PROJECT WILLIAM, DOVE VALLEY PARK, FOSTON

PRELIMINARY ECOLOGICAL APPRAISAL

A Report to: Stride Treglown

Report No: RT-MME-150467 Rev 1

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MIDDLEMARCH ENVIRONMENTAL

Triumph House, Birmingham Road, Allesley, Coventry CV5 9AZ
Tel: 01676 525880 Fax: 01676 521400
E-mail: admin@middlemarch-environmental.com Web: www.middlemarch-environmental.com

REPORT VERIFICATION AND DECLARATION OF COMPLIANCE

This study has been undertaken in accordance with British Standard 42020:2013 “Biodiversity, Code of practice for planning and development”.

Report Version	Date	Completed by:	Checked by:	Approved by:
Final	11/10/2019	Sarah Brattel (Ecological Project Officer) and Ellie Rickman MCIEEM (Principal Ecological Consultant)	Colin Bundy MCIEEM (Associate Director)	Dr Philip Fermor MCIEEM, CEnv. (Managing Director
Rev 1	18/10/2019	Ellie Rickman MCIEEM (Principal Ecological Consultant)	Colin Bundy MCIEEM (Associate Director)	Dr Philip Fermor MCIEEM, CEnv. (Managing Director

The information which we have prepared is true, and has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management’s Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

DISCLAIMER

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

Middlemarch Environmental Ltd accepts no responsibility or liability for any use that is made of this document other than by the client for the purposes for which it was originally commissioned and prepared.

VALIDITY OF DATA

The findings of this study are valid for a period of 24 months from the date of survey. If works have not commenced by this date, an updated site visit should be carried out by a suitably qualified ecologist to assess any changes in the habitats present on site, and to inform a review of the conclusions and recommendations made.

NON-TECHNICAL SUMMARY

Middlemarch Environmental Ltd was commissioned by Stride Treglown to carry out a Preliminary Ecological Appraisal at the site of a proposed industrial development at Dove Valley Park, Foston in Derbyshire. To fulfil this brief an ecological desk study and a walkover survey (in accordance with Phase 1 Habitat Survey methodology) were undertaken.

The ecological desk study revealed no European statutory conservation sites within 5 km of the site, no UK statutory sites within 2 km and six non-statutory wildlife sites within 1 km. No impacts are predicted on any of these sites as a result of the proposed development. The desk study also identified records of protected birds, common lizard, brown long-eared bat, badger, brown hare and hedgehog within 1 km of the site.

The walkover survey was undertaken on 23rd September 2019 by Ellie Rickman MCIEEM (Principal Ecological Consultant) and Sarah Brattel (Ecological Project Officer). The site was found to contain semi-improved grassland, improved grassland and tall ruderal on disused arable and pasture. Bunds vegetated by tall ruderal species were located at the boundaries and in the centre of the site and hedgerows, scrub and scattered trees were also recorded. A vegetated pile of old tyres and other debris was recorded near the centre of the site and a bungalow with a hardstanding access track was present to the south of the site.

The key ecological features on or close to the site in relation to the works proposed are hedgerows and mature trees along the western boundary, an off-site pond to the north west, [redacted] foraging and commuting bats, common lizard, common amphibians, nesting birds and foraging terrestrial mammals.

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

R1: **Habitat Retention and Protection:** The development proposals should be designed (where feasible) to allow for the retention of existing notable habitats including the hedgerow and associated mature trees to the west of the site and boundary scrub to the north. The off-site pond to the north-west should be protected from potential impacts such as pollution or siltation.

R2 **Biodiversity Enhancement:** In accordance with the provision of Chapter 15 of the National Planning Policy Framework (Conserving and Enhancing the Natural Environment) and Local Planning Policy, biodiversity enhancement measures should be incorporated into the landscaping scheme of the proposed development to work towards delivering net gains for biodiversity.

[redacted]

R4 **Roosting Bats:** Some of the mature trees within the hedgerow along the western boundary of the site were considered to have bat roost potential. These should be retained within the landscaping scheme. Should any of these trees require removal or significant works, a Preliminary Ground Level Bat Roost Assessment should be undertaken.

R5 **Foraging and Commuting Bats:** Any new lighting should be carefully designed to minimise potential disturbance and fragmentation impacts on sensitive receptors, such as bat species. In particular, lighting should be low level and directed away from boundary vegetation along the western and northern boundaries to maintain dark corridors for commuting bats.

R6 **Herpetofauna:** A herpetofauna mitigation strategy and reasonable avoidance method statement should be compiled detailing how potential impacts on common lizards and common amphibians on the site will be mitigated.

R7 **Nesting birds:** Vegetation clearance should be undertaken outside the nesting bird season. The nesting bird season is weather dependent but generally extends between March and September inclusive (peak period March-August). If this is not possible then any vegetation/buildings to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing.

R8 **Terrestrial Mammals:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape and construction materials should be stored securely. Any open pipework with an outside diameter of greater than 120 mm must be covered at the end of each work day to prevent animals entering/becoming trapped.

CONTENTS

1. INTRODUCTION

1.1 PROJECT BACKGROUND

In July 2019 Stride Treglown commissioned Middlemarch Environmental Ltd to undertake a Preliminary Ecological Appraisal of the site of a proposed development at Project William, Dove Valley Park, Foston. This assessment is required to inform a planning application associated with the construction of an industrial unit with associated infrastructure, loading and parking areas and landscaping.

Middlemarch Environmental Ltd has previously carried the following surveys at this site:

- Badger Survey (RT-MME-130415); and,
- Badger Method Statement (RT-MME-130484).

To assess the existing ecological interest of the site an ecological desk study was carried out, and a walkover survey was undertaken on 23rd September 2019.

1.2 SITE DESCRIPTION AND CONTEXT

The study site comprised of a roughly square area of land approximately 12 hectares in size located to the north of Dove Valley Park, an industrial estate close to Foston, Derbyshire. The site is centred at OS Grid Reference SK 20137 32608. The survey area consisted of several disused arable fields and semi-improved grassland with a large bund running through the centre of the site and along the site boundaries to the north and west with the central bund extending towards the south eastern corner of the site.

Within the southern grassland area, a house with associated gravel and hardstanding access tracks and a treeline to the south of the building was present. Scattered scrub and trees were located throughout the site with an outgrown hedgerow running along the western boundary of the site along Woodyard Lane. Preliminary borehole works were underway during the time of survey with a small, fenced compound comprising bare earth located at the western boundary of the site near a hardstanding access point. A pond was located just off site to the north.

The site was located just east of Woodyard Lane and was surrounded by other industrial units of Dove Valley Park to the south and east. Beyond Woodyard Lane to the west industrial warehouses backed onto Conygree Wood, a large area of mixed woodland. To the north was a minor road with arable field and associated farm buildings beyond. The wider landscape was predominantly agricultural land interspersed with farms, villages and small woodlands. The A50 dual carriageway was located 730 m south of the site.

1.3 DOCUMENTATION PROVIDED

The conclusions and recommendations made in this report are based on information provided by the client regarding the scope of the project. Documentation made available by the client is listed in Table 1.1.

Document Name / Drawing Number	Author
DVPPP-STL-00-ZZ-DR-A-XXXX-R8001 / Plot P2-01, Site Location Plan	Stride Treglown
WIL_01_GPB1_G_LP_UP_LP_UP_003 Proposed Site Plan	Stride Treglown

Table 1.1: Documentation Provided by Client

2. METHODOLOGIES

2.1 DESK STUDY

An ecological desk study was undertaken to determine the presence of any designated nature conservation sites and protected species in proximity to the site. This involved contacting appropriate statutory and non-statutory organisations which hold ecological data relating to the survey area. Middlemarch Environmental Ltd then assimilated and reviewed the desk study data provided by these organisations.

The consultees for the desk study were:

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

The desk study included a search for European statutory nature conservation sites within a 5 km radius of the site (extended to 10 km for any statutory site designated for bats), UK statutory sites within a 2 km radius and non-statutory sites and protected/notable species records within a 1 km radius.

The data collected from the consultees is discussed in Chapter 4. Selected raw data are provided in Appendix 1. In compliance with the terms and conditions relating to its commercial use, the full desk study data is not provided within this report.

The desk study also included a review of relevant local planning policy with regard to biodiversity and nature conservation (see Chapter 3).

2.2 PHASE 1 HABITAT SURVEY

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

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

Data recorded during the field survey are discussed in Chapter 5.

3. LEGISLATION AND POLICY

This chapter provides an overview of the framework of legislation and policy which underpins nature conservation and is a material consideration in the planning process in England. The reader should refer to the original legislation for the definitive interpretation.

3.1 GENERAL BIODIVERSITY LEGISLATION AND POLICY

Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations 2017)
The Habitats Regulations 2017 consolidate and update the Habitats Regulations 2010 (as amended). The Habitat Regulations 2017 are the principal means by which the EEC Council Directive 92/43 (The Habitats Directive) as amended is transposed into English and Welsh law.

The Habitats Regulations 2017 place duty upon the relevant authority of government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria are, in conjunction with the European Commission, designated as Sites of Community Importance, which are subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. The regulations also place a duty upon the government to maintain a register of European protected sites designated as a result of EC Directive 79/409/EEC on the Conservation of Wild Birds (The Birds Directive). These sites are termed Special Protection Areas (SPA) and, in conjunction with SACs, form a network of sites known as Natura 2000. The Habitats Directive introduces for the first time for protected areas, the precautionary principle; that is that projects can only be permitted having ascertained no adverse effect on the integrity of the site. Projects may still be permitted if there are no alternatives, and there are imperative reasons of overriding public interest.

The Habitats Regulations 2017 also provide for the protection of individual species of fauna and flora of European conservation concern listed in Schedules 2 and 5 respectively. Schedule 2 includes species such as otter and great crested newt for which the UK population represents a significant proportion of the total European population. It is an offence to deliberately kill, injure, disturb or trade these species. Schedule 5 plant species are protected from unlawful destruction, uprooting or trade under the regulations.

The Wildlife and Countryside Act (WCA) 1981 (as amended)
The WCA, as amended, consolidates and amends pre-existing national wildlife legislation in order to implement the Bern Convention and the Birds Directive. It complements the Habitat Regulations 2017, offering protection to a wider range of species. The Act also provides for the designation and protection of national conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSIs).

Schedules of the act provide lists of protected species, both flora and fauna, and detail the possible offences that apply to these species.

The Countryside and Rights of Way (CRoW) Act 2000
The CROW Act, introduced in England and Wales in 2000, amends and strengthens existing wildlife legislation detailed in the WCA. It places a duty on government departments and the National Assembly for Wales to have regard for biodiversity, and provides increased powers for the protection and maintenance of SSSIs. The Act also contains lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

The Natural Environment and Rural Communities (NERC) Act 2006
Section 40 of the NERC Act places a duty upon all local authorities and public bodies in England and Wales to promote and enhance biodiversity in all of their functions. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity. These lists superseded Section 74 of the CRoW Act 2000.

The Hedgerow Regulations 1997
The Hedgerow Regulations make provision for the identification of important hedgerows which may not be removed without permission from the Local Planning Authority.

UK Post-2010 Biodiversity Framework

The UK Biodiversity Action Plan (BAP), published in 1994, was the UK Government's response to signing the Convention on Biological Diversity (CBD) at the 1992 Rio Earth Summit. The new UK Post-2010 Biodiversity Framework replaces the previous UK level BAP. The UK Post-2010 Biodiversity Framework covers the period 2011-2020 and forms the UK Government's response to the new strategic plan of the United Nations Convention on Biological Diversity (CBD), published in 2010 at the CBD meeting in Nagoya, Japan. This includes five internationally agreed strategic goals and supporting targets to be achieved by 2020. The five strategic goals agreed were:

- Address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society;
- Reduce the direct pressures on biodiversity and promote sustainable use;
- To improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity;
- Enhance the benefits to all from biodiversity and ecosystem services; and,
- Enhance implementation through participatory planning, knowledge management and capacity building.

The Framework recognises that most work which was previously carried out under the UK BAP is now focused on the four individual countries of the United Kingdom and Northern Ireland, and delivered through the countries' own strategies. Following the publication of the new Framework the UK BAP partnership no longer operates but many of the tools and resources originally developed under the UK BAP still remain of use and form the basis of much biodiversity work at country level. In England the focus is on delivering the outcomes set out in the Government's 'Biodiversity 2020: a Strategy for England's Wildlife and Ecosystem Services' (DEFRA, 2011). This sets out how the quality of our environment on land and at sea will be improved over the next ten years and follows on from policies contained in the Natural Environment White Paper.

Species and Habitats of Material Consideration for Planning in England

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

3.2 NATIONAL PLANNING POLICY FRAMEWORK AND PRACTICE GUIDANCE

In February 2019, the National Planning Policy Framework (NPPF) was updated, replacing the previous framework published in 2012 and revised in 2018. The government circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, which accompanied PPS9, still remains valid. A presumption towards sustainable development is at the heart of the NPPF. This presumption does not apply however where developments require appropriate assessment under the Birds or Habitats Directives.

Chapter 15, on conserving and enhancing the natural environment, sets out how the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing existing sites of biodiversity value;
- minimising impacts on and providing net gains for biodiversity; and,
- establishing coherent ecological networks.

If a proposed development would result in significant harm to the natural environment which cannot be avoided (through the use of an alternative site with less harmful impacts), mitigated or compensated for (as a last resort) then planning permission should be refused. With respect to development on land within or outside of a Site of Special Scientific Interest (SSSI) which is likely to have an adverse effect (either alone or in-combination with other developments) would only be permitted where the benefits of the proposed development clearly outweigh the impacts on the SSSI itself, and the wider network of SSSIs. Development

resulting in the loss of deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused unless there are wholly exceptional reasons for the development, and a suitable compensation strategy is provided.

Chapter 15 identifies that development whose primary objective is to conserve or enhance biodiversity should be supported and opportunities to incorporate biodiversity improvements in and around development should be encouraged, especially where this can secure measurable net gains for biodiversity.

Chapter 11, making effective use of the land, sets out how the planning system should promote use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs. Opportunities for achieving net environmental gains, including new habitat creation, are encouraged.

In March 2014 the Department for Communities and Local Government released guidance to support the National Planning Policy Framework (NPPF), known as the National Planning Practice Guidance (NPPG).This has been produced to provide guidance for planners and communities which will help deliver high quality development and sustainable growth in England.

The guidance includes a section entitled 'Natural Environment: Biodiversity, geodiversity and ecosystems and green infrastructure', which was updated in July 2019. This document sets out information with respect to the following:

- the statutory basis for seeking to conserve and enhance biodiversity;
- the local planning authority's requirements for planning for biodiversity;
- what local ecological networks are and how to identify and map them;
- how plan-making bodies identify and safeguard Local Wildlife Sites, including Standard Criteria for Local Wildlife Sites;
- the sources of ecological evidence;
- the legal obligations on local planning authorities and developers regarding statutory designated sites and protected species;
- definition of green infrastructure;
- where biodiversity should be taken into account in preparing a planning application;
- how policy should be applied to avoid, mitigate or compensate for significant harm to biodiversity and how mitigation and compensation measures can be ensured;
- definitions of biodiversity net gain including information on how it can be achieved and assessed; and,
- the consideration of ancient woodlands and veteran trees in planning decisions and how potential impacts can be assessed.

The NPPG July 2019 issue also includes a section entitled 'Appropriate assessment: Guidance on the use of Habitats Regulations Assessment' which provides information in relation to Habitats Regulations Assessment processes, contents and approaches in light of case law. This guidance will be relevant to those projects and plans which have the potential to impact on European Sites and European Offshore Marine Sites identified under the Conservation of Habitats and Species Regulations 2017 (as amended).

3.3 LOCAL PLANNING POLICY

SOUTH DERBYSHIRE DISTRICT COUNCIL

http://www.south-derbys.gov.uk/planning_and_building_control/planning_policy/default.asp

Local Plan

The Local Plan for South Derbyshire has been prepared in two parts. Part 1 was adopted by Full Council on June 13, 2016. The Local Plan Part 2 was adopted by Full Council on November 2, 2017. The 1998 Local Plan has now been fully superseded, together Part 1 and Part 2 are the primary documents that need to be taken into account when making decisions on planning applications across the District.

Adopted Local Plan Part 1

The Adopted Local Plan Part 1 covers the period 2011 to 2028 and is the strategic element of the Local Plan.

It sets the long-term vision, objectives and strategy for the spatial development of South Derbyshire. The plan sets the amount of housing and employment development required within the District over the plan period, allocates strategic housing and employment sites and contains policies used in the determination of planning applications.

The policies relevant to ecology within the Local Plan Part 1 are detailed below.

Policy BNE3: Biodiversity

A. The Local Planning Authority will support development which contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and delivers net gains in biodiversity wherever possible by:
   i. Protecting sites of International, European, National and County importance, together with local nature reserves, from inappropriate development within and adjacent to sites;
   ii. Delivering long term plans to restore the River Mease Site of Special Scientific Interest (SSSI)/Special Area of Conservation (SAC) to a more natural condition and improve water quality within Mease and other catchments failing to meet Water Framework Directive objectives;
   iii. Developing and maintaining a District-wide ecological network of SSSI's and local wildlife sites together with corridors and stepping stones sites to support the integrity of the biodiversity network, prevent fragmentation, deliver ecosystem services and enable biodiversity to respond and adapt to the impacts of climate change;
   iv. Supporting and contributing to the targets set out in the Lowland Derbyshire and/or National Forest Biodiversity Action Plan (BAP) for priority habitats and species; and
   v. Protecting ancient woodland and veteran trees from loss, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

B. Planning proposals that could have a direct or indirect effect on sites with potential or actual ecological or geological importance including:
   - Internationally important sites;
   - Nationally important sites (such as SSSIs);
   - Sites of County importance (such as Local Nature Reserves, Local Wildlife Sites and Local Geological Sites);
   - Ancient woodlands, veteran trees and hedgerows; and
   - Priority habitats and species,

will need to be supported by appropriate surveys or assessments sufficient to allow the Authority to fully understand the likely impacts of the scheme and the mitigation proposed. Where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant harm resulting from the development and/or where the development can potentially be located on an alternative site that would cause less or no harm, planning permission will be refused.

Policy INF7: Green Infrastructure

A. The District Council will seek to conserve, enhance and wherever possible extend green infrastructure in the District by working with partners to:
   i. Ensure the continued protection of the District's ecological, biological and geological assets, with particular regard to sites and species of international, national and local significance;
   ii. Secure development that maximises the opportunities to conserve, enhance and restore biodiversity and geological diversity and to increase provision of, and access to, green infrastructure;
   iii. Promote the appropriate management of features of major importance for wild flora and fauna;
   iv. Support the development of the Green Infrastructure Network as proposed by the 6Cs Green Infrastructure Strategy, linking together Key Strategic Routes of regional and sub regional importance and providing for, in appropriate locations, visitor infrastructure that improves accessibility. The District Council will, in particular, promote improved green infrastructure provision in the following opportunity areas:
      a. Trent Strategic River / Trent & Mersey Canal Corridor;
      b. Derwent Strategic River Corridor;
      c. Dove Strategic River Corridor;
      d. Within the National Forest Area; and;

e. Around the edges of Derby City and Swadlincote;
f. Positively view proposals that seek to enhance the District's Green Infrastructure resource in support of tourism and leisure related development.

B. Within the Trent Valley, or other locally determined Nature Improvement Area, the District Council will support and help deliver the landscape scale change as promoted by the Lowland Derbyshire and Nottinghamshire Local Nature Partnership. Any development within the area defined by the Trent Valley Vision will be expected to contribute towards and assist in delivering the vision in accordance with the strategy. Such contributions may be in the form of appropriate design, suitable form and function, the delivery of Green Infrastructure, landscape and habitat enhancement, financial contributions or other mechanisms as appropriate, to deliver an overall benefit within the Trent Valley Vision area.

C. All proposals for development within the catchment for the River Mease will need to demonstrate that they will have no adverse effects on the integrity of the Special Area of Conservation (SAC) either alone or in combination with other proposals and will contribute to long-term objectives to improve the condition of the site.

Adopted Local Plan Part 2

The Local Plan Part 2 proposes non-strategic housing allocations and detailed development management policies. The Local Plan Part 2 was subsequently adopted at a meeting of Full Council on November 2, 2017.

The policies relevant to ecology within the Local Plan Part 2 are detailed below.

Policy BNE7: Trees, Woodland and Hedgerows

A. Where development is proposed that could affect trees, woodland and/or hedgerows which are important in terms of their amenity, ecological, landscape or historic value, developers will be expected to demonstrate that:
   i. the layout and form of development have been informed by an appropriate arboricultural and/or hedgerow surveys; and
   ii. development would not suffer from undue shading either now or in the future; and
   iii. appropriate measures are secured to ensure adequate root protection and buffers around trees, woodland and hedgerows.

B. The felling of protected trees, groups of trees or woodland and/or removal of important hedgerows, will be considered in accordance with the relevant national guidance and regulations, taking account in particular of their amenity, ecological, landscape and historic value. Where protected trees and/or hedgerows are subject to felling or removal, a replacement of an appropriate number, species, size and in an appropriate location will normally be required.

C. Development proposals which will have a detrimental effect on important trees, woodland or hedgerows must satisfactorily demonstrate how the impact on biodiversity has been minimised and, wherever possible, a net biodiversity gain delivered through appropriate mitigation, compensation or offsetting, including through new planting or improved management of retained trees and hedgerows. New planting will be expected to be adequately managed to reach full maturity.

D. Where new planting is proposed on development sites, principal consideration should be given to planting tree species which are in keeping with the urban or rural character of the area. However, where appropriate, wider environmental or amenity benefits including improvements to local air quality, erosion control, land drainage or shading should be considered.

http://www.south-derbys.gov.uk/planning_and_building_control/conservation_and_heritage/default.asp

South Derbyshire District Council planning policy also includes sections on conservation areas and trees and hedgerows, summarized below.

Conservation Areas

A conservation area is an area of special architectural or historic importance, the character of which it is desirable to preserve or enhance. There are 22 conservation areas in South Derbyshire, each with a unique identity and style that we want to protect from indiscriminate change.

Any development in conservation areas, including extensions and modifications of existing buildings as well as the construction of new buildings must be done in a way that compliments the aesthetic qualities of the area. Within conservation areas, Planning Permission may need to be obtained for changes to buildings that

would otherwise be permitted. "Conservation area consent" is often required for the demolition of buildings within a conservation area. Trees in conservation areas are given a greater degree of protection than elsewhere. You must give the council six weeks' notice before starting any work, such as felling or pruning on any tree whose main stem diameter is at least 75mm measured at 1.5m above the ground.

Trees
Trees that are protected by Tree Preservation Orders may not be cut down, uprooted, topped, lopped, damaged or destroyed without the planning authority's permission. It is a criminal offence to carry out work on a protected tree, with a maximum penalty of £20,000 for destroying the tree, or £2,500 if the tree is damaged but not destroyed. There are some exceptions made for trees that are dead, dying or dangerous. However, it is the responsibility of the owner to prove that the tree was indeed dead, dying or dangerous, so it is advised to give the council at least five days' notice before undertaking the work, unless it is an emergency. The owner may also be required to plant a replacement tree in the same location.

Hedgerows
Some hedges in the countryside are protected by the Hedgerow Regulations, which aim to conserve hedges considered important, for archaeological, historical, environmental or landscape interest. It is a criminal offence to remove hedgerows that are considered 'important'. If you are considering removing a hedgerow, you must notify the council.

4. DESK STUDY RESULTS

4.1 INTRODUCTION

The data search was carried out on September 2019 by Derbyshire Biological Records Centre. All relevant ecological data provided by the consultees was reviewed and the results from these investigations are summarised in Sections 4.2 to 4.4. Selected data are provided in Appendix 1.

4.2 NATURE CONSERVATION SITES

Statutory and non-statutory nature conservation sites located in proximity to the survey area are summarised in Table 4.1.

Site Name	Designation	Proximity to Survey Area	Description
Non-statutory Sites			
Pennywaste Wood	LWS	540m south east	Approximately 3.5 hectares of secondary broad-leaved woodland composed of predominantly Ash *Fraxinus excelsior* with English oak *Quercus robur* and alder *Alnus sp*. occurring locally, elm *Ulmus sp.* is also present throughout the woodland forming a subcanopy layer. Varying compositions of Hawthorn *Crataegus monogyna*, elder *Sambucus nigra*, sycamore *Acer pseudoplatanus* and elm are present forming a developed scrub layer bellow the canopy. The area consists of a mosaic of damp and dry areas of woodland with multiple low-lying areas and ditches present within the woodland, resulting in a species-rich field layer. Drier areas are characterised by the presence of bluebell *Hyacinthoides non-scripta* and both male-fern *Dryopteris filix-mas* and broad buckler-fern *Dryopteris dilatata*. Damper areas of the woodland exhibit species such as dog's mercury *Mercurialis perennis*, bugle *Ajuga sp*., wild angelica *Angelica sylvestris*, remote sedge *Carex remota* and meadowsweet *Filipendula ulmaria*. A small population of the county rare species common twayblade *Neottia ovata* has been recorded within the woods. This site has been continually wooded since at least 1890. There are signs of disturbance present as the woods were incorporated into the World War II airfield that dominated the area.
The Coppice	LWS	475m north west	This site comprises of 2.4 hectares of ancient woodland which now contains large amounts of sycamore with less dominant oak and silver birch *Betula pendula* within the canopy. The understory contains a remnant hazel coppice *Corylus avellana* and hawthorn. The ground flora in parts of the wood are dominated by rhododendron *sp.* but bluebells and honeysuckle *Lonicera periclymenum*. are present in other areas.
Conygree and Rough Woods	LWS	115m west	This 9.7 ha site contains a sycamore dominated canopy with occasional oak and the western side of the wood has been replanted with conifer species. The understory of the wood comprises hazel, hawthorn, and birch. Some rhododendron has also been recorded in the understory. The ground flora includes bluebell, bracken, bramble *Pteridium sp*., foxglove *Digitalis sp.* and greater stitchwort *Ranunculus lingua*. There are multiple tracks running through the wood that provide access.
Church Broughton Churchyard	pLWS	990m north	An approximately 0.3 ha area of semi-improved grassland associated with the church in Church Broughton village.

Littlemeadow Lane	pLWS	220m north east	An area of approximately 1 hectare of species-rich hedgerow lining the Littlemeadow access track joining Bent Lane to the east.
Boggy Lane	pLWS	255m north	This potential site is an area of 0.6 hectares of species-rich hedgerow running along both edges of Boggy Lane to the south of Church Broughton village.
Ancient Woodland Sites			
Conygree Wood	ASW	92m west	See above
Rough Wood	ASW	215m south west	
The Coppice	ASW	480m west	
Key: ASW: ancient Semi-Natural Woodland LWS: Local Wildlife Site pLWS: potential/proposed Local Wildlife Site			

Table 4.1: Summary of Nature Conservation Sites

No Sites of Special Scientific Interest (SSSIs) are located within a 2 km radius of the survey area, however the survey area does fall within the SSSI Impact Risk Zones for Hilton Gravel Pits SSSI and Old River Dove, Marston on Dove SSSI which are located 4.3km east and 4.7km south east respectively.

4.3 PROTECTED / NOTABLE SPECIES

Table 4.2 and the following text provide a summary of protected and notable species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Species of Principal Importance?	Legislation / Conservation Status
Birds					
Barn Owl *Tyto alba*	1	2011	600m south west**	-	WCA1i
Bullfinch *Pyrrhula pyrrhula*	1	2019	600m south west**	✓	-
Dunnock *Prunella modularis*	1	2019	600m south west**	✓	-
Skylark *Alauda arvensis*	1	2019	600m south west**	✓	-
Song Thrush Turdus philomelos	1	2019	600m south west**	✓	-
Yellowhammer *Emberiza citrinella*	1	2019	600m south west**	✓	-
Herpetofauna					
Common Lizard *Zootoca vivipara*	2	2017	On Site***	✓	WCA 5 S9(1) WCA 5 S9(5)
Mammals - bats					
Brown long-eared bat *Plecotus auritus*	1	2009	960m north**	✓	ECH 4, WCA 5, WCA 6
Mammals - other					
Badger *Meles meles*	9	2018	†	-	WCA 6, PBA
Brown Hare *Lepus europeaus*	3	2005	340m east**	✓	-
Hedgehog *Erinaceus europaeus*	1	2016	980m north east***	✓	WCA 6
Plants					
Bluebell *Hyacinthoides non-scripta*	1	#	115 m west	-	WCA 8 S13(2)

Pale Willowherb *Epilobium roseum*	1	2011	Potentially within 1km*	-	LBAP

Key:
†: Badger records are confidential and therefore proximity is not provided within the report.
*: Grid reference provided was four figures only.
**: Grid Reference provided was six figures only.
***: Grid Reference provided was eight or more figures long.
#: species located within wildlife site citations; exact records not provided.

ECH 4: Annex IV of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest in need of strict protection.
PBA: Protection of Badgers Act 1992.
WCA 1i: Schedule 1 Part 1 of Wildlife and Countryside Act 1981 (as amended). Birds protected by special penalties at all times.
WCA 5: Schedule 5 of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds).
WCA 5 S9(1): Schedule 5 Section 9(1) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to intentional killing, injury or taking.
WCA 5 S9(2): Schedule 5 Section 9(2) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to processing/controlling any live or dead animal, or any part of, or anything derived from, such animal.
WCA 5 S9(4a): Schedule 5 Section 9(4a) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to damaging, destroying, or obstructing access to, any structure or place used by the animal for shelter or protection.
WCA 5 S9(4b): Schedule 5 Section 9(4b) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to disturbing the animal while it is occupying any structure or place which it uses for shelter or protection.
WCA 5 S9(5): Schedule 5 Section 9(5) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to selling, offering for sale, processing or transporting for purpose of sale, or advertising for sale, any live or dead animal, or any part of, or anything derived from, such animal.
WCA 6: Schedule 6 of Wildlife and Countryside Act 1981 (as amended). Animals which may not be killed or taken by certain methods.
WCA 8 S13(2): Schedule 8 Section 13(2) of Wildlife and Countryside Act 1981 (as amended). Protection limited to selling, offering for sale, possessing or transporting for purpose of sale, or advertising for sale, any live or dead plant, or any part of, or anything derived from, such plant.

Species of Principal Importance: Species of Principal Importance for Nature Conservation in England.
Local:

Note. This table does not include reference to the Berne Convention (Convention on the Conservation of European Wildlife and Natural Habitats), the Bonn Convention on the Conservation of Migratory Species of Wild Animals or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Table 4.2: Summary of Protected/Notable Species Records Within 1 km of Survey Area

4.4 INVASIVE SPECIES

Table 4.3 provides a summary of invasive species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Legislation / Conservation Status
Rhododendron *Rhododendron ponticum*	1	1992	170m west	WCA9

Key:
WCA9: Schedule 9 of Wildlife and Countryside Act 1981 (as amended). Invasive, non-native, plants and animals.

Table 4.3: Summary of Invasive Species Records Within 1 km of Survey Area

4.5 PREVIOUS SITE SURVEYS

An Ecological Appraisal of an area including the northern portion of the site was undertaken for a previous planning application in March 2017 by FPCR. This found the northern half of the site to be dominated by arable land and species-poor semi-improved grassland with a hedgerow and tree line to the western side and scattered scrub and trees present. The survey identified habitat suitable for amphibians and reptiles on the site and trees with bat roost potential in the western hedgerow.

Following the Ecological Appraisal, a great crested newt survey of four ponds located within 500m of the current survey area was undertaken between April and June 2017. (FPCR, 2017). No great crested newts were recorded within any of the ponds although smooth newt *Lissotriton vulgaris,* common toad *Bufo bufo* and common frog *Rana temporia* were recorded.

Reptile surveys of the site were also undertaken in July 2017 (FPCR, 2017). These recorded a small population of common lizard *Zootoca vivipara* within the site with two individuals recorded, one of which was sighted close to a line of willows in the centre of the current survey area.

5. PHASE 1 HABITAT SURVEY

5.1 INTRODUCTION

The results of the Phase 1 Habitat Survey are presented in the following sections. An annotated Phase 1 Habitat Survey Drawing (Drawing C150467-01) is provided in Chapter 8. This drawing illustrates the location and extent of all habitat types recorded on site. Any notable features or features too small to map are detailed using target notes. Photographs taken during the field survey are presented in Chapter 9.

The survey was carried out on 23rd September 2019 by Ellie Rickman MCIEEM (Principal Ecological Consultant) and Sarah Brattel (Ecological Project Officer). Table 5.1 details the weather conditions at the time of the survey.

Parameter	Condition
Temperature (ºC)	18
Cloud (%)	70
Wind (Beaufort)	F3
Precipitation	Dry

Table 5.1: Weather Conditions During Field Survey

5.2 SURVEY CONSTRAINTS AND LIMITATIONS

All areas of the site were accessible at the time of survey and there were no significant restrains.

5.3 HABITATS

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

- Building;
- Hardstanding;
- Hedgerows;
- Improved grassland;
- Poor semi-improved grassland and tall ruderal mosaic;
- Scattered trees;
- Scrub;
- Semi-improved grassland;
- Tall ruderal; and,
- Notable off-site habitat-pond

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

Building
A modern, brick, bungalow with pitched, clay tiled roof and wooden framed windows was present within the southern side of the site (Plate 9.1). The tiles were flat and tightly fitting with no potential access points for bats or birds recorded. The ridge tiles were in place and sealed and all verge mortar was intact. The windows and doors were all well-sealed and no potential roost features or access points for bats were recorded

Hardstanding
A concrete and tarmac access track was present through the southern half of the site (Plate 9.2), this provided access from Woodyard Lane to the west along the centre of the site and then extended towards the southern site boundary and the bungalow. Gravel hard standing was present to the west of the building this provided a vehicle parking and turning area and joined to the concrete track (Plate 9.1). A compact earth access track was also present during the time of survey, this appeared to have been recently formed, and extended from the eastern boundary joining onto the concrete access track just north of the building. A hardstanding concrete tiled, patio area was present to the east of the house. Some biting stonecrop *Sedum acre* and grass was noted on the concrete access track, gravel area and within the concrete tiled patio to the rear of the house.

Hedgerows
An outgrown hedgerow was present along the western boundary of the site bordering Woodyard Lane (Plate 9.3). The hedge was dominated by hawthorn *Crataegus monogyna* and blackthorn *Prunus spinosa* up to 5m in height with frequent mature oak *Quercus robur.,* ash *Fraxinus excelsior* and willow *Salix sp.* standard trees scattered throughout.

Improved Grassland
Outgrown improved grassland was present to the north east of the site (Plate 9.4). This has a sward height of approximately 40 cm and was dominated by perennial ryegrass *Lolium perenne.* Some cock's-foot *Dactylis glomerata* and false oat-grass *Arrhenatherum elatius* was also recorded with only a few forbs including common mouse-ear *Cersatium fontanum* and dandelion *Taraxacum officinalis agg.*

Poor Semi-improved Grass/Ruderal Mosaic on Disused Arable
The dominant habitat on site was a mosaic of coarse grasses and ruderal species on disused arable land (Plate 9.5). This dominated the western half of the site and an area immediately north of the central bund on the east side. This area contained a variety of different species including remnant crop species such as oat *Avena sativa* and barley *Hordeum vulgare* alongside Yorkshire fog *Holcus lanatus*, red fescue *Festuca rubra*, and false oat-grass with frequent smaller willowherb species *Epilobium sp.,* spear thistle *Cirsium vulgare*, dandelion*,* field forget-me-not *Myosotis arvensis* and ragwort *Jacobaea vulgaris*.

Other occasional species recorded included fox and cubs *Pilosella aurantiaca*, great willowherb *Epilobium hirsutum*, bristly oxtongue *Helminthotheca echioides*, St. John's wort *Hypericum sp.,* field speedwell *Veronica persica*, field pansy *Viola arvensis* Canadian fleabane *Erigeron canadensis*, beet *Beta vulgaris,* groundsel *Senecio vulgaris* and charlock *Sinapis arvensis.*

Scattered Trees
Several scattered trees were present within the semi-improved grassland to the south of the site (Plate 9.6). These included immature and semi-mature willow, silver birch *Betula pendula* and sycamore *Acer pseudoplatanus*. Some scattered trees were also located along the central bund, including immature sycamore trees and some hawthorn. A large oak tree was present to the south west close to the start of the access track (Plate 9.7) Several mature oak trees, semi-mature willow and ash trees were also present within the hedge along the western boundary, some of which were considered to have bat roost potential.

Scrub
A broken mature hawthorn scrub line up to 5m in height was recorded along the northern field boundary (Plate 9.8). Behind this scrub line adjacent to the road was a semi-improved grassland area with scattered scrub patches of bramble *Rubus fruticosus agg.* and dog rose *Rosa canina*. Along the road to the north was a line of blackthorn scrub. Another area of scrub was present running down the centre of the site between the improved grassland area to the east and the disused arable field to the west. This was dominated by willow with some hawthorn also recorded.

Scattered scrub was also noted along the bund at the south eastern boundary and included bramble, hawthorn and dog rose.

Semi-improved grassland
A large area of species poor semi-improved grassland was present to the south of the site (Plate 9.6). This area included red fescue *Festuca rubra*, bent grass *Agrostis sp.,* cock's-foot, Yorkshire fog, rough meadow grass *Poa trivialis*, with a few forbs including hogweed *Heracleum sphondylium*, fox and cubs, autumn hawkbit *Scorzoneroides autumnalis* and curled dock *Rumex crispus*. The south west corner contained a large bund covered in species-poor semi-improved grassland with scattered scrub. Grassland species within the south west corner included ribwort plantain *Plantago lanceolata*, yarrow *Achillea millefolium*, black medic *Medicago lupulina*, red clover *Trifolium pratense* and hairy tare V*icia hirsuta.*

A strip of semi-improved grassland was also present north of the central bund between the disused arable area and the improved grassland area to the north east (Plate 9.9). This area was dominated by false oat grass, cock's-foot, timothy *Phleum pratense*, couch *Elymus repens* and red fescue with occasional yellow toadflax *Linaria vulgaris*, curled dock, and creeping thistle *Cirsium arvense* and had a tall sward of up to 70cm.

A small area of semi-improved grassland was also present along the northern boundary between a barbed-wire fence and the road. This had a similar species composition to the semi-improved grassland strip and was up to 1m in height, with frequent nettle *Urtica dioica*, hogweed interspersed and bramble scrub.

Tall Ruderal
Tall ruderal vegetation was present along the central bund, this included nettle and a small amount of hemlock *Conium maculatum* interspersed with bramble. The area had been recently strimmed (Plate 9.10). The bund that extended around the south eastern corner of the site had a similar composition to the central bund however, this bund also included some teasels *Dipsacus fullonem.* and scattered scrub. At the western end of the central bund was a large pile of old tyres and rubble which was also covered by nettle and bramble.

There were some dense areas of tall ruderal within the semi-improved grassland area behind the hawthorn along the northern boundary, including patches of nettle and rosebay willowherb *Chamerion angustifolium* and along the bund at the north western boundary which was composed of rough grassland with nettle, mugwort *Artemisia vulgaris* and dock species *Rumex sp.*

The bund along the western boundary comprised of mostly tall ruderal vegetation dominated by nettle, hogweed, hedge bindweed *Calystigia sepium,* hemlock and creeping thistle with occasional teasel and ragwort (Plate 9.11). The base of the bund was grass dominated this included species such as false oat-grass and cock's-foot.

Notable Off-site Habitat- Pond
A pond, approximately 0.1 ha in area was present just north of the site boundary (Plate 9.12). The northern bank of the pond was reinforced with stone walling, all other banks were earthen with some marginal vegetation dominated by bramble, flag iris *Iris pseudacorus* and hard rush *Juncus inflexus*. Some white-water lily *Nymphaea alba* was observed within the pond and mature crack willow *Salix fragilis* trees were present along the edge. A short-mown amenity grassland strip was recorded between the pond and the earth bund adjacent to the site and wooden fishing platforms were present at the pond edge. An area of semi-improved grassland and tall ruderal mosaic was then present to the west and south of the pond beyond the site boundary with a similar species composition to the rest of the disused arable areas on the site.

5.4 FAUNA

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

Birds
The following bird species were observed on site during the field survey: blue tit *Cyanistes caeruleus*, robin *Erithacus rubecula*, swallow *Hirundo rustica*, and goldfinch *Carduelis carduelis*.

Mammals
Multiple mammal paths were located within the semi-improved grass at the northern boundary behind the hawthorn scrub, most appeared to be rabbit. A push under was present within the hedgerow to the western boundary.

An outlier badger *Meles meles* sett had previously been recorded in the central bund on the site (Middlemarch Environmental, 2019). At the time of survey this was subject to closure under a Natural England Licence. Rabbit *Oryctolagus cuniculus* burrows were also present within the central bund.

5.5 INVASIVE PLANT SPECIES

No invasive plant species were recorded during the walkover survey.

6. DISCUSSIONS AND CONCLUSIONS

6.1 SUMMARY OF PROPOSALS

Proposed works on site include the development of an industrial facility with access, parking and loading facilities for HGVs. Additional infrastructure construction is proposed including areas for car parking to the north east, waste storage, recycling and sprinkler system to the west and a weighbridge to the south east. The boundaries of the site will be landscaped with an ecological area proposed along the north western and western boundaries and a possible attenuation pond to the south.

6.2 NATURE CONSERVATION SITES

The desk study exercise identified no European statutory sites within 5 km of the survey area, no UK statutory sites within 2 km, 3 Ancient Woodland sites within 2 km and 6 non-statutory sites within 1 km. The site is not located within 10 km of a statutory site designated for bats. The significance of these sites to the proposed development is discussed below.

UK Statutory Sites
No sites of Special Scientific Interest (SSSIs) or other statutory conservation sites are located within a 2 km radius of the survey area; however, the survey area does lie within the SSSI Impact Risk Zone for Hilton Gravel Pits SSSI and Old River Dove Marston on Dove SSSI which are located 4.3 km to the east and 4.7 km south east respectively. However, the type of development proposed does not fall within the risk categories for these zones, therefore statutory sites are not a notable consideration.

Non-Statutory Sites and Ancient Woodland
Six non-statutory sites are located within the search area. The nearest site being Conygree and Rough Woods which are located 115m west of the site and are categorised as ancient semi-natural woodland. The woods are separated from the proposed development site by Woodyard Lane and a substantial commercial area of warehousing and hardstanding. In addition, the proposed works will be buffered from Conygree woods by the retention of existing trees and hedgerows along the western boundary. Therefore, no impacts to Conygree and Rough woods LWS are predicted.

The other non-statutory sites within 1 km are all separated from the proposed development site by roads, buildings and/or significant areas of agricultural land and do not share any direct ecological connectivity with the site. No impacts to non-statutory conservation sites are predicted from the proposed development.

6.3 HABITATS

The ecological importance of the habitats present on site is determined by their presence on the list of Habitats of Principal Importance in England and on the Local BAP. It also takes into account the intrinsic value of the habitat. Those habitats which are considered to be of intrinsic importance and have the potential to be impacted by the site proposals are highlighted as notable considerations.

A discussion of the implications of the site proposals with regard to the habitats present on site is provided in the text below. A separate discussion of the value of the habitats on site to protected or notable species is provided in Section 6.4.

Building and Hardstanding
The building on site will require demolition to facilitate the development. It was in good condition and did not offer any significant habitat features for fauna such as bats. The building and hardstanding areas were of little ecological value and are not notable considerations with regards to the proposed works.

Hedgerows
Native hedgerows of over 20 m in length are a Habitat of Principal Importance in England and the hedgerow along Woodyard Lane to the West of the site would fit these criteria. Although the example on site is relatively species poor, it does hold ecological value as a connecting feature through the landscape and provides habitat for a range of fauna such as nesting birds and small mammals. In addition, the hedgerow contained several mature standard trees, some of which were considered to hold bat roost potential. These would be difficult to replace in the short to medium term.

Recommendations for the retention and protection of the hedgerows are therefore made in Chapter 7

Improved Grassland
The improved grassland to the north east of the site contains only a low number of common plant species and is not a notable habitat in itself. It may, however, provide foraging and shelter habitat for protected faunal species as discussed further in Section 6.4.

Poor Semi-improved Grassland and Tall Ruderal Mosaic
The poor semi-improved grassland/tall ruderal mosaic is not a Habitat of Principal Importance or a local BAP habitat. The habitat on the disused arable areas of the site contained a greater diversity of species than the surrounding grassland, however, these were generally common coarse grasses with perennial weeds and short-lived ruderal species which are unlikely to persist if the land remains unmanaged and develops into grassland. No rare plant species associated with the priority habitat 'Arable Field Margins' were recorded during the survey. Therefore, this habitat is not considered to be notable in itself, however it does offer habitat to ground nesting birds such as skylark, which is discussed further in Section 6.4.

Scattered Trees
Although not a Habitat of Principal Importance or local BAP priority, scattered mature trees are of high ecological value and difficult to replace in the short to medium term. The trees within the western hedgerow in particular are mature and should be retained if possible. The willow trees within the grassland areas and the sycamore trees on the central bund are likely to require removal to facilitate the proposed works, however, these were of lower ecological importance as they were immature to semi-mature and could be more easily replaced within the landscaping scheme. The works could potentially impact retained trees through root disturbance or compaction.

Trees are therefore a notable consideration with regards to the proposed works and recommendations regarding them has been made in Chapter 7 to ensure compliance with Local Planning Policy BNE7: Trees, Woodland and Hedgerows.

Scrub
Scrub is not a Habitat of Principal Importance or a local BAP priority habitat. The scrub on site is small in area and comprised a few common species. The largest area of scrub was located to the northern boundary and much of this is likely to be retained in order to maintain a screen to the adjacent road. Scrub is not a notable habitat in itself but may provide habitat for protected species as discussed further in Section 6.4.

Semi-improved Grassland
The semi-improved grassland to the south of the site and in a strip on the north eastern side was generally species poor and grass dominated with only a few common forb species recorded during the survey. It would not, therefore, fit the criteria for the Habitat of Principal Importance 'Lowland Meadows'. This habitat is not a notable consideration in itself but may provide habitat for fauna as discussed in Section 6.4.

Tall Ruderal
The tall ruderal habitat which dominated the bunds around the site was dominated by a few robust and common species such as nettle and mugwort. This habitat is common in the wider landscape and is not a Habitat of Principal Importance or local BAP priority. It is not a notable consideration with regards to the proposed works.

Notable off-site habitat-Pond
Ponds are a Habitat of Principal Importance in England if they meet certain criterial such as high ecological quality or supporting protected species. It is not known if the pond to the north west of the site would meet these criteria but as it is a fishing pond it is unlikely to support great crested newts or a significant population of protected aquatic invertebrates. Nevertheless, ponds are a valuable ecological feature in the landscape. The proposed works will not directly impact the pond but the proximity of the new development could put it at risk from indirect impacts such as pollution. A recommendation regarding the protection of the pond has therefore been made in Chapter 7.

Habitats considered to be of relevance to the proposed development are summarised in Table 6.1.

Habitat Type	Habitat of Principal Importance?	Local BAP Habitat?	Summary of Potential Impacts
Hedgerow	✓	✓	Habitat loss, damage to roots
Scattered Trees	-	-	Habitat loss, damage to roots
Pond (off-site)	#	#	Indirect impacts from pollution, siltation
Key #-Dependent on meeting certain criteria			

Table 6.1: Summary of Potential Impacts on Notable Habitats

6.4 PROTECTED/NOTABLE SPECIES

The following paragraphs consider the likely impact of the site proposals on protected or notable species. This is based on those species highlighted in the desk study exercise (Chapter 4) and other species for which potentially suitable habitat occurs within or adjacent to the survey area.

Bats
The desk study identified one record of brown long-eared bat within a 1 km radius of the site, which was identified approximately 960m to the north of the site in 2009. The building on site was not considered to offer roosting opportunities for bats as no roosting features were recorded externally and no suitable access points for bats were recorded. Some of the mature trees within the western hedgerow along Woodyard Lane were considered to have low bat roost potential due to cracks in limbs and ivy covering. It is understood that these are to be retained under the current proposals. The other scattered trees on site were in good condition and did provide any bat roost potential. Therefore, roosting bats are not a notable consideration.

The site is considered to be of value to foraging and commuting bats, as the scrub, trees, tall ruderal vegetation and hedgerows present towards the edges of site provide good foraging and commuting habitat. Some of these habitats will be impacted by the proposed works. In addition, the new structures are likely to be subject to additional lighting. Therefore, foraging and commuting bats are a notable consideration with respect to the proposed works and a recommendation regarding retaining commuting corridors and minimising lighting is made in Chapter 7.

Birds
Records of a number of notable bird species were identified within the search area through the desk study, whilst a number of common bird species of low conservation concern were recorded on site during the field survey. Much of the site is of good value to common nesting and foraging birds, including some priority species, although the site was not considered likely to support a significant population of rare bird species. Habitat for woodland and garden birds was present in the scrub and trees and suitable habitat for ground nesting birds such as skylark in the disused arable areas.

Both nesting and foraging habitat will be lost as a result of the proposed development. Therefore, mitigation measures such as the planting of seed and fruit bearing plants and installation of bird boxes should be considered. It will be difficult to mitigate for the loss of potential skylark nesting habitat on site, but areas of disused arable land, located off-site to the north west and east will continue to provide habitat for this species and there are further suitable sites in the wider area.

Nesting habitat will be impacted in order to facilitate access to the site and allow the new development to occur and where this takes place in the breeding season, there is a risk of harm to nesting birds. All nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) therefore nesting and foraging birds are a notable consideration, and recommendations regarding mitigation and the timing of works has been made in Chapter 7.

Great Crested Newts
Reference to Ordnance Survey data indicates there are four ponds present within a 500m radius of the proposed development area. The site is considered to hold value for foraging great crested newts within the semi-improved grassland, hedgerows, scrub and tall ruderal areas with shelter features present in the piles of tyres/debris, hedgerow bases and mammal burrows. However, great crested newt surveys of all of the four ponds within 500 m of the site were undertaken in 2017 (FPCR, 2017) and no great crested newts were recorded. No desk study records were identified for great crested newts in the surrounding area and it is

therefore considered unlikely that these ponds will have been colonised in the interim. Therefore, great crested newts are not a notable consideration with respect to the proposed works.

The site does, however, provide habitat for common amphibians such as common toad which is a Species of Principal Importance in England. A recommendation regarding herpetofauna including common amphibians has been made in Chapter 7.

Reptiles
Two common lizard records were identified within the desk study, one of which was present on site and reptile surveys of a land parcel including the proposed development site were undertaken in 2017 by FPCR. These found a small population of common lizards to be present. Habitats within the survey area were considered to be of value to reptiles. The scrub along the boundaries of the site offer some potential shelter opportunities, as does the rubble and tyre pile located to the west of the central bund and the presence of tall ruderal vegetation and poor semi-improved grassland areas provide foraging habitat for reptiles in the area. The sparser vegetation on the disused arable areas offers basking opportunities.

As there was records of common lizard being present on and adjacent to site in 2017 and as suitable habitat for this species is present on site, common lizards are a notable consideration and a mitigation strategy and method statement will be required to protect this species during and post works. A recommendation for this is made in Chapter 7.

Terrestrial mammals (including [redacted] brown hare and hedgehog)
Nine badger records, three brown hare records and one hedgehog record have been identified within a 1km radius of the site within the desk study. One active outlier badger sett and three potential disused outlier setts have been recorded on the central bund on site. These were surveyed and monitored during June and July 2019 and have since been closed under a Natural England Licence. [redacted]. A recommendation for a pre-works survey has therefore been made in Chapter 7.

Evidence of rabbits was recorded during the field survey and the habitats on site are considered suitable for a range of mammal species including badger, brown hare and hedgehog. Much of the habitat in the centre of the site will be lost as a result of the development. However, suitable habitat will be retained around the boundaries of the site ensuring continued connectivity for foraging mammals between habitats in adjacent areas. Landscaping should seek to maintain foraging opportunities for mammals where possible.

As there is the potential for foraging and commuting mammals on site, they could be at risk of harm during the construction period, for example through becoming trapped in equipment or excavations. Therefore, terrestrial mammals are a notable consideration, and a recommendation regarding this is made in Chapter 7.

Other Species
The following protected species are not considered to be material considerations due to the lack of desk study records and absence of suitable habitats within the development site and its surroundings: dormouse, otter and water vole.

Summary
Species considered to be of relevance to the proposed development are summarised in Table 6.2.

Species / Species Group	Species of Principal Importance?	Summary of Potential Impacts
Nesting birds	#	Loss of suitable habitat, direct harm or injury,
Bats	#	Loss of suitable habitat, risk of direct harm or injury, disturbance through lighting
[redacted]	[redacted]	[redacted]
Common Amphibians	#	
Reptiles	#	Loss of suitable habitat, risk of direct harm/injury, fragmentation
Terrestrial Mammals	#	Loss of suitable habitat, risk of direct harm/injury
Key # Species dependent		

Table 6.2: Summary of Potential Impacts on Notable Species

6.5 INVASIVE PLANT SPECIES

One invasive plant species was identified within a 1km radius of the site during the desk study, this was *Rhododendron ponticum* recorded approximately 170m west of the site. However, no invasive plant species were noted on site or in the immediate area during the survey and invasive plant species are not a notable consideration with regards to the proposed works.

7. RECOMMENDATIONS

All recommendations provided in this section are based on Middlemarch Environmental Ltd's current understanding of the site proposals, correct at the time the report was compiled. Should the proposals alter, the conclusions and recommendations made in the report should be reviewed to ensure that they remain appropriate.

The ecological mitigation hierarchy should be applied when considering development which may have a significant effect on biodiversity. The ecological mitigation hierarchy, as set out in the National Planning Policy Framework (NPPF), and the National Planning Practice Guidance (NPPG) should follow these principles:

- **Avoidance** – development should be designed to avoid significant harm to valuable wildlife habitats and species.
- **Mitigation** – where significant harm cannot be wholly or partially avoided, it should be minimised by design or through the use of effective mitigation measures.
- **Compensation** – where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, compensation should be used to provide an equivalent value of biodiversity.

7.1 NATURE CONSERVATION SITES

The following recommendations are made regarding nature conservation sites:

No impacts to local nature conservation sites are predicted as a result of the proposed development, therefore no recommendations have been made.

7.2 HABITATS

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

R1 **Habitat Retention and Protection:** The development proposals should be designed (where feasible) to allow for the retention of existing notable habitats including the hedgerow and associated mature trees to the west of the site and boundary scrub to the north. The off-site pond to the north-west should be protected from potential impacts such as pollution or siltation. Protection measures should comprise:

- Trees/Hedgerows: Any trees/hedgerows on or overhanging the site, which are retained as a part of any proposed works should be protected in accordance with British Standard 5837: 2012 "Trees in relation to design, demolition and construction - recommendations". Protection should be installed on site prior to the commencement of any works on site.
- Off-site Pond: Environment Agency Pollution Prevention Guidelines should be adhered to throughout the works. Although formerly withdrawn in December 2015, the guidelines provide a framework for the design of working practices to avoid pollution and siltation. PPG5 (Environment Agency et al, 2007), relating to works and maintenance in or near water, is considered to be of relevance to the proposed project.

If retention is not possible, appropriate replacement planting should be incorporated into the soft landscape scheme in accordance with the ecological mitigation hierachy. Only native and/or wildlife attracting species should be planted.

R2 **Biodiversity Enhancement:** In accordance with the provision of Chapter 15 of the National Planning Policy Framework (Conserving and Enhancing the Natural Environment) and Local Planning Policy, biodiversity enhancement measures should be incorporated into the landscaping scheme of the proposed development to work towards delivering net gains for biodiversity. This will involve, for example, the planting of native seed/fruit bearing species which will be of value to wildlife and creation of open flower-rich habitats for reptiles and pollinating invertebrates. The inclusion of a pond or swale could provide potential mitigation for aquatic species such as toads, and hibernacula and/or log piles should be included to benefit herpetofauna including common lizard.

7.3 PROTECTED / NOTABLE SPECIES

To ensure compliance with wildlife legislation and local planning policy BNE3 the following recommendations are made:

[redacted]

R4 **Roosting Bats:** Some of the mature trees within the hedgerow along the western boundary of the site were considered to have bat roost potential. These should be retained within the landscaping scheme. Should any of these trees require removal or significant works, a Preliminary Ground Level Bat Roost Assessment should be undertaken. This assessment can be completed at any time of year. Dependent upon the results of the preliminary assessment, nocturnal emergence and dawn re-entry surveys could be required. Surveys should be undertaken in line with best practice survey guidelines (Collins, 2016), during the bat activity season. The bat activity season is considered to extend from May to September (inclusive), with the optimum survey period between mid-May and August (inclusive).

R5 **Foraging and Commuting Bats:** In accordance with best practice guidance relating to lighting and biodiversity (Miles et al, 2018; Gunnell et al, 2012), any new lighting should be carefully designed to minimise potential disturbance and fragmentation impacts on sensitive receptors, such as bat species. In particular, lighting should be low level and directed away from boundary vegetation along the western and northern boundaries to maintain dark corridors for commuting bats.

R6 **Herpetofauna:** A herpetofauna mitigation strategy and reasonable avoidance method statement should be compiled detailing how potential impacts on common lizards and common amphibians on the site will be mitigated. It should detail habitat enhancement measures and how the proposed works will be undertaken in a sensitive manner to avoid any potential breach of legislation. This document should describe working methods, timings and should detail any ecological control measures that will be implemented e.g. vegetation management and ecological supervision.

R7 **Nesting birds:** Vegetation clearance should be undertaken outside the nesting bird season. The nesting bird season is weather dependent but generally extends between March and September inclusive (peak period March-August). If this is not possible then any vegetation/buildings to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing. If birds are found to be nesting any works which may affect them should be delayed until the young have fledged and the nest has been abandoned naturally, for example via the implementation of an appropriate buffer zone (species dependent) around the nest in which no disturbance is permitted until the nest is no longer in use.

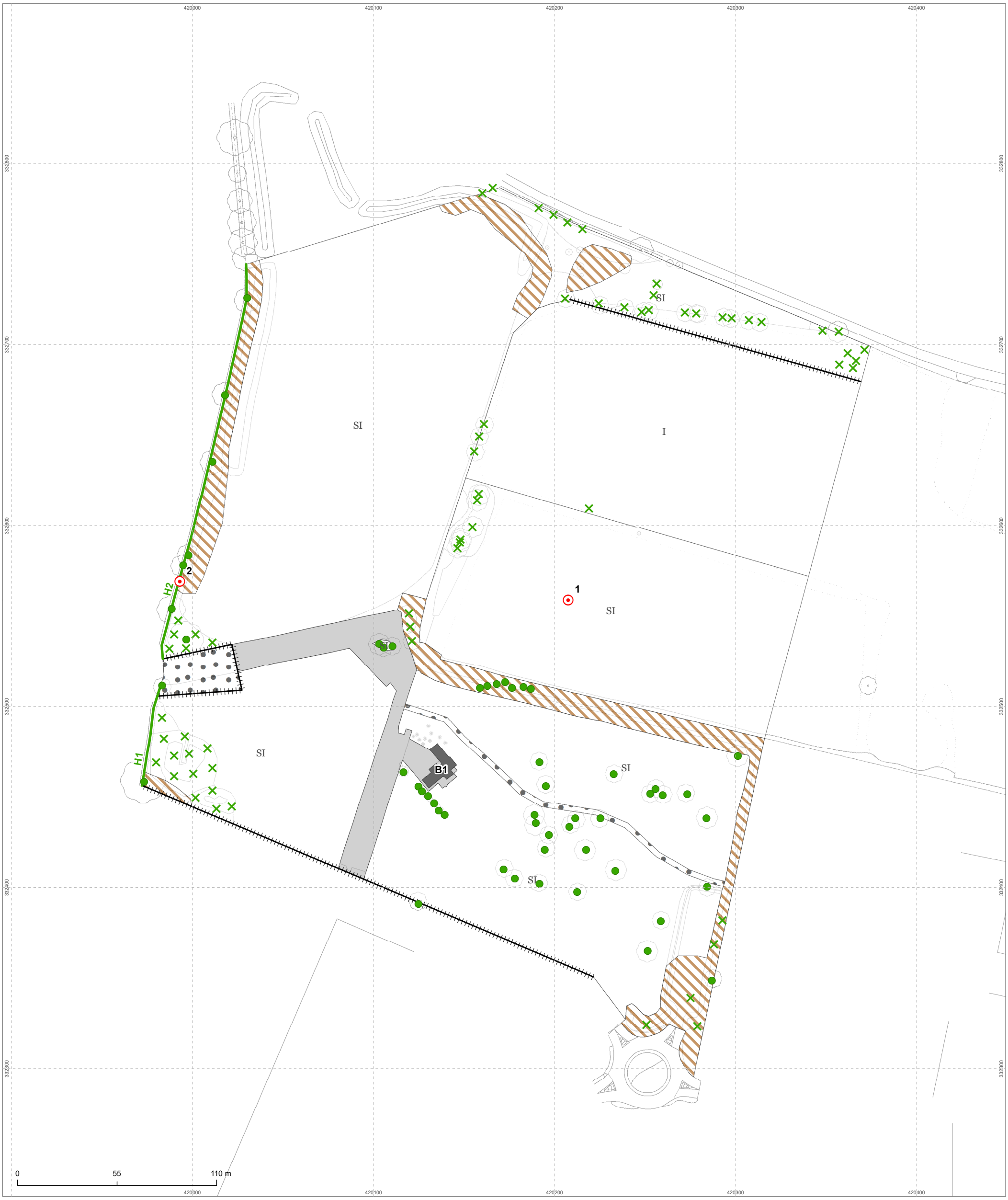
R8 **Terrestrial Mammals:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape and construction materials should be stored securely. Any open pipework with an outside diameter of greater than 120 mm must be covered at the end of each work day to prevent animals entering/becoming trapped.

7.4 INVASIVE PLANT SPECIES

No further work is recommended for invasive species.

8. DRAWINGS

Drawing C150467– 01Phase 1 Habitat Map



Legend

- Site boundary
- Scattered broad-leaved tree
- Scattered scrub
- Fence
- Species-poor intact hedgerow
- Bare ground
- Building
- Hardstanding
- I — Improved grassland
- SI — Poor semi-improved grassland
- Tall ruderal

Target note

1 Semi-improved grassland with abundant tall ruderal species on a former arable field
2 Trees in hedgeow with bat roost potential

Project	Dove Valley Park
Drawing	Phase 1 Habitat Map
Client	Stride Treglown
Drawing Number	C150467-01
Revision	00
Scale @ A3	1:2,000
Date	October 2019
Approved By	SB
Drawn By	VO

MIDDLEMARCH ENVIRONMENTAL
Triumph House, Birmingham Road, Allesley, Coventry CV5 9AZ
T:01676 525880 F:01676 521400
E:admin@middlemarch-environmental.com

N

C150467-01

9. PHOTOGRAPHS

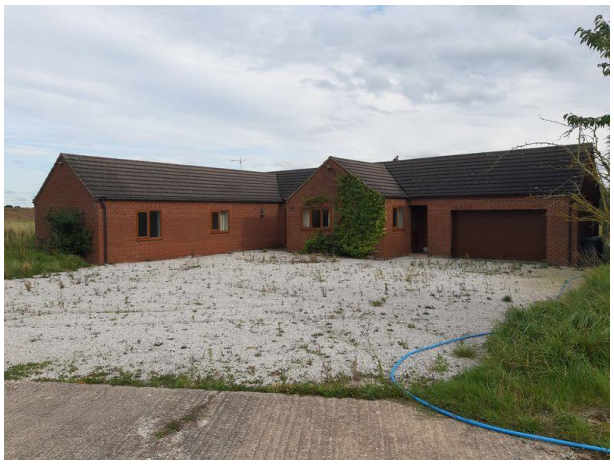


Plate 9.1: Building to South of Site

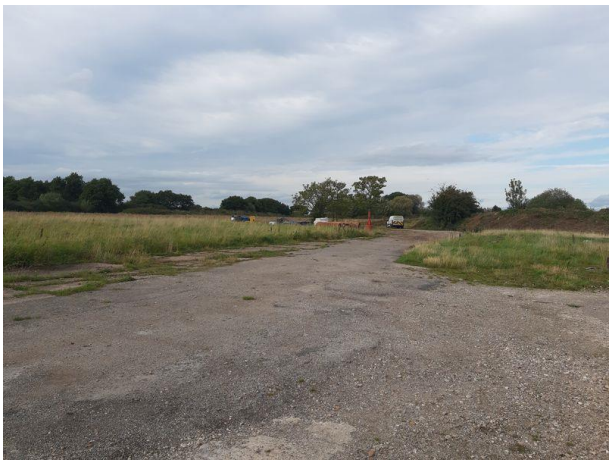


Plate 9.2: Hardstanding Access Track

Plate 9.3: Hedgerow and Bund along Western Boundary

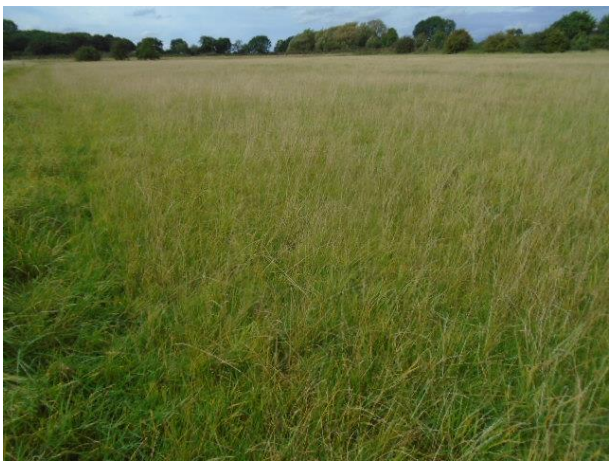


Plate 9.4: Improved Grassland to North East

Plate 9.5: Semi-improved Grass/Tall Ruderal Mosaic on Disused Arable

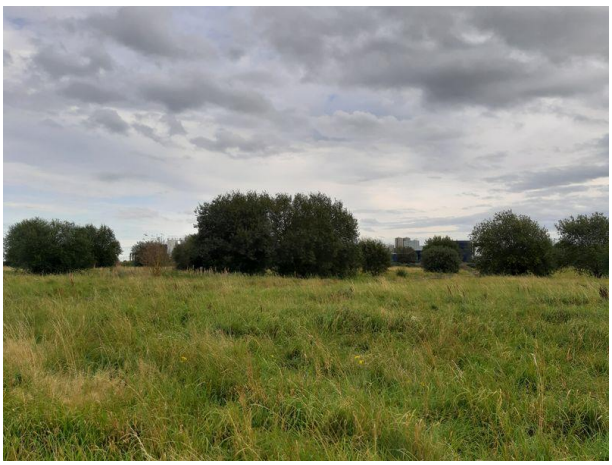


Plate 9.6: Scattered Trees in Semi-Improved Grassland to the South West

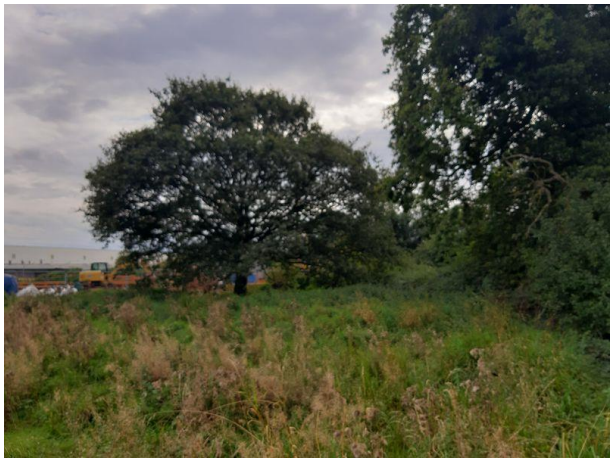


Plate 9.7: Mature Oak Tree to West Side of Site

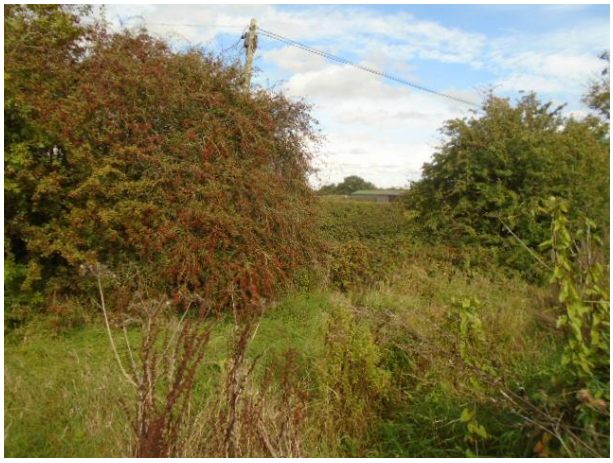


Plate 9.8: Scrub towards the Northern Boundary

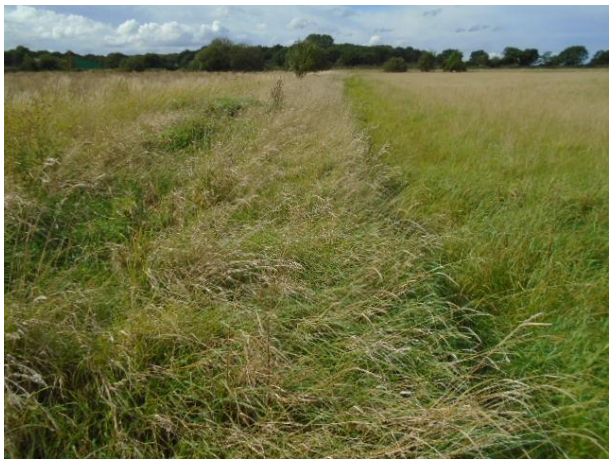


Plate 9.9: Semi-improved Grassland Strip to North East

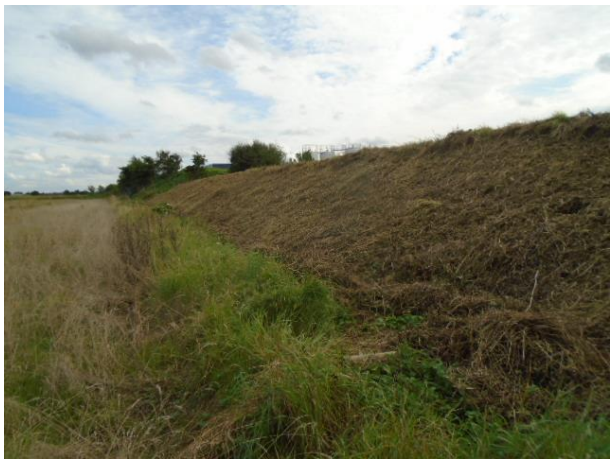


Plate 9.10: Central Bund

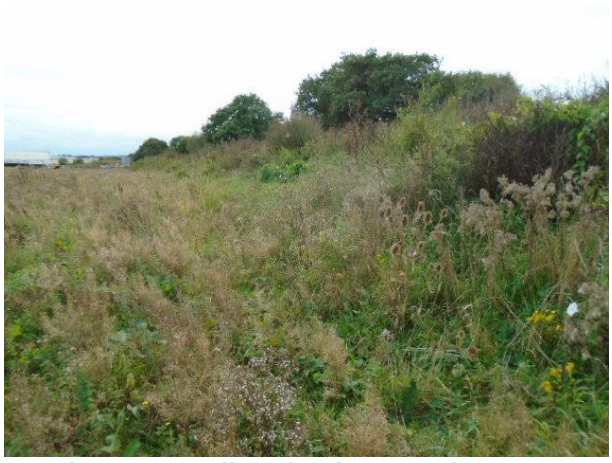


Plate 9.11: Tall Ruderal on Bund to West

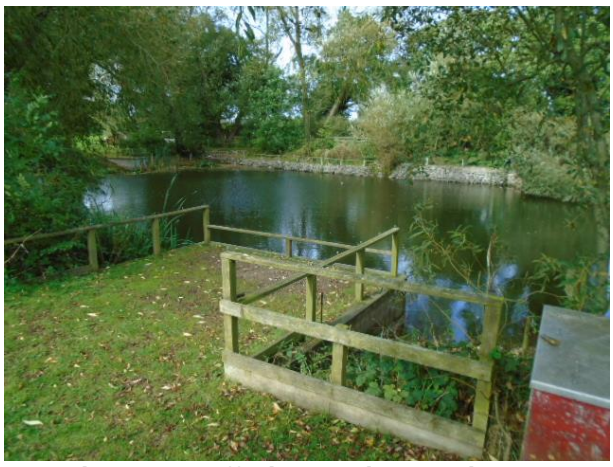


Plate 9.12: Off-Site Pond to North west

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APPENDICES

APPENDIX 1: Summary of Statutory Nature Conservation Sites

APPENDIX 2: Overview of Relevant Species Specific Legislation

APPENDIX 1

Summary of Statutory Nature Conservation Sites

Site Check Report Report generated on Mon Oct 07 2019
You selected the location: Centroid Grid Ref: SK20163254
The following features have been found in your search area:

Local Nature Reserves (England)
No Features found

National Nature Reserves (England)
No Features found

Sites of Special Scientific Interest (England)
No Features found

SSSI Impact Risk Zones - to assess planning applications for likely impacts on SSSIs/SACs/SPAs & Ramsar sites (England)

1. DOES PLANNING PROPOSAL FALL INTO ONE OR MORE OF THE CATEGORIES BELOW?
2. IF YES, CHECK THE CORRESPONDING DESCRIPTION(S) BELOW. LPA SHOULD CONSULT NATURAL ENGLAND ON LIKELY RISKS FROM THE FOLLOWING:
All Planning Applications
Infrastructure
Airports, helipads and other aviation proposals.
Wind & Solar Energy
Minerals, Oil & Gas
Rural Non Residential
Residential
Rural Residential
Air Pollution
Livestock & poultry units with floorspace > 500m², slurry lagoons > 750m² & manure stores > 3500t.
Combustion
Waste
Composting
Discharges
Any discharge of water or liquid waste of more than 20m³/day to ground (ie to seep away) or to surface water, such as a beck or stream (NB This does not include discharges to mains sewer which are unlikely to pose a risk at this location).
Water Supply
Notes 1
Notes 2
GUIDANCE - How to use the Impact Risk Zones
/Metadata_for_magic/SSSI IRZ User Guidance MAGIC.pdf

Ramsar Sites (England)
No Features found

Proposed Ramsar Sites (England)
No Features found

Special Areas of Conservation (England)
No Features found

Possible Special Areas of Conservation (England)
No Features found

Special Protection Areas (England)
No Features found

Potential Special Protection Areas (England)
No Features found

APPENDIX 2

Overview of Relevant Species Specific Legislation

[redacted]

Bats

Bats and the places they use for shelter or protection (i.e. roosts) receive European protection under The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that bats, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2017, states that a person commits an offence if they:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats; or
- damage or destroy a bat roost (breeding site or resting place).

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2017 for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead bats, part of a bat or anything derived from bats, which has been unlawfully taken from the wild.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to *intentionally* kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to *intentionally or recklessly** damage or destroy, *or obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to *intentionally or recklessly** disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

*Reckless offences were added by the Countryside and Rights of Way (CRoW) Act 2000.

As bats re-use the same roosts (breeding site or resting place) after periods of vacancy, legal opinion is that roosts are protected whether or not bats are present.

The following bat species are Species of Principal Importance for Nature Conservation in England: Barbastelle Bat *Barbastella barbastellus*, Bechstein's Bat *Myotis bechsteinii*, Noctule Bat *Nyctalus noctula*, Soprano Pipistrelle *Pipistrellus pygmaeus*, Brown Long-eared Bat *Plecotus auritus*, Greater Horseshoe Bat *Rhinolophus ferrumequinum* and Lesser Horseshoe Bat *Rhinolophus hipposideros*.

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

Birds

The Conservation of Habitats and Species Regulations 2017 places a duty on public bodies to take measures to preserve, maintain and re-establish habitat for wild birds.

Nesting and nest building birds are protected under the Wildlife and Countryside Act WCA 1981 (as amended).

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

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

Some species (listed in Schedule 1 of the WCA) are protected by special penalties. Subject to the provisions of the act, if any person intentionally or recklessly:

- disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturbs dependent young of such a bird, he shall be guilty of an offence.

Several bird species are Species of Principal Importance for Nature Conservation in England, making them capable of being material considerations in the planning process.

SCHEDULE 1 BIRDS

Schedule 1 - Part I
Birds and their young, for which it is an offence to intentionally or recklessly disturb at, on or near an 'active' nest.
Avocet
Bee-eater
Bittern
Bittern, little
Bluethroat
Brambling
Bunting, cirl
Bunting, Lapland
Bunting, snow
Buzzard, honey
Capercaillie (Scotland only)
Chough
Corncrake
Crake, spotted
Crossbills (all species)
Divers (all species)
Dotterel
Duck, long-tailed

Eagle, golden
Eagle, white-tailed
Falcon, gyr
Fieldfare
Firecrest
Garganey
Godwit, black-tailed
Goshawk
Grebe, black-necked
Grebe, Slavonian
Greenshank
Gull, little
Gull, Mediterranean
Harriers (all species)
Heron, purple
Hobby
Hoopoe
Kingfisher
Kite, red
Merlin
Oriole, golden
Osprey
Owl, barn
Owl, snowy
Peregrine
Petrel, Leach's
Phalarope, red-necked
Plover, Kentish
Plover, little ringed
Quail, common
Redstart, black
Redwing
Rosefinch, scarlet
Ruff
Sandpiper, green
Sandpiper, purple
Sandpiper, wood
Scaup
Scoter, common
Scoter, velvet
Serin
Shorelark
Shrike, red-backed
Spoonbill
Stilt, black-winged
Stint, Temminck's
Stone-curlew
Swan, Bewick's
Swan, whooper
Tern, black
Tern, little
Tern, roseate
Tit, bearded
Tit, crested
Treecreeper, short-toed
Warbler, Cetti's
Warbler, Dartford
Warbler, marsh
Warbler, Savi's
Whimbrel

Woodlark
Wryneck

Schedule 1 - Part II
Birds afforded special protection during the close season which is 1 February to 31 August (21 February to 31 August below high-water mark) but which may be killed or taken outside this period.
Goldeneye
Pintail
Greylag goose (in Outer Hebrides, Caithness, Sutherland and Wester Ross only)

Common Amphibians
Common frogs, common toad, smooth newt and palmate newt are protected in Britain under Schedule 5 of the Wildlife and Countryside Act (1981, as amended) with respect to sale only. They are also listed under Annex III of the Bern Convention 1979. Any exploitation of wild fauna specified in Appendix III shall be regulated in order to keep the populations out of danger. The convention seeks to prohibit the use of all indiscriminate means of capture and killing and the use of all means capable of causing local disappearance of, or serious disturbance to, populations of a species.

Common toad is listed as a Species of Principal Importance for Nature Conservation in England.

Reptiles
All of the UK's native reptiles are protected by law. The two rarest species – sand lizard (Lacerta agilis) and smooth snake (Coronella austriaca) – benefit from the greatest protection; however, these two species are not known to occur within Warwickshire. Common lizard (Zootoca vivipara), slow-worm (Anguis fragilis), adder (Vipera berus) and grass snake (Natrix natrix) are protected under the Wildlife and Countryside Act 1981 as amended from intentional killing or injuring.

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

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