

## Blue Bell Paddock, Gravesend Road, Wrotham, Kent

### Preliminary Ecological Appraisal

11<sup>th</sup> September 2020 / Ref No 2020/08/04

Client: Mr T Searles



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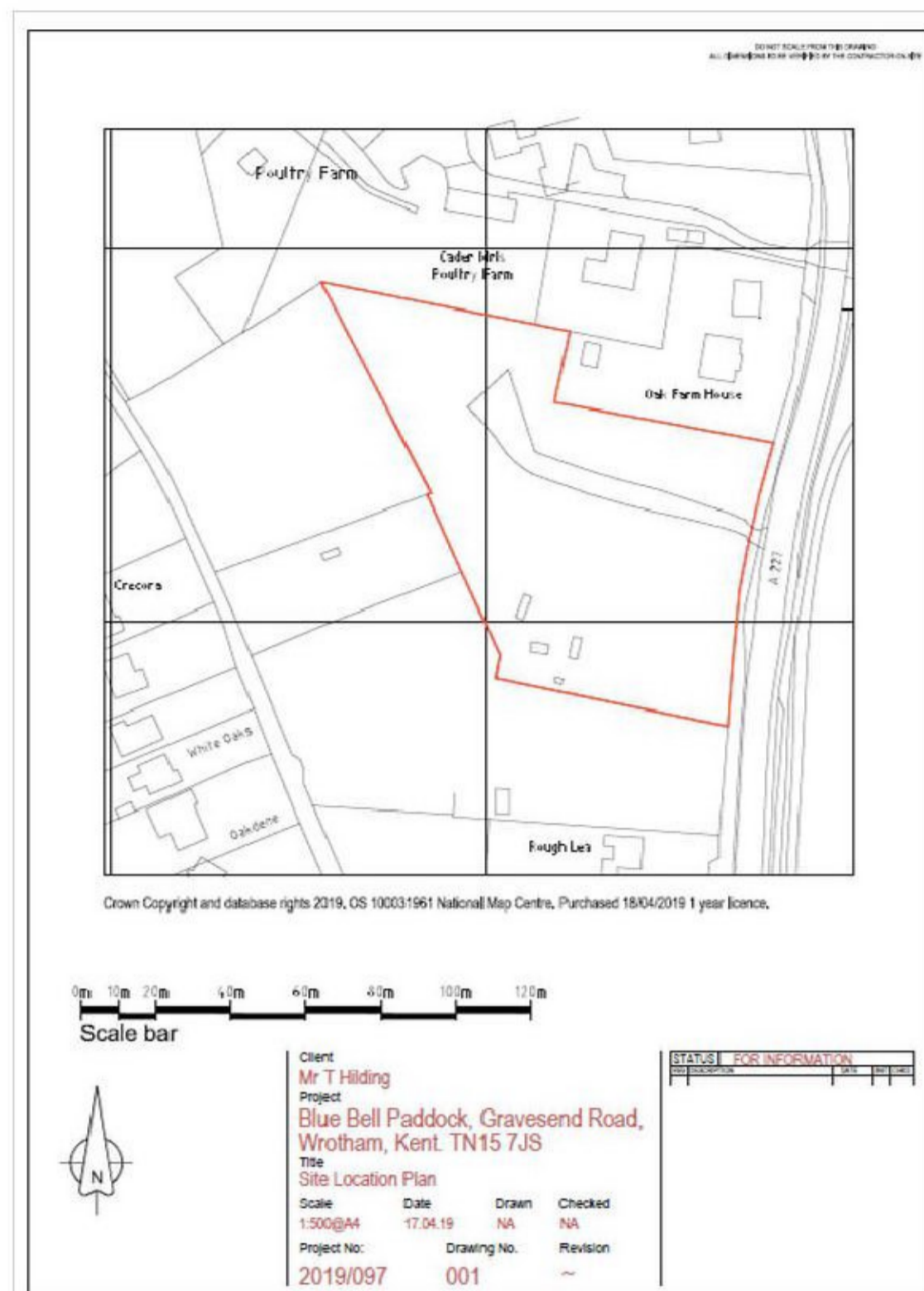
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# 1 Introduction

## 1.1 Background to the Scheme

KB Ecology Ltd was commissioned to undertake a baseline ecological survey and a preliminary ecological appraisal with regards to a proposed development at Blue Bell Paddock, Gravesend Road, Wrotham TN15 7JS Kent, in support of a planning application for the erection of a new dwelling.

The extent of site to be surveyed is shown on the map below, as sent by the client:



## 1.2 Survey Location/Area

The site is located at approximately TQ 633 620. The location of the site is shown on Figure 1 and Figure 2.

## 1.3 Survey Objectives

The purpose of this survey is to provide a scoping assessment and to assist in demonstrating compliance with wildlife legislation and planning policy objectives.

The key objectives are as follows:

- Identify all relevant statutory and non-statutory designated sites and features of ecological significance within the site and its surroundings.

- Assess the potential for the presence of protected species and species of principal conservation importance, important habitats or other biodiversity features within the site and its surroundings.
- Provide recommendations for further surveys where assessed as necessary and suggest potential enhancements.
- Present the likely significance of ecological impacts on the proposed development.
- Provide an early indication of potential ecological mitigation and compensation requirements necessary as part of any development proposals.

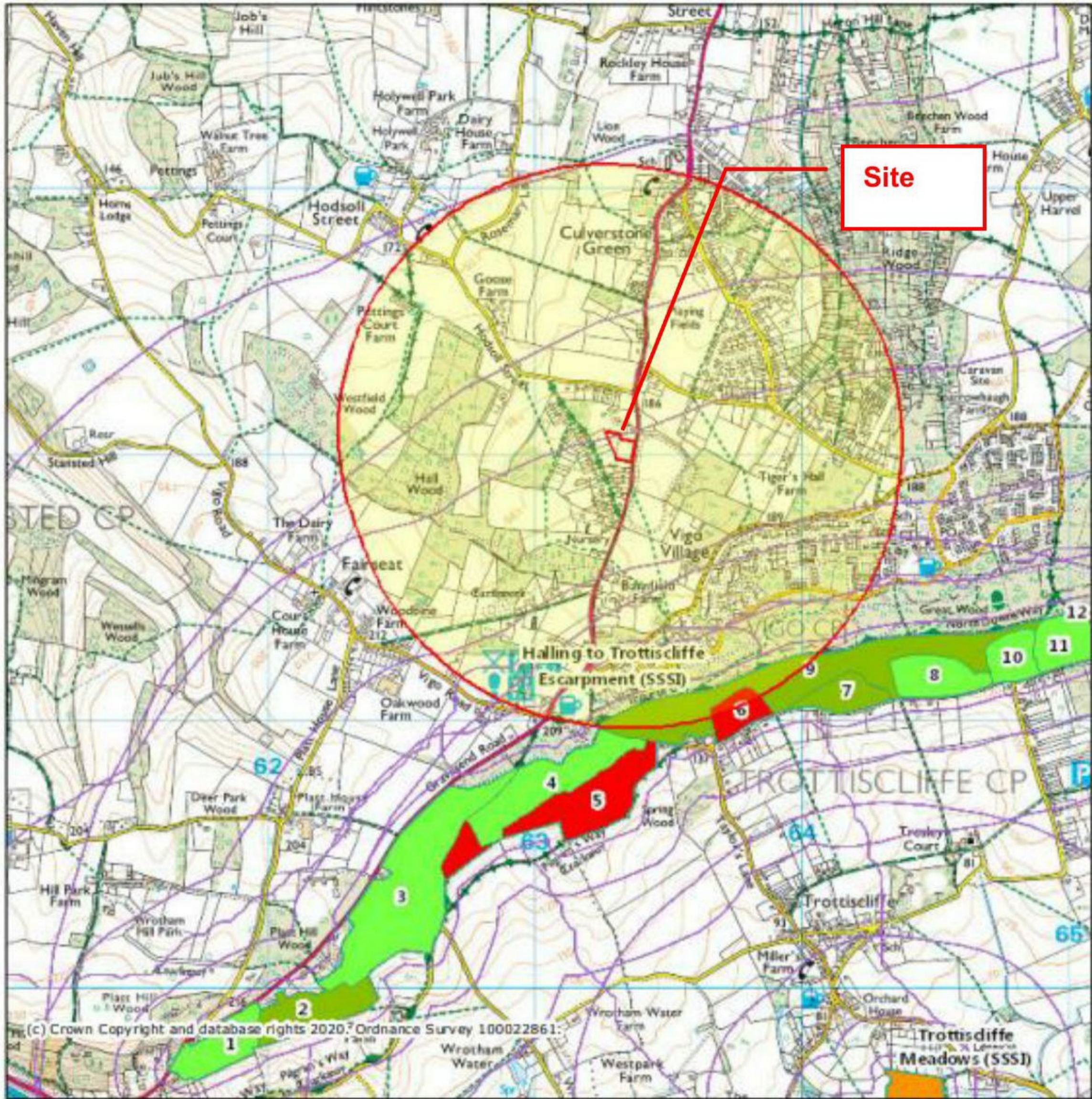
A summary of wildlife legislation and policy has been included in Appendix A.

#### **1.4 Limitations**

This report has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct and the opinions expressed are true and professional bona fide opinions. It records the potential for flora and fauna evident on the days of the site visits. It does not record any flora or fauna that may appear at other times of the year and, as such, were not evident at the time of visit.

The findings of this report represent the professional opinion of a qualified ecologist and do not constitute professional legal advice. The client may wish to seek professional legal interpretation of the relevant wildlife legislation cited in this document.

Figure 1



**Legend**

Limestone Pavement Orders (England)	National Parks (England)
Local Nature Reserves (England)	Ramsar Sites (England)
Moorland Line (England)	Proposed Ramsar Sites (England)
National Nature Reserves (England)	Ramsar Sites (Scotland)
National Nature Reserves (Scotland)	Ramsar Sites (Wales)
National Nature Reserves (Wales)	

0 0.6 1.2  
km

Projection = OSGB36  
xmin = 559600  
ymin = 159200  
xmax = 566500  
ymax = 164000

Map produced by MAGiC on 11 September, 2020.  
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Figure 2 - K-LIS

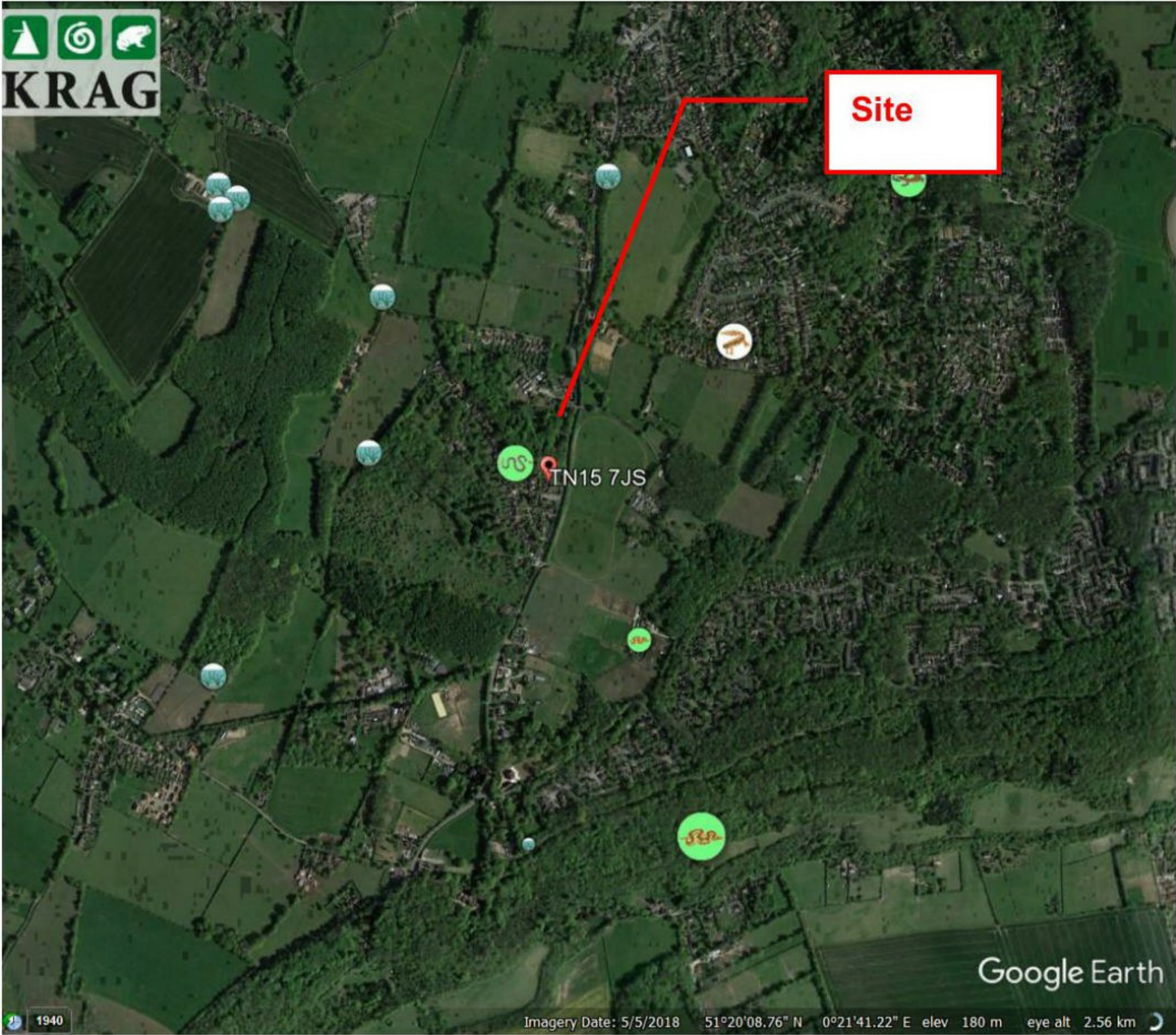
September 11, 2020



Legend

Address marker	Boundary and linear features	Calcareous grassland	Improved grassland	Maritime grassland	Supralittoral Rock
<b>Kent Habitat Survey 2012</b>	Bracken	Coniferous woodland	Inland rock/Quarry	Neutral grassland	Supralittoral Sediment
Acid grassland	Broadleaved, mixed, and yew woodland	European dry heaths	Littoral Rock	Rivers and streams	Traditional orchard
Arable and horticulture	Built-up areas	Fen, marsh and swamp	Littoral Sediment	Standing open water and canals	Unknown terrestrial vegetation

Figure 3: indicates location of ponds from KRAG data search



## 2 Methodology

### 2.1 Desk Study

Internet-based resources were consulted to identify designated nature conservation sites within 1km of the site and habitats of potentially high ecological importance and sensitivity within 500m of the site (e.g. ancient woodlands, ponds).

A data search was carried out with the Kent Reptile and Amphibian Group KRAG<sup>1,2</sup>.

### 2.2 Scoping Survey

The site and its immediate surroundings were considered in terms of habitats, protected species and species of principal conservation importance during a walkover survey undertaken on 25<sup>th</sup> August 2020 by Katia Bresso CEnv MCIEEM, a qualified professional consultant ecologist with over 20 years of experience<sup>3</sup>, licensed bat surveyor (Class Licence CL19, Level 3, Registration Number: 2016-27133-CLS-CLS) and Registered Consultant of the Bat Mitigation Class Licence (BMCL) (formerly Bat Low Impact Class Licence) WML-CL21 with Natural England (Registered Consultant Reference Number RC056, since May 2015), licensed dormouse surveyor (Class Survey Licences Registration Number 2016-22060-CLS-CLS) and licensed great crested newt surveyor (Science, Education and Conservation only licence: WML-A29 reference 2018-37426-SCI-SCI). Evidence of the use of the site by species was recorded (i.e. field signs).

The habitat survey was undertaken in general accordance with Phase 1 Habitat Survey (JNCC 2010), i.e. within the survey area every parcel of land is classified, recorded and mapped in accordance with a list of ninety specified habitat types using standard colour codes to allow rapid visual assessment of the extent and distribution of different habitat types.

The survey and report aim at following the guidance and recommendations in the 'British Standard Biodiversity Code of Practice for Planning and Development (BS 42020: 2013)'.

Particular attention was given to signs of use by bats and barn owls. A visual survey was undertaken looking for evidence of roosting bats and roosting/nesting barn owls, including signs such as live or dead bats/owls, feathers, droppings, pellets, nest debris and eggs, using an endoscope<sup>4</sup>, high powered torch (Cluson CB1 Clubman Standard High Power, 500,000 candle power), night vision scope and binoculars where needed.

All trees were also checked for suitability for roosting bats<sup>5</sup>.

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<sup>1</sup> Please note that absence of records should not be taken as confirmation that a species is absent from the search area.

<sup>2</sup> Due to the scale of the project, it was judged disproportionate to undertake a costly data search with the local Biological Record Centre as the data would be unlikely to be relevant to this site.

<sup>3</sup> Katia Bresso is a Suitably Qualified Ecologist with regards to Code for Sustainable Homes assessment and BREEAM

<sup>4</sup> Teslong 5.5mm Inspection NTS200 Digital Endoscope with 3.5 Inch full color LCD Screen

<sup>5</sup> Please note that it is possible some bat roosting features may have been missed as the survey was undertaken whilst the trees were in full leaves



## 3 Baseline Ecological Conditions

### 3.1 Designated Nature Conservation Sites

The site is not part of, nor directly adjacent to, any statutory designated sites.

'Halling to Trottscliffe Escarpment' Site of Special Scientific Interest (SSSI) is located 900m to the south of the site. This SSSI consists of an extensive area of the North Downs west of the 'Medway Gap'. The site is representative of Chalk grassland in west Kent and beech woodland on the chalk. Outstanding assemblages of plants and invertebrates are present.

### 3.2 Habitats

The site is surrounded by arable land and woodland, with some dwellings.

The Integrated Habitat System (IHS) classification of the Kent Habitat Survey 2012 describes the site as:

- *Built-up areas,*
- *Broadleaved, mixed, and yew woodland.*

Indeed, the site is wooded with two clearings:

- one clearing to the NW with short grass, rushes *Juncus sp* and low bracken *Pteridium aquilinum*;
- one clearing to the SE with common nettles *Urtica dioica* and a non-native, invasive plant: Himalayan balsam *Impatiens glandulifera*).

A hard standing access leads to the NW part of the site (triangular shaped) which is actually said to be 'ancient woodland'<sup>6</sup>. Bluebells *Hyacinthoides non-scripta*, dog's mercury *Mercurialis perennis* and wood-sorrel *Oxalis acetosella* are indeed present under the trees in the rest of the site (these species are 'ancient woodland' indicator). Areas of bramble scrub *Rubus fruticosus agg* are present at the entrance of the site. A small number of derelict outbuildings and mobile home are present under the trees. An earth mound covered in balsam and bramble is present along the south west.

The trees present included ash *Fraxinus excelsior*, birch *Betula pendula*, dogwood *Cornus sanguinea*, elder *Sambucus nigra*, hazel *Corylus avellana*, holly *Ilex aquifolium*, hornbeam *Carpinus betulus* broom *Cytisus scoparius*.

Historical aerial photos show that the SE clearing had already been cleared by 1940 and the NW clearing had been cleared by 1960, both staying cleared through 1990, with the access track seemingly appearing by 2015.

Plates are present in Appendix B. Figure 4 below shows the location of the habitats.

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<sup>6</sup> Land that has had continuous woodland cover since at least 1600 AD

Legend of Phase 1 habitat survey map hereafter:





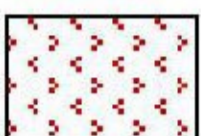



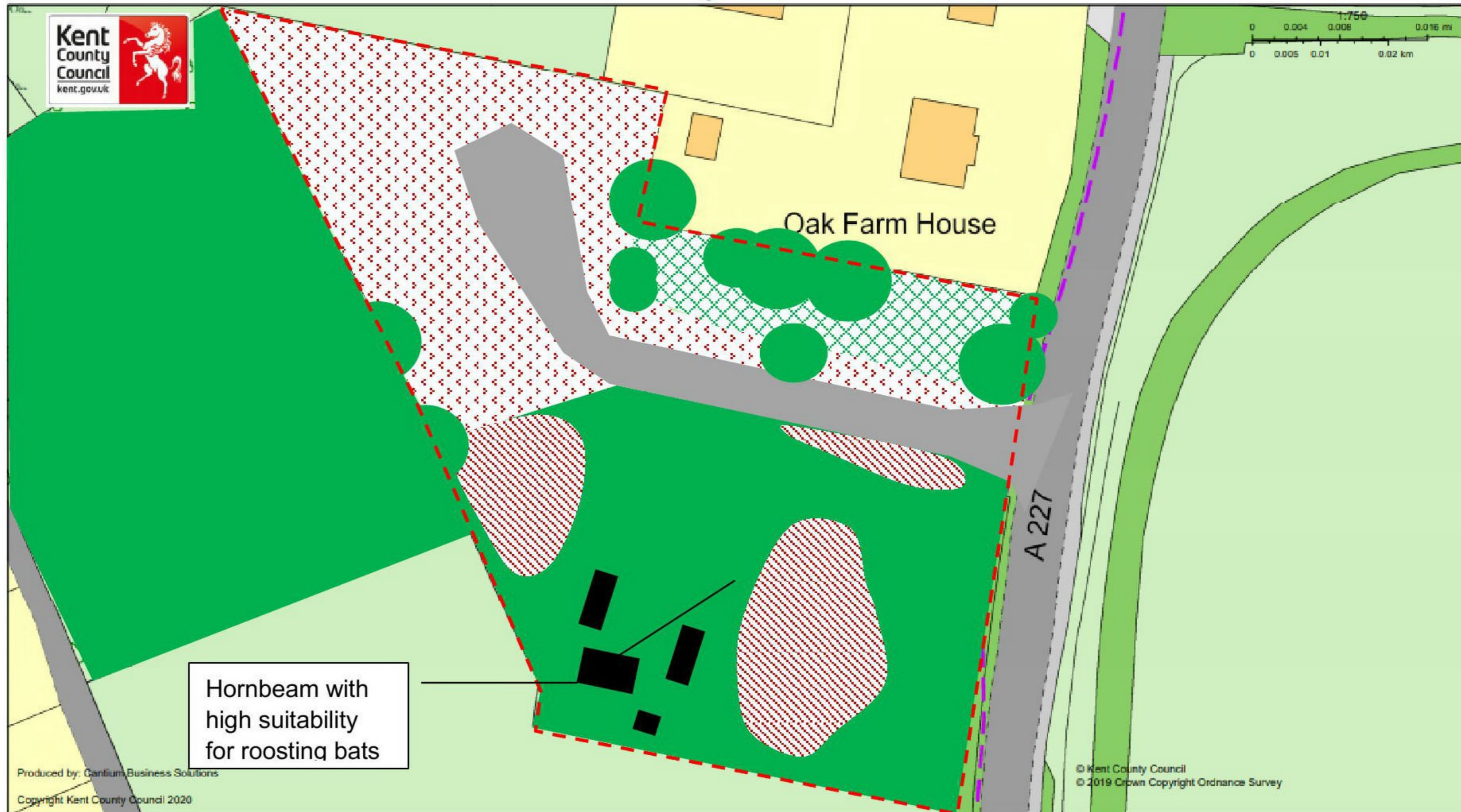
-  Site boundary
-  Hard standing/access track
-  Building
-  Scrub
-  Short grass with rushes and low bracken
-  Individual tree (number and location approximate)
-  Tall ruderal (Himalayan balsam and nettles)
-  Woodland

Figure 4 a

September 11, 2020

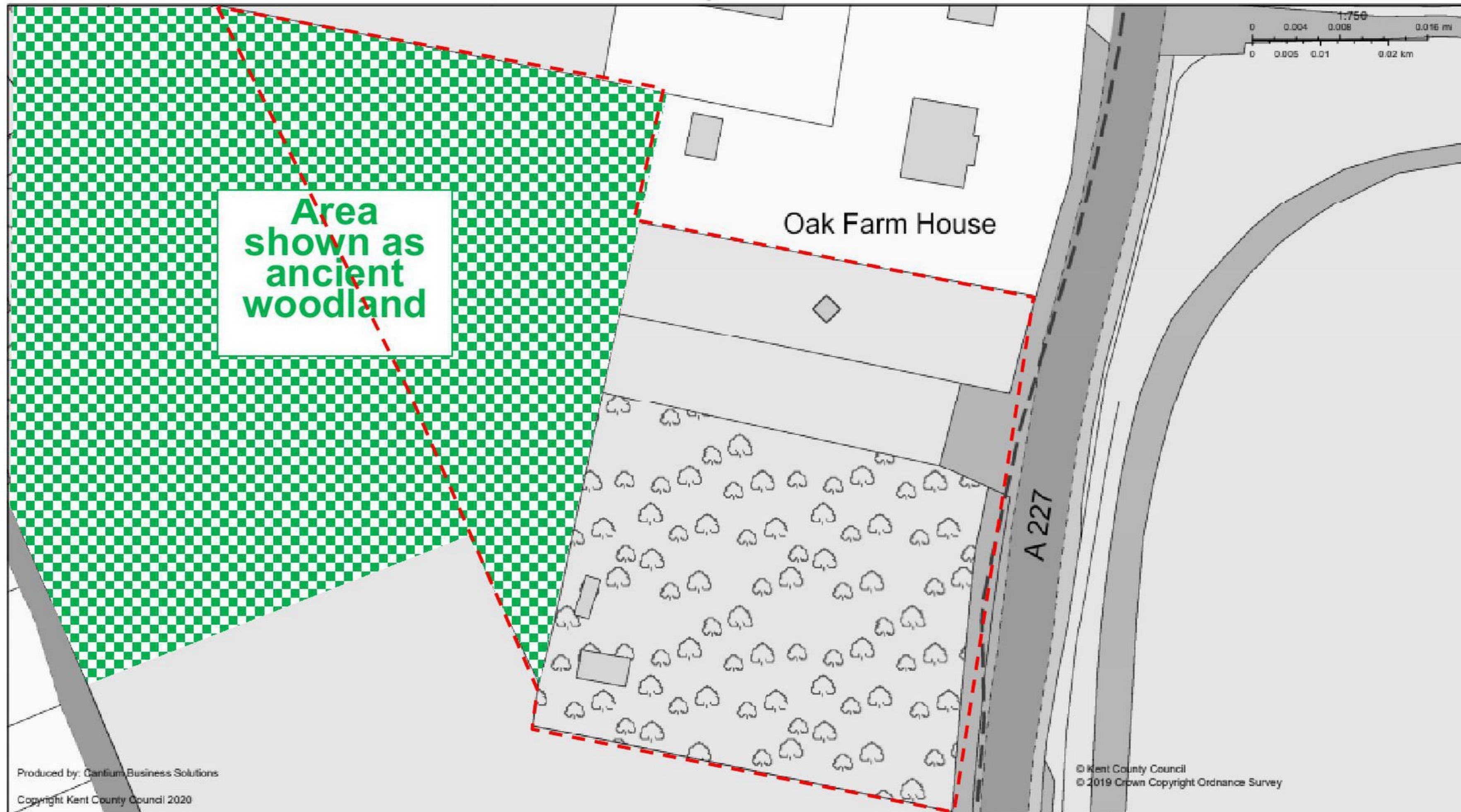


Legend

 Address marker

Figure 4 b

September 11, 2020



Legend  
◆ Address marker



### 3.3 Amphibians

The data search carried out with Krag (Enquiry No: CES/20/152) revealed that the closest recorded Great Crested Newt *Triturus cristatus* site is 2.15 km to the NW (record id: 90993).

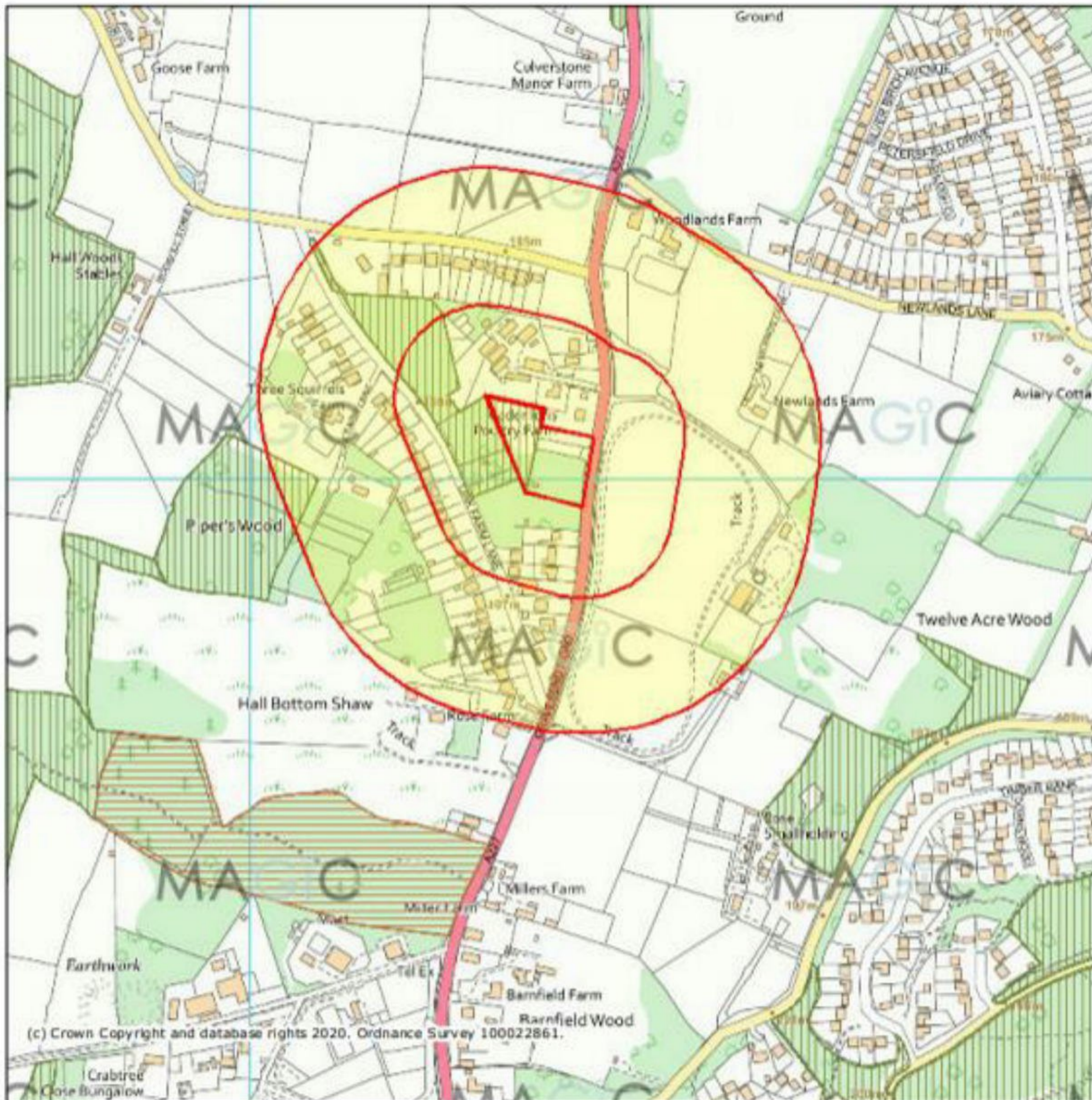
Great crested newts favour areas of high pond density and occupancy levels can exceed 40% of ponds when conditions are favourable. Krag's database risk assessment indicates that the likelihood of presence of great crested newts *in the overall area* is 'Possible'<sup>7</sup>, with only eight ponds present within 1km.

Like nearly all amphibians, the great crested newt is dependent on water-bodies for breeding but usually spends most of its life on land.

The 'Great Crested Newt Mitigation Guidelines' (English Nature 2001) state the following: *'Great crested newts have been found to move over considerable distances (up to 1.3km from breeding sites). However, the vast majority of newts will inhabit an area much closer to the pond, and the exact distribution and migration patterns of newts on land depends on a variety of factors. The quality of terrestrial habitat near to breeding ponds is important, as are the lack of barriers to dispersal (such as fast-flowing rivers, or very busy roads). The distribution of ponds and hibernation opportunities may also influence movements. [...] Several studies have been conducted which reveal a great deal of variation, but great crested newts commonly move between ponds that are within around 250m of each other.'*

<sup>7</sup> Likelihood of Presence Scores are described using the following categories: Unlikely<Possible<Likely<High

# MAGiC figure 5 - 100m and 250m radii



**Legend**

**Ancient Woodland (England)**

-  Ancient and Semi-Natural Woodland
-  Ancient Replanted Woodland

0 0.15 0.3  
km

Projection = OSGB36  
 xmin = 562300  
 ymin = 161200  
 xmax = 564300  
 ymax = 162600

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In *Advice for land managers*, Natural England (2007) states:

*'Great crested newt may disperse several hundred metres, sometimes over 1km, from the breeding pond, though at most sites the majority of the population is normally found within around 100m of it.'*

No ponds are present on site or within 250m. Thus, due to the paucity of ponds in the general area and the distance to the nearest pond, it is judged unlikely that great crested newts would be present on site.

### 3.4 Reptiles

The KRAG datasearch revealed that the closest recorded reptile is Grass Snake, located at [Private Residence], 0.14 km to the SW (record id: 68133). The likelihood of reptiles to be present *in the overall area* is judged as per table below:

	Likelihood of Presence	
	Score	Dist (km)
Viviparous Lizard:	Likely	1.00
Slow-worm:	Likely	0.54
Sand Lizard:	unlikely	71.80
Grass Snake:	HIGH	0.14
Adder:	HIGH	0.54
Smooth Snake:	n/a	n/a

Reptile survey effort in local area is considered to be above average.

Reptiles are likely to be present on site, as it provides suitable habitat.

Common reptiles are afforded limited legal protection under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). They are also listed as species of principal conservation importance (See Appendix A).

For more information, guidance from Natural England is available at <https://www.gov.uk/reptiles-protection-surveys-and-licences>

### 3.5 Birds

It is considered that the site has high potential to support breeding birds within the trees and scrub.

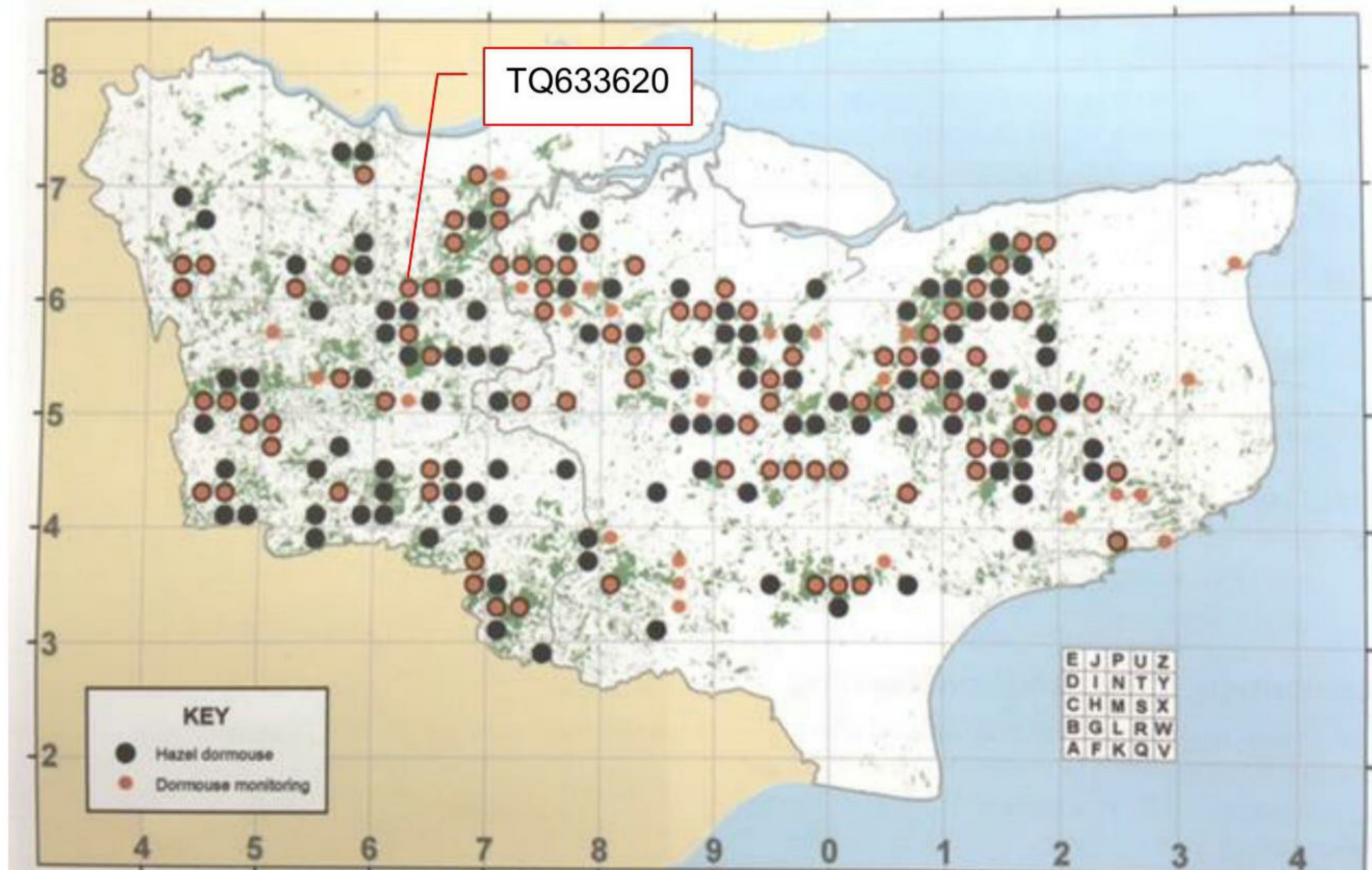
All species of bird whilst actively nesting are afforded legal protection under the Wildlife & Countryside Act 1981 (as amended) and special penalties are available for offences related to birds listed on Schedule 1. Some species are also listed as species of principal conservation importance, including sky lark, common cuckoo, house sparrow, tree sparrow and song thrush (See Appendix A).

For more information, guidance from Natural England is available at <https://www.gov.uk/wild-birds-protection-surveys-and-licences>

### 3.6 Hazel Dormouse

It is considered that the trees and scrub on site (and adjacent woodland) have high potential to support the hazel dormouse *Muscardinus avellanarius* due to connection to suitable woodlands and known presence of the species near-by. However, due to the size of the site (0.7ha), it would only be a part of an individual dormouse's range (Natural England/DEFRA indicate that the range of one dormouse home is 1 to 1.5 hectares of woodland or 300 metres of hedge<sup>8</sup>).

Map showing known presence of dormice in Kent (from Mammals of Kent, 2015):



The dormouse is afforded full legal protection under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). It is also listed under Schedule 2 of the Conservation of Habitats and Species Regulations 2017 and are therefore a “European Protected Species” (EPS). The dormouse is also listed as species of principal conservation importance (See Appendix A).

For more information, guidance from Natural England is available at <https://www.gov.uk/hazel-dormice-protection-surveys-and-licences>

The *State of Britain's Dormice 2016* report by PTES (<https://ptes.org/wp-content/uploads/2016/09/State-of-Britains-Dormice-2016.pdf>) states that a long-term decline in hazel dormouse numbers in England and Wales continues across their range, and national monitoring shows the population has fallen by a third since 2000. The report explains that dormice are becoming scarcer due to: loss and fragmentation of habitat; changes in woodland and hedgerow management; and a changing climate and unpredictable weather.

<sup>8</sup> <https://www.gov.uk/guidance/hazel-or-common-dormice-surveys-and-mitigation-for-development-projects>)



### 3.7 Badger

### 3.8 Bats

No bats nor signs of bats were found during the internal/external inspection of the buildings. They were judged as offering negligible suitability for roosting bats, being of single skin construction with no suitable cavities.

As the trees were in full leaf, it was difficult to assess their suitability for roosting bats. One low pollard hornbeam had high suitability for roosting bats due to the presence of cavities. It is likely that more trees have roosting suitability.

The site and surrounding area are likely to be used by foraging and commuting bats.

All species of bat are afforded full legal protection under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). They are also listed under Schedule 2 of the Conservation of Habitats and Species Regulations 2017 and are therefore a “European Protected Species” (EPS). Some species of bats (noctule, soprano pipistrelle, brown long-eared bat, barbastelle) are also listed as species of principal conservation importance.

The first official IUCN Red List for British Mammals shows that four of the 11 mammal species native to Britain classified as being at imminent risk of extinction are bats. These are: greater mouse-eared bat, grey long-eared bat, serotine and barbastelle. A further two species are classified as Near Threatened: Leisler’s bat and Nathusius’ pipistrelle.

Bats rarely use the same roosting place all year round as they need different conditions for breeding and hibernating. But bats are creatures of habit and tend to return to the same sites at the same time year after year. For this reason, roosts are legally protected even if bats don’t seem to be living there at certain times of year.

The legislation makes it a criminal offence to:

- Deliberately capture, injure or kill a bat;
- Intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats;
- Damage or destroy a bat roosting place (even if bats are not occupying the roost at the time);
- Possess or advertise/sell/exchange a bat (dead or alive) or any part of a bat;
- Intentionally or recklessly obstruct access to a bat roost.

For more information, guidance from Natural England is available at <https://www.gov.uk/bats-protection-surveys-and-licences>

### 3.9 Other Species

It is considered that the surroundings have potential to support hedgehogs (*Erinaceus europaeus*), which are a Species of Principal Importance under Section 41 of the NERC Act (2008 updated list).

All mammals are afforded protection against unnecessary suffering by the Wild Mammals (Protection) Act 1996 (see Appendix A).

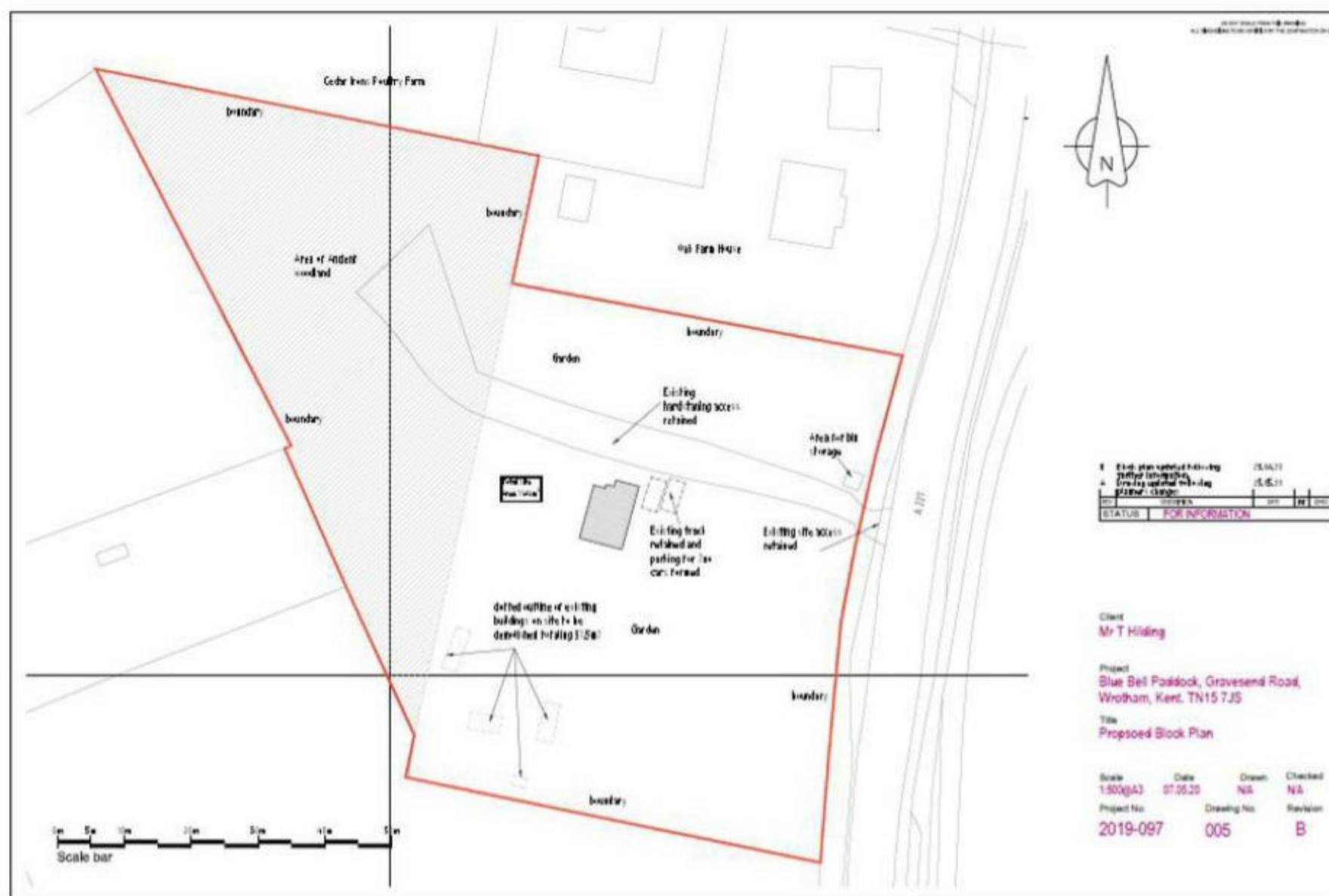
It is considered that the site also has potential to support stag beetles *Lucanus cervus*<sup>9</sup>, which are protected against illegal trade under schedule 5 of the Wildlife and Countryside Act 1981 and are a priority Biodiversity Action Plan species in the UK.

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<sup>9</sup> For more information, see <http://ptes.org/campaigns/stag-beetles/stag-beetle-facts/>

## 4 Ecological constraints and opportunities, recommendations for mitigation, compensation and further survey

The details of the proposed development were as below at the time of writing this report.



Should the scope of the proposed works be amended following the completion of this scoping survey, or be deferred for an extended period of time, there may be a requirement to update this scoping report and its recommendations. Designated Nature Conservation Sites

### 4.1 Designated Nature Conservation Sites

A site check report was generated for the site using the Impact Risk Zones on the Magic website<sup>10</sup>:

<sup>10</sup> The Impact Risk Zones (IRZs) dataset is a GIS tool which maps zones around each SSSI according to the particular sensitivities of the features for which it is notified and specifies the types of development that have the potential to have adverse impacts.

Natural England uses the IRZs to make an initial assessment of the likely risk of impacts on SSSIs and to quickly determine which consultations are unlikely to pose risks and which require more detailed consideration. Publishing the IRZs will allow LPAs, developers and other partners to make use of this key evidence tool.

<http://www.naturalengland.org.uk/ourwork/planningdevelopment/impactriskzonesgistoolfeature.aspx>

11/09/2020

Site Check Report Report generated on Fri Sep 11 2020  
You selected the location: Centroid Grid Ref: TQ63346200  
The following features have been found in your search area:

#### SSSI Impact Risk Zones - to assess planning applications for likely impacts on SSSIs/SACs/SPAs & Ramsar sites (England)

1. DOES PLANNING PROPOSAL FALL INTO ONE OR MORE OF THE CATEGORIES BELOW? 2. IF YES, CHECK THE CORRESPONDING DESCRIPTION(S) BELOW. LPA SHOULD CONSULT NATURAL ENGLAND ON LIKELY RISKS FROM THE FOLLOWING:

##### All Planning Applications

##### Infrastructure

Airports, helipads and other aviation proposals.

##### Wind & Solar Energy

##### Minerals, Oil & Gas

Planning applications for quarries, including: new proposals, Review of Minerals Permissions (ROMP), extensions, variations to conditions etc. Oil & gas exploration/extraction.

##### Rural Non Residential

##### Residential

##### Rural Residential

##### Air Pollution

Any industrial/agricultural development that could cause AIR POLLUTION (incl: industrial processes, livestock & poultry units with floorspace > 500m<sup>2</sup>, slurry lagoons > 200m<sup>2</sup> & manure stores > 250t).

##### Combustion

General combustion processes >20MW energy input. Incl: energy from waste incineration, other incineration, landfill gas generation plant, pyrolysis/gasification, anaerobic digestion, sewage treatment works, other incineration/ combustion.

##### Waste

Landfill. Incl: inert landfill, non-hazardous landfill, hazardous landfill.

##### Composting

Any composting proposal with more than 500 tonnes maximum annual operational throughput. Incl: open windrow composting, in-vessel composting, anaerobic digestion, other waste management.

##### Discharges

##### Water Supply

##### Notes 1

##### Notes 2

##### GUIDANCE - How to use the Impact Risk Zones

[/Metadata\\_for\\_magic/SSSIIRZ\\_User\\_Guidance\\_MAGIC.pdf](#)

The type of development proposed is not listed as being a category for which the LPA should consult Natural England. The proposal is not judged detrimental to any protected sites.

## 4.2 Habitats

Ancient woodland and veteran trees support a very large number of species, many of them rare and threatened, and therefore protected. Ancient woodland and veteran trees are an important and historic part of the landscape, and cannot be replaced because they take hundreds of years to develop. For these reasons, planning authorities should refuse planning permission for any development that leads to their loss or damage. The only exceptions are when the benefits of a development clearly outweigh that loss or damage<sup>11</sup>.

Natural England's standing advice for Ancient Woodland and Veteran Trees paragraph 6.4 states: "Development must be kept as far as possible from ancient woodland, with a buffer area maintained between the ancient woodland and any development boundary. An appropriate buffer area will depend on the local circumstances and the type of development. In a planning case in West Sussex the Secretary of State supported the arguments for a 15m buffer around the affected ancient woodland, but larger buffers may be required."

It also further states that: "The permanent retention of buffer zones must be secured as part of the planning permission. These should be allowed to develop into semi-natural habitat. Developments such as gardens must not be included within buffer zones as there is limited control over how they may be used, or developed in the future; for example, they might be paved or decked without the need for planning permission or they may include inappropriate species which could escape into the woodland."

Thus it is recommended to:

- Leave a 15m buffer not used as garden but left as semi-natural habitat (as per above);

<sup>11</sup> For more information see <https://www.gov.uk/ancient-woodland-and-veteran-trees-protection-surveys-licences>

- Re-instate ancient woodland where it has been cleared (and remove the existing hard standing) and manage accordingly in the long-term.



Trees to be retained should be protected during any construction work and guidance is given in the 'BS 5837:2012 Trees in relation to design, demolition and construction. Recommendations' document. This standard requires a tree protection plan to be developed which involves erecting physical barriers to prevent damage to existing trees, with an exclusion area around the trees. It also looks at defining a root protection area and requires consideration when compulsory work is carried out within the root protection area.

### 4.3 Amphibians

Pond loss is often seen as the most damaging impact on great crested newt populations, but the loss of terrestrial habitat can also have serious consequences. Great crested newts live on land for the majority of their lives, and so loss of terrestrial areas, particularly those close to the breeding pond, can be very damaging. The main effect of habitat loss is reduction in population size, reduced foraging opportunities, reduced refuge opportunities leading to exposure to predators or harsh conditions, and unsuccessful hibernation.

There are a number of development activities which can affect great crested newts, which should be fully considered at the application stage. Great crested newts can migrate more than 500 metres from their breeding ponds in areas of suitable terrestrial habitat. However, generally the scale of potential impacts will decrease as the distance from the breeding pond increases.

Natural England provides a rapid risk assessment tool to work out whether a licence will be needed.

**Application tools: (1) "Do I need a licence?" - rapid risk assessment**

**Caveats and limitations**

This risk assessment tool has been developed as a **general guide only**, and it is inevitably rather simplistic. It has been generated by examining where impacts occurred in past mitigation projects, alongside recent research on newt ecology. It is not a substitute for a site-specific risk assessment informed by survey. In particular, the following factors are not included for sake of simplicity, though they will often have an important role in determining whether an offence would occur: population size, terrestrial habitat quality, presence of dispersal barriers, timing and duration of works, detailed layout of development in relation to newt resting and dispersal. The following factors could increase the risk of committing an offence: large population size, high pond density, good terrestrial habitat, low pre-existing habitat fragmentation, large development footprint, long construction period. The following factors could decrease the risk: small population size, low pond density, poor terrestrial habitat, substantial pre-existing dispersal barriers, small development footprint, short construction period. You should bear these mitigating and aggravating factors in mind when considering risk.

It is critical that, even if you decide not to apply for a licence, you ensure that any development takes account of potential newt dispersal. Where great crested newts are present, landuse in that area must ensure there is adequate connectivity. Retaining and improving connectivity will often involve no licensable activities.

**Guidance on risk assessment result categories**

**"Green: offence highly unlikely"** indicates that the development activities are of such a type, scale and location that it is highly unlikely any offence would be committed should the development proceed. Therefore, no licence would be required. However, bearing in mind that this is a generic assessment, you should carefully examine your specific plans to ensure this is a sound conclusion, and take precautions (see **Non-licensed avoidance measures tool**) to avoid offences if appropriate. It is likely that any residual offences would have negligible impact on conservation status, and enforcement of such breaches is unlikely to be in the public interest.

**"Amber: offence likely"** indicates that the development activities are of such a type, scale and location that an offence is likely. In this case, the best option is to redesign the development (location, layout, methods, duration or timing; see **Non-licensed avoidance measures tool**) so that the effects are minimised. You can do this and then re-run the risk assessment to test whether the result changes, or preferably run your own detailed site-specific assessment. Bear in mind that this generic risk assessment will over- or under-estimate some risks because it cannot take into account site-specific details, as mentioned in caveats above. In particular, the exact location of the development in relation to resting places, dispersal areas and barriers should be critically examined. Once you have amended the scheme you will need to decide if a licence is required; this should be done if on balance you believe an offence is reasonably likely.

**"Red: offence highly likely"** indicates that the development activities are of such a type, scale and location that an offence is highly likely. In this case, you should attempt to re-design the development location, layout, timing, methods or duration in order to avoid impacts (see **Non-licensed avoidance measures tool**), and re-run the risk assessment. You may also wish to run a site-specific risk assessment to check that this is a valid conclusion. If you cannot avoid the offences, then a licence should be applied for.

The site is 0.7ha. Below is the risk assessment, should great crested newts be present within 250-500m:

Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	No effect	0
Land 100-250m from any breeding pond(s)	No effect	0
Land >250m from any breeding pond(s)	0.5 - 1 ha lost or damaged	0.03
Individual great crested newts	No effect	0
	Maximum:	0.03
Rapid risk assessment result:	<b>GREEN: OFFENCE HIGHLY UNLIKELY</b>	

Therefore, no further work is recommended with regards to great crested newts.

#### 4.4 Reptiles

If reptiles are indeed present, it is expected that they can be kept on site, and use the area of the site to be re-instated and outside the formal garden area.

The following precautionary mitigation strategy is thus proposed to minimise any potential impacts: it is recommended to prepare the development site using habitat manipulation as below:

- Ground works should be done outside of the hibernation season (taken to be November to March included);
- The works area should be mowed using hand held machinery only<sup>12</sup> (to 15cm height minimum), during sunny conditions, during the reptile active season (April to October), in order to force the animals out of the area;
- A second cut should be given to ground level, 2 days following the first cut, during sunny conditions;
- After 2 days, a destructive search (consisting of carefully scraping the top layer of soil with a digger with a toothed bucket under supervision by an ecologist to retrieve any animal present) should be carried out. Any animal found should be relocated in the buffer area.

#### 4.5 Birds

Although a breeding bird survey is not deemed to be necessary, on the basis that the site contains suitable habitat for breeding birds, consideration must be given to the timing of the clearance works, if any is to take place.

The effect on birds can be avoided by undertaking any vegetation clearance outside of the nesting season (which extends from March – August inclusive<sup>13</sup>) or only after a survey has confirmed the absence of nesting birds<sup>14</sup>. New hedgerow/trees/scrub planted and bird nesting boxes erected as part of the proposed development can replace the habitat lost.

<sup>12</sup> strimmer, brush-cutter

<sup>13</sup> It should be noted however that certain species are known to breed throughout the year (e.g. collard dove) and remain protected.

<sup>14</sup> Inspection by a qualified ecologist must first be completed a maximum of 48hrs before clearance works commence. If during the inspection a nest considered to be in use is discovered, works must be delayed until the young have fledged.

## 4.6 Hazel Dormouse

Some tree and scrub clearance is expected to be necessary with the current design. However, should the area of ancient woodland be replanted and re-instated as recommended, the loss would be compensated.

Assuming that dormice are indeed present, the clearance works and subsequent interruption in arboreal connectivity could cause disturbance to hibernating or breeding dormice and restrict the dispersal of animals throughout the breeding season.

If unmitigated, the works would be at risk of killing or injuring dormice. The disturbance also would have the potential to interrupt normal animal behaviour throughout the active season, cause temporary displacement of animals or lead to abandonment of young dormice with indirect mortality as a consequence.

Should trees be directly impacted by the proposed works, it will be necessary to put together a mitigation strategy to minimise disturbance to the species (including phased vegetation clearance and habitat creation) and a Habitats Regulations licence will be needed to undertake the work<sup>15</sup>. An application would need to be prepared and submitted to Natural England for determination, once planning permission is granted<sup>16</sup>.

Should any trees/scrub need to be cleared, this should be done in a phased manner:

- Phase 1: clearance of vegetation to stump level from November to February (inclusive) using hand held tools and in a sensitive manner;
- Phase 2: clearance of stumps between May and October (inclusive)<sup>17</sup>.

The result of a dormouse survey would be necessary to apply for the Habitats Regulations licence. This is done by installing nesting tubes and boxes on suitable vegetation in very early spring and checking them monthly from April to October included.

<https://www.gov.uk/guidance/hazel-or-common-dormice-surveys-and-mitigation-for-development-projects>

## 4.7 Badger



## 4.8 Bats

The tree with high suitability for roosting bats is not expected to be directly impacted. However, once a tree survey has been done and the loss of trees is known, the site should be revisited in the winter to check for suitability for roosting bats to advise on need for any additional bat surveys.

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<sup>15</sup> <https://www.gov.uk/hazel-or-common-dormice-surveys-and-mitigation-for-development-projects>

<sup>16</sup> additional dormouse surveys from April to August will be needed to fully inform the licence application

<sup>17</sup> The rationale is that dormice hibernate close to the ground in the winter months, so the removal of vegetation above this level should not affect dormice at this time of year. Vegetation removal in the winter months also avoids conflicts with the bird nesting season as the main bird breeding season extends from March to August inclusive.



Indeed, the Bat Conservation Trust’s guidelines provide a table stating the ‘minimum number of presence/absence survey visits required to provide confidence in negative preliminary roost assessment from buildings, built structures and trees in summer.

**Table 7.3 Recommended minimum number of survey visits for presence/absence surveys to give confidence in a negative result for structures (also recommended for trees but unlikely to give confidence in a negative result).**

Low roost suitability	Moderate roost suitability	High roost suitability
One survey visit. One dusk emergence or dawn re-entry survey <sup>a</sup> (structures). No further surveys required (trees).	Two separate survey visits. One dusk emergence and a separate dawn re-entry survey <sup>b</sup>	Three separate survey visits. At least one dusk emergence and a separate dawn re-entry survey. The third visit could be either dusk or dawn. <sup>b</sup>

<sup>a</sup> Structures that have been categorised as low potential can be problematic and the number of surveys required should be judged on a case-by-case basis (see Section 5.2.9). If there is a possibility that quiet calling, late-emerging species are present then a dawn survey may be more appropriate, providing weather conditions are suitable. In some cases, more than one survey may be needed, particularly where there are several buildings in this category.  
<sup>b</sup> Multiple survey visits should be spread out to sample as much of the recommended survey period (see Table 7.1) as possible; it is recommended that surveys are spaced at least two weeks apart, preferably more. A dawn survey immediately after a dusk one is considered only one visit.

**Table 7.1 Recommended timings for presence/absence surveys to give confidence in a negative result for structures (also recommended for trees but unlikely to give confidence in a negative result).**

Low roost suitability	Moderate roost suitability	High roost suitability
May to August (structures) No further surveys required (trees)	May to September <sup>a</sup> with at least one of surveys between May and August <sup>b</sup>	May to September <sup>a</sup> with at least two of surveys between May and August <sup>b</sup>

Besides, as lighting can be detrimental to roosting, foraging and commuting bats<sup>18</sup>, the recommendations from the Bat Conservation Trust and the Institution of Lighting Professionals, titled ‘Guidance Note 8 Bats and Artificial Lighting’<sup>19</sup>, should be considered, when designing any lighting scheme for the proposed development.

**4.9 Other Species**

There is some potential for hedgehogs to be present on site. Therefore any areas where mammals could be sheltering should be hand searched prior to disturbance. Excavations should not be left open for animals to fall into, or planks of wood should be placed to enable any animals which may fall into such a hole to escape.

The People’s Trust for Endangered Species PTES states:

*‘The major threat to stag beetles in the UK is the removal of larval habitat, i.e. dead wood. The removal of hedges and trees (both of which will have dead portions underground), as well as stumps, causes the greatest habitat loss. If stag beetles and/or stag beetle larvae are known or thought to be present at a site where an application for planning has been submitted, and are likely to be disturbed or destroyed whilst work is carried out at the site, it is recommended that someone with an understanding of the insects’ requirements be present to see that any larvae and/or adults are carefully translocated to a suitable natural or purpose-built habitat close by.’*

Should any areas of wood be impacted by the proposed works, it would therefore be recommended that an ecologist be on site when any dead wood, wooden posts, shrubs,

<sup>18</sup> <https://www.bats.org.uk/about-bats/threats-to-bats/lighting>  
<sup>19</sup> <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>

stumps, hedges or trees are removed, so that larvae or adults that are disturbed/dug up can be spotted, retrieved and placed out of harms way. It will be necessary to ensure that suitable relocation habitat be present or created prior to such translocation works (such as a large log pyramid and beetle buckets<sup>20</sup>).

#### 4.10 Additional Recommendations: Enhancements

Ecological enhancements should where possible be incorporated into the proposed development to contribute towards the objectives of planning legislation below:

In July 2018, the UK Government published the revised National Planning Policy Framework (NPPF) which states that “opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity“ (Para 175).

In May 2019, the Chancellor confirmed that the government will use the forthcoming Environment Bill to mandate ‘biodiversity net gain’ – meaning the delivery of much-needed infrastructure and housing is not at the expense of vital biodiversity. Biodiversity net gain requires developers to ensure habitats for wildlife are enhanced and left in a measurably better state than they were pre-development. They must assess the type of habitat and its condition before submitting plans, and then demonstrate how they are improving biodiversity – such as through the creation of green corridors, planting more trees, or forming local nature spaces. Green improvements on site would be encouraged, but in the rare circumstances where they are not possible, developers will need to pay a levy for habitat creation or improvement elsewhere<sup>21</sup>.

The design and implementation of habitat enhancements could also be used to contribute towards the ‘Home Quality Mark’ or similar accreditation, should this be a consideration for this site.

Biodiversity enhancements for the site could include the following:

- Provision of ready-made bird boxes<sup>22</sup> on retained trees or integrated in new buildings.
- Provision of integrated bat boxes on new buildings or bat boxes on retained mature trees<sup>23</sup>.
- Provision of integrated bee brick or bee block in the structure of the new building<sup>24</sup>;
- Provision of barn owl boxes<sup>25</sup> as the surrounding landscape is judged suitable<sup>26</sup>
- Provision of owl boxes in trees<sup>27</sup>
- Planting of hedges with dormouse friendly species (using native species)<sup>28</sup>.

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<sup>20</sup> Full information available here <http://ptes.org/campaigns/stag-beetles/>

<sup>21</sup> <https://deframedia.blog.gov.uk/2019/03/13/government-to-mandate-biodiversity-net-gain/>

<sup>22</sup> Integrated nest boxes in new buildings are preferred as they provide longer term nesting opportunities.

<sup>23</sup> <https://www.bats.org.uk/our-work/buildings-planning-and-development/bat-boxes>

<sup>24</sup> [https://www.nhbs.com/bee-brick?bkfno=244137&ca\\_id=1495&qclid=EAlaIqobChMijYSHmKXa5AIVyLHtCh3sgwh8EAQYASABEgI-7PD\\_BwE](https://www.nhbs.com/bee-brick?bkfno=244137&ca_id=1495&qclid=EAlaIqobChMijYSHmKXa5AIVyLHtCh3sgwh8EAQYASABEgI-7PD_BwE)

<sup>25</sup> More information can be found here: <http://www.barnowltrust.org.uk/infopage.html?Id=42>

<sup>26</sup> [http://www.barnowltrust.org.uk/content\\_images/gallery/ENGLAND\\_Southern1159973743.jpg](http://www.barnowltrust.org.uk/content_images/gallery/ENGLAND_Southern1159973743.jpg)

<sup>27</sup> More information can be found here <http://www.barnowltrust.org.uk/infopage.html?Id=56>

<sup>28</sup> Possible species, which also provide food for dormice and grow relatively quickly, include bramble *Rubus fruticosus* agg., hawthorn *Crataegus monogyna*, honeysuckle *Lonicera* species, and hornbeam

- Create a wildlife pond<sup>29 30</sup>.
- Integration of green or grey roofs<sup>31, 32, 33</sup>.
- Consider using grid mesh system (or Ground Reinforcement Grids) with topsoil and seeding with a wildflower species mix, to car parking areas and new access drives to retain some vegetation as well as drainage, or Gravel turf<sup>34</sup>.
- Development of a full Biodiversity Management Plan.

Priority should be given to species present on the Kent BAP species list, which include great crested newt, common toad, viviparous lizard, slow-worm, grass snake, adder, house sparrow, tree sparrow, hedgehog, noctule, soprano pipistrelle, brown long-eared bat, brown hare, water vole, harvest mouse, dormouse, otter as well as many more species (see <http://www.kentbap.org.uk/habitats-and-species/priority-species/>).

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*Carpinus betulus*. Other species include include hazel *Corylus avellana*, oak *Quercus* species, blackthorn *Prunus spinosa* and ivy *Hedera helix* (English Nature, 2006).

<sup>29</sup> <http://www.pondconservation.org.uk/advice/makeapond/> for more information

<sup>30</sup> 'Pond creation is the foremost measure for improving *T. cristatus* status in the UK' (The Crested Newt – a dwindling pond dweller, 2011R Jehle, B Thiesmeier J Foster, BHS, page 119)

<sup>31</sup> <http://www.environment-agency.gov.uk/business/sectors/91967.aspx>,  
<http://www.london.gov.uk/priorities/environment/urban-space/parks-green-spaces/green-roofs-walls>  
 and <http://publications.naturalengland.org.uk/publication/31036> for more information

<sup>32</sup> An example of a company with extensive experience in designing biodiverse roofs in Central London: the Green Roof Consultancy <http://www.greenroofconsultancy.com>

<sup>33</sup> 'Creating green roofs for invertebrates – a best practice guide' by Buglife  
[https://www.buglife.org.uk/sites/default/files/Creating%20Green%20Roofs%20for%20Invertebrates\\_Best%20practice%20guidance.pdf](https://www.buglife.org.uk/sites/default/files/Creating%20Green%20Roofs%20for%20Invertebrates_Best%20practice%20guidance.pdf)

<sup>34</sup> [http://www.schotterrasen.at/e\\_index.htm](http://www.schotterrasen.at/e_index.htm)

Preliminary Ecological Appraisal

Blue Bell Paddock, Gravesend Road, Wrotham

KB Ecology Ltd- September 2020

## 5 References and Bibliography

- Joint Nature Conservation Committee (2003). *Handbook for Phase 1 Habitat Survey: A Technique for Environmental Audit*. JNCC, Peterborough.<sup>35</sup>
- English Nature (2004). *Research Reports Number 576: An assessment of the efficiency of capture techniques and the value of different habitats for the great crested newt *Triturus cristatus**. English Nature, Peterborough

### Websites Visited:

- <http://webapps.kent.gov.uk/KCC.KLIS.Web.Sites.Public/ViewMap.aspx>
- <http://www.magic.gov.uk/magicmap.aspx>
- <http://www.kentbap.org.uk/species/>

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<sup>35</sup> [http://www.jncc.gov.uk/pdf/pub90\\_HandbookforPhase1HabitatSurveyA5.pdf](http://www.jncc.gov.uk/pdf/pub90_HandbookforPhase1HabitatSurveyA5.pdf)

## Appendix A – Wildlife Legislation & Policy

The following is a summary of wildlife legislation and planning policy which affords protection to plants and animals and seeks to conserve, enhance and restore biodiversity. This section is provided for general guidance only. While every effort has been made to ensure accuracy, this section should not be relied upon as a definitive statement of the law.

For further information, please see:

<https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>


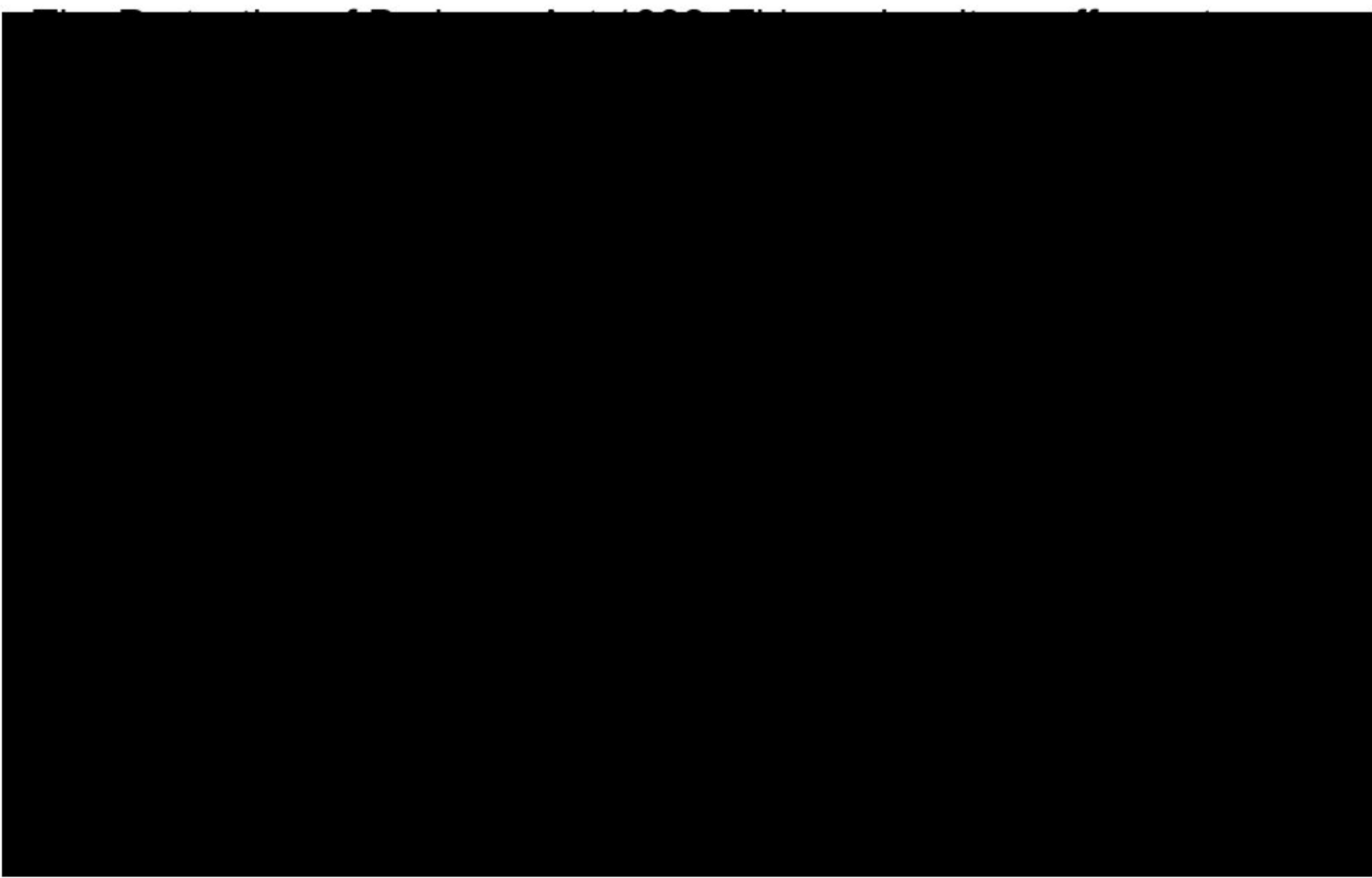
and

<https://www.gov.uk/government/policies/protecting-biodiversity-and-ecosystems-at-home-and-abroad/supporting-pages/species-protection>

### Commonly encountered protected species

Many species of plants, invertebrates and animals receive protection under the legislation detailed above. However, of these, the following are the most likely to be affected by development in the southeast:

Species	Legislation
Bats (all species) Dormice Great crested newts Otters Sand lizards and smooth snakes	The Wildlife and Countryside Act 1981 (as amended) & The Conservation of Habitats and Species Regulations 2017. These make it an offence to: <ul style="list-style-type: none"> <li>• Deliberately or recklessly capture, injure or kill any wild animal of a European protected species</li> <li>• Deliberately or recklessly disturb wild animals of any such species</li> <li>• Damage or destroy their breeding site or resting place</li> <li>• Keep, transport, sell or exchange, or offer for sale or exchange, any live or dead animal, or any part of, or anything derived from these species.</li> </ul> Disturbance of animals includes in particular any disturbance which is likely <ul style="list-style-type: none"> <li>• to impair their ability:                             <ul style="list-style-type: none"> <li>- to survive, to breed or reproduce, or to rear or nurture their young, or</li> <li>- in the case of animals of a hibernating or migratory species, to hibernate or migrate;</li> </ul> </li> <li>• to affect significantly the local distribution or abundance of the species to which they belong.</li> </ul>
Breeding birds	The Wildlife and Countryside Act 1981 (as amended). This makes it

Species	Legislation
(in particular barn owls)	illegal to intentionally kill, injure or take any wild bird and to take, damage or destroy the nest (whilst being built or in use) or eggs.
Adders, grass snakes, common lizards and slow worms	The Wildlife and Countryside Act 1981 (as amended) (intentional killing and injuring only). This makes it illegal to kill or injure these animals.
Water voles	The Wildlife and Countryside Act 1981 (as amended). This makes it illegal to intentionally damage, destroy or obstruct access to any structure or place which water voles use for shelter or protection; it is also an offence to intentionally disturb water voles while they are using these places.
White clawed crayfish	<p>The Wildlife and Countryside Act 1981 (as amended). This makes it an offence to:</p> <ul style="list-style-type: none"> <li>• intentionally, or recklessly, kill or injure any of the above species, and/or;</li> <li>• sell, or attempt to sell, any part of the species, alive or dead. Advertises that he buys or sells, or intends to buy or sell.</li> </ul>
	

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

The Wildlife and Countryside Act 1981 (as amended) implements the Birds Directive (1979) and the Berne Convention (1979) into national legislation. The Wildlife and Countryside Act 1981 (as amended) includes a number of Schedules which are reviewed (usually every five years) on which details of the protected species, and their level of protection, are detailed. A detailed summary of the sections of the Wildlife and Countryside Act, along with the

protection afforded under them can be found within Paragraphs 118-122 of ODPM Circular 06/2005 (Circular06/2005)

Full details of the legislation can be found at [www.jncc.gov.uk/page-3614](http://www.jncc.gov.uk/page-3614) and details of the species listed on the Schedules can be found at:

- Birds [www.jncc.gov.uk/PDF/waca1981\\_schedule1.pdf](http://www.jncc.gov.uk/PDF/waca1981_schedule1.pdf)
- Animals [www.jncc.gov.uk/page-1815](http://www.jncc.gov.uk/page-1815)
- Plants [www.jncc.gov.uk/page-1816](http://www.jncc.gov.uk/page-1816)

There are no licensing functions within the Wildlife and Countryside Act for development activities which may affect a species protected under The Wildlife and Countryside Act 1981 (as amended) and works need to proceed following good practice and if appropriate rely on the 'incidental result of an otherwise lawful operation defence'. However, with regards to the water vole, where translocation of animals is proposed, Natural England does not feel this could be considered the incidental result of other activities and so would not be covered by the defence in the legislation. If there is no alternative to translocation, Natural England may be able to issue a licence to trap and translocate the water voles for the purpose of conservation.

### **The Countryside and Rights of Way Act 2000**

The Wildlife and Countryside Act 1981 was amended by the Countryside and Rights of Way Act (CRoW Act) in 2000. The CRoW Act strengthened the protection afforded to species listed within the Schedules of the Wildlife and Countryside Act by adding 'reckless' to several of the offences and increased the penalties for wildlife offences.

In addition, Section 74 of the CRoW Act introduced a new duty on Government Ministers and Department to further the conservation of biodiversity for habitats and species of principal importance. This was superseded by Sections 40 and 41 of the Natural Environment and Rural Communities (NERC) Act of 2006. Section 40 provides that every public authority must, in exercising its functions, have regard to the purpose of conserving biodiversity. Details of the lists of habitats and species provided for at Section 41 of the NERC act can be found at [www.ukbap-reporting.org.uk/news/details.asp?X=45](http://www.ukbap-reporting.org.uk/news/details.asp?X=45). The ODPM Circular 06/2005 (Circular06/2005) place a clear responsibility on Local Planning Authorities to further the conservation of habitats and species of principal importance where a planning proposal may adversely affect them.

Full details of the legislation contained within the Countryside and Rights of Way Act can be found at [www.opsi.gov.uk/acts/acts2000/ukpga\\_20000037\\_en\\_1](http://www.opsi.gov.uk/acts/acts2000/ukpga_20000037_en_1).

### **The Protection of Badgers Act 1992**

The legislation affording protection to badgers is primarily concerned with animal welfare and the need to protect badgers from activities such as baiting and deliberate harm. The Protection of Badgers Act 1992 makes it an offence to:

- Wilfully kill, injure, take, possess or cruelly ill-treat a badger, or attempt to do so;
- To intentionally or recklessly interfere with a sett (this includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it).

As with The Wildlife and Countryside Act 1981 (as amended), there are several defences to prosecution in the legislation and the text should be consulted for details of these. Penalties

for offences include fines up to £5,000, plus up to six months imprisonment for each illegal sett interference, or badger death or injury.

Full Details of the legislation can be found at [www.opsi.gov.uk/ACTS/acts1992/ukpga\\_19920051\\_en\\_1](http://www.opsi.gov.uk/ACTS/acts1992/ukpga_19920051_en_1).

**Conservation of Habitats and Species Regulations 2017 (SI 2010/490) came into force (the "2010 Regulations").**

The Conservation of Habitats and Species Regulations 2017 provides safeguards for European Protected Sites and Species (as listed in the Habitats Directive). The **Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (SI 2019/579)** were made on 14 March 2019 and come into force on exit day. The Regulations ensure that the habitat and species protection and standards derived from EU law will continue to apply after Brexit. <http://www.legislation.gov.uk/ukdsi/2019/9780111176573>

From 1st April 2010, these are now the principal means by which the Habitats Directive is transposed in England and Wales. This updates and consolidates all the amendments to the Regulations since they were first made in 1994.

The 2010 Regulations implement the European Habitats Directive into national legislation. Details of those species (often referred to as European protected species or EPS) which receive protection under these regulations can be found in Schedule 2 of the 2010 Regulations.

Full details of the legislation can be found at [http://www.opsi.gov.uk/si/si2010/uksi\\_20100490\\_en\\_1](http://www.opsi.gov.uk/si/si2010/uksi_20100490_en_1)

The Regulations state that:

Part 3 - 41.—

(1) A person who:

- (a) deliberately captures, injures or kills any wild animal of a European protected species,
- (b) deliberately disturbs wild animals of any such species,
- (c) deliberately takes or destroys the eggs of such an animal, or
- (d) damages or destroys a breeding site or resting place of such an animal,

is guilty of an offence.

(2) For the purposes of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely:

(a) to impair their ability:

- (i) to survive, to breed or reproduce, or to rear or nurture their young, or
- (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate;

Or

(b) to affect significantly the local distribution or abundance of the species to which they belong.

(3) It is an offence for any person:



- (a) to be in possession of, or to control,
- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange, anything to which this paragraph applies.

(4) Paragraph (3) applies to—

- (a) any live or dead animal or part of an animal—
  - (i) which has been taken from the wild, and
  - (ii) which is of a species or subspecies listed in Annex IV(a) to the Habitats Directive; and
- (b) anything derived from such an animal or any part of such an animal.

(5) Paragraphs (1) and (3) apply regardless of the stage of the life of the animal in question.

(6) Unless the contrary is shown, in any proceedings for an offence under paragraph (1) the animal in question is presumed to have been a wild animal.

(7) In any proceedings for an offence under paragraph (3), where it is alleged that an animal or a part of an animal was taken from the wild, it is presumed, unless the contrary is shown, that that animal or part of an animal was taken from the wild.

(8) A person guilty of an offence under this regulation is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

(9) Guidance as to the application of the offences in paragraph (1)(b) or (d) in relation to particular species of animals or particular activities may be published by—

- (a) the appropriate authority; or
- (b) the appropriate nature conservation body, with the approval of the appropriate authority.

(10) In proceedings for an offence under paragraph (1)(b) or (d), a court must take into account any relevant guidance published under paragraph (9).

(11) In deciding upon the sentence for a person convicted of an offence under paragraph (1)(d), the court must in particular have regard to whether that person could reasonably have avoided the damage to or destruction of the breeding site or resting place concerned.

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Licences may be obtained to permit activities that would otherwise be unlawful, but they can only be granted for certain purposes. Those purposes include that of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment (Regulation 42(10)). It is the imperative reasons of overriding public interest element of this that is relied upon by those seeking to carry out development where those activities affect a European protected species or their places used for shelter or protection. Even where that purpose is met, however a licence may only be granted where:

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

Natural England issues licences for these purposes under Regulation 44(2)(e).

It is not the responsibility of Natural England staff to decide when a licence is required/recommended. This decision is down to the proposer of the operation who should

consider whether, on balance and usually with the assistance of an ecological consultant, the operation would be reasonably likely to result in the commission of an offence under these Regulations. This view should be formed in the light of survey information and specialist knowledge. A licence simply permits an action that is otherwise unlawful. A licence should be applied for if, on the basis of survey information and specialist knowledge, it is considered that the proposed activity is reasonably likely to result in an offence (killing, breeding site destruction, etc – see above).

It should be noted that the protection afforded to species under the UK and EU legislation referred to here is in addition to that provided by the planning system and the applicant must ensure that any activity they undertake on the application site (regardless of whether or not planning permission has been obtained ) complies with the appropriate wildlife legislation. Failure to do so may result in fines and, potentially, a custodial sentence.

### **Biodiversity Action Plans**

Biodiversity Action Plans (BAPS) set out actions for the conservation and enhancement of biological diversity at various spatial scales. They consist of both Habitat Action Plans (HAPs) and Species Action Plans (SAPs).

The UK BAP was the UK's response to the 1992 Convention on Biological Diversity in Rio de Janeiro. Following a review in 2007 a list of 1149 priority species and 65 priority habitats has been adopted, which are given a statutory basis for planning consideration under Section 40 of the NERC Act 2006.

The UK Post-2010 Biodiversity Framework was published on 17 July 2012. It covers the period from 2011 to 2020, and was developed in response to two main drivers: the Convention on Biological Diversity's (CBD's) Strategic Plan for Biodiversity 2011-2020 and its 5 strategic goals and 20 'Aichi Biodiversity Targets', published in October 2010; and the EU Biodiversity Strategy (EUBS), released in May 2011. <http://jncc.defra.gov.uk/page-6189>

Further information about Kent BAP can be found here: <http://www.kentbap.org.uk/habitats-and-species/priority-species/>

### **Red Data Books**

British Red Data Books (RDB) are an additional method for classifying the rarity of species, and are often seen as a natural progression from Biodiversity Action Plans.

RDB species have no automatic legal protection (unless they are protected under any of the legislation previously mentioned). Instead they provide a means of assessing rarity and highlight areas where resources may be targeted. Various categories of RDB species are recorded, based on the IUCN criteria and the UK national criteria based on presence within certain numbers of 10x10km grid-squares (see <http://www.jncc.gov.uk/page-3425>). As with Biodiversity Action Plans, where possible, steps should be taken to conserve RDB species which are to be affected by development.

**Appendix B – Plates**



IMG\_4430



IMG\_4431



IMG\_4432



IMG\_4433



IMG\_4434



IMG\_4435



IMG\_4436



IMG\_4437



IMG\_4438



IMG\_4439



IMG\_4440



IMG\_4442



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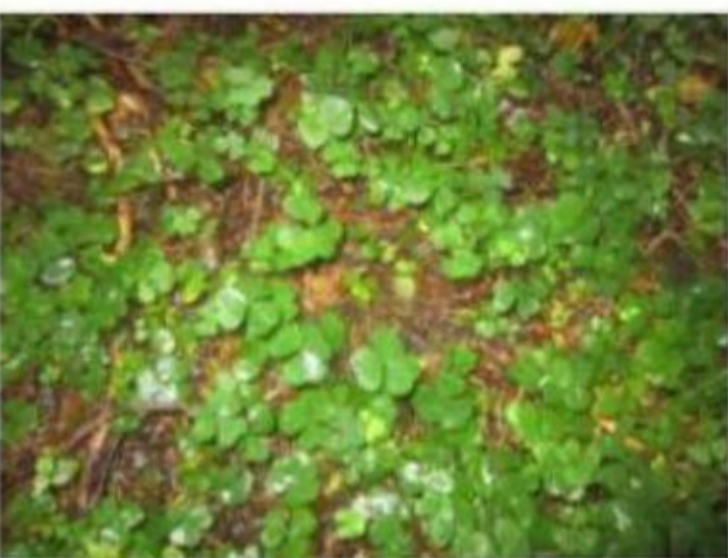
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