

Preliminary Ecological Appraisal

Land at Buckley Road Industrial Estate

Rochdale

January 2024

Prepared for: Mr Noor

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EXECUTIVE SUMMARY

- On 17th January 2024 a Preliminary Ecological Appraisal was undertaken on land at Buckley Road industrial Estate. The site comprises an area of hardcore with rubble piles and ruderal vegetation. The site lies adjacent to Buckley Brook.

- Ecological constraints relate to the following:

Buckley Brook

- Buckley Brook runs along the southern boundary of the survey site. Avoidance mitigation is proposed to protect the beck, although no direct impacts are anticipated and measures relating to other protected species (bats) will ensure no indirect impacts long-term as a result of lighting.

Bats

- Bats are likely to forage and commute along Buckley Brook and may roost in structures close to the site. Mitigation is recommended for lighting, to avoid impacts upon foraging and commuting bats.

Nesting Birds

- Passerine birds are likely to nest in trees and shrubs adjacent to the east of the site in the spring and summer months. Avoidance mitigation is proposed to prevent disturbance and harm to nesting birds.

Hedgehog

- Precautionary mitigation is recommended to avoid harm to hedgehog, which are likely to be present in the locality.

Reptiles and Amphibians

- Common reptiles are not expected, but cannot be entirely ruled out. Common toad are likely to be present in the area and avoidance mitigation for reptiles will ensure protection for these amphibians also.

Invasive plant species

- Japanese knotweed is present on site and adjacent to the site. The presence of this species has been taken into consideration and is being controlled and eradicated over time. This is of benefit to the wider environment. Continued measures to avoid spread must be undertaken prior to and during works on site.

Enhancement

- The proposals provide the opportunity to enhance the site for wildlife and recommendations for this have been made, comprising installation of bird and bat boxes.



1 Introduction

1.1 Application Site

- 1.1.1. This report details a Preliminary Ecological Appraisal of land at Buckley Road Industrial Estate, Rochdale, OL12 9DJ. Ordnance Survey grid reference (centre of site): SD90681492.
- 1.1.2. Mr Noor commissioned Verity Webster Ltd to undertake a Preliminary Ecological Appraisal to inform the planning application.

1.2 Objectives

- 1.2.1 The objectives of the Preliminary Ecological Appraisal are to determine:
- The potential for protected species and/or habitats of importance within and surrounding the site.
 - The presence of any designated sites within the surrounding area, or if the site is designated.
 - How the proposed works might impact protected species and/or habitats of importance.
 - How the proposed works might impact designated sites within the surrounding area.
 - How any impacts might be avoided, mitigated and/or ameliorated, including recommendations for further survey work if required.
 - Potential for enhancement of the site for protected species, habitats of conservation interest and overall biodiversity.

1.3 Proposals

- 1.3.1 The proposals comprise the construction of a single commercial unit.

1.4 Ecologist

- 1.4.1 The Ecological Assessment was undertaken by Verity Webster. Verity is a Chartered Ecologist and a full member of the Chartered Institute of Ecology and Environmental Management.
- 1.4.2 Verity has worked as an ecological consultant for over 16 years. She has undertaken Ecological Assessments and protected species surveys for a large variety of projects and schemes, producing the required impact assessment and subsequent mitigation schemes and method statements when necessary.



2 Site Location and Description

2.1 Site Location

- 2.1.1 The survey site is located in an industrial area of northeast Rochdale. The immediate landscape is built-up, but there open space and open countryside lies in close proximity.
- 2.1.2 Grazed pasture bounded by tree lines and hedgerows lies approximately 140m to the west. This land is continuous with open countryside to the north. Buckley Wood lies approximately 160m to the north and also continuous with open countryside to the north.
- 2.1.3 Buckley Brook weaves north to south along the eastern boundary of the site and provides a habitat corridor linking wider areas of open space. There are also areas of open green space to the east beyond the brook.
- 2.1.4 The wider countryside supports grassland, small copses of woodland and scattered waterbodies and waterways.



Figure 1: Ordnance survey map showing the location of the proposed development site.

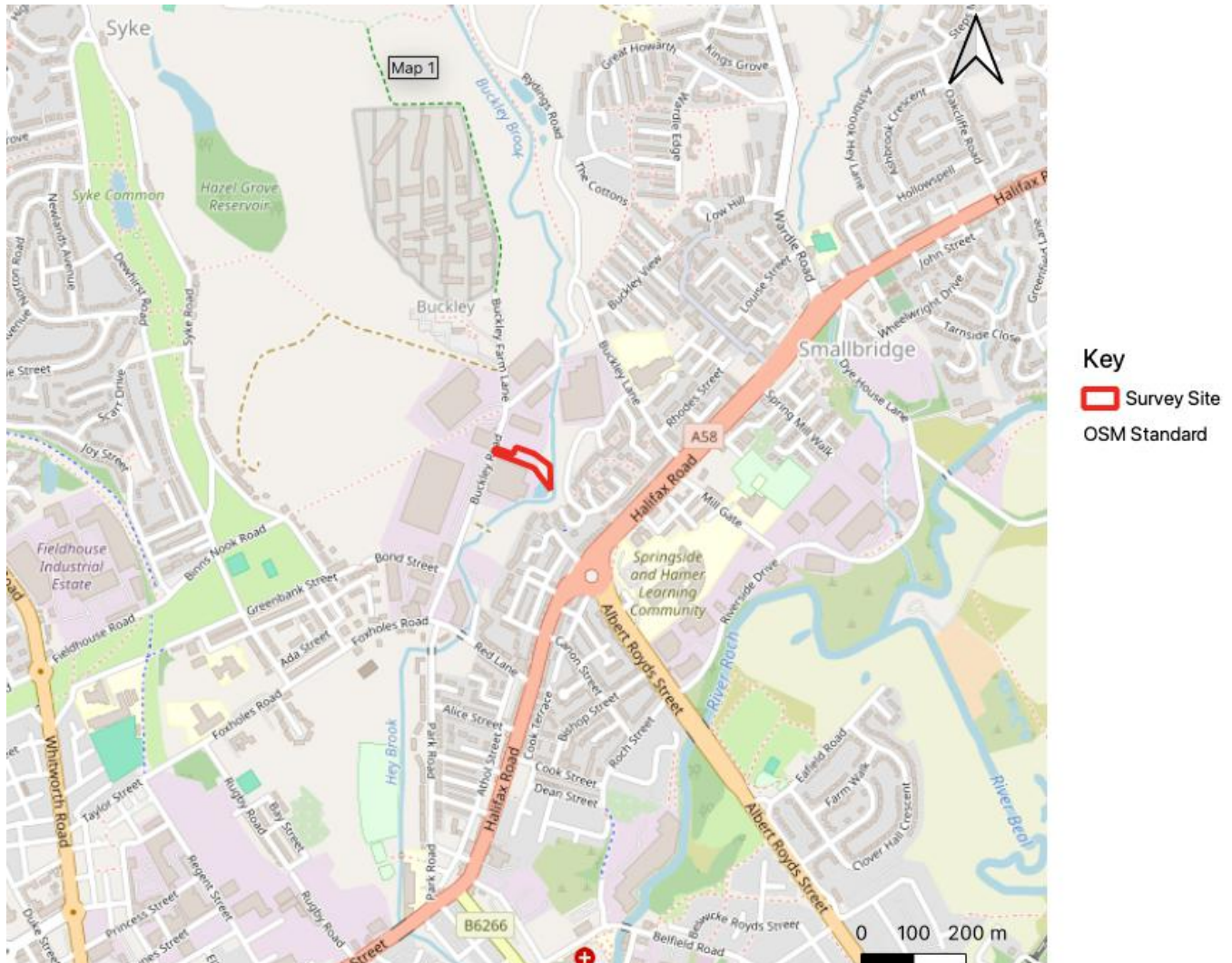




Figure 2: Aerial image showing the proposed development site and immediate surroundings





2.2 Site Description

- 2.2.1 The survey site comprises an area of hard standing and hardcore with rubble piles in the centre. There is mesh fencing along the southern and eastern boundaries of the site and a brick wall along the northern boundary.
- 2.2.2 Ruderal plant species are present around the site boundaries including mugwort (*Artemisia vulgaris*), willowherb species (*Epilobium* sp.), ribwort plantain (*Plantago lanceolata*), bent-grass (*Agrostis* sp.), and rye grass (*Lolium perenne*).
- 2.2.3 Japanese knotweed (*Follopia japonia*) is present on site in a small stand on the southern boundary and is abundant off-site to the south along the boundary of Buckley Brook and to the southeast around the adjacent waterbody.
- 2.2.4 There are a small number of willow (*Salix* sp.) saplings on the southern boundary, a young sycamore (*Acer pseudoplatanus*) and cherry laurel (*Prunus laurocerasus*) saplings. Outside the eastern boundary on the stream bank there are alder (*Alnus glutinosa*), sycamore and buddleia (*Buddleia davidii*) trees. There are no buildings on site. See Figure 3.
- 2.2.5 The UK Habitat code for the site is:
- U1b Developed land; sealed surface.
Secondary code 81: Ruderal/ephemeral
Secondary code 48: Invasive species



Looking northeast across the site



Looking northwest across the site



Showing Japanese knotweed along the southern boundary



Showing Japanese knotweed along the southern boundary



Buckley Brook along the eastern boundary

**Figure 3: The Survey Site**



3 Legislation

Relevant legislation is listed here. For full details, refer to Appendix A.

3.1 Bats

3.1.1 All UK bats receive full protection under the Wildlife and Countryside Act 1981 and are also protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).

3.1.2 This makes it an offence to:

- Capture, injure or kill any bat,
- Disturb a bat of any species,
- Damage or destroy a breeding site or resting place of a bat (ie. The roost)
- Possess any bat, or part of a bat
- Offer for sale or trade any bat, or part of a bat

3.2 Badger

3.2.1 Under the Badger Act 1992, it is an offence to:

- Take, injure or kill a badger, or attempt to do so
- Cruelly ill-treat a badger
- Interfere with a badger sett including:
 - Damaging a badger sett or any part of it
 - Destroying a sett
 - Obstructing access to, or entry to a sett
 - Causing a dog to enter a sett; or
 - Disturbing a badger whilst it is occupying a sett.

3.3 Reptiles

3.3.1 Smooth snake and sand lizard receive full protection under the Wildlife and Countryside Act 1981 and are also protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).

3.3.2 This makes it an offence to:

- Capture, injure or kill one of these species,
- Disturb these species,
- Damage or destroy a breeding site or resting place of these species.
- Possess one of these species, or part of one
- Offer for sale or trade one of these species, or part of one

3.3.3 Common lizard, adder, grass snake and slow-worm are partially protected under the Wildlife and Countryside Act 1981. This makes it an offence to:

- Kill or injure one of these species.
- Offer for sale or trade one of these species, or part of these animals.

3.4 Amphibians

3.4.1 Great crested newts receive full protection under the Wildlife and Countryside Act 1981 and are also protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).

3.4.2 This makes it an offence to:

- Capture, injure or kill one of these species,
- Disturb these species,
- Damage or destroy a breeding site or resting place of these species.



- Possess a great crested newt, or part of this animal
- Offer for sale or trade a great crested newt, or part of this animal.

3.4.3 Common lizard, adder, grass snake and slow-worm are partially protected under the Wildlife and Countryside Act 1981. This makes it an offence to:

- Kill or injure one of these species.
- Offer for sale or trade one of these species, or part of these animals.

3.4.4 Common toad, common frog, palmate newt and smooth newt are protected from sale or trade only.

3.5 Barn Owl

3.5.1 The Wildlife and Countryside Act 1981 consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive) in Great Britain (NB Council Directive 79/409/EEC has now been replaced by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version)).

3.5.2 The Act makes it an offence (with exception to species listed in Schedule 2) to intentionally:

- kill, injure, or take any wild bird,
- take, damage or destroy the nest of any wild bird while that nest is in use or being built (also [take, damage or destroy the nest of a wild bird included in Schedule ZA1] under the Natural Environment and Rural Communities Act 2006), or
- take or destroy an egg of any wild bird.

Schedule 1 Birds

3.5.3 In addition to the above, special penalties are available for offences related to birds listed on Schedule 1. Barn owl is included on this schedule.

3.5.4 It is an offence to disturb any Schedule 1 bird at the nest, or to disturb their dependent young.

3.6 Section 41 Habitats and Species of Principal Importance

3.6.1 Section 41 Habitats and Species of Principal Importance (NERC Act 2006) are a material consideration for planners. The list is derived from the UK Biodiversity Action Plan list and supports species and habitats of conservation concern.

3.6.2 Species relevant to this report include hedgehog and common toad.

3.7 Designated Sites

3.7.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.

3.7.2 Statutory sites can be designated under UK legislation (the Wildlife and Countryside Act 1981), European Law (the Habitats Regulations 2017) or International law (Ramsar Convention).

3.7.3 Non-statutory sites can be designated by the Local Planning Authority, and different counties have different ways of designating local wildlife sites. Examples are Local Wildlife Sites and Biological Heritage Sites.



3.8 Planning Policy and Legislation

- 3.8.1 Under the NERC Act 2006, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site before they make a decision on the planning permission.
- 3.8.2 The National Planning Policy Framework (NPPF, 2021) encourages Local Planning Authorities to conserve and enhance biodiversity.

Chapter 15, Para 180 of NPPF states: *"The planning system should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils....*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".*

Para 181 states: *"Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."*

Para 185 identifies that plans should do the following to protect and enhance biodiversity and geodiversity:

- a) "Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and**
- b) Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and peruse opportunities for securing measurable net gains for biodiversity."**

Para 186 states that *"when determining planning applications, local authorities should apply the following principles:*

- a) if significant harm to biodiversity from a development cannot be avoided...,adequately mitigated, or, as a last resort compensated for, then planning permission should be refused"*

- 3.8.3 The local planning authority has a responsibility, therefore, to obtain all information regarding the potential for protected species on a site prior to making a decision about a proposal.



4 Survey Methodology

4.1 Desk Study

- 4.1.1 The following data sources used to establish background information about protected species and their likely presence in the locality:
- Magic Map, Natural England (2018)
 - Bing Maps (2019)
 - Biological records data from Greater Manchester Local Records Centre (GMLRC) (2024)
- 4.1.2 Online mapping facilities, including MAGIC (Defra 2015), Google earth (for aerial mapping) and Ordnance Survey maps for the area were consulted to assess the site in relation to the surrounding landscape and any statutory and non-statutory designated sites.
- 4.1.3 Records data from GMLRC includes records of protected species, habitats of conservation interest and local wildlife sites (Site of Biological Interest) within 1km of the survey site.

4.2 Site Survey

- 4.2.1 The survey site, was walked in daylight on 17th January 2024 and during the visits the habitat was assessed for potential for protected species. The surveyor searched for signs of the presence of protected species where appropriate, including pathways, burrows / nests / resting places, scratch markings, footprints and droppings etc. The presence of all animals and birds, if seen or heard, was recorded.
- 4.2.2 All woodland on site was searched for evidence of the presence of badger where accessible.
- 4.2.3 Habitats on site were assessed and described, and a list of conspicuous species recorded.

Preliminary Roost Assessment - Trees

- 4.2.4 A general appraisal of their suitability of trees on site for bats was undertaken across the site. A detailed Preliminary Roost Assessment of the trees to record Potential Roost Features was undertaken if they have been identified for removal or may be significantly indirectly impacted (ie immediate surrounding conditions altered) as a result of the proposed works. This work was undertaken following the latest good practice guidance (Collins, 2023).
- 4.2.5 Potential Roost Features include:
- Rot holes, including butt-rot
 - Woodpecker holes
 - Branch scars and rips
 - Cankers with cavities
 - Horizontal cracks and splits such as hazard beams
 - Flaking or partially-detached bark
 - Holes between double-leaders
 - Dense ivy
 - Bird, bat or dormouse boxes.



4.2.6 The signs and condition of the PRFs were assessed, including assessment of the following factors:

- Presence of bats
- Presence of droppings
- The dust / debris present
- Whether the interior is smooth or rough, damp, wet etc.
- Presence of association species (woodlice and dusky slug)

4.2.7 As a result of the preliminary roost assessment, the trees(s) and the PRFs are categorised as to whether or not the features were likely to be, or are confirmed bat roosts or not.

4.2.8 Further survey is recommended depending upon the findings.

Suitability of trees for bats

4.2.9 Trees were assessed as having low, moderate or high suitability for bats as follows:

- **Negligible suitability:** Lack any Potential Roost Features (PRFs)
- **Low suitability:** Have one or a small number of PRFs that are superficial and unlikely to be roost sites. Precautionary methods of work will be required prior to felling / tree works.
- **Moderate suitability:** Have one or more PRFs that require further assessment. Inspection of PRFs from the ground or by climbing will be necessary in order to categorise the features.
- **High suitability:** Have one or more PRFs that appear likely to provide suitable roost opportunities. Inspection of PRFs from the ground or by climbing will be necessary in order to categorise the features.

4.3 Survey Limitations

4.3.1 The survey work was undertaken in January 2024. At this time of year some animal groups, including bats and reptiles are inactive. However, an assessment of suitability of habitat can still be made.

4.3.2 There was snow on the ground at the time of survey, which may have obscured some small plant species, but most species were visible. The plant species list is not comprehensive. The presence of the snow allowed assessment of the use of the site by mammals.



5 Findings: Surrounding Designated Sites

- 5.0.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.
- 5.0.2 The protection over European designated sites (or Natura 2000) sites and Ramsar sites require any potential direct and indirect impacts are assessed within at least a 5km radius of the survey site, or further afield if there are direct habitat links, such as a waterway.
- 5.0.3 The protection over UK statutory sites (Sites of Special Scientific Interest and Local Nature Reserves) requires that any potential direct and indirect impacts from a development are assessed within at least a 2km radius of the survey site.
- 5.0.4 Any potential direct or indirect impacts upon non-statutory sites are assessed within 1km of the survey site.

Statutory Sites

- 5.0.5 There are no UK Statutory sites within 2km.
- 5.0.6 There are two European Statutory sites within 5km:
- The Rochdale Canal Special Area of Conservation (SAC) located approximately 1.3km to the southeast of the survey site.
 - The South Pennine Moors Phase 2 Special Protection Area (SPA) located approximately 4km to the east of the survey site.
 - The South Pennine Moors Special Area of Conservation (SAC) located approximately 4km to the east of the survey site.

The South Pennine Moors SAC, SPA and SSSI

- 5.1.1 The South Pennine Moors SAC is designated for the following Annex 1 habitats;
- European dry heaths
 - Banket bogs
 - Old sessile oak woods with *Ilex* and *Blenchum* in the British Isles
- 5.1.2 Annex I habitats that are present as a qualifying feature but not a primary reason for the selection of the site include:
- Norther Atlantic wet heaths with *Erica tetralix*
 - Transition mires and quaking bogs
- 5.1.3 The South Pennine Moors Phase 2 SPA qualifies under Article 4.1 of the EC Directive by supporting nationally important breeding populations of two bird species listed on Annex 1 of the Wildlife and Countryside Act, 1981; Merlin (*Falco columbarius*) and golden plover (*Pluvialis apricaria*).
- 5.1.4 The site qualifies under Article 4.2 of the EC Directive by supporting a diverse assemblage of



breeding migratory birds of moorland and moorland fringe including: golden plover, lapwing (*Vanellus vanellus*), dunlin (*Calidris alpina*), snipe (*Gallinago gallinago*), curlew (*Numenius arquata*), redshank (*Tringa tetanus*), common sandpiper (*Actitis hypoleucos*), short-eared owl (*Asio flammeus*), whinchat (*Saxicola rubetra*), wheatear (*Oenanthe oenanthe*), ring ouzel (*Turdus torquatus*) and twite (*Curruca flavirostris*).

- 5.1.5 The South Pennine Moors also supports the southernmost assemblage in Britain of breeding merlin, red grouse (*Lagopus lagopus*), golden plover, dunlin, short-eared owl and twite.
- 5.1.6 The South Pennine Moors SSSI is designated due to the mosaic of valuable vegetative habitats including blanket bog, acidic flushes and mires and wet and dry heaths and acid grasslands. There are several regionally important plant communities within the site. The site is also designated because of the moorland breeding bird assemblage described above.

Rochdale Canal Special Area of Conservation (SAC) and SSSI

- 5.0.7 The canal qualifies as an SAC (European designation) due to the presence of an Annex II plant species, floating water-plantain (*Luronium natans*), which is typical of botanically diverse water plant communities.
- 5.0.8 The SSSI citation (UK designation) describes the important aquatic flora, including *Potamogeton* (pondweed) species often associated with floating water-plantain and typical of good quality waters. The citation also refers to the rich emergent vegetation and invertebrate species.

Non-statutory sites

- 5.0.9 There is one Site of Biological Importance (SBI) within 2km of the survey site:
- Skye Wood SBI, which is located approximately 550m to the northwest of the survey site. This wildlife site comprises a series of three small reservoirs, willow carr woodland and species-rich grassland.

Assessment

- 5.1.7 None of the habitat types associated with the South Pennine Moors SAC and SSSI are present within the survey site, which comprises an area of hard standing and hardcore. The survey site is also unlikely to support the bird species associated with the South Pennine Moors Phase 2 SPA. For this reason, the survey site is not considered functionally linked to the SAC, SPA or SSSI.
- 5.1.8 Indirect impacts on the South Pennine Moors as a result of dust, run off or other pollutants is also unlikely due to the distance the survey site is away from the European site (4km). Similarly, noise and visual impacts are reasonably unlikely.
- 5.1.9 The survey site is not functionally linked to the Rochdale Canal SAC and the Buckley Brook does not link to this waterway. For this reason any indirect and direct impacts on this European designated site are also unlikely.



- 5.1.10 Skye Wood, a SBI located a short distance from the survey site (550m) is also not functionally linked, due to the lack of similar habitat and habitat connectedness. Indirect impacts are unlikely to do the separation of the survey site from the SBI by buildings, roads and open grassland. No further survey work or mitigation is recommended.

Statutory Site Designations

Special Area of Conservation (SAC). Special Areas of Conservation are areas of land designated under the EU's Habitat Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora. The sites are designated on the basis of the presence of Annex I and II habitats or species of conservation interest.

Special Protection Area (SPA). A Special Protection area is land classified under Directive 79/409 on the Conservation of Wild Birds. They are classified for rare and vulnerable birds (as listed on Annex 1 of the Directive) and for regularly occurring migratory species.

Site of Special Scientific Interest (SSSI) A Site of Special Scientific Interest (SSSI) is the land notified as an SSSI under the Wildlife and Countryside Act (1981), as amended. SSSI are designated for wildlife and natural features (including geological features) in England. They support characteristic, rare and endangered species, habitats and natural features.

Non-statutory Site Designations

Sites of Biological Importance (SBI): Sites of Biological Importance are 'Local Wildlife Sites' in Greater Manchester. They are identified within the county using a set of published guidelines. Their selection is based on the most important, distinctive and threatened species and habitats within a national, regional and local context. Local Wildlife Sites are locally valuable areas and are often corridors for wildlife forming key components of ecological networks. They are non-statutory designations, but are a material consideration within the planning process.



6 Findings: Habitat Survey

6.1 Habitat Assessment

Data Search

- 6.1.2 The data from GMLRC contain a single record of a protected plant species within 1km of the survey site: Bee orchid (*Ophrys apifera*). This species is associated with calcareous grassland is not expected on site.
- 6.1.3 The low number of biological records in the locality is likely due to the lack of recorders and not likely to reflect the absence of species, given that there are sites of biological interest and other habitats of biological value in the locality.

Survey Site

- 6.1.4 The survey site description is detailed in Paragraph 2.2.
- 6.1.5 The site comprises an area of hard standing and hard core with sparse ruderal vegetation and a small number of sapling trees and shrubs around the site boundary. The invasive species Japanese knotweed is present in a small area of the southern boundary and on adjacent land on the Buckley Brook bank and around the pond adjacent to the southeast.
- 3.1.1 The UK Habitat code for the site is:
- U1b Developed land; sealed surface. Secondary code 81: Ruderal/ephemeral
Secondary code 48: Invasive species

Assessment

- 6.1.6 The habitats present are common and composed of common and widespread plant species. No species either rare or protected, previously recorded in the area, were recorded during the survey. Given the habitat types within the survey site, rare or protected plant species are not expected.
- 6.1.7 The loss of sparse ruderal species as a result of the works is very unlikely to be of significance to flora in the locality.
- 6.1.8 The banks of Buckley Brook must be protected during works to prevent unnecessary damage. The boundaries of the site can be enhanced for wildlife through appropriate native-species planting and recommendations for this have been made.

Non-native invasive species

- 6.1.9 The Japanese knotweed on site has been previously treated and treatment must continue on site to ensure on site and to prevent spread. **All land within 7m of the knotweed stand (either on site and on adjacent land) must be treated as contaminated waste if removed from site.**
- 6.1.10 The current control of this invasive species on-site is of benefit to the surrounding habitat and



the continued management will ensure prevention of further spread.

- 6.1.11 **Overall, the proposals are considered very unlikely to have a negative impact upon flora in the locality and the proposals provide the opportunity to significantly enhance the site for wildlife.**

7 Findings: Protected Species

Mammals

7.1 Bats

Potential for Bats

- 7.1.1 At a landscape level, the area surrounding the survey site is good for bats. Refer to Figure 2.
- 7.1.2 Countryside west and north within close proximity to the survey site, supporting a matrix of pasture land with trees, woodland copses waterbodies and waterways. The habitat will support a variety of bat species including widespread species such as common and soprano pipistrelle bat (*Pipistrellus pipistrellus* and *Pipistrellus pygmaeus* respectively). Species that favour open habitats such as Leisler's (*Nyctalus leisleri*) and noctule bat (*Nyctalus noctule*) are also expected, whilst those that favour woodland, such as brown long-eared bat (*Plecotus auritus*), Natterer's bat (*Myotis nattereri*), whiskered bat (*Myotis mystacinus*) and Brandt's bat (*Myotis brandtii*) are less likely to be present as woodland is not abundant in the area.
- 7.1.3 The linear features (hedgerows, tree lines and waterways) provide good habitat links that are likely utilised by commuting bats and will facilitate the movement of bats through the landscape. The Bradford Beck is likely to be utilised by commuting and foraging bats.

Data Search

- 7.1.4 Data from GMLRC includes records of common pipistrelle (*Pipistrellus pipistrellus*) and soprano pipistrelle (*Pipistrellus pygmaeus*) within 1km of the survey site. The absence of other species is likely a reflection of the lack of recorders in the area, rather than the absence of the species.
- 7.1.5 The data include records of ten bat roosts within the 1km radius, which is high and likely reflects the high quality of the habitat. The closest roosts are those of Pipistrelle species located approximately 145m to the east of the site, 245m to the northeast and 455m to the northeast of the survey site.

The Conservation Status of Bats in the Area

- 7.1.6 The conservation status of bats in the area is shown in Table 1.

**Table 1:** The Conservation Status of Bats in the area at a Local, County and Regional Level

Species	Local	County	Regional
<i>Common pipistrelle</i>	Likely to be common in the area. There are records of this species in the area (10km).	Common and widespread Frequently recorded.	Common and widespread Frequently recorded across the Northwest
<i>Soprano pipistrelle</i>	Likely to be present due to the presence of riparian habitat.	Widespread. Frequently recorded.	Common and widespread Frequently recorded across the Northwest
<i>Nathusius's pipistrelle</i>	Likely to be rare in the area.	Infrequently recorded, but this may be due to low survey effort. Not yet recorded breeding in the county.	Rare across the northwest. A migratory species.
<i>Brown long-eared bat</i>	Likely to be in the area. There is a recent record of this species within 10km of the site.	Common and widespread Frequently recorded.	Common and widespread Frequently recorded across the Northwest.
<i>Natterer's bat</i>	Likely to be in the area, although this species favours woodland habitat, which is infrequent in the landscape.	Frequently recorded	Widespread and scattered across the Northwest.
<i>Noctule</i>	Present	Widespread and frequently recorded.	Common and widespread. Frequently recorded in the Northwest.
<i>Whiskered bat</i>	Present but likely rare	Present	Widespread.
<i>Brandt's bat</i>	Rare / absent	Present	Widespread.
<i>Alcathoe's bat</i>	Unknown	Unknown	Widespread. Likely under-recorded.
<i>Daubenton's</i>	Presence is likely due to the riparian habitat present.	Widespread, frequently recorded near water.	Widespread
<i>Serotine</i>	Rare / absent	Unknown	Restricted to south and southwest Britain, rarely recorded in the northwest.
<i>Leislars</i>	Rare	Unknown	Rare, but widespread in Britain. Present in the northwest.
<i>Barbastelle</i>	Unlikely to be present in the area. This species is a woodland-specialist and there is a lack of this habitat present.	Unknown	Present south of a line from North Wales to the Wash.

Structures

- 7.1.8 There are no structures. The wall along the northern boundary is generally well-sealed with a small number of shallow cracks. These features are shallow and are considered unsuitable for



roosting bats.

- 7.1.9 The structure adjacent to the north of the site does have potential for roosting bats as it contains crevices and cracks in the stonework. **This structure will not be directly impacted by the works, but indirect impacts such as alterations in lighting or creation of dust must be considered and can be reduced with the use of Reasonable Avoidance Measures during works.**
- 7.1.10 **The proposals provide the opportunity to enhance the site for roosting bats and recommendations for this have been made.**

Structures and trees

- 7.1.11 There are no mature trees on site and the immature trees present are too young to provide potential roost features such as split limbs, rot holes or flaking bark. The proposals are very unlikely to have any direct impact upon roosting bats.

Habitat for foraging and commuting bats.

- 7.1.12 The survey site, supporting very little vegetation does not provide unfavourable land for foraging bats. However, the adjacent Buckley Brook is likely to support foraging and commuting bats.
- 7.1.13 Although the proposals will not impact this habitat directly, **mitigation is proposed with regard to lighting in the operational phase of the development to minimise disturbance to foraging and commuting bats in the area**



The structure adjacent to the northwest of the site (not directly impacted)



The structure adjacent to the northwest of the site (not directly impacted)



The wall along the northern boundary

7.2 Badger

Data Search

- 7.2.1 Data from GMLRC includes confidential records of badger (*Meles meles*) close to the site.

Survey and Assessment

- 7.2.2 The survey site, which is well-fenced on all boundaries is unlikely to attract badger since the habitat present is unfavourable for this species.
- 7.2.3 During the site visit the tracks of fox (*Vulpes vulpes*) were seen across the site, but this species is much more likely to take advantage of urban settings and is a scavenger by nature. Badger generally follow the same pathways each night and are creatures of habit, feeding mainly on worms, insects and berries associated with grassland and woodland.
- 7.2.4 Badger are considered very unlikely to cross the site and there was no evidence of this species found during the survey.
- 7.2.5 **The proposals are considered very unlikely to impact this species and no further survey work or mitigation is proposed.**



Fox paw prints on site



Fox track across the site



7.3 Water Vole

Data Search

- 7.3.1 Data from GMLRC includes records of water vole (*Arvicola terrestris*) from an area of the River Roch approximately 800m south of the survey site.

Survey and Assessment

- 7.3.2 Buckley Brook, which runs along the eastern boundary of the site has reinforced brick banks supporting little suitable vegetation for water vole (grasses, sedges and rushes) and does not provide any burrowing opportunities. It is considered highly unlikely that this stretch of beck will support water vole.
- 7.3.3 Buckley Brook does join the River Roch approximately 1.2km to the south of the site, however, so the possibility that water vole migrate down Buckley Brook cannot be ruled out.
- 7.3.4 **The proposals will not result in any direct impacts to the brook or the banks of the brook and for this reason are very unlikely to impact water vole. No further survey work is considered necessary. Precautionary mitigation to avoid accidental damage to the beck will be employed during works.**

7.4 Otter

Data Search

- 7.4.1 Data from GMLRC do not contain any records of otter (*Lutra lutra*) from within 1km of the survey site.

Survey and Assessment

- 7.4.2 Otter are a wide ranging species and will travel a long distance from rivers and follow streams and becks in search of food. The use of Buckley Brook by otter cannot be entirely ruled out, but the urban nature of the brook, with banks unsuitable for resting or foraging, it unlikely to support otter with any regularity.
- 7.4.3 **The proposals are very unlikely to impact otter, which are not expected within the vicinity of the site. No further survey work is considered necessary. Precautionary mitigation to avoid accidental damage to the beck will be employed during works.**



7.5 Hedgehog

Data Search

- 7.5.1 Data from GMLRC contains records of hedgehog (*Erinaceus europaeus*) within 1km of the survey site.

Survey and Assessment

- 7.5.2 Hedgehog are a Species of Principal Importance under the NERC Act, 2006 (also known as UK Biodiversity Action Plan species).
- 7.5.3 The survey site, comprising hard standing and hardcore provides unfavourable habitat for hedgehog. However, this species may travel along the brook banks to the east of the site..
- 7.5.4 **Although the proposals are unlikely to have a significant negative impact upon populations of this species, precautionary measures to ensure the protection of hedgehog during works are proposed.**

7.6 Reptiles

Data Search

- 7.6.1 The data from GMLRC does not include any records of reptiles within 2km of the survey site.

Survey and Assessment

- 7.6.2 The records for reptiles in the northwest are generally low. Reptiles are of very low distribution and found at low density even in ideal habitats such as rough grassland with scrub.
- 7.6.3 The landscape within the survey site, comprising hard standing and hardcore provides unfavourable habitat for reptiles, which are not expected. Buckley Brook may, however support more mobile species such as grass snake (*Natrix helvetica*) upon occasion.
- 7.6.4 The survey site is considered very unlikely to support reptiles, but it is possible that common species like grass snake are present on the brook bank upon occasion in low numbers.
Avoidance mitigation to prevent harm to individual animals is recommended.



7.7 Amphibians

Great crested newt

Data Search

- 7.7.1 The data from GMLRC does not include any records of great crested newt (*Triturus cristatus*) within 1km of the survey site.

Survey and Assessment

- 7.7.2 Great crested newt, which have the highest protection of all amphibians under UK and EU law, favour still water bodies, such as ponds with good vegetation. They breed in ponds, but spend much of the year terrestrially, within habitat such as rough grassland and woodland, which provides good foraging and hibernacula. Great crested newts are known to travel, usually, within a 250m radius of breeding ponds, but can travel up to 500m.



The waterbody to the southeast of the site.

- 7.7.3 According to the relevant Ordnance Survey and aerial maps there is one waterbody within 250m, located adjacent to the southeast of the survey site.

- 7.7.4 This waterbody is large, approximately 700m², but does not support any emergent vegetation. The water quality is considered likely to be poor. It is surrounded by hard standing and dense Japanese knotweed. There are no other waterbodies that might provide the opportunity to support a metapopulation of great crested newts. A Habitat Suitability Index assessment undertaken provided a score of 0.28, suggesting the waterbody is of poor quality of great crested newts.



The waterbody to the southeast of the site.

- 7.7.5 Given the poor suitability of the waterbody adjacent to the survey site for great crested newts and the fact that the site is isolated from other waterbodies and does not support terrestrial habitat suitable for great crested newt, this species is considered very unlikely to be present.

- 7.7.6 **The proposals are considered very unlikely to impact this species and no further survey work or mitigation is considered necessary.**



Common Toad

Data Search

- 7.1.1 Data from GMLRC include records of common toad (*Bufo bufo*) within 1km of the survey site.

Survey and Assessment

- 7.1.2 Common toad are a Species of Principal Importance under the NERC Act, 2006 (also known as UK BAP species).
- 7.1.3 The landscape within the survey site, comprising hard standing and hardcore is unfavourable to this species, which is not expected in any number. The habitat alongside the brook is likely to be favourable, however, and links with other suitable habitat in the wider area. Common toad are a very mobile species, so may pass through the site upon occasion. The rubble piles do provide some hibernacula that maybe utilised by this species.
- 7.1.4 **The proposals for the site are not expected to impact upon populations of this species, but precautionary measures are proposed during works to avoid unnecessary harm to individual animals.**

7.2 Nesting Birds

Data Search

- 7.2.1 Data from GMLRC includes records of 14 bird species within 1km of the site. The data include records of 2 species listed on Schedule 1 of the Wildlife and Countryside Act, 1981; kingfisher (*Alcedo atthis*) and hobby (*Falco Subbuteo*).
- 7.2.2 Kingfisher breeds in river banks, but, although the brook is close to the site, it is unsuitable for this species as the banks are reinforced with brick. Hobby nest in trees and tall vegetation, often in the nests of other birds. Given the lack of substantial vegetation on site, this species is very unlikely to be present.
- 7.2.3 The data also includes records of one species listed on Schedule 41 of the NERC Act (2006) and listed on the Red and Amber lists of Birds of Conservation Concern (BoCC), which include house sparrow (*Passer domesticus*), song thrush (*Turdus philomelos*), starling (*Sturnus vulgaris*) and dunnock (*Prunella modularis*). These species could nest in the trees and close to the site in the spring and summer months.

Survey and Assessment

- 7.2.4 Two bird species were recorded on site during the survey: Carrion crow (*Corvus corone*) and magpie (*Pica pica*).
- 7.2.5 Birds, including those of conservation concern may nest in trees and shrubs adjacent to the east



of the site in the spring and summer months. However, there are no notable locations on site where birds may nest.

- 7.2.6 The proposals are very unlikely to directly impact nesting birds.
- 7.2.7 **However, avoidance mitigation will be necessary to prevent harm and unnecessary disturbance during works to nesting birds that may be present in vegetation (trees and shrubs) adjacent to the south or east of the site.**
- 7.2.8 **The proposals provide the opportunity to enhance the site for nesting birds and recommendations for this have been made.**

***Birds of Conservation Concern (BoCC):** These lists indicate the population status of birds in the UK, Channel Islands and the Isle of Man.

- BoCC Red list: Includes species globally threatened, a historical population decline in the UK, a severe (at least 50%) decline in the UK breeding population over the last 25 years or long-term period. A severe (at least 50%) contraction of the UK breeding range over the last 25 years or the longer term.
- Amber list: Includes species with unfavourable conservation status in Europe, a historical population decline, moderate (25-50%) decline in the UK breeding population over the last 25 years, moderate (25-50%) contraction in UK breeding or non-breeding range, rare breeders (1-300 breeding pairs in UK), rare non breeders, localised rare breeders or non-breeders, internationally important breeders or non-breeders.

7.3 Invertebrates

Data Search

- 7.3.1 Data from GMLRC includes records of a single invertebrate species within 1km of the survey site; a moth listed on Section 41 of the NERC Act, 2006.
- 7.3.2 The lack of invertebrate species previously recorded is likely a reflection of the lack of survey effort, however, rather than the absence of the species.

Survey and Assessment

- 7.3.3 The survey site, supporting only sparse ruderal vegetation and some rubble piles, lacks favourability for many invertebrate species. Only common and widespread invertebrates are expected.
- 7.3.4 **The proposals are unlikely to result in a significant negative impact to invertebrate populations or invertebrates of interest in the locality. For this reason, no further survey work or mitigation is recommended.**



7.4 Other protected species

- 7.4.1 Other protected species, including red squirrel (*Sciurus vulgaris*) and white-clawed crayfish (*Austropotamobius pallipes*) are not expected to be present as the site and adjacent habitat is unsuitable.

8 Conclusion

- 8.0.1 The land at Buckley Road Industrial estate comprises hard standing, hardcore, rubble piles and sparse ruderal vegetation. Buckley Brook runs along the eastern boundary.
- 8.0.2 Measures to minimise the risk of accidental damage to the adjacent Buckley Brook are proposed.
- 8.0.3 Measures to control and manage Japanese knotweed are already being undertaken and will be ongoing.
- 8.0.4 The site has limited potential for protected species; precautionary mitigation is required for foraging and commuting bats in relation to lighting, hedgehog, common reptiles, common toad and nesting birds.
- 8.0.5 The proposals provide the opportunity to enhance the site for nesting birds and bats and recommendations for this have been made.



9 Recommendations

9.1 Buckley Brook

9.1.1 Buckley Brook runs along the eastern boundary of the site.

9.1.2 Measures must be put in place to prevent accidental damage of the brook during works:

- Machinery must not be stored or left running and out of use within 20m of the river and must be parked on hard standing where possible.
- Precautions to prevent accidental pollution including run off must be undertaken, including retention of plant nappies on site for spills.

9.2 Bats

Commuting and Foraging Bats – Lighting

9.2.1 Bats will forage and commute along the Buckley Brook and may roost in structures close to the site. In order to minimise the impact of any lighting on commuting and foraging bats, the following is recommended:

- Lighting during the construction and operational phase will be directed to avoid the brook and adjacent buildings.
- Outside lighting installed during the operational phase will be High or Low Pressure Sodium or LED. These forms of lighting have a lower UV output, which reduces the attraction of insects. Outside lighting should be on a timer to minimise light pollution.
- Baffles must be used to avoid spillage of light into the sky and into areas toward the site boundaries

9.3 Reptiles and Amphibians

9.3.1 In order to reduce the risk of harm to individual reptiles and amphibians during works, the following is recommended:

- Machinery or materials are stored on hard standing where possible.
- Materials on site are stored on pallets to prevent reptiles and amphibians hiding in them.
- Care must be taken when clearing rubble/debris piles. If any wildlife is found, for example common toad, they can be moved to a safe place away from the area of works where there is vegetative cover.



9.4 Hedgehog

9.4.1 There is potential for hedgehog to cross the site upon occasion. In order to reduce the risk of harm to these species during works, the following is recommended:

- Any works to remove rubble piles and debris is undertaken with care, whilst checking for wildlife.
- If hedgehog are found during works, they can be picked up and moved to a safe place away from the area of works where there is vegetative cover.

9.5 Nesting Birds

9.5.1 Birds may nest in the trees and shrubs adjacent to site in the spring and summer months. In order to prevent disturbance and/or harm to nesting birds, if vegetation works are necessary, it is recommended that:

- Initial and heavy construction works are timed to avoid the bird breeding season (breeding season: March – September).
- If heavy machinery is required on site in the bird breeding season, this must be stored as far away from boundary trees and shrubs as possible, and at least 5m away from the east of the, to minimise the risk of disturbance.
- If this is not possible, a suitably qualified ecologist should check the vegetation on site to determine the presence / absence of nesting birds prior to the start of any works.
- If birds are found actively nesting on site, the nest and surrounding vegetation (5m) must be left undisturbed until the young have fledged.

9.6 Invasive Non-native Species

9.6.1 Japanese knotweed is present on the survey site and adjacent to the site. It is recommended that:

- Continued treated of this species on site is undertaken to control the plants and prevent further spread.

9.1.1 Treatment of Japanese knotweed can take place by stem-injection. This should be sufficient to ensure control and eradication from site as only one stand of the species is present. Note that the root zone of the plant extends into the adjacent land. The following must take place prior to and during works on site:

- The site is checked for the presence of any additional stands of this species by a competent person prior to the start of works.
- If any soil is removed within 7m of the Japanese knotweed stand, this must be treated as



contaminated waste.

- All machinery and operatives working within 10m of the knotweed must use bio-control to prevent the spread of this species; they must wash down machinery and boots/clothing with water on site, prior to leaving site.
- Operatives on site should be informed of the presence of this species and a Toolbox Talk regarding this species and its management on site delivered to all persons working on site prior to the start of works.

9.7 Enhancement for Biodiversity

9.7.1 The proposals provide the opportunity to retain improve the existing biodiversity.

Breeding Birds and Roosting Bats

9.7.2 Enhancement for nesting birds and roosting bats can be achieved through provision of bird nest boxes and bat boxes.

Provision of Bat Boxes

9.7.3 It is recommended that:

- At least four crevice-roost sites for roosting bats are integrated into the new structure or installed on posts/fencing along the eastern boundary of the site near Buckley Brook. See the examples of bat boxes below. There are many alternatives at NHBS.com.

Provision of Bird Boxes

9.7.4 It is recommended that:

- At least five bird boxes are installed on the new structure or on posts/fencing along the eastern side of the site. Bird boxes can be installed on the same trees/posts as bat boxes and this is actually advantageous as it reduces the likelihood that the bat boxes will be used by birds.

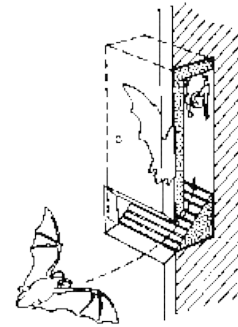
Boxes should be a mix of 28mm holes, 32mm holes and open nest boxes. For example, the Vivara Pro Seville Woodstone Nest Box would provide suitable nesting habitat for passerine birds. The 2H Schwegler Robin Box is suitable for open-box nesting species such as robin, wren and spotted flycatcher. The boxes are made of woodcrete and are very durable so do not require regular replacement.



Bat and Bird Boxes

1FE Schwegler bat access panel

This box is durable and does not require cleaning.



Beaumaris Woodstone Bat Box

This box is durable and does not require cleaning.

All bat boxes are available from NHBS Ltd

Vivara Pro Seville Woodstone Nest Box



2H Schwegler Robin Box



10 References

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• APPENDIX A: Wildlife Legislation and Planning Policy

1.0 UK AND EU LEGISLATION

KEY LEGISLATION

- In the UK, the following legislation relates to wildlife and habitats:
- Wildlife and Countryside Act 1981 (as amended)
 - The Countryside and Rights of Way Act (CROW), 2000
 - The Badger Act 1992
 - The Natural Environment and Rural Communities Act (NERC, 2006)
 - Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations (2017)
 - The Hedgerow Regulations (1997)

1.1 WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

1.1.1 The Wildlife and Countryside Act 1981 consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive) in Great Britain (NB Council Directive 79/409/EEC has now been replaced by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version)).

BIRDS

1.1.2 The Act makes it an offence (with exception to species listed in Schedule 2) to intentionally:

- kill, injure, or take any wild bird,
- take, damage or destroy the nest of any wild bird while that nest is in use or being built (also [take, damage or destroy the nest of a wild bird included in Schedule ZA1] under the Natural Environment and Rural Communities Act 2006), or
- take or destroy an egg of any wild bird.

Schedule 1 birds

1.1.3 Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young, for example Barn Owl and Red Kite.

Areas of Special Protection for Birds

1.1.4 The Secretary of State may also designate Areas of Special Protection (subject to exceptions) to provide further protection to birds.

Other offences

1.1.5 The Act also prohibits certain methods of killing, injuring, or taking birds, restricts the sale and possession of captive bred birds, and sets standards for keeping birds in captivity.

OTHER ANIMALS

1.1.6 The Act makes it an offence (subject to exceptions) to intentionally ([or recklessly] - only under the Nature Conservation (Scotland) Act 2004) kill, injure or take any wild animal listed on Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places. The Act also prohibits certain methods of killing, injuring, or taking wild animals.

1.1.7 For animals listed in Schedule 5 of the act, it is an offence under:

- Section 9(1) to kill, injure or take the animal by any method
- Section 9(2) to possess or control a dead or live animal (or part or derivative).
- Section 9(4)(a) to cause damage to, destruction of, obstruction of access to any structure or place used by a scheduled animal for shelter or protection.
- Section 9(4)(b) to disturb any animal on the schedule occupying such as structure or place.
- Section 9(4)(c) to obstruct access to any structure or place which any such animal uses for shelter or protection.
- Section 9(5)(a) to sell, offer or expose for sale, possess or transport for the purpose of sale, any live or dead wild animal, or part or derivative of an animal included in Schedule 5.



- Section 9(5)(b) to publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.

Species that receive FULL PROTECTION under the act:

- All UK bats
- Otter
- Water vole
- Dormouse
- Red squirrel
- Wildcat
- Reptiles – Smooth snake and sand lizard
- Amphibians – Great crested newt, Natterjack toad, Pool frog
- Invertebrates – some including, but not restricted to Swallowtail butterfly, Marsh fritillary butterfly, Large copper butterfly, Heath fritillary butterfly, Large blue butterfly, Barberry carpet moth, Rainbow leaf beetle, Violet click beetle, Medicinal leech.

Species that protected from intentional KILLING, INJURY and SALE only:

- Reptiles – widespread species; Common lizard, Slow-worm, Grass snake and Adder.

Species protected from TAKING and SALE only:

- Atlantic stream (white-clawed) crayfish

Species protected from SALE only:

- Common toad
- Common frog
- Palmate newt
- Smooth newt
- Invertebrates – Some including 18 butterflies such as Chalk hill blue butterfly, Adonis blue butterfly, Large tortoiseshell butterfly.

Vascular Plants, Bryophytes, Lichens and Fungi (PLANTS)

1.1.8 For any vascular plant, bryophyte, lichen or fungi listed in Schedule 8 of the Act, it makes it an offence under:

- Section 13(1)(a) to Intentionally pick, uproot or destroy plants in Schedule 8.
- Section 13(1)(b) to undertake unauthorised intentional uprooting of any wild plant not included in Schedule 8.
- Section 13(2)(a) to sell, offer for sale, possess or transport for the purpose of sale any plant (live or dead, part or derivatives) on Schedule 8.
- Section 13(2)(b) to publish or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.

1.1.9 Species with protection under Schedule 8 include, but are not restricted to:

1.1.10 Bluebell, Wood calamint, Rock cinquefoil, Early spider orchid, Spring gentian, Stinking goosefoot, Small hare's-ear, Alpine copper moss (*Mielichhoferia mielichoferi*), Goblin lights lichen (*Catolechia wahlenbergii*).

Non-Native Species

1.1.11 Species listed in Schedule 9 of the Act are non-native species, which the establishment of in the wild may be detrimental to native wildlife. Species listed in Schedule 9 include Japanese knotweed, Himalayan Balsam and Giant hogweed.

1.1.12 For species listed in Schedule 9 of the act it is an offence:

- Under Section 14(1) if any person releases or allows to escape into the wild any animal which—

(a) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or

(b) is included in Part I of Schedule 9,

- Under Section 14ZA (1) to sell, offers or exposes for sale, or has in his possession or transports for the purposes of sale an animal or plant to which this section 14 applies, or anything from which such an animal or plant can be reproduced or propagated.



- Under Section 14ZA (2) to publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell an animal or plant to which this section applies, or anything from which such an animal or plant can be reproduced or propagated.

1.1.13 Section 14ZB gives the Secretary of State the power to issue codes of practice, or approve a code of practice issued by others, relating to non-native animal and plant species. It is intended that the codes will be used to provide recommendations, advice and information on how to stop the damage caused by non-native animals and plants.

1.2 SITES OF SPECIAL SCIENTIFIC INTEREST (SSSIs) AND OTHER PROTECTED AREAS

1.2.1 Sections 28 to 33 of Part 2 of the Wildlife and Countryside Act detail the law regarding SSSIs.. Sections 34 to 53 deal with other protected areas within Great Britain.

- The Act provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs) – these sites are identified for their flora, fauna, geological or physiographical features – by the country conservation bodies in England (Natural England) and Wales (Natural Resources Wales).
- The Act also contains measures for the protection and management of SSSIs.
- The Act provides for the making of Limestone Pavement Orders, which prohibit the disturbance and removal of limestone from such designated areas
- The Act provides means for the designation of Marine Nature Reserves.
- The Act prohibits the undertaking of agricultural or forestry operations on land within National Parks which has been either moor or heath for 20 years, without consent from the relevant planning authority.

1.3 THE COUNTRYSIDE AND RIGHTS OF WAY (CROW) ACT 2000

1.3.1 The Countryside and Rights of Way Act 2000 strengthened the Wildlife and Countryside Act 1981 in the following ways:

Schedule 12

1.3.2 Schedule 12 of the Act amends the species provisions of the Wildlife and Countryside Act 1981 and strengthens the legal protection of species by:

- Providing provisions to make certain offences 'arrestable'
- Changing the term 'intentional' to 'reckless' with regard to disturbance offences, such that ignorance of the law is no longer a defence.
- Conferring greater powers to police and wildlife inspectors for entering premises and obtaining wildlife tissue samples for DNA analysis, and;
- Enabling heavier penalties on conviction of wildlife offences.

Schedule 9

1.3.3 Schedule 9 of the Act amends SSSI provisions of the Wildlife and Countryside Act 1981, including provision to change SSSIs and providing increased powers for their protection and management, placement of a duty on public bodies to further the conservation and enhancement of SSSIs and increases in penalties on convictions where the provisions are breached.

1.4 THE BADGER ACT 1992

1.4.1 Under the Badger Act 1992, it is an offence to:

- Section 1 – Take, injure or kill a badger, or attempt to do so
- Section 2 – Cruelly ill-treat a badger, inclusive of digging for a badger
- Section 3 – Interfere with a badger sett. A person is guilty of an offence if, except as permitted by or under this Act, he interferes with a badger sett by doing any of the following things—
 - (a)damaging a badger sett or any part of it;
 - (b)destroying a badger sett;
 - (c)obstructing access to, or any entrance of, a badger sett;
 - (d)causing a dog to enter a badger sett; or



(e)disturbing a badger when it is occupying a badger sett,

- Section 4 – To sell or possess a live badger.
- Section 5 – To mark or ring a badger unless under licence to do so.

1.5 THE HEDGEROWS REGULATIONS, 1997

1.5.1 The Hedgerows Regulations, 1997 ensure the protection from damage or destruction of 'important' hedgerows. Criteria within the regulations determine the importance.

1.6 THE CONSERVATION OF HABITATS AND SPECIES AND PLANNING (VARIOUS AMENDMENTS) (ENGLAND AND WALES) REGULATIONS 2017

1.6.1 In addition to the Wildlife and Countryside Act 1984, certain species have additional protection under European Law.

1.6.2 The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 (the Habitats Regs) consolidate the amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994 in England and Wales. The Regulations transpose the Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora (EC Habitats Directive) into UK law.

1.6.3 The Habitats Regulations 2010 provide protection for 'European Protected Species' and protection and designation for 'European Protected Sites'.

Schedule 2: European Protected Species of Animals

- All UK bats
- Dormice
- Otter
- Large blue butterfly
- Wild cat
- Sand lizard
- Smooth snake
- Great crested newt
- Natterjack toad
- Fishers estuarine moth
- Lesser whirlpool ram's horn snail
- Sturgeon
- Marine turtles
- All dolphins, porpoises and whales.

1.6.4 For species listed in Schedule 2, Under Part 3 Regulation 41(1) it is an offence to

- (a) deliberately capture, injure or kill any wild animal of a European protected species,
- (b) deliberately disturb a wild animal of any such species,
- (c) deliberately take or destroy the eggs of such an animal, or
- (d) damage or destroy a breeding site or resting place of such an animal,

1.6.5 Under Part 3 Regulation 41 (2) For the purposes of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely—

- (a) to impair their ability—
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
- (b) to affect significantly the local distribution or abundance of the species to which they belong.

Under Part 3 Regulation 41.(3) It is an offence for any person—

- (a) to be in possession of, or to control,
- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange any animal in Schedule 2.

Schedule 5: European Protected Species of Plants

- Shore dock
- Killarney Fern
- Early Gentian
- Lady's-slipper



- Creeping marshwort
- Slender naiad
- Fen orchid
- Floating-leaved water plantain
- Yellow-marsh saxifrage.

1.6.6 For species listed in Schedule 2, Under Part 3 Regulation 45(1) It is an offence deliberately to pick, collect, cut, uproot or destroy a wild plant of a European protected species.

1.6.7 Under Part 3 Regulation 45(1) (2) It is an offence for any person

- (a) to be in possession of, or to control,
- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange any plant in Schedule 5

European Designated Sites

1.6.8 These include:

- Special Protection Areas – SPAs are classified in accordance with Article 4 of the EC Birds Directive for rare and vulnerable birds (as listed on Annex I of the Directive), and for regularly occurring migratory species
- Special Areas of Conservation – SACs are classified in accordance with Article 3 of the EC Habitats Directive. SACs are designated to establish a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive (as amended).

1.6.9 Natura 2000 is the name of the European Union-wide network of nature conservation sites established under the EC Habitats and Birds Directives. This network will comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). Marine Natura 2000 sites contribute to our ecologically coherent network of marine protected areas.

1.7 NATURAL ENVIRONMENT AND RURAL COMMUNITIES (NERC) ACT 2006

Planning Authorities: A Duty to Conserve Biodiversity

1.7.1 Under this legislation, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site *before* they make a decision on the planning permission.

1.7.2 Part 2, Section 40 confers on the planning authorities a duty to conserve biodiversity and states:

"Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of biodiversity"

Species of Principal Importance

1.7.3 Part 3, Section 41 requires the Secretary of State to "*publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of **principal importance** for the purpose of conserving biodiversity*".

1.7.4 This requirement lead to production of a list of species and habitats of Principal Importance, which should be a material consideration during the planning process.

1.8 DESIGNATED SITES OF CONSERVATION INTEREST

1.8.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.

Statutory Sites

1.8.2 Statutory sites can be designated under UK legislation (the Wildlife and Countryside Act 1981), European Law (the Habitats Regulations 2010) or International law (Ramsar Convention).

1.8.3 The designated sites are referred to under the relevant legislation above.

1.8.4 UK designated sites include Sites of Special Scientific Interest (SSSIs).

1.8.5 European designated sites include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).

1.8.6 Ramsar sites are wetlands of international importance designated under the Convention on Wetlands of International Importance, agreed in



Ramsar, Iran, in 1971.

1.8.7 Local Nature Reserves (LNRs): Under the National Parks and Access to the Countryside Act 1949 LNRs may be declared by local authorities after consultation with the relevant statutory nature conservation agency. LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature.

1.8.8 National Nature Reserves (NNRs): are declared by the statutory country conservation agencies under the National Parks and Access to the Countryside Act 1949 and the Wildlife and Countryside Act 1981.

Non-Statutory Sites

1.8.9 Local authorities for any given area may designate certain areas as being of local conservation interest. The criteria for inclusion, and the level of protection provided, if any, may vary between areas. Most individual counties have a similar scheme, although they do vary.

1.8.10 These sites, which may be given various titles such as 'Listed Wildlife Sites' (LWS), 'Local Nature Conservation Sites' (LNCS), 'Sites of Importance for Nature Conservation' (SINCs), 'Biological Heritage Sites' (BHS) or 'Sites of Nature Conservation Importance' (SNCIs), together with statutory designations, are defined in local and structure plans under the Town and Country Planning system and are a material consideration when planning applications are being determined.

2.0 Plans and Policies

In the UK, the following plans and policies relate to wildlife and habitats:

- o National Planning Policy Framework (NPPF, 2021)
- o The Natural Environment White Paper 'The Natural Choice: Securing the Value of Nature'
- o Biodiversity – The UK Action Plan (1994, and subsequent revisions)
- o Local Biodiversity Action Plans where applicable
- o Neighbourhood plans where applicable

NATIONAL PLANNING POLICY FRAMEWORK

2.1.1 In March 2012 the Government introduced the National Planning Policy Framework (NPPF). This was revised in December 2023.

Chapter 15: Conserving and Enhancing the Natural Environment

Chapter 15, Para 180 of NPPF states: "The planning system should contribute to and enhance the natural and local environment by:

- b) **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils....**
- e) **minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".**

Para 181 states: "Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."

Para 185 identifies that plans should do the following to protect and enhance biodiversity and geodiversity:

- c) **"Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and**
- d) **Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity."**

Para 186 states that "when determining planning applications, local authorities should apply the following principles:

- b) **if significant harm to biodiversity from a development cannot be avoided...,adequately mitigated, or, as a last resort compensated for, then planning permission should be refused"**
- c) **Development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the**



features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

- d) **Development result in the loss of deterioration of irreplaceable habitats (such as ancient woodland or ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensatory strategy exists; and**
- e) **Development whos primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.**

Para 188 states "the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined."

2.2 ODPM CIRCULAR 06/2005: BIODIVERSITY AND GEOLOGICAL CONSERVATION

- 2.2.1 This document, to be read in conjunction with NPPF provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It makes it clear that it is the intention of the government that local authorities and developers consider protected species at the earliest possible stage in the planning process. Any planning application that is likely to affect protected species should come with details of the surveys which have been undertaken and should include, if necessary, recommendations for mitigation. Applications which do not include sufficient data should be rejected.

2.3 The Natural Environment White paper

- 2.3.1 The Natural Environment White Paper 'The Natural Choice: Securing the Value of Nature' states that 'We want to create a resilient and coherent ecological network at national and local levels across England... To make this happen the government will put in place a clear institutional framework to support nature restoration. This means: establishing Local Nature Partnerships... Creating new Nature Improvement Areas (NIAs) and strengthening support though the planning system.'

Biodiversity Offsetting

- 2.3.2 Biodiversity offsetting is described in the Natural Environment White Paper as 'conservation activities designed to deliver biodiversity benefits in compensation for losses in a measurable way. Good developments incorporate biodiversity considerations in their design but are still likely to result in some biodiversity loss. One way to compensate for this loss is by offsetting: the developer secures compensatory habitats elsewhere.'
- 2.3.3 The level of biodiversity offsetting required could be determine by means of assessments undertaken in accordance with the Department for Environment, Food and Rural Affairs (DEFRA) metric contained in Biodiversity Offsetting Pilots published in March 2012 as applied in the Defra offsetting pilot projects. Biodiversity offsetting could be delivered by developers in partnership with various partners including conservation organisations, local landowners and the borough council.

2.4 Biodiversity Action Plan (Local or UK)

UK Biodiversity Action Plan

- 2.4.1 Biodiversity: The UK Action Plan outlines how the UK plans to address biodiversity conservation in response to the Rio Convention on Biological Diversity (1992). In 2004 a UK Biodiversity Steering Group was formed and discussions resulted in the publication of 'Biodiversity: the UK Steering Group Report – meeting the Rio challenge', which established a framework and criteria for identifying species and habitats of conservation concern. From this list, action plans for 391 species and 45 broad habitat types were prepared. In 2007, the UK List of Priority Species and Habitats was reviewed and the revised list identifies 1149 species and 65 habitats requiring conservation action.
- 2.4.2 These species are now listed in Section 41 of the NERC Act, 2006 and referred to as Habitats and Species of Principal Importance (HPI or SPI).
- 2.4.3 Outcome 3 of the Government's Biodiversity 2020 strategy (DEFRA, 2011) contains an ambition to ensure that "By 2020, we will see



an overall improvement in the status of our wildlife and will have prevented further human-induced extinctions of known threatened species". Protecting and enhancing England's Species and Habitats of Principal Importance is key to delivering this outcome.

Local Biodiversity Action Plans

- 2.4.4 Local Biodiversity Action Plans (LBAPs) are a means for delivering UK Biodiversity Action Plan targets at a local level. LBAPs were launched in 1997 by a partnership of conservation groups, government agencies and local authorities. They set out a framework for nature conservation in the specified area. This framework includes priority species and habitats and sets targets to maintain and enhance their conservation status.

2.5 Other Species Lists of Species of Conservation Concern

- 2.5.1 Species lists of Species of Conservation Concern also considered within this assessment are as follows:

- Birds of Conservation Concern: Based on an assessment of the conservation status of British birds. Following an assessment of data on population and trends against established criteria, there are red, amber and green lists of BoCC. The latest review was BOCC 4 (Eaton et al, 2015)

- 2.5.2 Red Data Book Species: In 1999 the Species Status Assessment project (JNCC) assigned conservation status to the UK flora and fauna using the internationally approved IUCN Red Data Book criteria and categories. The reviews were published in a series of data sheets and assigned a conservation status to each species.