



# Ecological Mitigation, Management and Enhancement Plan

Land at Whitworth Road, OL12 0JG

Cornerstone Place

| Status | Issue | Name                                      | Date       |
|--------|-------|-------------------------------------------|------------|
| Draft  | 1     | Mel Reid BSc (Hons) MRes MRSB, Consultant | 24/02/2022 |
| Final  | 2     | Mel Reid BSc (Hons) MRes MRSB, Consultant | 24/02/2022 |

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## Industry Guidelines and Standards

This report has been written with due consideration to:

- Chartered Institute of Ecology and Environmental Management (2017). Guidelines for Preliminary Ecological Appraisal. 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2018). Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. Version 1.1. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2017). Guidelines on Ecological Report Writing. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2020). Guidelines for Accessing, Using and Sharing Biodiversity Data in the UK. 2nd Edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- British Standard 42020 (2013). Biodiversity – Code of Practice for Planning and Development.
- British Standard 8683:2021 (2021). Process for Designing and Implementing Biodiversity Net Gain.

## Proportionality

The work involved in preparing and implementing all ecological surveys, impact assessments and measures for avoidance, mitigation, compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development. Consequently, the decision-maker should only request supporting information and conservation measures that are relevant, necessary and material to the application in question. Similarly, the decision-maker and their consultees should ensure that any comments and advice made over an application are also proportionate.

This approach is enshrined in Government planning guidance, for example, paragraph 174 of the National Planning Policy Framework for England.

The desk studies and field surveys undertaken to provide a Preliminary Ecological Appraisal (PEA) might in some cases be all that is necessary.

(BS 42020, 2013)

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## **1.0 Introduction and Context**

### **1.1 Background**

Arbtech Consulting Limited was instructed by Cornerstone Place to produce an Ecological Mitigation, Management and Enhancement Plan for Land at Whitworth Road, OL12 0JG (hereafter referred to as “the site”).

The plan was required to inform a planning application for the construction of new residential dwellings (hereafter referred to as “the proposed development”).

A plan showing the proposed development is provided in Appendix 1.

The aim of this plan is to outline mitigation measures required to minimise impacts on biodiversity as well as to outline management and enhancement opportunities which will ensure that a net gain in biodiversity is achieved and maintained on the site, in accordance with the National Planning Policy Framework (NPPF).

This plan has been informed by a Preliminary Ecological (PEA) appraisal including Preliminary Roost Assessment (PRA) which was completed by Arbtech on 21st February 2022 (Arbtech 2022). An accompanying Biodiversity Net Gain analysis has also been carried out (Arbtech 2022). This report also details how the target condition of new habitats will be achieved to achieve the proposed net gain.

### **1.2 Site Context**

The site is located at National Grid Reference SD 89764 14317 and has an area of approximately 0.18ha comprising hard standing, amenity grass, scattered trees and wooden outbuildings. It is surrounded by roads and residential dwellings, with areas of grassland and small woodland copses.

A site location plan is provided in Appendix 2.

### **1.3 Baseline Survey Information**

The following site summary has been taken from the PEA including PRA (Arbtech 2022):

*Habitats recorded on and adjacent to the site are considered common and widespread and are of low or negligible ecological value. Furthermore, all buildings and trees are assessed to provide negligible value to support roosting bats. However, please note that a separated biodiversity net gain assessment ecological management plan has been produced along this report detailing measures to increase post-development biodiversity on site as well as other mitigation and enhancements measures.*

## 2.0 Ecological Mitigation, Management and Enhancement Measures

### 2.1 Informative

This report aims to outline how the proposed new habitats on site will reach the desired condition as outlined within the BNG assessment (Arbtech 2022).

Further, it aims to outline other ecological enhancements that cannot be incorporated into the BNG calculation.

### 2.2 Mitigation Measures

Table 1 details the ecological mitigation measures to be implemented at the site.

*Table 1 – Mitigation Measures*

| Species/habitat | Specification                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Birds</b>    | The PEA/PRA found that the scattered trees present on site provide suitable habitat for nesting birds. As such any tree removal works should be undertaken outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the trees should be undertaken immediately, by qualified ecologist, prior to the commencement of work. All active nests will need to be retained until the young have fledged. |

### 2.2 Management Requirements

Table 2 details the ecological management requirements for the site in line with the new habitats proposed within the BNG assessment (Arbtech 2022).

*Table 2 – Management Requirements*

| Works              | Specification                                                                                                                                                 |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Urban trees</b> | Any new trees planted during the proposed developments should be native species from the following list to encourage invertebrates, birds and other wildlife: |

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                       | <p> Alder <b><i>Alnus glutinosa</i></b><br/> Hazel <b><i>Corylus avellana</i></b><br/> Almond willow <b><i>Salix triandra</i></b><br/> Holly Ilex <b><i>aquifolium</i></b><br/> Amelanchier <b><i>Amelanchier ovalis</i></b><br/> Juniper <b><i>Juniperus communis</i></b><br/> Aspen <b><i>Populus tremula</i></b><br/> Osier <b><i>Salix viminalis</i></b><br/> Bay willow <b><i>Salix pentandra</i></b><br/> Pedunculate oak <b><i>Quercus robur</i></b><br/> Bird cherry <b><i>Prunus padus</i></b><br/> Silver birch <b><i>Betula pendula</i></b><br/> Honeysuckle <b><i>Lonicera periclymenum</i></b> </p> <p> Burnet rose <b><i>Rosa pimpinelifolia</i></b><br/> Spindle <b><i>Euonymus europaeus</i></b><br/> Dog rose <b><i>Rosa canina</i></b><br/> Wayfare tree <b><i>Viburnum lantana</i></b><br/> Field maple <b><i>Acer campestre</i></b><br/> Rowan <b><i>Sorbus aucuparia</i></b><br/> Wild cherry <b><i>Prunus avium</i></b><br/> Pear <b><i>Pyrus sp.</i></b><br/> Field rose <b><i>Rosa arvensis</i></b><br/> Wild pear <b><i>Pyrus pyraeaster</i></b><br/> Guelder rose <b><i>Viburnum opulus</i></b><br/> Yew <b><i>Taxus baccata</i></b><br/> Hawthorn <b><i>Crataegus monogyna</i></b> </p> <p>These should be purchased as 'whips', young bare root saplings a year old. They should be kept in their protective bags during transportation and planted within 4 days, after being kept in a frost-free environment and watered regularly. Planting should be completed between November and March. The soil preparation should include the removal any weeds or stones in the hedge path and to rotovate the soil and incorporate organic matter. The ground should not be frozen or waterlogged. In heavy clay or other difficult soils, a trench may need to be dug for planting. After planting, water the trees and add a layer of mulch to reduce weed competition to the growing saplings.</p> |
| <b>Modified grass</b> | <p>There will be new areas of amenity grassland planting on site. In order for the grassland to achieve a good condition as per the recommendations within the BNG assessment the following measures are recommended:</p> <ul style="list-style-type: none"> <li>• A turf or seed mix with a good species diversity is recommended such as: <ul style="list-style-type: none"> <li>➤ The Species Rich Lawn turf from Turf Online <a href="https://www.turfonline.co.uk/meadowmat/species-rich/">https://www.turfonline.co.uk/meadowmat/species-rich/</a></li> <li>➤ The Original Species Rich Lawn Turn from Wildflower Turf <a href="https://www.wildflowerturf.co.uk/products/wildflower-turf/species-rich/">https://www.wildflowerturf.co.uk/products/wildflower-turf/species-rich/</a></li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>➤ Species Rich Wildflower Lawn Turf from Arbour Landscape Solutions <a href="https://www.arbourlandscapesolutions.co.uk/lawn-turf-wildflower/species-rich-wildflower-lawn-turf/">https://www.arbourlandscapesolutions.co.uk/lawn-turf-wildflower/species-rich-wildflower-lawn-turf/</a></p> <p>This will allow criteria 1 of the condition assessment to be achieved (i.e. 6-8 species per m<sup>2</sup>).</p> <ul style="list-style-type: none"> <li>• A sympathetic management regime (i.e. never mowing more than a third of the length of the grass, only mowing every other week during the summer and once a month during the winter) which will allow a varied sward height therefore achieving criteria 2 of the condition assessment.</li> <li>• On-going care and management of the grassland to ensure that no bare patches develop. This will allow criteria 5 of the condition assessment to be achieved.</li> <li>• On-going management to ensure that no bracken or invasive non-native colonise the grassland, therefore achieving criteria's 6 and 7 of the condition assessment.</li> </ul> |
|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### 2.3 Enhancement Measures

Table 3 details the ecological enhancement measures for the site.

Table 3 – Enhancement Measures

| Species/habitat | Specification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Birds</b>    | <p>Three bird boxes will be installed on the new dwellings on site. These will provide excellent permanent nesting provision for birds, and link to woodland, hedges, fields and other habitats in the wider landscape.</p> <p>Any of the following bird boxes can be erected on new buildings on the site:</p> <ul style="list-style-type: none"> <li>• Vivara Pro WoodStone House Martin Nest</li> <li>• WoodStone Swift Nest Box</li> <li>• Schwegler 1SP Sparrow Terrace</li> </ul> <p>House martin nest boxes and swift nest boxes should be positioned at the eaves upon completion of the buildings. Sparrow terraces should also be positioned at the eaves and can be incorporated into the fabric of the building during construction (See Figure 1 for examples of nest boxes and Appendix 3 for recommended placement).</p> |

Figure 1: House Martin Nest, Swift Nest Box and Sparrow Terrace in situ

**Bats****Provision of new bat roosting habitats on site**

Three bat boxes will be installed within the new dwellings on site. These will provide excellent permanent roosting provision for local bats, and link to woodland, hedges, fields and other habitats in the wider landscape.

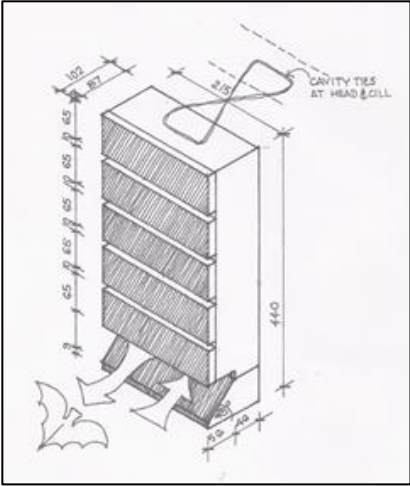
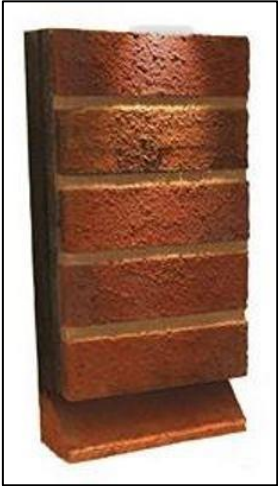
The following bat boxes will be erected in the new buildings on site:

- Custom brick-faced integrated Habibat Bat Boxes

These will be inserted into the fabric of the buildings during construction to enhance the developed site for bats by providing permanent roosting provision (See Appendix 3 for suggested placements). The Habibat Bat Boxes are available in a variety of brick finishes to match the surrounding finish of the building. Once installed only the entrance to the bat box is visible providing a discreet aesthetically pleasing solution (see Figure 1 below).

The Habibat Bat Boxes will be inserted into the southern or western elevations of the subject buildings. They will be positioned high on the elevation close to the eaves (between 3 and 5m), well above windows and security lights so that the entrances are not illuminated by artificial lighting (such as security lights and light spill from windows) which will impact upon bat emergence times.

Habibat Bat Boxes are suitable roosts for crevice dwelling bat species, particularly common pipistrelles *Pipistrellus pipistrellus*, soprano pipistrelles *Pipistrellus pygmaeus* and *Myotis* bat species.

|                         |                                                                                                                                                                                                                                                                                                                                            |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                         | <p>Figure 2: Habibat Bat Box, dimensions and Habibat Bat Box in situ</p> <div></div> |
| <p><b>Hedgehogs</b></p> | <p>Gaps will also be left in all new fencing to allow hedgehogs to move through garden habitats (See Figure 3 for example of a fence gap).</p> <div><p>Figure 3: Hedgehog gap in fence</p></div>                                                         |

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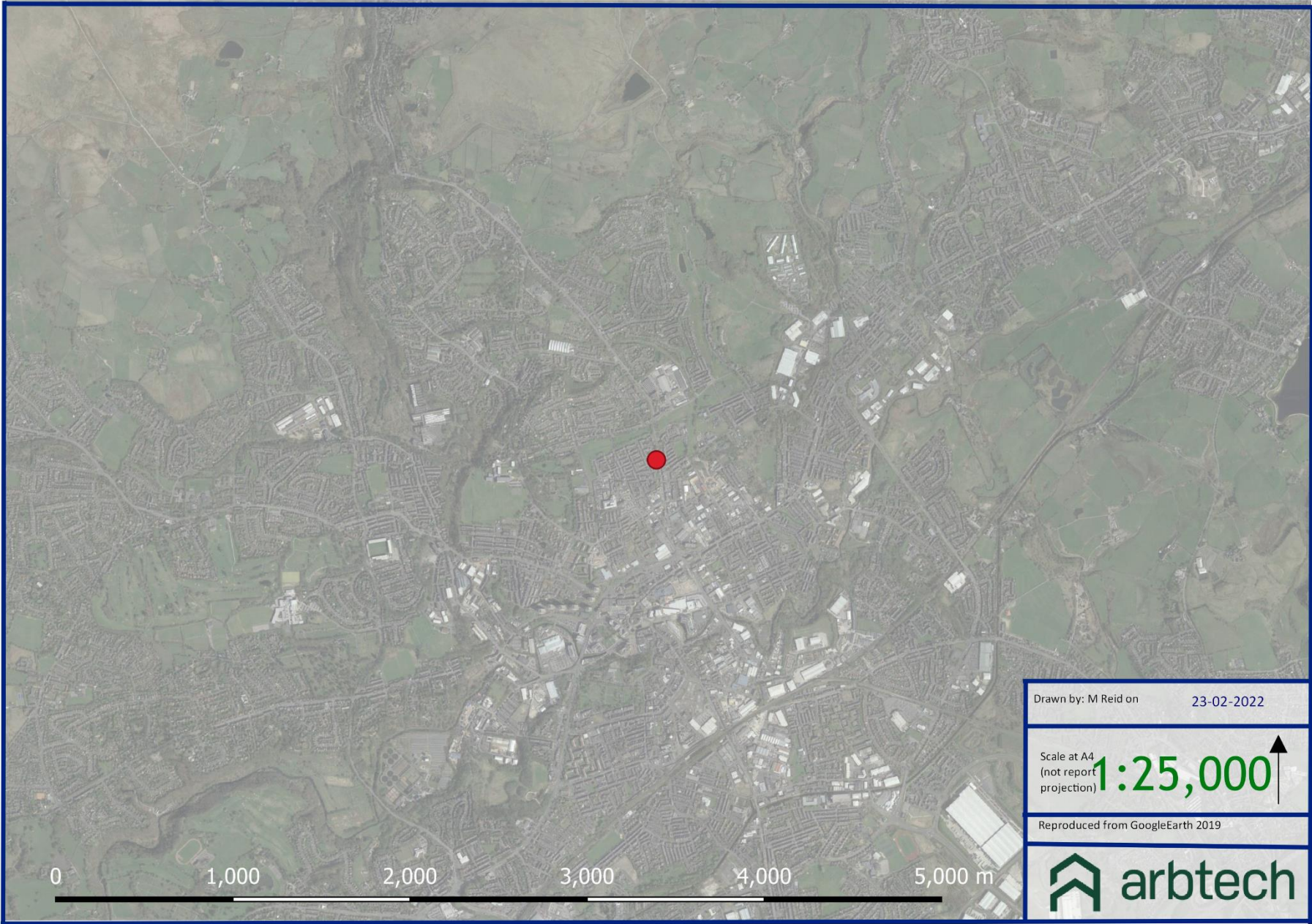
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## Appendix 1: Proposed Development Plan



Appendix 2: Site Location Plan



Appendix 3: Ecological Mitigation, Management and Enhancement Plan





- Bat Brick
- Bird Box

PFO 2013.12 Updated following client comments.  
PFO 2012.12.29 Revised for related documents.

Rpt. Date: 08 Dec 2013

Client:

Cornerstone Place

Project Name: Cornerstone Place  
21-032 / Whitehorn Road, Rochdale

Drawing Number:

Block A Elevations

Drawing Path:

Planning

Project: City of York Planning Application: Type: Public - Single Storey: No

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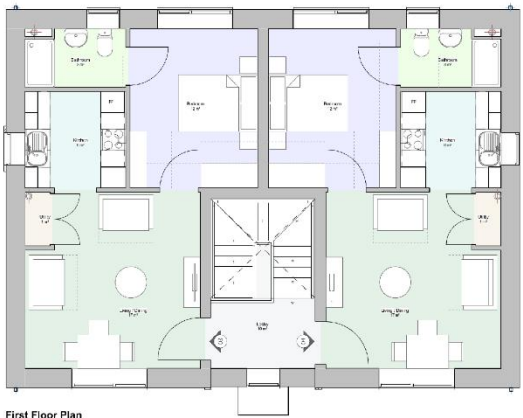
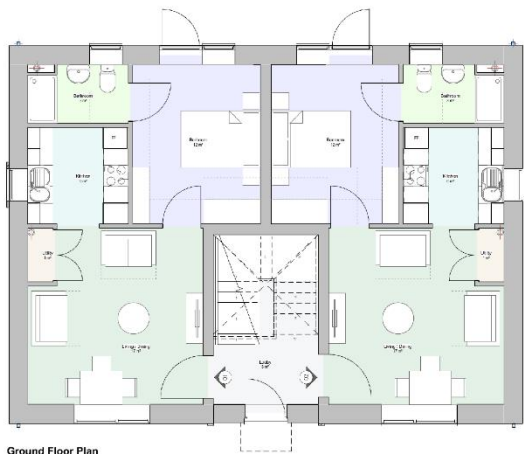
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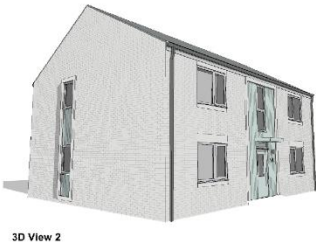
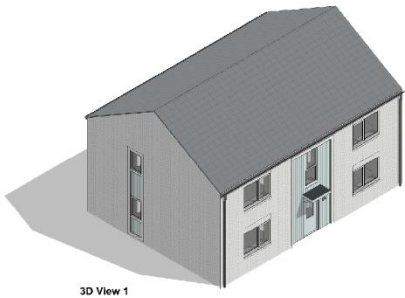
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Email: whi@trianglearchitects.co.uk Tel: 0151 572 5108 Fax: 0151 572 5109

Revised by: 1/3 TJS/JJD  
Noted by: N/A



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- Legend
- Bat Brick
  - Bird Box



| Area Schedule (Net) |                     |
|---------------------|---------------------|
| Name                | Area                |
| Assessment B1       | 10.0 m <sup>2</sup> |
| Assessment B2       | 10.0 m <sup>2</sup> |
| Assessment B3       | 10.0 m <sup>2</sup> |
| Assessment B4       | 10.0 m <sup>2</sup> |
| Assessment B5       | 10.0 m <sup>2</sup> |
| Assessment B6       | 10.0 m <sup>2</sup> |
| Assessment B7       | 10.0 m <sup>2</sup> |
| Assessment B8       | 10.0 m <sup>2</sup> |
| Assessment B9       | 10.0 m <sup>2</sup> |
| Assessment B10      | 10.0 m <sup>2</sup> |
| Assessment B11      | 10.0 m <sup>2</sup> |
| Assessment B12      | 10.0 m <sup>2</sup> |
| Assessment B13      | 10.0 m <sup>2</sup> |
| Assessment B14      | 10.0 m <sup>2</sup> |
| Assessment B15      | 10.0 m <sup>2</sup> |
| Assessment B16      | 10.0 m <sup>2</sup> |
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| Assessment B21      | 10.0 m <sup>2</sup> |
| Assessment B22      | 10.0 m <sup>2</sup> |
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| Assessment B35      | 10.0 m <sup>2</sup> |
| Assessment B36      | 10.0 m <sup>2</sup> |
| Assessment B37      | 10.0 m <sup>2</sup> |
| Assessment B38      | 10.0 m <sup>2</sup> |
| Assessment B39      | 10.0 m <sup>2</sup> |
| Assessment B40      | 10.0 m <sup>2</sup> |
| Assessment B41      | 10.0 m <sup>2</sup> |
| Assessment B42      | 10.0 m <sup>2</sup> |
| Assessment B43      | 10.0 m <sup>2</sup> |
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| Assessment B45      | 10.0 m <sup>2</sup> |
| Assessment B46      | 10.0 m <sup>2</sup> |
| Assessment B47      | 10.0 m <sup>2</sup> |
| Assessment B48      | 10.0 m <sup>2</sup> |
| Assessment B49      | 10.0 m <sup>2</sup> |
| Assessment B50      | 10.0 m <sup>2</sup> |
| Assessment B51      | 10.0 m <sup>2</sup> |
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| Assessment B53      | 10.0 m <sup>2</sup> |
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| Assessment B99      | 10.0 m <sup>2</sup> |
| Assessment B100     | 10.0 m <sup>2</sup> |

PLANNING

Project Name: Cornerstone Place  
Project Address: 21-032 / Whitworth Road, Rochdale  
Planning Officer: Block B Plans & Elevations  
Planning Ref: P02  
As indicated J/S A/J/D December 2021

TRIANGLE ARCHITECTS

10-1011 172 1000  
113 Park Road, Rochdale  
0161 275 1000  
www.trianglearchitects.co.uk



## Appendix 4: Legislation and Planning Policy

### LEGAL PROTECTION

#### National and European Legislation Afforded to Habitats

##### ***International Statutory Designations***

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are sites of European importance and are designated under the EC Habitats Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (the Habitats Directive) and the EC Birds Directive 2009/147/EC on the conservation of wild birds (the Wild Birds Directive) respectively. Both form part of the wider Natura 2000 network across Europe.

Under the Habitats Directive Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe. Over 1000 animal and plant species, as well as 200 habitat types, listed in the directive's annexes are protected in various ways:

**Annex II species** (about 900): core areas of their habitat are designated as Sites of Community importance (SCIs) and included in the Natura 2000 network. These sites must be managed in accordance with the ecological needs of the species.

**Annex IV species** (over 400, including many Annex II species): a strict protection regime must be applied across their entire natural range, both within and outside Natura 2000 sites.

**Annex V species** (over 90): their exploitation and taking in the wild is compatible with maintaining them in a favourable conservation status.

SPAs are classified under Article 2 of the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds both for rare bird species (as listed on Annex I) and for important migratory species.

The Conservation of Habitats and Species Regulations 2017 form the legal basis for the implementation of the Habitats and Birds Directives in terrestrial areas and territorial waters out to 12 nautical miles in England and Wales (including the inshore marine area) and to a limited extent in Scotland and Northern Ireland.

Ramsar sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention covers all aspects of wetland conservation and recognises the importance of wetland ecosystems in relation to global biodiversity conservation. The Convention refers to wetlands as “*areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres*”. However, they may also include riparian and coastal zones. Ramsar sites are statutorily protected under the Wildlife & Countryside Act 1981 (as amended 01.04.1996) with further protection provided by the Countryside and Rights of Way (CROW) Act 2000. Policy statements have been issued by the Government in England and Wales highlighting the special status of Ramsar sites. The Government in England and Wales has issued policy statements which ensure that Ramsar sites are afforded the same protection as areas designated under the EC Birds and Habitats Directives as part of the Natura 2000 network (e.g. SACs & SPAs). Further provisions for the protection and management of SSSIs have been introduced by the Nature Conservation (Scotland) Act 2004.

***National Statutory Designations***

Sites of Special Scientific Interest (SSSI) are designated by nature conservation agencies in order to conserve key flora, fauna, geological or physio-geographical features within the UK. The original designations were under the National Parks and Access to the Countryside Act 1949 but SSSIs were then re-designated under the Wildlife & Countryside Act 1981 (as amended). As well as reinforcing other national designations (including National Nature Reserves), the system also provides statutory protection for terrestrial and coastal sites which are important within the European Natura 2000 network and globally.

***Local Statutory Designations***

Local authorities in consultation with the relevant nature conservation agency can declare Local Nature Reserves (LNRs) under the National Parks and Access to the Countryside Act 1949. LNRs are designated for flora, fauna or geological interest and are managed locally to retain these features and provide research, education and recreational opportunities.

***Non- Statutory Designations***

All non-statutorily designated sites are referred to as Local Wildlife Sites (LWS) and can be designated by the local authority for supporting local conservation interest. Combined with statutory designation, these sites are considered within Local Development Frameworks under the Town and Country Planning system and are a material consideration during the determination of planning applications. The protection afforded to these sites varies depending on the local authority involved.

Regionally Important Geological Sites (RIGs) are the most important geological and geomorphological areas outside of statutory designations. These sites are also a material consideration during the determination of planning applications.

**The Hedgerow Regulations 1997**

The Hedgerow Regulations 1997 are designed to protect 'important' countryside hedgerows. Importance is defined by whether the hedgerow (a) has existed for 30 years or more; or (b) satisfies at least one of the criteria listed in Part II of Schedule 1 of the Regulations.

Under the Regulations, it is against the law to remove or destroy hedgerows on or adjacent to common land, village greens, SSSIs (including all terrestrial SACs, NNRs and SPAs), LNRs, land used for agriculture or forestry and land used for the keeping or breeding of horses, ponies or donkeys without the permission of the local authority. Hedgerows 'within or marking the boundary of the curtilage of a dwelling-house' are excluded.

**National and European Legislation Afforded to Species**

***The Conservation of Habitats and Species Regulations 2017 (as amended)***

The Conservation of Habitats and Species Regulations 2017 (as amended) aims to promote the maintenance of biodiversity by requiring the Secretary of State to take measures to maintain or restore wild species listed within the Regulations at a favourable conservation status.

The Regulations 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. However, these actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild population of the species concerned.

***The Wildlife and Countryside Act (WCA) 1981 (as amended)***

The Wildlife and Countryside Act (WCA) 1981 (as amended) implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention 1979, implemented 1982) and implements the species protection requirements of EC Birds Directive 2009/147/EC on the conservation of wild birds in Great Britain (the birds Directive). The WCA 1981 has been subject to a number of amendments, the most important of which are through the Countryside and Rights of Way (CROW) Act (2000).

Other legislative Acts affording protection to wildlife and their habitats include:

- Deer Act 1991
- Natural Environment & Rural Communities (NERC) Act 2006
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996

***Badgers***

Badgers *Meles meles* are protected under The Protection of Badgers Act 1992 which makes it an offence to:

- Wilfully kill, injure, take, or attempt to kill, injure or take a badger
- Cruelly ill-treat a badger, including use of tongs and digging
- Possess or control a dead badger or any part thereof
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when it is occupying a badger sett
- Intentionally or recklessly cause a dog to enter a badger sett
- Sell or offers for sale, possesses or has under his control, a live badger

Effects on development works:

A development licence will be required from the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for any development works likely to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agencies to define what would constitute a licensable activity. It is not possible to obtain a licence to translocate badgers.

### ***Birds***

With certain exceptions, all birds, their nests and eggs are protected under Sections 1-8 of the WCA. Among other things, this makes it an offence to:

- Intentionally (or recklessly in Scotland) kill, injure or take any wild bird
- Intentionally (or recklessly in Scotland) take, damage or destroy (or, in Scotland, otherwise interfere with) the nest of any wild bird while it is in use or being built
- Intentionally take or destroy an egg of any wild bird
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof.
- Intentionally or recklessly obstruct or prevent any wild bird from using its nest (Scotland only)

Certain species of bird, for example the barn owl, bittern and kingfisher receive additional protection under Schedule 1 of the WCA and are commonly referred to as “Schedule 1” birds.

This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young
- Intentional or reckless disturbance of dependent young of such a bird
- In Scotland only, intentional or reckless disturbance whilst lekking
- In Scotland only, intentional or reckless harassment

Effects on development works:

Works should be planned to avoid the possibility of killing or injuring any wild bird or damaging or destroying their nests. The most effective way to reduce the likelihood of nest destruction in particular is to undertake work outside the main bird nesting season which typically runs from March to August. Where this is not feasible, it will be necessary to have any areas of suitable habitat thoroughly checked for nests prior to vegetation clearance.

Schedule 1 birds are additionally protected against disturbance during the nesting season. Thus, it will be necessary to ensure that no potentially disturbing works are undertaken in the vicinity of the nest. The most effective way to avoid disturbance is to postpone works until the young have fledged. If this is not feasible, it may be possible to maintain an appropriate buffer zone or standoff around the nest.

### ***Amphibians and Reptiles***

The sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita*, pool frog *Pelophylax lessonae* and great crested newt *Triturus cristatus* receive full protection under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
  - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
  - To impair their ability to hibernate or migrate
  - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

With the exception of the pool frog, these species are also listed on Schedule 5 of the WCA and they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection
- Selling, offering or exposing for sale, possession or transporting for purpose of sale.

Other native species of reptiles are protected solely under Schedule 5, Section 9(1) & (5) of the WCA, i.e. the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis*. It is prohibited to:

- Intentionally or recklessly kill or injure these species.

Effects on development works:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely to affect the breeding sites or resting places amphibian and reptile species protected under Habitats Regulations. A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow derogation from the relevant legislation, but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the WCA.

### **Water Voles**

The water vole *Arvicola terrestris* is fully protected under Schedule 5 of the WCA. This makes it an offence to:

- Intentionally kill, injure or take (capture) water voles
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection

- Intentionally or recklessly disturb water voles while they are occupying a structure or place used for shelter or protection

Effects on development works:

If development works are likely to affect habitats known to support water voles, the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) must be consulted. It must be shown that means by which the proposal can be re-designed to avoid contravening the legislation have been fully explored e.g. the use of alternative sites, appropriate timing of works to avoid times of the year in which water voles are most vulnerable, and measures to ensure minimal habitat loss. Conservation licences for the capture and translocation of water voles may be issued by the relevant countryside agency for the purpose of development activities if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will then only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of works.

### **Otters**

Otters *Lutra lutra* are fully protected under the Conservation Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
  - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
  - To impair their ability to hibernate or migrate
  - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Otters are also currently protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely to affect otter breeding or resting places (often referred to as holts, couches or dens) or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, and rear young). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored

### **Bats**

All species are fully protected by Habitats Regulations 2010 as they are listed on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (e.g. All bats)
- Deliberate disturbance of bat species in such a way as:
  - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
  - To impair their ability to hibernate or migrate
  - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Bats are afforded the following additional protection through the WCA as they are included on Schedule 5:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works are likely to affect a bat roost or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

### ***Hazel Dormice***

Hazel dormice *Muscardinus avellanarius* are fully protected under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
  - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
  - To impair their ability to hibernate or migrate
  - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Dormice are also protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

Works which are liable to affect a dormice habitat or an operation which are likely to result in an illegal level of disturbance to the species will require a European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales (NB: Hazel Dormouse are entirely absent from Scotland)). The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

### ***White Clawed Crayfish***

There is a considerable amount of legislation in place in an attempt to protect the White-clawed crayfish *Austropotamobius pallipes*. This species is listed under the European Union's (EU) Habitat and Species Directive and is listed under Schedule 5 of the Wildlife and Countryside Act (1981). This makes it an offence to:

- Protected against intentional or reckless taking
- Protected against selling, offering or advertising for sale, possessing or transporting for the purpose of sale

It is also classified as Endangered in the IUCN Red List of Endangered Species. 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. These are:

- A licence to handle crayfish (therefore survey work) in England
- A licence for the keeping of crayfish in England and Wales with an exemption for Signal crayfish (England).
- People in the post-code areas listed with crayfish present prior to 1996 do not need to apply for consent for crayfish already established. It does not, however, allow any new stocking of non-native crayfish into waterbodies. Consent for trapping of non-native crayfish for control or consumption is most likely to be granted in Thames and Anglian regions in the areas with "go area" postcodes.
- Harvesting of crayfish is prohibited in much of England and in any part of Scotland and Wales.

Effects on development works:

The relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will need to be consulted about development which could impact on a watercourse or wetland known to support white clawed crayfish. Conservation licences for the capture and translocation of crayfish can be issued if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of the works.

### **Wild Mammals (Protection Act) 1996**

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it an offence to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

To avoid possible contravention, due care and attention should be taken when carrying out works (for example operations near burrows or nests) with the potential to affect any wild mammal in this way, regardless of whether they are legally protected through other conservation legislation or not.

### **Legislation Afforded to Plants**

With certain exceptions, all wild plants are protected under the WCA. This makes it an offence for an 'unauthorised' person to intentionally (or recklessly in Scotland) uproot wild plants. An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.

Certain rare species of plant, for example some species of orchid, are also fully protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). This prohibits any person from:

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)
- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof
- In addition to the UK legislation outlined above, several plant species are fully protected under Schedule 5 of The Conservation of Habitats and Species Regulations 2010. These are species of European importance. Regulation 45 makes it an offence to:
  - Deliberately pick, collect, cut, uproot or destroy a wild Schedule 5 species
  - Be in possession of, or control, transport, sell or exchange, or offer for sale or exchange any wild live or dead Schedule 5 species or anything derived from such a plant.

Effects on development works:

A European Protected Species Licence (EPSL) will be required from the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for works which are likely to affect species of planted listed on Schedule 5 of the Conservation or Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

### ***Invasive Species***

Part II of Schedule 9 of the WCA lists non-native invasive plant species for which it is a criminal offence in England and Wales to plant or cause to grow in the wild due to their impact on native wildlife. Species included (but not limited to):

- Japanese knotweed *Fallopia japonica*
- Giant hogweed *Heracleum mantegazzianum*
- Himalayan balsam *Impatiens glandulifera*

Effects on development works:

It is not an offence for plants listed in Part II of Schedule 9 of the WCA 1981 to be present on the development site, however, it is an offence to cause them to spread. Therefore, if any of the species are present on site and construction activities may result in further spread (e.g. earthworks, vehicle movements) then it will be necessary to design and implement appropriate mitigation prior to construction commencing.

***Injurious weeds***

Under the Weeds Act 1959 any landowner or occupier may be required prevent the spread of certain 'injurious weeds' including (but not limited to):

- Spear thistle *Cirsium vulgare*
- Creeping thistle *Cirsium arvense*
- Curled dock *Rumex crispus*
- Broad-leaved dock *Rumex obtusifolius*
- Common ragwort *Senecio jacobaea*

Effects on development works:

It is a criminal offence to fail to comply with a notice requiring such action to be taken. The Ragwort Control Act 2003 establishes a ragwort control code of practice as common ragwort is poisonous to horses and other livestock. This code provides best practice guidelines and is not legally binding.

**NATIONAL PLANNING POLICY (ENGLAND)*****Environment Act 2021***

The Environment Act 2021 (EA 2021) received Royal Assent on 9 November 2021 and is expected to become fully mandated within the next couple of years. The Act principally creates a post Brexit framework to protect and enhance the natural environment. Through amendments to the Town and Country Planning Act 1990, the Act will require all planning permissions in England (subject to exemptions which is likely to include householder applications) to be granted subject to a new general pre-commencement condition that requires approval of a biodiversity net gain plan. This will ensure the delivery of a minimum of 10% measurable biodiversity net gain. The principal tool to calculate this will be the Defra Biodiversity 3.0 Metric. Works to enhance habitats can be carried out either onsite or offsite or through the purchase of 'biodiversity credits' from the Secretary of State. However, this flexibility may be removed (subject to regulations) if the onsite habitat is 'irreplaceable'. Both onsite and offsite enhancements must be maintained for at least 30 years after completion of a development (which period may be amended).

***National Planning Policy Framework 2021***

The National Planning Policy Framework promotes sustainable development. The Framework specifies the need for protection of designated sites and priority habitats and species. An emphasis is also made on the need for ecological infrastructure through protection, restoration and re-creation. The protection and recovery of priority species (considered likely to be those listed as species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006) is also listed as a requirement of planning policy.

In determining a planning application, planning authorities should aim to conserve and enhance biodiversity by ensuring that: designated sites are protected from harm; there is appropriate mitigation or compensation where significant harm cannot be avoided; measurable gains in biodiversity in and around developments are incorporated; and planning permission is refused for development resulting in the loss or deterioration of irreplaceable habitats including aged or veteran trees and also ancient woodland.

***The Natural Environment and Rural Communities Act 2006 and the Biodiversity Duty***

Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, requires all public bodies to have regard to biodiversity conservation when carrying out their functions. This is commonly referred to as the 'biodiversity duty'.

Section 41 of the Act requires the Secretary of State to publish a list of habitats and species which are of 'principal importance for the conservation of biodiversity'. This list is intended to assist decision makers such as public bodies in implementing their duty under Section 40 of the Act. Under the Act these habitats and species are regarded as a material consideration in determining planning applications. A developer must show that their protection has been adequately addressed within a development proposal.

**LOCAL PLANNING POLICY**

***Rochdale Core Strategy 2016***

Accessed via: <http://www.rochdale.gov.uk/pdf/2018-04-05-rochdale-core-strategy-v1.pdf>

***G7 - Increasing the value of biodiversity and geodiversity***

We will ensure that sites and features of biodiversity and geodiversity importance are given full and appropriate recognition and protection. Opportunities for enhancing biodiversity and geodiversity, creating new sites and features of interest and improving opportunities for public enjoyment will be supported. No development should result in a net loss of biodiversity or geodiversity interest in the borough and overall development in the borough should result in a net gain.

Particular priorities for biodiversity and geodiversity are:

- 1.The South Pennine Moors -our focus is to maintain and enhance the peatland habitats of the moorland and to support development, land and water management activities which provide an opportunity to conserve and enhance the value of moorland for upland breeding birds of conservation significance and the habitats on which they depend and which do not harm biodiversity value. Our focus is the designated Special Protection Area and Special Area of Conservation but also the wider moorland where such interest is present or could be supported through appropriate development or land management. We will also protect and support enhancement measures for areas of geodiversity value.
- 2.The Rochdale Canal -our focus is to ensure that the Rochdale Canal Special Area of Conservation and the wider biodiversity interest of the canal is given full and appropriate protection and ensure that development which delivers the economic and recreational value of the Rochdale Canal and its wider corridor supports and does not harm its biodiversity value.
- 3.Upland farmland -our focus is to ensure that the biodiversity interest of upland farmland including its value for birds, woodland and grassland is protected and opportunities for enhancement and the creation of new interest maximised through land management improvements and appropriate development activities.

4. Countryside around towns -our focus is to protect and enhance the biodiversity interest of river valleys, woodland, water and farmland including the reclamation of derelict and neglected land and flood risk management measures. We will also support actions which enhance public access and enjoyment of countryside close to urban areas including Local Nature Reserves and the wider countryside.

5. Urban Areas -our priority is to protect and enhance existing urban biodiversity and to support opportunities for new urban biodiversity corridors, sites and features including sustainable urban drainage schemes, new public realm provision, street trees and urban woodlands, ponds and lodges, green roofs and natural play areas.

6. Designated sites of ecological importance -will be given appropriate protection according to their European, national or local status and in accordance with policies in other development plan documents, supporting Supplementary Planning Documents and Biodiversity Action Plans.

7. Protected Species: Development proposals which would affect a species protected by law or its habitat will not be permitted unless it can be demonstrated that:

a. there is no adverse impact on the species concerned;

b. damage to habitats is minimal and alternative habitat provision is effective in maintaining those species

Opportunities to protect, enhance and create features of biodiversity or geodiversity interest should be informed by the detail of any formal designation of a site or area and supporting plans and guidance such as Local Biodiversity Action Plans, Green Infrastructure Strategies and Action Plans and the Council's Biodiversity and Development SPD. We will expect development proposals and improvements to:

a. Protect and include existing biodiversity (including established biodiversity interest on brownfield land) within new developments, public realm and open spaces and meet the requirements of the Biodiversity and Development SPD, Greater Manchester and Local Biodiversity Action Plans;

b. Protect and enhance existing features such as peatland, ponds, wetlands, reservoirs, mill lodges, trees, hedges, wooded areas, meadows, flora and fauna;

c. Take opportunities to promote biodiversity and create new habitats through new development using landscaping and building and construction features wherever possible (e.g. ponds, species of vegetation, green roofs and walls, bat boxes, roof space, appropriate nest boxes and landscaping);

d. Enhance strategic wildlife corridors and the most natural areas and ensure that habitats and corridors are not fragmented by development;

e. Improve access where appropriate to new or existing biodiversity interest for public enjoyment; and

f. Protect important geology and take opportunities to increase interest and accessibility

#### ***Greater Manchester Biodiversity Action Plan***

The Greater Manchester Biodiversity Action Plan (adopted in 2009) can be viewed here: [https://gmlrc.org/projects/gm\\_bap/](https://gmlrc.org/projects/gm_bap/)

The following habitats are listed under the Biodiversity Action Plan:

Grasslands

Hedgerows

Lowland mosslands

Reedbeds and bittern

Ponds and lodges

Canals

Native woodlands

Uplands (currently no action plan available to download)

Urban managed greenspace

The following species are listed under the Biodiversity Action Plan:

Bats

Black redstart

Farmland birds (currently no action plan available to download)

Great crested newts

Brown hares

Native black popular

Twite

Water vole

Willow tit

### **EUROPEAN PROTECTED SPECIES POLICIES**

In December 2016 Natural England officially introduced the four licensing policies throughout England. The four policies seek to achieve better outcomes for European Protected Species (EPS) and reduce unnecessary costs, delays and uncertainty that can be inherent in the current standard EPS licensing system. The policies are summarised as follows:

- Policy 1; provides greater flexibility in exclusion and relocation activities, where there is investment in habitat provision;
- Policy 2; provides greater flexibility in the location of compensatory habitat;
- Policy 3; provides greater flexibility on exclusion measures where this will allow EPS to use temporary habitat; and,
- Policy 4; provides a reduced survey effort in circumstances where the impacts of development can be confidently predicted.

The four policies have been designed to have a net benefit for EPS by improving populations overall and not just protecting individuals within development sites. Most notably Natural England now recognises that the Habitats Regulations legal framework now applies to 'local populations' of EPS and not individuals/site populations.