

Preliminary Roost Assessment - Bats and Birds

School House, Townfield, Co. Durham, DH8 9UR



Client: Carolyn Ridley

Date: 22nd July 2022

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Planning application:	-
Report reference:	TE2022-NY95134836/PRA/Ver-1.0
Grid Reference:	NY 9513 4836
what3words:	https://w3w.co/hamsters.nuance.trading

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Desk Study Field Survey:	July 2022 22/07/2022

VERSIONING AND QUALITY CONTROL

Status	Version	Author	Reviewed by	Date
Final	1.0	Debbie Goldsmith	Tim Sexton	22/07/2022

DISCLAIMER

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The evidence which we have prepared and provided is true and has been prepared and provided in accordance with the guidance of The Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

LONGEVITY

Survey data should ideally be from the last survey season before a planning or licence application is submitted, although the length that survey data remains valid should be decided on a case-by-case basis and is dependent upon several factors (Collins, 2016).

If development works do not begin within eighteen months to two years of the date the last site survey (22/07/2022), an update survey may be required in accordance with guidance in BS 42020:2013 and CIEEM (2019), to determine if conditions and evidence of bat use has changed since described in the current report.

SUMMARY

Brief and Site Location	This report presents the findings of a preliminary roost assessment survey for bats and birds of an outbuilding at School House, Townfield, Co. Durham, DH8 9UR (Ordnance Survey Grid Reference centred at: NY 9513 4836) referred to in this report as B1.
Proposed Works	Plans to convert the outhouse into a living area.
Survey Methodology	The preliminary roost assessment comprised a daytime internal and external inspection of buildings on-site, searching for signs of bats and nesting birds. The inspection provides a preliminary assessment of the potential of the site to support roosting bats and nesting birds. Other ecological constraints were also noted such as the likelihood of presence of other protected and priority species.
Survey Assessment for bats.	The building B1 is a known roost. The habitat is of high suitability for bats with good foraging and commuting resources in proximity.
Foreseen impacts on bats.	As the proposals include renovating the building, any bat roosts present would be destroyed. This could result in death/injury or disturbance of bats.
Recommendations - bats	Two bat emergence/re-entry surveys are required during the optimal survey period mid-May to August inclusive, to characterise the roost found. Three surveyors are required to provide full coverage of the building. This is work you will need to commission (if any) to obtain planning permission and comply with legislation.
Mitigation/ Compensation and Enhancements for bats and birds.	Mitigation/compensation and enhancement measures for bats and birds will be confirmed after further surveys. The Local Planning Authority has a duty to ask for enhancements under the NPPF (July 2021).
Survey Assessment for birds.	There were gaps suitable for nesting birds, however there was no current evidence of nesting birds nor evidence of any old nests.
Foreseen impacts on birds.	No impacts anticipated.
Recommendations - birds	If in the unlikely event nesting birds are found, active bird nests must be protected and undisturbed until young have fledged.
Impacts on other protected/priority species and habitats	The development is restricted to the existing footprint of the property and no other ecological constraints regarding other protected/priority species and habitats were noted.
Conclusions	Additional surveys must be undertaken to fully assess impacts of the proposed development on bats.

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1 INTRODUCTION

- 1.1 Tyne Ecology was commissioned by Carolyn Ridley (the client) to undertake a Preliminary Roost Assessment (PRA) for bats and birds of an outbuilding at School House, Townfield, Co. Durham, DH8 9UR (Ordnance Survey Grid Reference centred at: NZ1575 5833) referred to in this report as B1.
- 1.2 Plans to convert the outhouse into a guest space.
- 1.3 The PRA was undertaken by Debbie Goldsmith who is an Accredited Agent against bat survey licence Level 2 (Class Licence) 2020-44753-CLS-CLS. She has one years of experience surveying for bats.

Site description

- 1.4 The site in a small rural hamlet on the edge of moorland in the North Pennines.



Figure 1: Aerial image of the site (red dot denotes the site). Image used under licence (Google 2022). Imagery date 22/07/2022

Purpose of this report

- 1.5 The purpose of this report is to provide sufficient information for the local planning authority to fully assess the potential ecological impacts of the proposed development, or to identify what further information is required before a full assessment can be made.
- 1.6 The result of the PRA has been used to inform whether further surveys are required, or to establish the need for, and extent of, any mitigation or compensation measures required as part of the proposed development.

2 METHODOLOGY

Desk study

- 2.1 A biodiversity desk study was undertaken in relation to the site in July 2022. The sources consulted and the type of information obtained are summarised in table 1 below.

Table 1: Sources of biodiversity and ecological records.

Source	Information requested (search buffer from site centre/boundary)
Multi-Agency Geographic Information for the Countryside (MAGIC) ¹ .	<ul style="list-style-type: none">• Designated sites (1km)• Priority habitats (1km)• EPSMLs (2km)
Environmental Records Information Centre North East	<ul style="list-style-type: none">• Bat records (2km)

- 2.2 The search buffers are considered to be sufficient to cover the potential zone of influence (Zol²) of the proposed development.
- 2.3 The impacts of the proposed development on the biological integrity of any nearby designated protected sites have been fully considered.
- 2.4 A search was undertaken for previous ecological survey information for the site via the local authority planning portal³.

Field survey

- 2.5 A field survey was undertaken on the 22/07/2022
- 2.6 An assessment of the structure to be impacted by the development was undertaken in accordance with the latest published best practice guidance (Collins, 2016).
- 2.7 Structures were externally and internally inspected for bats and their signs with the aid of an Ledlenser P7 torch, close focusing binoculars, and a Bosch endoscope.
- 2.8 The suitability of structures on-site for bats to roost in was assessed, along with a systematic search for signs of bats (e.g., droppings, moth/butterfly wings, scratch marks, staining) or actual bats that were present. Particular attention was paid to the roof areas, with searches for gaps in walls, gaps between beams and joists, droppings stuck to the walls, floors or other surfaces, or feeding remains below beams.
- 2.9 Bat droppings, if found, were collected for DNA analysis.
- 2.10 In addition, structures were classified according to suitability for bats, based on the presence of features within them and / or landscape, see table 2 below.
- 2.11 The site habitats were assessed for suitability for bats, see table 3 below.
- 2.12 Evidence for barn owls and other breeding birds was recorded along with any other ecological constraints.

¹ <https://magic.defra.gov.uk/>

² <https://www.biodiversityinplanning.org/wp-content/uploads/2019/12/BDS-Guidance-final.pdf>

³ <https://publicaccess.durham.gov.uk/online-applications/>

Table 2: Summary of guidelines for assessing the potential suitability of proposed development sites for bats (from Collins 2016).

Suitability	Description of roosting habitats	Number of activity survey visits required
Negligible	Negligible habitat features on site likely to be used by roosting bats.	None
Low	A structure or tree with one or more potential roost sites that could be used by individual bats opportunistically. However, potential roost sites not suitable for larger numbers or regular use (i.e. maternity or hibernation).	One
Moderate	A structure or tree with one or more potential roost sites that could be used by bats, but unlikely to support a roost of high conservation status	Two
High	A structure or tree with one or more potential roost sites obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time.	Three
Confirmed roost	Evidence of bats or use by bats found	Minimum of two surveys to characterise the roost

Table 3: Summary of guidelines for assessing bat habitat suitability (from Collins 2016).

Suitability	Description of commuting and foraging habitats
Negligible	Negligible habitat features on-site likely to be used by commuting and foraging bats.
Low	<p><u>Commuting Habitat</u> Habitat that could be used by small numbers of commuting bats such as a gappy hedgerow or un-vegetated stream, but isolated, i.e. not very well connected to the surrounding landscape by other habitat.</p> <p><u>Foraging Habitat</u> Suitable but isolated habitat that could be used by small numbers of foraging bats such as a lone tree (not in a parkland situation) or a patch of scrub.</p>
Moderate	<p><u>Commuting Habitat</u> Continuous habitat connected to the wider landscape that could be used by bats for commuting such as lines of trees and scrub or linked back gardens.</p> <p><u>Foraging Habitat</u> Habitat that is connected to the wider landscape that could be used by bats for foraging such as trees, scrub, grassland or water.</p>
High	<p><u>Commuting Habitat</u> Continuous high-quality habitat that is well connected to the wider landscape that is likely to be used regularly by commuting bats such as river valleys, streams, hedgerows, lines of trees and woodland edge.</p> <p><u>Foraging Habitat</u> High-quality habitat that is well connected to the wider landscape that is likely to be used regularly by foraging bats such as broadleaved woodland, tree-lined watercourses and grazed parkland.</p> <p><u>Proximity to Known Bat Roosts</u> Site is close to and connected to known roosts.</p>

Surveyor information

2.13 The PRA was undertaken on the 22/07/2022 by Debbie Goldsmith who is an Accredited Agent against bat survey licence Level 2 (Class Licence) 2020-44753-CLS-CLS. She has one years of experience surveying for bats.

Limitations and constraints

- 2.14 There were no limitations or constraints present. It is considered that with the access gained and recording undertaken that an accurate assessment of the site's ecological value has been made.

3 RESULTS

Desk study

Designated sites - Statutory

3.1 There are three statutory sites within 1km, see table 4 below.

Designated sites - Non-statutory

3.2 There are no non-statutory sites within 1km of the site, see table 4 below.

Table 4: Summary of designated sites within 1km of the site

Site name	Designation	Description/ reason for designation	Distance & direction (approx.)
Statutory Sites			
North Pennines	AONB	Second largest AONB in England. The area is famous for the variety and profusion of plants and animals found here. Eighty percent of the AONB benefits from the continuation of less intensive and more traditional farming practices, which means that large tracts of the area are still a haven for wildlife.	Located within
Hexhamshire Moors	SSSI	Comprises moorland and enclosed grassland lying to the east of the River East Allen. It has been identified from comprehensive surveys of the North Pennines as one of the most extensive areas of blanket mire and heathland in the north of England. There are also significant areas of both flush and upland grass communities. The site supports a nationally important assemblage of moorland breeding birds and is part of the North Pennine Moorlands which are of international importance for their breeding bird populations.	600m SW
Muggleswick, Stanhope and Edmundbyers Commons and Blanchland Moor SSSI	SSSI	The upland block has been identified from recent comprehensive surveys of the North Pennines as one of the most extensive areas of dry heath in the north of England. The presence of wet heath, acid grassland, flushes, relict juniper woodland and small open water bodies increases the habitat diversity of this moorland. As a result, the area supports a nationally important assemblage of moorland breeding birds. These blocks form part of the North Pennines moorlands which are of international importance on account of their breeding bird population, particularly merlin and golden plover.	840m SE and E

3.3 There are no protected areas (SSSIs or SACs) designated for their bat populations within 1km of the site.

Protected species

3.4 A search of the magic.gov.uk database for granted European Protected Species Mitigation Licences (EPSMLs) for bats, within a 2km radius of the site, found 1 roost had been destroyed under licence (see table 5 below).

Table 5: Granted EPSMLs (bats) within 2km of the site

Case reference of granted application	Approx. distance from site (m)	Bat Species Effected	Licence Start Date:	Licence End Date:	Impacts allowed by licence
EPSM2013-6049	1730m NE	C-PIP, S-PIP	22/07/2013	30/09/2013	Destruction of a resting place.

Priority Habitats

3.5 A search of the magic.gov.uk database found five priority habitats within 1km of the site, see table 6 below.

Table 6: Priority habitats within 1km of the site.

Habitat	Distance & direction (approx.)
Deciduous woodland	340m NW
Upland heathland	600m SW
Good quality semi-improved grassland	300m S
Upland hay meadow	450m N
Traditional orchard	630m E

Historical bat records

3.6 The following bat records are held by the Local Environmental Records Centre (LERC) within 2km of the site, see table 7 below.

Table 7: Historical bat records within 2km of the site (last 10 years).

Common name	Scientific binomial	Records
Pipistrelle	Pipistrellus sp.	3 records
Common pipistrelle	Pipistrellus pipistrellus	26 records, including 1 maternity roosts (count low)
Soprano pipistrelle	Pipistrellus pygmaeus	8 records
Natterers bat	Myotis nattereri	2 records, 1 roost (count low)
Noctule	Nyctalus noctula	3 records
Myotis	Myotis sp.	1 record
Whiskered bat/Brandt's bat	Myotis mystacinus/brandtii	2 roosts (Count 1,1,)

Previous surveys

3.7 A search undertaken using the local planning authority planning portal found no previous ecological surveys for this site or neighbouring sites within the last 10 years.

Field Survey

3.8 Prevailing weather conditions during the field survey are summarised within table 8 below.

Table 8: Summary of weather conditions during the field survey

Date	Weather conditions			
	Temp [°C]	Cloud cover [Oktas]	Wind speed [Beaufort scale]	Precipitation
22/07/2022	13	8	2	Light rain

3.9 A description of the structure inspected during the PRA are given in table 9 below.

Table 9: Description of building.

Building Reference	Building type	Description	Development plans
B1	Outhouse	<p>The building was originally a school toilet building which has had toilets removed and then been used as an outhouse. It is single-storey and built of stone. The roof is built of wood with slates on top and bitumen lining underneath. The roof is pitched with a small, hipped area at the rear/west. The eaves are overhanging.</p> <p>The internal roof space is open to full height.</p> <p>To the front/east of the building there are two windows which have been boarded up, and stone vents leading into the roof void which have been filled in.</p> <p>There are ventilation slits in the rear/west walls.</p> <p>The doors are made of wood.</p> <p>The internal walls are of unfinished stone. There is a stone wall dividing both sides of the building which is open at the top.</p> <p>To the south side is a coal shed with a wood and slate roof which is integrated into the main roof. Internally the coal shed has stone walls fully separating it from the interior of the adjoining outhouse. The ceiling has been boarded. There is a wooden vent which can be seen from the inside, but which is built up on the outside.</p> <p>Attached to the building on the north side there is a log store with a separate entrance.</p>	<p>Plans to convert the outhouse into a guest space.</p> <p>This will involve building on a small area behind the current coal shed and removing some walls to make the area open plan.</p> <p>Glazing behind current vents in stone and replacing windows at front.</p> <p>Replacing doors</p> <p>Boarding out a ceiling below the bottom rafters and joists (leaving a small void above).</p> <p>Any repairs to roof and repairs to area where the roof meets the top of the walls.</p> <p>There will be no alterations made to the adjoining log store.</p>

3.10 The results of the Preliminary Roost Assessment (PRA) are given in table 10 below.

Table 10: PRA Results

Building/Tree Reference	Evidence of use by bats	Bat signs and internal and external Potential Roost features (PRFs) & access points	Evidence of birds
B1	Confirmed roost	<p>A single brown long eared (BLE) bat was found roosting in the centre of the ridge. Below, scattered throughout the building in small numbers were bat droppings indicative of a BLE bat. Scattered around were also butterfly wings, indicative of the feeding remains.</p> <p>Alongside the confirmed roost, there were multiple potential roosting features suitable for crevice dwelling bats, although no droppings or other signs were found.</p> <p>There were gaps along the top of the walls and under the eaves around most of the building. There were some gaps around the mortar at the gable ends. These would give access to the spaces between the roof slates and the bitumen lining.</p> <p>The internal stonework was rough and not pointed, with many crevices available.</p> <p>The ventilation slits provide potential access to bats. The doors and boards on windows were poor fitting and had gaps around them.</p> <p>The area of external wall of the coal shed at the south side had fewer potential access points but they were not absent. It would be difficult for a person to survey this area as a tree rubs up against it hence a recommendation for a camera on this area of site.</p> <p>The adjoining log store had no signs of bats, but numerous potential roost sites, however there are no plans for any works to this building.</p>	None

3.11 The site is of high suitability for commuting and foraging bats. There are moderate foraging and commuting resources in proximity and the site is well linked to the wider habitat, including woodland and river, via linear features.

Other protected/priority species

3.12 No other protected/priority species and habitats were noted on-site or in proximity.

4 INTERPRETATION AND ASSESSMENT

- 4.1 Plans to convert the outhouse into a guest space.
- 4.2 The following interpretation and assessment are provided to ensure full compliance with both UK and European legislation and both local and national planning policy, see Appendix V.

Designated sites

- 4.3 There are three designated sites within 1km of the site, see table 4.
- 4.4 There are no protected areas (SSSIs or SACs) designated for their bat populations within 1km of the site.
- 4.5 Given the scale of the proposed development, there will be no impacts on designated sites as a result of the development.

Preliminary roost assessment (PRA) for bats (and nesting birds)

- 4.6 Based on the results of the PRA, an assessment of the potential suitability of the on-site buildings for bats and nesting birds could be made and are given in table 10 below.

Table 11: Suitability of surveyed structures/trees for bats and nesting birds.

Structure/Tree Reference	Suitability / confirmed use	
	Bats	Nesting birds
B1	Confirmed roost	Low

Bats

- 4.7 The building B1 is a confirmed roost. There are foraging and commuting resources nearby of moderate suitability.
- 4.8 The development will result in destruction of a bat roost and could result in death/injury and disturbance to bats.

Nesting Birds

- 4.9 There was no evidence of nesting birds either currently or historically, however there were suitable gaps for nesting birds.

Other Protected/priority habitats and species

- 4.10 No other priority/protected habitats or species were noted on site.

5 CONCLUSIONS AND RECOMMENDATIONS

- 5.1 Tyne Ecology was commissioned by Carolyn Ridley (the client) to undertake a Preliminary Roost Assessment (PRA) for bats of an outbuilding at School House, Townfield, Co. Durham, DH8 9UR.
- 5.2 Plans to convert the outhouse into a guest space.
- 5.3 The scale of the development and distance from designated sites (see table 4) should ensure that no impacts on their designated features should result from the proposed development.
- 5.4 The Preliminary Roost Assessment assessed the building B1 as **a confirmed roost** for bats.

Recommendations

Bats

- 5.5 Two bat emergence/re-entry surveys are required during the optimal survey period mid-May to August inclusive, to characterise the roost found.
- 5.6 Three surveyors are required to provide full coverage of the building.
- 5.7 Mitigation/compensation and enhancement measures for bats will be considered after further surveys have been undertaken.

Birds

- 5.8 No impacts anticipated.

Overall conclusion

- 5.9 Additional surveys must be undertaken to fully assess impacts of the proposed development on bats.

6 REFERENCES

Collins, J. (ed.) (2016) *Bat Surveys for Professional Ecologists: Good Practice Guidelines* (3rd edn). The Bat Conservation Trust, London.

BSI (2013) BS 42020:2013 Biodiversity - Code of practice for planning and development. British Standards Institution, London.

CIEEM (2019) Advice Note on the Lifespan of Ecological Reports and Surveys <https://cieem.net/wp-content/uploads/2019/04/Advice-Note.pdf>

CIEEM (2020) Guidelines for Accessing, Using and Sharing Biodiversity data in the UK. <https://cieem.net/wp-content/uploads/2016/03/Guidelines-for-Accessing-and-Using-Biodiversity-Data-March-2020.pdf>

Mitchell-Jones, A.J., & McLeish, A.P. Ed., (2004) *Bat Workers' Manual* (3rd Edition). Joint Nature Conservation Committee, Peterborough.

Mitchell-Jones, A.J. (2004) *Bat Mitigation Guidelines*. Natural England, Peterborough.

The National Planning Policy Framework (NPPF) (Ministry of Housing, Communities and Local Government, July 2021)

APPENDIX I: SURVEY MAP



Figure 2: Survey map.

APPENDIX II: PROPOSED DEVELOPMENT PLAN



Figure 3: Proposed development plan.

APPENDIX III: DESKTOP SURVEY

MAGiC

Statutory Sites

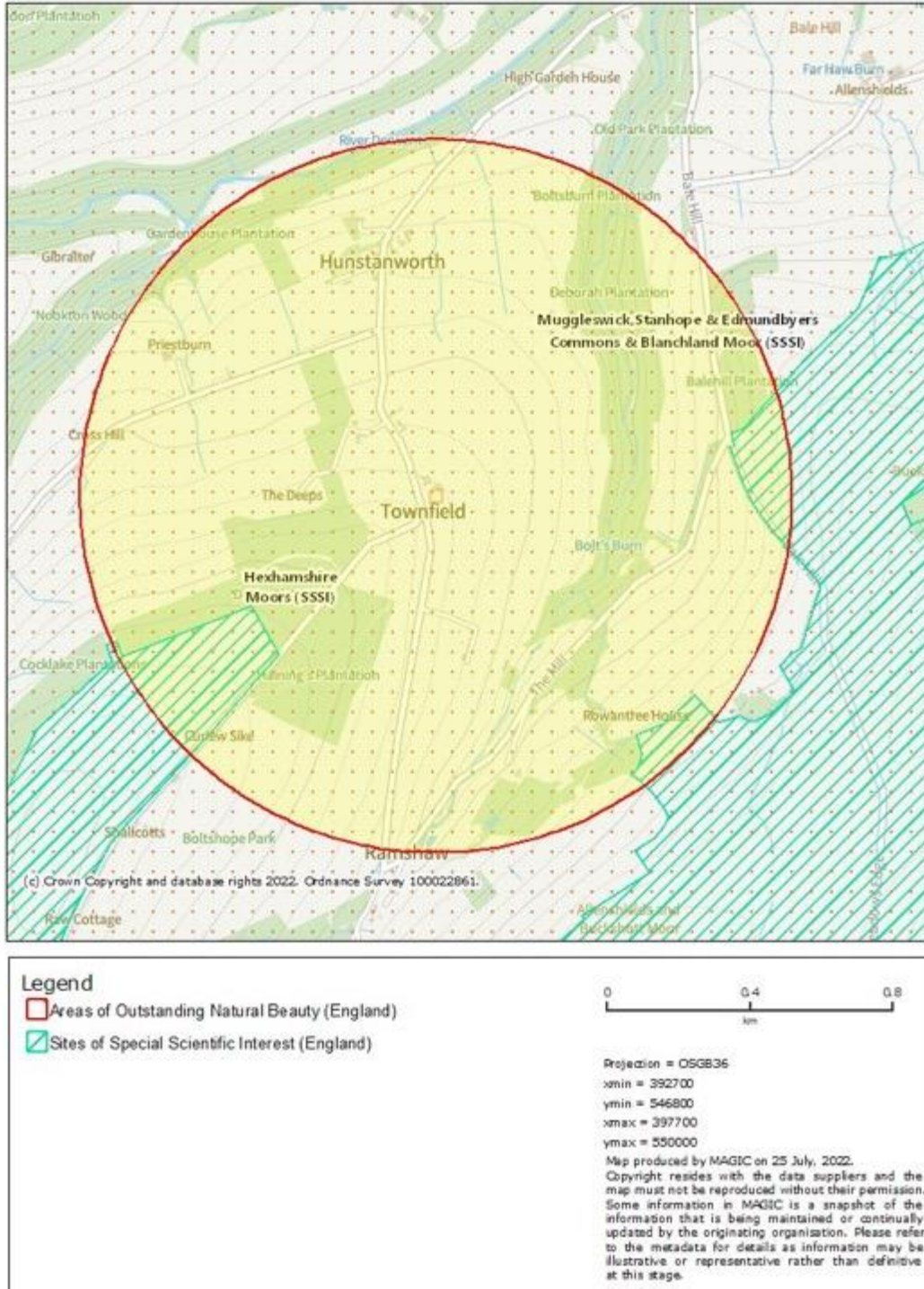
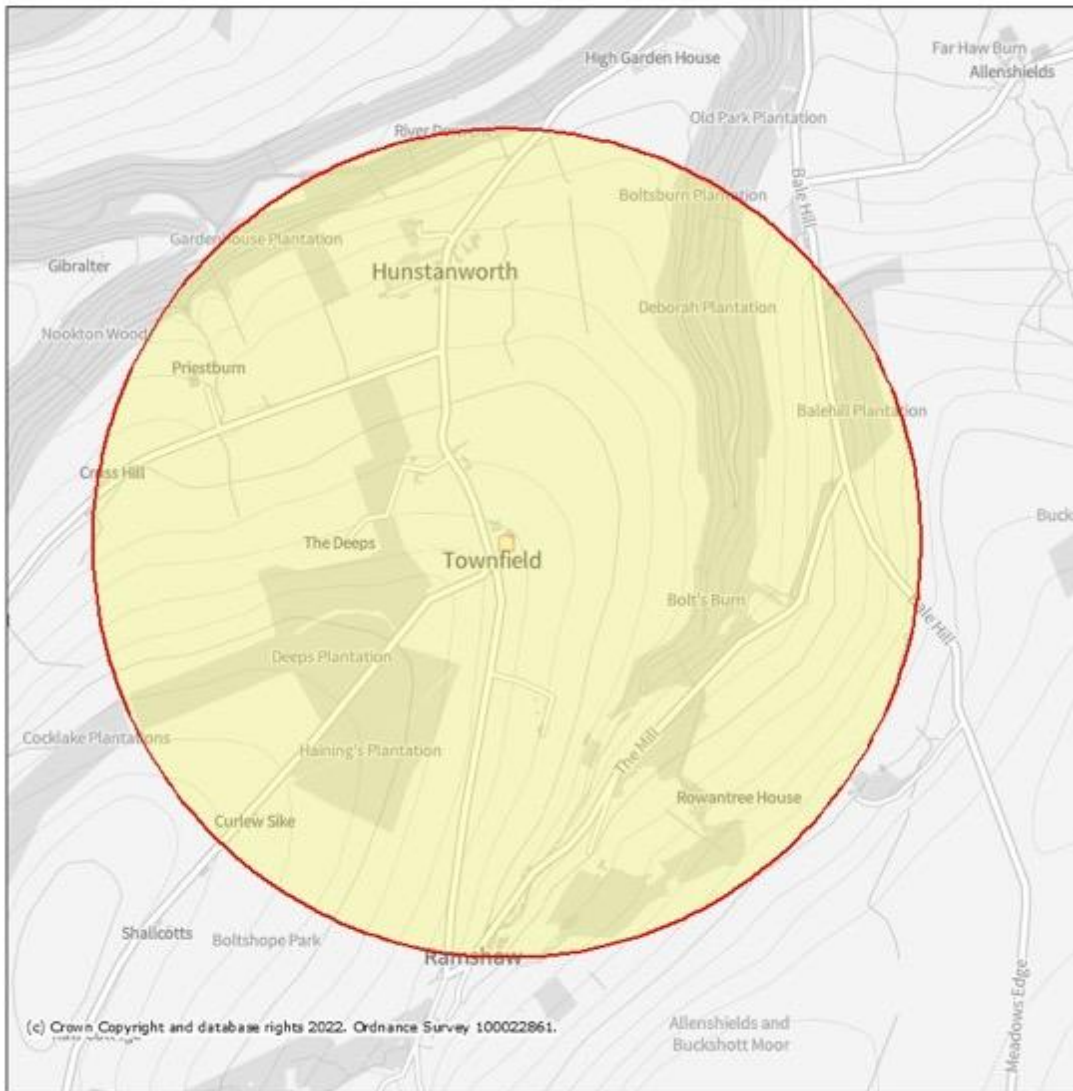


Figure 4: Designated statutory sites.

MAGiC

Non-statutory sites



Legend
■ RSPB Reserves (GB)

0 0.4 0.8
km

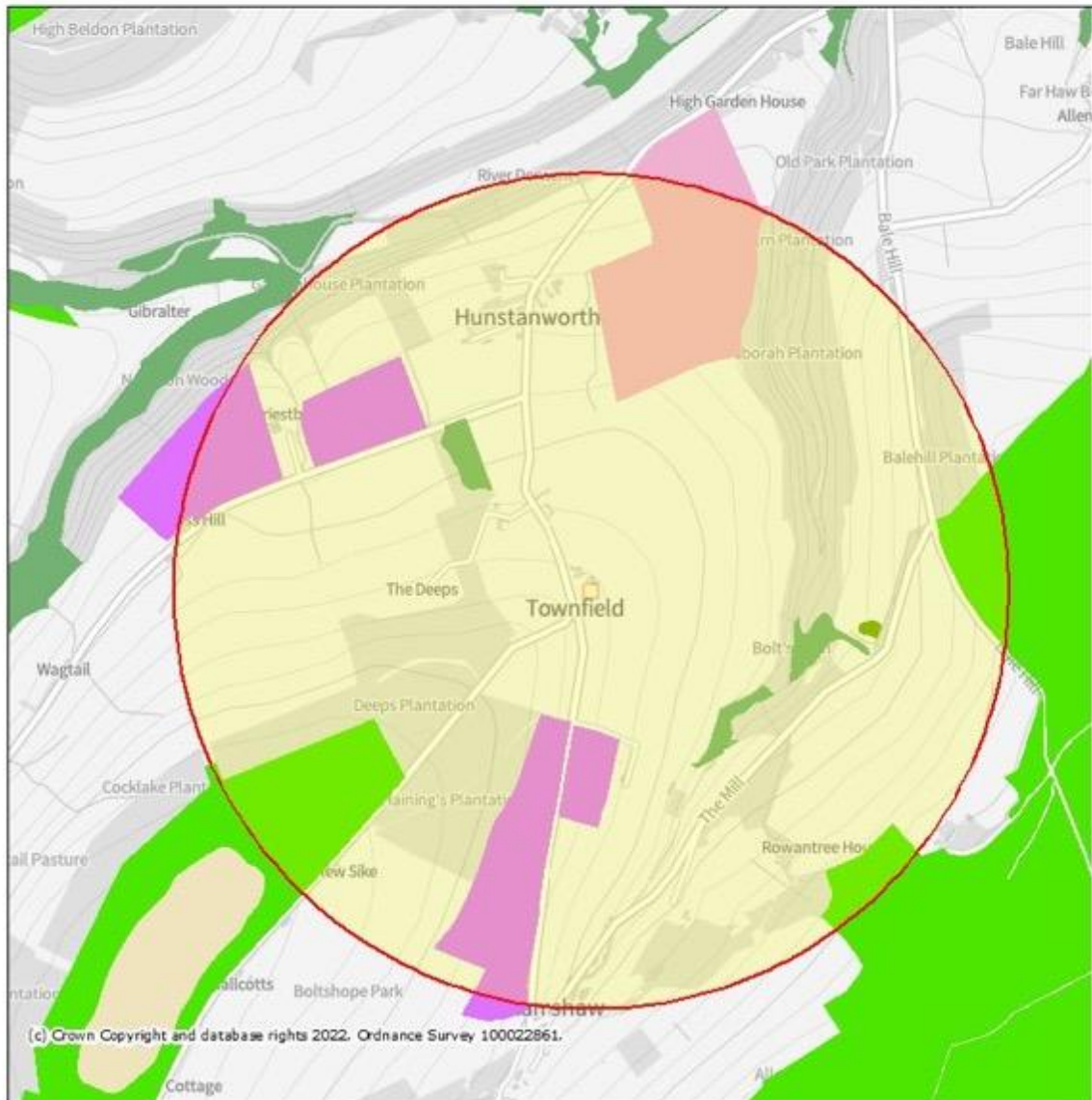
Projection = OSGB36
xmin = 392700
ymin = 546900
xmax = 397700
ymax = 549800

Map produced by MAGiC on 25 July, 2022.
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Figure 5: Designated non-statutory sites.

MAGiC

Habitat



Legend

- Priority Habitat Inventory - Good quality semi-improved grassland (Non Priority) (England)
- Priority Habitat Inventory - Upland Hay Meadows (England)
- Priority Habitat Inventory - Upland Heathland (England)
- Priority Habitat Inventory - Blanket Bog (England)

Ancient Woodland (England)

- Ancient and Semi-Natural Woodland
- Ancient Replanted Woodland
- Priority Habitat Inventory - Deciduous Woodland (England)
- Priority Habitat Inventory - Traditional Orchards (England)

Projection = OSGB36
xmin = 392500
ymin = 547000
xmax = 397600
ymax = 549900

Map produced by MAGiC on 25 July, 2022.
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Figure 6: Priority habitats.

MAGiC

EPSLs

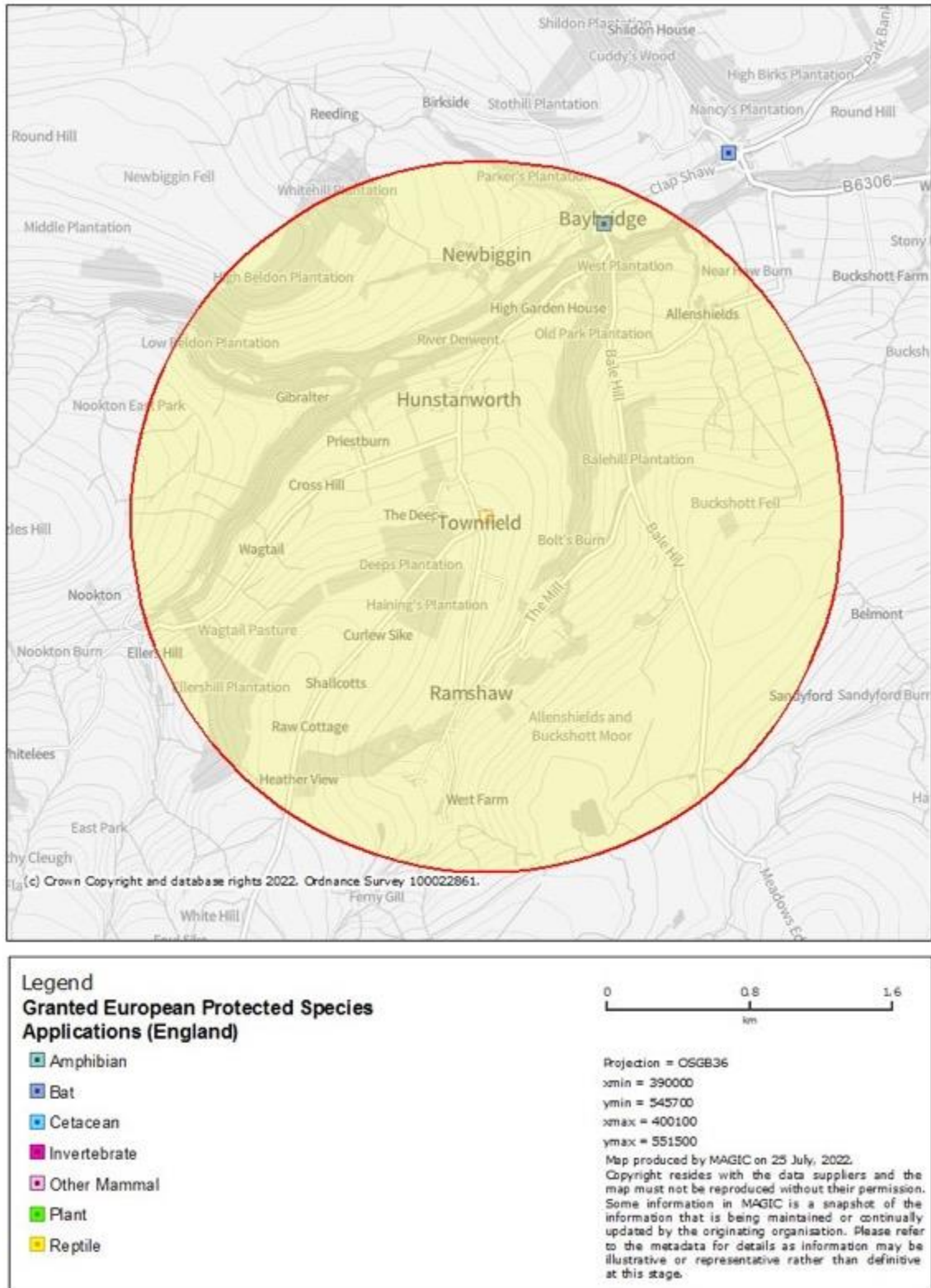


Figure 7: Granted EPSLs.

APPENDIX IV: FIELD SURVEY PHOTOGRAPHS



Figure 8: B1 - E/front elevation.



Figure 9: B1 - side/S elevation.



Figure 10: B1 - rear/W elevation.



Figure 11: B1 -SW elevation showing rear of coal shed attached.



Figure 12: B1 -side/N elevation.



Figure 13: B1 - Brown long-eared bat roosting in centre of ridge.



Figure 14: B1 - example of insect wings on stored items in building



Figure 15: B1 - Bat droppings under roost (on stored carpets)



Figure 16: Bat droppings.



Figure 17: view of loft area, looking east (vents blocked up on outside).



Figure 18: Inside of rear/west of building



Figure 19: inside vents on west wall of building



Figure 20: example of holes in walls.



Figure 21: gaps under eaves



Figure 22: gaps under eaves from outside.



Figure 23: gaps at west edge of south gable end.



Figure 24: gaps in lintel above windows



Figure 25: gaps around edges of doors



Figure 26: inside of coal shed.



Figure 27: inside of front/E of building. Shows connection of coal shed to roof.

APPENDIX V: PLANNING POLICY AND LEGISLATION

The following local and national planning policy and both primary and European legislation relating to nature conservation and biodiversity status are considered of relevance to the current proposal.

Planning and biodiversity

Local Authorities have a requirement to consider biodiversity and geological conservation issues when determining planning applications under the following planning policies.

National Planning Policy Framework 2021

The National Planning Policy Framework (NPPF) (Ministry of Housing, Communities and Local Government, 2021) states:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

- (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- (c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- (e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- (f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

Legislation and biodiversity

Certain species of animals and plants found in the wild in the UK are legally protected from being harmed or disturbed. These species are listed in the Wildlife and Countryside Act 1981 (as amended) or are named as European Protected Species (EPS) in the Conservation of Habitats and Species Regulations 2017. These two main pieces of legislation have been consulted when writing this report and are therefore described in detail within this section.

Other relevant legislation and policy documents that have been consulted include - The Countryside and Rights of Way Act 2000; Natural Environment and Rural Communities Act 2006; The Hedgerow Regulations 1997; Biodiversity Action Plans, both UK-wide (UKBAP) and Local plans (LBAPs), and The National Planning Policy Framework (NPPF).

There is also legislation that legally protects certain animals - for example, the Protection of Badgers Act (1992) protects badgers and their setts, and the Deer Act (1991) places restrictions on actions that can be taken against deer species.

Wildlife & Countryside Act 1981 (as amended)

The Wildlife & Countryside Act 1981 (as amended) [WCA] is the primary legislation for England and Wales for the protection of flora, fauna and the countryside. Part I within the Act deals with the protection of wildlife.

Most European Protected Species offences are now covered under the Conservation of Habitats and Species Regulations (see below), but some 'intentional' acts are still covered under the WCA, such as obstructing access to a bat roost.

The WCA prohibits the release to the wild of non-native animal species listed on Schedule 9 (e.g. Signal Crayfish and American Mink). It also prohibits planting in the wild of plants listed in Schedule 9 (e.g. Japanese Knotweed and Rhododendron ponticum) or otherwise deliberately causing them to grow in the wild. This is to prevent the release of invasive non-native species that could threaten our native wildlife.

The provisions relating to animals in the Act only apply to 'wild animals'; these are defined as those that are living wild or were living wild before being captured or killed. It does not apply to captive bred animals being held in captivity.

There are 'defences' provided by the WCA. These are cases where acts that would otherwise be prohibited by the legislation are permitted, such as the incidental result of a lawful operation which could not be reasonably avoided, or actions within the living areas of a dwelling house.

Licensing: certain prohibited actions under the Wildlife and Countryside Act may be undertaken under licence by the proper authority. For example, scientific study that requires capturing or disturbing protected animals can be allowed by obtaining a licence - e.g. bat surveys.

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 came into force on the 01/01/2021 and are the principal means by which the EC Habitats Directive is transposed in England and Wales) update the legislation and consolidate all the many amendments which have been made to the Regulations since they were first made in 1994.

These regulations provide for the:

- protection of European Protected Species [EPS] (animals and plants listed in Annex IV Habitats Directive which are resident in the wild in Great Britain) including bats, dormice, great crested newts, and otters;
- designation and protection of domestic and European Sites - e.g. Site of Special Scientific Interest [SSSI] and Special Area of Conservation [SAC]; and
- adaptation of planning controls for the protection of such sites and species.

Public bodies (including the Local Planning Authority) have a duty to have regard to the requirements of the Habitats Directive in exercising their function - i.e. when determining a planning application.

There is no defence that an act was the incidental and unavoidable result of a lawful activity.

Licensing: it is possible for actions which would otherwise be an offence under the Regulations to be undertaken under licence issued by the proper authority. For example, where a European Protected Species has been identified and the development risks deliberately affecting an EPS, then a 'development licence' may be required.

Species protection

The following protected species information is relevant to this report. Legislation is only discussed in relation to planning and development; other offences may exist.

Bats

All British bats are classed as European Protected Species and therefore receive protection under the Conservation of Habitats and Species Regulations 2017, making it an offence inter alia to:

- Deliberately kill, injure or capture a bat;
- Deliberately disturb bats;
- Damage or destroy a breeding site or resting place of a bat.

In addition, all British bats are also listed under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) which contains further provisions making it an offence to intentionally or recklessly:

- Obstruct access to any structure or place which any bat uses for shelter or protection; or
- Disturb any bat while occupying a structure or place which it uses for that purpose.

If proposed development work is likely to destroy or disturb bats or their roosts, then a licence will need to be obtained from Natural England, which would be subject to appropriate measures to safeguard bats.

Birds

In the UK, the provisions of the Birds Directive are implemented through the Wildlife & Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017. All wild birds, their nests and eggs are protected it an offence to:

- kill, injure, or take any wild bird;
- take, damage or destroy the nest of any such bird whilst it is in use or being built; or
- take or destroying an egg of any such wild bird.

The law covers all species of wild birds including common, pest or opportunistic species.

Special protection against disturbance during the breeding season is also afforded to those species listed on Schedule 1 of the Act.