

Date: 8 February 2022

Ref: BEK-21992-1

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Ref: Preliminary Ecological Appraisal & Potential Bat Roost Survey - 98 Wilmslow Rd, Rusholme

This assessment has been designed to meet:

- Chartered Institute of Ecology and Environmental Management 'Guidelines for Preliminary Ecological Appraisal' (2013); and
- British Standard 42020 (2013) 'Biodiversity – Code of Practice for Planning and Development'.
- The Bat Conservation Trust publication *Bat Surveys for Professional Ecologists – Good Practice Guidelines* (Collins, J. (Ed) 2016).

Summary

Carol Edmondson MSc MRSB, undertook a Preliminary Ecological Assessment and Potential Bat Roost Survey at 98 Wilmslow Rd, Rusholme on 19/01/22. The aim of the assessment was to complete an extended Phase 1 Habitat Survey of the survey area (all land that will be impacted by the proposals) and to consider the value and suitability of the land and any structures to be affected by the development for protected wildlife species, including identifying any potential for roosting bats.

The site is overall is of negligible conservation and wildlife value, The building on site have a negligible potential for roosting bats, and therefore will not require further surveys.

Biodiversity enhancement and mitigation recommendations will be incorporated into any landscaping and building design.

Recommendations – This is work you will need to commission (if any) to obtain planning permission or comply with legislation for other consent.

Ecological Factor	Recommendations
Bats	No further surveys. Should bats be found to be roosting at the site, two further surveys will be required to inform a Protected species mitigation licence application to Natural England.
Birds	Any building works should be commenced outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the building/trees and scrub to be removed should be undertaken immediately prior to clearance. All active nests will need to be retained until the young have fledged.

For full justification of these recommendations, please go straight to section [4.0 Conclusions, Impacts and Recommendations](#). Otherwise, the full report starts below.

CONTENTS

1.0 Introduction and Context	4
1.1 Background	4
1.2 Site Context	4
1.3 Scope of the report.....	4
2.0 Methodology.....	5
2.1 Desk Study methodology	5
2.2 Site Survey methodology	5
2.3 Breeding birds and other incidental observations	5
2.4 Suitability Assessment	6
2.5 Limitations	7
3.0 Results and Evaluation	8
3.1 Desk Study Results.....	8
3.2 Designated sites & priority habitats	8
3.3 Landscape	8
3.5 Field Survey Results	9
3.6 Site Feature descriptions and photos.....	10
4.0 Conclusions, Impacts and Recommendations	14
4.1 Informative guidelines.....	14
4.2 Evaluation	14
4.3 Biodiversity Enhancement plan.....	15
5.0 Bibliography	16

Appendix 1: Survey Plan

Appendix 2: Proposed Site Plan

Appendix 3: Desk Study Information

Appendix 4: Legislation and Planning Policy

1.0 INTRODUCTION AND CONTEXT

1.1 Background

BEK Enviro (BEK) was commissioned to undertake a Preliminary Ecological Appraisal (PEA) and Potential Bat Roost Survey at 98 Wilmslow Rd Rusholme to support a planning application to convert the current building to a new apartment building.

1.2 Site Context

The site is located at National Grid Reference SJ 85176 95247, currently in use as a restaurant, with forecourt.

1.3 Scope of the Report

This report describes the baseline ecological conditions at the site; evaluates habitats within the survey area in the context of the wider environment; and describes the suitability of those habitats for notable or protected species. It identifies significant ecological impacts as a result of the development proposals; summarises the requirements for further surveys and mitigation measures, to inform subsequent mitigation proposals, achieve planning or other statutory consent, and to comply with wildlife legislation.

The aim of the PEA was to obtain data on existing ecological conditions, and to conduct a preliminary assessment of the likely significance of ecological impacts on the proposed development and establishing the baseline conditions for future monitoring. To achieve this, the following steps were taken:

A desk study has been carried out, including:

- The desk study area and field survey area (generally 50m from the site boundary/proposed footprint and including the 'zone of influence' of the scheme) have been identified.
- A desk study has been carried out, including a search on MaGIC, and Google Earth websites.
- Baseline information on the site and surrounding area has been recorded through an 'Extended Phase 1 Habitat Survey', including a Phase 1 Habitat Survey (JNCC 2010) and recording further details in relation to notable or protected habitats and species
- The ecological features present within the survey area have been evaluated where possible (CIEEM, 2006).
- Invasive plant and animal species (such as those listed on Schedule 9 of the Wildlife & Countryside Act [WCA]) have been identified.
- Likely impacts on features of value, as a result of the development proposals, have been identified.
- Recommendations for further survey and assessment have been made.

A survey plan is presented in Appendix 1, the proposed Project Plan is included in Appendix 2 (where available), desk study results are provided in the Appendix 3 and a summary of relevant legislation can be found in Appendix 4.

2.0 METHODOLOGY

2.1 Desk Study Methodology

Existing biological records data relating to the site and a surrounding 2km radius (the study area) are required to conform to national guidelines and these will need to be requested from Stockport Ecological Record Centre. The data search is confidential information that is not suitable for public release.

A review of the following information sources has also been undertaken to inform the assessment:

- Landscape structure using aerial images from Google Earth and OS maps
- Designated sites, habitat and granted EPSL records held on Magic.gov.uk.

2.2 Site Survey Methodology

The survey was undertaken by Carol Edmondson MSc MRSB (Natural England bat licence number: **2015-12195** CLS-CLS) on 19th January 2022.

The methodology for the Phase 1 habitat survey is based on the best practice publication Phase 1 Habitat Survey Methodology (JNCC, 2010). All land parcels are described and mapped according to JNCC Phase 1 habitat classification (see site map in Appendix 1). Where appropriate, target notes provide supplementary information on habitat conditions, features too small to map to scale, species composition, structure and management.

During the survey, habitats were assessed for their suitability to support protected species, and field signs indicating their presence recorded. The assessment takes into consideration the findings of the desk study, the habitat conditions on site and in the context of the surrounding landscape, and the ecology of the protected species. The likelihood of the presence of protected species is ranked; the habitats on site are evaluated against their likelihood to provide suitable habitat for protected species.

The ecological value of the survey area has been assessed based on the Guidelines for Ecological Impact Assessment (CIEEM, 2006), and the Handbook of Biodiversity Methods: Survey, Evaluation and Monitoring (David Hill, 2005), using geographic frames of reference. The biodiversity value of any identified designated sites, habitat types and associated species assemblages has been considered. The distribution and extent of invasive species listed on Schedule 9 of the Wildlife and Countryside Act (1981) were also noted throughout the survey area.

2.3 Breeding Birds and Other Incidental Observations

The surveyor also made note of any other ecological constraints observed during the survey, notably the likelihood of presence or signs of breeding birds, and the suitability of the site for barn owls *Tyto alba*.

2.4 Suitability Assessment

The likelihood of occurrence of protected species is ranked according to the criteria listed in Table 1. The habitats on site were evaluated as to their likelihood to provide sheltering, roosting, foraging, basking or nesting habitat.

Table 1: showing criteria considered when assessing the likelihood of occurrence of protected species

Present	Species are confirmed as present from the current survey or historical confirmed records.
High	Habitat and features of high quality for species/species assemblage. Species known to be present in wider landscape (desk study records). Good quality surrounding habitat and good connectivity.
Medium	Habitat and features of moderate quality. The site in combination with surrounding land provides all habitat/ecological conditions required by the species/assemblage. Within known national distribution of species and local records in desk study area. Limiting factors to suitability, including small area of suitable habitat, some severance/poor connectivity with wider landscape, poor to moderate habitat suitability in local area.
Low	Habitats within the survey area poor quality. Few or no records from data search. Despite above, presence cannot be discounted as within national range, all required features/conditions present on site and in surrounding landscape. Limiting factors could include isolation, poor quality landscape, or disturbance.
Negligible	Very limited poor quality habitats and features. No local records from desk study; site on edge of, or outside, national range. Surrounding habitats considered unlikely to support species/species assemblage.

All affected survey features on site were categorised according to the likelihood of bats being present, in line with best practice guidelines (Collins, J. (ed) 2016). The features that dictate the likelihood of roosting bats are summarised in Tables 2 and 3 below. Roost suitability is classified as high, moderate, low and negligible and dictates any further surveys required before works can proceed.

Table 2: Features of a building that are correlated with use by bats

Likelihood of bats being present	Feature of building and its context
Higher	Buildings/structures with features of particular significance for roosting bats e.g. mines, caves, tunnels, icehouses and cellars. Habitat on site and surrounding landscape of high quality for foraging bats e.g. broadleaved woodland, tree-lined watercourses and grazed parkland. Site is connected with the wider landscape by strong linear features that would be used by commuting bats e.g. river and or stream valleys and hedgerows. Site is proximate to known or likely roosts (based on historical data).
Lower	A small number of possible roost sites/features, used sporadically by more widespread species. Habitat suitable for foraging in close proximity, but isolated in the landscape. Or an isolated site not connected by prominent linear features. Few features suitable for roosting, minor foraging or commuting.

Table 3: Features of a tree that are correlated with use by bats

Likelihood of bats being present	Feature of tree and its context
Higher	A tree with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat.
Lower	A tree of sufficient size and age to contain potential roosting features but with none seen from the ground or features seen with only very limited roosting potential.

2.5 Limitations

It should be noted that whilst every effort has been made to describe the baseline conditions within the survey area, and evaluate these features, this report does not provide a complete characterisation of the site. This assessment provides a preliminary view of the likelihood of protected species being present.

Specific limitations:

- The survey was conducted outside the peak bat activity season
- The Tower building was not accessible internally at the time of the survey (Health & Safety reasons)

The survey was carried out to the extent based on those areas visible and accessible, and the conclusions based on the range of evidence available at the time of the survey.

3.0 RESULTS AND EVALUATION

3.1 Desk Study Results

A summary of desk study results is provided below; full details are included in Appendix 2.

3.2 Designated sites & priority habitats

The site is not within any designated areas, but is within the Non-Statutory Red Rose Forest.

Priority habitats within 2km (~ areas closest to the site):

- *Deciduous Woodland* ~500m south & north
- *Woodpasture and Parkland* ~1000m west

3.3 Landscape

A review of the designated sites, aerial photographs (Figure 1), the Magic database and OS maps has been undertaken. Collated together, the site's local habitat is described below:

Located to the southeast of Manchester City the site is in an urban residential/retail area. The parks to the south and west of the site will provide some habitat for wildlife, with small areas of woodland and scrub providing insect foraging for bats, amphibians, reptiles and terrestrial mammals. The immediate landscape is built up and is poor quality wildlife habitat.

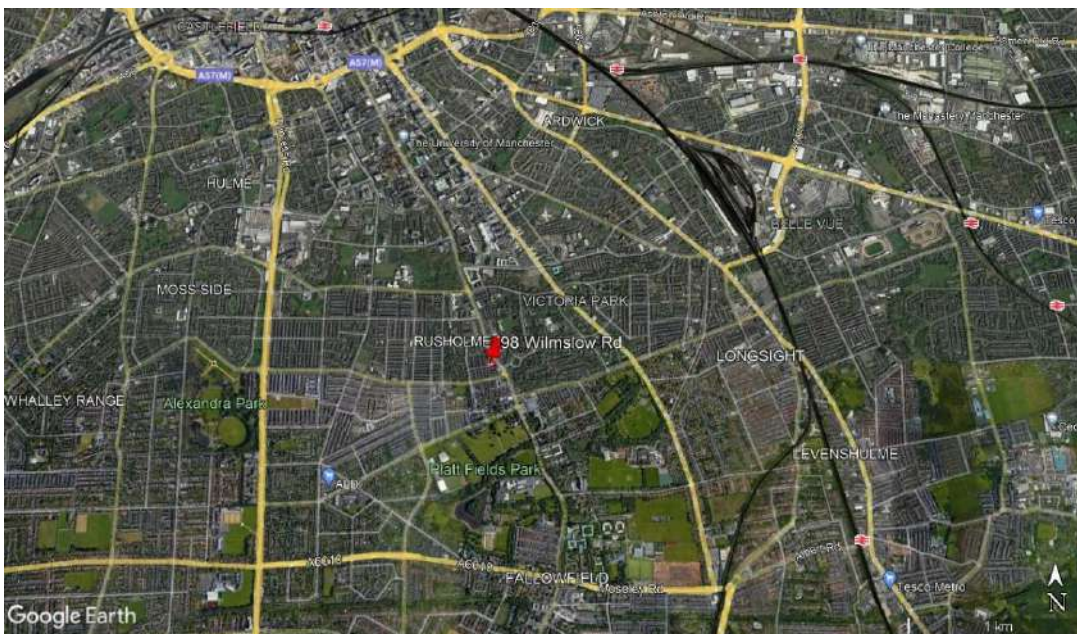


Figure 1: Aerial photo of site, showing landscape structure

3.4 Protected Species:

Bats

A search of the magic database for granted European Protected Species Mitigation Licences (EPSMLs) within a 2km radius found 8 licenced sites which include damage to a breeding and/or resting site for common pipistrelle *Pipistrellus pipistrellus* bats. This is evidence of the presence of this bat species within the proximity of the site, but does not exclude the presence of other bat species.

Birds

A search of the Magic database for Priority bird species within a 500m radius found no results in the study area.

Great Crested Newts (GCN)

A search of the MAGIC database returned no positive class licence results, or granted mitigation licences pertaining to GCN.

3.5 Field Survey Results

The site of the proposed development is a brownfield site consisting of one main building, one smaller outbuilding, with overgrown tarmac car parking and low bramble scrub to the boundaries.

The environmental variables recorded at the time of the survey:

Date: 19/01/2022	
Temperature	6°C
Cloud Cover	15%
Wind	1.1km/h
Rain	None

3.6 Site Feature descriptions and photos

3.6.1 Buildings

A former MOT/garage building, brick built with aluminium corrugated sheet roof materials and cladding to the front(east) elevation.

The building has a dual-pitched roof with the ridge running west – east, with a hip to the western gable. To the east elevation (road frontage) is a corrugated sheet fascia board which holds the restaurant signage. Bird deterrent spikes run along the top edge of this façade.

A glass single pitched canopy covers the entrance.

The glass doors to the front of the building are in excellent condition, as are all the roofing materials.



Fig.1: Eastern (road front) elevations of the restaurant

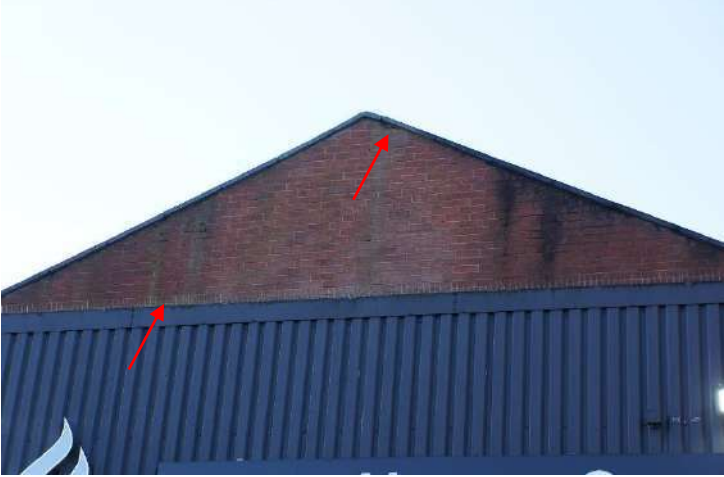
The fascia boards along the north and south elevations are close fitting to the brick wall with no gaps for bats to access.

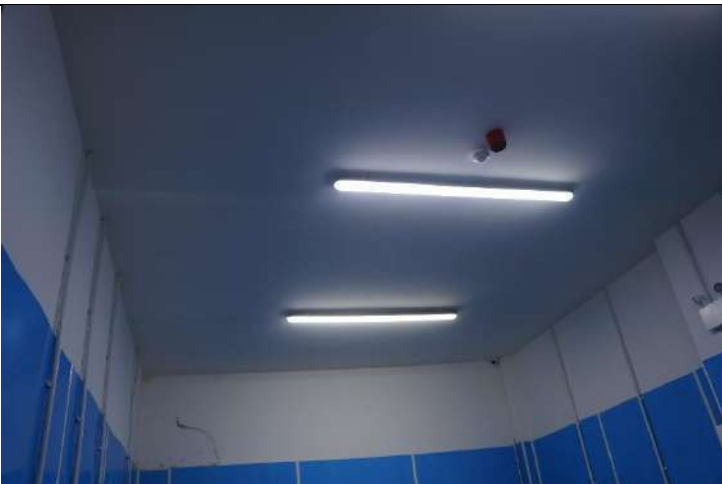
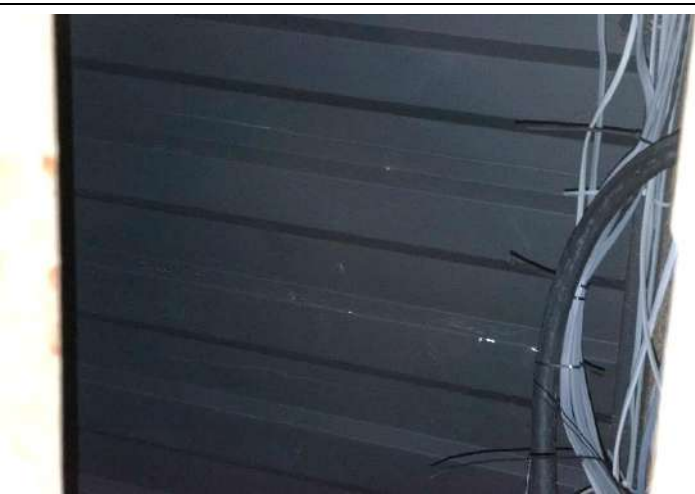
There is a brick-built chimney to the east of the southern roof pitch, which is in a good state of repair, with flashing to the base, also in good condition with no gaps.

The gaps formed by the corrugations in the aluminium sheets are too wide and unsuitable for bat roosting.



Fig.2: South elevation of the site, showing the corrugated sheet roof and cladding to the fascia of the frontage.

The mortar at the roofline on the gable end is in good condition with only 1 crack, which has moss covering.	 Fig.3: East elevation of the building, showing moss on the gable end, and bird deterrent spikes
There is a second chimney on the northern roof pitch, with flashing and brickwork in a good state of repair. There is a single crack in the brickwork at the northwest corner, approx. 250mm long and 10mm at the widest point, and approx. 40mm in depth. There was no evidence of use by bats. The brick wall on the north elevation undulates slightly in places, leaving gaps at the roof sheet edges – evidenced by rain water on the walls beneath. These gaps are not suitable for bat to roost being open at the top and too narrow.	 Fig.4: North and west elevation of building on site viewed from the adjacent car park. Arrows mark the location of a crack in the brickwork and rain staining on the wall.

At the southwestern corner of the building where the Site building adjoins the property to the south, there is a gap visible to the top of the fascia board. This shows that the gap below would be exposed to the elements making the gap below unsuitable for bats.	 Fig.5: Close up of the southwest corner of the building with gap at the top of the fascia board.
<u>Internally</u> Internally the building is underdrawn.	 Fig.6: Interior section of the kitchen/storage area.
Where there is access to the roof void above the corrugated sheet roof material and services can be seen. There was no daylight visible in these roof spaces.	 Fig.7: View above the under drawn ceiling inside the Site building.

Habitats

J3.6.3: Hardstanding

To the front/east of the Site building is an area of Tarmac hardstanding making up the forecourt and former car park.



Fig.8: Aerial view of the hardstanding at the front of the restaurant (*Google Earth Pro, 2022*).

4.0 CONCLUSIONS, IMPACTS AND RECOMMENDATIONS

4.1 Informative Guidelines

The habitats on site were evaluated as to their likelihood to provide sheltering, roosting, foraging, basking or nesting habitat. The likelihood of occupancy of protected species is ranked according to the criteria listed in Table 1.

Where this report supports a planning application, the ecological interest of the study area (including the survey area) and the proposed development has also been evaluated in terms of the planning policies relating to biodiversity. It will be clearly stated where a preliminary value can be given and where further information is required.

Appropriate justification for this assessment is provided in Section 2.3 and Table 1 of this report.

4.2 Evaluation

Taking the desk-based assessment and site survey results into account, the following value for roosting bats has been placed on each site survey feature.

Table 8: Evaluation of site

Ecological Factor	Survey assessment conclusions (with justification)	Foreseen impacts	Recommendations
Designated sites	The site is not subject to any designation, and there are no designated sites nearby with the potential to be affected by the proposed development.	The proposed development is not of a sufficient scale to have an impact on any nearby designated sites.	No further surveys.
Notable habitats and plants	No Priority habitats are close to the site, or within the zone of influence of the proposed works. Areas of deciduous woodland and Parkland within 500m.	The proposed development is not of a sufficient scale to have an impact on any nearby priority habitats, and is contained by the A roads which also reduces impact.	No further action
Invasive / Non-native species	No invasive species were recorded on the site.	No impact	No further action
Bats	Negligible roosting potential	No likely impact	No further surveys
Bird	No evidence of nesting birds	No impact	No further action
Reptiles and amphibians	No habitat	No Impact	No further surveys
Water voles	No habitat	No impact	No further surveys
Badgers	No signs of the presence of badgers was found on the site.	No impacts	No further surveys

4.3 Biodiversity Enhancement plan

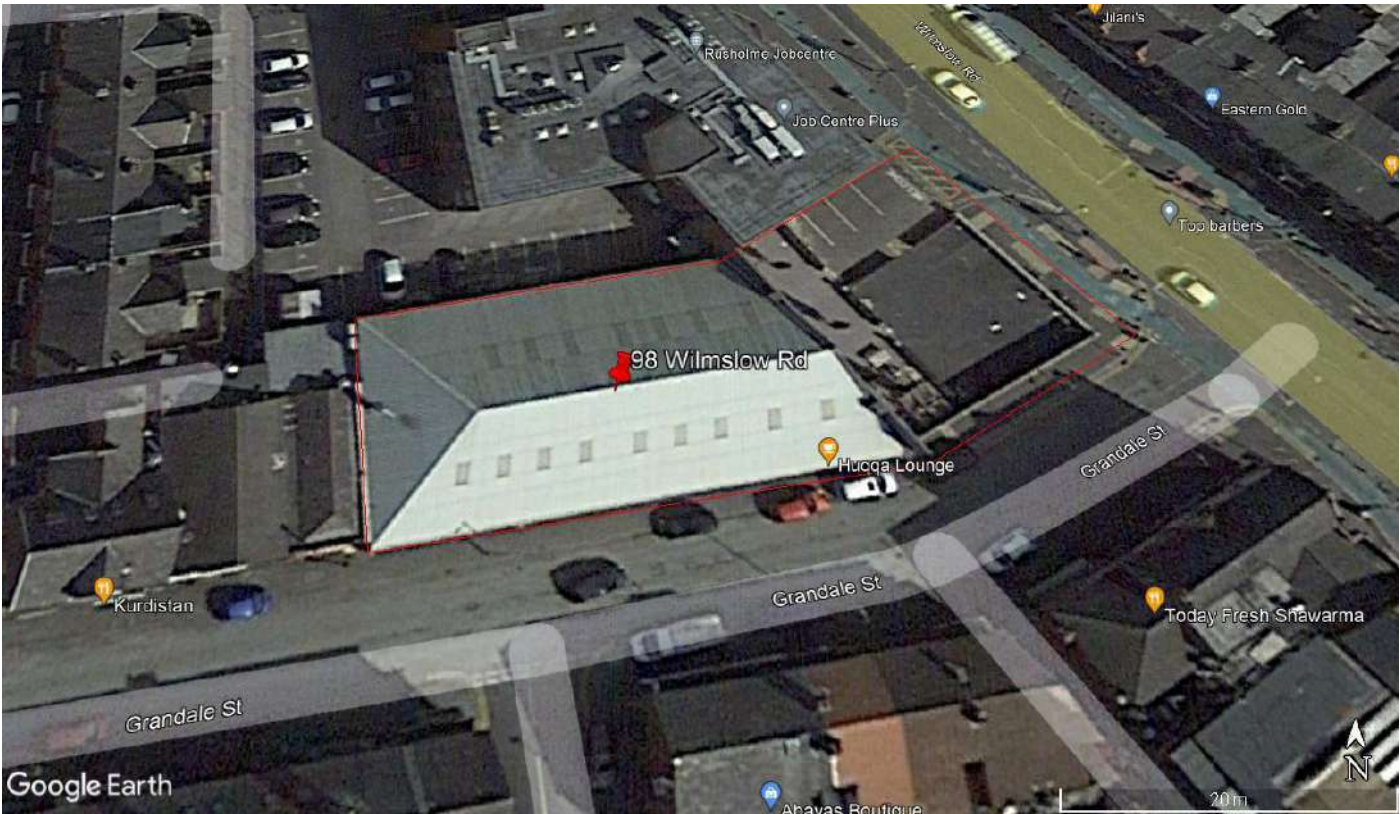
Enhancements <i>The Local Planning Authority has a duty to ask for enhancements under the NPPF and circular 06/2005: Biodiversity and Geological Conservation. Para.99</i>	Bats There is some foraging habitat in the area in the form of residential gardens and recreation parks with some deciduous woodland. The installation of a minimum of 4 bat boxes or integrated bat bricks on the new building will provide additional roosting habitat for bats. for example (depending on the final design): • Build-In Woodstone Bat Access (wildcare.co.uk) • https://www.wildcare.co.uk/soffit-bat-box.html • 1FF Schwegler Bat Box • Greenwoods Ecohabitats • https://www.greenwoodsecohabitats.co.uk/bats Bat boxes should be positioned 3-5m above ground level facing in a south/south-westerly direction with a clear flight path to and from the entrance. Birds Bird nesting boxes will be included in the building plans to add to the available nesting opportunities in the local area. For example: Schwegler 1SP Sparrow Terrace Schwegler 1B nest boxes Schwegler 2H Robin Boxes At least 6 bird boxes to be located across the site. Nest boxes should be positioned approximately 3m above ground level where they will be sheltered from prevailing wind, rain and strong sunlight. Lighting Any external lighting should not be directed at any wildlife features of the building as this will cause disturbance.
Biodiversity Net Gain <i>The NPPF updates of July 2021, 179b indicates that a measurable gain should be secured via planning decisions</i>	The proposals are for 100% site coverage and as such any biodiversity net gain will need to be achieved by the use of habitat walls, green roof areas or the use of rain garden & Sustainable Urban drainage systems. Full guidance can be found https://www.bats.org.uk/our-work/landscapes-for-bats/landscape-and-urban-design The final landscape design will need to utilise these schemes to meet the minimum biodiversity net gain requirement for planning.

5.0 BIBLIOGRAPHY

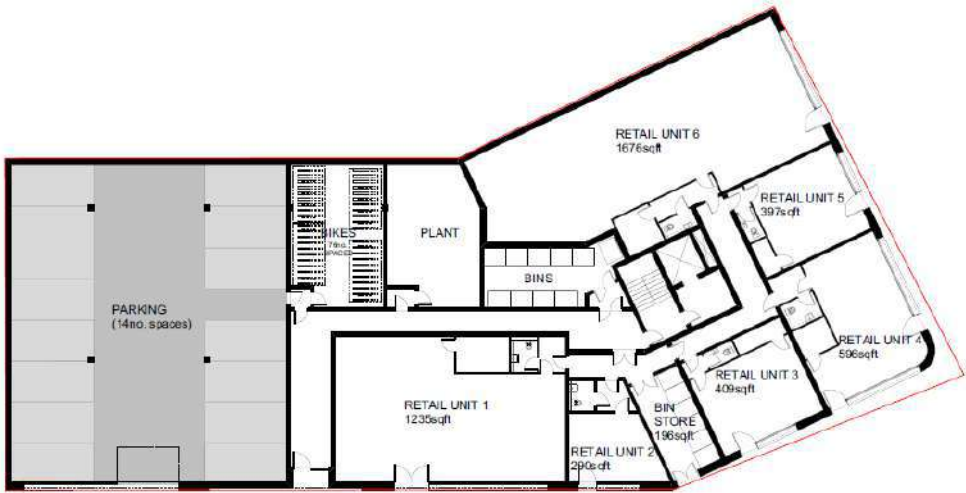
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Appendix I: Survey Plan



Appendix 2: Proposed Site Plan



PROPOSED GROUND FLOOR PLAN
1:100 @ A1

		DATE: 10/10/2023		OLIVER MURTHWAKE ARCHITECTS 100 Wilmslow Rd, Wilmslow, Cheshire, WA14 7JF 0161 251 1000 www.olivermurthwake.co.uk
PROJECT: 100 Wilmslow Rd, Wilmslow, Cheshire, WA14 7JF		DRAWN: 10/10/2023		
SCALE: 1:100 @ A1		CHECKED: 10/10/2023		
BY: 10/10/2023		DATE: 10/10/2023		

Appendix 3: Desk Study Information

Site Details:

98, WILMSLOW ROAD,
MANCHESTER, M14 5AL

Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: 1056 Scale Town Plan

Map date: 1848-1850

Scale: 1:1,056

Printed at: 1:1,056



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Revised N/A
Edition 1848
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Site Details:

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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: County Series

Map date: 1881

Scale: 1:2,500

Printed at: 1:2,500



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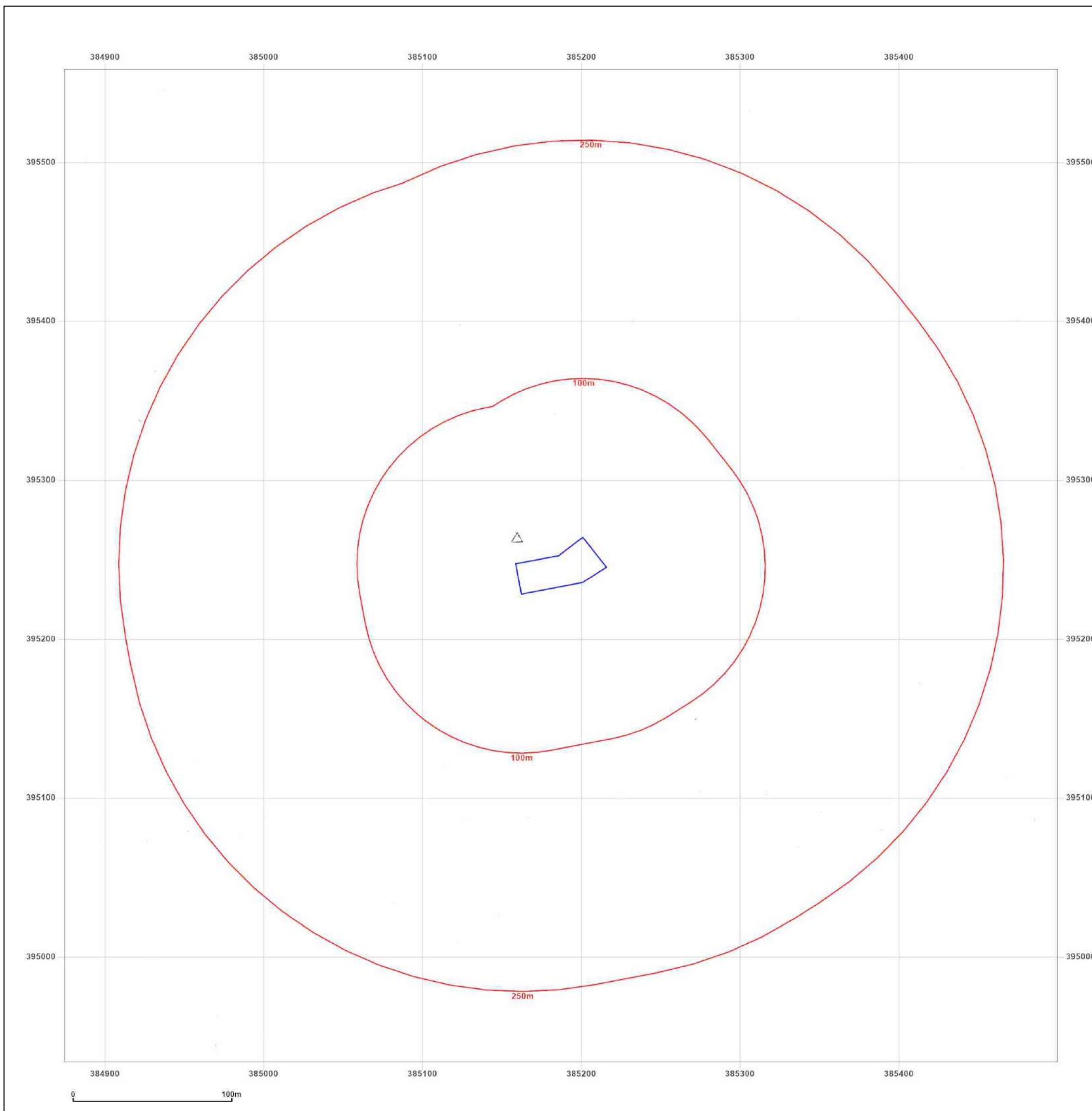


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Site Details:

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MANCHESTER, M14 5AL

Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: County Series Town Plan

Map date: 1891

Scale: 1:500

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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: County Series

Map date: 1893

Scale: 1:2,500

Printed at: 1:2,500



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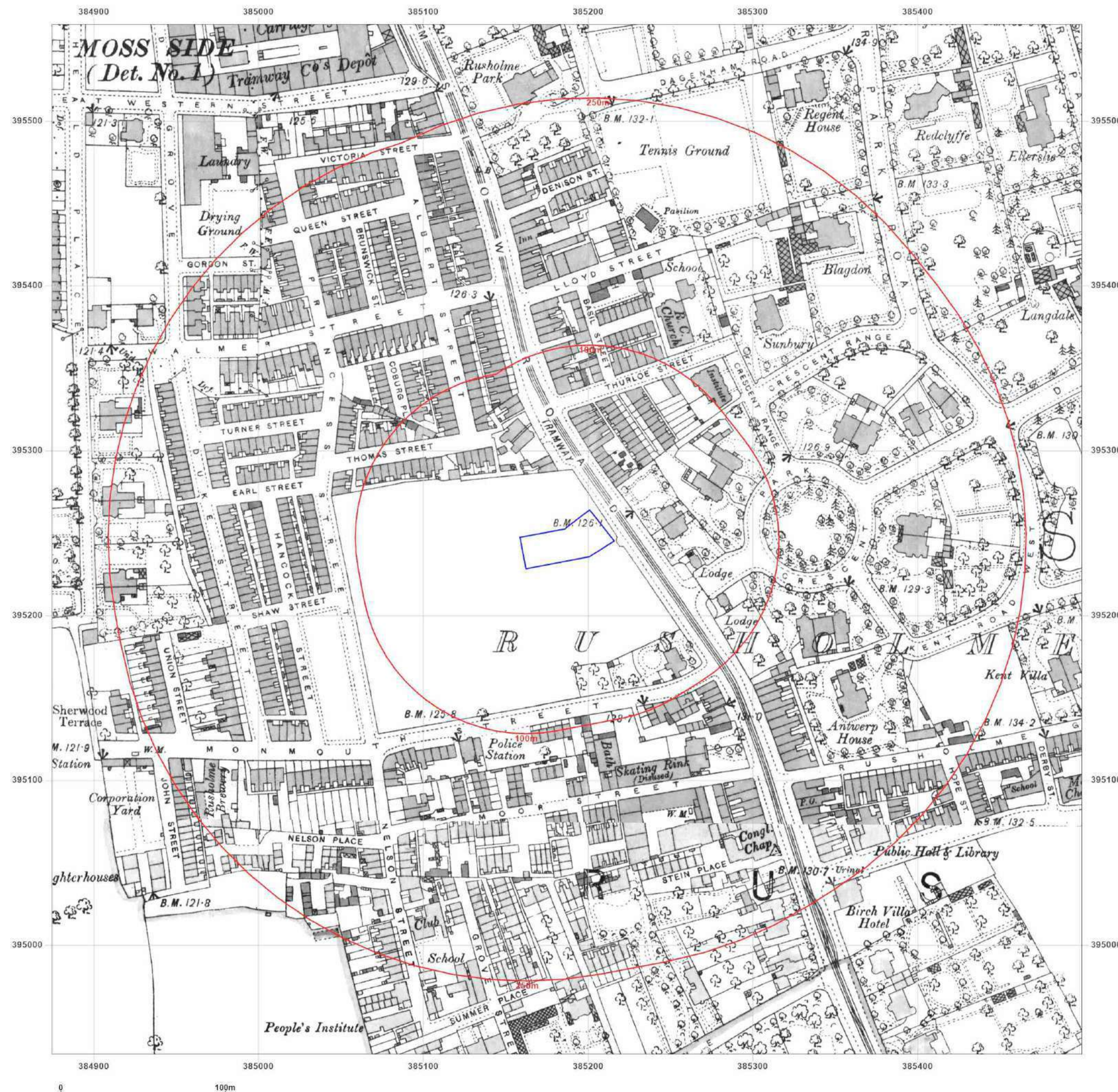


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Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: County Series

Map date: 1907-1908

Scale: 1:2,500

Printed at: 1:2,500



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Revised 1905
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Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: County Series

Map date: 1922

Scale: 1:2,500

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Site Details:

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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: County Series

Map date: 1933-1934

Scale: 1:2,500

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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1950

Scale: 1:1,250

Printed at: 1:2,000



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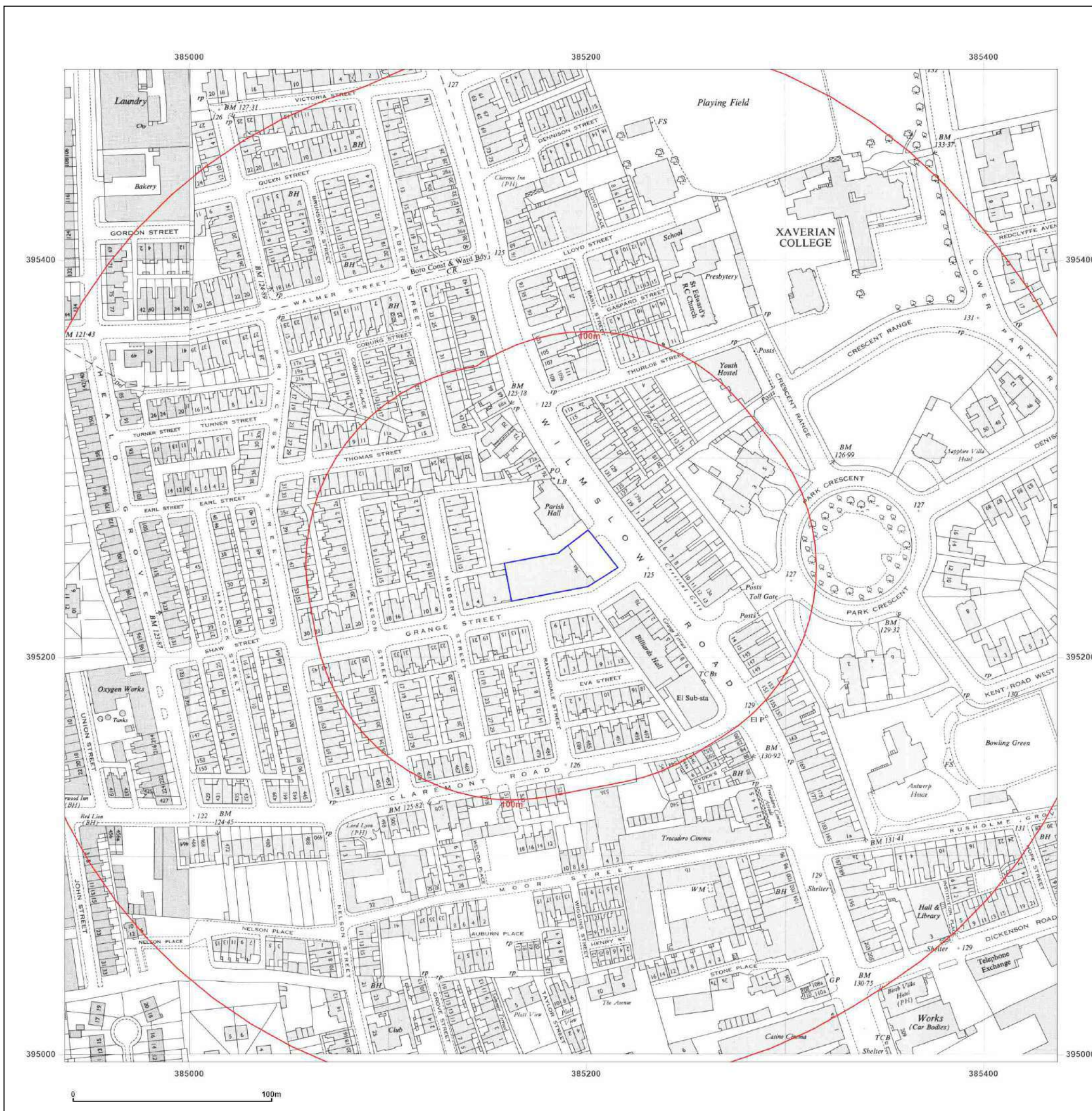


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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1950-1951

Scale: 1:2,500

Printed at: 1:2,500



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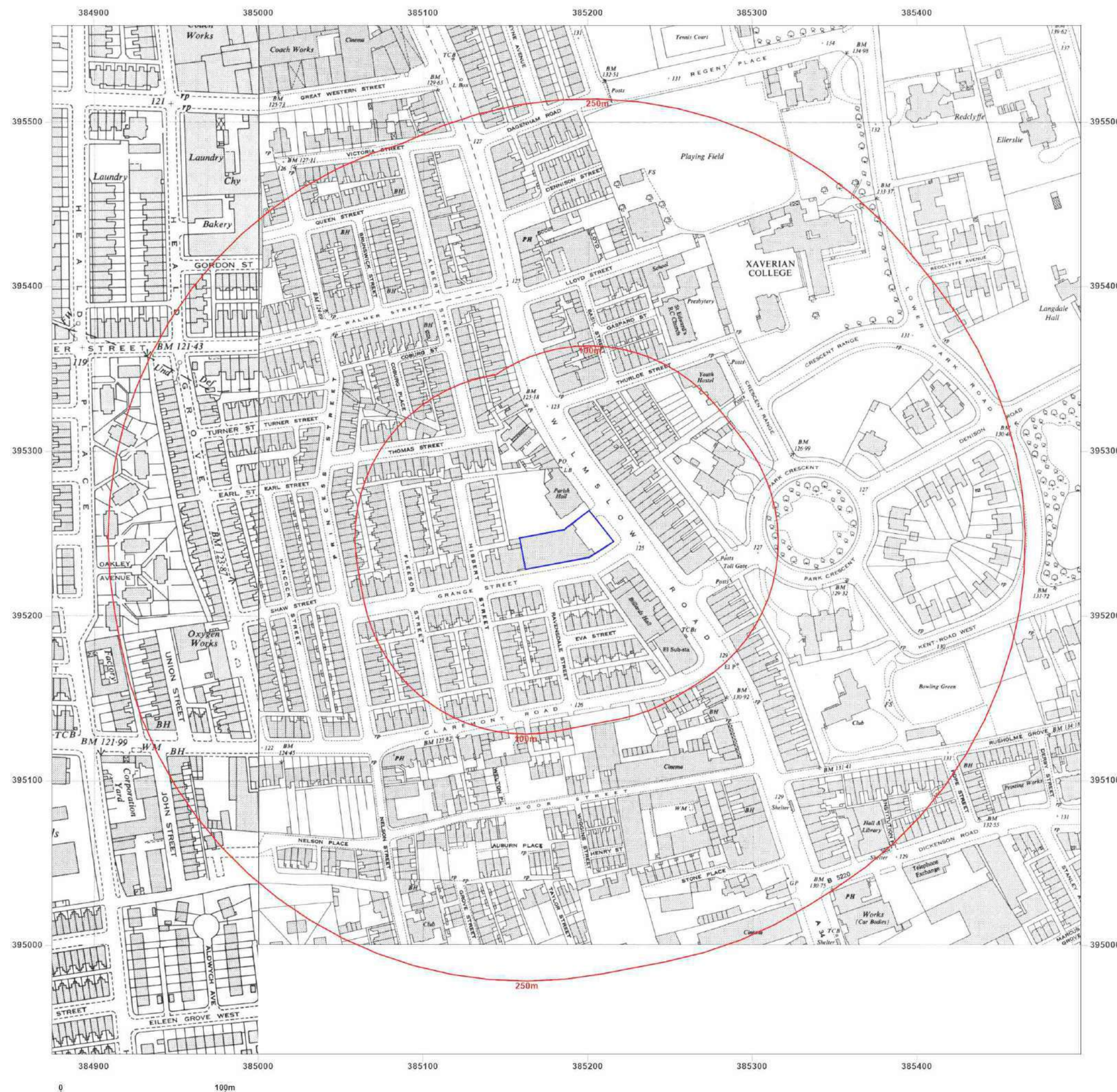


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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1951-1956

Scale: 1:1,250

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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1961

Scale: 1:1,250

Printed at: 1:2,000



Surveyed 1960
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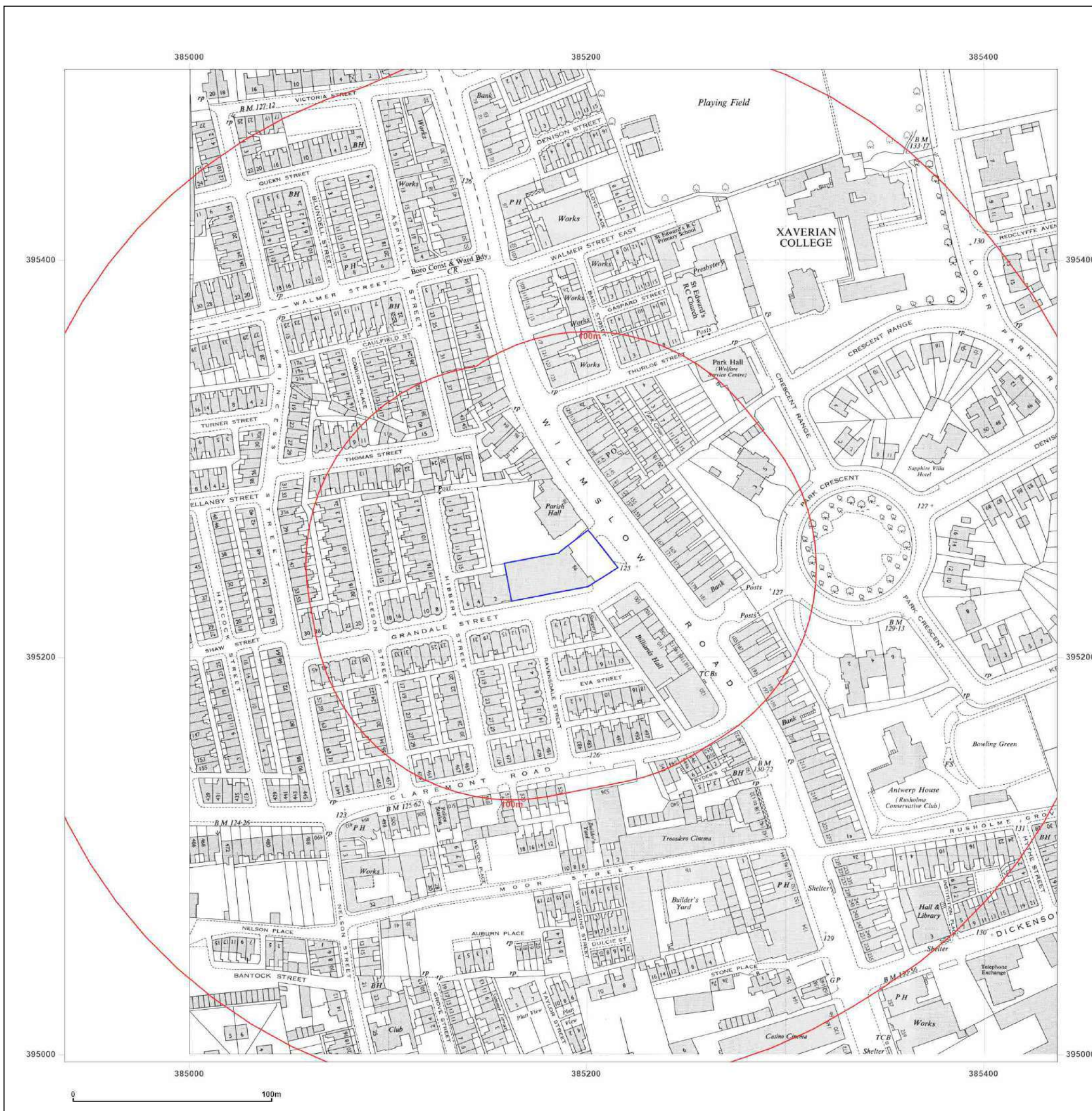


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Client Ref: 7322-21992-JD
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Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1979-1982

Scale: 1:1,250

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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1980-1983

Scale: 1:1,250

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Surveyed N/A
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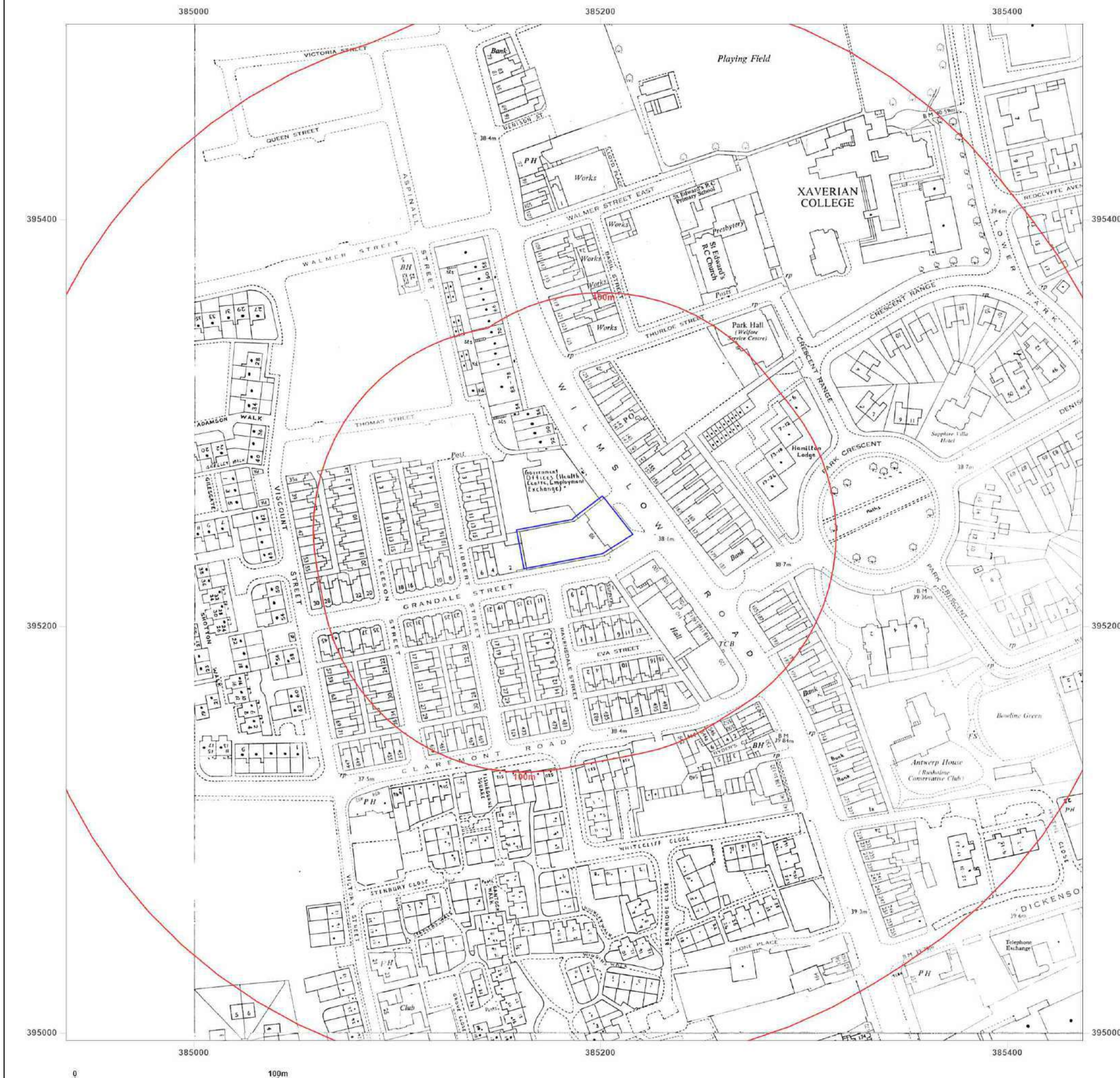


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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1983-1988

Scale: 1:1,250

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Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

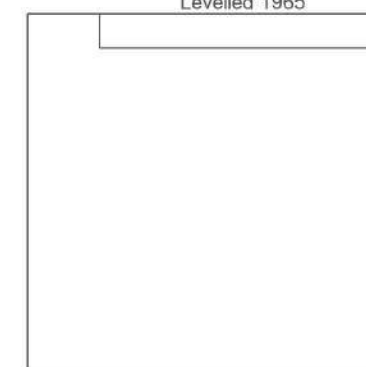
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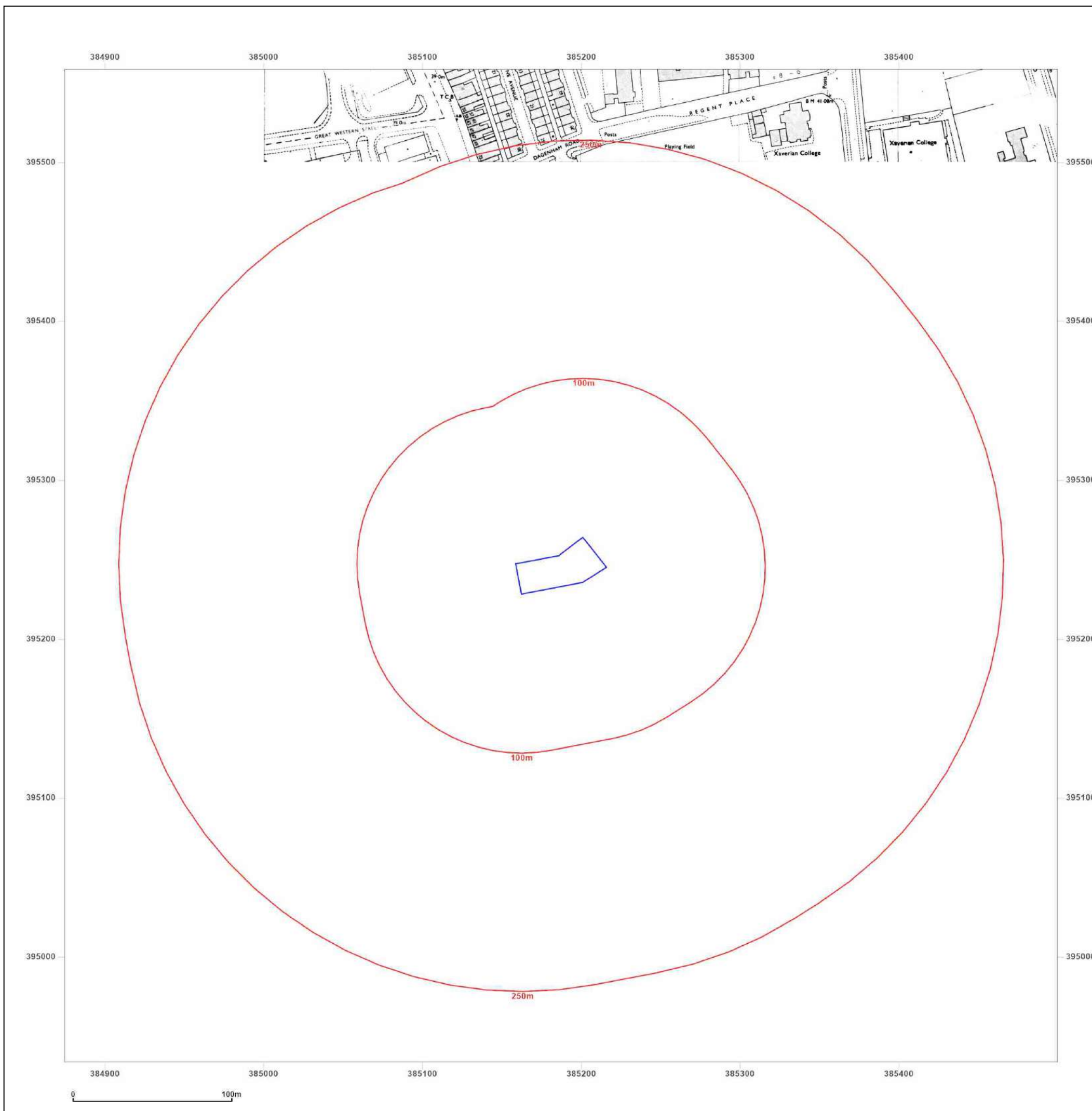


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Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1990-1992

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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1992

Scale: 1:1,250

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Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1993-1994

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Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: National Grid

Map date: 1993-1994

Scale: 1:1,250

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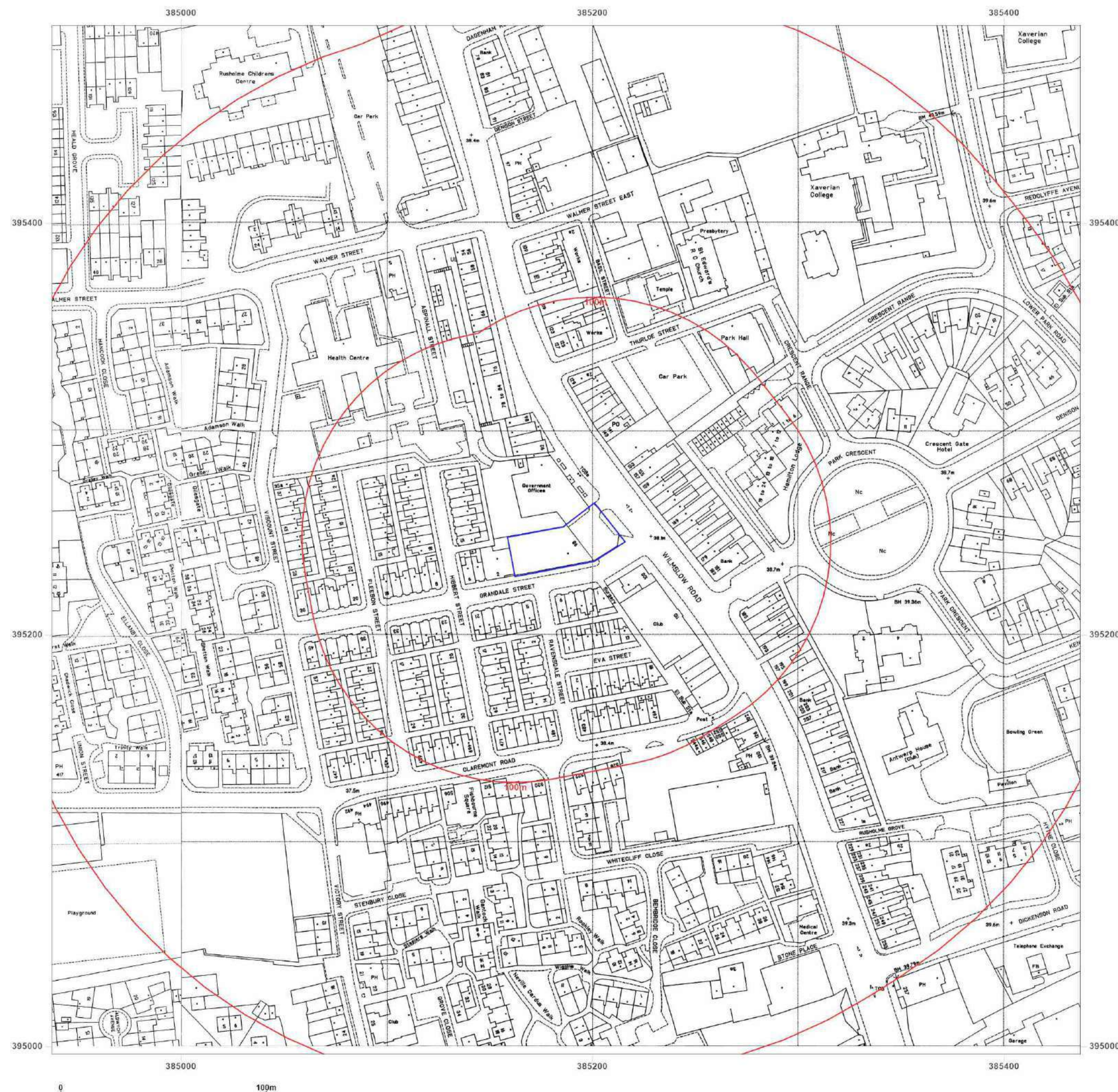


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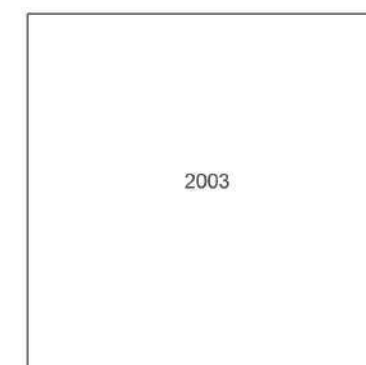
Client Ref: 7322-21992-JD
Report Ref: GS-8422680
Grid Ref: 385187, 395246

Map Name: LandLine

Map date: 2003

Scale: 1:1,250

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Appendix 4: Legislation and Planning Policy

National and European Legislation Afforded to Habitats

International Statutory Designations

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are sites of European importance and are designated under the EC Habitats Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (the Habitats Directive) and the EC Birds Directive 2009/147/EC on the conservation of wild birds respectively. Both form part of the wider Natura 2000 network across Europe.

Under the Habitats Directive the, Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe in order to conserve the 189 habitats and 788 species (non- bird) identified in Annexes I and II of the Directive (as amended).

SPAs are classified under Article 2 of the EC Birds Directive both for rare bird species (as listed on Annex I) and for important migratory species.

SACs and SPAs up to 12 nautical miles (nm) from the coast are afforded protection in the UK under the Conservation of Habitats and Species Regulations 2010 which consolidate all amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994. In Scotland, the requirements of Habitats Directive are implemented through a combination of the 1994 and the 2010 (reserved matters) Regulations. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) provide a means for designating and protecting SACs in UK offshore waters (from 12-200 nm).

Ramsar sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention covers all aspects of wetland conservation and recognises the importance of wetland ecosystems in relation to global biodiversity conservation. The Convention refers to wetlands as “areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres” however they may also include riparian and coastal zones. Ramsar sites are statutorily protected under the Wildlife & Countryside Act 1981 (as amended) with further protection provided by the Countryside and Rights of Way (CROW) Act 2000. Policy statements have been issued by the Government in England and Wales highlighting the special status of Ramsar sites. The Government in England and Wales has issued policy statements which ensure that Ramsar sites are afforded the same protection as areas designated under the EC Birds and Habitats Directives as part of the Natura 2000 network (e.g. SACs & SPAs).

National Statutory Designations

Sites of Special Scientific Interest (SSSI) are designated by nature conservation agencies in order to conserve key flora, fauna, geological or physio-geographical features within the UK. The original designations were under the National Parks and Access to the Countryside Act 1949 but SSSIs were then re-designated under the Wildlife & Countryside Act 1981 (as amended). As well as reinforcing other national designations (including National Nature Reserves), the system also provides statutory protection for terrestrial and coastal sites which are important within the European Natura 2000 network and globally. Further provisions for the protection and management of SSSIs have been introduced by the Countryside and Rights of Way Act 2000 (in England and Wales) and the Nature Conservation (Scotland) Act 2004.

Local Statutory Designations

Local authorities in consultation with the relevant nature conservation agency can declare Local Nature Reserves (LNRs) under the National Parks and Access to the Countryside Act 1949. LNRs are designated for flora, fauna or geological interest and are managed locally to retain these features and provide research, education and recreational opportunities.

Non- Statutory Designations

All non-statutorily designated sites are referred to as Local Wildlife Sites (LWS) and can be designated by the local authority for supporting local conservation interest. Combined with statutory designation, these sites are considered within Local Development Frameworks under the Town and Country Planning system and are a material consideration during the determination of planning applications. The protection afforded to these sites varies depending on the local authority involved.

Regionally Important Geological Sites (RIGs) are the most important geological and geomorphological areas outside of statutory designations. These sites are also a material consideration during the determination of planning applications.

The Hedgerow Regulations 1997

The Hedgerow Regulations 1997 are designed to protect 'important' countryside hedgerows. Importance is defined by whether the hedgerow (a) has existed for 30 years or more; or (b) satisfies at least one of the criteria listed in Part II of Schedule 1 of the Regulations.

Under the Regulations, it is against the law to remove or destroy hedgerows on or adjacent to common land, village greens, SSSIs (including all terrestrial SACs, NNRs and SPAs), LNRs, land used for agriculture or forestry and land used for the keeping or breeding of horses, ponies or donkeys without the permission of the local authority. Hedgerows 'within or marking the boundary of the curtilage of a dwelling-house' are excluded.

National and European Legislation Afforded to Species**The Habitats Directive**

The EC Habitats Directive aims to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore wild species listed on the Annexes to the Directive at a favourable conservation status, introducing robust protection for those species of European importance. The Directive is transposed into UK law by The Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations) and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended). The following notes are relevant for all species protected under the EC Habitats Directive:

In the Directive, the term 'deliberate' is interpreted as being somewhat wider than intentional and may be thought of as including an element of recklessness.

The Habitats Regulations do not define the act of 'migration' and, therefore, as a precaution, it is recommended that short distance movement of animals for e.g. foraging, breeding or dispersal purposes are also considered.

In order to obtain a European Protected Species Mitigation (EPSM) licence, the application must demonstrate that it meets all of the following three 'tests':

the action(s) are necessary for the purpose of preserving public health or safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment;

- There is no satisfactory alternative; and
- The action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

The Wildlife and Countryside Act (WCA) 1981 (as amended)

The Wildlife and Countryside Act (WCA) 1981 (as amended) implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and implements the species protection requirements of EC Birds Directive 2009/147/EC on the conservation of wild birds in Great Britain (the birds Directive). The WCA 1981 has been subject to a number of amendments, the most important of which are through the Countryside and Rights of Way (CROW) Act (2000) and Nature Conservation (Scotland) Act 2004.

Other legislative Acts affording protection to wildlife and their habitats include:

- Deer Act 1991
- Natural Environment & Rural Communities (NERC) Act 2006
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996

Badgers

Badgers *Meles meles* are protected under The Protection of Badgers Act which makes it an offence to:

- Wilfully kill, injure, take, or attempt to kill, injure or take a badger
- Cruelly ill-treat a badger, including use of tongs and digging
- Possess or control a dead badger or any part thereof
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when it is occupying a badger sett
- Intentionally or recklessly cause a dog to enter a badger sett
- Sell or offers for sale, possesses or has under his control, a live badger

Effects on development works:

A development licence will be required from the relevant countryside agency for any development works liable to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agency's to define what would constitute a licensable activity. It is not possible to obtain a licence to translocate badgers.

Birds

With certain exceptions, all birds, their nests and eggs are protected under Sections 1-8 of the WCA. Among other things, this makes it an offence to:

- Intentionally (or recklessly in Scotland) kill, injure or take any wild bird
- Intentionally (or recklessly in Scotland) take, damage or destroy (or, in Scotland, otherwise interfere with) the nest of any wild bird while it is in use or being built
- Intentionally take or destroy an egg of any wild bird
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof.
- Intentionally or recklessly obstruct or prevent any wild bird from using its nest (Scotland only)

Certain species of bird, for example the barn owl, bittern and kingfisher receive additional protection under Schedule 1 of the WCA and Annex 1 of the European Community Directive on the Conservation of Wild Birds (2009/147/EC) and are commonly referred to as "Schedule 1" birds.

This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young

- Intentional or reckless disturbance of dependent young of such a bird
- In Scotland only, intentional or reckless disturbance whilst lekking
- In Scotland only, intentional or reckless harassment

Effects on development works:

Works should be planned to avoid the possibility of killing or injuring any wild bird, or damaging or destroying their nests. The most effective way to reduce the likelihood of nest destruction in particular is to undertake work outside the main bird nesting season which typically runs from March to August. Where this is not feasible, it will be necessary to have any areas of suitable habitat thoroughly checked for nests prior to vegetation clearance.

Schedule 1 birds are additionally protected against disturbance during the nesting season. Thus, it will be necessary to ensure that no potentially disturbing works are undertaken in the vicinity of the nest. The most effective way to avoid disturbance is to postpone works until the young have fledged. If this is not feasible, it may be possible to maintain an appropriate buffer zone or standoff around the nest.

Herpetofauna (Amphibians and reptiles)

The sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita*, pool frog *Pelophylax lessonae* and great crested newt *Triturus cristatus* receive full protection under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

With the exception of the pool frog, these species are also listed on Schedule 5 of the WCA and they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection
- Selling, offering or exposing for sale, possession or transporting for purpose of sale.

Other native species of herpetofauna are protected solely under Schedule 5, Section 9(1) & (5) of the WCA, i.e. the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis*. It is prohibited to:

- Intentionally or recklessly kill or injure these species.

Effects on development works:

A European Protected Species Mitigation (EPSM) Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect the breeding sites or resting places amphibian and reptile species protected under Habitats Regulations. A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow derogation from the relevant legislation, but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the WCA.

Water voles

The water vole *Arvicola terrestris* is fully protected under Schedule 5 of the WCA. This makes it an offence to:

- Intentionally kill, injure or take (capture) water voles
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection
- Intentionally or recklessly disturb water voles while they are occupying a structure or place used for shelter or protection

Effects on development works:

If development works are liable to affect habitats known to support water voles, the relevant countryside agency must be consulted. It must be shown that means by which the proposal can be re-designed to avoid contravening the legislation have been fully explored e.g. the use of alternative sites, appropriate timing of works to avoid times of the year in which water voles are most vulnerable, and measures to ensure minimal habitat loss. Conservation licences for the capture and translocation of water voles may be issued by the relevant countryside agency (e.g. Natural England) for the purpose of development activities if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will then only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of works.

Otters

Otters *Lutra lutra* are fully protected under the Conservation Regulations through their inclusion on Schedule 2.

Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Otters are also currently protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

An EPSM Licence issued by the relevant countryside agency (e.g. Natural England) will be required for works liable to affect otter breeding or resting places (often referred to as holts, couches or dens) or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, and rear young). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored

Bats

All species are fully protected by Habitats Regulations 2010 as they are listed on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (e.g. All bats)
- Deliberate disturbance of bat species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate

- To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Bats are afforded the following additional protection through the WCA as they are included on Schedule 5:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

Works which are liable to affect a bat roost or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Dormice

Dormice *Muscardinus avellanarius* are fully protected under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Dormice are also protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

Works which are liable to affect a dormice habitat or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

White clawed crayfish

The white clawed crayfish *Austropotamobius pallipes* receives partial protection under Schedule 5 of the WCA in respect of Sections 9(1) and 9(5). This makes it an offence to:

- Intentionally take (capture) white-clawed crayfish.

Effects on development works:

The relevant countryside agency will need to be consulted about development which could impact on a watercourse or wetland known to support white clawed crayfish. Conservation licences for the capture and translocation of crayfish can be issued if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of the works.

Wild Mammals (Protection Act) 1996

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it an offence 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.

To avoid possible contravention, due care and attention should be taken when carrying out works (for example operations near burrows or nests) with the potential to affect any wild mammal in this way, regardless of whether they are legally protected through other conservation legislation or not.

Legislation afforded to Plants

With certain exceptions, all wild plants are protected under the WCA. This makes it an offence for an 'unauthorised' person to intentionally (or recklessly in Scotland) uproot wild plants. An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.

Certain rare species of plant, for example some species of orchid, are also fully protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). This prohibits any person from:

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)
- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof
- In addition to the UK legislation outlined above, several plant species are fully protected under Schedule 5 of The Conservation of Habitats and Species Regulations 2010. These are species of European importance. Regulation 45 makes it an offence to:
 - Deliberately pick, collect, cut, uproot or destroy a wild Schedule 5 species
 - Be in possession of, or control, transport, sell or exchange, or offer for sale or exchange any wild live or dead Schedule 5 species or anything derived from such a plant.

Effects on development works:

An EPSM licence will be required from the relevant countryside agency for works which are liable to affect species of planted listed on Schedule 5 of the Conservation of Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Invasive Species

Part II of Schedule 9 of the WCA lists non-native invasive plant species for which it is a criminal offence in England and Wales to plant or cause to grow in the wild due to their impact on native wildlife. Species included (but not limited to):

- Japanese knotweed *Fallopia japonica*
- Giant hogweed *Heracleum mantegazzianum*
- Himalayan balsam *Impatiens glandulifera*

Effects on development works:

It is not an offence for plants listed in Part II of Schedule 9 of the WCA 1981 to be present on the development site however it is an offence to cause them to spread. Therefore, if any of the species are present on site and construction activities may result in further spread (e.g. earthworks, vehicle movements) then it will be necessary to design and implement appropriate mitigation prior to construction commencing.

Injurious weeds

Under the Weeds Act 1959 any land owner or occupier may be required prevent the spread of certain 'injurious weeds' including (but not limited to):

- Spear thistle *Cirsium vulgare*
- Creeping thistle *Cirsium arvense*
- Curled dock *Rumex crispus*
- Broad-leaved dock *Rumex obtusifolius*
- Common ragwort *Senecio jacobaea*

It is a criminal offence to fail to comply with a notice requiring such action to be taken. The Ragwort Control Act 2003 establishes a ragwort control code of practice as common ragwort is poisonous to horses and other livestock. This code provides best practice guidelines and is not legally binding.

NATIONAL PLANNING POLICY (ENGLAND)**National Planning Policy Framework**

The National Planning Policy Framework promotes sustainable development. The Framework specifies the need for protection of designated sites and priority habitats and species. An emphasis is also made on the need for ecological infrastructure through protection, restoration and re-creation. The protection and recovery of priority species (considered likely to be those listed as UK Biodiversity Action Plan priority species) is also listed as a requirement of planning policy.

In determining a planning application, planning authorities should aim to conserve and enhance biodiversity by ensuring that: designated sites are protected from harm; there is appropriate mitigation or compensation where significant harm cannot be avoided; opportunities to incorporate biodiversity in and around developments are encouraged; and planning permission is refused for development resulting in the loss or deterioration of irreplaceable habitats including aged or veteran trees and also ancient woodland.

The Natural Environment and Rural Communities Act 2006 and the Biodiversity Duty

Section 40 of the Natural Environment and Rural Communities (NERC) Act, 2006, requires all public bodies to have regard to biodiversity conservation when carrying out their functions. This is commonly referred to as the 'biodiversity duty'.

Section 41 of the Act (Section 42 in Wales) requires the Secretary of State to publish a list of habitats and species which are of 'principal importance for the conservation of biodiversity.' This list is intended to assist decision makers such as public bodies in implementing their duty under Section 40 of the Act. Under the Act these habitats and species are regarded as a material consideration in determining planning applications. A developer must show that their protection has been adequately addressed within a development proposal.