

# Preliminary Ecological Appraisal

## Cultural Quarter, Lowestoft

November 2023

<i>Project no.</i>	<i>Report</i>	<i>Date</i>
110/23	Final	7 <sup>th</sup> December 2023
<i>Prepared by</i>		<i>Checked and approved by</i>
David Beardsley Lydia Besford	Johanna Green BSc Hons, PG Cert, CSci, MCIEEM	

# Wilder Ecology

Part of SWT Trading Ltd

**Prepared by:**

SWT Trading Ltd: Wilder Ecology  
Brooke House  
Ashbocking  
Ipswich  
Suffolk  
IP6 9 JY

**Prepared for:**

East Suffolk Council

A company limited by guarantee no. 2221844  
VAT registration no. 496 8108 03

## DISCLAIMER

This report has been compiled in accordance with BS 42020:2013 Biodiversity - Code of practice for planning and development, as has the survey work to which it relates.

The information, data, advice and opinions which have been prepared and provided are true and have been prepared and provided in accordance with 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.

This survey was carried out and an assessment made of the site at a particular time. The evidence of the report can be used to draw conclusions as to the likely presence/absence of protected species and the impacts of any future development works. This survey is a snapshot in time and further work may be necessary, for instance, if there is a delay, or when applying for a Natural England European Protected Species Licence, or the requirement for a Habitat Regulations Assessment.

Every effort has been made to date to provide an accurate assessment of the current situation, but no liability can be assumed for omissions or changes after the survey has taken place.

It is our policy to submit biological records to Suffolk Biodiversity Information Service (SBIS), for the purposes of increasing knowledge of the distribution of species within Suffolk. If you wish to discuss this, please contact us within three months of submission of this report.

## Contents

EXECUTIVE SUMMARY .....	1
1. INTRODUCTION .....	2
1.1 General Introduction .....	2
1.2 Location and Description of Site .....	2
1.3 Outline of Proposed Works .....	3
1.4 Objectives of Survey .....	4
2. SURVEY METHODOLOGY .....	4
2.1 Desktop.....	4
2.2 Site visit .....	5
2.3 UK Habitat Classification Survey .....	6
2.4 Biodiversity Net Gain.....	7
2.5 Competence .....	7
2.6 Constraints of Methodology .....	8
3. RESULTS.....	9
3.1 Habitat.....	9
3.1.1 Habitat Description .....	9
3.1.2 Habitat Assessment.....	10
3.1.3 Proximity to designated habitats .....	10
3.2 Legally Protected Species .....	12
3.2.1 Bats.....	12
3.2.2 Reptiles.....	14
3.2.3 Breeding birds .....	14
3.3 Species of Principal Importance in England .....	15
3.4 Other Wildlife Issues .....	15
3.5 Wildlife and Countryside Act Schedule 9 Plants and Animals .....	15
3.6 Limitations of the Survey.....	16
3.7 Summary of Results.....	16
4. POTENTIAL IMPACTS AND ZONE OF INFLUENCE .....	16
4.1 Potential negative impacts of works without appropriate mitigation .....	17
4.2 Potential outcomes of works with appropriate mitigation and enhancements.....	17
5. BIODIVERSITY NET GAIN.....	17
6. RECOMMENDATIONS.....	18
6.1 Habitats .....	18
6.2 Bats.....	19
6.3 Birds.....	19
6.4 Species of Principal Importance in England .....	20

7. REFERENCES .....	21
8. APPENDIX 1. PHOTOGRAPHS .....	22
9. APPENDIX 2. STATUTORILY DESIGNATED SITES CITATIONS.....	24
10. APPENDIX 3. LEGAL CONSIDERATIONS .....	25

## **EXECUTIVE SUMMARY**

SWT Trading Ltd: Wilder Ecology was commissioned by East Suffolk Council to undertake a Preliminary Ecological Appraisal at Battery Green, Lowestoft, Suffolk. This survey was carried out in advance of a planning application to facilitate the development of a Cultural Quarter, a regeneration project within central Lowestoft.

The site visit was undertaken on 1st of November 2023. The survey focused on assessing the habitats present at the site. Fieldwork was conducted using UKHab-Professional at Primary Hierarchy Level 5, with a Minimum Mapping Unit of 25m<sup>2</sup>. The habitats were evaluated using Biodiversity Metric 4.0 Condition Assessment sheets, assessing habitat distinctiveness and condition.

The majority of the site comprised developed land; sealed surfaces with a small area of modified grassland. The habitats on site have very low to low distinctiveness and are in poor condition. There are 2 statutorily designated sites and 7 non-statutorily designated sites within 2km of the site. The site lies within the urban town centre of Lowestoft, there is limited green space within the vicinity of this development. To the east of the development within the harbour lie two county wildlife sites under 500m away, designated for a kittiwake colony and purple sandpipers.

The site offers suitable habitat to support nesting gulls. These include herring gull and lesser black-backed gull. The buildings offer negligible bat roosting features and negligible foraging and commuting habitat.

Guidance has been provided to avoid or mitigate any impacts upon habitats and species. The development is likely to result in a permanent loss of nesting habitat for herring and lesser black-backed gulls, if no other flat roof mitigation is considered within the wider vicinity of urban Lowestoft.

Proposals to improve the habitat post development include tree planting, ground planters, a green roof and a short section of native hedgerow. These will provide a Biodiversity Net Gain of 2438.03% habitat units and 100% hedgerow units; and provide some green space in an otherwise urban area.

## **1. INTRODUCTION**

### **1.1 General Introduction**

This report has been prepared by SWT Trading Ltd: Wilder Ecology, the ecological consultancy of the Suffolk Wildlife Trust, for East Suffolk Council in November 2023. It comprises the results of a preliminary ecological survey to investigate the potential impacts on wildlife that would result from the partial demolition of the Battery Green carpark and the regeneration of the surrounding area. The northern section of the Marina Centre building will also be demolished as part of the realignment of the road to the Cultural Quarter.

### **1.2 Location and Description of Site**

The site is located between the A47 and Gordon Road to the north, within the town of Lowestoft in close proximity to the towns' High street. The surrounding landscape is highly urbanised.

The site is approximately 1.1ha (central OS grid reference TM 55050 93123) and comprises of a disused multistorey car park, a smaller single level car park, and an office building. Surrounding the site are a line of shops to the west and the harbour and associated port infrastructure to the east. A site boundary (red line) is shown in Figure 1 below.

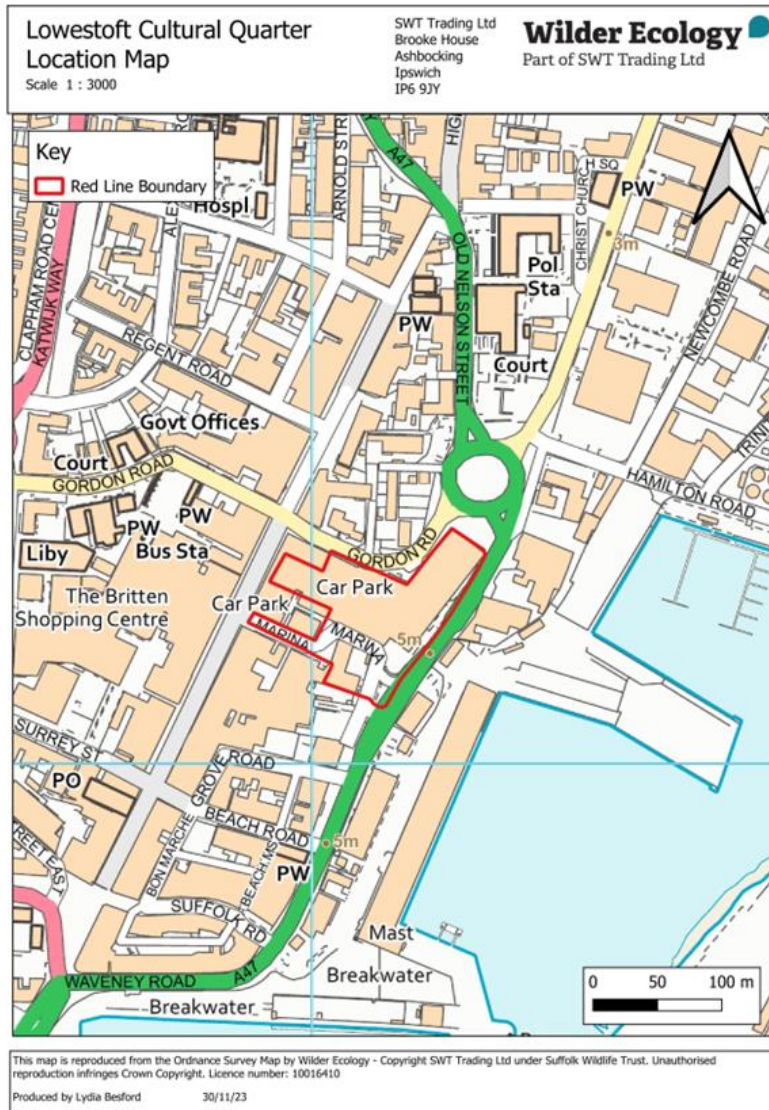


Figure 1. Location Map

### 1.3 Outline of Proposed Works

The multi storey car park is planned to be partially demolished. This will commence in March 2024 with works estimated to take four months, after which focus will turn to the Marina Centre. The northern wing of the Marina Centre will be demolished as part of the realignment of the Marina Road access. The retained section of the existing car park above two shops loading bays will have a new entrance providing access to the various levels of the building including the roof. A section of the first floor of the car park will be removed to create a new double height space for climbing walls to be installed. The space inside the retained section of the car park will be adapted to become a multifunctional space, whilst the demolished section will enable the creation of a new purpose-built building. Extensive ground and raised planters, individual trees and a small line of created hedgerow with pleached trees are included in the landscaping development plans to introduce biodiversity into this highly urbanised area.

Construction is due to be completed following demolition of the required buildings and due to be complete sometime in 2025. The current construction plans do not have any indication of requiring pile driving on site.

This site falls under the East Suffolk Council, the combined LPA for Suffolk Coastal and Waveney District Councils. The policies relevant to this proposal include East Suffolk Environmental Policy, revised 2017 and the East Suffolk Council – Waveney Local Plan, adopted March 2019, Policy WLP8.34 – Biodiversity and Geodiversity.

#### **1.4 Objectives of Survey**

The aim of the survey was to determine how the proposed work might impact on wildlife or habitats that are of significance in a local, regional or national context. This primarily involved the consideration of species that have legal protection, but also included an assessment of any other noteworthy species and communities, as well as the type and quality of the habitats.

A secondary aim was to identify any constraints or considerations placed upon the re-development of the site as the result of the flora or fauna present.

The advice given in this report is valid for 12 months. If, after this time, the proposed work has not been undertaken, the advice of an ecologist should be sought as to the possible need for a new survey prior to submitting a planning application or implementing the scheme. Notwithstanding this, any obvious material changes in the area, such as the excavation of holes that might be new badger setts, the growth of tall vegetation over previously cultivated land, or changes in the scheme design, should be reported to Wilder Ecology prior to any work commencing on site so that the advice herein can be revised, if necessary.

## **2. SURVEY METHODOLOGY**

### **2.1 Desktop**

Before the site visit, a search of the Suffolk Biodiversity Information Service database and Magic were made for existing records of legally protected species and for sites with conservation designations within two kilometres of the proposed development site.



## **2.2 Site visit**

A site visit was made on 1<sup>st</sup> November 2023 by David Beardsley and Lydia Besford. Weather conditions were cloudy, with intermittent showers and approximately 11°C. Habitats on the site were mapped in line with the UK Habitat Classification version 2.0. The site was surveyed for signs of legally protected or otherwise noteworthy species, such as those of Principal Importance in England (priority species included on the “Section 41 list” as required by the Natural Environment and Rural Communities Act 2006) and Red Data Lists; and assessed for habitats that might support legally protected species. Any habitats of value in their own right or that appeared to be of particular value to wildlife were also recorded. These features are identified on the UKHab map by means of Target Notes, which are then referred to in the text.

Where access was possible, the search extended beyond the boundary of the site, as populations of some species (e.g. badgers) living beyond the immediate boundary of the site could still be affected by activities upon it.

Specific searches and assessments were made as follows:

- Bats – identification of potential roost sites and searches for evidence of activity; assessment of foraging habitat and commuting routes;
- Reptiles – assessment of suitable habitat and potential hibernation sites;
- Birds – assessment of nesting habitat, e.g. hedgerows, trees, scrub, buildings; likelihood of the presence of species listed within Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), identified as a Bird of Conservation Concern or other significant assemblages;
- Priority species – searches and assessment of habitat for the presence of and potential use by species such as brown hare, common toad and hedgehog;
- Species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) – where appropriate, identification and mapping of such species.

Following identification of potential roost features (PRF's) a second site visit was conducted by Alison Looser, Johanna Green and David Beardsley on 30<sup>th</sup> November to assess these features. An internal inspection of the roof space of the section of the Marina Centre building to be demolished was conducted. In addition, external features that were accessible on the Battery Green car park were also assessed by endoscope and torches. Although not within the

red line boundary the roof space of the Marina Theatre and the exterior of the Grafitas building was also inspected for clarification of whether any bat roosts were locally present.

Due to the built-up surrounding area and the lack of accessible watercourses or ponds near the site, species such as otters, water voles, great crested newt and white-clawed crayfish will not be considered in this report as they are extremely unlikely to be present within this site. Additionally, hazel dormouse and badger is also extremely unlikely to be present due to lack of suitable habitat and a lack of local records.

Where it was possible to do so, potential impacts were identified and assessed in accordance with the Institute of Ecology and Environmental Management's *Guidelines for Preliminary Ecological Appraisal* (CIEEM, 2017) and *Guidelines for Ecological Impact Assessment in the UK and Ireland* (CIEEM, 2018, updated April 2022) with particular reference to the geographic frame of reference that it contains. This suggests valuing ecological resources in the following context: International, UK, National (England), Regional, County, District, Local/Parish and Site. The scale and significance of each potential impact is then assessed using published guidance, which varies from species to species, and the risk of potential impacts occurring (without mitigation) is quantified in accordance with the CIEEM guidelines, using the following:

Level	Probability
Certain	95% or higher
Probable	50-94%
Unlikely	5-49%
Extremely unlikely	Less than 5%

A combination of these factors can then be used as a guide to determine appropriate mitigation.

### 2.3 UK Habitat Classification Survey

The survey of habitats was undertaken following the recommendations of the UK Habitat Classification Working Group (2018 and 2020) and UKHab (2023). Fieldwork was conducted

using UKHab-Professional at Primary Hierarchy Level 5, with a Minimum Mapping Unit of 25m<sup>2</sup>.

The site and its constituent habitats were evaluated using Biodiversity Metric 4.0 Condition Assessment Sheets appropriate to the habitats recorded.

## **2.4 Biodiversity Net Gain**

Net gain in planning terms describes an approach to development that leaves the natural environment in a measurably better state than it was before. The approach to delivering net gain still requires the application of the mitigation hierarchy, in that impacts on biodiversity should be first avoided, then minimised and only as a last resort be compensated. Where losses cannot be compensated within a development footprint then biodiversity losses may be offset by delivery of gains elsewhere. Although not yet mandatory, a minimum target of 10% net gain should be sought as specified in the Environment Act 2021. However, it should be noted that impacts on irreplaceable habitat cannot be offset to achieve no net loss or net gain.

A key part of the process is demonstrating measurability and the Biodiversity Metric 4.0, designed by Natural England, provides the means to account for the ecological value of a site and how changes arising from development or management will impact on this value over time.

Achieving the best outcomes for biodiversity requires credible evidence derived from ground-truthing and justifiable choices based on ecological knowledge. In addition, the delivery of net gain is dependent upon the financial means to undertake the necessary habitat management, in order to secure a long-term biodiversity benefit.

## **2.5 Competence**

David Beardsley FdSc, joined the Consultancy in August 2023. He is a competent field surveyor and has experience in various protected species surveys including bats, water voles, reptile translocations & breeding birds, as well as habitat assessment such as Preliminary Ecological Appraisals (PEA). David holds a CSCS card and is a qualifying member of CIEEM.

Lydia Besford, BSc Hons, Qualifying member of CIEEM is experienced in habitat assessment using UK Habitat Classification. Lydia also undertakes GIS mapping and holds a CSCS card (Construction Skills Certification Scheme – UK).

The preliminary roost assessment survey was undertaken by Alison Looser ACIEEM (Natural England bat survey Class Licence Level 2 2017-28545-CLS-CLS), Senior Ecologist for SWT Trading Ltd. Alison is a senior ecologist with extensive experience of ecological surveys including botanical surveys, she is also highly competent at water vole, otter, badger, bat, great crested newt and hazel dormouse surveys (Natural England survey licences for the latter three).

This project is being managed by Consultancy Manager, Johanna Green BSc Hons, PG Cert, CSci, MCIEEM. She holds Natural England Class survey licences for hazel dormice and great crested newts. Johanna has a specialist interest in protected species surveys and is experienced with mitigation for water voles and badgers under licence. She is experienced at habitat assessment using UK Habitat Classification and Biodiversity Net Gain calculations with GIS mapping, project management and data analysis and also holds a CSCS card.

## **2.6 Constraints of Methodology**

This survey was designed to provide a preliminary assessment of the site's wildlife value. Observations were made on and around the site to establish the potential of the habitats to support legally protected and other noteworthy species. Although presence or absence has been determined where possible, for some species-specific survey techniques or levels of survey effort are needed. Where necessary, additional survey work is recommended.

The wildlife and habitats present on any site are subject to change over time. All single-visit surveys of this kind can only record the situation as it is at the time, rather than providing a comprehensive analysis of the site's ecology. The survey was limited to ecological issues and so did not consider aspects such as archaeology, landscape, arboriculture or Tree Preservation Orders.

### 3. RESULTS

#### 3.1 Habitat

##### 3.1.1 Habitat Description

The site includes a disused multilevel car park, a couple of small ground level car parks, and an office building. The site is highly urbanised with limited grassland landscaping present along the eastern edge.

There are three distinct habitats on site that can be classified under UK Habitats Classification.

- Developed Land – Sealed Surface (u1b)

The area to the far north of the site is an open car park.

- Buildings (u1b5)

There are several buildings including a former multi-storey car park with open roof and the northern wing of the Marina Centre.

- Modified Grassland (g4)

On the eastern edge of the site, adjacent to the former multi-storey car park, there is an area of grassland that has a plant community most closely aligned to g4 modified grassland. It comprised annual meadow grass, white clover, yarrow, common daisy, dove's foot crane's bill and ribwort plantain.

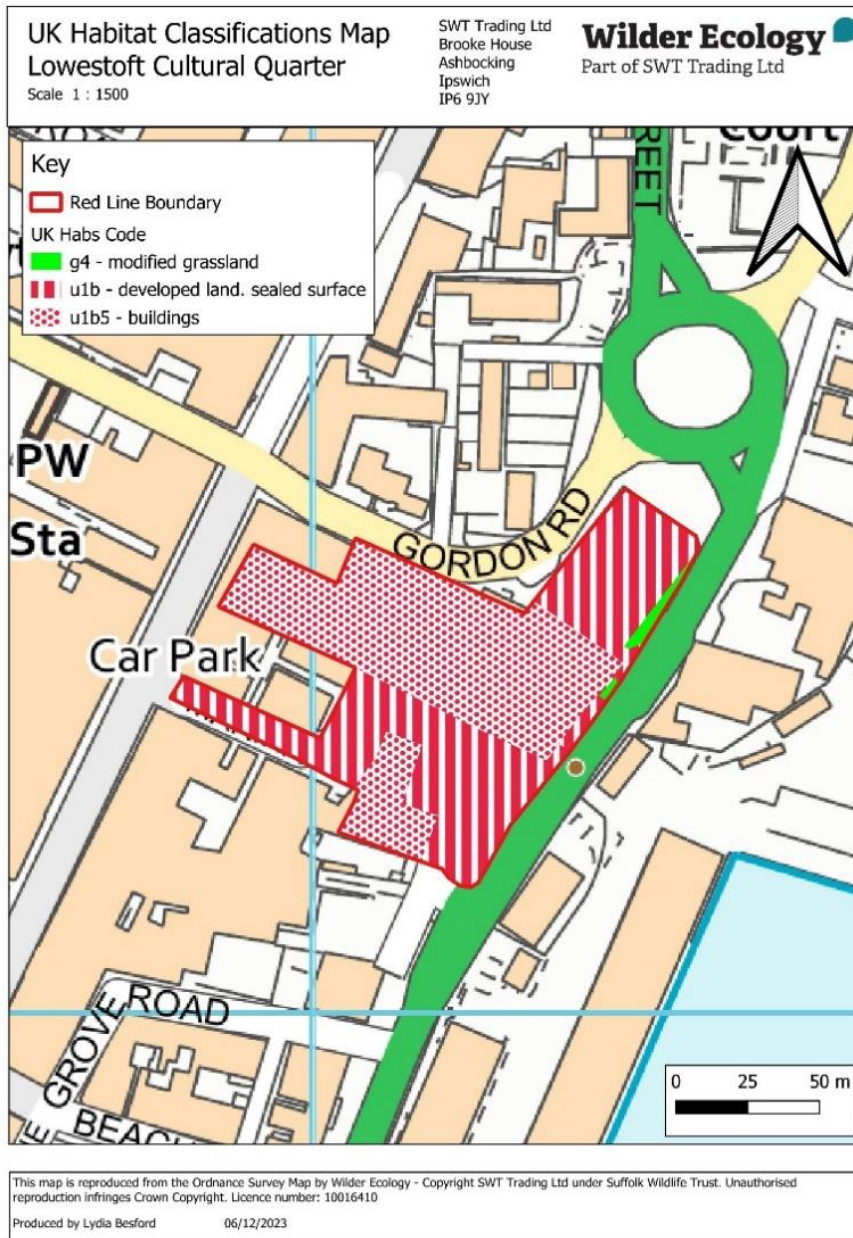


Figure 2. UK Habitats Classification map

### 3.1.2 Habitat Assessment

The site is of low biodiversity value due to it being highly urbanised and dominated by sealed surfaces, there is a small area of modified grassland that is in poor condition. In its current condition state and size, this grassland has a limited effect on the biodiversity of the site.

### 3.1.3 Proximity to designated habitats

There are two statutorily designated sites and seven non-statutorily designated sites within 2km of the site. See Table 1 below for details.

Table 1. Statutory and non-statutory designated sites within 2km

Distance/ direction	Name and Designation	Description
258m SE	Lowestoft Harbour Kittiwake Colony CWS	The site consists of a reconstructed artificial cliff on part of the Lowestoft Docks used by SLP to construct gas rigs. Hundreds of Kittiwakes use it as a nesting site.
392m E	Southern North Sea SAC	The Southern North Sea SAC has been identified as an area of importance for harbour porpoise ( <i>Phocoena phocoena</i> ).
392m E	Outer Thames Estuary SPA	The Outer Thames Estuary SPA is classified for the protection of the largest aggregation of wintering red-throated diver ( <i>Gavia stellata</i> ) in the UK, an estimated population of 6,466 individuals, which is 38% of the wintering population of Great Britain. It also protects foraging areas for common tern ( <i>Sterna hirundo</i> ) and little tern ( <i>Sternula albifrons</i> ) during the breeding season.
395m E	Ness Point CWS	Ness Point is lined by large concrete sea defence that provides habitat for over-wintering purple sandpiper. This species is on the amber list of Birds of Conservation Concern and is sparsely distributed in East Anglia, with Ness Point being its most regularly visited site in Suffolk.
1.14km NW	Great Eastern Linear Park CWS	This linear habitat forms a wildlife corridor. It contains a variety of plant communities including areas of dense scrub, woodland and rough grassland. A stream runs east to west along the bottom of the embankment. Its flow has been impeded in some places and ponds and marshy areas have developed. Marshland species such as brooklime, water mint and fool's watercress are found in this area.
1.22km SW	Kirkley Ham CWS	There are two distinctive habitats, two reedbed areas exist towards the south of the site. On the northern section, there is drier grassland, containing plants that are more associated with acidic grassland, also with scattered hawthorn and gorse scrub.
1.23km NW	St. Margaret's Churchyard CWS	This is a large churchyard. The grassland is largely unimproved with its floristic diversity varying across the site. In open sunny areas relatively common meadow species such as bulbous buttercup, oxeye daisy and germander speedwell occur, whilst in shadier areas tall herbs such as cow parsley and naturalised spring bulbs can be found.
1.61km SW	Brooke Yachts and Yen-Weld Mosaic CWS	This semi-natural site on the southern bank of Lake Lothing has an open mosaic of habitats on previously developed land and a small area of intertidal mudflat (biodiversity priority habitats). It provides food, shelter and nesting sites for a wide range of wildlife including reptiles, small mammals and birds and is of high wildlife value, particularly in an urban setting.
1.71km W	Leathe's Ham CWS	The area is now largely flooded and comprises a large area of open water with some marginal reedbeds, surrounded by damp woodland with scrub and rough grassland. The diversity of habitat and structure at this site provides good opportunities for a range of wildlife but is particularly valuable for birds, with more than 70 species being recorded here. Wetland species include mute swan, little grebe, wigeon, gadwall and tufted duck. Kingfisher and water rail are also frequent visitors.

### 3.2 Legally Protected Species

It should be noted that this section only covers species with legal protection that is likely to be relevant to the proposals. For example, species for which sale alone is an offence are not mentioned here.

#### 3.2.1 Bats

##### Desk study

There are two records of bats within 2km of the site, the nearest being 906m SW. Species unknown.

##### Roosting habitat

An assessment of bat roost suitability was made on all of the buildings concerned. The car park had some ceiling panels dropping under the pedestrian walkway, and some possible access points in the brickwork of the eastern side of the building. Each of these is detailed in the photo appendix. The ceiling panels were inspected by endoscope and torches and no evidence of roosting bats was found. The brickwork features were unable to be assessed.

In addition, a thorough check of the Marina Centre roof void was undertaken, no evidence of roosting bats was found.

Roosting habitat on site is negligible due to the lack of suitable features, and high level of disturbance.

Buildings outside of the red line boundary with potential bat roost features; the Marina Theatre and the Graphitas were both inspected externally and an internal inspection was conducted throughout the roof space within the theatre. No evidence of roosting bats was found.

##### Foraging and commuting habitat

Commuting and foraging habitats are negligible, due to the lack of suitable habitat in the immediate area.

This site is likely to have local importance for roosting, foraging and commuting for bat species.



Table 2: Guidelines for assessing potential suitability of proposed development sites for bats (Collins, 2023)

Suitability	Roosting Habitats	Commuting and Foraging Habitats
<b>None</b>	No habitat features on site likely to be used by any roosting bats at any time of the year (i.e. a complete absence of crevices/suitable shelter at all ground/underground levels).	No habitat features on site likely to be used by any commuting or foraging bats at any time of the year (i.e. no habitats that provide continuous lines of shade/protection for flight-lines, or generate/shelter insect populations available to foraging bats).
<b>Negligible<sup>a</sup></b>	No obvious habitat features on site likely to be used by roosting bats; however, a small element of uncertainty remains as bats can use small and apparently unsuitable features on occasion.	No obvious habitat features on site likely to be used as flight-paths or by foraging bats; however, a small element of uncertainty remains in order to account for non-standard bat behaviour.
<b>Low</b>	A structure with one or more potential roost sites that could be used by individual bats opportunistically at any time of the year. However, these potential roost sites do not provide enough space, shelter, protection, appropriate conditions <sup>b</sup> and/or suitable surrounding habitat to be used on a regular basis by large numbers of bats (i.e. unlikely to be suitable for maternity and not a classic cool/stable hibernation site but could be used by individual hibernating bats).	Habitat that could be used by small numbers of bats as flight-paths such as a gappy hedgerow or unvegetated stream, but isolated, i.e. not very well connected to the surrounding landscape by other habitat.  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 patch of scrub.
<b>Moderate</b>	A structure with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions <sup>b</sup> and surrounding habitat but unlikely to support a roost of high conservation status (with respect to roost type only, such as maternity and hibernation – the assessments in this table are made irrespective of species conservation status, which is established after presence is confirmed).	Continuous habitat connected to the wider landscape that could be used by bats for flight-paths such as lines of trees and scrub or linked back gardens.  Habitat that is connected to the wider landscape that could be used by bats for foraging such as trees, scrub, grassland or water.
<b>High</b>	A structure with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions <sup>b</sup> and surrounding habitat. These structures have the potential to support high conservation status roosts, e.g. maternity or classic cool/stable hibernation site.	Continuous, high-quality habitat that is well connected to the wider landscape that is likely to be used regularly by bats for flight-paths such as river valleys, streams, hedgerows, lines of trees and woodland edge.  High-quality habitat that is well connected to the wider landscape that is likely to be used regularly by foraging bats such as broad-leaved woodland, tree-lined water courses and grazed parkland.

		Site is close to and connected to known roosts.
<p><sup>a</sup> Negligible is defined as ‘so small or unimportant as to be not worth considering, insignificant’. This category may be used where there are places that a bat could roost or forage (due to one attribute), but it is unlikely that they actually would (due to another attribute).</p>		
<p><sup>b</sup> For example, in terms of temperature, humidity, height above ground level, light levels or levels of disturbance.</p>		

### 3.2.2 Reptiles

Four common lizards have been recorded within 2km of the site, the closest being 1.47km SW of the site. The urban habitat makes the site unsuitable and of low importance to reptiles. The lack of connectivity and suitable refuge opportunities makes the site unlikely to host a reptile population and therefore they will not be considered further in this report.

### 3.2.3 Breeding birds

There are numerous records of birds within 2km of the building including many red and amber listed Birds of Conservation Concern (BoCC<sup>5</sup>). The red listed birds with closest records to the building include; curlew, herring gull, house sparrow, linnet, skylark, starling and swift and amber listed birds; lesser black-backed gull, black-headed gull, brent goose, dunnock and song thrush.

A bird survey of the battery green car park was undertaken between March and July 2023 (Wilder Ecology, 2023).

Herring gulls and lesser black-backed gulls were the dominant species found on the roof of the car park and were the only species found to be nesting there. Breeding behaviour started in the second week of April and chicks were still present in July. At least 24 pairs of gulls nested on the roof, no kittiwakes utilised the car park.

No birds are utilising the Marina Centre building to nest.

Kittiwakes are nesting on the buildings with close proximity to the site including the new ledges attached to the Marina Theatre. There were approximately 3 nests per ledge on the western wall, there were also 2 lower ledges to collect excrement. There were also 7 nests on the east wall where the cinema area is. The front of the theatre had an Eco Lab Avi displacement electric shock system installed, kittiwakes continued to nest on top of these

deterrents, around 60 adults were present. Seaview house also had some nests, despite the implementation of spikes, but low numbers.

This site is likely to have local value/importance for lesser black-backed and herring gulls.

### **3.3 Species of Principal Importance in England**

This section considers those species listed by the Secretary of State, as required by Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 that are not covered in the preceding section. It should be noted that some of these species (formerly described as UK BAP species) do also receive legal protection, but not in a way that is considered relevant to this proposal. Furthermore, some of the species in the preceding sections are also Species of Principal Importance in England (see sections 4.3 *et seq.*).

#### Hedgehog

There are many local records for hedgehogs the closest being 370m N, it is unlikely that they are using the site for nesting or foraging. The site may be used as a commuting route between gardens and the wider landscape.

#### Harbour porpoise

There are six records of harbour porpoise within 2km of the site, the closest was recorded 820m NE. These species are a qualifying feature of the Southern North Sea SAC located 450m E of the site.

### **3.4 Other Wildlife Issues**

No further consideration is necessary.

### **3.5 Wildlife and Countryside Act Schedule 9 Plants and Animals**

Certain species listed within this Schedule have now become common and widespread (*e.g.* grey squirrel and muntjac deer) and are not dealt with here. Others, mainly plants but also including aquatic invertebrates, remain scarce in the wild, but threaten outward spread from gardens or established colonies in the wild.

There two records of Japanese Knotweed in 2006, the closest record being 920m SW of the site.

No invasive species were noted on site, however, this does not constitute a full invasive species survey.

### **3.6 Limitations of the Survey**

The only limitations during the survey were the presence of potential bat roost features at height on the eastern wall of the battery green car park, which could not be accessed.

### **3.7 Summary of Results**

- There are two statutorily designated sites and seven non-statutorily designated sites within 2km of the site.
- The site offers negligible suitability for roosting, foraging and commuting habitat for a range of bat species.
- The flat roof of the car park is important nesting and roosting habitat for red and amber listed herring and lesser black-backed gulls.

## **4. POTENTIAL IMPACTS AND ZONE OF INFLUENCE**

The Zone of Influence (Zoi) is defined as “The areas/resources that may be affected by the biophysical changes caused by activities associated with a project” (CIEEM, 2018). The Zoi takes into account all areas for potential impacts as a result of this development. For example:

- Within the application site boundary and immediately adjacent habitats for direct impacts to valued ecological features (e.g. habitats and protected species).
- Within a 2km radius of the application site boundary for designated nature conservation sites which may be indirectly impacted as a result of the proposed development.
- Within 250m of the development site for great crested newts, as based on the small-scale of the proposal.

#### 4.1 Potential negative impacts of works without appropriate mitigation

Table 4. Potential negative impacts of works

Ecological receptor	Impact without mitigation	Level of value	Scale of impact	Likelihood of impact without mitigation
Habitat	Buildings and open car park won't have any negative impacts. Modified grassland loss would be a minor negative.	Local	No negative/minor negative	Unlikely
Bats	Potential disturbance to foraging and commuting habitats by any night-time works or lighting of the site	Local	Minor negative	Unlikely
Breeding birds	Removal of nesting habitat for herring and lesser black-backed gulls during breeding season.	Local	Major negative	Extremely likely
Harbour porpoise	Disturbance to harbour porpoise if pile driving required for construction.	Local	Negative	Unlikely

#### 4.2 Potential outcomes of works with appropriate mitigation and enhancements

Table 5. Potential positive impacts of works

Ecological receptor	Impact of works	Scale of impact
Habitat	Supplementary planting with trees and ground planters will increase biodiversity.	Minor positive
Breeding birds	Provision of kittiwake ledges on new buildings. Swift bricks could be incorporated into any new builds. Provision of another high flat roof to enable herring and lesser black-backed gulls to continue to breed.	Minor positive

### 5. BIODIVERSITY NET GAIN

Table 6 highlights the baseline biodiversity value of the site, and measures to provide post-construction gains are detailed under Section 6.1 Habitats.

Table 6. Total baseline site value

Preconstruction Baseline BU total site values							
UK Habitat Type	Distinctiveness Score		Condition Score		Area of Habitat (ha)	Length of Habitat (km)	Biodiversity Units BU
Developed Land; Sealed Surface	V. Low	0	n/a	1	01.08		0.00
Modified grassland	Low	2	Poor	1	0.014		0.03
<b>Total habitat area and units</b>					<b>1.09</b>		<b>0.03</b>
<b>Total linear habitats length and units</b>						<b>0</b>	<b>0</b>

Table 7. Post construction Biodiversity Net Gain recommendations

Biodiversity Net Gain Uplift Recommendations							
UK Habitat Type	Distinctiveness Score		Condition Score		Area of Habitat (ha)	Length of Habitat (km)	Biodiversity Units BU
Ground Level Planters - creation	Low	2	N/A	1	0.07		0.14
Other Green Roof -creation	Low	2	N/A	1	0.07		0.14
Individual Trees - creation	Medium	4	Moderate	2	0.13		0.41
Modified grassland – retained	Low	2	Poor		0.014		0.03
<b>Total habitat area and units</b>					<b>0.27</b>		<b>0.72</b>
Species-rich Native Hedgerow - creation	Medium	4	Moderate	2		0.03	0.2
<b>Total linear habitats length and units</b>						<b>0.03</b>	<b>0.2</b>

These recommendations have the potential to increase the site baseline from **0.03** to **0.72**, an uplift of **0.69 BU**, which equates to an uplift of **2432.03%** on the baseline habitat BU and **0.2** hedgerow units equivalent to an uplift of **100%**.

## 6. RECOMMENDATIONS

The following recommendations are made on the assumption that the plans and proposals made available during the preparation of this report remain unchanged and, unless specified, are subject to the successful resolution of any planning application. Where further survey work is recommended that could be material to the planning application, it should be completed, and the results made available to the Local Planning Authority prior to any planning decision being made.

### 6.1 Habitats

There will not be any negative impacts upon any of the statutory or non-statutory designated sites within 2km of the site provided pile driving is not required. The integration of green space into this highly urbanised area provides an opportunity to introduce some biodiversity into existing public spaces in Lowestoft.

The scheme includes the planting of 33 small trees throughout the development, these are likely to achieve moderate condition due to the integration of underplanting amongst the majority of these and that there are some native species included in this planting plan. The species rich native hedgerow on site could achieve a higher distinctiveness and condition if standard trees are able to grow through. Installation of a green roof planted with coastal wildflower seed mix will provide habitat for invertebrates in an otherwise urban area. All calculations were based on the drawings, landscaping and planting detailed in the Chaplin Farrant Design and Access Statement November 2023.

## **6.2 Bats**

Works should take place during daylight hours; further artificial lighting is likely to impact bats present within the wider landscape.

In the unlikely event that any bats are seen during demolition, all works should be ceased and an ecologist should be contacted immediately for further advice.

## **6.3 Birds**

Demolition of the battery green car park building should preferably be carried out between September and the following February, inclusive, to reduce the possibility of damage to birds' nests, although it is possible for some species to nest earlier in the year. Guidance should be sought from a suitably qualified ecologist if there is any reason for doubt.

If demolition is planned to take place from March to August, inclusive, it will first be necessary to deter gulls from nesting on the building. If the gulls do nest there, then a nesting bird check will be required by a suitably qualified ecologist and the work would have to wait until any young had fledged.

Nesting provision for red listed herring gull and amber listed lesser black-backed gull will be lost without mitigation. Both species require large flat areas free from disturbance and a significant number of gulls will be displaced into the town.

Swift bricks / nesting holes could be considered to be incorporated in the new build. These will need to be positioned as high as possible and ideally using a call system to encourage them to the new nesting site. There are local swift colonies.

#### **6.4 Species of Principal Importance in England**

Hedgehogs may be active in the wider vicinity of this site; any construction pits should be covered to prevent the hedgehogs falling and becoming trapped.



## 7. REFERENCES

Bat Conservation Trust (2023) *Bats and Artificial Lighting at Night, Guidance Note 08/23*. Institute of Lighting Professionals, Rugby.

Buglife (2009). *Planning for Brownfield Biodiversity: A best practice guide*. Buglife - The Invertebrate Conservation Trust, Peterborough

CIEEM (2017) *Guidelines for Preliminary Ecological Appraisal, 2nd edition*. Chartered Institute of Ecology and Environmental Management, Winchester

CIEEM (2018) *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal, Version 1.2 – Updated April 2022*. Chartered Institute of Ecology and Environmental Management, Winchester

Collins, J. (ed.) (2023) *Bat Surveys for Professional Ecologists: Good Practice Guidelines (4<sup>th</sup> edition)*. The Bat Conservation Trust, London.

Mitchell-Jones, A.J. and McLeish, A.P. (eds) (2004). *Bat Worker's Manual, Third Edition*. Joint Nature Conservation Committee, Peterborough

Reason, P.F. and Wray, S. (2023). *UK Bat Mitigation Guidelines: a guide to impact assessment, mitigation and compensation for developments affecting bats*. Chartered Institute of Ecology and Environmental Management, Ampfield.

Stanbury, A., Eaton, M., Aebischer, N., Balmer, D., Brown, A., Douse, A., Lindley, P., McCulloch, N., Noble, D., and Win I. 2021. *The status of our bird populations: the fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of Man and second IUCN Red List assessment of extinction risk for Great Britain*. British Birds 114: 723-747

The British Standards Institution (2012). *BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations*. BSI, London

The British Standards Institution (2013). *BS42020:2013 Biodiversity – Code of practice for planning and development*. BSI, London

Wilder Ecology (2023) Battery Green car park bird survey

Whitehouse, A. T. (2008). *Managing aggregate sites for invertebrates: a best practice guide*. Buglife - The Invertebrate Conservation Trust, Peterborough

UKHab Ltd (2023). UK Habitat Classification version 2 (at <https://www.ukhab.org>)

## 8. APPENDIX 1. PHOTOGRAPHS



*Photograph 1. Modified grassland to the east of the car park with white clover, common daisy and ribwort plantain present.*



*Photograph 2. Carpark walkway ceiling potential bat roost feature*





*Photograph 3. Potential access points for bats on east face of the Battery Green car park*



*Photograph 4. Internal inspection of roof space of Marina Centre*



*Photograph 5. Kittiwake shelves on western wall of Marina Theatre, provided in mitigation for Eco Lab Avi displacement electric shock system along the main entrance.*



*Photograph 6. Main entrance of Marina Theatre with extensive nesting kittiwakes, Avi displacement electric shock system implemented along these ledges.*

## 9. APPENDIX 2. STATUTORILY DESIGNATED SITES CITATIONS

Outer Thames Estuary SPA citation:

[European Site Conservation Objectives for Outer Thames Estuary SPA - UK9020309 \(naturalengland.org.uk\)](https://naturalengland.org.uk)

Accessed: 20<sup>th</sup> November 2023

Southern North Sea SAC citation:

[Designated Sites View \(naturalengland.org.uk\)](https://naturalengland.org.uk)

Accessed 20<sup>th</sup> November 2023

## **10. APPENDIX 3. LEGAL CONSIDERATIONS**

### **Introduction**

The National Planning Policy Framework (NPPF) states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity. Government Circular 06/2005 'Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system' (which is still live following the publication of the NPPF) states in paragraph 99: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

The NERC Act 2006 imposes an obligation on all public bodies, including local authorities, to have regard to the conservation of biodiversity, particularly of those species and habitats identified as being of principal importance. Section 41 of the Act requires a list to be published that identifies such species and habitats, and for England these are now referred to as Species and Habitats of Principal Importance in England.

The impact assessment and recommendations set out below are based on professional experience and available guidelines. While there is some interpretation of current legislation on this basis, it should be noted that the authors do not have legal training. In the case of any uncertainty it is recommended that a specialist environmental lawyer be consulted.

The contents of this report should not be taken to indicate support of any planning application or subsequent development, on the part of SWT Trading Ltd; Wilder Ecology or its parent company, Suffolk Wildlife Trust. Suffolk Wildlife Trust reserves the right to object to, or comment upon, any planning application that may arise on this site should any unacceptable wildlife impacts remain unresolved or should any relevant planning policies be compromised.

### **Habitats**

The Conservation of Habitats and Species Regulations 2017 (as amended) enshrine the EU Birds Directive (The European Community Council Directive on the Conservation of Wild Birds (2009/147/EC)) and EU Habitats Directive (The European Community Council Directive on the Conservation of Natural Habitats of Wild Fauna and Flora (92/43/EEC)) into English law, with Natural England as the appropriate nature conservation organisation for England. Ramsar sites are wetlands of international importance designated under the Ramsar Convention. Special Protection Areas (SPA) and Special Areas of Conservation (SAC) (Natura 2000 sites) are defined in the regulations as a 'European site'. The Regulations define competent

authorities, if a plan or project is likely to have a significant effect on a European site the competent authority is required to make an appropriate assessment of this effect in accordance with the requirements of the Regulations.

Sites of Special Scientific Interest (SSSIs) give legal protection to the best sites for wildlife and geology. Natural England holds responsibility for identifying and protecting SSSIs in England under the Wildlife and Countryside Act 1981 (as amended). Where public bodies request to carry out operations on a SSSI which have been identified as potentially damaging the special interest features of the SSSI, then assent under 28H of the Act is required.

County Wildlife Sites (CWS) are a non-statutory designation which is recognised by the National Planning Policy Framework and all Suffolk Local Planning Authorities within their Planning Policy.

Species/ group	Legislation/level of protection	Offences	If work required:
Bats	Full Protection under: The Conservation of Habitats and Species Regulations 2017 (as amended) and Wildlife and Countryside Act 1981 (as amended)	<ul style="list-style-type: none"> <li>• to deliberately capture, kill or injure any bat;</li> <li>• to damage or destroy a breeding site or resting place used by bats (whether bats are in it at the time or not);</li> <li>• to deliberately disturb bats in a way that is likely to impair their ability to migrate, hibernate, survive or reproduce, or in a way that is likely to affect significantly their local distribution or abundance;</li> <li>• to intentionally or recklessly disturb bats while occupying a place of shelter or protection, or attempt to do so;</li> <li>• to intentionally or recklessly obstruct access to any place of shelter or protection, or attempt to do so.</li> </ul>	<p>Any work that would otherwise result in one or more of these criminal offences must be carried out under a Natural England licence.</p> <p>Damage to or destruction of breeding sites and resting places is an absolute offence and so there is no defence available within the law, even if the persons involved were not aware of a habitat's use by these animals. Courts will have regard to whether or not the impact could have been reasonably avoided in deciding upon a sentence. In all cases the risk of an offence occurring can be minimised by taking all reasonable precautions, as set out in available guidance.</p>
Reptiles	Part Protection under: Wildlife and Countryside Act 1981 (as amended)	<ul style="list-style-type: none"> <li>• Intentionally kill or injure any reptile</li> </ul>	<p>There is no licensing system for reptiles, but there is a defence in the Act that permits otherwise illegal actions if they are the incidental result of a lawful operation and could not reasonably be avoided. For this defence to be used in a court of law it would be necessary to document and carry out a series of precautions and</p>

			mitigation measures that seek to avoid the offence from being committed.
Birds	Varying Protection under: Wildlife and Countryside Act 1981 (as amended)	<ul style="list-style-type: none"> <li>• Intentionally kill or injure any wild bird;</li> <li>• Intentionally take damage or destroy the nest of any wild bird included in Schedule 1 (whether or not it is active);</li> <li>• Intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built;</li> <li>• Intentionally take or destroy the egg of any wild bird;</li> <li>• Intentionally or recklessly disturb any bird species included in Schedule 1 of the Act while it is building a nest, or is in, on or near any nest containing eggs or young;</li> <li>• Intentionally or recklessly disturb the dependent young of any bird included in Schedule 1.</li> </ul>	Schedule 1 of the Act includes certain rare or threatened species. Licences to permit these offences can only be granted by Natural England for reasons of preserving public health or public safety.

### Species of Principal Importance in England

Although the majority of Species of Principal Importance in England receive no direct legal protection, the Natural Environment and Rural Communities (NERC) Act 2006 places an obligation on local authorities to have regard to their conservation and this is most obviously brought to bear through their planning control functions. As such, the presence of such species can be a material consideration to a planning decision. Beyond this development control function, it is good practice for any land manager to adhere to the underlying nature conservation principles.

In addition to their aforementioned protection, the following species are listed as Species of Principal Importance in England; great crested newt, bats which occur regularly in Suffolk including barbastelle, noctule, soprano pipistrelle and brown long-eared, brown hare, hazel dormouse, harvest mouse, otter, water vole, white-clawed crayfish and all species of reptile.

### Schedule 9 Plants and Animals

The Wildlife and Countryside Act 1981 (as amended) makes it an offence, amongst other things, to:

- plant or otherwise cause to grow in the wild any plant that is included in Part II of Schedule 9;
- to release or allow to escape into the wild any animal which is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state, or is included in Part I of Schedule 9 of the Act.

There is a defence available if it can be proven that all reasonable steps were taken to avoid the offence and due diligence was exercised.