

Ecological Impact Assessment

Land at Benton Street, Manchester, M9 4NG

One Manchester

Revision B – November 2023



ecology

SITE NAME			
Land at Benton Street, Manchester M9 4NG			
GRID REFERENCE		DOCUMENT REFERENCE	
SD8694101400		LM0118]EcIA[Land at Benton Street] Rev B	
SITE DESIGNATION		LOCAL AUTHORITY	
None		Manchester City Council	
	NAME	QUALIFICATIONS	DATE
PRINCIPAL AUTHOR	Louisa Molloy	Consultant Ecologist; BSc (Hons)	21/07/2023
REVIEWED BY	Elizabeth McBride	Consultant Ecologist; BSc (Hons); MCIEEM	25/07/2023
REVISION HISTORY			
REVISION	DATE	AUTHOR	DESCRIPTION
A	July 2023	LM	Original based on Schedules and Site – Drawing No. 105 Rev 1 dated 11/11/20.
B	November 2023	LM	Update due to revised layout shown in Schedules and Site Plan – Drawing No. 105 Rev 9 dated 15/06/21

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TABLE OF CONTENTS

A	SUMMARY	4
B	INTRODUCTION	5
C	SITE DESCRIPTION	5
D	METHODOLOGY.....	6
D.1	Desk Study	6
D.2	Field Survey.....	6
E	RESULTS	8
E.1	Designated Sites.....	8
E.2	Habitats	8
E.3	Species.....	9
F	IMPACT ASSESSMENT	12
F.1	Proposals.....	12
F.2	Impact Assessment and Mitigation.....	12
F.3	Compensation.....	15
F.4	Enhancement.....	15
G	CONCLUSIONS.....	16
H	REFERENCES	17

TABLES

TABLE 1 CONSULTED RECORDS ORGANISATIONS.....	6
TABLE 2 SURVEY DATES, TYPES, PERSONNEL, AND ENVIRONMENTAL CONDITIONS	6

APPENDIX A

- A.1 Location Plan
- A.2 Designated Sites Summary
- A.3 UKHab Survey Plan
- A.4 Site Images
- A.5 Species List

APPENDIX B

- Legislation

A SUMMARY

- 1 The purpose of this report is to identify and describe the presence of any protected or notable habitats or species within and in the immediate vicinity of the site and to set out the avoidance, mitigation and compensation measures to ensure compliance with nature conservation legislation, where appropriate.
- 2 This assessment has been undertaken in accordance with Guidelines for Ecological Impact Assessment in the UK and Ireland, published in September 2018 by the Chartered Institute of Ecology and Environmental Management (CIEEM, 2018).
- 3 The site habitats are considered to be of importance to nature conservation at the site level only. The site is not considered to be of importance to any species or species group at greater than site level.
- 4 Mitigation measures to protect nesting birds in the site clearance phase of the development, and hedgehog in the construction and operational phases of the development, should be adopted to ensure the potential impacts on these species/species groups are reduced/removed. The mitigation measures can be secured through a planning condition requiring a Construction Environment Management Plan (CEMP) to be produced.
- 5 There is limited scope to compensate for habitat losses on site. A Biodiversity Gain Assessment (BNGA) has been carried out to address these losses and has been provided in a separate report (LM Ecology, 2023).
- 6 Enhancement recommendations for roosting bats and nesting birds are included. These should be included by the developer on submitted plans. If this is not supplied, the inclusion of the enhancements in the proposed scheme can be secured through a planning condition requiring an Ecological Enhancement Plan (EEP) to be produced.
- 7 The results and measures contained in this report are valid for up to two years from the date of publication of Revision A: July 2023.

B INTRODUCTION

8 LM Ecology was commissioned on 15th May 2023 by One Manchester to carry out a Preliminary Ecological Appraisal of Land at Benton Street, Manchester M9 4NG. A plan showing the broad location of the site is included in APPENDIX A as A.1.

9 The survey was commissioned in relation to proposals to develop the site for housing, which will comprise five dwellings with associated hard and soft landscaping.

The purpose of this report is:

- To identify and describe all potentially significant ecological effects associated with the proposals.
- To set out avoidance and/or mitigation measures required to ensure compliance with nature conservation legislation and to address any potentially significant ecological effects, where appropriate.
- To provide an assessment of the significance of any residual effects; and
- To identify appropriate compensation and enhancement measures, where appropriate.

10 Legislation relating to designated sites, protected species and habitats is detailed in APPENDIX B. Any legislation relevant to the site is detailed within the body of the report where necessary.

C SITE DESCRIPTION

11 The site is a parcel of publicly accessible amenity grassland covering an area of approximately 0.16ha, situated in the suburb of Moston, Manchester. It is bounded by housing to the east and west, further housing and Benton Street to the north, and grassland to the south.

D METHODOLOGY

D.1 Desk Study

12 Species and site information was requested from the organisations listed in Table 1 below.

Table 1 Consulted Records Organisations

DATE CONSULTED	ORGANISATION	RECORDS REQUESTED
06/07/2023	Greater Manchester Local Records Centre (GMLRC)	All Sites of Biological Importance and protected and notable species records from within a 1km radius of the site.
07/07/2023	Multi-agency Geographic Information for the Countryside (MAGIC)	Local Nature Reserves, National Nature Reserves, Ancient Woodland, Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty, Special Areas of Conservation, Special Protection Areas, Important Bird Areas, National Parks and Ramsar sites, from within a 2km radius of the site.
		Granted EPSM licences for bats and GCN from within a 2km radius of the site.
		Great Crested Newt Class Survey Licence Returns from within a 2km radius of the site
		Great Crested Newt Pond Surveys results 2017 – 2019 from within a 2km radius of the site.

D.2 Field Survey

13 Table 2 lists the surveys carried out by LM Ecology. Summary methodologies are also provided below.

Table 2 Survey Dates, Types, Personnel, and Environmental Conditions

DATE(S)	SURVEY TYPE	PERSONNEL	TIMINGS AND ENVIRONMENTAL CONDITIONS
22/06/2023	UK Habitat Classification Survey	Louisa Molloy (Consultant Ecologist, BSc (Hons), NE Bat Licence 2016-22694-CLS-CLS) and Elizabeth McBride (Consultant Ecologist, BSc (Hons), MCIEEM, NE Bat Licence 2017-29301-CLS-CLS)	Temp: 20°C; Wind: 7mph SW; Precipitation: none; Cloud Cover: 40%
	Bats Ground-based Risk Assessment of Trees		
	Other Protected and Notable Species Risk Assessment		

D.2.1 UK Habitat Classification (UKHab) Survey

14 The survey was carried out in accordance with the UK Habitat Classification (UKHab) methodology (Butcher, et al., 2020). The habitats within the boundary of the survey site were broadly mapped, with the principal habitat types and the dominant plant species identified within each habitat type. A digital habitat map and botanical species lists were produced for the site.

D.2.2 Bats – Ground-based Risk Assessment of Trees

- 15 Trees within the curtailment of the site, where appropriate, were visually assessed from the ground for potential bat roosting features in accordance with the methods outlined in current survey guidance (Collins, J (ed.), 2016).
- 16 Each tree was inspected for features which may be used by roosting bats including natural holes, woodpecker holes, cracks/splits in major limbs, loose bark, dense thick-stemmed ivy, hollows, cavities and bird or bat boxes.
- 17 When a roost is positively identified during the assessment, the tree within which the roost is identified is classed as roost present. Other trees are classed as having high, moderate, low, or negligible potential to contain bats roosts based upon the number and quality of features present, and the trees position in relation to surrounding environs.

D.2.3 Other Protected and Notable Species Risk Assessment

- 18 The site and adjacent habitats were assessed for the suitability to support and/or searched for field signs indicating the presence of other protected and notable species.

D.2.4 Limitations

- 19 No limitations to a successful Preliminary Ecological Appraisal were present.

E RESULTS

E.1 Designated Sites

20 A tabulated summary of the identified designated sites is included in APPENDIX A as A.2.

E.1.1 Non-statutory Sites

21 There are no non-statutory sites within or immediately adjacent to the site. There are two locally designated Sites of Biological Importance (SBI) within a 1km radius of the site, one of which is also Ancient and Semi-natural Woodland (ASNW), with a second area of ASNW within a 2km radius.

22 The closest SBI is Broadhurst Clough, which is approximately 870m east of the site. Boggart Hole Clough, which is both an SBI and ASNW, is located approximately 950m north/northwest. Bailey's Wood ASNW is located 1.8km north/northwest.

E.1.2 Statutory Sites

23 There are no statutory sites within or immediately adjacent to the site. There are two statutory sites within a 2km radius of the site.

24 Both statutory sites are Local Nature Reserves (LNR) and are the sites already identified in section E.1.1 above (Broadhurst Clough and Boggle Hole Clough). Broadhurst Clough is Manchester's newest LNR and Boggle Hole Clough is the largest woodland clough in Manchester.

E.1.3 Impact Risk Zone for SSSI/SAC/SPA/Ramsar Site

25 The site falls within the Impact Risk Zone (IRZ) of at least one nationally important site. However, the scale and nature of the proposal does not match any of the development categories for this IRZ. As a result, the proposal is considered unlikely to pose a risk to the site(s).

E.2 Habitats

26 A UKHab Survey plan, site images and a species list are included in APPENDIX A as A.3 to A.5.

E.2.1 g4 Modified grassland

27 The main site habitat is regularly mown species poor amenity grassland, with a narrow strip of tall ruderal vegetation along the south/southwest boundary fence where mowing does not occur, and some ornamental shrubs, probably planted by residents from the adjacent dwellings, along the northern boundary. Species present include abundant Yorkshire fog *Holcus lanatus*, with frequent perennial rye-grass *Lolium perenne*, common bent *Agrostis capillaris*, ribwort plantain *Plantago lanceolata* and white clover *Trifolium repens*, and

occasional dandelion *Taraxacum officinale* agg., common mouse-ear *Cerastium fontanum* and smooth tare *Vicia tetrasperma*.

E.2.2 h3d Bramble scrub

- 28 A dense bank of bramble *Rubus fruticosus* agg. scrub is located in the western corner of the site.

E.2.3 u1c Artificial unvegetated; unsealed surface

- 29 This habitat is present in the form of an unmade track located to the north of the site. No vegetative species are associated with this habitat type.

E.2.4 11 Scattered Trees

- 30 A single self-set young ash *Fraxinus excelsior* tree is present in the northeast corner of the site.

E.3 Species

E.3.1 Amphibians

- 31 No great crested newt (GCN) *Triturus cristatus* records were provided by Greater Manchester Local Records Centre (GMLRC) from within a 1km radius of the site. The search of the MAGIC database did not show the presence of any granted European Protected Species (EPS) mitigation licences for GCN, and GCN class licence returns, or any GCN Pond Survey 2017 to 2019 dataset results, from within a 2km radius of the site.
- 32 No waterbodies were identified within a 1km search radius of the site. There are no waterbodies within the site, and the site habitats offer negligible suitability for terrestrial GCN and other amphibian species.
- 33 Taking into account the lack of records and waterbodies, and the lack of suitable terrestrial habitat on-site for amphibians, GCN (and other amphibians) are highly unlikely to be impacted by the proposed scheme.

E.3.2 Badger

E.3.3 GMLRC provided three badgers records from within a 2km radius of the site. Two of these are records of setts from 2014 and 2015, both of which are located over 750m from the site. The third is a record of a live badger sighting from 2021 located approximately 850m from the site.

E.3.4 No evidence of badger activity was observed within or immediately adjacent to the site during the survey. Badgers are a highly mobile species able to commute large distances for foraging purposes, and it is possible that badgers in the locality may make incidental use of the site as part of wider foraging activity. However, it is unlikely that they will be impacted negatively by the site proposals.

E.3.5 Bats

E.3.5.1 Ground-based Risk Assessment of Trees

34 The single ash tree within the site does not support any potential roost features (PRFs). As a result, it has been assessed as having negligible suitability to support roosting bats.

E.3.5.2 Biological Records

35 A total of thirty-eight bat records from within a 1km radius of the sites were returned by GMLRC. Species positively identified in the records include common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *P. pygmaeus*, Daubenton's bat *Myotis daubentonii*, and noctule *Nyctalus noctula*. None of the records are from the site, with the closest being a record of an injured common pipistrelle bat located approximately 190m northwest of the site. Six of the records are for roosts, with the two closest being between 370m and 420m from the site. One is of a common pipistrelle maternity roost and the other of a common pipistrelle day roost, both from 2017.

36 The MAGIC database does not hold any records of granted EPS mitigation licences for bats from within a 2km radius of the site.

E.3.5.3 Habitat Assessment

37 The site habitats are composed mainly of species poor closely mown grassland and whilst there are areas of suitable bat foraging habitat in the locality, the site itself offers negligible suitability for foraging and commuting bats.

E.3.6 Birds

38 The bramble scrub, ornamental shrubs and single ash tree within the site have the potential to support individual or low numbers of nesting birds in the main bird nesting season. It is also likely that the grassland provides a foraging resource for species such as starling *Sturnus vulgaris*, wood pigeon *Columba palumbus*, and black bird *Turdus merula*.

E.3.7 Controlled Invasive Species

39 No controlled invasive species are present within or immediately adjacent to the site.

E.3.8 Hedgehog

- 40 Seven hedgehog *Erinaceous europaeus* records were provided by GMLRC from within a 1km radius of the site. None of the records are for the site; however, two of the records are located approximately 200m east/northeast and are of live hedgehog sightings from 2020. The bramble scrub within the site has minor suitability to support nesting hedgehogs and there is the potential for hedgehogs present in the locality to make use of the site as part of a wider foraging area.

E.3.9 Invertebrates

- 41 Considering the ubiquitous nature of the site habitats, it is considered unlikely that notable invertebrate assemblages would be present.

E.3.10 Reptiles

- 42 No reptile records were provided by GMLRC from within a 1km radius of the site, and the site habitats have negligible suitability to support reptiles. As a result, reptiles are considered highly unlikely to be impacted by the proposed scheme.

F IMPACT ASSESSMENT

F.1 Proposals

- 43 The proposals are to develop the site for housing, which will comprise six dwellings with associated hard and soft landscaping. None of the existing site habitats can be retained in the proposals. This assessment is based on the plan *Schedules and Site Plan AS-BTP-00-SP-DR-A-4243_105.9 Revision 9* by BTP Architects dated 21st June 2021.

F.2 Impact Assessment and Mitigation

F.2.1 Designated Sites

- 44 The scale and nature of the development proposals are highly unlikely to have any negative impacts on any of the identified designated sites. As a result, no further consideration is required at this stage.

F.2.2 Habitats

- 45 The grassland, scrub and single young self-set tree are relatively species poor and common and widespread both locally and nationally. The loss of these habitats poses a negligible insignificant impact at site level.

F.2.3 Species

F.2.3.1 Amphibians

- 46 Survey and assessment have determined that GCN and other amphibian species are highly unlikely to be impacted by the proposed scheme. As a result, no further consideration of GCN or other amphibians is required at this stage.

F.2.3.2 Badger

- 47 Survey and assessment have determined that badger is highly unlikely to be impacted by the proposed scheme. As a result, no further consideration of badger is required at this stage.

F.2.3.3 Bats

- 48 There are no potential bat roosting habitats within the site, and the site habitats are considered to offer negligible suitability for foraging and commuting bats. As a result, it is considered highly unlikely that roosting, foraging or commuting bats will be impacted by the proposed scheme and no further consideration of this species group is required at this stage.

F.2.3.4 Birds

F.2.3.4.1 Predicted Impacts

Habitat Loss

- 49 The loss of a single young self-set tree and a small area of bramble scrub poses a negligible insignificant impact at the site level to nesting birds.

50 The loss of the site grassland will result in the loss of suitable foraging habitat for local birds. However, as there is an abundance of similar habitats in the immediate and wider area, and because the vegetated gardens of the proposed scheme will eventually provide an alternative foraging resource for local birds, the predicted impacts from these losses are considered to be negligible insignificant at site level.

Killing/Injury/Damage/Destruction

51 There is potential for the single tree and scrub to support nesting birds during the main bird nesting season. As a result, there is the potential for moderate negative significant impacts at site level on individual nesting birds if these features are removed within the main bird nesting season (i.e., between March and August inclusive).

F.2.3.4.2 Mitigation

Habitat Loss

52 There is no mitigation for habitat loss.

Killing/Injury/Damage/Destruction

53 The nests of all wild bird species are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage, or destroy the eggs, young or nest whilst it is being built or in use.

54 Therefore, the following Reasonable Avoidance Measures (RAMs) will be put in place for the duration of the proposed development works to protect nesting birds:

- In order to minimise the risks to nesting birds, tree and scrub removal will take place outside of the main bird nesting season (the bird nesting season is classed as March to August inclusive).
- It may be possible to carry out tree and scrub removal within the main bird nesting season if a pre-works survey carried out by a suitably qualified Ecologist determines that no active nests are present.

F.2.3.4.3 Residual Effects

Habitat Loss

55 Residual effects in relation to habitat loss remain negligible insignificant.

Killing/Injury/Damage/Destruction

56 With the recommended mitigation measures in place there will be no significant or insignificant residual effects.

F.2.3.5 Controlled Invasive Species

57 There are no controlled invasive species within or immediately adjacent to the site. As a result, no further consideration is required at this stage.

F.2.3.6 Hedgehog

58 Hedgehogs are present in the locality, and it is considered possible that they may incidentally utilise the site habitats as part of a wider foraging area.

F.2.3.6.1 Potential Impacts

59 There is potential for hedgehogs to be present in the bramble scrub, and for them to become trapped in excavations during the site clearance and construction phases of the development. During the operational phase of the development there is the potential for the boundary fences of the proposed new dwellings to impede the free movement of hedgehogs through the site. Without mitigation these activities pose a moderate negative significant impact at site level.

F.2.3.6.2 Mitigation

60 The following RAMs will be put in place to ensure the protection of hedgehogs throughout the site clearance and construction phase of the development:

- Care will be taken during all works on site in case hedgehogs are encountered.
- Hedgehogs can shelter beneath dense scrub – where possible, such features should be removed by hand/hand tools and in the event that a hedgehog is found, it should be moved carefully with gloved hands to a place of shelter, away from the footprint of works.
- Any excavations will be covered overnight and/or left with a suitable ramped escape.
- Any open pipework over 150mm outside diameter will be blanked overnight.

61 Where installed, internal and external boundary fencing will include hedgehog highways to allow free movement of hedgehogs across the site. This can be achieved by cutting a hole at the base of a fence c. 13cm x 13cm and/or by installing custom gravel boards with pre-cast holes for hedgehogs in them. There should be at least one hole per internal and external boundaries.

F.2.3.6.3 Residual Effects

62 With these measures in place, any potential negative impacts on hedgehogs from the proposed development are removed.

F.2.3.7 Invertebrates

63 It is considered highly unlikely that the site habitats support important invertebrate assemblages. As a result, no further consideration of invertebrates is required at this stage.

F.2.3.8 Reptiles

Survey and assessment have determined that reptiles are highly unlikely to be impacted by the proposed scheme. As a result, no further consideration of reptiles is required at this stage.

F.3 Compensation

64 Residual effects in relation to the loss of the site habitats, and loss of nesting and foraging habitats for birds, are negligible insignificant at site level.

65 There is very limited opportunity to compensate for habitat loss on-site, and these losses have been dealt with by a Biodiversity Net Gain Assessment, the results of which are a separate report (*LM Ecology, 2023*). However, the creation of lawned gardens will likely provide a replacement foraging resource for local birds.

F.4 Enhancement

66 In accordance with the aims of the National Planning Policy Framework it is suggested that the developer implements the enhancement recommendations below:

- The proposed scheme should include a total of four wall integrated bat boxes across the new dwellings (one on each aspect) to provide a range of suitable roosting conditions for bats throughout the year. Boxes should be situated as close to the eaves/gable apexes as possible, away from artificial light spill, and not above doors or windows.
- The proposed scheme should include a total of four wall integrated swift *Apus apus* boxes installed on the north or east facing elevations of the new dwellings. The boxes should be at least 5m from the ground, c. 50cm apart, and not above doors or windows. Swift boxes have been shown to act as a universal nest box, with usage demonstrated by all four of the UK's red listed building nesting birds i.e., swift, starling, house martin *Delichon urbicum*, and house sparrow *Passer domesticus*, so are considered a potential enhancement for more than one bird species.

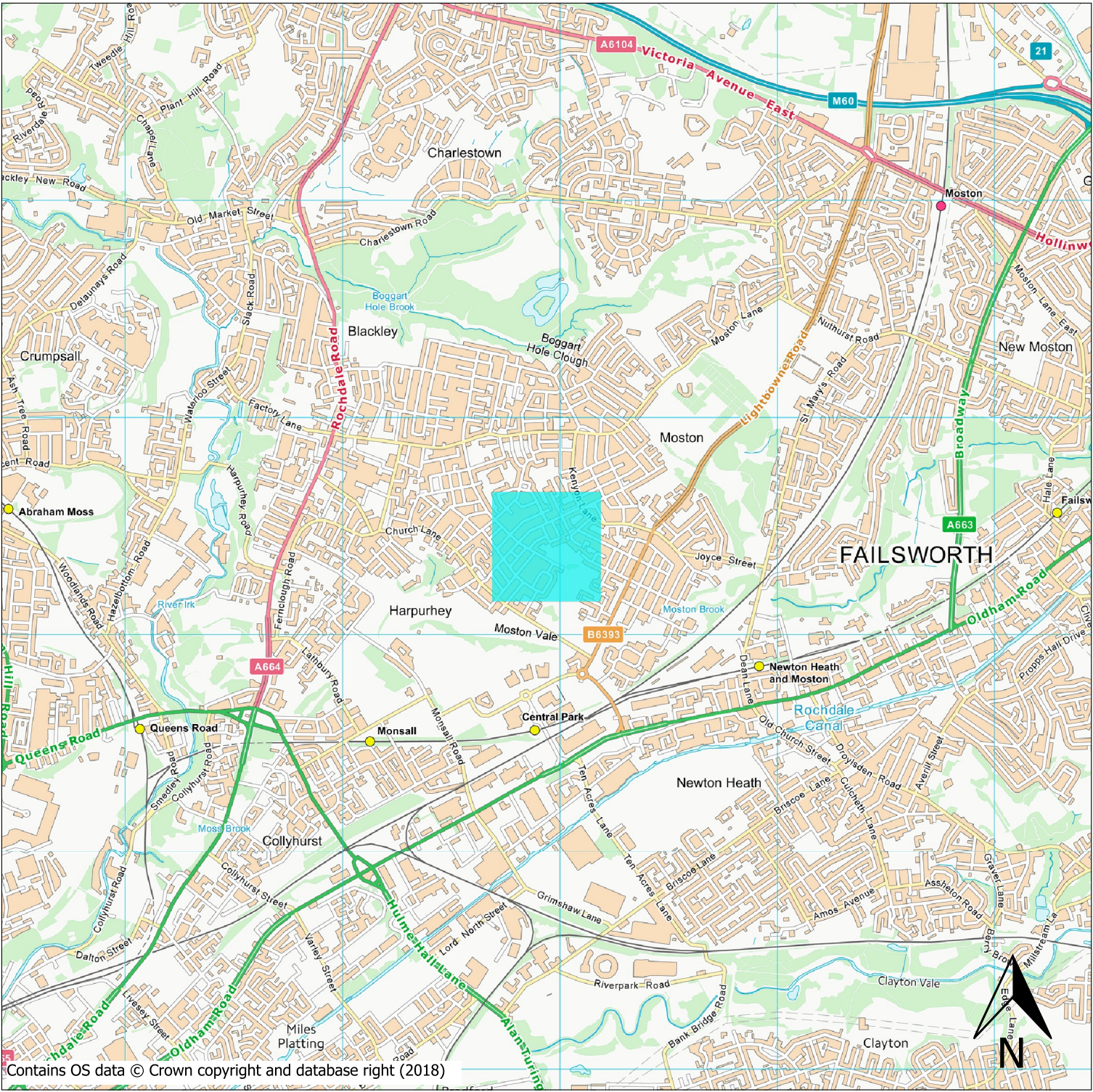
G CONCLUSIONS

- 67 The site habitats are considered to be of importance to nature conservation at the site level only. The site is not considered to be of importance to any species or species group at greater than site level.
- 68 Mitigation measures to protect nesting birds in the site clearance phase of the development, and hedgehog in the construction and operational phases of the development, should be adopted to ensure the potential impacts on these species/species groups are reduced/removed. The mitigation measures can be secured through a planning condition requiring a Construction Environment Management Plan (CEMP) to be produced.
- 69 There is limited scope to compensate for habitat losses on site. A Biodiversity Gain Assessment (BNGA) has been carried out to address these losses and has been provided in a separate report (LM Ecology, 2023).
- 70 Enhancement recommendations for roosting bats and nesting birds are included. These should be included by the developer on submitted plans. If this is not supplied, the inclusion of the enhancements in the proposed scheme can be secured through a planning condition requiring an Ecological Enhancement Plan (EEP) to be produced.
- 71 The results and measures contained in this report are valid for up to two years from the date of publication of Revision A: July 2023.

H REFERENCES

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- Ministry of Housing, Communities and Local Government, 2019. *National Planning Policy Framework*, London: HMSO.

APPENDIX A



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Indicative only
Do not scale from plan

0 1 2 3 km

Legend

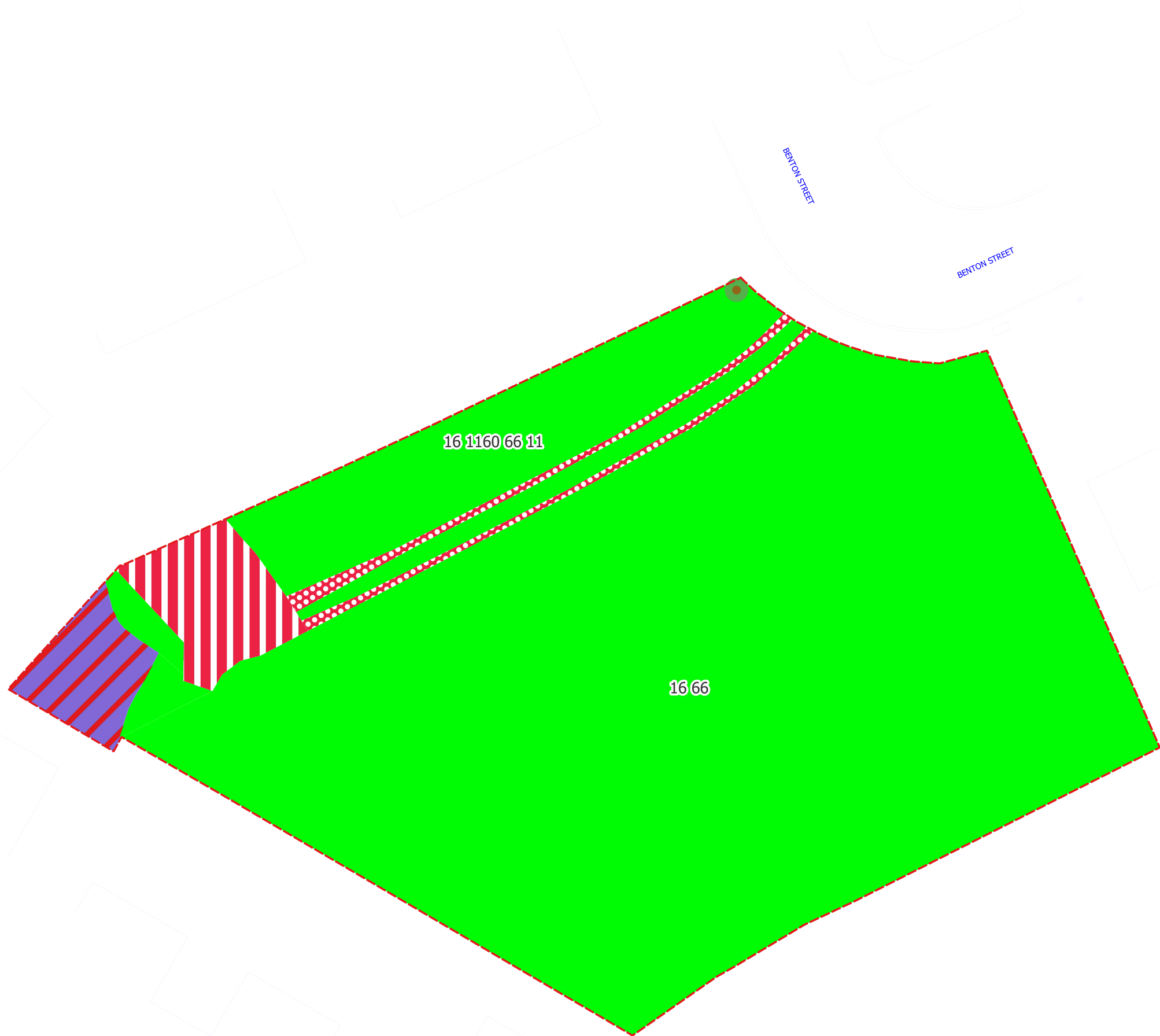
Approximate site location

Project	Land at Benton Street, Manchester, M9 4NG
Title	A.1 Location Plan
Client	One Manchester
Date	July 2023
Ref	[LM0118]A.1[REV A]LOC[BS]

0 0.5 1 km Indicative only
Do not scale from plan

A.2 Designated Sites Summary - Benton Street

GRID REFERENCE	NAME	SIZE (Ha)	DISTANCE FROM SITE (KM)	BEARING (DEGREES)	DESIGNATION
SD87810141	Broadhurst Clough	14	0.87	89	Local Nature Reserve - Manchester's newest LNR, supporting some mature stands of poplar, with younger copses of developing birch and alder woodland which have been planted in partnership with Red Rose Forest. Extensive stands of flag iris can be found in the marshy areas, which provide ideal cover for common frogs and toads, as well as rest stops for dragonflies. The Dean Brook trickles through the lower level of the clough in a steep wooded ravine. The site is also a locally designated Site of Biological Importance .
SD86800234	Boggart Hole Clough	74.4	0.95	351	Local Nature Reserve - largest woodland clough in Manchester, part of which is Ancient and Semi-natural Woodland . The site is also a locally designated Site of Biological Importance .
SD86540318	Bailey's Wood	3.090911	1.8	347	Ancient & Semi-Natural Woodland & Site of Biological Importance



Legend

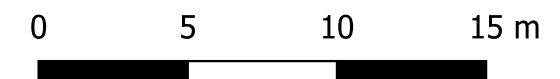
- Survey boundary
- g4 - modified grassland
- h3 - bramble scrub
- u1b - developed land; sealed surface
- u1c - artificial unvegetated; unsealed surface
- 11 - individual urban tree

Secondary Codes*

- 11 scattered trees
- 16 tall herb
- 66 regular mowing
- 1160 introduced shrubs

* apply to whole habitat parcel unless demarcated by black dashed line

Project	Land at Benton Street, Manchester, M9 4NG
Title	A.3 UK Habitat Survey Plan
Client	One Manchester
Date	November 2023
Ref	[LM0118]A.3[REV B]UKHAB[BS]



Indicative only.
Do not scale from plan.



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A.4 Site Images – Benton Street



1. Modified grassland – taken from north of site, looking to southeast.

A.5 Species List - Benton Street

Ukhab Code	Ukhab Type	Description	Common Name	Scientific Name	DAFOR
g4	Modified grassland	Regularly mown species poor amenity grassland, with a c. 1m wide strip of tall ruderal along south/southwest boundary where it doesn't get mown. Desire line running through centre of grassland. Includes some ornamental shrubs planted by adjacent houses and tall ruderals against fences. Single young ash tree in northern corner.	Yorkshire fog	<i>Holcus lanatus</i>	A
			Creeping buttercup	<i>Ranunculus repens</i>	R
			Ribwort plantain	<i>Plantago lanceolata</i>	F
			Perennial rye-grass	<i>Lolium perenne</i>	F
			Dandelion	<i>Taraxacum officinale agg.</i>	O
			Ragwort	<i>Jacobaea vulgaris</i>	O
			Annual meadow grass	<i>Poa annua</i>	O
			Timothy grass	<i>Phleum pratense</i>	R
			Creeping bent	<i>Agrostis stolonifera</i>	O
			False oat-grass	<i>Arrhenatherum elatius</i>	O
			White clover	<i>Trifolium repens</i>	F
			Cock's-foot	<i>Dactylis glomerata</i>	R
			Common nettle	<i>Urtica dioica</i>	LF
			Broadleaved dock	<i>Rumex obtusifolius</i>	R
			Common mouse-ear	<i>Cerastium fontanum</i>	O
			Meadow foxtail	<i>Alopecurus pratensis</i>	O
			Smooth tare	<i>Vicia tetrasperma</i>	O
			Knapweed	<i>Centaurea nigra</i>	O
			Hogweed	<i>Heracleum sphondylium</i>	R
			Common bent	<i>Agrostis capillaris</i>	F
			Oxeye daisy	<i>Leucanthemum vulgare</i>	R
			Curled dock	<i>Rumex crispus</i>	R
			Ash	<i>Fraxinus excelsior</i>	R
h3d	Bramble scrub	Dense bank of bramble scrub in west corner of site.	Bramble	<i>Rubus fruticosus agg.</i>	D
u1b	Developed land; sealed surface	Tarmac driveways and pavement	N/A	N/A	N/A
u1c	Artificial unvegetated; unsealed surface	Unmade track	N/A	N/A	N/A

APPENDIX B

The Conservation of Habitats and Species Regulations

The Conservation of Habitats and Species Regulations 2017 (as amended) transpose Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna, and Council Directive 79/409/EEC on the Conservation of Wild Birds, into UK law. The regulations allow for the designation of Statutory Nature Conservation Sites (SACs and SPAs) and European Protected Species ('EPS' including all UK bat species, great crested newts, hazel dormouse and otter) which are assigned a greater level of protection than under national legislation. It is an offence to deliberately capture, kill or disturb wild animals listed under Schedule 2 of the Regulations. It is also an offence to damage or destroy a breeding site or resting place of such an animal (even if the animal is absent at the time).

Wildlife & Countryside Act 1981 (as amended)

The Wildlife and Countryside Act 1981, as amended forms the primary piece of UK legislation relating to the protection of habitats and species (including nesting birds, reptiles and water vole).

Under the legislation it is an offence to:

- Intentionally kill, injure or take any wild bird or their eggs or nests (with certain exceptions) and disturb any bird species listed under Schedule 1 to the Act, or its dependent young while it is nesting;
- Intentionally kill, injure or take any wild animal listed under Schedule 5 to the Act; intentionally or recklessly damage, destroy or obstruct any place used for shelter or protection by any wild animal listed under Schedule 5 to the Act; intentionally or recklessly disturb certain Schedule 5 animal species while they occupy a place used for shelter or protection;
- Pick or uproot any wild plant listed under Schedule 8 of the Act.
- Plant or otherwise cause any species listed in part 2 of Schedule 9 (which includes Japanese Knotweed) to grow in the wild.

Additionally, badgers are protected under the **Protection of Badgers Act, 1992**.

Natural Environment and Rural Communities (NERC) Act 2006

Section 40(1) of the Natural Environment and Rural Communities (NERC) Act 2006 states that each public authority "must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity". This legislation makes it clear that planning authorities should consider impacts to biodiversity when determining planning applications, with particular regard to the Section 41 list of 56 habitats and 943 species of principal importance, irrespective of whether they are covered by other legislation. The s41 list was taken forward for action under the UK BAP (first published in 1994). The UK BAP has now been superseded by the Biodiversity 2020 Strategy, which continues to prioritise the Section 41 list, setting national targets for the period to 2020, and the UK Post-2010 Biodiversity Framework, which shows how these contribute to targets at the European level. Whilst BAPs are therefore no longer formally recognised,

APPENDIX B – LEGISLATION

many of the tools and resources originally developed for the BAP remain in use, such as the background information which still forms the basis of the work at national level.

Environment Act 2021

The Environment Act 2021 operates as the UK's new framework of environmental protection. It allows the UK to enshrine some environmental protection into law and offers new powers to set new binding targets, including for air quality, water, biodiversity, and waste reduction. Parts 6 and 7 are of particular relevance as they relate to Nature and Biodiversity, which includes provisions to strengthen and improve the duty on public bodies to conserve and enhance biodiversity, including mandating a net gain for biodiversity through the planning system.

National Planning Policy

The National Planning Policy Framework (NPPF) (Ministry of Housing, Communities and Local Government, 2019) sets out the government planning policies for England and how they should be applied. Chapter 15: Conserving and Enhancing the Natural Environment is of particular relevance to this as it relates to ecology and biodiversity.

Local Planning Policy

A number of local planning policies relate to ecology, biodiversity and/or nature conservation. These policies have been addressed, where appropriate, in the production of this report.

Standing Advice

Natural England Standing Advice regarding protected species aims to support local authorities and forms a material consideration in determining planning applications in the same way as any individual response received from Natural England following consultation. Standing advice has therefore been given due consideration, alongside other detailed guidance documents, in the scoping of ecological surveys and production of this report.