Habitat Survey

Client

The Co-operative group

Drawing Number

C114514-01

Revision

00

Scale @ A3

1:700

Date

June 2013

Approved By

IH

Drawn By

AH

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APPENDIX 3

Overview of Relevant Legislation

GENERAL LEGISLATION AND POLICY OVERVIEW

This section provides an overview of the framework of legislation and policy which underpins nature conservation and is a material consideration in the planning process in England.

CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010, AS AMENDED (HABITATS REGULATIONS 2010, AS AMENDED)

The Habitats Regulations 2010 consolidate and update the Conservation (Natural Habitats, &c.) Regulations 1994 and all its various amendments. The Habitats Regulations 2010 are the principal means by which the EEC Council Directive 92/43 (The Habitats Directive) as amended is transposed into English and Welsh law.

The Habitats Regulations 2010 place duty upon the relevant authority of government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria are, in conjunction with the European Commission, designated as Sites of Community Importance, which are subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. The regulations also place a duty upon the government to maintain a register of European protected sites designated as a result of EC Directive 79/409/EEC on the Conservation of Wild Birds (The Birds Directive). These sites are termed Special Protection Areas (SPA) and, in conjunction with SACs, form a network of sites known as Natura 2000. The Habitats Directive introduces for the first time for protected areas, the precautionary principle; that is that projects can only be permitted having ascertained no adverse effect on the integrity of the site. Projects may still be permitted if there are no alternatives, and there are imperative reasons of overriding public interest.

The Habitats Regulations 2010 also provide for the protection of individual species of fauna and flora of European conservation concern listed in Schedules 2 and 5 respectively. Schedule 2 includes species such as otter and great crested newt for which the UK population represents a significant proportion of the total European population. It is an offence to deliberately kill, injure, disturb or trade these species. Schedule 5 plant species are protected from unlawful destruction, uprooting or trade under the regulations.

The Habitats Regulations 2010 were amended in August 2012 to ensure clearer transposition of the provisions of Articles 2, 3, 4(4) (second sentence) and Article 10 of the Wild Birds Directive, by giving additional and specific duties to relevant bodies. A number of amendments were also made to transpose more clearly certain elements of the Habitats Directive.

THE WILDLIFE AND COUNTRYSIDE ACT (WCA) 1981 (AS AMENDED)

The WCA, as amended, consolidates and amends pre-existing national wildlife legislation in order to implement the Bern Convention and the Birds Directive. It complements the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), offering protection to a wider range of species. The Act also provides for the designation and protection of national conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSIs).

Schedules of the act provide lists of protected species, both flora and fauna, and detail the possible offences that apply to these species. All relevant species specific legislation is detailed later in this Appendix.

THE COUNTRYSIDE AND RIGHTS OF WAY (CROW) ACT 2000

The CROW Act, introduced in England and Wales in 2000, amends and strengthens existing wildlife legislation detailed in the WCA. It places a duty on government departments and the National Assembly for Wales to have regard for biodiversity, and provides increased powers for the protection and maintenance of SSSIs.

The Act also contains lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

THE NATURAL ENVIRONMENT AND RURAL COMMUNITIES (NERC) ACT 2006

Section 40 of the NERC Act places a duty upon all local authorities and public bodies in England and Wales to promote and enhance biodiversity in all of their functions. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity. These lists supersede Section 74 of the CROW Act 2000. These species and habitats are a material consideration in the planning process.

THE HEDGEROW REGULATIONS 1997

The Hedgerow Regulations make provision for the identification of important hedgerows which may not be removed without permission from the Local Planning Authority.

UK BIODIVERSITY ACTION PLAN

The United Kingdom Biodiversity Action Plan (UKBAP), first published in 1994 and updated in 2007, was a government initiative designed to implement the requirements of the Convention of Biological Diversity to conserve and enhance species and habitats. The UKBAP contained a list of priority habitats and species of conservation concern in the UK, and outlined biodiversity initiatives designed to enhance their conservation status. The priority habitats and species correlated with those listed on Section 41 and 42 of the NERC Act.

The UK BAP required that conservation of biodiversity was addressed at a County level through the production of Local BAPs. These are complementary to the UKBAP, however are targeted towards species of conservation concern characteristic of each area. In addition, a number of local authorities and large organisations have produced their own BAPs.

SPECIES AND HABITATS OF MATERIAL CONSIDERATION FOR PLANNING IN ENGLAND

In 2011, the government published the 'Biodiversity 2020: A strategy for England's wildlife and ecosystem services' to replace the previous England Biodiversity Strategy. In 2012 the UK BAP was itself replaced by the UK Post-2010 Biodiversity Framework.

Previous planning policy (and some supporting guidance which is still current, e.g. ODPM Circular 06/2005, now under revision), refers to UK BAP species as being a material consideration in the planning process. Equally many local plans refer to BAP priority habitats and species. Both remain as material considerations in the planning process but such habitats and species are now described as Species and Habitats of Principal Importance for Conservation in England, or simply priority habitats and priority species under the UK Post-2010 Biodiversity Framework. The list of habitats and species remains unchanged and is still derived from Section 41 list of the Natural Environment and Rural Communities (NERC) Act 2006. As was previously the case when it was a BAP priority species hen harrier continues to be regarded as a priority species although it does not appear on the Section 41 list.

Planning Policy

National Planning Policy Framework

In early 2012, the National Planning Policy Framework (NPPF) replaced much previous planning policy guidance, including Planning Policy Statement 9: Biological and Geological Conservation. The government circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, which accompanied PPS9, still remains valid. A presumption towards sustainable development is at the heart of the NPPF. This presumption does not apply however where developments require appropriate assessment under the Birds or Habitats Directives.

Chapter 11, on conserving and enhancing the natural environment, sets out how the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and, where possible, provide net gains in biodiversity. Opportunities to incorporate biodiversity gains into a development should be encouraged.

If a proposed development would result in significant harm to the natural environment which cannot be avoided (through the use of an alternative site with less harmful impacts), mitigated or compensated for (as a last resort) then planning permission should be refused.

SPECIES SPECIFIC LEGISLATION

This section contains a summary of legislation with relation to the species present or potentially present in the survey area. The reader should refer to the original legislation for definitive interpretation.

The reader should refer to the original legislation for the definitive interpretation.

Nesting and Nest Building Birds

Nesting and nest building birds are protected under the Wildlife and Countryside Act WCA 1981 (as amended). Some species (listed in Schedule 1 of the WCA) are protected by special penalties.

Subject to the provisions of the act, if any person intentionally:

- kills, injures or takes any wild bird;
- takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- takes or destroys an egg of any wild bird,

he shall be guilty of an offence.

'Reckless' offences with regard to the disturbance of nesting wild birds included in Schedule 1 of the Wildlife and Countryside Act were added by the Countryside and Rights of Way Act 2000.

The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on Government Departments to have regard for the conservation of biodiversity and maintains lists of species and habitats which are of principal importance for the purposes of conserving biodiversity in England and Wales. These lists include a number of bird species.

Reptiles

All of the UK's native reptiles are protected by law. The two rarest species – sand lizard (*Lacerta agilis*) and smooth snake (*Coronella austriaca*) – benefit from the greatest protection, however these two species are not known to occur within South Yorkshire / Both these species have a limited geographical distribution and none of the habitats within the study area fulfill their specific habitat requirements. It is therefore considered that these species are unlikely to be present within the study area. Common lizard (*Lacerta vivipara*), slow-worm (*Anguis fragilis*), adder (*Vipera berus*) and grass snake (*Natrix natrix*) are protected under the Wildlife and Countryside Act 1981 as amended from intentional killing or injuring.

In England and Wales, this Act has been amended by the Countryside and Rights of Way Act 2000 (CROW), which adds an extra offence, makes species offences arrestable, increases the time limits for some prosecutions and increases penalties. The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on Government Departments to have regard for the conservation of biodiversity and maintains lists of species and habitats which are of principal importance for the purposes of conserving biodiversity in England and Wales. All native reptile species are included on these lists.

This is a simplified description of the legislation. In particular, the offences mentioned here may be absolute, intentional, deliberate or reckless. Note that where it is predictable that reptiles are likely to be killed or injured by activities such as site clearance, this could legally constitute intentional killing or injuring.

English Nature (2004) has stated that:

Reptiles are likely to be threatened, and the law potentially breached, by activities such as the following:

- Archaeological and geotechnical investigations
- Clearing land, installing site offices or digging foundations
- Cutting vegetation to a low height
- Laying pipelines or installing other services
- Driving machinery over sensitive areas
- Storing construction materials in sensitive areas
- Removing rubble, wood piles and other debris.

In general Natural England would expect reasonable avoidance to include measures such as altering development layouts to avoid key areas, as well as capture and exclusion of reptiles.

MIDDLEMARCH ENVIRONMENTAL LTD

QUALITY ASSURANCE

TITLE: SITE 2 SHEFFIELD ROAD, PENISTONE

EXTENDED PHASE 1 HABITAT SURVEY

A Report to Yorkshire Land Limited

Contract Number: C114514

Report Number: RT-MME-114514

Revision Number: 00

Description: Final

Date: June 2013

Checked by:

Colin Bundy
Principal Ecological Consultant

Approved by:

Dr Philip Fermor
Managing Director