

PRELIMINARY ECOLOGICAL APPRAISAL

Ref: 1419

Land West of Dalefield Way, Gravesend

EXECUTIVE SUMMARY

ECOassistance have been commissioned to carry out a Preliminary Ecological Appraisal on a parcel of land to the west of Dalefield Way in Gravesend.

This report has been produced to inform the project team of ecological considerations and where additional ecological survey work will be required to support a future planning application at the site.

The main findings of this Preliminary Ecological Appraisal are:-

- Neutral grassland, modified grassland and open mosaic habitat on previously developed land are the only vegetated habitats present on site but any losses of habitat will need to be offset and a biodiversity net gain of at least 10% through development will be required unless the site is exempt;
- Cetti's warbler, listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), was recorded in adjacent off-site habitats;
- The on site habitats have low potential to contain reptiles;
- The on site habitats have very low – almost negligible potential to contain great crested newts;
- The on site habitats have negligible potential to contain dormouse;
- No trees or buildings are present for bats to roost in;
- The on site habitats have low suitability for foraging bats but the adjacent habitats have moderate suitability; and
- There is potential for mammals such as fox and hedgehog to be present in the wider area and to cross the site.

The key recommendations of this Preliminary Ecological Appraisal are that:

- A biodiversity net gain assessment with a plan to deliver a 10% increase in biodiversity through redevelopment will be required unless the site is exempt;

- Further consultation with Natural England is required due to the site's proximity to protected habitats;
- Schedule 1 listed birds are protected from disturbance during the breeding season. If development during March-August; or the site's end use has potential to disturb schedule 1 species through noise and vibration then a breeding bird survey will be required to assess the location and number of territories of Cetti's warblers that are present;
- Further surveys to determine the presence or absence of reptiles are recommended;
- Any adverse effects from additional artificial lighting on potential bat habitats should be mitigated in accordance with guidance issued by the Bat Conservation Trust and Institute of Lighting Professionals (ILP, 2018); and
- The site should be safeguarded overnight against potential harm to hedgehog and other mammals during construction.

Client Name:	Keady Construction	
Date of Completion:	20/05/2025	
Doc. Version Control:	1.0	
	Name:	Role:
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DISCLAIMER

This report considers the instructions and requirements of the client and is not intended for and should not be relied upon by any third party.

In accordance with current good practice guidance, the results contained within this report can be relied on for decision-making purposes without the need to be updated for six-to-twelve months (Potential Bat Roost Assessment) and twelve-to-eighteen months (Preliminary Ecological Appraisal) providing there is no significant change in land use or land management in that time.

Interpretations and recommendations contained in this report represent the author's professional opinions. They are based on currently accepted industry practices and personal experience. This is a working document and must be updated if development proposals change, or new information become available.

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INTRODUCTION

THE SITE

ECOassistance have been commissioned by Keady Construction (hereafter referred to in this report as: the client) to undertake a Preliminary Ecological Appraisal (PEA) of a parcel of land to the west of Dalefield Way, Gravesend, DA12 2FL (hereafter the area shall be referred to as: the site).

The site is in Gravesend, Kent; within the South East region of England. The site is within the Gravesham Borough Council Local Planning Authority (LPA). The grid reference for the approximate centre of the site is: TQ 66837 73604.

An overhead satellite image with indicative red line development boundary of the site and its habitats shown within the context of those in the wider area is provided in Figure 1 below.

Figure 1: Overhead satellite image of the red line boundary (indicative) and the habitats of the wider area



A PEA has been commissioned to inform a planning application at the site. A description of the application has not been finalised but is likely to include:

An open storage area

OBJECTIVES

1. The PEA survey and report details identified ecological constraints, opportunities and considerations associated with the impacts of the proposed scheme. The report details further ecological works that will need to be undertaken to inform potential ecological impacts.

The objectives of the PEA report are to:-

- Provide ecological baseline data for the application site including the likely presence of protected species and habitats;

- Assess the likely impacts of the proposed scheme on protected species and habitats within the application site and within the Zone of Influence (Zol);
- Provide recommendations for ecological surveys that are required prior to submission of the planning application;
- Identify statutory and non-statutory sites located within the Zol of the proposed scheme and compensation and/or enhancement measures that can be used to minimise impact.

PEA SURVEY METHODOLOGY

The PEA survey and report have been completed in accordance with guidance produced by the Chartered Institute of Ecology and Environmental Management (CIEEM, 2017a).

PEA DESK SEARCH

During a desk-based search the Multi-Agency Geographic Information for the Countryside (MAGIC) governmental website which provides geographic information in map form was used to:

- Identify and locate waterbodies within 250m of the site boundaries;
- Search for records of protected species within 2km of the site including any granted European Protected Species Licenses (EPSL) for bats *Chiroptera spp.*, great crested newt *Triturus cristatus* and hazel dormouse *Muscardinus avellanarius*; and
- Search for local statutory and non statutory land-based designations within 2km of the site.

An aerial map search using freely available resources was undertaken to assess habitat connectivity of the site to the wider area and identify habitats of value near to the site.

A search for previous planning applications including ecological survey work at the site was undertaken and included if deemed to be relevant.

PEA SITE SURVEY

The initial site visit was undertaken by ecologist Laragh Smyth. Laragh has over six years professional experience carrying out ecological surveys, including protected species surveys, PEAs, Ecological Clerk of Works (EcoW), Ecological Impact Assessments (EclA) and Habitats Regulations Assessments (HRA).

The site visit took place on 01/05/25 during fair weather conditions and lasted approximately one hour. During the survey visit all on-site habitats were recorded and assessed for their potential to support protected species. Where surrounding habitats were accessible these were also recorded and assessed.

The need for further protected species surveys has been determined based on the suitability of the habitat identified within the application site and Zol. The expected impacts of the proposed development have been taken into consideration throughout the assessment.

All on site habitats have been classified and mapped using UK Habitat Classification (UKHab) version 2.

The survey equipment included binoculars, high powered clulite torches, an android tablet device for making notes and taking photos, survey mirrors and a magnification lens and survey sample tubes.

In line with current guidance, structures, trees, and commuting and foraging habitats were given a rating of either: 'negligible', 'low', 'moderate' or 'high' for their potential to be used by bats. This rating informs what further survey effort is required and is based on a combination of factors including the quality of potential roosting features (PRF) that are present, the value of the surrounding features connecting the site with the wider area and the habitat therein as well as the numbers of bats and species known in the area.

All ponds on site or immediately adjacent to the site if accessible have been assessed using the Habitat Suitability Index or HSI (Oldham et al., 2000) which is the standard method for determining whether habitat is suitable for great crested newt (GCN).

The parameters for the HSI are taken from the: Amphibian and Reptile Groups of the United Kingdom ARG UK Advice Note 5 which is an industry standard.

The calculation incorporates ten suitability indices, all of which are factors known to affect this species resulting in a score between 0 and 1. Pond HSI scores close to 0 indicate unsuitable habitat; scores close to 1 represent optimal habitat as shown in Table 1 below.

Table 1: HSI indices for pond suitability for GCN

HSI Score	Pond Suitability
< 0.5	Poor
0.5 - 0.59	Below Average
0.6 – 0.69	Average
0.7 – 0.79	Good
> 0.8	Excellent

The PEA survey considers the potential for protected and notable habitats and species including habitats and species of principle importance and those that are invasive and non native. Target notes for areas within and adjacent to the site which have potential to contain these are listed beneath the PEA site habitat map.

The report considers the potential for all notable and protected species but where species and potential habitats are absent they are not referred to in this report.

CONSTRAINTS AND LIMITATIONS

The desk and field surveys are not comprehensive because species and habitat types especially ephemeral or migratory species may be present but under recorded or may be/have been missed entirely. A data search from the Local Ecological Records Centre (LERC) was not commissioned and is not likely to be required at this stage of the application; but will be required to support a EPSL application should one be needed at a later date.

Measurements taken from online mapping tools may not be exactly accurate, but this is the most proficient method available to the desktop surveyor. Measurements have been rounded-up or rounded-down to the nearest whole number for reporting.

Records of protected species are often submitted with six figure grid reference co-ordinates which is only accurate to within 100m.

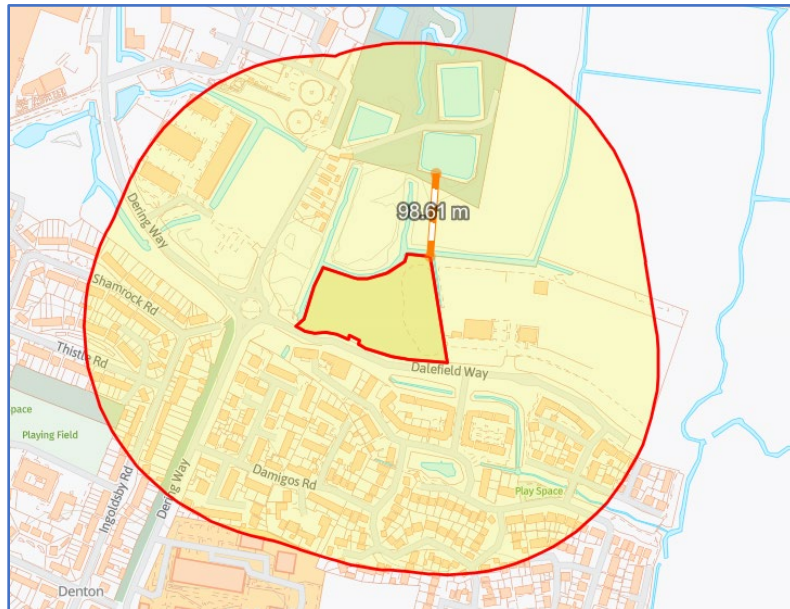
RESULTS

DESK SEARCH

WATERBODIES

There are five ponds and some drainage ditches within 250m of the site. The nearest waterbody is a drainage ditch located adjacent to the western site boundary. The nearest potential breeding pond is located c.98m north of the site as indicated in the figure below.

Figure 2: Nearest waterbody



STATUTORY DESIGNATED SITES

There is one Site of Special Scientific Interest (SSSI) within 2km of the site. The South Thames Estuary and Marshes SSSI is located c.123m northeast of the site.

The Thames Estuary and Marshes RAMSAR site is also located c.123m northeast of the site.

The site is within a SSSI impact risk zone. The requirements for further consultation with NE are as follows:

- **All Consultations:** All planning applications (except householder applications) where the proposed development is outside or extends outside existing settlements/urban areas and will increase lighting levels or affect greenspace, farmland, semi natural habitats, trees/woodland, waterbodies, rural buildings/structures (manmade or natural) or linear landscape features such as hedgerows, streams and rivers through direct loss, fragmentation or change of use.
- **Infrastructure:** Pipelines and underground cables, pylons and overhead cables (excluding upgrades and refurbishment of existing network). Any transport proposal including new or extended footways, cycleways, roads/car parks, railways and waterways (excluding routine maintenance). Airports, helipads and other aviation proposals.
- **Wind and Solar:** Solar schemes with a footprint > 0.5ha, all wind turbines.
- **Minerals, Oil and Gas:** Planning applications for quarries, including: new proposals, Review of Minerals Permissions (ROMP), extensions, variations to conditions etc. Oil & gas exploration/extraction.
- **Rural Non-Residential:** Large non-residential developments outside of existing settlements/urban areas where the net additional gross internal floorspace is > 1,000m² or the footprint exceeds 0.2ha.
- **Residential:** Residential development of 10 units or more.
- **Rural Residential:** Any residential developments outside of existing settlements/urban areas with a total net gain in residential units.
- **Air Pollution:** Any industrial/agricultural development that could cause AIR POLLUTION (including: industrial processes, livestock & poultry units with a floorspace > 500m², slurry lagoons > 750m² & manure stores > 3500 tonnes).
- **Combustion:** General combustion processes >50MW energy input. Including: energy from waste incineration, other incineration, landfill gas generation plant, pyrolysis/gasification, anaerobic digestion, sewage treatment works, other incineration/combustion.
- **Waste:** Landfill. Including: inert landfill, non-hazardous landfill, hazardous landfill.
- **Discharge:** Any discharge of water or liquid waste that is discharged to ground (ie to seep away) or to surface water, such as a beck or stream.
- **Water Supply:** Any development needing its own water supply eg remote rural housing that is not connected to a mains water supply, OR large infrastructure such as warehousing/industry where the total net additional gross internal floorspace following development is > 1,000m².

All consultations have potential to cause risk to the SSSI. Therefore, the following advice is given:

Figure 3: Screenshot of results of SSSI IRZ check for this site

You should consult Natural England on the proposed development at this location.

Send your consultation to: consultations@naturalengland.org.uk

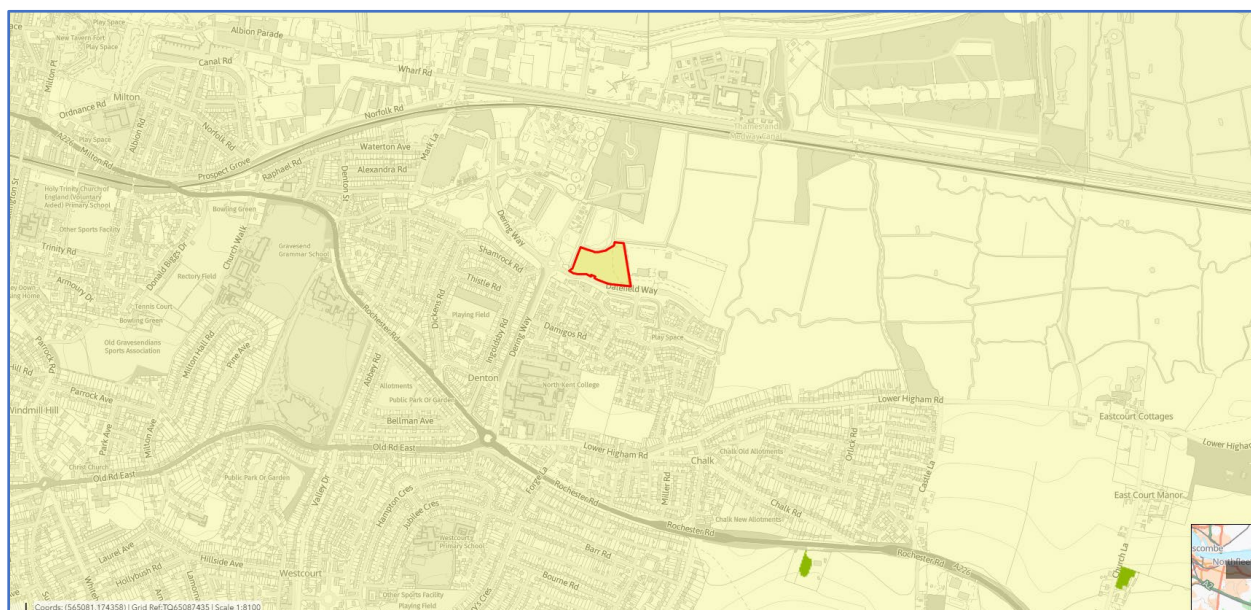
The Impact Risk Zones for Sites of Special Scientific Interest (SSSI IRZs) indicate that at the location selected, there is potential for the proposed development to have a harmful effect on terrestrial Sites of Special Scientific Interest (SSSIs) and those Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or Ramsar sites that they underpin.

Therefore, you should consult Natural England for advice on the nature of the potential impacts and how these might be avoided or mitigated.

NON STATUTORY DESIGNATED SITES

The nearest parcel of woodland is located c.939m southeast of the site. Magic Maps indicates that the woodland parcels located in the wider area are listed in the Priority Habitat Inventory as Traditional Orchard. The areas of woodland present in the wider area are highlighted green in Figure 4 below.

Figure 4: Woodland parcels in the wider area



PROTECTED SPECIES RECORDS

No records found.

SITE SURVEY

The site comprises open land which has previously been subject to significant and apparently regular disturbance. Bare earth and agricultural waste (bricks, mounds, rubble and other materials) are clearly visible throughout.

Vegetated habitats include a small patch of other neutral grassland which contains small pools of water from pipes, modified grassland with bare earth, and open mosaic habitat on previously developed land.

No waterbodies are present on the site but a watercourse is present immediately adjacent to the site.

The habitats that are present are detailed in the habitat map in Figure 5 below. The target notes for features of ecological significance or signs of protected species are described beneath the figure in Table 2.

Figure 5: Habitat Map



Legend

-  Red line boundary
-  G3c - Other Neutral grassland
-  G3c - Other Neutral grassland
-  G4 - modified grassland
-  u1c - artificial, unvegetated, unsealed land.
-  U1a - Open Mosaic Habitats on Previously Developed Land
-  R2 - river/streams

Target Notes

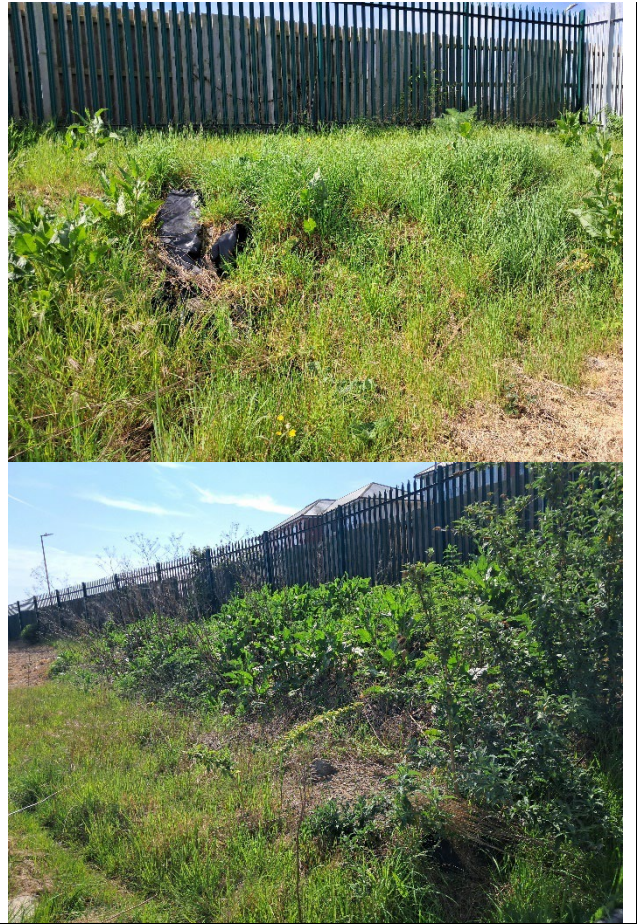
-  TN1
-  TN2
-  TN2
-  TN3
-  TN4

Table 2: PEA survey target notes

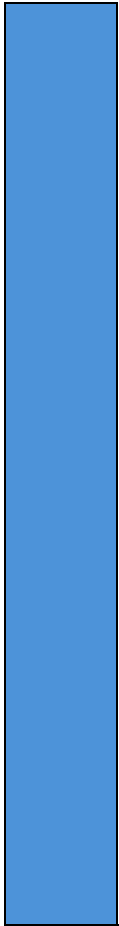
Target Note	Description	Image
1	The main area of the site is an open area of previously developed land with early successional plants present throughout with large patches of bare earth. Species present include; annual meadow grass (<i>Poa annua</i>), false oat grass (<i>Arrhenatherum elatius</i>), red fescue (<i>Festuca rubra</i>), willowherb (<i>Epilobium</i> sp.), buddlejia (<i>Buddleja davidii</i>), mustard (<i>Brassicaceae</i> sp), burdock (<i>Arctium</i> sp.), bramble (<i>Rubus fruticosus</i>), vetch (<i>Vicia</i> sp.), teasel (<i>Dipsacus fullonum</i>), umbellifer sp., black meddick (<i>Medicago lupulina</i>) and two geranium species.	 The image column contains three photographs. The top photograph is a close-up of the ground, showing a mix of green and brown vegetation growing among grey and brown rocks. The middle photograph shows a wide, open area of dry, brownish ground with sparse green plants. In the background, there is a chain-link fence and some trees under a clear blue sky. The bottom photograph shows a similar open area of dry ground, but in the background, there is a construction site with a large crane and some industrial buildings under a clear blue sky.

The longer sward grassland present on site is neutral grassland with approximately 8-9 species per m².

There are a variety of sward heights present throughout the grassland. Species mix includes; annual meadow grass, creeping bent (*Agrostis stolonifera*), false oat grass, red fescue, cocksfoot (*Dactylis glomerata*), Yorkshire fog (*Holcus lanatus*), dandelion (*Taraxum sp.*), buttercup (*Ranunculus sp.*), two geranium species, dock (*Rumex sp.*), teasel (*Dipsacus fullonum*), thistle (*Cirsium vulgare*), vetch (*Vicia sativa*) and poppy (*Papaver sp.*).



3	There are areas of grassland that appear to have been chemically treated and almost entirely contain dead vegetation. The swathe of dead grass near to the site boundaries may discourage reptiles from passing into the site if present in the surrounding area. The potential for a reptile population to be present in or near to the site appears may have been established previously as there is some disused herptile fencing still present.	 The top photograph shows a path of dead, brown grass next to a chain-link fence. The bottom photograph shows a similar area with some green grass and a black plastic barrier.
4	Modified grassland with similar species as within TN2 has begun to establish in some areas in the north of the site. The sward has less diversity than the neutral grassland of TN2 containing on average 4 species per m2. The grassland has a mixed sward height and is not managed. Mounds are present towards the northern boundary which may offer refuge to reptiles if present on site.	 The photograph shows a field of low-lying green grass with several mounds of earth or debris. In the background, there are some buildings and a clear sky.



SURROUNDING HABITATS

The habitats within the site have connectivity to the wider surrounding area through the off site (adjacent) watercourse which connects to marshland, scrub, hedgerows and grassland habitats.

Immediately adjacent to the site's eastern and northern boundaries is a watercourse which connects the site with the wider landscape natural landscape.

Cetti's warbler (*Cettia cetti*), listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) was recorded singing along the northern and western boundaries along this watercourse.



OTHER MAMMALS

A single mammal pathway was identified within the site but no other field signs for mammals were recorded.

The site has metal palisade fencing to the boundaries but small mammals such as hedgehog could easily pass beneath these to enter the site. Mammals such as fox *Vulpes vulpes* and badger *Meles meles* could easily dig beneath the fence in order to enter the site.

The field signs for badger would be conspicuous and so it is with a good degree of certainty that badger setts are deemed likely absent from the site and the immediate surrounding area.

There is low potential for mammals to cross or venture onto the site at night and so some mitigation measures to ensure animals do not become trapped in open excavations during the construction phase are required.

CONCLUSIONS AND RECOMMENDATIONS

HABITATS

The majority of habitats present within the site are not rare or unique within the context of the surrounding areas with the exception of open mosaic on previously land which is an uncommon habitat.

The site in its current state has low ecological value comprising 50% vegetated habitats and 50% bare earth.

No waterbodies are present on the site but a watercourse runs adjacent to the western and northern boundaries.

There is a SSSI and RAMSAR within 2km and the site falls within a SSSI impact risk zone. There is potential for impacts to the nearby SSSI through development and further consultation with NE is required.

Habitat creation should be incorporated into the design of the proposed scheme to encourage biodiversity on site post development to be in line with National Planning Policy. A biodiversity net gain (BNG) assessment will be required to support the planning application unless the site meets one of the BNG exemptions.

Embellishments to encourage biodiversity such as bat and bird boxes, hibernacula to encourage reptiles or amphibians within the wider landscape and a hedgehog house should be considered to enhance the site for local wildlife species.

INVERTEBRATES

The vegetated habitats within the site all have potential to support invertebrates but none are considered rare or scarce. The development is largely restricted to ecologically poor habitats and the development is unlikely to have a significant impact on the local biodiversity of invertebrate populations and/or important invertebrate assemblages.

Habitat enhancement measures should be implemented to improve the habitat for invertebrates within the site post development. Where possible grassland areas post development could be enhanced to create wildflower meadow strips using wildflower seed mixes of native varieties.

Native species hedgerow planting could also be incorporated into the landscaping design to demarcate boundary features where needed rather than relying on fencing. This would increase foraging and sheltering opportunities for invertebrates. Any new tree or hedgerow habitats created on the site should include only native, nectar rich species.

AMPHIBIANS

The desk search shows five potential breeding ponds for GCN within 250m of the site and some drainage ditches but no records of GCN within 2km.

No waterbodies are present on the site. The terrestrial on site habitat is limited to small areas of grassland and these do not offer much protection for GCN travelling across the site between potential breeding ponds.

The adjacent waterbody contains flowing water which is likely unsuitable for GCN which are notoriously poor swimmers and will avoid moving water; and water fowl which predate on GCN. It is likely that the flowing water of the adjacent ditch would act as a barrier to dispersal of newts between the three potential breeding ponds to the north and the site if present. In addition, the site is separated from the two potential breeding ponds in the south by residential development.

It is therefore very unlikely that GCN will be present within the isolated parcels of terrestrial habitat within the site.

Due to the very low perceived risk to GCN and their habitats it is considered proportional for works to impact isolated vegetated habitats within the site to be done under ecological supervision from a GCN licensed Ecological Clerk of Works (EcoW) and following a hand and knee search of the vegetation to ensure that GCN are absent.

REPTILES

The terrestrial habitat present on the site has low suitability for reptiles. The site appears to have been previously surveyed for reptiles as reptile fencing and an artificial cover object (ACO) remain on site. It is possible that a low number of reptiles remain on site or have re-colonised from adjacent off-site habitats. There is grassland present on site with varied swards which provide shelter, foraging and basking opportunities. Reptiles may pass across the open bare ground for basking, foraging or shelter within the on-site rubble and hardcore accumulations.

The grassland habitats and nearby rubble piles have low potential to contain reptiles.

DORMOUSE

The nearest woodland parcel shown on MAGIC is located c.939m southeast of the site.

The on site habitats are not suitable for dormouse. There are no hedgerows or trees present on site.

The site has negligible potential to contain dormouse.

BIRDS

All nesting birds are afforded legal protection by the Wildlife and Countryside Act 1981 (as amended). In addition, species listed on Schedule 1 of the Act are afforded protection from disturbance whilst nesting. Some species are listed as Species of Principal Importance under NERC Act 2006 and may be on the RSPB's Bird of Conservation Concern list.

Cetti's warbler was recorded singing in adjacent off site vegetation along the watercourse. Cetti's warbler are listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and are legally

protected from disturbance (from construction noise / vibration even though they are off-site) during the breeding season (March to August).

There are no buildings or trees present on site, therefore the presence of other nesting bird species is negligible. The site is not suitable for ground nesting birds such as skylark (*Alauda arvensis*) or meadow pipit (*Anthus pratensis*).

It is recommended that any works to impact potential breeding ranges of Cetti's warbler is undertaken outside of the nesting season (early March to end of August). Where impacts cannot be avoided further consideration or survey effort for nesting birds may be required.

A breeding bird survey to determine number of breeding territories will be required if the end use of the site has potential to impact Cetti's warbler nesting habitat. There are no robust studies to determine disturbance ranges for Cetti's warbler but no construction should be permitted within the red zone (within 25m of a nest/ territory) and any works within the amber zone (within 75m of a nest/territory) should be undertaken under ecological supervision. Any work that needs to be undertaken within the red zone during the breeding season may require a Natural England licence.

BATS

All UK bat species are afforded legal protection by the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended). Some species are listed as Species of Principal Importance under the NERC Act 2006.

The on site habitats provide low suitability to be used by foraging bats due to the presence of some low value habitat for invertebrates (tussocky grassland).

The adjacent watercourse has moderate suitability to be used by commuting and foraging bats. Care must be taken therefore to avoid or at least mitigate any impacts from additional artificial lightspill resulting from the development.

Avoidance and mitigation measures in accordance with guidance issued by the Bat Conservation Trust and Institute of Lighting Professionals (ILP, 2018) should be incorporated into the site plans. These are as follows:

1. Boundary vegetation should not be illuminated so that dark flight corridors for bats are retained;
2. Directional lighting should be used to avoid unwanted spill into surrounding habitats;
3. Any external lighting should be operated with motion sensors where possible;
4. Metal halide and fluorescent sources should not be used;
5. A warm white spectrum of lamp should be used. Blue light should not be used;
6. Internal luminaires that are in close proximity to windows should be recessed, where possible, to reduce external glare and light spill and/or low emissivity glass should be used in the windows if possible.

No buildings or trees are present on site. There are no bat roosting locations present on site.

OTHER MAMMALS

All wild mammals are afforded legal protection under the Wild Mammal (Protection) Act 1996 (as amended).

Hedgehog are protected in the UK under the Wildlife and Countryside Act, 1981. They are a Priority Species under the UK Post-2010 Biodiversity Framework and are on the IUCN Red List for British Mammals which means they are vulnerable to extinction.

Badger are protected in the UK under the Wildlife and Countryside Act, 1981 and receive additional protection under the Protection of Badgers Act 1992.

There is potential for mammals to cross through the boundary fence and into or across the site. Mitigation measures to avoid risk of harm and unnecessary suffering to mammals such as fox, badger and hedgehog which might cross the site at night include:

- During construction all excavations for foundations or services including trenches, holes and open pipes to be covered at the end of each night. If excavations cannot be covered, wooden planks (a scaffold board for example) must be left within the excavation (at a maximum angle of 45°) to allow for mammals to climb out if they become trapped;
- Excavations and open pipes must be checked at the beginning and end of each working day by the site manager or equivalent to check for mammals. Any trapped mammals should be allowed to escape, or carefully moved into suitable boundary habitat away from construction works.

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<https://records.nbnatlas.org/>

Review of Protected Species UK Legislation and Policy

The level of protection afforded to protected species varies dependent on the associated legislation. A full list of protected species and their specific legal protection is provided within the Schedules and/or Sections of the associated legislation. Case law may further clarify the nature of the legal protection afforded to species.

The legal protection afforded to protected species overrides all planning decisions. European Protected Species (EPS) - and the Conservation of Habitats and Species Regulations 2010 (as amended)

European Protected Species (EPS) are afforded the highest level of protection through the Conservation of Habitats and Species Regulations 2017. EPS are also afforded legal protection by parts of the Wildlife and Countryside Act 1981 (as amended).

In general, any person and/or activity that:

- Damages or destroys a breeding or resting place of an EPS. (This is sometimes referred to as the strict liability or absolute offence);

- Deliberately captures, injures or kills an EPS (including their eggs);

- Deliberately disturbs an EPS, and in particular disturbance likely to impair animals' ability to survive, breed or nurture young, their ability to hibernate and migrate and disturbance likely to have a significant effect on local distribution and abundance;

- intentionally or recklessly disturbs an EPS while occupying a structure or place used for shelter and/or protection (Wildlife and Countryside Act 1981) (as amended); and

- Intentionally or recklessly obstructs access to any structure or place that an EPS uses for shelter or protection (Wildlife and Countryside Act 1981) (as amended). may be guilty of an offence.

The legislation applies to bat roosts even when they are not occupied.

Actions affecting multiple animals can be construed as separate offences and therefore penalties can be applied per animal impacted.

Under certain circumstances licences can be granted by the Statutory Nature Conservation Organisation (Natural England in England) to permit actions that would otherwise be unlawful.

There are some very specific defences associated with the Conservation of Habitats and Species Regulations 2017. However, these are unlikely to apply to construction related projects. The Sections of the Regulations provide further details of these defences.

The Wildlife and Countryside Act (1981) includes defence for those aspects of the legislation that apply to an EPS. These defences are unlikely to apply to construction related projects and do not apply to

those acts included in the Conservation of Habitats and Species Regulations 2017 (as amended). The Schedules of the Act provide further details of defences.

Local authorities have obligations under sections 40 and 41 of the Natural Environment and Rural Communities Act (NERC) 2006 to have regard to the purpose of conserving biodiversity in carrying out their duties. The majority of EPS are listed on Section 41 the NERC Act.

The Natural Environment and Rural Communities Act 2006 (as amended)

Section 41 (S41) of the Natural Environment and Rural Communities (NERC) Act (2006) requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England. The S41 list is used to guide decision-makers, including local and regional authorities, in implementing their duty under Section 40 of the act to have regard to the conservation of biodiversity in England when carrying out their normal functions. S41 lists 56 habitats and 943 species of principal importance. Section 42 of the NERC Act relates to Wales.

Wildlife and Countryside Act 1981 (as amended)

The level of protection afforded to species listed on the Wildlife and Countryside Act 1981 (as amended) varies considerably.

‘Fully protected species’, such as bats, are afforded the highest level of protection. Any person who intentionally kills, injures, or takes ‘fully protected species’, or who intentionally or recklessly damages or destroys a structure or place used for shelter and/or protection, disturbs the animal whilst occupying a structure and/or place used for shelter and protection, or obstructs access to any structure and/or place used for shelter or protection is likely to have committed an offence.

The National Planning Policy Framework

Planning policy requires new developments to take into consideration our local and national wildlife. With the objective to maintain or increase the viability of the site for wildlife. The existing proposals are considered to determine whether Habitat enhancements are offered and whether they are adequate to meet the policy requirements. Again, national, regional, county and borough policies are considered.

The National Planning Policy Framework states that the planning system should contribute to and enhance the natural and local environment by minimizing impacts on biodiversity and delivering net gains in biodiversity where possible.

Ecological habitat enhancements measures need to be over and above any mitigation measures.

APPENDIX 2: BAT AND BIRD BOX DESIGNS AND SITE PHOTOS



Off site habitat on the northern and western boundary provide suitable habitat for reptiles which may cross into the site.

Off site habitat (reedbeds, shrubs and trees) along the watercourse are suitable habitat for breeding Cetti's warbler.



The site contains bare earth, bricks, stones, mounds and industrial waste.

