

# **Preliminary Ecological Appraisal Report**

**Southern Parcel at Lakeside, Scunthorpe**



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May 2019

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## Summary

This report is produced to inform Linden Homes of potential ecological constraints associated with the proposed development site.

### Methodology

The report is based on a desk study of designated wildlife sites and records of protected or notable species, and an extended Phase 1 Habitat Survey and Bat Roost Suitability Assessment carried out in May 2019.

### Findings - Key Points

No significant ecological constraints have been identified and no further detailed surveys are recommended.

The mature tree within the northwest corner should be retained and protected, or its loss suitably mitigated.

## Introduction

1. Brooks Ecological Ltd was commissioned by Linden Homes to carry out a Preliminary Ecological Appraisal (PEA) of land known as the Southern Parcel at Lakeside, Scunthorpe, (grid reference SE 91268 08004).
2. This report is produced with reference to British Standard BS:42020 'Biodiversity Code of Practice for Planning and Development' and the CIEEM (2017) Guidelines for Preliminary Ecological Appraisal.

## Scope

3. 'The Site' encompasses a parcel of previously cleared land, situated to the southeast corner of the wider Lakeside development project, as defined in Figure 1 below.
4. The assessment uses a 2km area of search around the Site for records of protected and notable species and locally or nationally designated wildlife sites.

**Figure 1** The Site (red line boundary).



### **Purpose of a PEA**

5. A PEA is an *initial assessment* of the baseline for a proposed development site and establishes whether the Site is likely to be constrained by ecology, and whether more information is needed to identify the ecological baseline.
6. The subsequent Preliminary Ecological Appraisal Report (PEAR) is intended to give early guidance to a developer and assist with the early stages of project planning and design. Where a site is not complex or constrained, and no additional ecological input is necessary the PEAR may be sufficient and suitable to support a planning application.

### **Desk Study**

7. The Site is situated towards the southeast corner of Scunthorpe and is surrounded by housing to the north and west, and rough, unmanaged ground to the southeast. Housing to the north is newly constructed and associated with the wider Lakeside project.
8. In the wider landscape, housing continues off-site for several kilometres to the north and west, grading into retail, light industrial and then steel works to the northeast. To the east is a newly constructed access road, beyond which is a large new SUDS basin and further new build residential development. Eventually, after c.600m, Ashbyville Nature Reserve is met, after which is farmland. To the south is a large link road (Lakeside Parkway), beyond which is further SUDS, Bottesford Beck and then farmland. Hall Golf Club is situated c.260m southeast, beyond which is open farmland and the M180.
9. The nature reserve, golf course and scattered woodland represent the best potential semi-natural habitat locally, but in all cases are poorly connected from the Site by roads and new build development.

### **Wildlife Corridors**

10. No potential wildlife corridors interact with the Site.

### **Water Bodies**

11. No ponds are present on Site, although a large excavation along the southeast boundary does appear to hold ephemeral pools during periods of heavy rainfall, as evidenced by aerial photography (see Figure 1).

12. Mapping shows there to be three ponds within a 500m radius of the Site, these being some 90m east, 70m south and 240m southwest. The two closest ponds are large, newly constructed SUDS basins which were dry at the time of the Site visit and showed no signs of holding permanent standing water. The third pond is separated from the Site by Lakeside Parkway and Bottesford Beck.
13. Further ponds are present within the golf course to the southeast and Ashbyville Nature Reserve to the east, but all over situated over 600m away and separated by roads and built development.

## Designated Sites

### Statutory Designations

14. A search has been made to identify any nationally designated sites within a 2km radius of the Site, and for internationally designated sites within a 10km radius. The results are shown in the below table.

**Table 1** Statutory Designated Sites.

Site Name	Distance from Site	Designation	Summary Interest
Ashbyville	160m E	Local Nature Reserve (LNR)	Unspecified
Humber Estuary	8.1km NW	Special Area of Conservation (SAC), Ramsar	<p><u>Annex I habitats</u> – Estuaries, mudflats and sandflats not covered by seawater at low tide, Sandbanks which are slightly covered by sea water all the time, Coastal lagoons, Salicornia and other annuals colonizing mud and sand, Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>), Embryonic shifting dunes, Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes), Fixed coastal dunes with herbaceous vegetation (grey dunes), Dunes with <i>Hippophya rhamnoides</i>.</p> <p><u>Annex II Species</u> – sea lamprey, river lamprey, grey seal.</p>

15. Although located just over 160m southwest of the Site, impacts on Ashbyville LNR would not be expected, due to the scale of the development, its separation by Lakeside Parkway and the existing public footpath infrastructure.

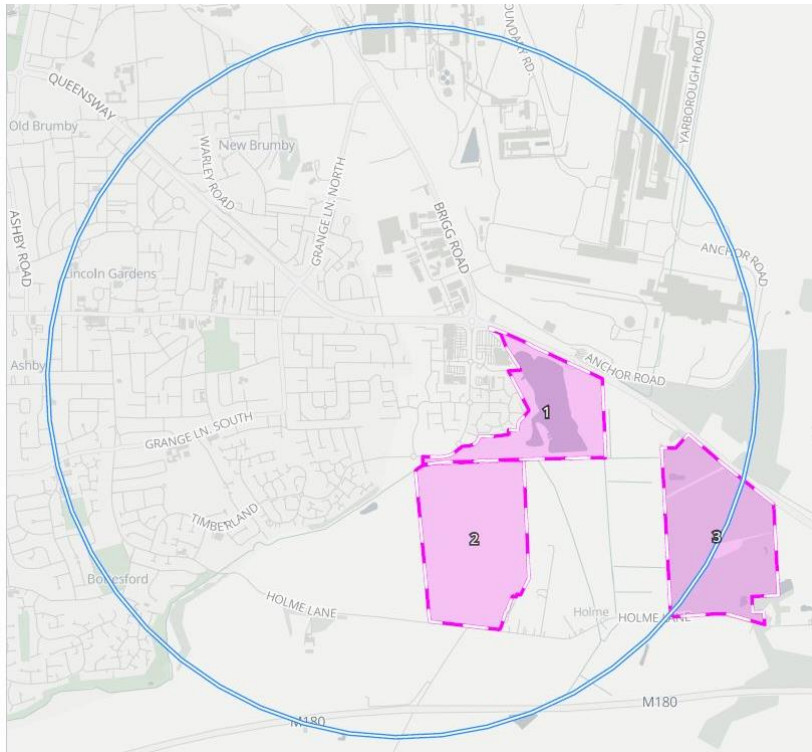
16. The Humber Estuary is sufficiently distant and separate from the Site to make impacts from development unlikely.

*SSSI Impact Risk Zones (IRZs)*

17. The Site lies within the outer most IRZ for Manton and Twigmoor SSSI (c.2.4km southeast) but does not fall into one of the highlighted categories which requires consultation between the Local Planning Authority (LPA) and Natural England (NE). The development is of a scale and nature which is unlikely to impact on this SSSI.

**Non-Statutory Designations**

18. There are three local wildlife sites (LWS's) within a 2km radius of the Site. These are listed below and shown in Figure 2 overleaf.
  - Ashbyville Lake LWS, 160m southeast (1)
  - Holme Hall Golf Course LWS, 200m southeast (2)
  - Sweeting Thorns LWS, c.1.4 km southeast (3)
19. All three LWS's are separated from the Site by built development and direct impacts from the proposed development would not be expected. Due to the provision of existing public access and infrastructure, indirect impacts on these three LWS's, i.e. from increased visitor footfall, would not be expected to be significant.



**Figure 2**

LWS's - provided by LERC.

## Survey

### Method

20. The survey was carried out during May 2019<sup>1</sup> and followed Phase 1 habitat survey methodology (JNCC, 2010).

### Limitations

21. Whilst the majority of the site was accessible at least 5-10% was occupied by dense impenetrable vegetation which could not be closely inspected.

### Results

22. The Site has previously experienced high levels of disturbance, with much of the interior having been cleared and used for soil, materials and equipment storage, as

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<sup>1</sup> This Report has been prepared during May 2019 following a visit to the site in May 2019 and our findings are based on the conditions of the site that were reasonably visible and accessible at that date. We accept no liability for any areas that were not reasonably visible or accessible, nor for any subsequent alteration, variation or deviation from the site conditions which affect the conclusions set out in this report.

part of the adjacent phases of construction. As a result, the Site now supports a mix of early successional and tall ruderal vegetation, which grades into scrub towards the boundaries. Several large spoil heaps and piles of old construction debris/materials remain scattered around the Site.

23. The following habitats were identified within the Site and on its immediate boundaries:

- Ephemeral/short perennial
- Rank neutral grassland
- Tall ruderal
- Scrub
- Scattered trees

*Ephemeral/short perennial*

24. The entire Site has recently experienced large levels of disturbance, and this has resulted in a range of early pioneer and secondary communities to establish. Near the Site entrance to the east, where the greatest levels of disturbance are likely to have been felt, a typical sparse community of ephemeral/short perennial vegetation is noted, this growing over a compacted, mixed substrate of crushed aggregate and natural (sandy) topsoil. A similar community is also present along the south-eastern boundary, where a large excavation has been left open. This basin is likely to support ephemeral pools during period of heavy rainfall, but no evidence of permanent standing water was noted.



**Figure 3a**

Sparse short perennial vegetation growing near the Site entrance to the east.

**Figure 3b**

Short perennial vegetation growing within the base of the excavation to the southeast.

25. As is typical of this habitat, these areas, although sparsely populated, support a relatively diverse range of common grasses and forbs. Species noted include red fescue (*Festuca rubra* agg.), annual meadow grass (*Poa annua*), black medick (*Medicago lupulina*), nipplewort (*Lapsana communis*), white clover (*Trifolium repens*), yarrow (*Achillea millefolium*), common stork's-bill (*Erodium cicutarium*), creeping cinquefoil (*Potentilla reptans*), ribwort plantain (*Plantago lanceolata*), dandelion (*Taraxacum* agg.), smooth sow-thistle (*Sonchus oleraceus*), white mignonette (*Reseda alba*), common mallow (*Malva sylvestris*), tall melilot (*Melilotus altissimus*), buddleia (*Buddleia davidii*), ragwort (*Senecio jacobaea*) and hop trefoil (*Trifolium campestre*). This habitat then grades into rank grassland.

*Rank neutral grassland*

26. Across much of the Site, disturbance has allowed a typical rank neutral grassland community to establish, with cock's-foot (*Dactylis glomerata*), false oat grass (*Arrhenatherum elatius*), smooth meadow-grass (*Poa pratensis*), red fescue (*Festuca rubra* agg.) and Yorkshire fog (*Holcus lanatus*) being the most abundant grasses.
27. Forbs/tall competitive herbs include mugwort (*Artemisia vulgaris*), common vetch (*Vicia sativa*), ribwort plantain (*Plantago lanceolata*), burdock (*Arctium minus*), cleavers (*Galium aparine*), nettle (*Urtica dioica*), oil seed rape (*Brassica napus*), cut leaved cranesbill (*Geranium dissectum*), curly dock (*Rumex crispus*), ragwort (*Senecio jacobaea*), garlic mustard (*Alliaria petiolata*), hemlock (*Conium maculatum*), oxeye daisy (*Leucanthemum vulgare*), yarrow (*Achillea millefolium*) and creeping cinquefoil (*Potentilla reptans*).
28. Also noted within the rank grassland areas are several large spoil heaps and piles of waste construction debris/materials, left over from adjacent phases.



**Figure 4a**

Typical view of the rank grassland covering much of the Site area.



**Figure 4b**

Typical debris pile within the rough grassland.

*Tall ruderal*

- 29. Tall ruderal vegetation is scattered throughout the rank grassland sward, as well as growing in dense stands over the soil heap, and within the excavation to the southeast. Oil seed rape (*Brassica napus*) is the dominant species, with smaller amounts of nettle (*Urtica dioica*), hemlock (*Conium maculatum*) and cleavers (*Galium aparine*).



**Figure 5**

Tall ruderal vegetation growing atop the soil store within the northwest corner.

*Scrub*

30. Scattered along the north and west boundaries is a mix of predominantly gorse scrub, with hawthorn (*Crataegus monogyna*), rose (*Rosa* sp.), broom (*Cytisus scoparius*), buddleia (*Buddleia davidii*), goat willow (*Salix caprea*) and saplings of black poplar and silver birch (*Betula pendula*).



**Figure 6**

Scrub growing along the northern boundary.

*Scattered trees*

31. A single mature tree is noted growing on Site, this being a black poplar within the northwest corner.

## **Semi-natural Habitats Summary Evaluation**

32. The vast majority of the Site is occupied by habitat of low conservation significance, which would not pose a major constraint to development.
33. The mature tree to the northwest corner is of slightly higher value and should be retained and protected from development. Loss of this tree should be suitably mitigated through a native tree planting scheme.

## Fauna

### Amphibians

34. No ponds are present on Site although three ponds are shown on mapping within a 500m radius of the boundaries (90m east, 70m south and 240m southwest). The two closest ponds are large, newly constructed SUDS basins which were dry at the time of the Site visit and showed no signs of holding permanent standing water. The third pond, and the only one thought to hold water, is separated from the Site by Lakeside Parkway and Bottesford Beck, both of which represent significant barriers to dispersal.
35. Records have been returned of common frog, common toad, smooth newt and great crested newt. Of these, only a single recent (2014) GCN record has been returned, this relating to a private garden within the centre of Scunthorpe, over 1.5km northwest. The validity of this record is unclear.
36. Given the Site's isolation from any potential breeding ponds, the risk of any notable amphibian populations occurring on Site is considered to be low, and the likely absence of GCN can be reasonably concluded. No further survey is considered necessary.

### Bats

#### Records

37. At least six species of bats have been recorded locally, these being common and soprano pipistrelle, brown long eared, noctule, Daubenton's and whiskered bat.

#### Roost Suitability Assessment

38. No buildings are present on Site and an inspection of the single boundary tree identified no obvious features with roost suitability. The likely absence of roosting can therefore be reasonably concluded, and no further survey is considered necessary.

#### Activity

39. The Site presents habitat of very limited value to this group and is unlikely to attract anything more than very infrequent low-level foraging by common species such as pipistrelle and noctule. Based on this assessment and the presence of high value foraging habitat locally, it is reasonable to conclude that the Site would not be of significance to this group and no further survey is considered necessary.
40. Instead, local bat populations are likely to gravitate towards areas of higher value habitat, such as Ashbyville Lake, Holme Hall Golf Course and Sweeting Thorns to the south and southeast.

### **Birds**

41. Areas of dense scrub and tall ruderal vegetation are likely to support small numbers of common garden birds during the main nesting season. However, given the Site's small size and proximity to housing, it is considered unlikely to attract ground nesting species and would not be expected to be of importance to any notable species or populations.
42. Other than standard precaution with regards to the timing of vegetation works, no further survey is considered necessary.

### **Badger**

43. No evidence of badger activity was identified on Site during the walkover and the current likely absence of this species can be reasonably concluded. Given the Site's urban location and lack of connectivity to more suitable habitat, the risk of badgers colonising the Site prior to works commencing is considered to be very low.

### **Reptiles**

44. Three grass snake records have been returned for the area, two of which are historic (1977), with the third dating back to 2004 and relating to Holme Hill Golf Course. The Site is slowly starting to develop into suitable grass snake habitat, but is separated from the golf course, and other areas of suitable grass snake habitat, by the busy Lakeside Way.
45. Given this separation, together with the lack of any recent grass snake records, the risk of reptiles being present on Site is considered to be low and no further survey is considered necessary.

## **Invasive Non-Native Species (INNS)**

46. INNS are species listed on Schedule 9 of the Wildlife and Countryside Act (1981), for which it is an offence to cause or allow it to grow in the wild.
47. No INNS were found by the surveyor during this survey<sup>2</sup>, but the site presents a high-medium risk of supporting undetected INNS based on the potential for recent earthworks or management to have obscured viable material and the potential for tipping of material.
48. Should further assurances be needed in relation to INNS you should commission a dedicated Invasive Weed Survey.

## **Ecological Constraints and Opportunities**

49. No significant ecological constraints have been identified.
50. The single mature tree is a feature of slightly greater value, and this should be retained and protected from development. Should its removal be required to facilitate development, suitable mitigation should be incorporated into the landscaping plan.
51. The Site could be enhanced for wildlife through the installation of bird and bat boxes into suitable new builds and retained boundary trees. Also, areas of amenity space could be sown with flowering lawn mixes, instead of standard amenity grass, and landscaping in general could select native plants over their non-native counterparts.

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<sup>2</sup> Whilst our ecologists are trained in the identification of INNS, this report is not a dedicated invasive species survey. Detectability of invasive plant species is seasonally variable and can be affected by several other factors which may not be apparent to the surveyor, so whilst every effort is made, a conclusive determination of status or extent is not possible through preliminary survey. As the presence of invasive species can generate significant costs to development the client may wish to instruct a dedicated invasive species survey prior to entering into contracts.

## Conclusions and Recommendations

52. This Site appears suited to development and largely unconstrained by ecology and biodiversity issues, but some additional information and output is likely to be needed.

**Table 2** Recommendations

Issue	Why	When calculated on the date of this report.
Biodiversity Management Plan	A scheme for ecological enhancement should be produced for the Site, to comply with BS420220.	Once the masterplan has been fixed. Usually made a condition of planning.
Nesting bird management	To prevent the proposed works impacting on nesting birds, any clearance of vegetation will need to be undertaken outside of the breeding bird season which is 1st March – 31st August inclusive. Any clearance that is required during the breeding bird season should be preceded by a nesting bird survey to ensure that the Wildlife and Countryside Act (1981) is not contravened through the destruction of nests and that any active nests are identified and adequately protected during the construction phase of the development.	Pre- and during - clearance.

## Appendices

1. Extended Phase 1 Habitat Plan
2. Explanatory Notes and Resources
3. Bat Activity Survey Rationale
4. Information on Legislation/Protection

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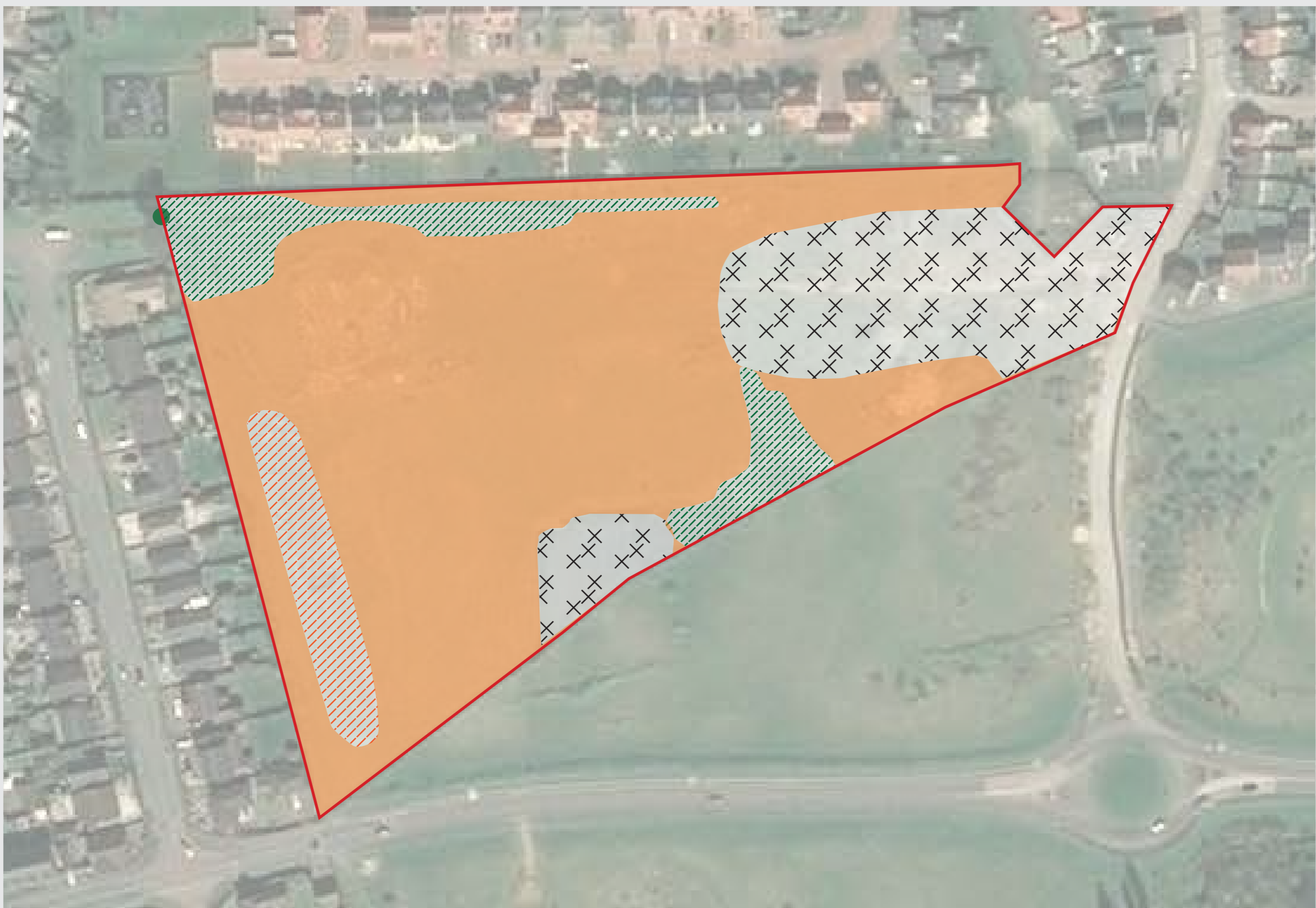
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## **Appendix 1    Extended Phase 1 Habitat Plan**



-  Rank neutral grassland
-  Ephemeral/ short perennial
-  Tall ruderal
-  Scrub
-  Scattered Trees



## Appendix 2 Explanatory Notes and Resources Used

### Site Context

Aerial photographs published on commonly used websites were studied to place the site in its wider context and to look for ecological features that would not be evident on the ground during the walkover survey. This approach can be very useful in determining if a site is potentially a key part of a wider wildlife corridor or an important node of habitat in an otherwise ecologically poor landscape. It can also identify potentially important faunal habitat (in particular ponds) which could have a bearing on the ecology of the application site. Ponds may sometimes not be apparent on aerial photographs so we also refer to close detailed maps that identify all ponds issues and drains.

### Designated Sites

A search of the MAGIC (Multi-Agency Geographic Information for the Countryside) website was undertaken. The MAGIC site is a Geographical Information System that contains all statutory (e.g. Sites of Special Scientific Interest [SSSI's]) as well as many non-statutory listed habitats (e.g. ancient woodlands and grassland inventory sites). It is a valuable tool when considering the relationship of a potential development site with nearby important habitats. In addition, information from the local record holders was referred to on locally designated sites.

#### *Functional linkage with off-Site habitats*

When assessing these we consider whether the Site could be functionally linked to them, considering links such as;

- Hydrological links - is the Site upstream downstream, or could ground water issues affect it?
- Physical links - is the site in close proximity and could it be directly or indirectly affected by construction and operational effects? Conversely it may be that despite proximity major barriers separate the two.
- Recreational links - do footpaths and roads make it likely that increased recreational pressure could be felt?
- Habitat links - is the site part of a network of similar habitat types in the wider area? These could be joined by linear corridors or could simply be 'stepping stones of habitat of similar form or function.

### Method

Phase 1 habitat survey methodology (JNCC, 2010). This involves walking the site, mapping and describing different habitats (for example: woodland, grassland, scrub). The survey method was "Extended" in that evidence of fauna and faunal habitat was also recorded (for example droppings, tracks or specialist habitat such as ponds for breeding amphibians). This modified approach to the Phase 1 survey is in accordance with the approach recommended by the Guidelines for Baseline Ecological Assessment (IEA, 1995) and Guidelines for Preliminary Ecological Appraisal (CIEEM 2017).

### Faunal Appraisal

This section first looks at the types of habitat found on Site or within the sphere of influence of potential development, then considers whether these could support protected, scarce or NERC Act 2006 Section 41 species (referred to collectively as 'notable species').

Records of notable species supplied from a 2km area of search are used to inform this appraisal.

We discuss further only notable species or groups which could be a potential constraint due to the presence of suitable habitat and their presence (or potential presence) in the wider area. We screen out and do not present accounts of notable species or groups which do not meet these criteria – in some cases it may be necessary to explain this reasoning.

Bat roosting potential is classified according to the following criteria set out below, taken from the Bat Conservation Trust Good Practice Guidelines (2016).

#### Bat Roosting Suitability of Buildings and Trees

Suitability	Criteria
<i>Negligible</i>	Negligible habitat features on site likely to be used by roosting bats.
<i>Low</i>	A structure with one or more potential roost sites that could be used by individual bats opportunistically. However, these potential roost sites do not provide enough space, shelter, protection, appropriate conditions, and/or suitable surrounding habitat to be used on a regular basis or by a larger numbers of bats (i.e. unlikely to be suitable for maternity or hibernation). A tree of sufficient size and age to contain PRFs but with none seen from the ground or features seen with only very limited roosting potential.
<i>Moderate</i>	A structure or tree with one or more potential roost sites that could be used due to their size, shelter, protection, conditions, and surrounding habitat but unlikely to support a roost of high conservation status (with respect to roost type only - the assessments in this table are made irrespective of species conservation status, which is established after presence is confirmed).
<i>High</i>	A structure or 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, protections, conditions and surrounding habitats.

#### Evaluation

In evaluating the Site, the ecologist will take into account a number of factors in combination, such as:

- the baseline presented above,
- the site's position in the local landscape,
- its current management and
- its size, rarity or threats to its integrity.

There are a number of tools available to aid this consideration, including established frameworks such as Ratcliffe Criteria or concepts such as Favourable Conservation Status. Also of help is reference to Biodiversity Action Plans in the form of the Local BAP and Section 41 of the NERC Act (2006) to determine if the site supports any Priority habitats or presents any opportunities in this respect.

The assessment of impacts considers the generic development proposals from which potential effects include:

- Vegetation and habitat removal
- Direct effects on significant faunal groups or protected species
- Effects on adjacent habitats or species such as disturbance, pollution and severance
- Operation effects on wildlife such as noise and light disturbance

Consideration is given to the Local Biodiversity Action Plan (LBAP), which for this site is the 'Lincolnshire Local BAP'.

Species/group	Habitat
Bats	Coastal and marine habitats
Commercial fish	Arable field margins
Freshwater fish	Grazing marsh
Greater water parsnip	Hedgerow and hedgerow trees
Natterjack toad	Lowland calcereous grassland
Water Vole	Lowland meadows
White-clawed Crayfish	Heathland and peatland
Newts	Lowland dry acid grassland
Seals	Chalk streams and blow wells
Urban birds	fens
Farmland birds	Ponds , lakes and reservoirs
Invasive non-native species	Rivers,canals and drains
	Springs and flushes
	Lowland mixed deciduous woodland
	Traditional orchards
	Wet woodland
	Wood pasture and parkland
	Brownfield
	Churchyards and cemeteries
	Gardens and allotments
	Parks and open spaces

## Appendix 3 – Bat Activity Survey Rationale

The Bat Conservation Trust Guidelines (BCTG) (Collins 2016) is now widely accepted as providing a basis and rationale for scoping and conducting bat surveys. It is acknowledged that the guidelines provide a wealth of background and are a very useful tool in standardising approaches to survey, it is also felt that an over reliance on some of the guidelines within this document can result in the provision of complicated surveys where they have significant consequences for the cost, or timescale of a large project, but could never deliver positives for bat conservation.

Taking the BCTG document as a whole, Chapter 2 helps the reader understand whether or not surveys are required, and that in the context of planning and development survey is required in relation to ensure;

- the avoidance of legal offences, and;
- the provision of a sufficient level of information - such that will allow the Local Planning Authority to make an informed decision on the proposals and their potential impacts on the Favourable Conservation Status (FCS) of bats.

Attendance at seminars presented by, and discussions with, those involved in production of the BCTG document has emphasised the point that it is within the remit of the consultant ecologist to make a decision on the necessity and scope of surveys - they will use the guidelines in doing so but are not in any way bound by them: this is reflected in Section 1.1 of the guidelines -

*'The Guidelines do not aim to either override or replace knowledge and experience. It is accepted that departures from the guidelines (e.g. either decreasing or increasing the number of surveys carried out or using alternative methods) are often appropriate. However, in this scenario an ecologist should provide documentary evidence of (a) their expertise in making this judgement and (b) the ecological rationale behind the judgement.'*

Such decisions require a consideration of the potential of the project to impact on bat habitat, alongside analysis of the value of habitat on and around the site and of local records and the likelihood that bats might occur in significant numbers. Our reports aim to present information on how we have arrived at our decision on the Site, what assumptions we have based this on, and where further survey is recommended we indicate what the objective of this survey should be and how best this would be achieved.

At this Site, being in a largely urban area surrounded by housing and poorly connected to other habitats it is easy to predict that the site will not be of high value to bats, the species likely to use the site would be confined to common species tolerant of an urban environment (common pipistrelles). Further detailed survey is therefore not considered necessary.

This assessment has been made by Christopher Shaw BSc (Hons) MCIEEM. Chris has over 9 years' experience of carrying out bat surveys in a professional capacity and is registered to use the new Class Survey Licence WML CL18 (Bat Survey Level 2). He is an active member of the West Yorkshire Bat Group and West Yorkshire Bat Care Scheme.

## Appendix 4 Wildlife Legislation, Policy and Guidance

This is not an exhaustive list but sets out briefly the relevance of Legislation, Policy and Guidance in terms of planning applications and this assessment.

### Legislation

**Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (EC Habitats Directive).**

Provides framework at an international (EU) level for the consideration / protection of European Protected Species (EPS), and habitats through the designation of sites.

**Council Directive 79/409/EEC on the Conservation of wild birds (EC Birds Directive) and The Ramsar Convention on Wetlands of International Importance (1971)**

Provides framework at an international (EU) level for the consideration / protection of important bird populations and the sites on which they are dependant.

**The Conservation of Habitats and Species Regulations (2010)**

This transposes 1) into UK law and provides the basis on which all EPS are protected and impacts on them can be licensed in the UK.

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

This provides the basis on which UK species are legally protected or restricted and confers protection on Sites of Special Scientific Interest SSSIs. It contains annexes of plants and animals which are legally protected as well as those which are considered to be invasive or harmful. It provides the basis on which impacts on such species can be licensed in the UK and provides controls on work on or near SSSIs.

**The Countryside and Rights of Way Act 2000 (CROW)**

Provides a statutory basis for nature conservation, strengthens the protection of SSSIs and UK protected species and requires the consideration of habitats and species listed on the UK and Local Biodiversity Action Plans (UKBAP / LBAP).

**Natural Environment and Rural Communities Act 2006 (NERC)**

Sets out the responsibilities of Local Authorities in conserving biodiversity. Section 41 of the Act requires the publishing of lists of habitats and species which are "of principal importance for the purpose of conserving biodiversity". At present these largely reflect those making up the UKBAP lists.

**Hedgerows Regulations (1997)**

Define and provide protection for Important Hedgerows.

**Protection of Badgers Act (1992)**

Protects badgers from persecution, this includes excavation / development in the proximity of setts.

## Protected Sites

### **Statutory EU / International Protected Sites**

Special Areas of Conservation (SACs); and Special Protection Areas (SPAs) and Ramsar Sites contain examples of some of the most important natural ecosystems in Europe. Work on or near these sites is strictly protected and Local Authorities will be expected to carry out 'Appropriate Assessment' of development in proximity of them. In this case there is often an increased burden on the developer in relation to provision of information and assessment.

### **Statutory UK Protected Sites**

Local Nature Reserves (LNRs); National Nature Reserves (NNRs); Sites of Special Scientific Interest (SSSIs) all receive strict protection under UK legislation. Work in or in proximity to these sites would be restricted with any needing to be agreed with Natural England. Natural England now provide guidance on the nature of development which could impact on SSSIs through Impact Risk Zones.

### **Locally Protected Sites**

Local Authorities have a variety of protected wildlife sites designated at a local or regional level. These are gradually being brought under the banner of Local Wildlife Sites (LWS) but at present a plethora of different designations exist - all subject to local policy.

## Protected Species

### **European Protected Species**

A number of species (most relevantly bats, great crested newts [GCN], and otters) receive strict protection from killing, injury and disturbance under The Conservation of Habitats and Species Regulations (2010). Protection is also conferred on the habitats on which they rely such as roost space in the case of bats and ponds and fields etc. in the case of GCN.

### **UK Protected Species**

A number of species (including bats, GCN, water vole and white clawed crayfish) are strictly protected under The Wildlife and Countryside Act (1981) as amended, from killing, injury, disturbance and damage or destruction of their resting places etc. Certain species (such as reptiles) and some birds (such as barn owl) receive partial protection e.g. at certain times of the year or from certain activities only. All nesting bird species are protected from damage or destruction of their nests - whilst active.

### **Invasive species**

Schedule 9 of the Wildlife and Countryside Act (1981) as amended, lists these species and makes it an offence to cause or allow their spread in the wild. This often has impacts on development and planning in relation to the presence of invasive plant species such as: himalayan balsam (*Impatiens glandulifera*), japanese knotweed (*Fallopia japonica*) and giant hogweed (*Heracleum mantegazzianum*).

## Planning Policy / Guidance

### **The National Planning Policy Framework (NPPF)**

The National Planning Policy Framework was updated in July 2018. The most relevant paragraphs from the NPPF are set out below.

The approach to assessing the natural environment is now embedded within the definition of what 'sustainable development' is and this falls under one of three objectives of the planning system – the 'environmental objective' applying in this case. Paragraph 8c (P8c) of the NPPF states that sustainable development should "*contribute to protecting and enhancing our natural environment*" and "*help to improve biodiversity*". P10 sets out the Framework's presumption in favour of sustainable development.

Section 11 of the NPPF details making effective use of land. The Framework states that planning policies and decisions should "*take opportunities to achieve net environmental gains – such as developments that would enable new habitat creation*" and should "*recognise that some undeveloped land can perform functions for wildlife*" (P118).

Section 15 details conserving and enhancing the natural environment; policies and decisions should be "*protecting and enhancing sites of biodiversity value*", "*recognise the intrinsic character and beauty of the countryside*" and contribute to conserving and enhancing the natural environment and reducing pollution (P170). Allocations of land for development should, "*prefer land of lesser environmental value, where consistent with other policies in this Framework and take a strategic approach to maintaining and enhancing networks of habitats*" (P171).

The Framework sets out ways to minimise the impacts on biodiversity through "*identifying, mapping and safeguarding components of local wildlife rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity*" and the "*conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and (the need to) identify and pursue opportunities for securing measurable net gains for biodiversity*" (P174).

It is made clear in P175 that local planning authorities should apply principles when determining planning applications. Planning permission should be refused "*if significant harm to biodiversity resulting in development cannot be avoided, adequately mitigated, or, as a last resort, compensated for*". Development should not normally be permitted where an adverse effect on a SSSI is likely and "*opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity*".

### **Biodiversity 2020: A Strategy for England's Wildlife and Ecosystem Services.**

This strategy builds on the Natural Environment White Paper (June 2011) - Setting out the current UK Government's approach to nature conservation. It promotes a more coherent and inclusive approach to conservation and the valuing in economic and social terms of economic resources.

The strategy promotes initiatives such as Biodiversity Offsetting, Nature Improvement Areas and a focus on well-connected natural networks and introduces the concept of securing a 'no net loss' situation with regard to UKBAP / Section 41 habitats and species.

### **ODPM circular 06/05 (2005) Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System**

Provides guidance to Local Authorities on their obligations to biodiversity – particularly in relation to assessing planning applications and ensuring the adequacy of information.

### **BSI (2013) British Standards Institute BS 42020:2013 Biodiversity — Code of Practice for Planning and Development.**

Provides a standard for the biodiversity assessment and development industries and decision makers such as Local Planning Authorities to work to.