



2 Eastfield North Muskham, Newark-on-Trent, NG23 6HE
Preliminary Bat Roost Assessment Report

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1. Summary

Table 1: Summary

<p>Report Purpose</p>	<p>With reference to the development proposals and the applicable planning policy & legislation, the scope of the present report is to:</p> <p style="padding-left: 40px;">Identify potential ecological constraints relating to bats and nesting birds.</p> <p style="padding-left: 40px;">Outline mitigation measures likely to be required in accordance with the mitigation hierarchy.</p> <p style="padding-left: 40px;">Identify any additional surveys that may be required to inform the above.</p>
<p>Methodology</p>	<p>A desk study was carried out including a study of the UK Government MAGIC¹ website for designated sites of nature conservation, granted European Protected Species applications for bats, and the site in the context of habitat connectivity to the surrounding landscape.</p> <p>The field survey was carried out in January 2024; The field survey comprised a Preliminary Roost Assessment (PRA) & Nesting Bird Survey, carried out on the 8th January 2024. The surveys were led by a suitably experienced ecologist holding a Natural England survey licence for bats and with reference to best practice guidelines (Collins, 2023).</p>
<p>Key Notes and Conclusions</p>	<p><i>Bats</i></p> <p>With reference to survey guidelines (Collins, 2023) the PRA survey assessed the building B1 as having moderate bat roosting suitability. With reference to survey guidelines (Collins, 2023), two emergence surveys should be carried out on the building, to establish the presence/ likely absence of roosting bats. With reference to the guidelines, at least one emergence survey should be carried out during the May-August bat activity season. One survey may be within September. The emergence surveys should be spread, with a minimum of three weeks between surveys.</p> <p><i>Nesting Birds</i></p> <p>One historic swallow cup was recorded at the east gable apex building B1 during the PRA. Precautionary methods during works are recommended.</p>

¹ Multi-agency Geographic Information for the Countryside: www.magic.gov.uk.

2. Introduction

Background

- 2.1. Elton Ecology Ltd was commissioned by Mr Blair Bexon to conduct a Preliminary Roost Assessment (PRA) & Nesting Bird Survey of building(s) at 2 Eastfield North Muskham, Newark-on-Trent, NG23 6HE.

Relevant Documents

- 2.2. Relevant documents used to inform the assessment include:

Site Location Plan (Drawing No. BB-01) (Kev Robinson Architectural Services, Dec 2021)

Existing Block Plan (Drawing No. BB-02) (Kev Robinson Architectural Services, Dec 2021)

Existing Floor Plan (Drawing No. BB-03) (Kev Robinson Architectural Services, Dec 2021)

Existing Elevations (Drawing No. BB-04) (Kev Robinson Architectural Services, Dec 2021)

Proposed Block Plan (Drawing No. BB-05) (Kev Robinson Architectural Services, Dec 2023)

Proposed Floor Plans (Drawing No. BB-06) (Kev Robinson Architectural Services, Dec 2023)

Proposed Elevations (Drawing No. BB-07) (Kev Robinson Architectural Services, Dec 2023)

Site description

- 2.3. The site comprises a two-storey residential dwelling with associated garage and gardens. The site is located at 2 Eastfield, North Muskham, Newark-on-Trent, NG23 6HE (Figure 1: Site Location Plan) (central OS grid reference: SK 79745 58739).

Surrounding Landscape

- 2.4. The surrounding landscape is primarily rural (Figure 2: Surrounding Landscape Plan).
- 2.5. Suitable bat commuting and foraging habitat in the wider landscape includes blocks of woodland, treelines, waterbodies, floodplain, and hedgerows. The tree-lined River Trent is located approximately 0.1km northeast of the site.
- 2.6. Factors which may limit bat commuting and foraging within the local landscape include areas of hardstanding, noise, and artificial lighting in the village of North Muskham. The A1 road is located approximately 0.4km west of the site.

Development Proposals

- 2.7. The development proposals include a two-storey extension to the rear of the property.

Report Purpose and Scope

2.8. With reference to the Development Proposals, the scope of the present report is to:

Identify potential ecological constraints relating to bats and nesting birds.

Outline mitigation measures likely to be required in accordance with the mitigation hierarchy.

Identify any additional surveys that may be required to inform the above.

Planning Policy and Legislation

2.9. A summary of biodiversity planning policies and wildlife legislation relevant to the site is provided in Appendix 1: Planning Policy and Legislation Summary. The relevant planning policy and legislation includes:

National Planning Policy Framework 2021.

Government Circular ODPM 06/05 Biodiversity and Geological Conservation.

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

The Wildlife and Countryside Act 1981 (as amended).

Natural Environment and Rural Communities (NERC) Act 2006 – Habitats and species of principal importance.

The Wild Mammals (Protection) Act 1996 (as amended).

3. Methodology

Personnel

- 3.1. The PRA and Nesting Bird Survey was carried out by Consultant Ecologist PH BSc (Hons), MSc. PH is a Qualifying member of CIEEM, holds a Natural England Level 1 Bat Licence (CL17) (reference number: 2021-54491-CLS-CLS), and is experienced in undertaking ecology surveys, GIS mapping, and report writing.
- 3.2. The PRA and Nesting Bird Survey was assisted by Assistant Ecologist CM BSc (Hons), MSc. CM is a Qualifying member of CIEEM and is experienced in assisting and undertaking ecology surveys, GIS mapping and report writing.

Desk Study

- 3.3. The sources of information and study areas of the desk study data are provided in Table 2.

Table 2: Desk study sources and areas

Feature		Study Area	Data Source	Date of Search
Designated sites of nature conservation relating to bats	International (e.g. Special Area of Conservation, Special Protection Area, and Ramsar)	10 km radius of the site boundary	UK Government MAGIC ² website	08/01/2024
	National (e.g. Site of Special Scientific Interest (SSSI), SSSI Impact Risk Zones (SSSI IRZ)), Local Nature Reserves, National Nature Reserves			
Granted Natural England Bat Mitigation Licences		2 km radius of the site boundary	UK Government MAGIC website	
The site in the context of habitat connectivity to the surrounding landscape		2 km radius of the site boundary	Satellite and OS map data	

Field Survey

Preliminary Roost Assessment

- 3.4. The PRA was carried out on the 8th January 2024 with reference to best practice guidelines (Collins, 2023). Weather conditions were appropriate for field survey with temperatures of 3°C, no rain, and good visibility.
- 3.5. The survey involved a Natural England bat licenced surveyor making a detailed external and internal inspection of the building(s) on-site, with the objective to assess the suitability of the structure for roosting bats. The surveyor compiled information on potential bat entry/exit points, roosting features, and any evidence of bats found (such as actual bat sightings, droppings, urine staining and fur-oil staining). The nomenclature used for bat species lists broadly follows that of Dietz and Kiefer, (2018).

² Multi-agency Geographic Information for the Countryside: www.magic.gov.uk.

- 3.6. The PRA was aided as required by binoculars, a high-powered torch, and an endoscope to view features on the building and/ or search accessible cracks and crevices for the presence of bats where required.
- 3.7. The PRA was also aided by a Wildlife Acoustics Echo Meter Touch 2 bat detector, recording echolocation calls of any bats present. The audio data was later subject to desktop analysis via the Kaleidoscope analysis software as required.
- 3.8. The suitability of the building(s) for roosting bats was categorised with reference to best practice industry guidelines (Collins, 2023) (Table 3: Guidelines for Assessing the Potential Bat Roosting Suitability of Structures and Trees) as either negligible, low, moderate, or high. Suitability grading of buildings requires consideration of the potential roosting features on the building within the context of the suitability of the surrounding landscape to support commuting and foraging bats.

Table 3: Guidelines for Assessing the Potential Bat Roosting Suitability of Structures and Habitats (Adapted from Collins, (2023))

Suitability	Description of Roosting Habitats in Structures	Potential Flightpaths and Foraging Habitats
None	No habitat features likely to be used by any roosting bats at any time of the year (ie a complete absence of crevices/suitable shelter at all levels)	No habitat features likely to be used by any commuting or foraging bats at any time of the year. A lack of landscape habitat features.
Negligible	A structure with no obvious features likely to be used by roosting bat, however some uncertainty remains due to the occasional use of apparently small and unsuitable features by bats.	Habitat with no obvious features for use by commuting or foraging bats, however some uncertainty remains due to occasional non-standard bat behaviour.
Low	A structure with one or more potential roost sites which could be used by individual bats opportunistically at any time of the year, which does not provide enough space, shelter, protection, or appropriate conditions (i.e. temperature, humidity, height above ground level, light levels, disturbance) or suitable surrounding habitat to be used on a regular basis by larger numbers of bats.	Habitat that could be used by small numbers of commuting bats such as a hedgerow with gaps or unvegetated stream, but isolated (i.e. not very well connected to the surrounding landscape by 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 a patch of scrub.
Moderate	A structure with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions, and surrounding habitat but is unlikely to support a roost of high conservation status (such as a maternity colony).	Continuous habitat connected to the wider landscape that could be used by commuting bats 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.
High	A structure with one or more potential roost sites that are 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, and surrounding habitat. Potential to support high conservation status roosts such as maternity or hibernation roosts.	Continuous high-quality habitat that is well connected to the wider landscape likely to be used regularly by commuting bats such as river valleys, streams, hedgerows, lines of trees, and woodland edge. Continuous 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. Sites which are close to and connected to known roosts.

Nesting Birds (Including Barn Owl)

- 3.9. An assessment of the building to support nesting birds was made, and the site was searched where accessible for active or historical bird nests. Any sightings of bird nesting behaviour associated with the building was also noted.

Limitations

- 3.10. It must be noted that survey effort has been made to provide detailed descriptions of the site within the context of potential usage by protected species, however a fully comprehensive assessment and prediction of natural factors cannot be made. The protected species assessment provides a professional view of the likelihood of such species being present and cannot be taken as a definitive presence or absence of the same. Systematic presence/ likely absence surveys for such species, which typically require multiple survey visits, have not been undertaken but are recommended in the present report if considered proportionate to the potential ecological impacts of the development proposals.
- 3.11. A full search of crevices and cavities on buildings typically cannot be made without specialist access equipment and in most cases intrusive works, and therefore accessible areas only have been searched for evidence of protected species and a negative result of evidence does not conclusively equate to absence of such species which may occupy inaccessible crevices on the building. However, provided any recommended nocturnal emergence/ re-entry bat survey(s) are undertaken, this is not considered a significant limitation to assessing the presence/ likely absence of roosting bats at the site.
- 3.12. Third party desk study data is not exhaustive, and an absence or a negative result of a species does not indicate the absence of protected species from the site/ search area.
- 3.13. All dimensions, locations and distances provided are approximate.

4. Results

Desk Study - Statutory Designated Sites

4.1. The site does not form part of an international or national designated site for nature conservation.

4.2. A summary of designated sites identified via the desk study is presented in Table 4 below.

Table 4: Summary of Designated Sites.

Site name	Designation	Description/ Reasons Designation	Main for	Distance & Direction from Site
Devon Park Pastures	Local Nature Reserve (LNR)	Grassland, woodland, and marginal river habitats.		5.6km S
Besthorpe Meadows	SSSI	Alluvial grasslands within the floodplain of the River Trent experiencing seasonal flooding.		5.7km NE
Farndon Ponds	LNR	Large pond and woodland.		6.6km SW
Mather Wood	SSSI	Semi-natural woodland habitat.		7km W
Besthorpe Warren	SSSI	Dry acid grassland and hedgerows.		7.4km NE
Laxton Sykes	SSSI	Neutral grassland and hedgerows.		8.9km NW
Eakring and Maplebeck Meadows	SSSI	Neutral grassland and hedgerows.		9.2km NW
Roe Wood	SSSI	Semi-natural broadleaved woodland habitat.		9.4km W
Spalford Warren	SSSI	Grass heath dominated by hair-grass and sedges.		9.6km NE

4.3. The site does not lie within a Site of Special Scientific Interest Impact Risk Zone (SSSI IRZ).


Desk Study - Historic Bat Data


Field Survey

Preliminary Roost Assessment (PRA)

- 4.4. For the purpose of this report, the buildings on site have been referenced buildings B1-B2 as shown on Figure 1: Site Location Plan.
- 4.5. The results of the PRA are presented in Table 5 overleaf.

Table 5: PRA Results

Building Ref	Building Description	Potential Bat Access Points & Potential Roosting Locations	Evidence of Bats Recorded	Suitability Grading	Photographs
B1	<p>Building B1 related to the two-storey residential building on site. The building was approximately 12m in length, 11m in width, and two storeys in height. The clay pantile roof was pitched and the walls comprised brick. A single storey porch and a single storey extension were present on the south and north elevations respectively, with a corrugated plastic roof lean-to present on the west elevation. A well-sealed soffit was present on the porch.</p> <p>Internally, a loft void of approximately 2m in height was present. The internal structure comprised a timber ridge beam, timber rafters, timber trusses, and bitumen felt lining. Internal cavities were present in the brickwork on the east elevation in the loft void. No light spill was observed.</p>	<p>Potential bat access points included under lifted flashing at the chimney on the south elevation, missing mortar at the ridge tiles on the south elevation, under the gap behind the flue on the north elevation, through the gap at the damaged brick at the top of the wall on the east gable end, through the gaps under the lower clay pantiles on the southeast corner of the north extension, and north and west elevations of the north extension.</p> <p>Potential roosting locations included in the internal cavities in the brickwork, at beam convergence points, the underside of bitumen felt in the loft void, and between the bitumen felt lining and the pantiles.</p>	No evidence observed.	Moderate	

Building Ref	Building Description	Potential Bat Access Points & Potential Roosting Locations	Evidence of Bats Recorded	Suitability Grading	Photographs
B2	<p>Building B2 related to the single-storey garage southwest of building B1. The building was approximately 7m in length, 4m in width, and single storey in height. The clay pantile roof was pitched and the walls comprised brick. A well-sealed soffit was present throughout. B2 was connected to B1 via a wall that ran between the two buildings.</p> <p>Internally, B2 was open to the roof pitch with a roof structure comprising a timber ridge beam, timber rafters, king post, and bitumen felt lining.</p>	<p>Potential bat access points included through gaps under the lower pantiles on the east elevation.</p> <p>Potential roosting locations included between the bitumen felt and the pantiles.</p>	No evidence observed.	Low	

Nesting Birds (Including Barn Owl)

- 4.6. One historic swallow cup was recorded at the east gable apex building B1 during the PRA.
- 4.7. No evidence of barn owl was recorded during the survey.

5. Discussion & Recommendations

- 5.1. The ecological constraints and recommendations for avoidance, mitigation, or further survey (where required) are provided in Table 6 overleaf.

Table 6: Ecological Constraints and Opportunities

	Relevant Legislation	Potential Ecological Impact	Further Survey Required	Potential Avoidance, Mitigation and/or Compensation Measures
Bats	<p>Bats are protected as a European Protected Species under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and are protected under domestic legislation via the Wildlife and Countryside Act 1981 (as amended). The term 'European Protected Species' (EPS) is used to describe species listed on Schedule 2 of The Conservation of Habitats and Species Regulations, which make guilty of an offence a person who:</p> <p style="padding-left: 40px;">“Deliberately captures, injures or kills any wild animal of a European protected species;</p> <p style="padding-left: 40px;">Deliberately disturbs wild animals of any such species;</p> <p style="padding-left: 40px;">Deliberately takes or destroys the eggs of such an animal, or;</p> <p style="padding-left: 40px;">Damages or destroys a breeding site or resting place of such an animal [...]”</p> <p>A person guilty of an offence under Regulation 43 is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine, or to both.</p>	<p>The development proposals include a two-storey extension on the north elevation which may result in harm or disturbance caused to any bats or bat roosts which may be present on site.</p> <p>The building B1 was assessed as having moderate suitability for roosting bats, with reference to best practice survey guidelines (Collins, 2023), further surveys are required to assess the likely presence/absence of roosting bats. See adjacent column.</p> <p>The building B2 was assessed as having low suitability for roosting bats. It is understood that B2 will not be impacted under the current development proposals. Due to the limited attachment of the building B2 to B1 and the building's distance from the proposed development, it is considered that the proposed development would have negligible impact on B2 should any roosting bats be present. Therefore, no further surveys of B2 are required.</p>	<p>The PRA survey assessed the building B1 as having moderate bat roosting suitability. With reference to best practice survey guidelines (Collins, 2023), two emergence surveys should be carried out on the building, to establish the presence/ likely absence of roosting bats. With reference to the guidelines, at least one emergence survey should be carried out during the May-August bat activity season. One survey may be within September. The emergence surveys should be spread out to sample as much of the survey season as possible, with a minimum of three weeks between surveys.</p> <p>Should the emergence surveys confirm the presence of roosting bats, one additional emergence survey may be required to assess the potential impacts of the proposed development and design appropriate mitigation strategies.</p>	<p>Should roosting bats be present at the site, a Natural England mitigation licence may be required to demolish the building(s) on-site lawfully.</p>
Nesting Birds (Including Barn Owls)	<p>Nesting birds are afforded legal protection under the Wildlife and Countryside Act 1981 (as amended), whereby all wild nesting birds are protected under the Act, making it an offence to:</p> <p style="padding-left: 40px;">Intentionally kill, injure or take any wild bird; and</p> <p style="padding-left: 40px;">Take, damage or destroy the nest (whilst being built or in use) or eggs of any wild bird.</p>	<p>The proposed development will result in the loss of one historic swallow cup on building B1.</p>	<p>Works affecting nesting bird habitat at the site should avoid the nesting bird season of March to August (inclusive), and September in mild years. Where this is not possible, the habitat to be subject to works should be surveyed for nesting birds immediately prior to removal by a suitably experienced ecologist. If nesting birds are recorded, a suitable buffer zone should be defined by the ecologist and implemented until the ecologist confirms the chicks have fledged. If species identification is possible, this can be used to inform the typical egg incubation and fledging period, giving an indication of an appropriate time for re-survey to confirm fledging.</p>	<p>To mitigate for the loss of nesting habitat for swallows, a swallow nest cup should be fitted on the exterior of the building or nearby building under the control of the applicant. The nesting cup should be of a long-lasting material such as woodcrete or similar, suitable models include the 'Nestbox Company Eco Swallow Nest Bowl' or the 'Vivara Pro Wood Stone Swallow Bowl'. The nest cup should be located at a height of 2.5-5m on north and east facing aspects under a cover such as eave or wood roof to avoid strong sunlight and wet winds. The nest cups should not be placed adjacent to clutter, to allow the birds to launch and fly away comfortably.</p> <p>In the unlikely event that nesting birds are present at the time of works, works should cease immediately, and the advice of a suitably qualified ecologist sought.</p>

6. Conclusions

- 6.1. With reference to best practice guidelines (Collins, 2023), two emergence surveys are required to assess the presence/likely absence of roosting bats within building B1.

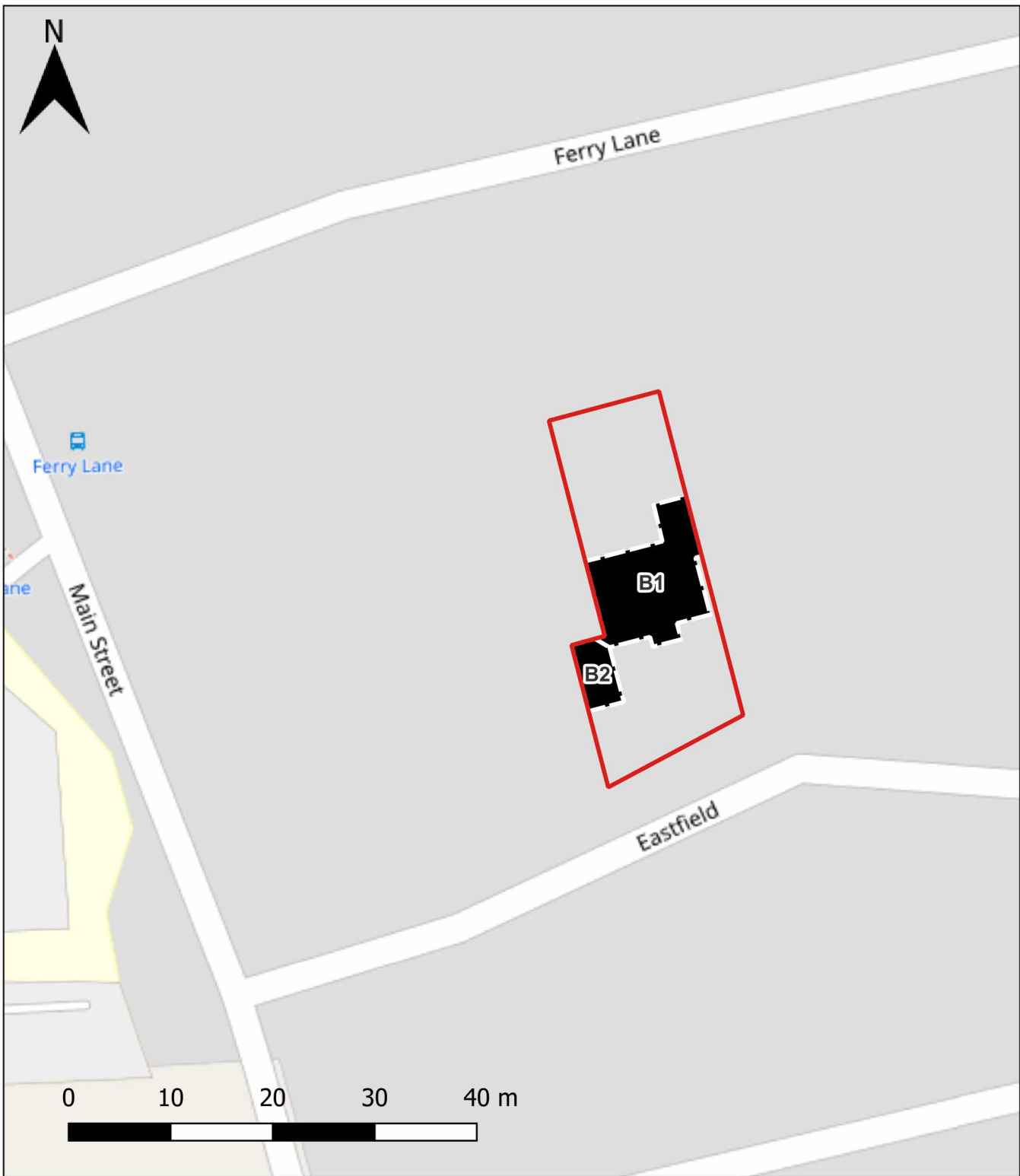
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8. Figures

Figure 1: Site Location & Building Plan (Overleaf)

Figure 2: Surrounding Landscape Plan (Overleaf)



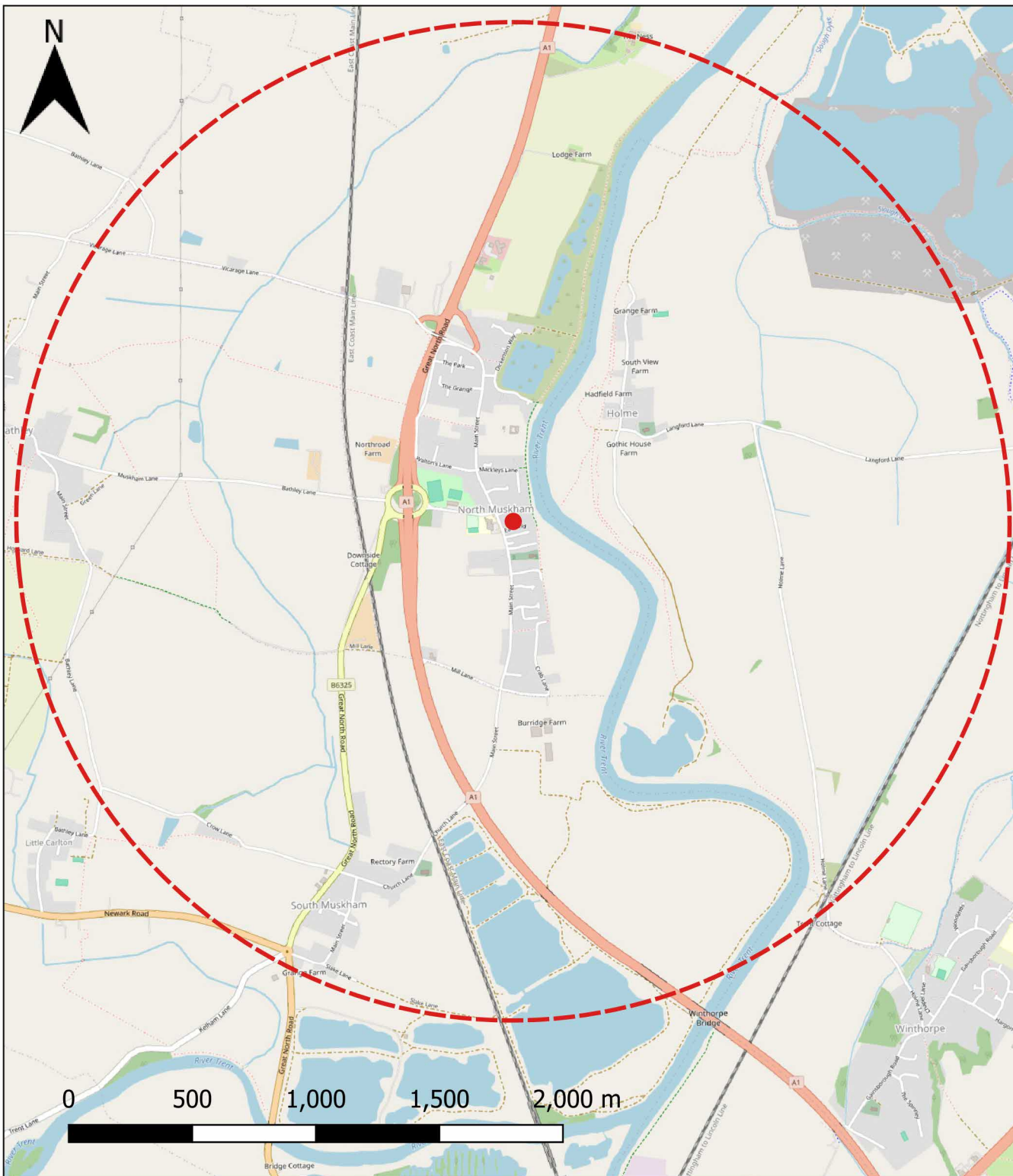
Legend

-  Site Boundary
-  Buildings with Reference Number

Project:
2 Eastfield, North Muskham,
Newark-on-Trent, NG23 6HE
Drawing:
Figure 1: Site Location & Building Plan
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Author: CM Job No: P2543



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Legend

- Site Location
- 2km Buffer

Project:
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Drawing:
Figure 2: Surrounding Landscape Plan

Date: 09-01-2024 Version: FINAL

Author: CM Job No: P2543



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Appendix 1: Planning Policy & Legislation Summary

This appendix serves as a summary of relevant policy and legislation. It is not intended to supersede the policy or legislation documents to which it refers, and the relevant full documents should always be consulted prior to decision making.

National Planning Policy Framework 2019

Biodiversity is a material consideration under the National Planning Policy Framework (2019). Relevant text to biodiversity from the NPPF is described below.

In Section 2 of the NPPF 'Achieving sustainable development', paragraph 8(c), the NPPF sets an environmental objective:

"To contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy."

In Section 15 'Conserving and enhancing the natural environment', the NPPF states that:

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

- 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);
- 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; [...]
- Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 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. [...]"

The NPPF, in paragraph 174. sets out that to protect and enhance biodiversity, plans should:

- "Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
- promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity."

In determining planning applications, the NPPF sets guidance that local planning authorities should apply the following principles:

- If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

- Development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted [...];
- Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”

Paragraph 176 states that the following sites should be given the same protection as habitats sites:

- “Potential Special Protection Areas and possible Special Areas of Conservation;
- listed or proposed Ramsar sites; and
- sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.”

Paragraph 177 states that “The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or projects will not adversely affect the integrity of the habitats site.”

Paragraph 180 states that planning policies and decisions should ensure new development is appropriate to its location and take into account likely effects of pollution on the natural environment, and in doing so:

- “Mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development; [...]
- limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”

Government Circular ODPM 06/05 Biodiversity and Geological Conservation

The government circular provides administrative guidance on the application of statutory obligation and legislation relating to planning and nature conservation in England. It complements the National Planning Policy Framework. The document includes guidance on designated sites (international and national), habitats, and protected species.

Relating to protected species and the requirement for their consideration in planning applications, the government circular, in paragraph 98 details that:

“The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult English Nature [now Natural England] before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of the species. They should also advise developers that they must comply with any statutory species’ protection provisions affecting the site concerned.”

Paragraph 99, relating to the requirement and timing of protected species survey and mitigation, the government circular states that:

“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 need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a [Natural England] licence.”

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

The term ‘European Protected Species’ (EPS) is used to describe species listed on Schedule 2 of The Conservation of Habitats and Species Regulations 2017 (as amended). Regarding these species, Regulation 43 make guilty of an offence a person who:

- “Deliberately captures, injures or kills any wild animal of a European protected species;
- Deliberately disturbs wild animals of any such species;
- Deliberately takes or destroys the eggs of such an animal, or;
- Damages or destroys a breeding site or resting place of such an animal [...]”

Regulation 43 defines that the disturbance of animals includes any disturbance which is likely to:

- Impair their ability:
 - to survive, to breed or reproduce, or to rear or nurture their young; or
 - in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
 - to affect significantly the local distribution or abundance of the species to which they belong.

A person guilty of an offence under Regulation 43 is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine, or to both.

Wildlife and Countryside Act 1981 (As Amended)

The Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) lists species on Schedule 5 for which the Act make it an offence to:

- Intentionally kill, injure or take;
- Recklessly or intentionally damage or destroy, or obstruct access to any structure or place which any wild animal included uses for shelter or protection;

- Recklessly or intentionally disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.

Some species receive partial protection under the Act, which limits their protection under the Act to intentional killing or injury.

All wild nesting birds are protected under the Act, making it an offence to:

- Intentionally kill, injure or take any wild bird; and
- Take, damage or destroy the nest (whilst being built or in use) or eggs of any wild bird.

Some bird species are afforded special protection via their inclusion in Schedule 1 of the Act, which makes an offence to intentionally or recklessly disturb any schedule 1 bird building a nest or which is in, on or near a nest containing eggs or young; or to disturb dependent young of such a bird, or whilst such a bird 'leaks' (i.e. congregates for community courtship behaviour).

Schedule 9 of the Act makes it an offence to cause any plant listed to grow in the wild, unless all reasonable steps were taken to prevent an offence and due diligence was exercised.

The Act sets out provisions to protect Sites of Special Scientific Interest (SSSI).

Natural Environment and Rural Communities Act 2006

Section 40 of the Act places a legal duty on public authorities (including planning authorities) to have regard to biodiversity conservation in their normal functions (including planning applications).

Under Section 41 of the Act, lists of Habitats of Principal Importance (HPI) and Species of Principal Importance (SPI), of principal importance for the purpose of conserving biodiversity, are produced which serve to guide public authorities in carrying out their functions with consideration for biodiversity conservation.

Wild Mammals (Protection) Act 1996 (as amended)

The Act protects wild mammals against certain cruel acts, including intentional crushing, downing or asphyxiation.