

# WOLD ECOLOGY LTD

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**68 Beech Avenue, York, North Yorkshire**

## PRELIMINARY ECOLOGICAL APPRAISAL

January 2024

	Staff Member	Position
Habitat Survey and Preliminary Ecological Appraisal :	Daniel Lombard BSc MCIEEM	Ecologist
Principal Author(s) :	Daniel Lombard BSc MCIEEM	Ecologist

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### **DOCUMENT CHECKING**

Revision	Date	Status	Checked
1	26/02/2024	Draft for internal review.	Daniel Lombard B Sc MCIEEM
2	28/02/2024	Submission of non-draft version for client.	Chris Toohie MSc MCIEEM

This report contains sensitive information concerning protected species and caution should be exercised when copying and distributing to third parties.

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## 1.0 EXECUTIVE SUMMARY

- 1.1 In January 2024, Wold Ecology was commissioned by Stephen Clewes to undertake a UK Habitat Classification (version 2) and a preliminary ecological appraisal at land at 68 Beech Avenue, (national grid reference centroid SE 58566 51106) in York, North Yorkshire.
- 1.2 In order to accomplish the brief, a desk top study, external consultation, a habitat classification field survey and preliminary ecological appraisal was undertaken by Wold Ecology staff.
- 1.3 The habitats within the Application Site comprise a vegetated garden with trees located in an area of sub-urban housing in an urban environment.
- 1.4 The proposed development involves site clearance of the existing garden and the erection of a small number of residential dwellings including services and infrastructure.
- 1.5 The field survey and ecological appraisal targeted the following species and habitats relevant to the Application Site and the development proposal. The field surveys and preliminary ecological appraisal results are summarised below:

		<b>Application Site Status</b>
<b>Proceed with caution, timing constraints</b>	<b>Breeding Birds</b>	The site is suitable for nesting birds with various designations. Any trees, shrubs and tall/dense vegetation to be removed should be cleared outside of the bird nesting season (i.e. clearance should be undertaken between mid-September and early February inclusive) or be carefully checked by an ecologist to confirm no active nests are present - prior to removal during the summer period. If nesting birds are found during the watching brief, works will need to stop until the young have fledged.
<b>No ecological constraints. Impact Assessment</b>	<b>Invasive non-native species</b>	No invasive species recorded on site.
	<b>Bats</b>	No further surveys recommended.
	<b>Badger</b>	
	<b>Great crested newt</b>	
	<b>Reptiles</b>	
	<b>Water vole</b>	
	<b>Otter</b>	
<b>No further assessments</b>	<b>Habitats</b>	There are no Statutory or non-statutory sites located within or adjacent to the Application Site. No Biodiversity Action Plan habitats are located within or adjacent to the Application Site.
	<b>EcIA</b>	No further surveys beyond the desk study and field survey are necessary to allow an assessment of ecological effects and to design appropriate mitigation. There is sufficient information available about the design of the project to allow a full assessment of ecological effects, and no significant ecological effects are predicted.

- 1.6 This report is valid until **July 2025**. After this time, additional surveys need to be undertaken to confirm that the status of the site for protected species, site habitat composition and conclusions within this report have not changed.
- 1.7 Species list within this report may be forwarded to the local biodiversity records centre to be included on their national database. No personal information will be sent. Please contact Wold Ecology Ltd if you do not wish the species accounts and grid references to be shared.

## 2.0 INTRODUCTION

- 2.1 In January 2024, Wold Ecology was commissioned by Stephen Clewes to undertake a UK Habitat Classification (version 2) and a preliminary ecological appraisal at land at 68 Beech Avenue, (national grid reference centroid SE 58566 51106) in York, North Yorkshire.
- 2.2 An ecological assessment is a requirement of the Local Planning Authority (LPA), as part of the planning application process. This is specified in the following government policy:
- National Planning Policy Framework (NPPF): Conserving and Enhancing the Natural Environment.
- 2.3 **Paragraph 174** of the National Planning Policy Framework (NPPF) 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.
- 2.4 Habitats and Biodiversity of the NPPF also states :
- Paragraph 179** - To protect and enhance biodiversity and geodiversity, plans should:
- (a) 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
  - (b) 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.

**Paragraph 180** - When determining planning applications, local planning authorities should apply the following principles:

- (a) 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;
- (b) 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. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- (c) 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
- (d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

**Paragraph 181** - The following should be given the same protection as habitats sites:

- (a) potential Special Protection Areas and possible Special Areas of Conservation;
- (b) listed or proposed Ramsar sites; and
- (c) 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.

- 2.5 The Habitats Directive requires Member States to implement two main types of measures. The first relates to the conservation of habitat types and of habitats of species (Articles 3–11 of the Habitats Directive) and involves the designation of protected sites as part of the EU network called Natura 2000.
- 2.6 The second type of measures concerns the protection of species (Articles 12–16) and applies across their entire natural range within Member States, both inside and outside Natura 2000 sites. Article 12 requires the protection of the animal species listed in Annex IV(a) of the Directive. It addresses direct threats to the species by prohibiting their deliberate capture, killing or disturbance, deliberate destruction or taking of their eggs, or the deterioration or destruction of their breeding sites or resting places. Annex IV(a) encompasses a wide variety of animal species, from large, wide-ranging species, like wolves and bears, to species with very small home ranges, such as butterflies, beetles or amphibians.
- 2.7 In addition, an ecological assessment is also required so that the local authority comply with the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and to have regard to the purpose of conserving biodiversity in the exercise of their functions (Natural Environment and Rural Communities (NERC) Act 2006).
- 2.8 Planning authorities must determine whether the proposed development meets the requirements of Article 16 of the EC Habitats Directive before planning permission

is granted (where there is a reasonable likelihood of European Protected Species being present). Therefore, during its consideration of a planning application, where the presence of a European protected species is a material consideration, the planning authority must satisfy itself that the proposed development meets three tests as set out in the Directive as detailed below.

2.9 The LPA would have to consider whether Natural England was likely to grant a European protected species licence for the development; and in so doing the LPA would have to consider the three derogation tests:

a) 'Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'.

In addition, the LPA must be satisfied that:

(b) 'That there is no satisfactory alternative'

(c) 'That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

### 3.0 COMPANY PROFILE

- 3.1 Wold Ecology Ltd was established in 2006 and are experienced in providing a bespoke service for environmental management and ecological assessments. Wold Ecology Ltd employs several experienced and qualified staff/associates to undertake specialist ecological contracts.
- 3.2 Wold Ecology Ltd provides a wide range of specialised advice aimed at integrating business with nature. We specialise in ecological surveys, land management planning and site assessments which include:
- European Protected Species Surveys and Natural England Licenses.
  - Ecological Impact Assessments and Preliminary Ecological Appraisals.
  - Biodiversity Net Gain and Condition Assessments.
  - Ecological Construction Method Statements and Ecological Enhancements Plans.
  - Ecological Clerk of Works.
- 3.3 Surveyor Profile – Daniel Lombard B Sc., MCIEEM.
- 3.3.1 Qualifications.
- B Sc. Environmental Science.
  - Great Crested Newt License – 2015-17182-CLS-CLS
  - Bat License – 2015-11490-CLS-CLS
  - Bird Ringing A Licence – A/6298
- 3.3.2 Professional Membership.
- Full member of the Chartered Institute of Ecology and Environmental Management.
- 3.5 Daniel Lombard meets the criteria for a suitably qualified ecologist by:
- Holding a Bachelor of Science degree (hons) in Environmental Science;
  - Being employed as a practising ecologist since 2007, with over 10 years' relevant experience and;
  - Being a full member of the Institute of Ecology and Environmental Management (this makes him subject to peer review and bound by a professional code of conduct).
- 3.6 Chris Toohie M Sc. MCIEEM has read and reviewed the report and confirms that it:
- Represents sound industry practice
  - Reports and recommends correctly, truthfully, and objectively
  - Is appropriate, given the local site conditions and scope of works proposed
  - Avoids invalid, biased, and exaggerated statements



## 4.0 HABITAT SURVEY METHODOLOGY

- 4.1 In order to fulfil the brief, the following has been undertaken:
- A desktop study and consultation.
  - Field survey including accessible adjacent land up to 1km.
  - The scope of the ecology survey is proportionate to the scale of the likely ecological effects and in this case, 2km from the Application Site.
  - A UK Habitat Classification survey.
  - Preliminary ecological appraisal.
- 4.2 This report describes the findings of the field survey and desktop study whilst identifying the requirement for further ecological surveys to ensure that a comprehensive study is undertaken.
- 4.3 Where Ecological Impact Assessments (EcIA) is not part of an Environmental Impact Assessment, the views of the competent authority, standing advice and use of a Preliminary Ecological Appraisal can assist with the scoping of a potential EcIA.
- 4.4 Consultation with local planning ecologists confirmed that EcIA's are only usually required when developments are likely to have significant ecological impact effects and that developments of this size are unlikely to require a specific EcIA. Wold Ecology Ltd have undertaken over 450 Preliminary Ecological Appraisals between 2015 and 2023 for similar sites and schemes; this report format and content within has been accepted by planning ecologists during this time period without the request for an additional EcIA. This report format, which is also commonly used by ecological consultants, is widely accepted in support of planning applications.
- 4.5 Where further ecological surveys have been recommended, the impact assessment will be included within those specific reports.
- 4.6 Whilst an EcIA on its own is not a statutory requirement, the following principles which underpin EcIA are considered within this assessment:
- Avoidance - Seek options that avoid harm to ecological features (for example, by locating on an alternative site).
  - Mitigation - Adverse effects should be avoided or minimised through mitigation measures, either through the design of the project or subsequent measures that can be guaranteed – for example, through a condition or planning obligation.
  - Compensation - Where there are significant residual adverse ecological effects despite the mitigation proposed, these should be offset by appropriate compensatory measures.
  - Enhancements - Seek to provide net benefits for biodiversity over and above requirements for avoidance, mitigation or compensation.
  - Determine the importance of ecological features affected, through survey and/or research;
  - Assess impacts potentially affecting important features.

- 4.7 A field survey was undertaken at the Application Site on 15<sup>th</sup> February 2024. During the site visit, the whole of the Application Site and accessible neighbouring land was examined in detail.

Date of each survey visit	Type of survey	Weather
15/02/24	Habitat classification field survey	14°C, 20% cloud. Beaufort 0. No recent rain.

- 4.8 The habitats within the Application Site were mapped according to the techniques described in the publication *UK Habitat Classification version 2* (UKHab Ltd 2023). The CIEEM ‘Guidelines for Preliminary Ecological Appraisal - Second Edition’ (December 2017) state that this is an appropriate habitat classification system.
- 4.9 Target notes (if applicable) provide descriptions of the main habitats found on the site, including information about species composition, habitat structure, evidence of management, habitats too small to map and transitional or mosaic habitats.
- 4.10 Sufficient detail on the composition of the vegetation was obtained from the field survey, which enabled it to be successfully characterised and assessed.
- 4.11 During the site visit, notes were made of features of potential value to other groups such as birds, mammals, amphibians, reptiles, or invertebrates, paying particular attention to species protected by law:

Species/Group	Indicative habitat	Field signs (in addition to sightings)
Bats	Roosts - Trees, buildings, bridges, caves etc. Foraging and commuting areas - e.g. Parkland, waterbodies, wetlands, woodland, hedgerows and linear features.	Potential roost sites. Droppings, urine splashes, staining and feeding remains.
Badger	Habitat mosaic in rural and many urban habitats.	Excavations and tracks, sett entrances, latrines, hairs, well-worn paths, prints, scratch marks on trees.
Otter	Rivers, streams, canals, ponds, lakes, ditches, drains and coastal areas.	Holts (or dens), prints, spraints, slide marks into watercourses and feeding signs.
Water Vole	Rivers, streams, canals, ponds, lakes, ditches, drains and marshes.	Burrow entrances, prints, distinctive latrine areas and feeding signs.
Birds	Habitat mosaic. Natura 2000 sites/SPA/SAC/Ramsar.	Nests, droppings below nest sites (especially in buildings of trees); tree holes.
Reptiles	Habitat mosaic.	Sloughed skins.
Great Crested Newt	Ponds within 250m of suitable habitat within the site boundary. Habitat Suitability Index (HSI assessment).	Egg wraps and animals (depending on time of year).

- 4.12 The field survey and ecology report reflect relevant guidance from the following CIEEM documents:
- Guidelines for Preliminary Ecological Appraisal - Second Edition, December 2017.
  - Guidelines for Ecological Impact Assessment in The UK And Ireland - Terrestrial, Freshwater, Coastal and Marine (September 2018).

## **5.0 LIMITATION OF FIELD SURVEY**

- 5.1 Whilst the majority of the Application Site was examined at the macro scale, many species will have been overlooked at the micro level because it is not the purpose of a UK Habitat Classification survey to classify all taxa occurring in the Application Site. In addition, whilst the actual timing of the survey was adequate to classify the habitat types, there is undoubtedly a strong seasonal element to the presence of species within the site and species occurring outside of the survey period will have been overlooked.
- 5.2 This report will serve to indicate the possible value of the site in nature conservation terms based upon the initial field survey and desk top data gathered. As with any survey of this kind, it cannot be a definitive description of the site and its associated habitats and species.
- 5.3 Access was only granted within the Application Site and land owned by the client; in some instances neighbouring land was studied from vantage points and public land, maps within the public domain and aerial photography, it is possible that habitats important to the ecology of the Application Site may not have been recorded fully.
- 5.4 It is not always possible to identify every pond within 250m of an Application Site and whilst every effort was made to access all ponds, Wold Ecology Ltd do not guarantee that every pond within 250m have been included within this assessment.
- 5.5 Invasive Non-Native Species (INNS) are species listed on Schedule 9 of the Wildlife and Countryside Act (1981), for which it is an offence to cause or allow it to grow in the wild. It is not always possible to conclude absence from a preliminary survey alone due to factors including:
- Season.
  - Accessibility.
  - Recent ground clearance.
  - 3<sup>rd</sup> party attempts to hide evidence or undisclosed treatment programmes.
- 5.6 However, a UK Habitat Classification survey and preliminary ecological appraisal of this nature, supported by a thorough desk top survey, is sufficient to make a number of informed assumptions about the ecology of the site.

## **6.0 DESK TOP STUDY**

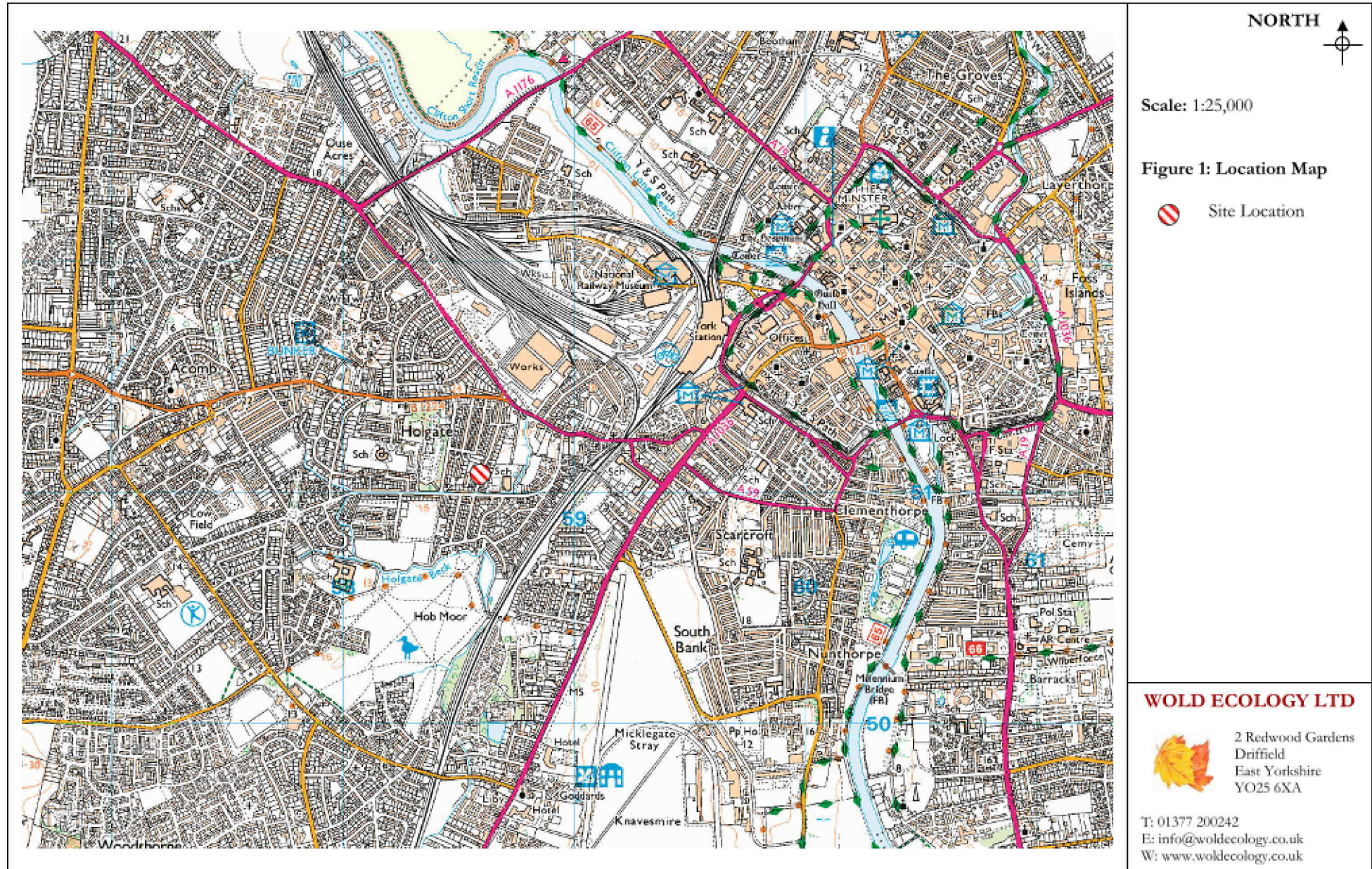
### **6.1 General description**

6.1.1 The Application Site is located within York City, in an urban location. The Application Site is less than 0.5ha and is immediately surrounded by residential dwellings with mature private gardens and well-lit urban infrastructure which is heavily fragmented. Habitats within the application site comprise a vegetated garden and trees.

6.1.2 Habitats within 2km surrounding Beech Avenue is primarily suburban habitats in association with York City and wide low lying agricultural land dominated by arable production with some grazed pasture. Woodland cover within 2km is limited and occurs as roadside avenues, trees within parks and gardens and riverside planting. Habitat connectivity from the Application Site is poor, with the Application Site not connected to any ecologically valuable habitat; the urban nature of the Application Site also restricts terrestrial dispersal opportunities. In addition, the River Ouse and associated riverine habitats occur 1.3km.

6.1.3 A summary of the surrounding habitat is (radius of < 2km from the site):

- Buildings – farm buildings and residential properties
- Hedgerow
- Mature trees and woodland
- Arable
- Mature private gardens
- Ponds and watercourses
- River Ouse
- River Foss
- Holgate Beck
- Hogg's Pond
- Grazed pasture
- Clifton Ings



## 6.2 Desktop Study.

6.2.1 Natural England, the North & East Yorkshire Ecological Data Centre (NEYEDC), [www.magic.gov.uk](http://www.magic.gov.uk), social media, local authority planning portal and Wold Ecology employees, field surveyors and network of associate ecologists were consulted in order to obtain any ecological information that they hold of relevance to the Application Site and surrounding area.

6.2.2 The desk top study identifies land parcels of nature conservation value within 2 km of the Application Site. Relevant extracts from associated documentation are highlighted below. The following data resources were searched:

- Sites of Special Scientific Interest (SSSI)
- Special Protection Areas (SPA)
- National Parks
- National Reserves
- Special Areas of Conservation (SAC)
- Ramsar sites
- Areas of Outstanding Natural Beauty (AONB)
- Local Nature Reserves (LNR)
- Local wildlife sites (LWS) or equivalent
- Natural England Habitat Inventories
- Natural Character Area documentation
- European protected species records
- UK Biodiversity Action Plan habitats and species records
- Local Biodiversity Action Plan habitats and species records
- Notable species records

6.2.3 Statutory Sites

6.2.3.1.1 Sites of Special Scientific Interest

Map Ref	Site Name	Distance (m)
1.	Clifton Ings and Rawcliffe Meadows	1473

6.2.3.2 Clifton Ings and Rawcliffe Meadows is described by Natural England as:

- Clifton Ings and Rawcliffe Meadows SSSI is a nationally important site for: species-rich neutral grassland, predominantly of the rare National Vegetation Classification (NVC) types MG4 meadow foxtail *Alopecurus pratensis* – great burnet *Sanguisorba officinalis* grassland (with various expressions and varieties represented) and MG8 crested dog’s-tail *Cynosurus cristatus* – marsh marigold *Caltha palustris* grassland, with communities transitional between these NVC grassland types; and the critically endangered tansy beetle *Chrysolina graminis*.
- Clifton Ings and Rawcliffe Meadows comprises two floristically-diverse fields supporting unimproved neutral grassland on river alluvium soils. The meadows are within the floodplain adjacent to the River Ouse and would have traditionally been subject to seasonal flooding. The presence of large river embankments now reduce this but the meadows still become flooded when river levels are high and the area is operated as a washland, storing water to reduce the risk of flooding in the City of York. The fields are managed by hay cutting, with aftermath grazing. Unimproved neutral grasslands have suffered substantial decline nationally due to agricultural intensification and

Clifton Ings and Rawcliffe Meadows represents a large, rare surviving example.

- The species-rich neutral grassland communities form a mosaic with other neutral grassland communities and tall-herb fen. The precise distribution and juxtaposition of the communities is determined by a range of factors, including land management practices, topography, drainage, nutrient enrichment, and the pattern and frequency of flooding. The majority of the grassland is characterised by a diverse range of grasses and herbs. Grasses such as meadow foxtail *Alopecurus pratensis*, creeping bent *Agrostis stolonifera*, sweet vernal-grass *Anthoxanthum odoratum*, smooth brome *Bromus racemosus* and red fescue *Festuca rubra* occur, with characteristic herbs such as great burnet *Sanguisorba officinalis*, meadow vetchling *Lathyrus pratensis*, meadow rue *Thalictrum flavum*, meadowsweet *Filipendula ulmaria*, and locally abundant patches of common bistort *Persicaria bistorta*.
- In the wetter areas the grasses are characterised by species such as creeping bent, meadow foxtail, red fescue and rough meadow grass *Poa trivialis*, and there are areas locally dominated by brown sedge *Carex disticha* and common spike-rush *Eleocharis palustris*. The herbs in these areas are characterised by species which include marsh marigold *Caltha palustris*, meadowsweet, cuckooflower *Cardamine pratensis*, meadow rue and amphibious bistort *Persicaria amphibia*.
- The tansy beetle, an iridescent green leaf beetle is highly restricted in range, with a stretch of the River Ouse from Newton-on-Ouse to Barlby now thought to support the only remaining populations in the British Isles. Riparian areas of Clifton Ings have been a stronghold location for tansy beetle since Victorian times and the species is also found on the adjacent Rawcliffe Meadows. Both larvae and adults of the tansy beetle feed almost exclusively on the plant tansy *Tanacetum vulgare* which is prevalent in patches along the river banks of Clifton Ings and in Rawcliffe Meadows.

### 6.2.3.3 Impact Risk Zones for Clifton Ings and Rawcliffe Meadows

Planning Application	Description	Relevance to the Application Site
Infrastructure	Pipelines and underground cables, pylons and overhead cables. Any transport proposal including road, rail and by water (excluding routine maintenance). Airports, helipads and other aviation proposals.	No
Wind & Solar Energy Minerals, Oil & Gas	Planning applications for quarries, including new proposals, Review of Minerals Permissions (ROMP), extensions, variations to conditions etc. Oil & gas exploration/extraction.	No
Rural Non Residential Rural Residential Residential	Residential development of 100 units or more. Any residential development of 50 or more houses outside existing settlements/urban areas.	No
Air Pollution	Any industrial/agricultural development that could cause AIR POLLUTION (including industrial processes, livestock & poultry units with floorspace > 500m <sup>2</sup> , slurry lagoons & digestate stores > 200m <sup>2</sup> , manure stores > 250t).	No
Combustion	General combustion processes >20MW energy input. Including: energy from waste incineration, other incineration, landfill gas generation plant, pyrolysis/gasification, anaerobic digestion, sewage treatment works, other incineration/ combustion.	No

Waste	Landfill. Including: inert landfill, non-hazardous landfill, hazardous landfill.	No
Composting	Any composting proposal with more than 500 tonnes maximum annual operational throughput. Including: open windrow composting, in-vessel composting, anaerobic digestion, other waste management.	No
Discharges	Any discharge of water or liquid waste of more than 20m <sup>3</sup> /day to ground (i.e. to seep away) or to surface water, such as a beck or stream.	No
Water Supply	Large infrastructure such as warehousing / industry where net additional gross internal floorspace is > 1,000m <sup>2</sup> or any development needing its own water supply .	No

6.2.3.3 The Statutory Site is located 1.4km from the Application Site and none of the Impact Risk Zone criteria are of relevance to the proposed development. Consequently, the impact to the Statutory Site is considered to be negligible.

#### 6.2.4 Non-statutory Sites

6.2.4.1 The following Non-statutory Sites lie within 2 km of the Application Site (see figure 3):

##### 6.2.4.1.1 Site of Importance for Nature Conservation (SINC)

Site Code	Site Name	Distance (m)
1.	Cheery Lane	1573
2.	Knivesmire Stables Meadow	1638
3.	Clifton Bridge	1673
4.	Holgate Millenium Green	1088
5.	Severus Hill Reservoir Basin	798
6.	Danebury Court	1427
7.	Fishpond Wood	1305
8.	Bachelor Wood	1685
9.	Ext to Hob Moor Community School	643
10.	Hob Moor	343
11.	River Ouse	1319

##### 6.2.4.1.2 Local Nature Reserves (LNR)

Site Code	Site Name	Distance (m)
1.	Hob Moor	343

6.2.4.2 The Non-statutory Sites will not be impacted on due to the small-scale nature of the proposed development and the distance between the Application Site and the nearest Non-statutory Site which is greater than 300 metres. Consequently, the impact to Non-statutory Sites is considered to be negligible.



## 6.2.5 Natural England Habitat Inventories

6.2.5.1 All the Natural England Priority Habitat inventories were searched, including the woodland inventory and grassland inventory. The following areas of notable habitat from the Habitat Inventories list were found within 2 km of the Application Site (see Figure 4).

In Application Site	Site Name	Min Distance (m)
No	Coastal and floodplain grazing marsh	1565
No	Deciduous woodland	262
No	Good quality semi improved grassland	343
No	Traditional Orchard	1948

6.2.5.2 The Natural England Priority Habitats will not be impacted on due to the small-scale nature of the proposed development and the distance between the Application Site and the notable habitat, which is greater than 300 metres. No areas of priority habitat will be damaged or lost as part of the proposed development. Consequently, the impact to the Natural England Priority Habitat is considered to be negligible.

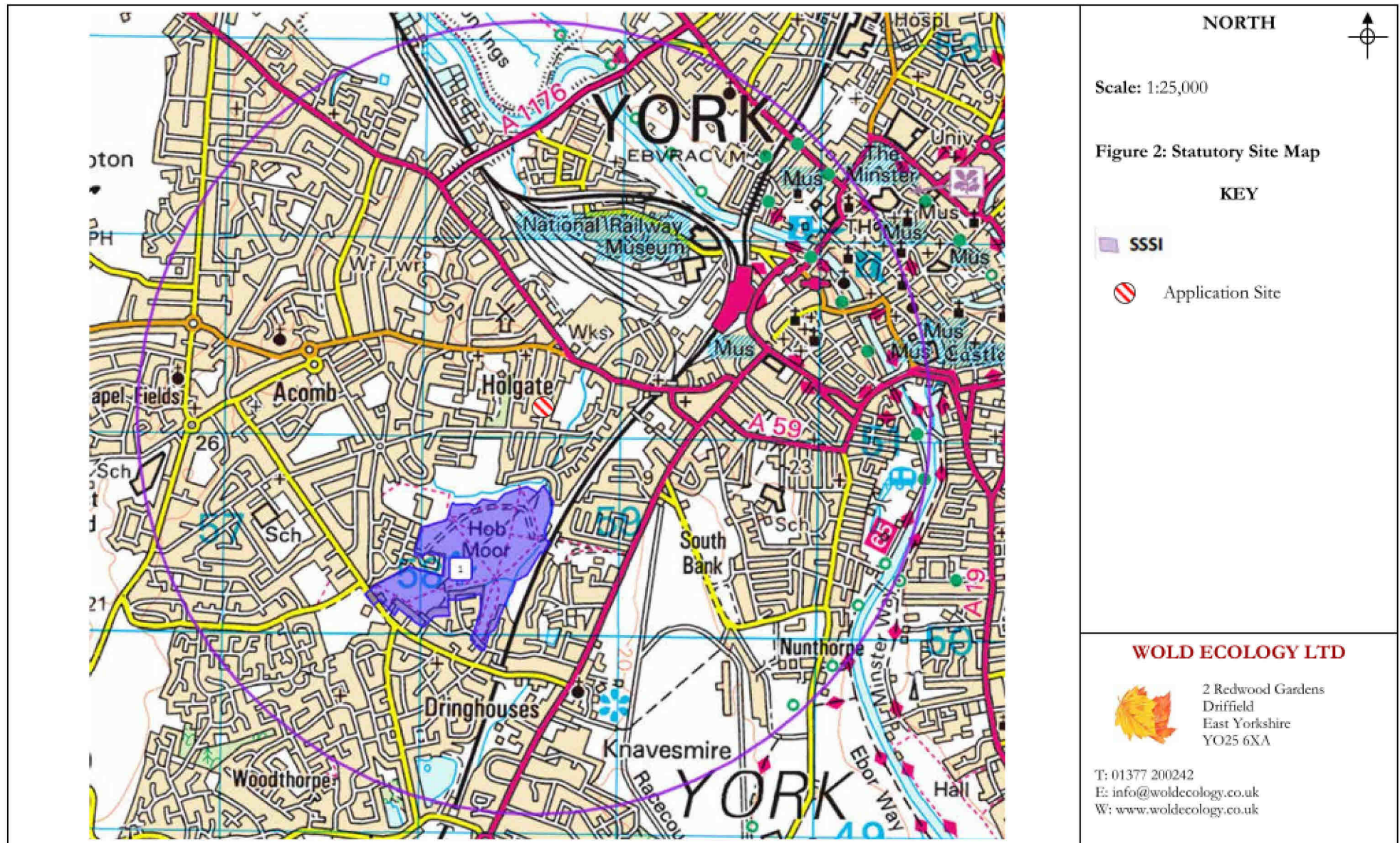
## 6.2.6 Green Corridors

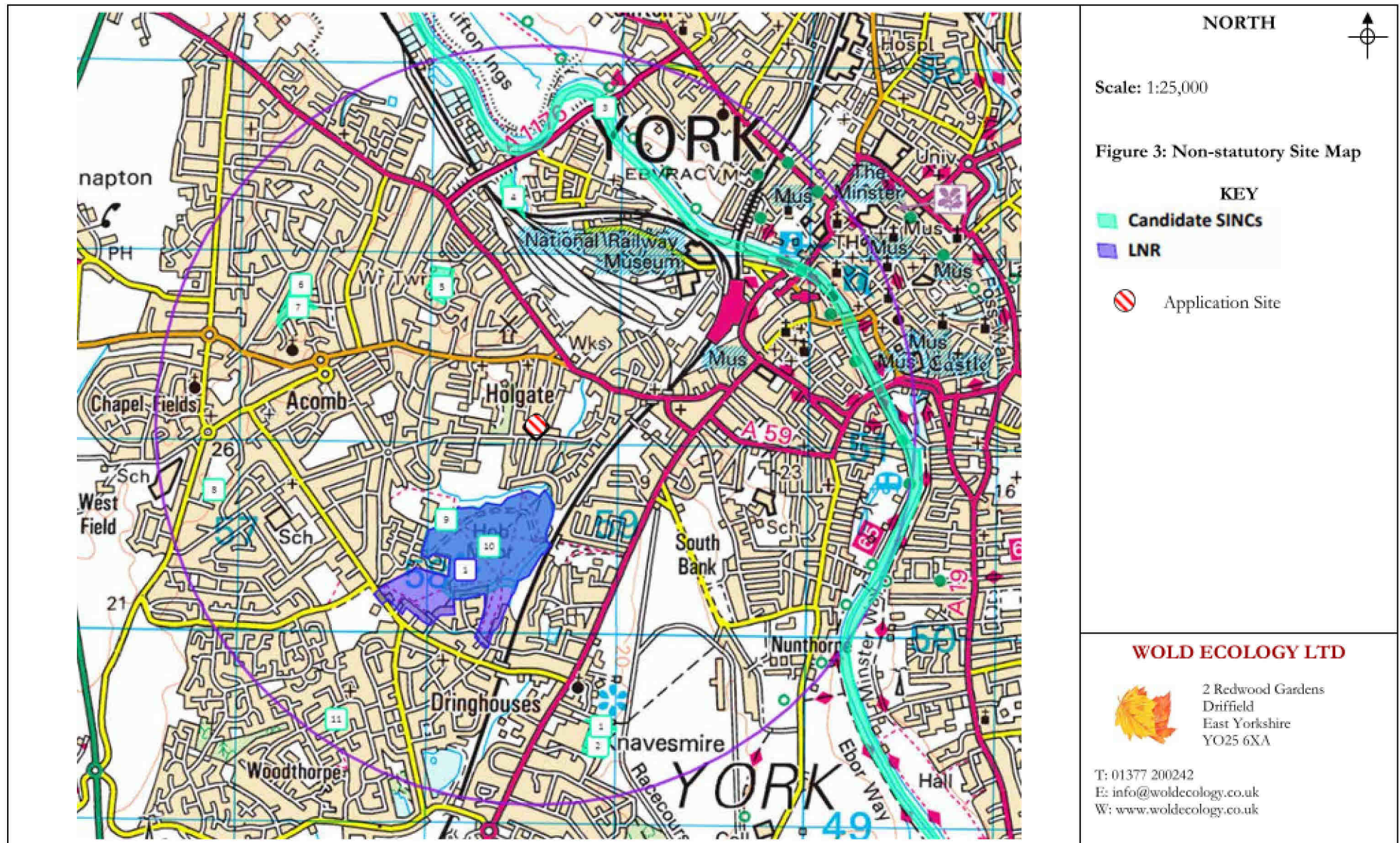
6.2.6.1 York's Green Infrastructure of multifunctional open spaces, including formal parks, gardens, woodlands, green waterways, street trees, nature reserves and open countryside are an intrinsic part of York's unique character. They are important elements in achieving the City's economic and social aspirations, as well as being important in their own right. They are a key component in delivering an attractive, accessible, more beautiful City.

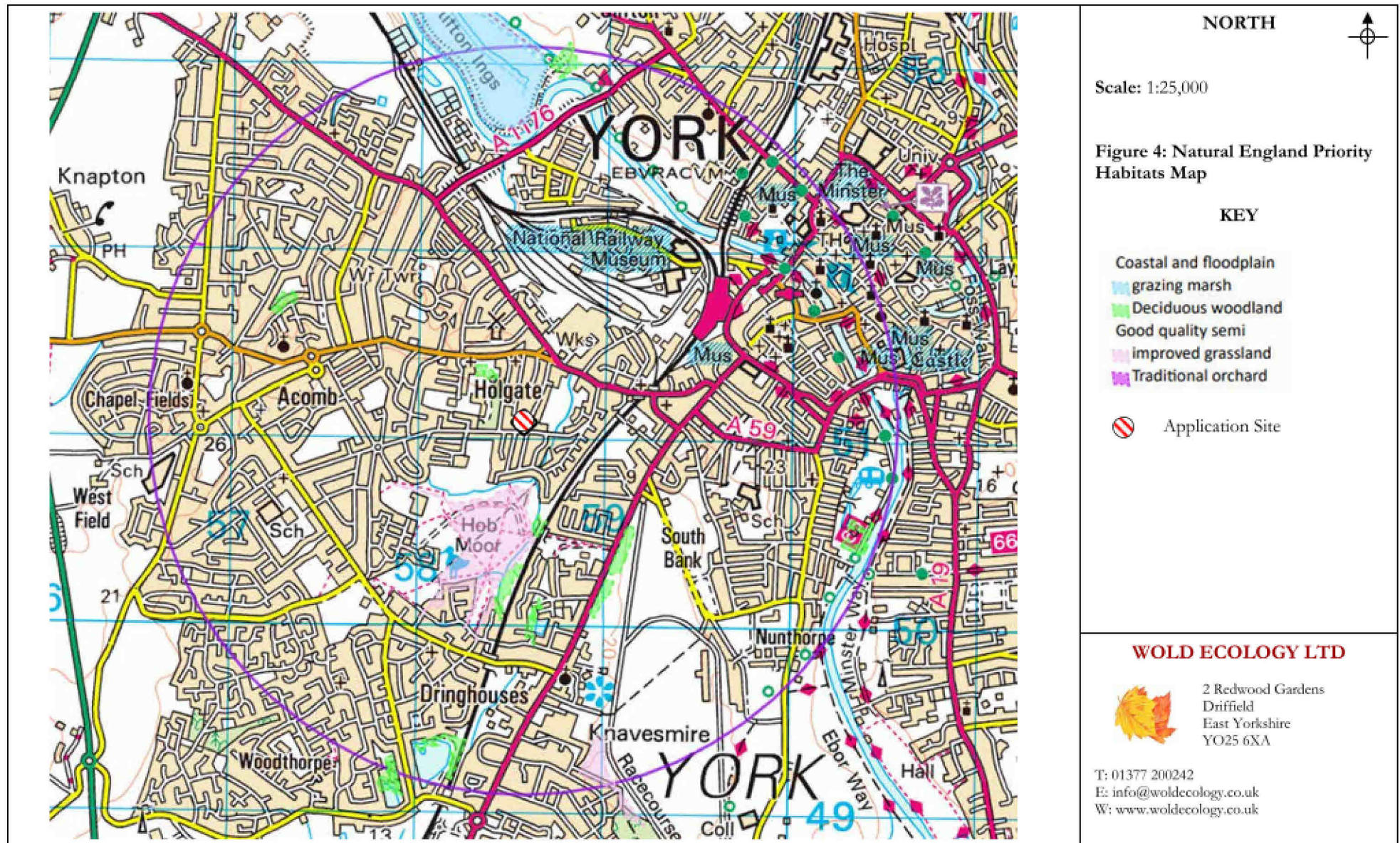
6.2.6.2 Regional, District and Local green corridors have been embedded in the Plan's spatial principles, guiding the location and level of growth in all parts of the authority. Importantly, Green Corridors provide a framework within which only appropriate, managed development could take place; development would not be excluded simply because a site falls within a Green Corridor. Green Infrastructure is already embedded within the urban landscape and should be thought of as an integral part of successful and sustainable neighbourhoods. To this end, Spatial Principle 2 states that "The identification of sites or future areas for development will give priority to previously developed land and buildings and will be subject to ensuring that such locations, do not adversely affect internationally, nationally and locally significant nature conservation sites, regional, district and local level green corridors and areas with an important recreation function."

6.2.6.3 Green ecological stepping stones are a series of small habitat areas that can act as corridors for the movement of species, even though they may be separated by relatively small gaps. The overall importance of stepping stones is further highlighted in landscapes with a low level of habitat amount, below 20%, which is a clear direction to promote functional connectivity in disturbed landscapes.

6.2.6.4 The proposed development does not occur within a York Green Corridor. <https://www.york.gov.uk/downloads/file/1711/sd088-city-of-york-council-technical-paper-green-corridors-2011->







### 6.3 Natural Character Areas

- 6.3.1 National Character Areas (NCAs) divide England into 159 distinct natural areas. Each is defined by a unique combination of landscape, biodiversity, geodiversity, and cultural and economic activity. Their boundaries follow natural lines in the landscape rather than administrative boundaries, making them a good decision-making framework for the natural environment.
- 6.3.2 NCA profiles are guidance documents which will help to achieve a more sustainable future for individuals and communities. The profiles include a description of the key ecosystem services provided in each character area and how these benefit people, wildlife, and the economy. They identify potential opportunities for positive environmental change and provide the best available information and evidence as a context for local decision making and action.
- 6.3.3 The Application Site lies within Natural Character Area 28 Vale of York and is summarised below:
- 6.3.3.1 The Vale of York is an area of relatively flat, low-lying land surrounded by higher land to the north, east and west. High-quality soils across most of the National Character Area (NCA) mean that arable cultivation is the predominant land use, although some pig and dairy farming takes place in the western parts of the NCA. A key feature of the NCA is the rivers that drain surrounding higher land and run southwards through the Vale on towards the Humber basin. Natural flood plain habitats and associated species are still found within the Lower Derwent Valley (designated as a Special Protection Area, Special Area of Conservation and Ramsar site) although, like other flood plains, this area is threatened due to water quality issues.
- 6.3.3.2 The City of York, a settlement that has been an important focus since Roman times, sits at the centre of this NCA. The prominent York Minster can be seen from lower-lying surrounding countryside and, together with the city walls, provides the setting for the historic city. Food and water provision and the regulation of water flow and water quality are key ecosystem services provided by this NCA. Flooding affects a number of communities within the NCA, as they are within the lower stretches of the river flood plains. More than 7,000 properties are at risk of flooding in York, Bishopthorpe, Haxby and Strensall from the River Ouse catchment.
- 6.3.3.3 There are opportunities to restore wetland habitat within river corridors to alleviate fast water flows (for example working with land managers on the River Foss to slow rates of floods that are generated in York<sup>4</sup>) and aid climate adaptation mitigation. Restoration of river systems will also maintain and improve natural soil fertility for productive agriculture, improve the ecological networks and strengthen the ability of biodiversity to adapt to current – and future – pressures. A key challenge will be to establish sustainable land management practices that safeguard and strengthen the fertile soils needed for arable cultivation while also providing sustainable income for land managers.
- 6.3.4 There are no relevant Statements of Environmental Opportunities that are relevant to the Application Site.

## 6.4 European Protected Species records (relevant to the Application Site)

### 6.4.1 Badger

- There are no records of badger *Meles meles* within the 2km radius surrounding the Application Site (source – NEYEDC 2024 and Wold Ecology network pers comm).

### 6.4.2 Bats

- Currently, there is no pre-existing information on bats at the site.
- There are records of brown long-eared *Plecotus auritus*, noctule *Nyctalus noctula*, Daubenton's bat *Myotis daubentonii*, soprano pipistrelle *Pipistrellus pygmaeus* and common pipistrelle *Pipistrellus pipistrellus* within the surrounding 5km radius of the Application Site. (source – NEYEDC 2024 and Wold Ecology network pers comm). Wold Ecology bat records date from 2006 and include over 2000 bat activity surveys.
- The following Natural England development licenses are located within 2km of the Application Site (source - magic.gov.uk):

Specie	Distance from site	Destruction of a breeding site	Destruction of a resting site
Common pipistrelle	1.2km: NE	N	Y
Common pipistrelle	1.6km: NE	N	Y
Common pipistrelle	900m: E	N	Y
Common pipistrelle	910m: SW	N	Y
Common pipistrelle	980m:SW	N	Y
Common pipistrelle	1.9km: NE	N	Y
source - magic.gov.uk			

### 6.4.3 Great crested newts

- There are no records of great crested newts within 2km of the Application Site (source – NEYEDC 2024 and Wold Ecology network pers comm).
- There are no Natural England eDNA records within 2km of the Application Site (source – <https://naturalengland-defra.opendata.arcgis.com/datasets/great-crested-newts-edna-pond-surveys-for-district-level-licensing-england>)
- There are no Natural England great crested newt class survey licence returns within 2km of the Application Site (source – magic.defra.gov.uk).
- There are no great crested newt Natural England development licenses within 2km of the Application Site (source – www.magic.gov.uk).

### 6.4.4 Water vole

- Water vole *Arvicola amphibious* is recorded within the 2km radius surrounding the Application Site (source – NEYEDC 2024 and Wold Ecology network pers comm).

### 6.4.5 Otter

- Otter *Lutra lutra* is recorded within the 2km radius surrounding the Application Site (source – NEYEDC 2024 and Wold Ecology network pers comm).

#### 6.4.6

##### Reptiles

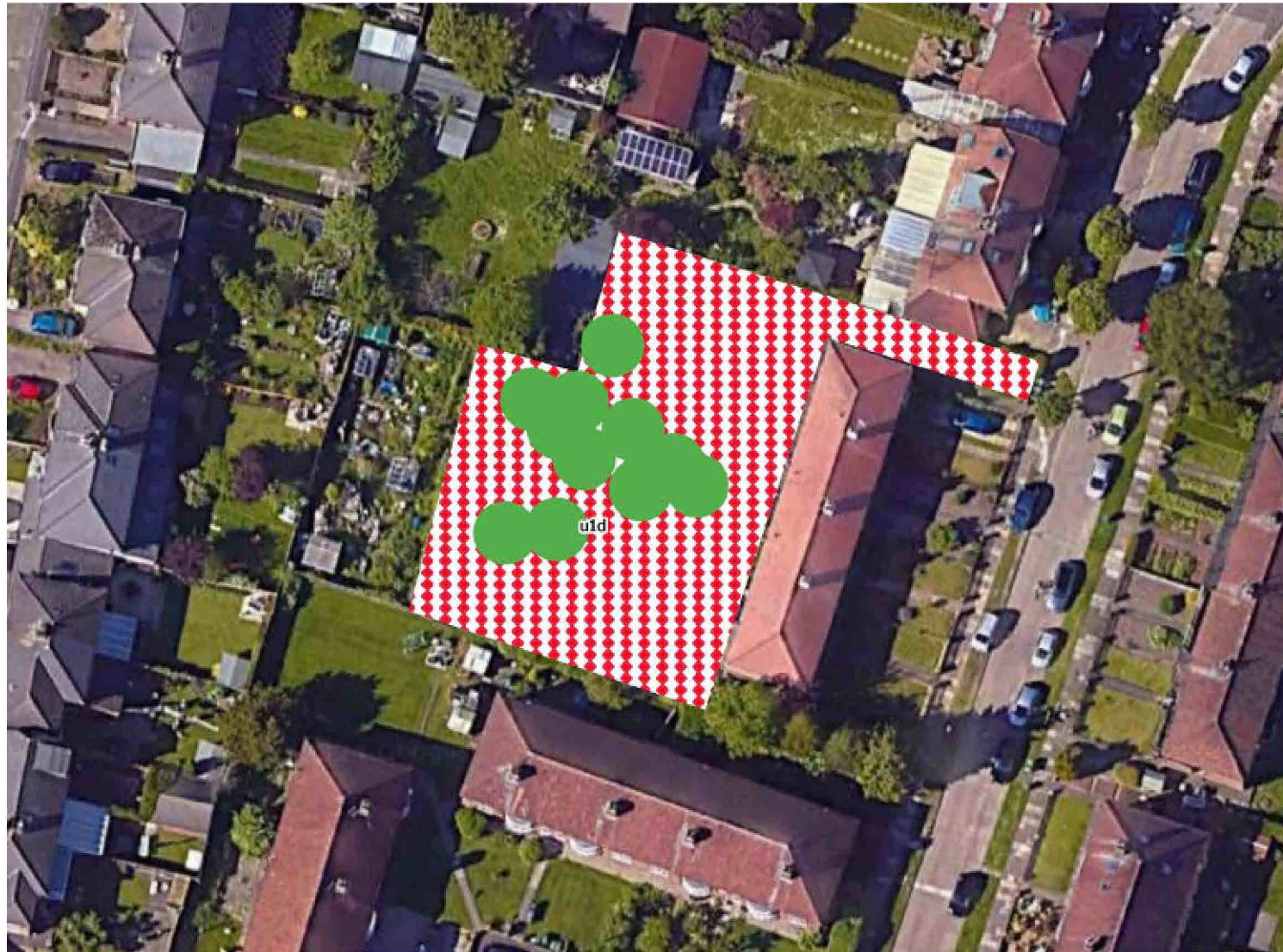
- There are no recent (<45 years old) reptile records within 2km of the Application Site (source – NEYEDC 2024 and Wold Ecology network pers comm).

## 7.0 FIELD SURVEY RESULTS

7.1 The following habitat types were recorded within the Application Site (refer to figure 5):

<b>UK Habitat Classification Habitat (level 3)</b>	<b>Level 4 name</b>	<b>Level 4 Code</b>	<b>Level 5 Name</b>	<b>Level 5 Code</b>	<b>Secondary Habitat Code(s)</b>
<b>Built up areas and gardens.</b>	Suburban mosaic of developed and natural surface	<b>uld</b>	-	-	32, 108, 828, 830, 847






NORTH

Not to Scale



**Figure 5: UK Habitat Classification Map**

 u1d - suburban mosaic of developed and natural surface

 Tree

**WOLD ECOLOGY LTD**



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Driffield  
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- 7.2 Suburban mosaic of developed and natural surface
- 7.2.1 The Application Site consists of part of a communal vegetated garden which comprises a mosaic of developed and natural surfaces. This includes shrubberies trees, lawns and hard standing. These habitats are regularly disturbed and of no significant ecological value.
- 7.2.2 Lawned areas of grassland are cut regularly throughout the growing season and are eutrophic and well drained. These are characterised by perennial ryegrass *Lolium perenne* and annual meadow grass *Poa annua*. Shrub beds are regularly maintained and are dominated by nonnative and ornamental species including *Hebe sp.*, daffodil *Narcissus sp.*, butterfly bush *Buddleia davidii* and rose *Rosa sp.* Bare ground habitats include pathways comprising concrete.
- 7.2.3 There is no condition assessment for vegetated garden (suburban mosaic of developed and natural surface).
- 7.2.4 A small number of scattered trees of little ecological significance occur within the Application Site, these have all been planted for their amenity value and are less than 30 years old. They do not contain deadwood communities or features of ecological significance. Species include holly *Ilex aquifolium*, ash *Fraxinus excelsior*, contorted willow *Salix matsudana*, apple *Malus sp.*, pear *Pyrus sp.*, hazel *Corylus avellana* and cherry *Prunus sp.*
- 7.2.5 Condition Assessment.

Condition Assessment Criteria		Criterion passed (Yes or No)
A	The tree is a native species (or at least 70% within the block are native species).	Yes
B	The tree canopy is predominantly continuous, with gaps in canopy cover making up <10% of total area and no individual gap being >5 m wide (individual trees automatically pass this criterion).	No
C	The tree is mature (or more than 50% within the block are mature).	No
D	There is little or no evidence of an adverse impact on tree health by human activities (such as vandalism, herbicide or detrimental agricultural activity). And there is no current regular pruning regime, so the trees retain >75% of expected canopy for their age range and height.	Yes
E	Natural ecological niches for vertebrates and invertebrates are present, such as presence of deadwood, cavities, ivy or loose bark.	No
F	More than 20% of the tree canopy area is oversailing vegetation beneath.	Yes
Number of criteria passed		4
Condition Assessment Result (out of 6 criteria)	Condition Assessment Score	Score Achieved
Passes 5 or 6 criteria	Good (3)	
Passes 3 or 4 criteria	Moderate (2)	✓
Passes 2 or fewer criteria	Poor (1)	
Note that 'Fairly Good and Fairly Poor' condition categories are not available for this broad habitat type.		

7.2.6 The condition assessment for trees is moderate.

7.3 The following species of fauna were recorded during the field survey:

- Blackbird *Turdus merula*
- Robin *Erithacus rubecula*
- Great tit *Parus major*
- Blue tit *Cyanistes caeruleus*
- Goldfinch *Carduelis carduelis*
- Woodpigeon *Columba palumbus*
- Collared dove *Streptopelia decaocto*
- Dunnock *Prunella modularis*

## 8.0 SPECIES APPRAISAL

8.1 The habitats within and surrounding the Application Site are potentially important, and the development area may impact upon mobile species. Consequently, the field survey and preliminary ecological appraisal targeted the following species relevant to the Application Site and proposed development:

- Bats
- Great crested newt
- Badger
- Reptiles
- Birds
- Hedgehog

### 8.2 Bats

#### 8.2.1 Legislation

8.2.1.1 All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

8.2.1.2 The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, provision 43 states an offence is committed if a person:

- (a) Deliberately captures, injures, or kills any wild animal of a European protected species (i.e. bats),
- (b) Deliberately disturbs wild animals of any such species,
- (c) Deliberately takes or destroys the eggs of such an animal, or
- (d) Damages or destroys a breeding site or resting place of such an animal.

8.2.1.3 Section 9 of the Wildlife and Countryside Act (1981) states:

- It is an offence for anyone without a licence to kill, injure, disturb, catch, handle, possess or exchange a bat intentionally. It is also illegal for anyone without a licence to intentionally damage or obstruct access to any place that a bat uses for shelter or protection.

8.2.1.4 Bat roosts are protected throughout the year, whether or not bats are occupying a roost site.

#### 8.2.2 Field Survey Methodology

8.2.2.1 The daytime assessment identified whether the trees had any signs of occupancy and/or bat usage. This took the form of a methodical external search for actual roosting bats and their sign. Specifically, the visual survey involved the following:

##### 8.2.2.2 Trees

- a. Assessment and evaluation of the trees and their potential to support bats;
- b. Tree hazard assessment including tree characteristics, health, site conditions, and defects in relation to a trees potential to support bats. Features that might indicate the presence of bats are as follows:
  - Trees that contained a cavity or space of at least 10mm
  - Woodpecker holes, rot holes, cavities, loose bark and ivy, examples of

known roost sites

- Tree diameter at chest height of > 20cm (less indicates that bats are less likely to be present)
  - Trees < 80 years of age are less likely to be attractive to bats
  - Droppings, scratch marks and staining on beams, cavities and under bark.
- a. Assessment of crevices and cracks to assess their importance for roosting bats.

### 8.2.3 Field Survey Results

8.2.3.1 No potential roost sites exist within the studied trees on site, predominantly due to a lack of suitable roosting cavities within their structure, in addition to the immature age and form of the trees.

8.2.3.2 No trees, buildings or other structures with potential to support roosting bats occur within the boundaries of the Application Site. Consequently, the impact to roosting bats within trees is considered to be **neutral**.

### 8.2.4 Site Status Assessment

8.2.4.1 Wold Ecology concludes that the immediately adjacent habitats (within the developments zone of influence and up to 50m from the Application Site boundary) could be used by small numbers of commuting and foraging bats. These habitats are not extensive and are similar to surrounding suburban habitats and consequently, the Application Site and surrounding habitats are not considered to be integral to the favourable conservation status of local bat populations and are considered to have low suitability for commuting and foraging bats.

8.2.4.2 Wold Ecology concludes that habitats within 3km primarily comprise fragmented sub optimum and secondary habitats features which are relatively isolated and located in excess of 100m from the Application Site. The impact to foraging and commuting bats is considered to be **neutral**.

8.2.6.3 **Wold Ecology does not recommend any further activity surveys for bats.**

#### 8.2.4.4 Primary and secondary bat habitats in relation to core sustenance zones

Bat species	Primary habitats/features	Secondary habitats
Noctule		Found in a range of habitats foraging in the open or often over trees, pasture and water
Leisler's	Sympathetically managed pasture appears to be a preferred foraging habitat in both Great Britain and Ireland (Shiel and Fairley, 1999; Waters et al., 1999), Use is also made of woodland edges and tree-lined roads (Waters et al., 1999; Russ and Montgomery, 2002).	Drainage channels, lakes, rivers, canals, coniferous forests, parkland
Common pipistrelle	The common pipistrelle bat forages over sympathetically managed grazed pasture and deciduous woodland.	
Soprano pipistrelle	The soprano pipistrelle bat is frequently reported to make particular use of riparian habitat (Davidson-Watts and Jones, 2006; Nicholls and A. Racey, 2006; Lintott et al., 2016	In woodlands edges
Nathusius pipistrelle	Riparian habitats, large freshwater lakes, estuaries and canals. Broad-leaved & mixed woodland edges and parkland.	Managed gardens and fields around lakes
Whiskered bat	Studies indicate a preference for, mixed or broadleaved woodland, hedgerows, Sympathetically grazed pasture riparian vegetation and wetlands.	Orchards
Brandt's bat	Woodland, particularly damp areas close to water (Taake, 1984).	Sympathetically grazed pasture.
Brown long-eared bat	The species is strongly associated with trees, particularly broadleaved preferring woodland with a cluttered understorey, (Murphy <i>et al</i> , 2012)	Will forage in mixed woodland and also forages around trees in more open habitats, including parks, orchards and gardens (Dietz and Keifer, 2016).
Natterer's bat	The species is commonly associated with trees, particularly broadleaved woodland, but also makes use of tree-lined river corridors, trees in parkland, and hedgerows adjacent to pasture (Parsons and Jones, 2003; Smith and Racey, 2008; Zeale et al., 2016).	It also forages over grassland
Daubenton's bat	The species is strongly associated with riparian habitats. It prefers large waterways with abundant woodland in the local environment (Langton et al., 2010) and, at least in upland riverine environments, it appears to select locations with trees on both banks (Warren et al., 2000)	Also forages in woodland
Alcathoe bat	Little evidence on its habitat preferences in Great Britain. However, the species is usually captured in areas with extensive semi-ancient woodland ((Jan et al., 2010; Daniel Whitby, pers. comm.); Daniel Whitby, pers. comm.).	No specific needs known

## 8.2.5 Biodiversity Gains and Recommendations

8.2.5.1 Specially designed bat boxes can be located on site. Schwegler Bat Boxes are recommended and well tested boxes. The following bat boxes provide additional roost habitats and are available from Wold Ecology:

- The **2FN** bat box has two entrances - one at the front and one at the rear against the tree. Bats often creep into the rear entrance but leave by the front. It has a domed roof to allow the bats to form roosting clusters for warmth and this bat box is also designed to be effective against small predators and excludes draughts and light. Due to the opening on the bottom, this bat box does not require cleaning.
- The **1FQ** is an attractive box designed specifically to be fitted on the external wall of a house, barn, or other building. Equally appealing to bats as a roost or a nursery, it features a special porous coating to help maintain the ideal temperature inside along with a rough sawn front panel to enable the bats to land securely.
- Bat Tube (**1FR** and **2FR**) system. The tube is designed to meet behavioural requirements of the types of bats that roost in buildings i.e. pipistrelle spp. This design can be installed flush to external walls and beneath a rendered surface.

8.2.5.2 The majority of these boxes are self-cleaning as they are designed so that the droppings fall out of the entrance. This reduces the possibility of smell during the summer months. For more information on designs and installation of bat boxes see: [www.schwegler-natur.de](http://www.schwegler-natur.de) and [www.bct.org.uk](http://www.bct.org.uk).

8.2.5.3 Wold Ecology recommends that at least 2 bat boxes are sited on perimeter trees or new buildings on site. Bat boxes should be erected on south, east or west elevations; 3-5 metres above ground level or close to roof lines.

## 8.2.6 Lighting

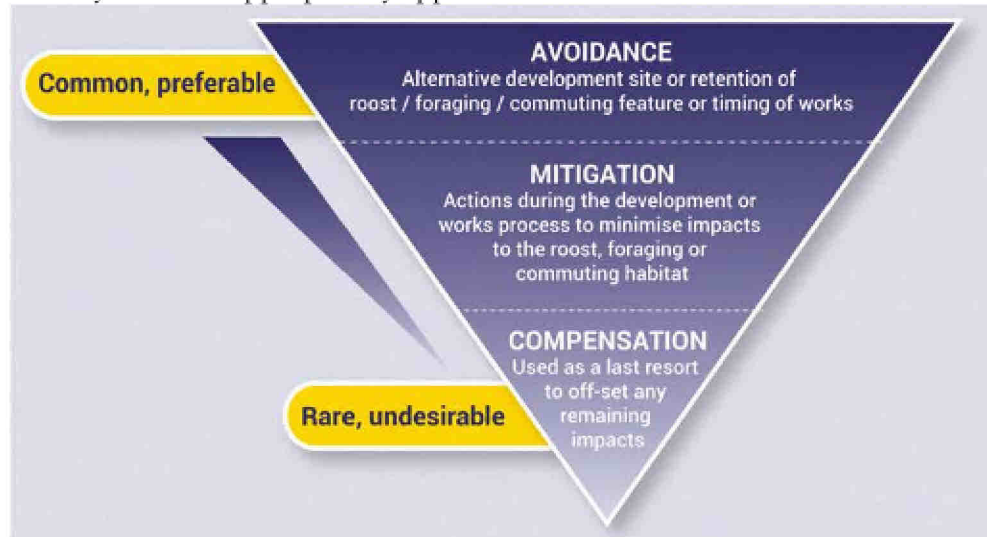
8.2.6.1 Illuminating a bat roost can cause disturbance and this may result in the bats deserting the roost, or even becoming entombed within it. Lighting would therefore be considered an obstruction under the legislation protecting bats and their roosts. Light falling on a roost access point will at least delay bats from emerging, and this shortens the amount of time available to them for foraging.

8.2.6.2 In addition to causing disturbance to bats at the roost, artificial lighting can also affect the feeding behaviour of bats. Many night-flying species of insect that bats hunt are attracted to light, especially those light sources that emit an ultraviolet component (Light Emitting Diodes (LEDs) have removed this) or have a high blue spectral content (this can include LEDs).

8.2.6.3 The slower-flying, broad winged species (relevant to the north of England) have been shown to avoid commuting and foraging routes illuminated with a variety of different street luminaires such as:

- Brown long-eared.
- Myotis species (which include Brandt's, whiskered, Daubenton's and Natterer's).

8.2.6.4 The mitigation hierarchy applies to lighting design: impacts to biodiversity should be avoided in the first instance through design and where this has been clearly demonstrated not to be possible, appropriate mitigation needs to be put in place. Compensation is the least desirable option, so all other avenues should first be explored and ruled out. In parallel, opportunities to design lighting betterment for biodiversity should be sought wherever possible. Subsequently, planning authorities should seek sufficient information to provide confidence that the mitigation hierarchy has been appropriately applied.



8.2.6.5 It is recommended that a competent lighting consultant is employed to design a lighting plan based on the following principles highlighted in the ‘Bats and Artificial Lighting’ at Night (BCT and Institution of Lighting Professionals, 2023):

- All luminaires should lack UV elements when manufactured. Metal halide, compact fluorescent sources should not be used
- LED luminaires should be used where possible due to their sharp cut-off, lower intensity, good colour rendition and dimming capability
- A warm white light source (2700Kelvin or lower) should be adopted to reduce blue light component
- Light sources should feature peak wavelengths higher than 550nm to avoid the component of light most disturbing to bats (Stone, 2012)
- Internal luminaires can be recessed (as opposed to using a pendant fitting) where installed in proximity to windows to reduce glare and light spill
- Waymarking inground markers (low output with cowls or similar to minimise upward light spill) to delineate path edges.
- Column heights should be carefully considered to minimise light spill and glare visibility. This should be balanced with the potential for increased numbers of columns and upward light reflectance as with bollards.
- Only luminaires with a negligible or zero Upward Light Ratio, and with good optical control, should be considered.
- Luminaires should always be mounted horizontally, with no light output above 90° and/or no upward tilt.
- Where appropriate, external security lighting should be set on motion sensors and set to as short a possible a timer as the risk assessment will allow. For most general residential purposes, a 1 or 2 minute timer is likely to be appropriate.
- Use of a Central Management System (CMS) with additional web-enabled devices to light on demand.



- The use of bollard or low-level downward-directional luminaires is strongly discouraged. This is due to a considerable range of issues, such as unacceptable glare, poor illumination efficiency, unacceptable upward light output, increased upward light scatter from surfaces and poor facial recognition which makes them unsuitable for most sites. Therefore, they should only be considered in specific cases where the lighting professional and project manager are able to resolve these issues.
- Only if all other options have been explored, accessories such as baffles, hoods or louvres can be used to reduce light spill and direct it only to where it is needed. However, due to the lensing and fine cut-off control of the beam inherent in modern LED luminaires, the effect of cowls and baffles is often far less than anticipated and so should not be relied upon solely.

8.2.6.6 At this site, new lighting design will ensure lights will **not** be mounted where they will shine directly on to bat boxes, or the surrounding trees. A light intrusion lux level besides trees along the site boundaries will be 1 lux or below.

### 8.3 Great crested newt.

#### 8.3.1 Legislation

8.3.1.1 The great crested newt is protected under European and British legislation. Under European legislation it is protected under EC Directive (92/43/EEC) 'The Conservation of Natural Habitats and of Wild Fauna and Flora', being listed under Annexes IIa and IVa. This is implemented in Britain under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and is further protected under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This prohibits the intentional killing of newts, the deliberate taking or destruction of eggs, damage or destruction of a breeding site or resting place, intentional/reckless damage to or obstruction of a place used for shelter or protection, possession of a great crested newt and any form of trade of great crested newts.

8.3.1.2 Under British legislation, the great crested newt is given full protection under section 9 of the Wildlife and Countryside Act 1981 (as amended). This Act transposes into UK law the Convention on the Conservation of European Wildlife and Natural Habitats (commonly referred to as the 'Bern Convention'). This prohibits the intentional killing, injuring or taking, possession or disturbance of great crested newts whilst occupying a place used for shelter or protection and the destruction of these places. Protection is given to all stages of life (e.g. adults, sub-adults, larvae, and ovae).

8.3.1.3 In combination the above legislation prohibits the following:

- Intentionally kill, injure or take a great crested newt;
- Possess or control any live or dead specimen or anything derived from a great crested newt;
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection by a great crested newt;
- Intentionally or recklessly disturb a great crested newt while it is occupying a structure or place which it uses for that purpose;
- Deliberately capture or kill a great crested newt;
- Deliberately disturb a great crested newt;
- Deliberately take or destroy eggs of a great crested newt;

- Damage or destroy a breeding site or resting place of a great crested newt.
- 8.3.1.4 The great crested newt is therefore described as ‘fully protected’.
- 8.3.2 Field Survey Methodology
- 8.3.2.1 A habitat assessment was completed on the proposed development area and surrounding land (250 metres radius) accessible at the time of the survey. The assessment combined Great Crested Newt Mitigation Guidelines (English Nature 2001) and Evaluating the Suitability of Habitat for the Great Crested Newt (R. S. Oldham, J. Keeble, M. J. S. Swan and M. Jeffcote, undated) methodology.
- 8.3.2.2 The entire Application Site was assessed for its potential to support great crested newts, whilst conducting the field survey. In addition, aerial photographs, maps and physical searches of the surrounding landscape identified how the Application Site is connected to ponds within the locality and potentially, great crested newt populations.
- 8.3.3 Field Survey Results
- 8.3.3.1 No records of great crested newt occur within 2km of the Application Site. The closest known populations are in excess of 2km and are fragmented by urban habitats, road networks and running water.
- 8.3.3.2 No ponds or permanent water bodies suitable for breeding great crested newts were observed within the Application Site, the field survey and analysis of maps suggests that the nearest pond is located over 250m from Application Site. The wider habitat is largely well drained except for ornamental garden ponds associated with nearby housing estates. Ornamental ponds are typically sub-optimum great crested newt habitat and have reduced potential for great crested newt; they are not considered to be of any significance to the species. Key attributes to the decreased probability of great crested newts being present within ornamental garden ponds are:
- High density of stocked fish, which predate great crested newt larvae, eggs, and adults. The London Essex and Hertfordshire Amphibian and Reptile Trust state that ‘Despite the natural protection of a poisonous secretion which makes the adults unpalatable to most predators, the larvae are highly vulnerable to fish predation. Entire colonies can be impacted upon by the introduction of fish’. It is unlikely that ponds with fish support great crested newts.
  - Decrease macrophyte growth due to fish disturbance and foraging and decreased water turbidity.
  - Increased water turbidity due to fish disturbance and associate high nitrate input.
  - Fish likely to predate large numbers of the invertebrates important for great crested newt reproduction and adult diet.
  - Poor vegetation structure, creating cold micro-climate and lack of sunlight penetration.
  - Usually small pond size, limiting the reproductive value for such water bodies, not allowing sufficient recruitment to support viable populations.
  - Isolated nature resulting in failure to form meta-populations and limits genetic diversity, further limiting breeding recruitment.
  - Often ornamental ponds have raised sides making it impossible for

amphibians to access them.

- Fishponds usually have pumps, filters, waterfalls and fountains which reduce the value to great crested newts. Free swimming larvae struggle to swim in moving water, also amphibians are prone to being killed by getting sucked into pump and filter systems.

#### 8.3.4 Site Status Assessment

8.3.4.1 Whilst it is not always possible to demonstrate site absence from a single site survey, with the evidence collected from a habitat survey and desk top study, the likelihood of the presence of great crested newts in the Application Site is decreased. Key attributes to the reduced probability of great crested newts being present are:

- No records of great crested newt exist within 2km of the Application Site.
- There is no current knowledge of great crested newts within the Application Site.
- No suitable ponds exist within the Application Site.
- No suitable breeding ponds were observed within 250m of the Application Site.
- The Application Site primarily comprises bare ground and short grassland which inhibits dispersal by reducing areas of shelter, foraging grounds and leaving amphibians open to predation and desiccation. Consequently, Application Site is poor quality terrestrial habitat for amphibians.
- The open exposed nature of the site with its limited plant diversity and improved grass with limited refugia results in a poor invertebrate habitat. Great crested newts predominantly prey on slugs, insects, spiders and earthworms. They tend to forage in woodland, scrub, rough grassland and wetland areas largely due to the large diversity and abundance of invertebrates which these areas attract.
- Currently, the Application Site consists of sub-optimum terrestrial great crested newt habitat, with limited refugia and hibernacula and contains no suitable aquatic habitat for breeding. This is essentially an "island" within a wider area of drained urban environment dominated by sub-optimum habitat
- The surrounding urban habitats significantly hampers great crested newt dispersal into the area, without the aid of humans. Great crested newts tend not to occur within urban habitats, unless it occurs on the edge of a town, village or city, unlike in the Application Site. Urban areas are poor breeding habitat and difficult for amphibians to transverse.
- Surrounding road networks, walls, buildings and curbs limit great crested newt dispersal to and from the site in the wider area.

8.3.5 **Wold Ecology does not recommend any further surveys for great crested newts.**

## 8.4 Birds

8.4.1 Birds are afforded various levels of protection and levels of conservation status on a species by species basis. The most significant general legislation for British birds lies within Part 1 of the Wildlife and Countryside Act 1981 (as amended). Under this legislation, it is an offence to, kill, injure or take any wild bird, take, damage or destroy the nest of any wild bird while that nest is in use or being built, take or destroy an egg of any wild bird.

- 8.4.2 Schedule 1 Birds
  - 8.4.2.1 Schedule 1 birds are rare or scarce species afforded the same protection as above (8.4.1.1), but also have additional protection under Part 1 of the Wildlife and Countryside Act 1981 (as amended). This further protection protects these species from being intentionally or recklessly disturbed whilst nesting, either at or close to the nest site.
- 8.4.3 Planning consent for a development does not provide a defence against prosecution under this act.
- 8.4.4 Field Survey Methodology
  - 8.4.4.1 All bird species recorded by either sight, song or call were noted, in addition particular attention was given to key species of conservation concern and which habitat within the Application Site they were recorded using. All active (and disused) nests, territorial, breeding, and foraging birds were recorded in further detail to analyse how breeding birds use the Application Site. In winter foraging birds, roosting birds and large aggregations of birds using a specific habitat are noted. In addition, the habitat is assessed for its value to specific species, so that the likelihood of breeding can be analysed.
  - 8.4.4.2 The survey followed guidance and methods recommended within *Bird Monitoring Methods, a manual of techniques for key UK species* Gilbert et.al RSPB 1998, *Common Standards Monitoring Guidance for Birds* JNCC 2004 and *Survey Techniques Leaflet 8*.
  - 8.4.4.3 Wold Ecology assessed the site for schedule 1 listed species recorded having bred or attempted to breed in Yorkshire (Wold Ecology, NEYEDC), which have the potential to breed within the Application Site and/or surrounding adjacent local area or breed elsewhere whilst using the Application Site to forage or roost.
- 8.4.5 Field Survey Results
  - 8.4.5.1 Schedule 1 Listed Birds
    - 8.4.5.1.1 Wold Ecology concludes that the Application Site is of low value to schedule 1 listed species. This is primarily due to the managed/disturbed nature of the Application Site, it is surrounded by high hedges and trees, lack of suitable or extensive habitats in the locality and adjacent habitats with no features to support nesting Schedule 1 listed species. None of the trees within the Application contain suitable nesting locations for Schedule 1 Listed Birds.
  - 8.4.5.2 None-schedule 1 birds - breeding birds
    - 8.4.5.2.1 Impacts related to breeding birds are essentially related to the temporary loss of habitat which is utilised by breeding species. Related to this is the risk that birds could be nesting within impacted habitats at the time that construction work is programmed to start. Of relevance to this project are small passerine species, particularly those associated with the trees and shrubs.

8.4.5.3 None-schedule 1 birds - wintering birds

8.4.5.3.1 The Application Site is not considered to be valuable to wintering birds like wildfowl and waders. The Application Site is too enclosed, with high hedgerows and is bounded by housing and roads causing regular disturbance, reducing the value of the habitat for these species groups, nor is it in close proximity to suitable aquatic habitats. The only impact typically of any relevance to wintering birds are those associated with the temporary loss of food sources. This is principally associated with the loss of any sections of trees and shrubs which provide a potential source of food to a range of wintering species. However, these habitats are abundant within the wider area and are not thought to be of significant importance to birds.

8.4.6 **Wold Ecology does not recommend any further surveys for birds.**

8.4.7 Biodiversity Gains and Recommendations

8.4.7.1 It is concluded that the Application Site is a suitable habitat for suburban bird species with various designations. There is nesting potential for a range of birds including thrushes, finches, wood pigeon *Columba palumbus*, dunnock *Prunella modularis* and wren *Troglodytes troglodytes*. Several simple management prescriptions can improve the site for breeding bird species.

8.4.7.2 Any trees and tall/dense vegetation to be removed should be cleared outside of the bird nesting season (i.e. clearance should be undertaken between mid-September and early February inclusive) or be carefully checked\* by an ecologist to confirm no active nests are present - prior to removal during the summer period. If nesting birds are found during the watching brief, works will need to stop until the young have fledged. Since a number of nests are active, work will need to wait until fledging has occurred, then trees should be removed immediately to avoid other nests being created.

\* Thick and overgrown hedgerows are often difficult to inspect fully and removal of a hedge during the spring/summer period is not recommended.

8.4.7.3 In order to increase nesting opportunities for birds, it is recommended that Schwegler bird boxes are erected throughout the site. Local Authority guidance recommends that 25% of houses within a development should contain a bird box. A summary of recommended bird boxes is listed below:

Name	Description	Number
Schwegler sparrow terrace #1SP	Brick building box	2

8.4.7.4 Boxes should be placed so that the entrance does not face the prevailing wind, rain and strong sunlight. The sector from north to south east should be used, with south facing boxes positioned in more shaded areas. Boxes should be positioned away from the damp side of the tree trunk, usually told by algae, lichen and moss growth. Boxes should also be angled downwards to stop rain blowing into them.

8.4.7.5 Many species will use boxes at a wide variety of heights however to give the box protection in areas with a lot of human or mammalian predator activity they should be placed approximately 3-4 metres above ground level. A clear flight path should be available to and from the nest box.

## 8.5

### 8.5.1

#### 8.5.1.1

#### 8.5.1.2

### 8.5.2

#### 8.5.2.1

#### 8.5.2.2

### 8.5.3

#### 8.5.3.1

#### 8.5.3.2

## 8.6 Reptiles

### 8.6.1 Legislation

- 8.6.1.1 The legislation relating to the protection of the more common reptiles (adder *Vipera berus*, grass snake *Natrix helvetica*, common lizard *Zootoca vivipara* and slowworm *Anguis fragilis*) in Britain is contained mainly within the Wildlife and Countryside Act (1981) as amended by the Countryside and Rights of Way Act (2000). Their inclusion on Schedule 5 gives 'partial protection' (i.e. only parts of section 9 apply). Under the Act it is an offence to;
- Intentionally (or recklessly) kill or injure commoner reptile species.

- 8.6.1.2 The less common reptile species such as sand lizard *Lacerta agilis* and smooth snake *Coronella austriaca* have a higher level of protection under the Wildlife and Countryside Act (1981). However, these species will not be present within the Application Site, owing to their restricted southerly British distribution and the lack of suitable habitat.
- 8.6.1.3 Since its original enactment, the Wildlife and Countryside Act has been subject to many changes (notably via Schedule 12 of the Countryside and Rights of Way Act 2000) and is further protected under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. These have in particular affected penalties and enforcement. Offences under section 9 of the Act are now 'arrestable'. Enforcement is usually by the Police and less frequently by Natural England. However, section 25(2) of Wildlife and Countryside Act also states that a local authority may institute proceedings. Prosecutions can result in a level five fine (currently £5000) for each offence (and the Act is specific that killing/injuring of each individual animal can constitute a separate offence), the forfeiture of any equipment, etc., used to perpetrate that offence and (under the Countryside and Rights of Way Act 2000) up to six months imprisonment.
- 8.6.2 Field Survey Methodology
- 8.6.2.1 As would be expected from a February survey, no direct observations or field signs of reptiles was recorded on site. A full walkover was undertaken to assess the sites potential to support reptiles.
- 8.6.3 Field Survey Results
- 8.6.3.1 The desktop study did not identify any reptile records within 2km of the Application Site. Reptiles are moderately localised in North Yorkshire.
- 8.6.3.2 The Application Site is considered to be unsuitable for reptiles for the following reasons:
- There are no records of reptiles within 2km of the Application Site.
  - The Application Site and adjacent habitats are heavily disturbed on a daily basis.
  - Reptiles thermoregulate in sheltered locations, predominantly in close proximity to cover such as rank or shrubby vegetation, large rocks, walls, and tree stumps in which they can quickly escape. The Application Site primarily consists of open exposed habitat, with limited and largely insufficient thicker marginal vegetation, making reptiles prone to predation.
  - Reptiles are typically not very wide-ranging species, instead staying in optimum habitat. Such optimum habitat does not occur within or around the Application Site reducing the likelihood of animals passing through the site.
  - This past management is likely to have resulted in the site being sub-optimum for a long-time period, reducing the likelihood of viable populations persisting.
  - The open nature of the Application Site leaves reptiles open to predation from key predators including crows, kestrels, hedgehogs, domestic cats, and foxes.
  - The site is small, surrounded by disturbed land and fragmented from optimum reptile habitat in the wider area.

- The poor value of the site to amphibians (grass snake's chief food source) further limit the sites importance to grass snakes.
- The surrounding urban habitats significantly hampers reptile dispersal into the area, without the aid of humans. Reptiles tend not to occur within urban habitats, unless it occurs on the edge of a town, village or city, unlike in the Application Site. Urban areas are poor breeding habitat, heavily disturbed and difficult for reptiles to transverse.
- Surrounding road networks, walls, buildings and curbs limit reptile dispersal to and from the site in the wider area.

8.6.4 **Wold Ecology does not recommend any further surveys for reptiles.**

## 8.7 Hedgehog

### 8.7.1 Legislation

8.7.1.1 Although the Hedgehog *Erinaceus europaeus* only receives partial protection under the Wildlife and Countryside Act 1981 (as amended), its numbers have declined dramatically over the past two decades, resulting in the suggested proposal of upgrade to a higher level of protected status. The British population has declined by 25% over the past 10 years. The reasons for the decline are thought to be complex but include the loss of hedgerows and permanent grasslands as well as agricultural intensification.

### 8.7.2 Field Survey Methodology

8.7.2.1 All features of potential value to hedgehogs are surveyed; including areas of thick vegetation, outbuildings, lawns, grassland, scrub, woodland, and hedge bases. Evidence of breeding nests, hibernation nests and loafing nests were searched for in areas of suitable cover.

8.7.2.2 Well-worn animal paths, pool edges and footpaths were inspected for hedgehog footprints. Open areas were inspected for hedgehog droppings, particularly amenity grassland. Additionally, the surrounding road system was surveyed for road casualties.

8.7.2.3 The following field signs will indicate the presence of hedgehogs:

- Nests within dense vegetation
- Hedgehog droppings and prints
- Road casualties.

### 8.7.3 Field Survey Results.

8.7.3.1 No active or unused hedgehog nests were found within the Application Site. Most of the Application Site is too open to support nesting behaviour

### 8.7.4 Biodiversity Gains and Recommendations

8.7.4.1 Care must be taken whilst carrying out vegetation clearance, or strimming. A thorough check of the vegetation prior to removal will help ensure that no hedgehogs are injured or killed during development works. Sleeping hedgehogs frequently suffer severe injuries from strimmers.



- 8.7.4.2 Avoid setting fire to piles of vegetation unless they have been turned, checked or moved immediately prior to burning. Hedgehogs often get killed or injured in fires during vegetation removal and during early November.
- 8.7.4.3 Encouraging thick hedgerow bases and areas of rough grassland will offer good hedgehog habitat within the study area. Hedgehogs favour lawned grassland in close proximity to rough grassland for foraging where they can access soil invertebrates on evenings.
- 8.7.4.4 A number of hedgehog houses should be positioned around the site within hedge bases, dense bramble and rough grassland. These will provide important breeding and hibernation sites for hedgehogs within the local area. Boxes should be sited out of direct sunlight with the entrance facing away from prevailing winds, in or under thick vegetation. The boxes should be situated away from busy roads or areas of high disturbance.
- 8.7.4.5 Providing connectivity between habitats by leaving gaps below fences, gates and walls will allow hedgehogs access in and out of the site. Hedgehog holes must be created in all partition fences, allowing free movement between gardens. Perimeter boundary fencing will include a hedgehog hole every 20m.

## **8.8 Invasive species**

### **8.8.1 Legislation**

- 8.8.1.1 If invasive plants listed under schedule 9 of the wildlife and countryside act are identified on site, the site owner has a responsibility to prevent them spreading into the wild or causing a nuisance/damage.
- 8.8.1.2 You must not plant or otherwise cause to grow in the wild any plant listed on schedule 9 of the Wildlife and Countryside Act 1981.

### **8.8.2 Field Survey Result**

- 8.8.2.1 No invasive species were observed during the field survey. However, this report should not be relied upon as definitive evidence of absence of INNS. This site presents a low risk of supporting undetected INNS based on the following factors:
- Suboptimal survey season.
- 8.8.2.2 Should further assurances be needed in relations to INNS, a dedicated Invasive Weed Survey should be commissioned.

## 9.0 HABITATS APPRAISAL

### 9.1 Biodiversity Action Plans (BAP) Habitats of Principal Importance for the Conservation of Biological Diversity

9.1.1 In 1995, 'Biodiversity: The UK Steering Group Report' was published, which aimed to conserve and enhance biological diversity within the UK, including action plans for 38 key habitats and for 402 of our most threatened species. These plans describe the status of each habitat and species, outline the threats they face, set targets and objectives for their management, and propose actions necessary to achieve recovery. The Biodiversity Action Plans (BAP) have recently been updated, new ones added, and others removed, so there are numerous habitats that have been listed as priorities for conservation action. A list of these UK BAP species and habitats can be found at <http://jncc.defra.gov.uk/page-5706>

9.1.2 In addition, there are approximately 150 Local Biodiversity Action Plans (LBAP), normally at county level. These plans usually include actions to address the needs of the UK priority habitats and species in the local area, together with a range of other plans for habitats and species that are of local importance or interest.

9.1.3 In summary, none of the following irreplaceable habitats or UKBAP Habitats (which meet the UKBAP Habitat criterion) were recorded on site:

UK BAP broad habitat.	UK BAP priority habitat.	Habitat present within the Application Site.
Rivers and Streams	Rivers	N
Standing Open Waters and Canals	Oligotrophic and Dystrophic Lakes	N
	Ponds	N
	Mesotrophic Lakes	N
	Eutrophic Standing Waters	N
	Aquifer Fed Naturally Fluctuating Water Bodies	N
Arable and Horticultural	Arable Field Margins	N
Boundary and Linear Features	Hedgerows	N
Broadleaved, Mixed and Yew Woodland	Traditional Orchards	N
	Wood-Pasture and Parkland	N
	Upland Oakwood	N
	Lowland Beech and Yew Woodland	N
	Upland Mixed Ashwoods	N
	Wet Woodland	N
	Lowland Mixed Deciduous Woodland	N
	Upland Birchwoods	N
Coniferous Woodland	Native Pine Woodlands	N
Acid Grassland	Lowland Dry Acid Grassland	N
Calcareous Grassland	Lowland Calcareous Grassland	N
	Upland Calcareous Grassland	N
Neutral Grassland	Lowland Meadows	N
	Upland Hay Meadows	N
Improved Grassland	Coastal and Floodplain Grazing Marsh	N
Dwarf Shrub Heath	Lowland Heathland	N
	Upland Heathland	N
Fen, Marsh and Swamp	Upland Flushes, Fens and Swamps	N

	Purple Moor Grass and Rush Pastures	N
	Lowland Fens	N
	Reedbeds	N
Bogs	Lowland Raised Bog	N
	Blanket Bog	N
Montane Habitats	Mountain Heaths and Willow Scrub	N
Inland Rock	Inland Rock Outcrop and Scree Habitats	N
	Calaminarian Grasslands	N
	Open Mosaic Habitats on Previously Developed Land	N
	Limestone Pavements	N
Supralittoral Rock	Maritime Cliff and Slopes	N
Supralittoral Sediment	Coastal Vegetated Shingle	N
	Machair	N
	Coastal Sand Dunes	N
<b>Marine Habitats</b>		N
<b>Irreplaceable Habitats</b>	Ancient woodland	N
	Ancient and veteran trees	N
	Blanket bog	N
	Limestone pavements	N
	Coastal sand dunes	N
	Spartina saltmarsh swards	N
	Mediterranean saltmarsh scrub	N
	Lowland fens	N

## 9.2 Trees

9.2.1 Any trees to be retained should be protected by barriers erected following guidelines given in BS5837:2012 “Trees in Relation to Construction”. English Nature (2000) recommends that ‘an exclusion zone of 15 times the diameter of the tree at breast height is created’. This will protect the roots from compaction and physical damage whilst protecting the tree from fertilizers and chemical applications. The latter can have a detrimental effect on the tree’s relationship with lichens and mycorrhizal fungi. Root protection zones should be free of plant, storage of building sundries and excavation works should be limited where possible; this will help preserve the life of the trees.

## 9.3 Management planning

9.3.1 It is recommended that a detailed Ecological Construction Method Plan and a Wildlife Enhancement Plan is produced in order to protect, maintain and enhance the sites ecological value.

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## 11.0 APPENDICES

### 11.1 Appendix 1 – Summary of desktop study

Organisation.	Response Summary.	Date.
Natural England.	Local designations.	February 2024
Natural England.	UKBAP species and habitats within 2 km.	February 2024
North and East Yorkshire Ecological Data Centre.	Species lists within 2 km.	February 2024
www.magic.gov.uk	European Protected species licenses within 2km.	February 2024
Wold Ecology network.	Species lists up to 5 km from the Application Site.	2006 – to present day.

### 11.2 Appendix 2 - Protected Species Legislation

The following provides background to the current legislation in England - for full details reference should be made to the relevant legislation. A number of wild animals are classified as Protected Species as they are protected by various pieces of legislation. The most commonly encountered Protected Species of animal are listed in the table below. This table summarises which sections of legislation each species is protected by and the legislative text is provided on the following pages.

Legislation	Schedule 5 Wildlife and Countryside Act 1981 (As amended) Part 1							EPS	PBA
	S1 (1)	S1 (4 & 5)	S9 (1)	S9 (2)	S9 (4)(a)	S9 (4)(b)	S9 (5)		
Adder <i>Vipera berus</i>			✓*				✓		
Common lizard <i>Zootoca vivipara</i>			✓*				✓		
Grass snake <i>Natrix helvetica</i>			✓*				✓		
Slow worm <i>Anguis fragilis</i>			✓*				✓		
Smooth snake <i>Coronella austriaca</i>			✓	✓	✓	✓	✓	✓	
Sand lizard <i>Lacerta agilis</i>			✓	✓	✓	✓	✓	✓	
Great Crested Newt <i>Triturus cristatus</i>			✓	✓	✓	✓	✓	✓	
Natterjack Toad <i>Epidalea calamita</i>			✓	✓	✓	✓	✓	✓	
All UK bats <i>Chiroptera</i>			✓	✓	✓	✓	✓	✓	
Water vole <i>Arvicola amphibious</i>			✓	✓	✓	✓	✓		
Otter <i>Lutra lutra</i>			✓	✓	✓	✓	✓	✓	
Dormouse <i>Muscardinus avellanarius</i>			✓	✓	✓	✓	✓	✓	
Badger <i>Meles meles</i>									✓
Red Squirrel <i>Sciurus vulgaris</i>			✓	✓	✓	✓	✓		
Pine Marten <i>Martes martes</i>			✓	✓	✓	✓	✓		
Scottish Wildcat <i>Felis silvestris</i>			✓	✓	✓	✓	✓	✓	
White-clawed crayfish <i>Austropotamobius pallipes</i>			✓				✓		
All Nesting birds	✓								
Specific Nesting birds i.e. Barn Owl, Black Redstart	✓	✓							

S = Section

() = Paragraph

EPS = European Protected Species i.e. listed under Regulation 40 of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

PBA = Protection of Badgers Act 1992

\* = Only part of this section

## Legislative Text

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

Since its original enactment, the Wildlife and Countryside Act has been subject to many changes (notably via Schedule 12 of the Countryside and Rights of Way Act 2000). These have in particular affected penalties and enforcement. Offences under section 9 of the Act are now 'arrestable'. Enforcement is usually by the Police and less frequently by Natural England. However, section 25(2) of Wildlife and Countryside Act also states that a local authority may institute proceedings. Prosecutions can result in a level five fine (currently £5000) for each offence (and the Act is specific that killing/injuring of each individual animal can constitute a separate offence), the forfeiture of any equipment, etc., used to perpetrate that offence and (under the Countryside and Rights of Way Act 2000) up to six months' imprisonment.

The Wildlife and Countryside Act 1981 (as amended), transposes into domestic law the Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention). It is an offence under the various sections of Part 1 of the Act to -

- S.1 (1)** intentionally kill, injure, or take any wild bird or their eggs or nests.
- S.1 (4)** intentionally or recklessly kill, injure, or take any wild bird listed on Schedule 1 of the Act, or their eggs or nests (special penalties apply if convicted) (For a full list of Schedule 1 bird species see the full text of the Wildlife and Countryside Act 1981 [as amended])
- S.1(5) (a)** disturb any wild bird listed on Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- (b)** disturb dependent young of such a bird
- S.9 (1)** intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 (certain reptiles are only protected from killing and injuring);
- S.9 (2)** be in possession or control of any live or dead wild animal included in Schedule 5 or any part or derivative;
- S.9 (4) (a)** intentionally or recklessly damage or destroy, or obstruct access to, any structure or place used by a Schedule 5 animal for shelter or protection;
- S.9 (4) (b)** disturb any such animal while it is occupying such a structure or place which it uses for that purpose
- S.9 (5) (a)** sell, offer for sale, possess or transport any live or dead wild animal included in Schedule 5 for the purpose of sale or any part or derivative;
- S.9 (5) (b)** advertise for buying or selling such things.

### European Protected Species (EPS)

EPS and their breeding sites or resting places are protected under Regulation 43 of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. These Regulations transpose Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive) into national law.

A person who—

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

(d) damages or destroys a breeding site or resting place of such an animal, is guilty of an offence.

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

- (a) to impair their ability—
  - (i) to survive, to breed or reproduce, or to rear or nurture their young, or
  - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
- (b) to affect significantly the local distribution or abundance of the species to which they belong.

(However, please note that the existing offences under the Wildlife and Countryside Act, which cover obstruction of places used for shelter or protection (for example, a bat roost), disturbance and sale, still apply to EPS.)

These actions can be made lawful through the granting of licenses by the appropriate authorities, e.g. Natural England. Licenses may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on the wild population of the species concerned.

### **Protection of Badgers Act 1992 (PBA)**

The main legislation protecting badgers is the Protection of Badgers Act 1992. This Act consolidates all previous legislation including the Badgers Act 1973 (as amended) and the Badgers (Further Protection) Act 1991. Under the 1992 Act it is an offence to:

- destroy a sett
- interfere with a badger sett by damaging a sett or any part thereof
- obstruct access to a sett
- disturb a badger while occupying a sett
- wilfully kill, injure, take or attempt to kill, injure or take a badger;
- dig for a badger
- possess a dead badger or any part of a badger
- cruelly ill-treat a badger
- use badger tongs in the course of killing, taking or attempting to kill a badger
- sell or offer for sale or control any live badger
- mark, tag or ring a badger
- cause a dog to enter a sett

The 1992 Act defines a badger sett as: “any structure or place which displays signs indicating current use by a badger”. Since development operations may take place over a protracted period, Natural England recommends that licences be sought for developments that may affect seasonally-used setts as well as main setts. Natural England considers a good guide to be that if a sett has shown signs of occupation within the past twelve months it is considered active.

The Protection of Badgers Act 1992 allows for licences to be issued for a number of purposes, including development under the Town and Country Planning Act 1990 and to prevent serious damage to property. Licences to interfere with badger



setts or disturb badgers for development are issued by the Government's statutory nature conservation agencies, e.g. Natural England.

### 11.3 Appendix 3 - Staff Profiles

#### Field Surveyor Profile – Daniel Lombard B Sc. (Hons), MCIEEM.

**Job title:** Senior Ecologist.

##### **Career Summary.**

- Daniel has spent all his working life in the environmental sector. He is an experienced and competent field ecologist with proven skills in species identification across a range of biota and an in-depth appreciation of many aspects of biodiversity, ecology and biology.
- Upon leaving University Daniel volunteered with a range of conservation organisations including The Wildlife Trust, North York Moors National Park, BTO and RSPB.
- Daniel is currently involved in a number of local projects in which he has volunteered his time and resources. He is a member of Filey Bird Observatory and acts as the recorder for both Dragonflies and Butterflies within the group.
- Daniel acts as an ecologist giving free advice to the Yorkshire branch of Butterfly Conservation including habitat management plans and field surveys. He also contributes to the BTO bird ringing scheme, helping in the scientific study birds.
- Daniel also contributes to national invertebrate, bird, fungi and mammal recording schemes.

##### **Project Experience.**

- Daniel has undertaken over 400 bat activity surveys since 2010 including dawn and dusk surveys at a range of sites across England.
- Daniel specialises in reptile, amphibian, bird and mammal surveys and has undertaken a wide range of surveys for species including otter, water vole, badger, adder, grass snake, common lizard, slow worm and great crested newt. This includes writing and contributing towards mitigation strategies and habitat enhancements where appropriate. He has also contributed to white clawed crayfish surveys.
- Daniel has undertaken over 200 Preliminary Ecological Appraisals and EIA assessments.
- Daniel has undertaken and helped supervise a seabird surveys on the North Yorkshire coastline at an internationally important seabird colony on the behalf of Natural England and the Environment Agency. This has involved dealing with a variety of conflicting stakeholders to mitigate against potential adverse impacts to the colony.

## 11.4 Appendix 4 – Identification of Legal and Planning Policy Issues in England

### *Scope of Assessment*

The first step is to identify any biodiversity features found on the site that are subject to legal or policy controls, as follows:

### *Designated Sites*

The location of the site is compared to the distribution of sites with a statutory or non-statutory nature conservation designation using information derived from the desk study. Consideration is given to designated sites that could be affected directly or indirectly by the proposed development.

### *Habitats outside Designated Sites*

The habitats known to occur on the site are compared to those which receive some protection, in law or policy, outside of designated sites i.e. hedgerows, uncultivated land and semi-natural areas, habitats listed as Priorities in the UKBAP, habitats listed as Habitats of Principal Importance for the Conservation of Biodiversity by the Secretary of State and habitats listed as requiring action in the Local Biodiversity Action Plan.

### *Ancient Woodland*

The ancient woodland inventory is checked to determine whether any known ancient woodland occurs either on the site or nearby.

### *Protected Species*

The species known to occur on the site as a result of the desk study and UK Habitat Classification survey are compared with those listed in nature conservation legislation i.e. the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

In addition, the species known to occur on the site as a result of the desk study and UK Habitat Classification survey are compared with those listed in animal welfare legislation, i.e. the Badgers Act 1992 and the Wild Mammals (Protection) Act 1996.

### *Biodiversity Action Plan Priority Species*

The species known to occur on the site are compared with those listed as Priorities in the UKBAP, Species of Principal Importance for the Conservation of Biodiversity by the Secretary of State or requiring action in the Local Biodiversity Action Plan.

### *Other Species of Conservation Concern*

The species known to occur on the site are compared with other nature conservation listings, such as red data books.

### *Invasive Plant Species*

The species of plant present on the site are compared with those listed by government agencies as invasive non-natives, with particular attention given to those listed in the Wildlife and Countryside Act.

### *Review of Legislation and Policy*

If any of the above are found to occur on or near the site and are likely to be affected by the development in any way, the relevant legislation and planning policy

(including national, regional, county and borough policies) are examined to determine whether the proposed development is compliant.

### ***Ecological Enhancement***

Planning policy generally requires new developments to be enhanced for biodiversity. The existing proposals are considered to determine whether biodiversity enhancements are offered and whether they are adequate to meet the policy requirements. Again, national, regional, county and borough policies are considered.

### ***Identification of Potential Further Ecological Issues***

Further ecological issues are those which cannot be resolved during the desk study, UK Habitat Classification survey and preliminary ecological appraisal for any reason, including the following:

- The development is near a designated site and consultation with the relevant regulator is required to determine whether further assessment is required;
- Suitable habitat is present on or near the site for a protected species/species of conservation concern and specialist survey techniques are required for their detection;
- Suitable habitat is present on or near the site for a protected species/species of conservation concern and the UK Habitat Classification survey and preliminary ecological appraisal was not undertaken at a suitable time of year for their detection;
- A protected species/species of conservation concern was found on or near the site but further information on population size or distribution is required to resolve any legal and planning policy issues (such as obtaining licences).

Discussion of issues raised by 3rd parties, e.g. reports of protected species from the site by local people, may also be discussed under this heading.

The desk study is used as a guide to the protected species/species of conservation in the local area, however, the list is not taken to be exhaustive and it is borne in mind that some species may no longer occur in the locality.

No attempt is made to evaluate the importance of the site for species not yet confirmed to be on or near the site, nor to discuss the implications for the development if the species were to be found on the site.