

Shadow Habitats Regulations Assessment – Screening Report and Appropriate Assessment

Woodbine Street, Lower Place, Rochdale, OL16 5JB

Arcon Housing Association

May 2022



ecology

SITE NAME		LOCATION	
Woodbine Street (west)		Woodbine Street, Lower Place, Rochdale, OL16 5JB	
GRID REFERENCE		DOCUMENT REFERENCE	
SD 90367 12330		[LM0075]HRA[Woodbine Street West] Rev A	
SITE DESIGNATION		LOCAL AUTHORITY	
None		Rochdale Borough Council	
	NAME	QUALIFICATIONS	DATE
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A INTRODUCTION

A.1 Background

- 1 Arcon Housing Association (the Applicant) intends to submit a planning application to Rochdale Borough Council for the construction of eighteen flats with associated hard and soft landscaping (the Project) on the land to the north of Woodbine Street, Lower Place, Rochdale, OL16 5JB (the Site). The central OS grid reference for the site is SD 90367 12330. A location plan is provided in the Appendix A as Figure A.1
- 2 LM Ecology was commissioned by the Applicant in September 2020 to undertake ecological survey of the Site. In April 2022 further instruction was given for LM Ecology to provide an Ecological Impact Assessment (EcIA) report (LM Ecology, 2022). This assessment revealed that there is a Special Area of Conservation eight metres to the north of the site. This is the Rochdale Canal Special Area of Conservation (SAC), which is also a Site of Special Scientific Interest (SSSI), and a locally designated Site of Biological Importance (SBI).
- 3 This document presents the results of a shadow Habitats Regulations Assessment (HRA)¹ which will provide information that will help Rochdale Borough Council to discharge their duties as the 'competent authority' as defined under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (hereafter referred to as the 2017 Regulations).

A.2 Site Description

- 4 The only habitat within the Site is species poor amenity grassland. The Site is openly accessible to the public and there is a well-worn desire line running across the Site from the southeast to the northwest corner.
- 5 Timber knee rail fences are present on the east, south, west, and part of the northern boundary. The rest of the north boundary is formed of a small section of profiled mesh fencing. Scrub from an area of ornamental shrubs and trees adjacent to the northern boundary is growing through the profiled mesh fencing
- 6 The Site is bounded to the south by Woodbine Street, the west by the A617 Oldham Road, to the east by residential dwellings and gardens, and to the north by a grassed strip of land adjacent to the Rochdale Canal. Beyond the immediate surrounds the landscape is a built-up urban mixture of industrial and residential areas interspersed with occasional pockets of urban greenspace.

¹ Under the Conservation of Habitats and Species Regulations 2017 the 'competent authority' is responsible for completing a HRA. The applicant is required under Regulation 63(2) to provide the competent authority with such information as the competent authority may reasonably require to discharge its statutory duties. This report is provided for that purpose. Where a HRA is carried out by an applicant with the objective of it being adopted by the competent Authority, this is often referred to as a shadow HRA.

A.3 Description of Project

- 7 The Project proposes full loss of the existing amenity grassland and construction of a block of eighteen flats with associated areas of hard and soft landscaping.

A.4 Consultation

- 8 A consultation response from Natural England (NE) for a withdrawn application (21/01057/FUL) for the same Site states that a Habitats Regulations Assessment is required to support any application for the site due to its proximity to the Rochdale Canal SAC/SSSI. It also states that *“Our main concerns regarding this development relate to construction impacts and potential run off from the development and we would expect to see these impact pathways assessed within the HRA.”*

B HABITATS REGULATIONS ASSESSMENT

B.1 Legislative and Policy Context

- 9 This section describes the legislation and policy as it applies now that the United Kingdom (UK) has left the European Union (EU).
- 10 Guidance from Defra has been provided on the application of relevant legislation in the post-EU Exit period in their policy paper published on 01 January 2021 available at <https://www.gov.uk/government/publications/changes-to-the-habitats-regulations-2017/changes-to-the-habitats-regulations-2017>.
- 11 The 2017 Regulations (as amended) provide for the protection of particular habitat, plants, and animals through a creation of, and specific decision-making procedures applied to, the 'national site network' (Regulation 3 'Interpretation'). This 'national site network' includes SACs, and Special Protection Areas (SPAs) that were designated or classified both in that period when the UK was a member of the EU and designated since the UK has left the EU.
- 12 It is UK Government policy (in England this is identified in paragraph 176 of the National Planning Policy Framework (Ministry of Housing, Communities and Local Government, 2019)) that all competent authorities should treat candidate SACs (cSACs) and potential SPAs (pSPAs) as being within the provisions of the 2017 Regulations (as amended).
- 13 In this report the term 'European Sites' is used to refer collectively to SACs, cSACs, SPAs and pSPAs. Although they are referred to as the 'national sites network' in those recently amended parts of the Habitat Regulations², the decision making procedures concerning HRA, as set out in Regulation 63, continue to refer to them as 'European Sites' (as does much of the available guidance) and for that reason they are referred to collectively as European Sites.

B.2 HRA Process

- 14 The requirements set out in the 2017 Regulations with regard to the implications of plans or projects are set out within Regulation 63. The step-based approach implicit with this regulation is referred to as a 'Habitats Regulations Assessment,' which is the term that has been used throughout this report.
- 15 It is a requirement of any public body (referred to as the 'competent authority' within the 2017 Regulations) to carry out a HRA when they are proposing to carry out a project, implement or plan, or authorise another party to carry out a plan or project, when the plan or project:
- Is likely to have significant effects on a European Site; and
 - Is not directly connected with or necessary to the management of a European Site.

² Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

- 16 Competent authorities (in this case Rochdale Borough Council) are required to record the process undertaken, ensuring that there will be no adverse effects on the integrity of any European Site as a result of a plan or project whether alone or in combination with other plans or projects.

B.3 Assessment Stages

- 17 The assessment of a plan or project goes through a number of stages, with guidance having been published to aid competent authorities to fulfil their responsibilities (e.g. (European Commission , 2001) (DCLG, 2006)). Those stages are summarised below:

B.3.1 Stage 1 – Screening

- 18 Screening involves the determination of the European Sites which could potentially be affected by the project and their determining interested, and whether or not the project could result in likely significant effects on the sites, either alone or in combination with other plans and projects.

B.3.2 Stage 2 – Appropriate Assessment

- 19 In the event that likely significant effects are identified at the Screening stage, on the basis of objective information, an assessment of whether there would be an adverse effect on the integrity of the European Site concerned, and the consideration of measures to address this effect, is required. Only where it is not possible to identify suitable measures to address the likely significant effect is consideration of Stage 3 and Stage 4 required.

B.3.3 Stage 3 – Assessment of Alternatives

- 20 The assessment should identify and assess alternatives that have been considered. Alternative solutions could include a project of a different scale, a different location, and an option of not having the scheme at all (the “do nothing” approach).

B.3.4 Stage 4 – Consideration of IROPI

- 21 Where it can be demonstrated that there are no alternative solutions to the project that would have a lesser effect on the integrity of the European Site, the project may still be carried out if the competent authority is satisfied that the scheme must be carried out for the reasons of overriding public interest (“IROPI”).

B.4 Applying Case Law on the HRA Process

- 22 The Court of Justice of the European Union (CJEU) and UK Court Judgements have identified that in the HRA process the assessment may not have lacunae (gaps or omissions) and must contain complete, precise, and definitive findings capable of removing all reasonable scientific doubt as to the effects of the proposed works on the European Sites concerned. Court judgements have identified that in the HRA process all aspects of the plan or project which can, by themselves or in combination with other plans or projects, affect the conservation

objectives of European Sites concerned must be identified in the light of the best scientific knowledge available in the field.

- 23 A recent CJEU judgement (People Over Wind and Sweetman, 12 April 2018, C-323/17) has provided clarification as to when avoidance or reduction (mitigation) measures can be considered within the HRA process.
- 24 *“In the light of all the foregoing considerations, the answer to the question referred is that Article 6(3) of the Habitats Directive must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site”.*
- 25 This case means that a competent authority cannot rely on avoidance or mitigation measures that allow a conclusion of ‘no likely significant effect’ to be reached: instead it is necessary to accept there is a ‘likely significant effect’ in the absence of these measures, and move to the next stage i.e. appropriate assessment, at which point such mitigation measures can be considered. This judgement is accounted for in this report.

C SCOPE OF THE HRA

C.1 Potential Impact Mechanisms

26 Potential impacts that may arise from the site clearance and construction phase of the Project have been identified as follows:

- Degradation of habitats arising from airborne dust.
- Degradation of habitats arising from surface water run-off.
- Degradation of habitats arising from fuel, oil, and other chemical spills.

27 Potential impacts that may arise from the operational phase of the Project have been identified as follows:

- Degradation of habitats arising from surface water run-off.

C.2 Zone of Influence

28 The Zone of Influence (Zol) is the area over which ecological features may be affected by biophysical changes as a result of the proposed Project and associated activities. This may extend beyond the Site boundary.

29 During the site clearance, construction, and operational phases of the Project the Zol is considered to be the area around the site where impacts might arise. The extent of the Zol varies depending on the sensitivity of the ecological receptors being considered and the impact mechanism and pathway being considered.

30 In this HRA the following Zol have been adopted.

- Current guidance (Holman et al, 2014) advises that site clearance and construction related dust impacts need to be considered for important ecological features within 50m of the Site boundary. Therefore, the Zol for airborne dust is 50m from the Site boundary.
- The Zone of Influence for surface water runoff and water pollution is based on the HRA undertaken for Rochdale Borough Council's Draft Allocation Plan, which states that "*the largest (most cautious) buffer zone considered by the Environment Agency is 5km; that is, most operations with the potential of causing direct water and/or air pollution impacts located further than 5km from the boundary of a European site are considered very unlikely to have a significant effect on the special interest of that site*". Therefore, the Zol for surface water runoff and water pollution is 5km from the Site boundary.

31 Taking into account the impact mechanisms and Zol that have been adopted for the assessment, the HRA has considered impacts on the following European Sites:

- Rochdale Canal Special Area of Conservation (SAC) located 8m north of the Site's closest boundary.

32 There are no further European Sites within the largest given Zol.

D INFORMATION ON THE RELEVANT EUROPEAN SITES

33 Set out in Table 1 below is information relating to the following parameters for the European Site within the scope of this assessment:

- Site name
- Site Code
- Year classified/designated/listed
- Area
- Qualifying Interest Features
- Conservation Objectives
- Distance between nearest component of European Site and proposed Project
- Sources of information

34 The European Site that has been considered is the Rochdale Canal SAC. The position of the SAC in relation to the Site is shown on Figure A.2 in Appendix A.

Table 1 Information relating to Rochdale Canal SAC

Site Name : Rochdale Canal SAC
Site code: UK0030266
Year designated: 2005
Area: 24.86ha
Qualifying interest features: • Annex II species that are a primary reason for selection of this site: Floating water-plantain <i>Luronium natans</i>
Conservation objectives: The vision is for the integrity of the site to be maintained or restored as appropriate, and to ensure that the site contributes to achieving Favourable Conservation Status of floating water-plantain, by maintaining or restoring: • The extent and distribution of the habitats of floating water-plantain • The structure and function of the habitats of floating water-plantain • The supporting processes on which the habitats of floating water-plantain rely • The populations of floating water-plantain, and • The distribution of floating water plantain within the site.
Distance: The SAC is 8m to the north of the Site at its closest point.

Site Name : Rochdale Canal SAC

Sources of information:

Site citation – <https://sac.jncc.gov.uk/site/UK0030266>

JNCC Natura 2000 Data Form <https://jncc.gov.uk/jncc-assets/SAC-N2K/UK0030266.pdf>

Conservation Objectives – <http://publications.naturalengland.org.uk/publication/6015060228964352>

D.1 Site Condition

35 A condition assessment is not available for the Rochdale Canal SAC; however, condition assessments have been completed by Natural England for the component SSSI for this site. The results of the condition assessment for this SSSI is summarised in Table 2 below.

Table 2 Summary of condition assessment for the component SSSI of the Rochdale Canal SAC

Component SSSI	Date of Condition Assessment	Condition Assessment
Rochdale Canal SSSI (8m at its closest point)	25/11/2010	Unfavourable – Recovering The SSSI as a whole has shown the capacity for recovery in population extent after restoration to navigation, but overall vegetation remains much less widespread than at the time of designation. Locally substantial populations of key species have been retained and species losses have been outweighed by species gains during the assessment period. Conservation management procedures are in place to safeguard current interest and to assist the re-colonisation of those lengths in which the natural process continues to be slow

F STAGE 1 – SCREENING

36 For this assessment, the following European Site and impact pathways are considered:

37 Rochdale Canal SAC

- Air pollution impacts.
- Water pollution impacts.

F.1 Rochdale Canal SAC

F.1.1 Air Pollution Impacts

38 Airborne dust may arise from certain site clearance and construction operations. The effects of dust will depend on the prevailing wind direction and the transport distance is related to particle size. Large particles (>30um) will most likely deposit within 100m of the source, intermediate particles (10-30um) are likely to travel up to 20-500m, and smaller particles (<10um) can travel up to 1km from the source. Dust size and chemical composition is important as smaller particles can enter or block plant leaf stomata and thus interfere with gas exchange, whilst sufficient coverage may prevent light penetration to the leaves. In prolonged cases of significant dust deposition, plant death can result. Airborne dust can also cause chemical changes to watercourses leading to a loss of plant life.

39 The Rochdale Canal SAC is 8m from the northern boundary of the site and as a result there is the potential for airborne dust generated during the site clearance and construction phases of the Project to negatively impact on the favourable conservation status of the qualifying feature of the SAC (i.e. *L. natans*) and other diverse aquatic vegetation potentially, as described above, up to 1km from the site. Therefore, without mitigation, a **likely significant effect** cannot be ruled out during the site clearance and construction phases.

40 No airborne dust impacts are expected in the operational phase of the Project.

F.1.2 Water Pollution Impacts

41 Water pollution can have a harmful effect on habitats and species. At high levels toxic chemicals can result in immediate death of aquatic life and can have detrimental effects even at lower levels.

42 Eutrophication, the enrichment of plant nutrients in water, increases plant growth and consequently results in oxygen depletion. Algal blooms, which commonly result from eutrophication, increase turbidity, and decrease light penetration. The decomposition of organic waste that often accompanies eutrophication deoxygenates water further, augmenting the oxygen depleting effects of eutrophication.

43 An important factor for the favourable conservation status of *L. natans* is water quality, particularly nutrient level. This species typically occurs in nutrient poor lakes in the uplands and slow flowing lowland waterbodies that are moderately nutrient rich (mesotrophic).

Similarly, the diverse assemblage of aquatic plant communities in the canal are indicative of good water quality and mesotrophic waters.

44 The Rochdale Canal SAC is 8m from the northern boundary of the site and as a result there is the potential for direct water pollution events to occur through surface water runoff and accidental oil, fuel and chemical spills to negatively affect the favourable conservation status of the qualifying feature of the SAC (i.e., *L. natans*), along with the other diverse aquatic vegetation. Therefore, without mitigation, a **likely significant effect** cannot be ruled out during the site clearance and construction phases of the Project.

45 The drainage strategy and flood risk assessment prepared for the Site (Sutcliffe, 2021) details that surface water in the operational phase of the Project will be drained to a combined sewer in Woodbine Street, as other options (i.e., infiltration to ground, discharge to watercourse, discharge to surface water network) are not viable at this Site. The report also includes a Flood Routing Plan which shows that the surface flow of water in the event of a blocked drain or a storm exceedance event will flow away from the canal and across the Site to the west and southwest. As a result, **no likely significant effects** are predicted in the operational phase of the Project.

F.1.3 In Combination Effects

46 Rochdale Borough Council's (RBC) searchable planning application facility was unavailable at the time of writing this report. Instead, the Planning and Development Department at RBC was contacted directly to undertake a planning application search.

47 The given search parameters were for all granted planning applications between April 2019 and present, from within a 2km radius of the Site, which would return applications that are adjacent to and within a 1km radius of both this Site and the canal. This is considered a sufficient search radius based on the identified potential impacts and pathways.

48 As of 5th May 2022, no response has been received from Rochdale Borough Council and as a result an assessment of in combination effects has not been possible.

F.2 Stage 1 - Screening Conclusion

49 Likely significant effects on the qualifying feature of the Rochdale Canal SAC from airborne dust and direct water pollution in the site clearance and construction phases of the Project, alone or in combination, cannot be screened out of this assessment. They are therefore taken forward to the Appropriate Assessment stage.

50 The Project is not likely to have a significant effect on the Rochdale Canal SAC in the operational phase of the Project because the surface water drainage and flood routing plans have demonstrated that surface water will flow away from the canal and into a mains sewer. This conclusion has been reached in the absence of mitigation and is therefore compliant with CJEU judgement C-323/17.

G STAGE 2 - APPROPRIATE ASSESSMENT

51 The screening assessment has identified that in the absence of mitigation, the Project has the potential to lead to likely significant effects, alone or in combination, on the integrity of the SAC as a result of air pollution and water pollution.

52 It is therefore important that appropriate mitigation is put in place during the site clearance and construction phases of the Project to reduce the scale of the anticipated effects and ensure that they will not be significant. The following section provides details of the mitigation that will be put in place.

53 The implementation of these measures is considered sufficient to ensure that there will be no likely significant effects on the qualifying features of the SAC, alone or in combination with other plans or projects.

G.1 Mitigation

54 Mitigation in the site clearance and construction phases of the Project will be included within a Construction Environment Management Plan (CEMP). This will include general construction good practice measures, along with the following measures specific to this site and the identified likely significant effect.

G.1.1 Air Pollution

55 The following site-specific measures to mitigate air pollution impacts will be included in the CEMP:

- All tools and machinery must have fully functioning dust extractors fitted and checked daily.
- On excessively dry days before the movement of dust producing materials, the area must be dampened with water to prevent dust particles entering the air.
- If high levels of wind occur and dampening of dust producing materials is not possible, works will cease to prevent high levels of airborne dust.

G.1.2 Water Pollution

56 The following site-specific measures to mitigate water pollution impacts will be included in the CEMP:

- Storage of spoil and waste will be at least ten metres from the SAC.
- Storage of construction materials, chemicals, and fuel, and refuelling of machinery will be undertaken at the furthest point possible from the SAC, which for this site is Woodbine Street.
- Refuelling will be undertaken on an impermeable surface and mobile drip tray within the designated area.
- Spill kits and drip trays will be kept on-site and used during refuelling or under stationary plant and equipment.

- All plant and equipment will be serviced and checked daily to reduce and identify faults.
- If precipitation is excessively heavy or prolonged, operations will cease to ensure that run-off is minimised.
- In the event of an emergency, water quality in the SAC will be protected by deployment of sandbags and/or spill kits along the northern boundary of the site.
- All site staff will be trained in incident response and site emergency procedures.

G.1.3 In Combination Effects

57 As discussed in Section F1.3, an assessment of in-combination effects of the Project with other plans and projects has not been possible. However, as the mitigation measures detailed in the Appropriate Assessment will result in no likely significant effects on the Rochdale Canal SAC, there will be no in combination effects with other plans or projects.

H CONCLUSIONS

- 58 The completed HRA concluded that likely significant effects, present in the site clearance and construction phases of the Project, to the conservation objectives of the Rochdale Canal SAC could not be ruled out in relation to air and water pollution and subsequent potential impacts on the qualifying feature of the SAC (*L. natans*). As such an Appropriate Assessment was undertaken. Taking account of the approach set out in CJEU judgement C-323/17, mitigation was only evaluated at this stage.
- 59 The completed Appropriate Assessment concluded that with the implementation of the mitigation measures, adverse effects on the integrity of the qualifying features of the SAC would be avoided both alone and in combination with other plans and projects.
- 60 As the development proposals will not affect the integrity of the SAC, the Project is compliant with the requirements of the Habitat Directives, the 2017 Regulations (as amended), and the NPPF (Ministry of Housing, Communities and Local Government, 2019).

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APPENDIX A

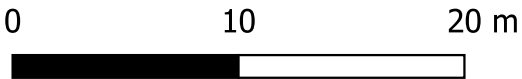


Map data ©2015 Google

Legend

 Site Boundary

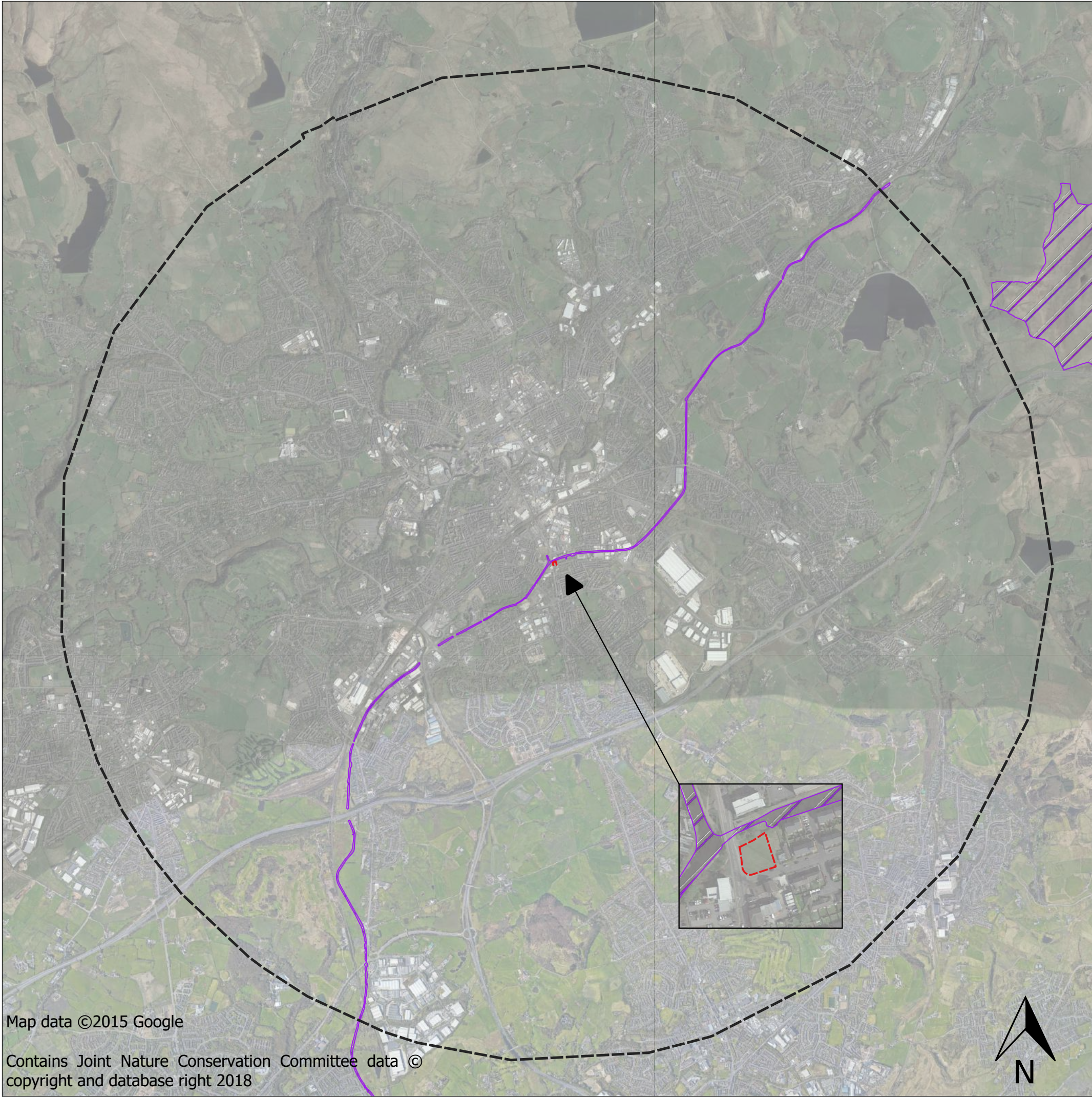
Project	Woodbine Street (west), Lower Place, Rochdale, OL16 5JB
Title	A.1 Site Location Plan
Client	Arcon Housing Association
Date	May 2022
Ref	[LM0075]A.1[REV A]LOC- HRA



Indicative only.
Do not scale from plan.



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Legend

- Site boundary
- 5km buffer from site boundary
- Special Area of Conservation (SAC)

Project	Woodbine Street (west), Lower Place, Rochdale, OL16 5JB
Title	A.2 Designated Sites Within 5km Radius of Site Boundary
Client	Arcon Housing Association
Date	May 2022
Ref	[LM0075]A.2[REV A]5KM- HRA

0 1 2 km
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