



Preliminary Ecological Appraisal

Tees Valley Energy Recovery Facility

Grangetown Prairie, Dorman Point

Prepared on behalf of Viridor Tees Valley Limited

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TEES VALLEY ENERGY RECOVERY FACILITY, GRANGETOWN PRAIRIE, DORMAN POINT PRELIMINARY ECOLOGICAL APPRAISAL

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1. INTRODUCTION

1.1 Background

The Tees Valley Authorities, Durham County Council and Newcastle City Council (the Councils) have joined together to create an opportunity for a contractor to design, build, finance and operate a new Energy Recovery Facility (ERF) to be located in the Tees Valley on a mandated site owned by the South Tees Development Corporation (STDC).

Ramboll UK Limited (Ramboll) has been instructed by Viridor Tees Valley Limited (the Client) to produce a Preliminary Ecological Appraisal (PEA) report, which is based on the results of a desk study, an extended Phase 1 habitat survey of the site, and a subsequent validation survey. A BREEAM 2018 assessment will also be conducted, which the PEA will provide the basis for. This PEA is required in connection with the redevelopment of the site, located on the former South Tees Eco Park, Grangetown Prairie, as shown in Figure 1, in Appendix 1.

1.2 Objective and Scope of Works

The aim of this report is to provide a PEA of the site (as defined by the Chartered Institute of Ecology and Environmental Management (CIEEM), 2017¹). A PEA comprises a rapid assessment of the ecological features present, or potentially present, within a site and its zone of influence (ZOI). The ZOI is the area over which ecological features may be affected by the biophysical changes caused by a proposed development and its associated activities. The structure and content of this report is based on current ecological report writing guidance (CIEEM 2017² and British Standards Institution (BSi), 2013³).

The content of this report is based on the findings of:

- a desk study; and
- an extended Phase 1 habitat survey in 2021 (followed by a validation survey in 2023).

The specific objectives of this report are to:

- identify designated nature conservation sites located either within the site or the ZOI of the proposed development;
- record the main habitats and features of ecological interest on the site;
- assess the potential for the site and the ZOI of the proposed development to support populations of protected species or species of nature conservation importance;
- assess the overall ecological importance of the site;
- provide recommendations for any additional further surveys (if required); and
- provide preliminary recommendations for the protection and enhancement of the site's ecological features.

The report is supported by the following appendices:

- Appendix 1: Phase 1 Habitat Map;
- Appendix 2: Legislation and Policy Context; and
- Appendix 3: Site Photographs.

This PEA has been prepared to support the BREEAM application and does not constitute an ecological impact assessment (EcIA).

¹ Chartered Institute of Ecology and Environmental Management, 2017. Guidelines for Preliminary Ecological Appraisal, Second Edition. CIEEM, Winchester

² Chartered Institute of Ecology and Environmental Management, 2017. Guidelines on Ecological Report Writing. CIEEM, Winchester

³ British Standards Institution, 2013. BS 42020:2013. Biodiversity – Code of Practice for Planning and Development. BSI Standards Limited, London

1.3 Legislation and Policy Framework

Various legislation and planning policies refer to the protection of wildlife. These are summarised in Appendix 2 but should not be regarded as a definitive legal opinion. When dealing with individual cases, the full texts of the relevant documents should be consulted, and legal advice obtained if necessary.

1.4 Legal

This report has been prepared by Ramboll exclusively for the intended use by the client in accordance with the agreement between Ramboll and the client defining, among others, the purpose, the scope and the terms and conditions for the services. No other warranty, expressed or implied, is made as to the professional advice included in this report or in respect of any matters outside the agreed scope of the services or the purpose for which the report and the associated agreed scope were intended, or any other services provided by Ramboll.

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Unless otherwise stated in this report, the scope of services, assessment and conclusions made assume that the site will continue to be used for its current purpose and end-use without significant changes either on-site or off-site.

2. SITE DETAILS

2.1 Site Location and Description

The site is currently brownfield and lies within the south west corner of the STDC regeneration area within the Grangetown Prairie Zone, and is situated between John Boyle Road to the west, Tees Dock Road to the east, the A66 to the south, and the railway line to the north. Further to this, Dorman Point Way is a newly constructed road that lies to the south of the proposed ERF site.

The ERF site is a previously developed industrial site that was formerly used for the production of iron and steel (occupied by Eston Iron Works and Cleveland Steel Works). Following the closure of the steel works and cessation of industrial activities, the building complex was cleared in the 1980's and the site is now vacant.

The extent of the ERF outline permission (R/2019/0767/OOM) covers around 10 ha of land that is roughly rectangular in shape. The site subject to the reserved matters application sits within the area of the outline permission and covers an area of 8.87 ha, at 10m above Ordnance Datum. The outline permission boundary is shown in Appendix 1, Figure 1.

Remediation works under planning permission R/2020/0318/FFM have been carried out on site. The need for any further remediation will be determined in due course.

A small area of remnant scattered scrub was identified on the southern extent of the site during the initial extended phase 1 habitat survey in 2021. The area was on the edge of a haul road and dominated by sea-buckthorn *Hippophae rhamnoides*, over a sparse ground layer of wild carrot *Daucus carota* (O), red valerian *Centranthus ruber* (O), carline thistle *Carlina vulgaris* (R), rosebay willow herb *Epilobium angustifolium* (F) and mouse-ear hawkweed *Pilosella officinarum* (O).

The small area of scattered scrub that was noted during the initial extended phase 1 habitat survey has since been removed. From the 2023 validation survey, and as a result of the remediation works, there seems to be no natural habitats left on site.

2.2 Proposed Development

The proposed development, which already has outline consent, will comprise an ERF, including buildings and structures ancillary to the ERF and the associated infrastructure and landscaping.

3. METHODOLOGY

3.1 Desk Study

The purpose of the desk study was to collect existing baseline data about the site and the ZOI such as the location of designated sites or other natural features of potential ecological value such as woodland and ponds. The following ZOI has been considered:

- All statutory designated sites up to 2 kilometres (km) from the site, including Special Areas of Conservation (SAC), Special Protection Areas (SPA), National Nature Reserves (NNR), Sites of Special Scientific Interest (SSSI) and Local Nature Reserves (LNR);
- Non-statutory designated sites, such as Sites of Importance for Nature Conservation (SINCs) up to 2 km from the site;
- Records of protected species up to 2 km from the site; and
- International and national statutory designated sites with bats as a qualifying feature for designation, up to 10 km from the site.

Environmental Records Information Centre (ERIC) Northeast was contacted to provide details of designated sites and protected species within 2 km of the site. Due to data ownership restrictions in the reproduction of the ERIC data [dated 20 January 2021], it is not appended to this PEA, but the information provided is summarised in the relevant sections. In addition, the Multi Agency Geographic Information for the Countryside (MAGIC) website⁴ was searched for supplementary information on statutory sites. This included a search for European Protected Species licences issued within 2 km of the site. Supplementary information on the site and its surroundings were obtained from aerial images available from Google™ Earth software.

3.2 Extended Phase 1 Habitat Survey

An extended Phase 1 habitat survey of the site was undertaken by Mark Tarrant (MEECW) on 27 July 2021. Mark has a BSc in Biology and has worked professionally as a consultant ecologist since 2008. The weather during the survey period was warm and overcast with light wind.

The survey involved a site walkover and preliminary assessment of key habitats, land use and ecological features. The main habitats present were recorded using standard Phase 1 habitat survey methodology as described in the Handbook for Phase 1 Habitat Survey (Joint Nature Conservation Committee (JNCC), 2010⁵).

In addition to general habitat classification, a list was compiled of observed plant species (using the nomenclature of Stace, 2010⁶, with common and Latin names referred to in the first instance after which only the common names are used). The abundance of each species was estimated for each habitat respectively using standard 'DAFOR' codes:

- D = Dominant
- A = Abundant
- F = Frequent
- O = Occasional
- R = Rare

The site was assessed for its potential to support protected and notable species such as reptiles, amphibians, bats and badgers *Meles meles*, and was inspected for signs of any invasive plant species subject to legal controls. This was in order to identify potential ecological constraints and to guide recommendations for further survey requirements for these species.

⁴ Natural England, 2021. MAGIC [online]. Available at: www.magic.gov.uk (accessed 20/09/2021)

⁵ Joint Nature Conservation Committee, 2010. Handbook for Phase 1 habitat survey – a technique for environmental audit. JNCC, Peterborough

⁶ Stace C. (2010) New Flora of the British Isles 3rd Edition. Cambridge University Press

The site was subject to a validation walkover on the 26 January 2023 to assess for any changes to conditions and habitats on site since the 2021 survey and to confirm that the existing data and assessment remains valid. The walkover followed the same methodology as the initial extended phase 1 habitat survey and was also undertaken by Mark Tarrant (MEECW). The weather conditions were mild but breezy, with light rain.

3.3 Assessment of Importance of Ecological Features

The importance of ecological features (i.e. designated sites, habitats and species) identified within the zone of influence has been assessed using a scale that classifies ecological features within a defined geographic context in accordance with CIEEM guidelines (2016⁷). The classification uses recognised and published criteria (e.g. Ratcliffe, 1977⁸, Wray *et al* 2010⁹) where the habitats and site were assessed in relation to their size, diversity, naturalness, rarity, fragility, typicalness, connectivity with surroundings, intrinsic value, recorded history and potential value. The following geographic frame of reference has been used for the site:

- International Importance;
- National Importance (England);
- Regional Importance;
- County Importance (North Yorkshire);
- Local Importance (Teeside);
- Site Importance (limited to the site boundary); and
- Negligible Importance.

A wide range of sources can be used to assign importance to ecological features, including legislation and policy. In the case of designated sites, their importance reflects the geographic context of the designation. For example, sites designated as SACs are recognised as being of importance at an international level. Ecological features not included in legislation and policy may also be assigned importance, due to, for example, local rarity or decline, or provision of a functional role for other ecological features. Professional judgement is used to assign such importance.

3.4 Limitations

The ecological assessment has been undertaken based on CIEEM's 2017 Guidelines for Preliminary Ecological Appraisal, with elements of 2019 Ecological Impact Assessment Guidelines¹⁰, taking a proportional approach to the level of survey effort and reporting required due to the small size and suburban nature of the site.

It should be noted that availability and quality of the data obtained during desk studies is reliant on third party responses. This varies from region to region and for different species groups. Furthermore, the comprehensiveness of data often depends on the level of coverage, the expertise and experience of the recorder and the submission of records to the local recorder. Accordingly, the conclusions in this report are valid only to the extent that the information provided to Ramboll was accurate, complete and available to Ramboll within the reporting schedule.

The extended Phase 1 habitat survey provides a snapshot of ecological conditions and does not record plants or animals that may be present at the site at different times of the year. The survey was undertaken during the optimum April to mid-October Phase 1 habitat survey period when plants are generally visible.

⁷ Chartered Institute of Ecology and Environmental Management, 2016. Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal. CIEEM, Winchester

⁸ Ratcliffe, D., 1977. A Nature Conservation Review. Cambridge University Press

⁹ Wray S, Wells D, Long E and Mitchell-Jones T, 2010. Valuing Bats in Ecological Impact Assessment. In Practice, pp 23-25

¹⁰ Chartered Institute of Ecology and Environmental Management (CIEEM), 2019. Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal and Marine. Chartered Institute of Ecology and Environmental Management, London

Remediation works have been undertaken on site. Due to the levels of construction plant movements and activity on site, only a short period of time was available for an escorted walkover of the site. Despite the limitations imposed upon the walkover Ramboll is satisfied that all habitats and features of potential ecological interest were assessed on site.

Ramboll is satisfied that this report represents a robust preliminary appraisal of the site. If any action or development has not taken place on this land within 12 months of the date of this report, the findings of this survey should be reviewed by a suitably qualified ecologist and may need to be updated.

3.5 Baseline Conditions

3.5.1 Site/Landscape Context

The site is located at central Grid Reference NZ 54419 21390, in a mostly industrial area on the northern edge of Teeside.

The site lies on the northern edge of Grangetown, in Teeside. Land use in the area is predominately industrial and brownfield, with the proposed development falling within the redundant Lackenby Steel works.

3.6 Designated Sites

3.6.1 Statutory Sites

There are three statutory designated sites within 2 km of the proposed development. These are Teesmouth and Cleveland Coast SSSI, Teesmouth and Cleveland Coast Ramsar site and Teesmouth and Cleveland Coast SPA.

Teesmouth and Cleveland Coast SSSI is located approximately 1.64 km northwest at its closest point and is designated for complex coastal habitats it supports, including sand dunes, saltmarshes, mudflats, grazing marshes and freshwater wetlands. It is of special interest for the following nationally important features:

- Jurassic geology;
- Quaternary geology;
- Sand dunes;
- Saltmarsh;
- Breeding harbour seal;
- Breeding avocet, common tern, little tern and a diverse assemblage of breeding birds of sand dunes, saltmarshes and lowland water and their margins;
- Ten non-breeding waterbird species (Sandwich tern *Sterna sandvicensis*, redshank *Tringa totanus*, knot *Calidris canutus*, ruff *Philomachus pugnax*, ringed plover *Charadrius hiaticula*, sanderling *Calidris alba*, purple sandpiper *Calidris maritima*, shoveler *Anas clypeata*, shelduck *Tadorna tadorna* and gadwall *Anas strepera*) and an assemblage of over 20,000 non-breeding waterbirds; and
- A diverse assemblage of invertebrates associated with sand dunes;

Teesmouth and Cleveland Coast SPA is located approximately 1.64 km northwest at its closest point and includes a wide range of coastal habitats, including sandflats, mudflats, rocky foreshore, saltmarsh, sand-dunes, wet grassland, and freshwater lagoons, which co-exist with a wide range of human activities in a busy industrial area. The species protected by the SPA are breeding little tern *Sterna albifrons*, passage Sandwich tern, wintering knot and wintering redshank. The site is also classified for an assemblage of over 20,000 non-breeding waterbirds.

Teesmouth and Cleveland Coast Ramsar Site is located approximately 1.64 km northwest at its closest point and is an estuarine complex of intertidal sand and mudflats, rocky shore, saltmarsh, freshwater marsh and sand dunes. The site supports a rich assemblage of invertebrates, including the following seven Red Data Book species: *Pherbellia grisescens*, *Thereva valida*, *Longitarsus nigerrimus*, *Dryops nitidulus*, *Macrolea mutica*, *Philonthus dimidiatipennis* and *Trichohydriobius suturalis*. The estuary is also an important spring and/or autumn staging area for migratory waterbirds. The site regularly supports over 20,000 waterbirds in winter. These include internationally important numbers of knot (3,574). The site also supports nationally important wintering numbers of shelduck, teal *Anas crecca*, sanderling and redshank. It also supports a nationally important breeding colony of little tern.

3.6.2 Non-Statutory Sites

There are no non-statutory sites within 2 km of the site.

3.7 Habitats

3.7.1 Ancient Woodland

There are no parcels of ancient and semi-natural woodland located within 2 km of the site. There are two ancient, veteran or notable trees within 2 km of the site boundary. The nearest tree is a notable aspen *Populus tremula* located 1.3 km to the southeast of the site.

3.7.2 Other Habitats of Conservation Importance

There is an area of intertidal substrate foreshore, within the Tees Estuary approximately 1.4 km from site.

3.7.3 General Site Description

Remediation works (under planning permission R/2020/0318/FFM) have been carried out on site.

The following descriptions of habitats should be read in conjunction with Figure 2: Phase 1 Habitat Survey Map in Appendix 1.

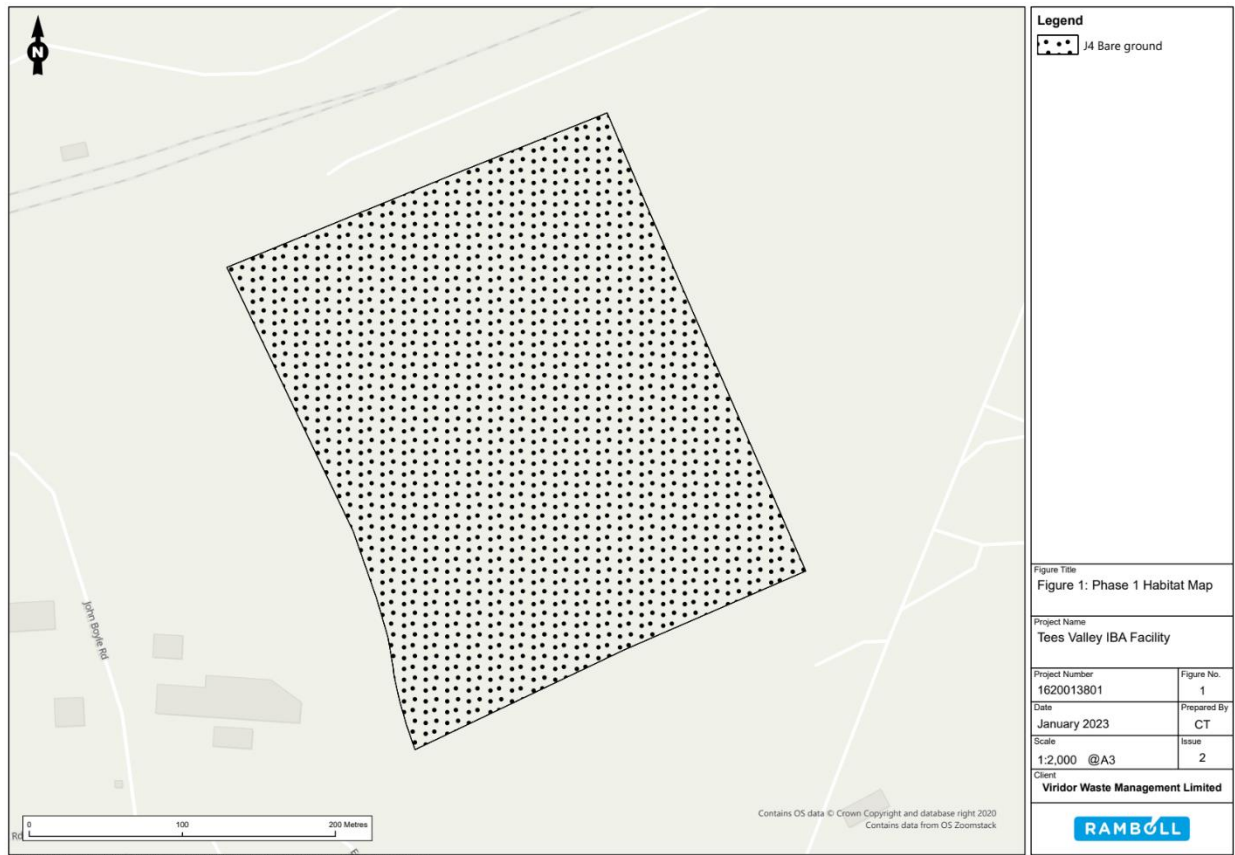


Figure 2: Phase 1 Habitat Survey Map (habitats recorded during the 2023 validation survey, map reproduced at full size in Appendix 1)

3.7.4 Bare Ground

During the initial extended Phase 1 habitat survey, the majority of the site consisted of bare ground following remediation works on site. This is a combination of crushed stone, built up ground, and stripped areas.

It was found during the walkover in January 2023 that remediation works are now complete in this area and the entirety of the site is now flattened, levelled and built up with aggregate.

3.7.5 Buildings and Structures

There are no buildings or structures left on site.

3.8 Species

3.8.1 Amphibians

A review of MAGIC provided no records relating to great crested newt (GCN) for granted European Protected Species Licences within a radius of 2 km from the site. Likewise, there were no records of positive GCN Class Survey Licence returns from within the same radius.

There are no ponds on, or adjacent to site, the closest waterbody is approximately 300 m southwest of site. There is no suitable terrestrial or aquatic habitat on site for GCN.

ERIC returned no records for GCN from within the 2 km search area. ERIC returned records for palmate newt *Lissotriton helveticus*, smooth newt *Lissotriton vulgaris*, common frog *Rana temporaria* and common toad *Bufo Bufo* from within the 2 km search area, all from 2008. The closest records for each species were approximately 300 m southwest of the site at Corus Labs.

3.8.2 Badger

ERIC returned no records for badger within 2 km of the site.

No badger setts or evidence of badgers using the site was recorded during the survey. Badgers are considered unlikely to be using the site at this time.

3.8.3 Bat

ERIC returned records for three species of bat from within a 2 km radius of the site, noctule *Nyctalus noctule*, common pipistrelle *Pipistrellus pipistrellus*, and soprano pipistrelle *Pipistrellus pygmaeus*. The closest record of any species to the site is for soprano pipistrelle dated from September 2019 approximately 700 m south from site.

There are no suitable features for roosting bats on the site due to the absence of trees and buildings within the site boundary.

3.8.4 Birds

ERIC returned records for 21 species of bird from within the 2 km search radius that are native, protected, priority or local priority species. There are no records directly relating to the site itself. The closest records pertain to a grey heron *Ardea cinerea* at Corrus, Grangetown site, approximately 600 m from the site boundary.

The updated survey in January 2023 found that all scrub has been removed from site and there is now no habitat present on site that is suitable for use by breeding birds. As such they are unlikely to be present on site.

3.8.5 Hedgehog

ERIC returned 13 records for European hedgehog *Erinaceus europaeus*, with the closest being from the A66 approximately 500 m south of site. There is a limited amount of isolated scrub remaining on site that has potential for use by hedgehog. However, given its isolated nature it is unlikely to be used and, as such they are not thought to be present on site at this time.

The updated survey in January 2023 found that all scrub has been removed from site and there is now no habitat present on site that is suitable for use by hedgehogs. As such they are unlikely to be present on site.

3.8.6 Invertebrates

Records for three species of invertebrate were returned by ERIC. The small heath *Coenonympha pamphilus*, grayling *Hipparchia semele* and wall *Lasiommata megera* butterfly. The closest record being of the small heath, approximately 1.4 km southeast of site.

3.8.7 Otter

No records of otter *Lutra lutra* were returned by ERIC within the 2 km search radius. There is no suitable aquatic or terrestrial habitat present on site for this species.

3.8.8 Reptile

No records for reptiles were returned within the 2 km search radius. There is no habitat present on the site that is suitable for reptiles.

3.8.9 Water Vole

ERIC returned four records for water vole *Arvicola amphibius* within the 2 km search radius. The closest being approximately 700 m from site at Lannys Beck from 1998. However, there is no suitable water vole habitat on site and no open water courses are present. A culverted water course runs adjacent to the northwest corner of the proposed site; however, this is enclosed for its full length and contains no suitable vegetation or habitats.

3.9 Assessment of Important Ecological Features

Table 4.1 presents the ecological importance of habitats and species present on the site, in accordance with CIEEM guidance. Species assessed as being unlikely to be present on the site are not considered further in this assessment.

Table 3.1: Ecological Importance of Features Present on the Site (in accordance with CIEEM, 2016)

| Feature | Ecological Importance | Rationale |
|-------------|-----------------------|---|
| Bare ground | Negligible | Does not contribute to biodiversity importance of the site. |

4. ECOLOGICAL CONSTRAINTS AND RECOMMENDATIONS

This section collates the information gained during the desk study, extended Phase 1 habitat survey, and validation survey, presenting the ecological constraints and opportunities, and making recommendations for mitigation where there is a perceived risk to habitats and/or species. Habitats/species not considered to be affected by the proposed development, as described above, are not included below.

4.1 Recommendations for Further Surveys

Following complete remediation of the site there is now no habitat or features left on site that could be of use for protected species.

4.2 Designated Sites

The site sits within the SSSI Impact Risk Zone for Teesmouth and Cleveland Coast SSSI, Ramsar and SAC which is located approximately 1.64 km northwest of the site at its closest point. No direct impacts on the SSSI are anticipated as it is located outside of the site.

Indirect impacts upon designated sites will be avoided due to the distance to the sites and also production and implementation of a Construction Environmental Management Plan (CEMP). Standard pollution prevention measures will be implemented including in refuelling on hardstanding where possible, refuelling over a plant nappy/drip tray and inclusion of spill kits on all construction machinery. Subject to the implementation of these controls the risk of impacts on the designated site are considered unlikely. Further details on this can be found in the Shadow Habitat Regulations Assessment produced by Terence O'Rourke Limited, 2021.

4.3 Habitats

The site has undergone remediation work prior to commencement of the proposed development. As such, all remnants of vegetation, such as the area of scattered scrub, have been removed and no longer present a constraint.

Should vegetation require clearance, through recolonisation of the site, then clearance should be conducted in line with those precautions outlined in the CEMP which will be prepared in accordance with Condition 4 of the outline permission.

The proposed redevelopment construction period will be subject to a CEMP which will include measures to reduce run-off, noise, lighting, and dust impacts caused during the construction period, to avoid impacts on surrounding habitats and species.

The CEMP would include the following:

- Specifications for the appropriate timing of works. For example, vegetation clearance works would be undertaken between September and February, outside of the bird nesting period;
- Pollution prevention measures to prevent work causing run-off, pollution, or hydrological changes to habitats; and
- Measures to ensure exposed excavations would be secured (with appropriate fencing) or provided with mammal ladders and capping of pipework and services, at nighttime to prevent animals becoming trapped.

Once completed, landscape bunds and planting are proposed to assist in breaking up the proposed building mass and provide a degree of screening to the ground level activity. The species proposed in the landscaping works are native to Teesside and will provide a biodiverse species mix that will benefit numerous birds, small mammals, and insects alike.

4.4 Species

4.4.1 General

Wildlife can sometimes occur in unsuitable habitats. Site workers should be briefed on the potential for nesting birds to be present on site in retained/recolonising vegetation. If any such species are noted or suspected during works, then works in the vicinity should immediately cease and an ecologist consulted on the most appropriate course of action before works re-commence.

4.4.2 Bats

There are no constraints with regards to bats on site, there are no buildings or trees present that could support bats and no foraging habitat.

Provision of landscape planting and green infrastructure with native vegetation and evening flowering species, as well as bat boxes within the finalised design, would provide an enhancement opportunity for bats. The exact type, number and location of bat boxes will be agreed following consultation with an ecologist.

4.4.3 Birds

All wild nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended). The site has undergone remediation work and, as such, all vegetation has been cleared from the site. Should vegetation recolonise the site, then there is potential for this to be used by ground nesting birds. If this occurs, any vegetation will be checked for the presence of nesting birds by an experienced ecologist prior to removal. If nests are identified, work would need to be delayed until nestlings have fledged. Vegetation clearance will be completed in line with the CEMP to be produced for site.

Provision of landscape planting within the redevelopment will provide habitat for use by foraging and nesting birds. Furthermore, a variety of bird nest box types should be provided at suitable locations on the site, attached to or built within buildings and other infrastructure, as additional enhancement. The exact type, number (expected to be a minimum of five) and location of bird boxes will be agreed following consultation with an ecologist.

4.5 Enhancement

A wildflower rich grass mix will be used around the attenuation pond and around the native woodland mix to the bunds along the eastern, western and northern boundaries. While the attenuation pond has not been designed to hold permanent water, a wet meadow grass mix will provide additional biodiversity and will cope well when temporarily flooded following heavy rain.

5. CONCLUSIONS

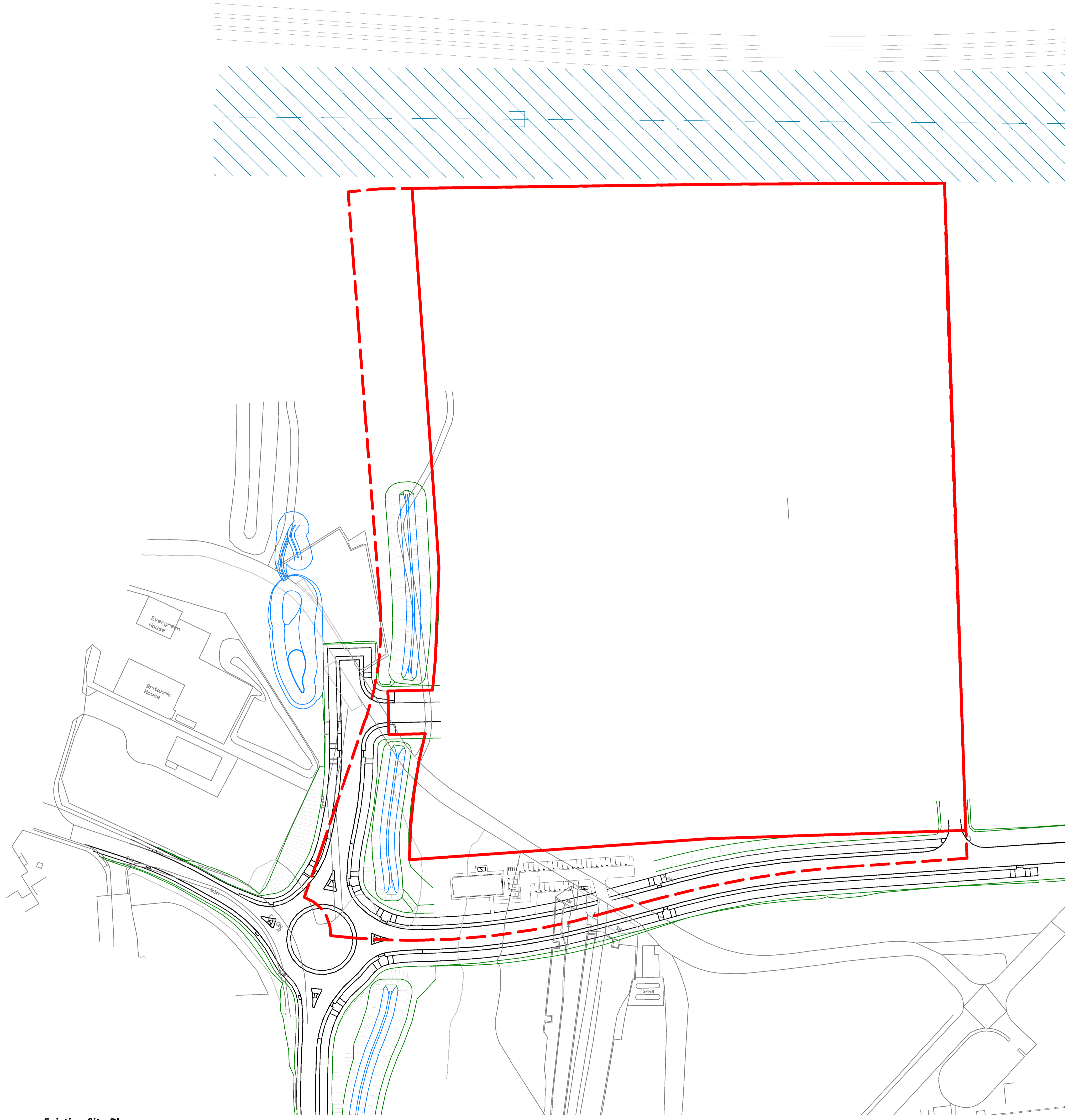
The extended Phase 1 habitat survey confirmed that the site is of negligible nature conservation importance. This has been further supported by the validation survey, during which it was found that the last remnant vegetation has been removed. By undertaking the work in accordance with the recommendations in this report, the proposed development is likely to be in conformity with relevant planning policy and legislation relating to ecology.

Table 6.1 summarises the mitigation requirements for the proposed development, along with the enhancements that will be delivered.

Table 6.1: Summary of Recommendations

| Receptors | Recommendations |
|------------------|--|
| Habitat | Landscape planting scheme to be implemented and CEMP to be produced and implemented. |
| Bird | Site clearance, only necessary if vegetation re-establishes on site prior to main works, to be conducted outside of bird nesting season, precautionary works method statement (PWMS) within CEMP to be followed if works cannot be timed accordingly. Provision of landscape planting and bird boxes within site boundary. |
| Bat | Provision of landscape planting and bat boxes within the site boundary. |

**APPENDIX 1, FIGURE 1
RESERVED MATTERS SITE BOUNDARY**



General Notes

Do not scale from this drawing. Only work to written dimensions.

All site dimensions shall be verified by the Contractor on site prior to commencing any works.

This drawing is the property of Fletcher-Rae (UK) Limited (t/a Fletcher-Rae) and copyright is reserved by them. The drawing is not to be copied or disclosed by or to any unauthorised persons without the prior written consent of Fletcher-Rae (UK) Limited.

Map bases were provided to Viridor Tees Valley Limited by the Tees Valley Energy Recovery Facility Contract Authority (comprising Darlington, Hartlepool, Middlesbrough, Redcar & Cleveland, and Stockton Unitary Authorities and Durham County Council and Newcastle City Council) in 2020.

- Reserved Matters Boundary
- - - - - Outline Planning Boundary

Site Area: 88,180m² / (21.79 acres)

Highways indicated within this drawing form part of the new Teesworks development

| | | | | |
|------|---|------------|-----|-----|
| P7 | Amendment to drawing title | 21.02.2023 | JDC | RT |
| P6 | General amendments | 14.02.2023 | JDC | RT |
| P5 | Amendments to suit client comments | 07.02.2023 | JDC | RT |
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| P1 | Drawing updated to client comments | 28.03.2022 | JDC | RT |
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Scale: **1 : 1000 @ A1**
 Status: **S2 Information**
 Drawn By: **JDC**
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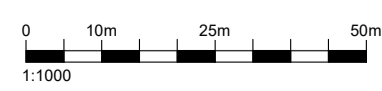
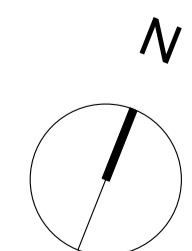
Client: **VIRIDOR**
 Project: **TEES VALLEY ERF**

Sheet Name: **Existing Site Plan**

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| Project No. | Orig. | Zone | Level | Type | Role | Cls | Dwg No. | Rev |
| 20044-FRA-00-00-DR-A | | | | | | | -90-0025 | P7 |

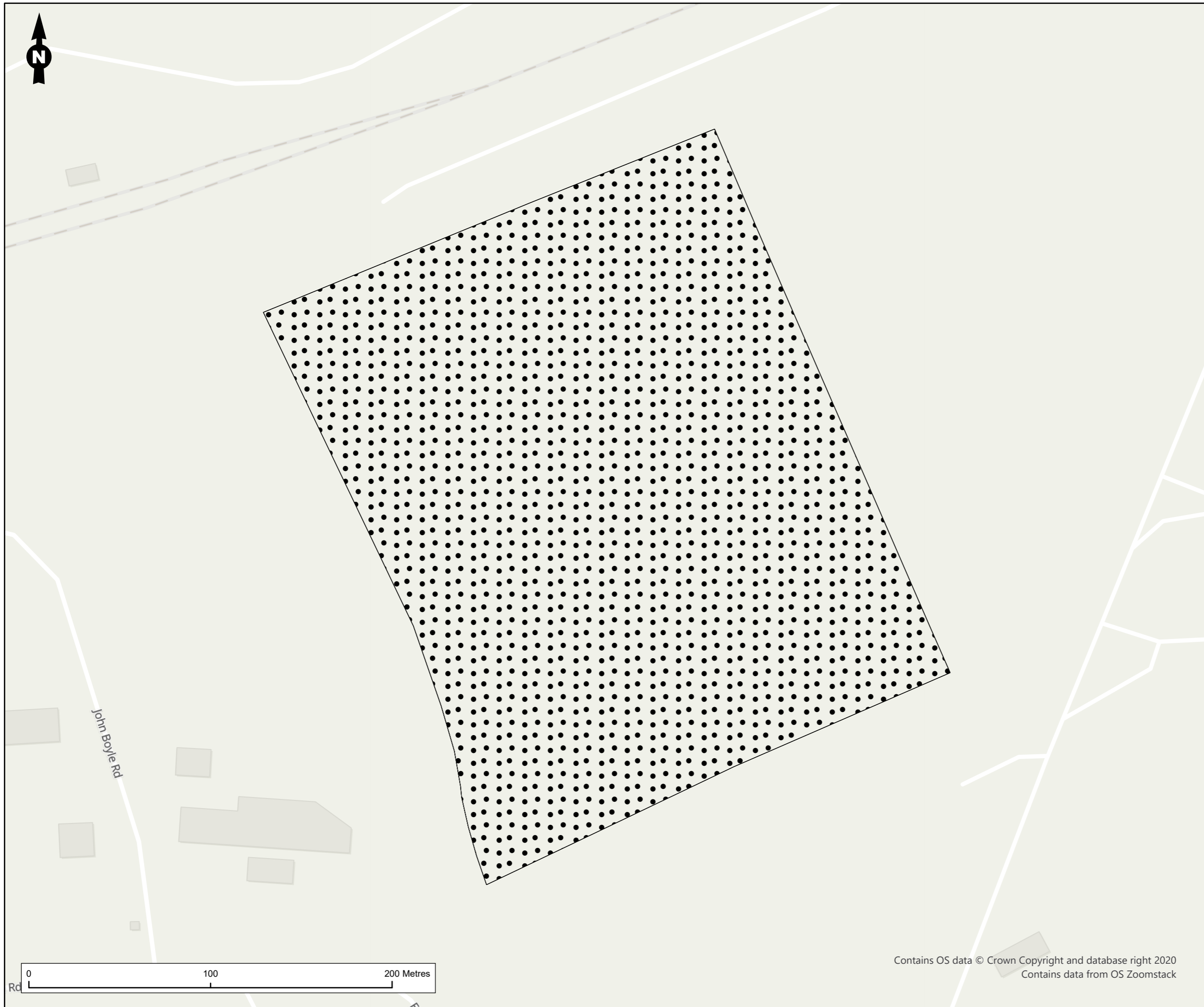
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Existing Site Plan
 1 : 1000

**APPENDIX 1, FIGURE 2
PHASE 1 HABITAT MAP**



Legend


 J4 Bare ground

Figure Title
Figure 1: Phase 1 Habitat Map

Project Name
Tees Valley ERF

| | |
|------------------------------|-----------------|
| Project Number 1620013801 | Figure No. 1 |
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| Date January 2023 | Prepared By CT |
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| Scale 1:2,000 @A3 | Issue 2 |
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Client
Viridor Waste Management Limited



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APPENDIX 2 RELEVANT LEGISLATION AND POLICY

RELEVANT LEGISLATION AND POLICY

Ecological features are protected under various United Kingdom (UK) and European legislative instruments. These are described below. European legislation is not included as it is incorporated in UK legislation by domestic provisions.

Legislation

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

The Habitats Directive (Council Directive 92/43/EEC)¹¹ came into force in 1992 and provides for the creation of a network of protected wildlife areas across the European Union (EU), known as 'Natura 2000'. The Natura 2000 network consists of Special Areas of Conservation (SAC) designated under the Habitats Directive and Special Protection Areas (SPA) designated under the Birds Directive (Council Directive 79/409/EEC)¹². These sites are part of a range of measures aimed at conserving important or threatened habitats and species.

The Conservation of Habitats and Species Regulations 2017¹³ (commonly known as the 'Habitats Regulations') transposes the Habitats Directive into national law and set out the provisions for the protection and management of species and habitats of European importance, including Natura 2000 sites. The 2017 bill consolidated all previous versions of the regulations and subsequent amendments since initial transposition, bringing them all under the single heading, and made some minor amendments. It extends to England and Wales, and to a limited extent Scotland and Northern Ireland. Further amendments were made via The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018¹⁴ to ensure they reflect recent European case law (C-323/17 People Over Wind and Sweetman v Coillte Teoranta) in relation to the assessment of plans and projects on sites protected under Council Directive 92/43/EEC on the conservation of natural habitats of wild fauna and flora (the 'Habitats Directive'). In Scotland, the Habitats Directive is transposed through a combination of the Habitats Regulations 2010 (in relation to reserved matters) and the Conservation (Natural Habitats &c.) Regulations 1994. The Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995 (as amended) transposes the Habitats Directive in relation to Northern Ireland.

In addition to providing for the designation and protection of Natura 2000 sites, the Habitats Regulations provide strict protection for plant and animal species as European Protected Species. Derogations from prohibitions are transposed into the Habitats Regulations by way of a licensing regime that allows an otherwise unlawful act to be carried out lawfully for specified reasons and providing certain conditions are met. Under the Habitats Regulations, competent authorities have a general duty, in the exercise of any of their functions, to have regard to the Habitats Directive and Wild Birds Directive including in the granting of consents or authorisations. They may not authorise a plan or project that may adversely affect the integrity of a European site, with certain exceptions (considerations of overriding public interest).

The Conservation of Habitats and Species Regulations 2017, as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, require the Secretary of State and Welsh Ministers to secure compliance with the requirements of the Nature Directives. Any new powers in the 2019 Regulations must be exercised in line with the Directives and retained EU case law up to 1 January 2021.

¹¹ European Commission, 1992. Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

¹² European Commission, 1979. Council Directive 79/409/EEC on the conservation of wild birds.

¹³ Her Majesty's Stationery Officer (HMSO), 2017. The Conservation of Habitats and Species Regulations 2017. HMSO.

¹⁴ Her Majesty's Stationery Officer (HMSO), 2018. The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018. HMSO.

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019¹⁵

SACs and Special Protection Areas (SPAs) in the UK no longer form part of the EU's Natura 2000 ecological network. The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 have created a national site network on land and at sea, including both the inshore and offshore marine areas in the UK. The national site network includes:

- existing SACs and SPAs; and
- new SACs and SPAs designated under these Regulations.

Any references to Natura 2000 in The Conservation of Habitats and Species Regulations 2017, as amended and in guidance now refers to the new national site network. Maintaining a coherent network of protected sites with overarching conservation objectives is still required in order to:

- fulfil the commitment made by government to maintain environmental protections
- continue to meet our international legal obligations, such as the Bern Convention, the Oslo and Paris Conventions (OSPAR), Bonn and Ramsar Conventions

Designated Wetlands of International Importance (known as Ramsar sites) do not form part of the national site network. Many Ramsar sites overlap with SACs and SPAs and may be designated for the same or different species and habitats. All Ramsar sites remain protected in the same way as SACs and SPAs.

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 establish management objectives for the national site network. These are called the network objectives.

The UK Government and devolved administrations (in Wales, Northern Ireland and Scotland) will cooperate to manage, and where necessary, adapt the network to contribute towards meeting the network objectives.

Any references in the 2017 Regulations to meeting the 'requirements of the Directives' include achieving the network objectives.

The appropriate authorities may publish guidance relating to these requirements. The appropriate authorities are the Secretary of State for Environment, Food and Rural Affairs in England and the Welsh Ministers in Wales.

The network objectives are to:

- maintain or, where appropriate, restore habitats and species listed in Annexes I and II of the Habitats Directive to a favourable conservation status (FCS)
- contribute to ensuring, in their area of distribution, the survival and reproduction of wild birds and securing compliance with the overarching aims of the Wild Birds Directive

The appropriate authorities must also have regard to the:

- importance of protected sites
- coherence of the national site network
- threats of degradation or destruction (including deterioration and disturbance of protected features) on SPAs and SACs

The network objectives contribute to the conservation of UK habitats and species that are also of pan-European importance, and to the achievement of their FCS within the UK.

¹⁵ Secretary of State (2019) The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Her Majesty's Stationery Office (HMSO)

The Countryside and Rights of Way Act 2000

The Countryside and Rights of Way Act 2000¹⁶ primarily extends to England and Wales. It provides a new statutory right of access to the countryside and modernises the rights of way system, bringing into force stronger protection for both wildlife and the countryside.

The Act is divided into five distinct sections, Part III is of relevance to ecology:

- Part III – Nature Conservation and Wildlife Protection: The Act details measures to promote and enhance wildlife conservation. These measures include improving protection for Sites of Special Scientific Interest (SSSI) and increasing penalties for deliberate damage to SSSIs. Furthermore, the Act affords statutory protection to Ramsar Sites which are wetlands designated under the International Convention on Wetlands¹⁷.

The Wildlife and Countryside Act 1981 (As Amended)

The Wildlife and Countryside Act 1981 (as amended)¹⁸ forms the basis of much of the statutory wildlife protection in the UK. Part I deals with the protection of plants, birds and other animals and Part II deals with the designation of SSSIs.

This Act covers the following broad areas:

- Wildlife – listing endangered or rare species in need of protection and creating offences for killing, disturbing or injuring such species. Additionally, the disturbance of any nesting bird during breeding season is also noted as an offence, with further protection for species listed on Schedule 1. Measures for preventing the establishment of non-native plant and animal species as listed on Schedule 9 are also provided;
- Nature Conservation – protecting those sites which are National Nature Reserves (NNR) and SSSIs;
- Public Rights of Way – placing a duty on the local authority (to maintain a definitive map of footpaths and rights of way. It also requires that landowners ensure that footpaths and rights of way are continually accessible; and
- Miscellaneous General Provisions.

The Act is enforced by local authorities.

Natural Environment and Rural Communities Act 2006

Under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006¹⁹, public authorities must show regard for conserving biodiversity in all their actions. Public authorities should consider how wildlife or land may be affected in all the decisions that they make. The commitment to the biodiversity duty must be measured by public authorities.

Section 41 also requires the Secretary of State to publish a list of habitats and species that are of principal importance for the conservation of biodiversity in England.

Protection of Badgers Act 1992

The Protection of Badgers Act 1992²⁰ consolidated previous legislation relating specifically to badgers. The Act makes it an offence to kill, injure or take a badger, or to damage or interfere with a sett unless a licence is obtained from a statutory authority (i.e. Natural England).

¹⁶ Her Majesty's Stationery Office (HMSO), 2000. The Countryside and Rights of Way Act 2000. HMSO.

¹⁷ United Nations Educational, Scientific and Cultural Organization (UNESCO), 1971. Convention on Wetlands of International Importance especially as Waterfowl Habitat, as amended in 1982 and 1987. Ramsar, Iran Published in Paris, 1994.

¹⁸ Her Majesty's Stationery Office (HMSO), 1981. The Wildlife and Countryside Act 1981 [as amended in Quinquennial Review and by the Countryside and Rights of Way Act 2000 and the Natural Environment and Rural Communities Act 2006]. HMSO.

¹⁹ Her Majesty's Stationery Office (HMSO), Natural Environment and Rural Communities Act 2006. HMSO.

²⁰ Her Majesty's Stationery Office (HMSO), 1992. Protection of Badgers Act 1992. HMSO.

Wild Mammals (Protection) Act 1996

The Wild Mammals (Protection) Act 1996²¹ makes it an offence for any person to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering. There are certain exemptions including acts of mercy and acts made lawful by means of hunting, shooting, coursing or pest control activities.

Policy

Biodiversity in the Planning Process

Administrative and policy guidance on the application of some of these statutory obligations is provided through relevant government policy guidance and advice. In England, this includes National Planning Policy Framework 2012, National Planning Practice Guidance, Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System, Biodiversity 2020 and Natural Environment White Paper *The natural choice: securing the value of nature*.

Administrative and policy guidance on the application of some of these statutory obligations is provided through relevant Government policy guidance and advice. In England, this includes National Planning Policy Framework 2019, national Planning Practice Guidance, Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System, Biodiversity 2020 and Natural Environment White Paper *'The natural choice: securing the value of nature'*.

The National Planning Policy Framework (NPPF)^[1] adopted in 2021 sets out the Government's planning policies for England and how these are expected to be applied. The NPPF contains the following statements which are of relevance (not an exhaustive list, but including those of highest relevance):

Section 15, Paragraph 179 states that to protect and enhance biodiversity and geodiversity, plans should:

- 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 pursue opportunities for securing measurable net gains for biodiversity.

Section 15, Paragraph 180 states that when determining planning applications, local planning authorities should apply the following principles:

- a) If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) 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

²¹ Her Majesty's Stationary Office (HMSO), Wild Mammals (Protection) Act 1996. HMSO.

^[1] Ministry of Housing, Communities and Local Government, 2021. National Planning Policy Framework (NPPF), last updated July 2021. London: HMSO.

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;

- c) Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

It further advises the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

National Planning Policy Framework, 2019

The National Planning Policy Framework (NPPF)²² adopted in 2019 sets out the Government's planning policies for England and how these are expected to be applied. The NPPF contains the following statements which are of relevance (not an exhaustive list, but including those of highest relevance):

- Section 15, Paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by: *"minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"*;
- Section 15, Paragraph 174 states that planning applications should *"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"*.
- Section 15, Paragraph 174 states that - *"To protect and enhance biodiversity and geodiversity, plans should: 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
- Section 15, Paragraph 175 states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused"*. It also states that planning permission should be refused for: *"development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees)...unless there are wholly exceptional reasons and a suitable compensation strategy exists"*.

Planning Practice Guidance (2019)

The Planning Practice Guidance²² is a web-based resource launched in June 2019 (last updated 1 October 2019). This guidance is divided into sections, of which Natural Environment:

²² Ministry of Housing, Communities & Local Government, 2019. Planning Practice Guidance [online]. Available at: <http://planningguidance.planningportal.gov.uk/>

Biodiversity, Ecosystems and Green Infrastructure provides information on biodiversity issues within planning and guidance on where to find further information on biodiversity issues.

Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System

This circular²³ provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It complements the national planning policy in the NPPF and PPG.

Natural Environment White Paper. The Natural Choice: Securing the Value of Nature

The Natural Environment White Paper²⁴ outlines the Government's vision for the natural environment over the next 50 years, shifting the emphasis to an integrated landscape-scale approach. It describes the actions that will be taken to deliver that goal.

Biodiversity 2020

The Biodiversity 2020²⁵ strategy for England builds on the Natural Environment White Paper and provides a comprehensive picture of how England is implementing its international and EU commitments. It sets out the strategic direction for biodiversity policy on land (including rivers and lakes) and at sea.

The mission for this strategy is to halt overall biodiversity loss, support healthy well-functioning ecosystems and establish coherent ecological networks, with more and better places for nature for the benefit of wildlife and people.

It is anticipated that this will be delivered through:

- a more integrated large-scale approach to conservation on land and at sea;
- putting people at the heart of biodiversity policy;
- reducing environmental pressures; and
- improving our knowledge.

Biodiversity Action Plans (BAP)

In 1994, the Government produced the UK Biodiversity Action Plan (BAP)²⁶, a national strategy for the conservation of biodiversity. This led to the creation of the UK Biodiversity Steering Group, which has listed 1,150 Species Action Plans (SAPs) and 65 Habitat Action Plans (HAPs). Regional and District/Borough BAPs apply the UK BAP at a local level.

From July 2012, the 'UK Post-2010 Biodiversity Framework'²⁷ succeeds the UK BAP. This is a result of a change in strategic thinking following the publication of the 'Convention on Biological Diversity's Strategic Plan for Biodiversity 2011-2020'²⁸ and its 20 'Aichi targets'²⁹, at Nagoya, Japan in October 2010, and the launch of the new EU Biodiversity Strategy (EUBS) in May 2011.

The UK Post-2010 Biodiversity Framework constitutes the UK's response to these new 'Aichi' strategic goals and associated targets. The Framework recognises that most work which was

²³ Office of the Deputy Prime Minister, 2005. Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System. Available at: <https://www.gov.uk/government/publications/biodiversity-and-geological-conservation-circular-06-2005>

²⁴ Department for Environment, Food and Rural Affairs (Defra), 2011. Natural Environment White Paper. The natural choice: securing the value of nature. Available at: <https://www.gov.uk/government/publications/the-natural-choice-securing-the-value-of-nature>

²⁵ Department for Environment, Food and Rural Affairs (Defra), 2011. Biodiversity 2020. Available at: <https://www.gov.uk/government/publications/biodiversity-2020-a-strategy-for-england-s-wildlife-and-ecosystem-services>

²⁶ Her Majesty's Stationery Office (HMSO), 1994. Biodiversity: The UK Action Plan. HMSO.

²⁷ JNCC and Defra (on behalf of the Four Countries' Biodiversity Group), 2012. UK Post-2010 Biodiversity Framework. July 2012. jncc.defra.gov.uk/pdf/UK_Post2010_Bio-Fwork.pdf

²⁸ <https://www.cbd.int/sp/>

²⁹ <https://www.cbd.int/sp/targets/>

previously carried out under the UK BAP is now focussed on the individual countries of the UK (and Northern Ireland) and delivered through each countries' own strategies.

Following the publication of the new Framework, the UK BAP partnership no longer operates. However, many of the tools and resources originally developed under the UK BAP remain of use. The UK list of priority species has been used to help draw up statutory lists of priorities in England, Scotland, Wales and Northern Ireland. For England, this is in line with Section 41 of NERC.

**APPENDIX 3
SITE PHOTOS**



Plate 1: View north across site. Photo from 2023 site visit



Plate 2: View southwest across site. Photo from 2023 site visit



Plate 3: Eastern boundary of site, adjoining adjacent plot. Photo from 2023 site visit