

**NETA Relocation, Stockton-on-Tees**

Preliminary Ecological Appraisal

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# 1 Introduction

## Background to commission

- 1.1 BSG Ecology was commissioned in August 2023 by Hall & Partners Ltd to undertake a preliminary ecological appraisal (PEA) of land at Stockton Riverside College, Stockton-on-Tees.
- 1.2 This appraisal considers land within the red line site boundary (thereon referred to as 'the Site') provided by the client.

## Description of project

- 1.3 Hall & Partners propose to construct a new educational facility on land in Stockton-on-Tees, Teesside. The facility would be built on land that is currently used as a car park, with a neighbouring area of grassland to be converted into a new car park. The location of the Site is shown on Figure 1.

## Site description

- 1.4 The Site is approximately 2.1 hectares (ha) in size (the survey area was extended to 3.3 ha at the clients request) and is situated around the central ordnance survey grid reference of NZ 45453 18673. The Site is enclosed to the south, west and north by roads and an area of amenity grassland to the east. The Site is principally made up of hard standing, buildings and modified grassland, with several hedgerows. Photographs detailing the habitats on Site at the time of survey can be found in Appendix 2.
- 1.5 The aim of this appraisal to provide current baseline ecological information of the Site.
- 1.6 This will be used to make a preliminary identification of potential ecological constraints and opportunities associated with the Site and proposed project. Additionally, this report will identify additional survey work required to establish an ecological baseline and inform future recommendations concerning the project, ecology and biodiversity net gain requirements of the Site.
- 1.7 This appraisal has been prepared with reference to best practice guidance published by the Chartered Institute for Ecology and Environmental Management (CIEEM, 2017) and as detailed in British Standard 42020:2013 Biodiversity - Code of Practice for Biodiversity and Development (BSI, 2013).

## Personnel

- 1.8 The extended Phase 1 habitat survey and report was completed by Ecologist Adam Murphy at BSG Ecology. Adam has worked in ecological consultancy for more than 5 years, carrying out a range of ecological surveys including Phase 1 habitat and species specific surveys for a range of projects across the UK.
- 1.9 The technical review of this report has been undertaken by Claire Dewson, Principal Ecologist at BSG Ecology. Claire has worked in the ecological sector for more than 20 years and has contributed to many ecological assessments as an author and reviewer.

## Relevant Legislation and Policy

- 1.10 Key pieces of nature conservation legislation and national policies relevant to this project are presented in Appendix 3.
- 1.11 Other planning policies at the local level of relevance include the Stockton-on-Tees Local Plan which sets out additional evidence-based policies for the conservation of biodiversity within the Tees Valley area. The Plan also sets out indicators and targets for monitoring. Policy ENV-5 of the plan states that the provision of net gains should be sought by all developments, though no target percentage for the gain has been stipulated. Further information can be found in Appendix 3.

## 2 Methods

### Desk Study

- 2.1 A desk study was undertaken to identify sites designated for nature conservation, protected and notable habitats and species, and invasive non-native species relevant to the Site and the proposed development. Several sources were used to complete the desk study (See Table 1 below) and a stratified approach was taken when defining the desk study area based on the likely zone of influence of the proposed scheme on different ecological receptors.
- 2.2 Resources used to complete the desk study are summarised below in Table 1.

**Table 1: Data sources consulted for the desk study**

| Data Source   | Date Accessed / Received              | Notes  |
|---|---------------------------------------|--|
| MAGIC (www.Magic.defra.gov.uk) <sup>1</sup>         | Accessed October 2023                 | A 2 km desk study area was adopted for statutory designated sites.   |
| Environmental Records Information Centre North East | Data was requested in September 2023. | A 2 km desk study area was adopted, and data was requested on protected species.<br>A search for non-statutory sites (LWS <sup>2</sup> ) within 2 km of the Site was undertaken. |

- 2.3 A 2 km study area around the redline boundary has been adopted for statutory designated sites as proportionate given the scale and nature of the proposed development as well as the size of the Site, current and surrounding land use, and potential impacts that may arise during the lifetime of the development.
- 2.4 Publicly available sources such as the government's MAGIC website, the Ordnance Survey, and Bing Maps were also consulted. A 2 km study area around the redline boundary was adopted for non-statutory designated sites and notable species records from the Environmental Records Information Centre for the North East (ERIC NE) as part of the desk study. This distance was considered appropriate as it is anticipated that the potential impacts will reflect the small scale of the proposed development and be confined to the Site and its immediate vicinity during construction and operation.
- 2.5 Reference is made to habitats and species listed under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006. These habitats and species are a material consideration in the planning process and are referred to in this report as "S.40 habitats" and "S.40 species" respectively.
- 2.6 Ordnance Survey mapping and publicly available aerial photography were also used to assess habitats and check for any features of potential interest.
- 2.7 A summary of key records provided by the desk study is presented in Section 3 of this report. All records have been used to inform the assessment of the potential for protected or otherwise notable species to be present at the Site to provide a preliminary view of the Site's ecological importance, but these are not presented in full in the report.
- 2.8 Figure 2, Appendix 1, presents the results of the search for statutory designated sites. Figure 3, Appendix 1, presents the results of the search for non-statutory sites.

<sup>1</sup> Multi-Agency Geographic Information for the Countryside (MAGIC)

<sup>2</sup> Local Wildlife Site (LWS)

## Field Survey

### Habitats

- 2.9 Habitats within the development area boundary were mapped in accordance with the Phase 1 habitat survey methodology (JNCC 2016) on 5 October 2023, with the survey then “extended” to include an appraisal of the habitats’ suitability for protected species. This included a search for signs of protected species or the species themselves. Such signs, and habitat features suitable for protected species were where, necessary, target noted. Figure 1 presents the results of the extended Phase 1 habitat survey and the location of any target notes that were recorded. Habitats were also assessed against descriptions of Habitat of Principal Importance as set out by the JNCC (BRIG, 2008)<sup>3</sup> where appropriate.
- 2.10 Records for dominant and notable plants are provided, as are incidental records of birds and other fauna noted during the course of the habitat survey. The latter have been used to justify the potential presence of important ecological features where applicable.
- 2.11 The Site was also surveyed for the presence of invasive plant species as defined by Schedule 9 of the Wildlife and Countryside Act 1981 (as amended); however, detailed mapping of such species is beyond the scope of this commission.
- 2.12 The survey was completed by Adam Murphy on 5 October 2023. Table 2 presents the details of the survey.

**Table 2: Survey details**

| Survey                          | Date       | Cloud cover (oktas) | Temperature | Wind speed | Precipitation      |
|---------------------------------|------------|---------------------|-------------|------------|--------------------|
| Extended Phase 1 habitat survey | 05/10/2023 | 8/8                 | 13°C        | BFT 0      | Light intermittent |

- 2.13 The habitat survey was undertaken in October, which is outside the main flowering period of many plant species. This may therefore have prevented the compilation of an exhaustive species list.
- 2.14 The suitability of the Site for legally protected species was assessed on the basis of relevant desk study records combined with field observations from the habitat survey. The likelihood of the habitat(s) supporting protected and/or notable species was ranked on a scale from ‘negligible’ to ‘present’ as described in Table 3 below.
- 2.15 The assessment of habitat suitability for protected or notable species was based on professional judgement drawing on experience of carrying out surveys of a large number of urban and rural sites and best practice survey guidance.
- 2.16 The preliminary assessment of habitat suitability for protected or notable species was based on professional judgement drawing on experience of carrying out surveys of a large number of sites in both rural and urban settings and best practice survey guidance.
- 2.17 The habitats present were also assessed for their suitability for S.40 (Section 40 of the NERC Act, 2006) species, whilst any S.40 species, or evidence of such, were target noted. The habitats are also evaluated to determine their potential importance for S.40 species.

<sup>3</sup> Collection of data required to confirm that certain habitats (including rivers and ponds) meet criteria for HPI is beyond that obtained during a Phase 1 habitat survey. In these cases, the potential for such habitats to meet relevant criteria is noted but further surveys to confirm this assessment may be recommended.

- 2.18 The findings of this assessment determine the necessity for protected species surveys. Surveys may be required where a site is judged to be suitable for a particular species / species group even if the suitability is considered low - this is particularly the case where there the risk of contravening the relevant conservation legislation is unknown or cannot be quantified at this stage on the basis of the information available. However, in some cases there may be opportunities to ensure compliance with the legislation without further survey through project design or through precautionary measures prior to and during construction such as working method statements.

**Table 3: Protected species assessment**

| Category   | Description   |
|------------|---|
| Present    | Presence confirmed by the current survey or by recent and/or desk study records.  |
| High       | Habitat present provides all of the known key requirements for a given species/species group. Local records are provided by desk study. The Site is within or close to a national or regional stronghold for a particular species. Good quality surrounding habitat and good connectivity.  |
| Moderate   | Habitat present provides some of the known key requirements for a given species/species group. Several desk study records and/or the Site are within known national distribution and with suitable surrounding habitat. Factors limiting the likelihood of occurrence may include small habitat area, barriers to movement and disturbance. |
| Low        | Habitat present is of relatively poor quality for a given species/species group. Few or no desk study records. Presence cannot be discounted on the basis of national distribution, nature of surrounding habitats or habitat fragmentation.  |
| Negligible | Habitat is either absent or of very poor quality for a particular species or species group. No desk study records. Surrounding habitat unlikely to support wider populations of a species/species group. Outside or peripheral to the known range of a species.   |

#### Consideration of potential limitations

- 2.19 The survey was undertaken in October 2023, this timing is considered to be outside the optimum range for habitat surveys when most plant species are in flower and can be more readily identified. This is not considered a major limitation as plant species present on Site were readily identifiable using the features present at the time of survey.



### 3 Results

#### Desk study

#### **Statutory designated Sites**

- 3.1 The search identified three sites with international and national nature conservation designations within 2 km of the Site. These designations are shown in Figure 2 and the results of the search are presented below in Table 4, which also presents the distance and direction from the Site (from the nearest point), and reason for designation.

**Table 4:** Summary of statutory designated sites

| Site Name  | Distance and direction (from nearest point) | Reason for designation   |
|--|---|--|
| Teesmouth and Cleveland Coast SSSI                 | 830 m east                                  | <p>The site is designated for its geological interest, avian, harbour seals and invertebrate assemblages as well as salt marshes and sand dune habitats.</p> <p>The habitats within the site support breeding populations of avocet <i>Recurvirostra avosetta</i>, little tern <i>Sternula albifrons</i> and common tern <i>Sterna hirundo</i>.</p> <p>Non-breeding bird populations include shelduck <i>Tadorna tadorna</i>, shoveler <i>Spatula clypeata</i>, gadwall <i>Mareca strepera</i>, ringed plover <i>Charadrius hiaticula</i>, knot <i>Calidris canutus</i>, ruff <i>Calidris pugnax</i>, sanderling <i>Calidris alba</i>, purple sandpiper <i>Calidris maritima</i>, redshank <i>Tringa totanus</i> and Sandwich tern <i>Thalasseus sandvicensis</i>. The Site supports more than 20,000 waterbirds during the non-breeding season.</p> |
| Teesmouth and Cleveland Coast SPA                  | 830 m east                                  | <p>The site is coincident with the Teesmouth and Cleveland SSSI.</p> <p>It is designated for its populations of avocet, common tern, knot, little tern, redshank, ruff, sandwich tern and waterbird assemblage.</p>  |
| Teesmouth and Cleveland Coast Proposed Ramsar Site | 1150 m east                                 | <p>The site is part of a proposed extension to the existing Teesmouth and Cleveland Coast Ramsar site.</p> <p>The current site is designated as an estuary, highly modified by human activities, encompassing a range of habitats including sand and mud flats, rocky shore, saltmarsh, freshwater marsh, and sand dunes. Nationally and internationally important numbers of various species of waterbirds stage and winter at the site. The site supports a rich assemblage of invertebrates, including seven nationally rare species.</p>   |

**Non-statutory Designated Sites**

3.2 The results of the search are presented below in Table 5 and shown in Figure 3. The table also presents the distance and direction from the Site (from the nearest point), and reason for designation.

**Table 5:** Summary of non-statutory designated sites

| Site Name                 | Distance and direction (from nearest point) | Reason for designation   |
|---------------------------|---|--|
| Portrack Marsh LWS        | 1150 m east                                 | This LWS is designated by Stockton Council and managed by Tees Valley Wildlife Trust. The site is contiguous with the proposed Ramsar extension and contained within the Teesmouth and Cleveland Coast SSSI. It is primarily designated for its breeding and non-breeding bird populations and the presence of otters.   |
| Maze Park LWS             | 1130 m east                                 | This LWS is designated by Middlesborough Council and managed by Tees Valley Wildlife Trust. The site is on the opposite bank of the river Tees to the Portrack Marsh LWS. The site is primarily designated for its grasslands and the butterfly species. The site also contains area of woodland and supports breeding birds including skylark <i>Alauda arvensis</i> , grey partridge <i>Perdix perdix</i> and sand martin <i>Riparia riparia</i> . |
| Old River Tees LWS        | 1300 m east                                 | This site is designated by both Stockton Council. It is designated for its saltmarsh and reedbed habitat and the presence of water vole.   |
| Old River Tees LWS        | 1450 m east                                 | This site is designated by Middlesborough Council. It is adjoining the LWS of the same name which is designated by Stockton Council. It is designated for its saltmarsh and reedbed habitat and the presence of water vole.  |
| Black Bobbies Field       | 1850 m south                                | This site is designated by Stockton Council as a LWS. It is designated for the mix of meadow, reedbed, scrub and riparian habitats, supporting population of skylark, lapwing, geese and spawning fish.  |
| Bowesfield Nature Reserve | 1920 m south                                | This site is designated by Stockton Council and managed by Tees Valley Wildlife Trust. It is designated for its population of harvest mice and wintering populations of birds.   |
| Whinney Banks Pond        | 1950 m west                                 | This site is designated by Middlesborough Council as a LWS. It is designated for the pond and surrounding marshy grassland.  |

## Habitat inventories

### **Ancient woodland**

- 3.3 No areas of woodland within a 2 km radius of the Site appear on the Ancient Woodland Inventory (Natural England, 2022).

### **Habitats of principal importance**

- 3.4 There are no habitats of principal importance within a 2 km radius of the Site (Natural England, 2022).

## Phase 1 habitat survey

### **Overview**

- 3.5 The Site is primarily made up of hardstanding and modified grassland with several managed hedgerows throughout.
- 3.6 Figure 1 presents the habitat map for the Site.

### **Hardstanding/Buildings**

- 3.7 The majority of the Site was composed of hardstanding in the form of car parks, walkways and buildings. The Site hosts an existing educational facility and the associated infrastructure needed for such a facility.

### **Improved grassland**

- 3.8 There were five separate areas of grassland within the Site, totalling an area of 0.78 ha these are labelled and visible within Appendix 1 Figure 1. All of which are well maintained as amenity grasslands with a relatively short sward and dominated by perennial rye grass *Lolium perenne*.
- 3.9 Grassland G1 was a small patch of improved grassland to the west of the Site, bordered by hedgerow and car park. It was dominated by perennial rye grass, other species present though infrequent include dandelion *Taraxacum officinale*, common toadflax *Linaria vulgaris*, bramble *Rubus fruticosus*, red fescue *Festuca rubra*, common vetch *Vicia sativa* and a sedge species.
- 3.10 Grassland G2 was the largest of the grasslands within the Site located to the south west and bordered by Harvard Avenue to the west and buildings to the south and east. It was dominated by rye grass spp. with other frequent species included yarrow *Achillea millefolium*, dandelion, common daisy *Bellis perennis*, ribwort plantain *Plantago lanceolata*, white clover *Trifolium repens*, ragwort *Jacobaea vulgaris*, cranesbill spp. and occasional waxcap spp. fungi.
- 3.11 Grassland G3 was outside of the Site, to the north of the boundary. As with the other grasslands it was dominated by rye grass. Other grass species present included red fescue and Yorkshire fog *Holcus lanatus*. There were frequent herbs within the grassland including white clover, yarrow, dandelion, melilot *Melilotus officinalis*, ribwort plantain, speedwell spp., bush vetch *Vicia sepium* and cranesbill spp.. A number of individual trees were present including four sycamore *Acer pseudoplatanus* and four silver birch *Betula pendula*. All trees appeared in good health and were immature, approximately 5 m in height and estimated to have been planted within the last ten years.
- 3.12 Grassland G4 was separated into two patches, closely linked and both outside of the Site boundary. There was a greater prevalence of stones/pebbles than in other grasslands within the survey area, due to the proximity of decorative pebbled areas. There was a dominance of ornamental features including a raised bed which were empty at the time of survey. Yorkshire fog and red fescue were abundant with herbs present including ribwort plantain, rosebay willowherb *Chamaenerion angustifolium*, dandelion, meadow buttercup *Ranunculus acris* and common daisy. Immature trees

were present, no greater than 3m in height including two goat willow *Salix caprea*, one elder *Sambucus nigra* and a single poplar *Populus spp.*.

- 3.13 Grassland G5 was a small area of amenity grassland located at the south eastern edge of the Site. It is dominated by rye grass spp., with abundant red fescue. Other species present included white clover, dandelion, common daisy, ribwort plantain and yarrow.

### Scrub

- 3.14 There was a small area of scrub to the west of the Site with a gentle slope down to the canal and approximately 0.02ha in size. The scrub was quite overgrown and largely unmanaged in nature. The tree species included ash *Fraxinus excelsior*, silver birch, elder. Smaller scrub species included cotoneaster *Cotoneaster spp.*, rhododendron *Rhododendron spp.*, dog rose *Rosa canina*, buddleia *Buddleja davidii* and bramble. The juvenile ash present did not show signs of ash die back *Hymenoscyphus fraxineus*. Ground flora consisted of common ivy *Hedera helix*, common nettle *Urtica dioica*, yarrow, Yorkshire fog, common toadflax, ribwort plantain, white clover, false oat grass *Arrhenatherum elatius* and bindweed *Convolvulus arvensis*. At the time of survey, parts of the habitat had been cut back and the cuttings had been left in situ.

### Hedgerows

- 3.15 The Site and survey area contained multiple hedgerows and individual trees.
- 3.16 Hedgerow H1 was broken into several units within the car park in the west of the Site, it was approximately 100 m in total length. The hedgerow was ornamental in nature, approximately 1 m in height and heavily managed and maintained. It was principally composed of beech *Fagus sylvatica* with twelve sycamore trees also present, approximately 5 m in height. Ground flora within the hedgerow consisted of bramble, cotoneaster spp., cordyline spp., red fescue, yarrow, common toadflax, ribwort plantain and white clover.
- 3.17 Hedgerow H2 was located in the west of the Site, bordering car park areas and the large G2 grassland, it was approximately 120 m in length. This hedgerow is maintained in a similar manner to H1, with the dominant species being managed beech. Other tree species present included sycamore, lime *Tilia spp.*, goat willow and pedunculate oak *Quercus robur*, none of which exceed 5 m in height. The hedgerow was ornamental in nature and this is reflected by the presence of cotoneaster spp., rhododendron spp. and cordyline spp. Ground flora included red fescue and birds foot trefoil *Lotus corniculatus*.
- 3.18 Hedgerow H3 was outside of the Site and formed a part of the north western boundary of the survey area. It was approximately 50 m in length. The hedgerow was ornamental in nature and consisted entirely of beech, cotoneaster spp. and rhododendron spp., all of which were heavily managed.
- 3.19 Hedgerow H4 was outside of the Site and formed the northern boundary of the survey area. It was approximately 75 m in length. This hedgerow was maintained in a similar manner to H3, with a similar species assemblage with the addition of some bramble and small individual sycamore trees.
- 3.20 Hedgerow H5 was outside of the Site and formed a part of the north eastern boundary of the survey area. It was approximately 50 m in length. The composition of the hedgerow was similar to that of H4, dominated by manicured beech with the addition of cotoneaster spp., rhododendron spp., bramble and two small lime trees. Ground flora included dog rose, rosebay willowherb, common toadflax, Yorkshire fog, rye grass spp., creeping buttercup *Ranunculus repens* and common nettle.
- 3.21 Hedgerow H6 extended along the eastern edge of the Site. It was approximately 160 m in length. This hedgerow was taller and less intensively managed than other hedgerows on the Site. Several tree species were present reaching a maximum height of around 5 m, species included sycamore, elder, lime, hornbeam *Carpinus betulus*, buddleia and cultivars. Also present was dog rose and bramble.
- 3.22 Hedgerow H7 was located within the large hardstanding/car park towards the south of the Site and formed a part of the southern boundary of the Site along Princeton Drive. It was composed of several

parts spread out over the car park, totalling approximately 300 m in length. Tree species included field maple *Acer campestre*, rhododendron spp., hawthorn *Crataegus monogyna*, sycamore, birch and cotoneaster spp.. Ground flora present within the different parts of the hedgerow included salad burnet *Sanguisorba minor*, dog rose, dandelion, yarrow, white clover, Yorkshire fog, red valerian *Centranthus ruber*, herb-Robert *Geranium robertianum*, red fescue and ragwort.

- 3.23 There were two individual sycamore trees at the centre of the Site within the car park. These were immature and did not exceed more than 5 m in height

### **Species**

#### **Badger**

- 3.24 Two records relating to Eurasian badger *Meles meles* were identified from the desk study. Both of these records relate to road casualties at a distance of more than 1 km away from the Site in 2019.
- 3.25 No sett building or other evidence of badger activity such as latrines, footprints or snuffle holes (foraging activity) were identified within the Site. Badgers are considered unlikely to be encountered during the works due to the poor suitability of habitats within the immediate area. Boundary features such as the understorey to lines of trees may provide some limited foraging habitat however, ultimately, no field signs for badger were found. The Site is situated within a heavily urbanised area, further decreasing the suitability of the Site for badger.
- 3.26 From the limited relevant records and no signs of badgers observed during the survey the Site is considered to offer **negligible** suitability for badgers.

#### **Bats**

- 3.27 Eight records of bats were recorded within the desk study search area from the last 10 years. Six of these were identified as common pipistrelle *Pipistrellus pipistrellus*, one was an unidentified *Pipistrellus* species and one was a noctule bat *Nyctalus noctule*. Five of these records relate to a single bat whilst two are simply recorded as 'a few'.
- 3.28 The habitat features within the Site have limited foraging suitability for bats with the extensive areas of hardstanding and buildings, the relatively short sward of the improved grassland and the heavily managed hedgerows. The Site is surrounded on all sides by hardstanding features and is likely to be subject to increased light spill from neighbouring buildings and street lights as well as human disturbance.
- 3.29 Overall, the Site is considered to offer **negligible** suitability for foraging and commuting bats and **negligible** suitability for roosting bats due to no potential features that could support roosting bats being recorded during the survey.

#### **Birds**

- 3.30 Breeding bird species identified from the desk study include 102 records relating to species for which the nearby SSSI, these being avocet, common tern, gadwall, garganey, redshank, ruff, shelduck and shoveler.
- 3.31 Other species associated with wetland habitats recorded within the 2 km search distance include but are not limited to curlew *Numenius arquata*, golden plover *Pluvialis apricaria*, goldeneye *Bucephala clangula*, jack snipe *Lymnocyptes minimus*, little grebe *Tachybaptus ruficollis*, oystercatcher *Haematopus ostralegus*, pink-footed goose *Anser brachyrhynchus* and whooper swan *Cygnus cygnus*.
- 3.32 The Site is small in size (2.1 ha) and the habitats present offer limited opportunities for breeding birds. Although there are a large number of hedgerows within the Site, frequent disturbance will reduce the suitability for nesting birds and would limit nesting to species which are tolerant to urban habitats such as blackbird *Turdus merula*, blue tit *Cyanistes caeruleus*, wood pigeon *Columba*

*palumbus* and wren *Troglodytes troglodytes*. The habitats within the Site are of negligible suitability for ground nesting birds due to the short sward grassland, lack of natural cover, predators and open public access. The suitability of the Site for breeding birds listed from the desk study is negligible.

3.33 The extended Phase 1 habitat survey was undertaken in October 2023, this is outside of the breeding bird season and consequently it was not possible to record the species which use the Site for breeding.

3.34 Overall, the Site is considered to offer **low** suitability for both breeding and wintering birds.

#### **Otter**

3.35 Seven records of Eurasian otter *Lutra lutra* were identified within the last 10 years. All but two of these observations was recorded more than 1 km away from the Site. Five of these observations were recorded within the LWS's identified by the desk study and the remaining two are from the river Tees.

3.36 No evidence of otter was recorded on the Site. Though there is the presence of a watercourse adjoining the west of the Site, the habitats within the Site boundary are not suitable to support otter and there is a high level of disturbance which would likely deter the species.

3.37 Overall, the Site is considered to offer **negligible** suitability for otter.

#### **Water vole**

3.38 There were no records of water vole *Arvicola amphibius* returned by the desk study.

3.39 Habitats on Site are poorly suited to water vole as the neighbouring water body is heavily modified, it is part of a canal system and offers no suitable foraging or burrowing opportunities.

3.40 Based on the limited riparian habitats available to water vole on Site, the Site is considered to offer **negligible** suitability for water vole.

#### **S.40 Duty species**

3.41 No records of European Hare *Lepus europaeus* were identified from the desk study.

3.42 Habitat within the Site is not suitable for brown hare of whom require open farmland and woodland edges. The Site is considered to be of **negligible** suitability for brown hare.

3.43 A total of 31 records for European hedgehog *Erinaceus europaeus* were identified by the desk study.

3.44 The Site offers some suitable habitat for hedgehog with foraging and sheltering opportunities available under some hedgerows and dense vegetation. Although there are business and residential properties in the nearby vicinity which may reduce foraging and connectivity opportunities for hedgehog. The Site is thought to be of **low** suitability to hedgehog.

#### **Invasive non-native species**

3.45 Two Schedule 9 species, rhododendron and cotoneaster, were recorded within the Site.

## 4 Potential Impacts and Recommendations

4.1 Potential impacts and recommendations for mitigation measures are provided on a receptor-by-receptor basis below.

4.2 No further survey work is recommended.

### **Statutory designated sites**

4.3 From a statutory designation map assessment of 2 km from the Site, the closest statutory sites are 830 m east. The sites are primarily designated for their assemblage of breeding and over-wintering bird populations of international importance. The development proposals are unlikely to adversely impact upon the habitats within these statutory designated sites or their qualifying features. The land between the Site and the designated sites is urban development and modified grasslands with brownfield and railway sidings in parts. Much of the Site is already made up of hardstanding features and grassland which is unlikely to support breeding or wintering birds to any extent, and no cited species for the designations were recorded as present within the survey area.

### **Non-statutory designated sites**

4.4 Six Local Wildlife Sites (LWS) are situated within 2 km of the Site. These LWS are primarily designated for their wetland habitats, botanical and wintering bird interest. The Site itself is largely urban and is surrounded by the built environment including roads and therefore the Site does not have any connectivity to these non-statutory designations. Although the nature of the development (an educational facility) will bring in additional footfall to the area, this is likely to be concentrated within the Site and the nearby vicinity,, indirect impacts on non-statutory sites is unlikely to be significant.

### **Habitats**

#### ***Improved grassland***

4.5 Improved grassland habitat totals approximately 1.09 ha across the survey area, with 0.51 ha of this being within grassland G2. It is this area of grassland (G2) which will be converted to hardstanding as part of the development proposal. This is not classified as a habitat of principal importance, nor is it rare in the locality. Compensatory habitat should be incorporated into the landscape scheme, through, for example, native bulb planting in grassy areas within the area of the hardstanding.

#### ***Scrub***

4.6 The 0.03ha area of scrub within the Site is set to be retained by the development proposal.

4.7 In order to enhance this habitat the removal of non-native species (rhododendron) from this scrub is recommended. As advised in the guidance on section 14 of the Wildlife and Countryside Act 1981, it is the responsibility of the land manager to take reasonable steps to prevent the spread of schedule 9 species.

#### ***Hedgerows/Individual trees***

4.8 Most of the existing hedgerows and individual trees are to be kept in place. Parts of H7 will be lost as part of the development, approximately 180 m within the hard standing which is set to become the NETA building. Additionally, parts of hedgerow H2 totalling more than 50 m may also be lost to allow for access to the new car park/hard standing area.

4.9 These hedgerows are primarily ornamental in nature, containing non-native species such as cotoneaster and cordyline. The trees which may be lost do not exceed 5 m in height and do not offer habitat for protected species such as bats. The trees are located in a highly disturbed area which

may limit their suitability for nesting birds, nevertheless, it would be advised that any felling of trees/shrubs should take place outside of the breeding season (March to August inclusive), or under the supervision of a qualified ecologist.

- 4.10 It is recommended that as part of the working methods for the construction works, British Standard (BS5837:2012) "Trees in Relation to Design, Demolition and Construction Recommendations" is considered to avoid and minimise impacts on the trees.
- 4.11 It is recommended that any planting and landscaping that takes place consist of native species.

### **Species**

#### ***Birds***

- 4.12 The Site is 2.1 ha in size and within an urban area subject to high levels of disturbance. The Site includes boundary offering limited nesting potential albeit these are not mature and are bounded by a road and the existing car park so will likely encounter disturbance.
- 4.13 The likelihood of the development effecting active bird nests has been assessed as low, however, as a precautionary measure, vegetation clearance should be undertaken outside of the nesting season (October to late February). A nesting bird check should be carried out no more than 48 hours prior to the start of works to ensure no active nests are present if works need to take place during the breeding bird season. If any active nests are present, a suitable exclusion zone, determined by a qualified ecologist should be enforced around the nest with no work taking place until the nest has been confirmed as no longer active.
- 4.14 To improve the ornithological interest of the Site it is recommended that the provision of nest boxes is included as a part of any landscaping plans, the specifications, number and placement should be advised by a suitably qualified ecologist.

#### ***Hedgehog***

- 4.15 No evidence of hedgehog was recorded during the Extended Phase 1 habitat survey and habitats on Site are considered to offer low suitability, with some sheltering locations but low connectivity.
- 4.16 To prevent hedgehog from potentially becoming trapped, it is recommended that any trenches or deep excavations are covered at the end of each working day or ramps installed to provide exit routes for any animals that fall in.



## 5 References

BRIG (2008) UK Biodiversity Action Plan; Priority Habitat Descriptions. JNCC.

BSI (2013). BS:42020 Biodiversity – Code of Practice for Biodiversity and Development. British Standards Institute.

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CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.1. Chartered Institute of Ecology and Environmental Management, Winchester.

DEFRA (2011) Guidance on section 14 of the Wildlife and Countryside Act .Available here: [Guidance on section 14 of the Wildlife and Countryside Act - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/guidance-on-section-14-of-the-wildlife-and-countryside-act) Accessed Nov 2023

JNCC (2010). Handbook for Phase 1 Habitat Survey. Joint Nature Conservation Committee, Peterborough.

Stockton-on-Tees Borough Council Local Plan (2019)

## **Appendix 1: Figures**

(overleaf)

Figure 1: Phase 1 Habitat Map

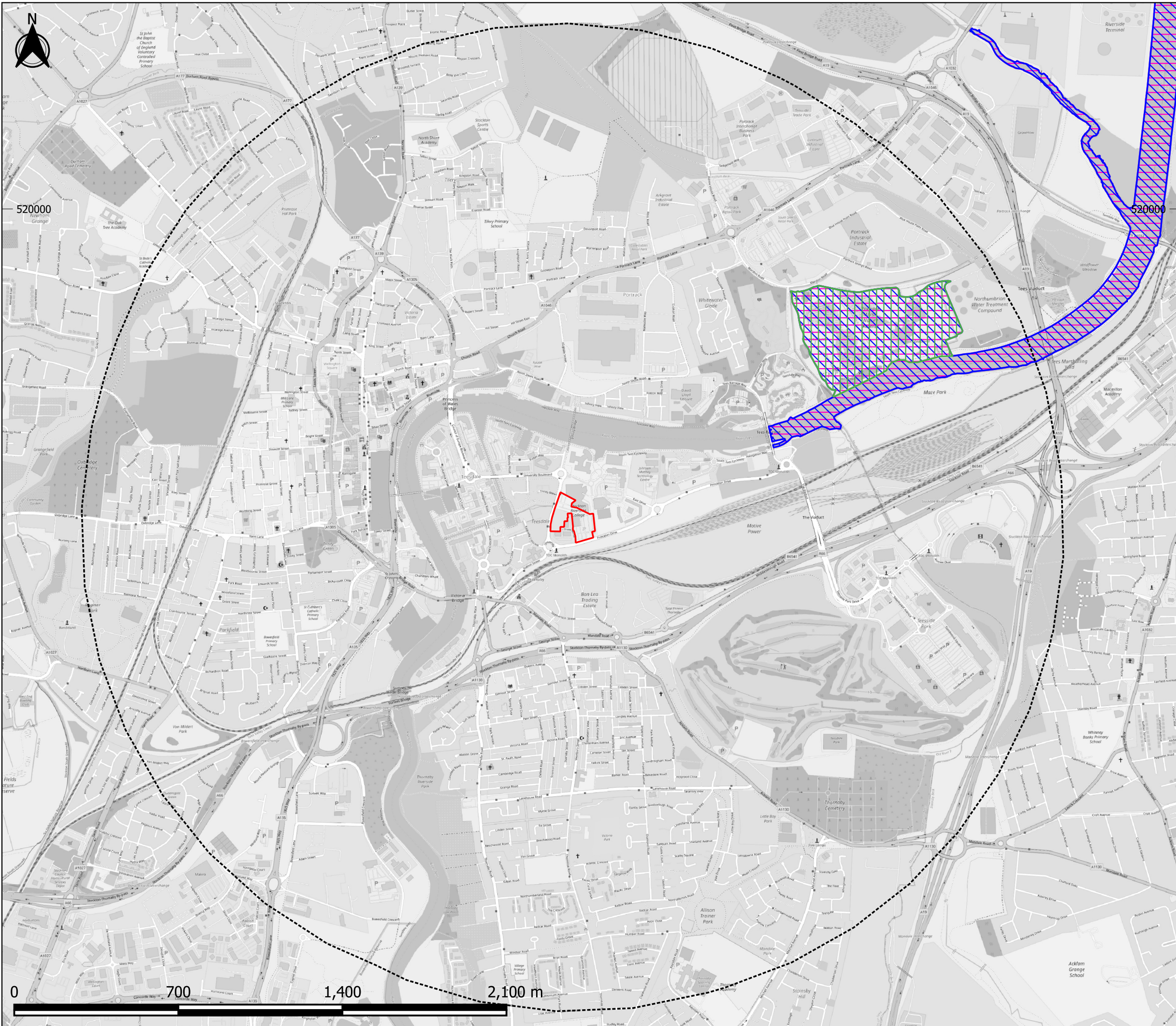
Figure 2: Statutory-designated sites

Figure 3: Non-statutory designated sites



Legend

- Existing Tree
- Intact hedge - species-poor
- Scrub - dense/continuous
- Improved grassland
- Built up areas inc. hardstanding
- Buildings
- Site boundary



- Legend
- Site boundary
  - 2000m Site buffer
  - Special Protection Areas
  - Sites of Special Scientific Interest
  - Proposed Ramsar Site

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PROJECT TITLE  
 NETA RELOCATION

DRAWING TITLE  
 Figure 2: Statutory Designated Sites

DATE: 01/11/2023      CHECKED: AM      SCALE: 1:15,500  
 DRAWN: AM      APPROVED: AM      VERSION:1.0

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No dimensions are to be scaled from this drawing and are to be checked on site.  
 Area measurements for indicative purposes only.

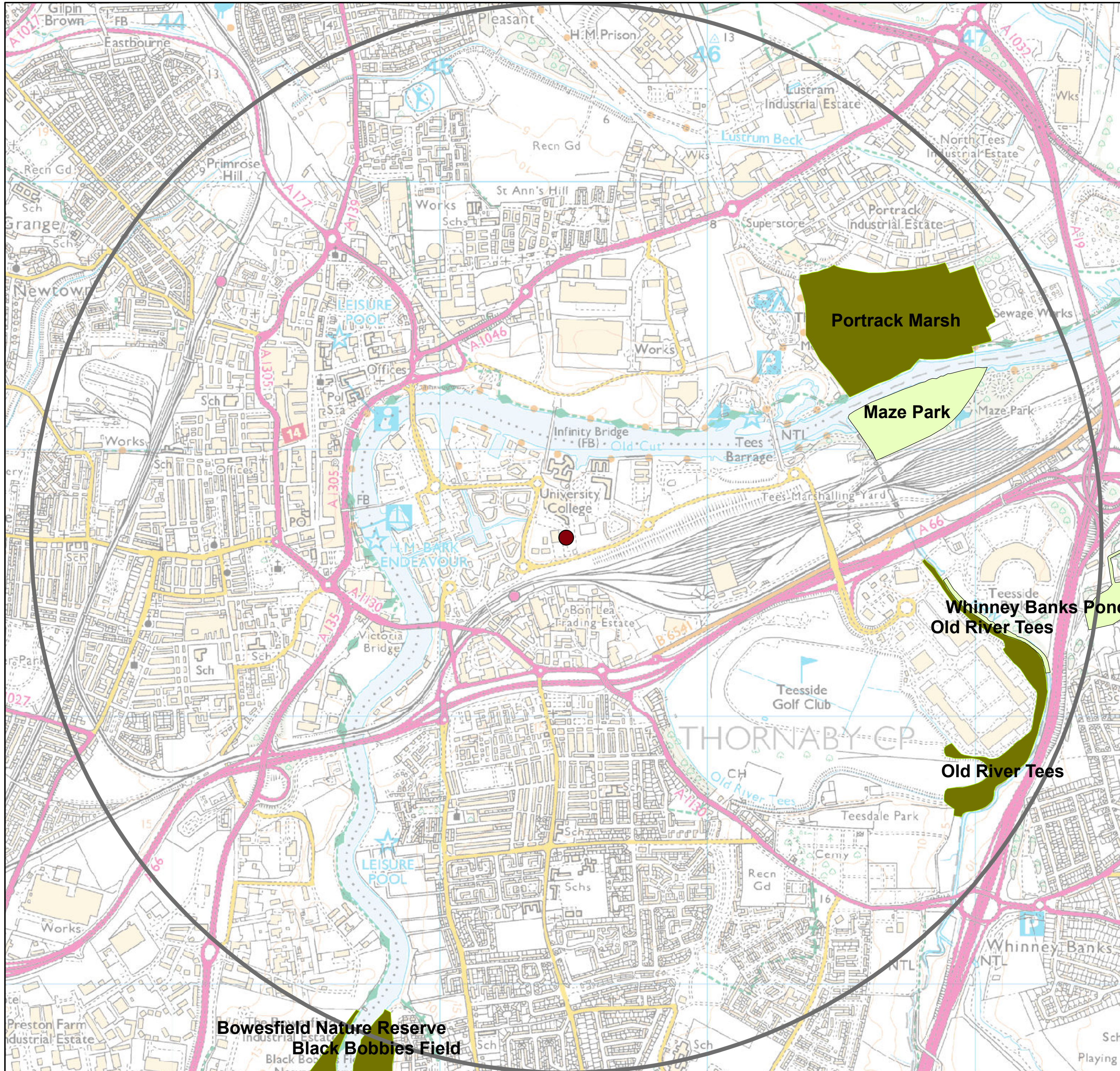
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**ECOLOGICAL DATA SEARCH -  
NON STATUTORY SITES**

**STOCKTON RIVERSIDE COLLEGE**

**BSG ECOLOGY**

**PLOT PRODUCED: 04 September 2023**

- NZ4547418667
- 2000m Search Area
- Middlesbrough Local Wildlife Sites
- Stockton Local Wildlife Sites

Produced by





**Environmental Records  
Information Centre  
North East**

**Great North Museum: Hancock  
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## Appendix 2: Photographs

|   |  |
|---|--|
| <p>Photo 1: Car park at the centre of the Site with H2 visible</p>                  | <p>Photo 2: Grassland G2</p>   |
|    |    |
| <p>Photo 3: Scrub Sc1</p>   | <p>Photo 4: Grassland G3</p>   |
|   |   |
| <p>Photo 5: Grassland G4 and hedgerow H5</p>  | <p>Photo 6: Grassland G3 and hedgerow H3</p>   |
|  |  |

|   |  |
|---|--|
| <p>Photo 7: Car park in the southern area of the Site and part of hedgerow H7</p> | <p>Photo 8: Hedgerow H6</p>  |
|  |  |

|  |   |
|--|---|
| <p>Photo 9: Hedgerow H7 viewed from the road to the south of the Site</p>          | <p>Photo 10: The north western end of Hedgerow H7</p>                               |
|  |  |
| <p>Photo 9: Hedgerow H7 viewed from the road to the south of the Site</p>          | <p>Photo 10: The north western end of Hedgerow H7</p>                               |

## Appendix 3: Legislation and Planning Policy

This section briefly summarises the legislation, policy and related issues that are relevant to the main text of the report. The following text does not constitute legal or planning advice.

### National Planning Policy Framework (England)

The Government issued the National Planning Policy Framework (NPPF) in July 2021. Text excerpts from the NPPF are shown where they may be relevant to planning applications and biodiversity including protected sites, habitats and species.

The Government sets out the three objectives for sustainable development (economy, social and environmental) at paragraphs 8-10 to be delivered through the plan preparation and implementation level and 'are not criteria against which every decision can or should be judged' (paragraph 9). The planning system's environmental objective is 'to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity...' (paragraph 8c).

In conserving and enhancing the natural environment, the NPPF (Paragraph 174) states that 'planning policies and decisions should contribute to and enhance the natural and local environment' by:

- Protecting and enhancing...sites of biodiversity value... '(in a manner commensurate with their statutory status or identified quality in the development plan)'.
  - Recognising the wider benefits from natural capital and ecosystem services including trees and woodland.
  - Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
  - Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

In respect of protected sites, at paragraph 175, the NPPF requires local planning authorities to distinguish, at the plan level, '...between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value...take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.' A footnote to paragraph 175 refers to the preferred use of agricultural land of poorer quality if significant development of agricultural land is to take place.

Paragraph 179 refers to how plans should aim to protect and enhance biodiversity. Plans should: 'identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity [a footnote refers to ODPM Circular 06/2005 for further guidance in respect of statutory obligations for biodiversity in the planning system], wildlife corridors and stepping stones that connect them and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation;' and to 'promote the conservation, restoration and re-creation 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 advises that, when determining planning applications, '...local planning authorities should apply the following principles:

- if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments) should not normally be permitted. 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;



- development resulting in the loss or deterioration of irreplaceable habitats, (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to 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.’

In paragraph 181, the following should be given the same protection as habitats sites:

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

In paragraph 182 the NPPF refers back to sustainable development in relation to appropriate assessment and states: ‘the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site’.

In paragraph 183, the NPPF refers to planning policies and decisions taking account of ground conditions and risks arising from land instability and contamination at sites. In relation to risks associated with land remediation account is to be taken of ‘potential impacts on the natural environment’ that arise from land remediation.

In paragraph 185 the NPPF states that planning policies and decisions should ensure that development is appropriate to the location and take into account likely effects (including cumulative) on the natural environment and, in doing so, they ‘should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation’ (paragraph 185c).

### **Government Circular ODPM 06/2005 Biodiversity and Geological Conservation (England only)**

Paragraph 98 of Government Circular 06/2005 advises that “the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult Natural England before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of the species. They should also advise developers that they must comply with any statutory species’ protection provisions affecting the site concerned...”

Paragraph 99 of Government Circular 06/2005<sup>4</sup> advises that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted”.

### **Standing Advice (GOV.UK - England only)**

The GOV.UK website provides information regarding protected species and sites in relation to development proposals: ‘Local planning authorities should take advice from Natural England or the Environment Agency about planning applications for developments that may affect protected species.’ GOV.UK advises that ‘some species have standing advice which you can use to help with planning decisions. For others you should contact Natural England or the Environment Agency for an individual response.’

<sup>4</sup> ODPM Circular 06/2005. *Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impacts within the Planning System* (2005). HMSO Norwich.

The standing advice (originally from Natural England and now held and updated on GOV.UK<sup>5</sup>) provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides advice on survey and mitigation requirements.

When determining an application for development that is covered by standing advice, in accordance with guidance in Government Circular 06/2005, Local planning authorities are required to take the standing advice into account. In paragraph 82 of the aforementioned Circular, it is stated that: 'The standing advice will be a material consideration in the determination of the planning application in the same way as any advice received from a statutory consultee...it is up to the planning authority to decide the weight to be attached to the standing advice, in the same way as it would decide the weight to be attached to a response from a statutory consultee.'

### **The Environment Act 2021**

The Environment Act includes the provision of mandatory biodiversity gain for developments in England; this will be mandated through an amendment to the Town and Country Planning Act 1990. The two-year transition period following Royal Assent (November 2021) means that mandatory biodiversity gain will become law in autumn 2023. This will require:

- The provision of a required percentage of biodiversity gain, currently set nationally to be at 10%
- The use of the national Defra Biodiversity Metric to calculate the biodiversity gain, currently Metric 3.1
- The provision of a biodiversity gain plan to demonstrate how biodiversity gain will be delivered on and or off-site; statutory instruments and regulations are in preparation by Defra and Natural England to provide templates for reporting
- Biodiversity gain will be secured for a fixed period, currently nationally set at 30 years
- Demonstration of how the biodiversity gain will be secured; conservation covenants will be used to deliver this which are in preparation by Defra and Natural England
- A national register of land used for biodiversity gain will be established; this will involve setting up a new biodiversity credits market, the approach for which is in preparation by Defra and Natural England

NB. The policy basis for net gain is already set out in the NPPF. During the transition period, we would expect local planning authorities to increasingly require the measures set out within the Environment Act as part of their development decision making process.

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

The Natural Environment and Rural Communities (NERC) Act came into force on 1st October 2006. Section 41 (S41) of the Act require the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England. The list has been drawn up in consultation with Natural England as required by the Act. In accordance with the Act the Secretary of State keeps this list under review and will publish a revised list if necessary, in consultation with Natural England.

The S41 list is used to guide decision-makers such as public bodies, including local authorities and utilities companies, in implementing their duty under Section 40 of the NERC Act 2006, to have regard to the conservation of biodiversity in England, when carrying out their normal functions, including development control and planning. This is commonly referred to as the 'Biodiversity Duty.'

Guidance for public authorities on implementing the Biodiversity Duty<sup>6</sup> has been published by Defra. One of the key messages in this document is that 'conserving biodiversity includes restoring and enhancing species populations and habitats, as well as protecting them.' In England the administration of the planning system and licensing schemes are highlighted as having a 'profound influence on biodiversity conservation.' Local authorities are required to take measures to "promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species. The guidance states that 'the duty aims to raise the profile and visibility of biodiversity, clarify existing commitments with regard to biodiversity, and to make it a natural and integral part of policy and decision making.'

<sup>5</sup> <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications#standing-advice-for-protected-species>

<sup>6</sup> Defra, 2007. *Guidance for Public Authorities on Implementing The Biodiversity Duty*. (<http://www.defra.gov.uk/publications/files/pb12585-pa-guid-english-070516.pdf>)

In 2007, the UK Biodiversity Action Plan (BAP) Partnership published an updated list of priority UK species and habitats covering terrestrial, freshwater and marine biodiversity to focus conservation action for rarer species and habitats in the UK. The UK Post-2010 Biodiversity Framework<sup>7</sup>, which covers the period from 2011 to 2020, now succeeds the UK BAP. The UK priority list contained 1150 species and 65 habitats requiring special protection and has been used as a reference to draw up the lists of species and habitats of principal importance in England.

In England, there are 56 habitats of principal importance and 943 species of principal importance on the S41 list. These are all the habitats and species found in England that were identified as requiring action in the UK BAP and which continue to be regarded as conservation priorities in the subsequent UK Post-2010 Biodiversity Framework.

### European protected species (Animals)

The Conservation of Habitats and Species Regulations 2017 (as amended) consolidates various amendments that have been made to the original (1994) Regulations which transposed the EC Habitats Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (Council Directive 92/43/EEC) into national law.

“European protected species” (EPS) of animal are those which are shown on Schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended). They are subject to the provisions of Regulation 43 of those Regulations. All EPS are also protected under the Wildlife and Countryside Act 1981 (as amended). Taken together, these pieces of legislation make it an offence to:

- a. Intentionally or deliberately capture, injure or kill any wild animal included amongst these species
- b. Possess or control any live or dead specimens or any part of, or anything derived from a these species
- c. deliberately disturb wild animals of any such species
- d. deliberately take or destroy the eggs of such an animal, or
- e. intentionally, deliberately or recklessly damage or destroy a breeding site or resting place of such an animal, or obstruct access to such a place

For the purposes of paragraph (c), 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.

Although the law provides strict protection to these species, it also allows this protection to be set aside (derogated) through the issuing of licences. The licences in England are currently determined by Natural England (NE) for development works and by Natural Resources Wales in Wales. In accordance with the requirements of the Regulations (2017, as amended), a licence can only be issued where the following requirements are satisfied:

- a. The proposal is necessary ‘to preserve 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’
- b. ‘There is no satisfactory alternative’
- c. The proposals ‘will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.’

<sup>7</sup> JNCC and Defra (on behalf of the Four Countries' Biodiversity Group). 2012. *UK Post-2010 Biodiversity Framework*. July 2012. (<http://jncc.defra.gov.uk/page-6189>)

## Stockton-on-Tees Borough Council – Local Plan

The Stockton-on-Tees Local Plan was published in 2019 and contains local policies for conserving and enhancing the natural and historic environment. Details from the Plan are shown below.

### **Policy ENV5 – Preserve, Protect and Enhance Ecological Networks, Biodiversity and Geodiversity**

- 5.1 The Council will protect and enhance the biodiversity and geological resources within the Borough. Development proposals will be supported where they enhance nature conservation and management, preserve the character of the natural environment and maximise opportunities for biodiversity and geological conservation particularly in or adjacent to Biodiversity Opportunity Areas in the River Tees Corridor, Teesmouth and Central Farmland Landscape Areas.
- 5.2 The Council will preserve, restore and re-create priority habitats alongside the protection and recovery of priority species.
- 5.3 Ecological networks and wildlife corridors will be protected, enhanced and extended. A principal aim will be to link sites of biodiversity importance by avoiding or repairing the fragmentation and isolation of natural habitats.
- 5.4 Sites designated for nature or geological conservation will be protected and, where appropriate enhanced, taking into account the following hierarchy and considerations:
- a. Internationally designated sites – Development that is not directly connected with or necessary to the management of the site, but which is likely to have a significant effect on any internationally designated site, irrespective of its location and when considered both alone and in combination with other plans and projects, will be subject to an Appropriate Assessment. Development requiring Appropriate Assessment will only be allowed where:
    - i. It can be determined through Appropriate Assessment, taking into account mitigation, the proposal would not result in adverse effects on the site's integrity, either alone or in combination with other plans or projects; or*
    - ii. as a last resort, where, in light of negative Appropriate Assessment there are no alternatives and the development is of overriding public interest, appropriate compensatory measures must be secured.*
  - b. Nationally designated sites - Development that is likely to have an adverse effect on a site, including broader impacts on the national network of Sites of Special Scientific Interest (SSSI) and combined effects with other development, will not normally be allowed. Where an adverse effect on the site's notified interest features is likely, a development will only be allowed where:
    - i. the benefits of the development, at this site, clearly outweigh both any adverse impact on the sites notified interest features, and any broader impacts on the national network of SSSI's;*
    - ii. no reasonable alternatives are available; and*
    - iii. mitigation, or where necessary compensation, is provided for the impact.*
  - c. Locally designated sites: Development that would have an adverse effect on a site(s) will not be permitted unless the benefits of the development clearly outweigh the harm to the conservation interest of the site and no reasonable alternatives are available. All options should be explored for retaining the most valuable parts of the sites interest as part of the development proposal with particular consideration given to conserving irreplaceable features or habitats, and those that cannot readily be recreated within a reasonably short timescale, for example ancient woodland and geological formations. Where development on a site is approved, mitigation or where necessary, compensatory measures, will be required in order to make development acceptable in planning terms.
- 5.5 Development proposals should seek to achieve net gains in biodiversity wherever possible. It will be important for biodiversity and geodiversity to be considered at an early stage in the design process so that harm can be avoided and wherever possible enhancement achieved (this will be of particular importance in the redevelopment of previously developed land where areas of biodiversity should be retained and recreated alongside any remediation of any identified contamination). Detrimental impacts of development on biodiversity and geodiversity, whether individual or cumulative should be

avoided. Where this is not possible, mitigation and lastly compensation, must be provided as appropriate. The Council will consider the potential for a strategic approach to biodiversity offsetting in conjunction with the Tees Valley Local Nature Partnership and in line with the above hierarchy.

- 5.6 When proposing habitat creation it will be important to consider existing habitats and species as well as opportunities identified in the relevant Biodiversity Opportunity Areas. This will assist in ensuring proposals accord with the 'landscape scale' approach and support ecological networks.
- 5.7 Existing trees, woodlands and hedgerows which are important to the character and appearance of the local area or are of nature conservation value will be protected wherever possible. Where loss is unavoidable, replacement of appropriate scale and species will be sought on site, where practicable.

### Definition of breeding sites and resting places

Guidance for all European Protected Species of animal, including bats and great crested newt, regarding the definition of breeding and of breeding and resting places is provided by The European Council (EC) which has prepared specific guidance in respect of the interpretation of various Articles of the EC Habitats Directive.<sup>8</sup> Section II.3.4.b) provides definitions and examples of both breeding and resting places at paragraphs 57 and 59 respectively. This guidance states that 'The provision in Article 12(1)(d) [of the EC Habitats Directive] should therefore be understood as aiming to safeguard the ecological functionality of breeding sites and resting places.' Further the guidance states: 'It thus follows from Article 12(1)(d) that such breeding sites and resting places also need to be protected when they are not being used, but where there is a reasonably high probability that the species concerned will return to these sites and places. If for example a certain cave is used every year by a number of bats for hibernation (because the species has the habit of returning to the same winter roost every year), the functionality of this cave as a hibernating site should be protected in summer as well so that the bats can re-use it in winter. On the other hand, if a certain cave is used only occasionally for breeding or resting purposes, it is very likely that the site does not qualify as a breeding site or resting place.'

### Birds

All nesting birds are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) which makes it an offence to intentionally kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs. In addition to this, for some rarer species (listed on Schedule 1 of the Act), it is an offence to disturb them whilst they are nest building or at or near a nest with eggs or young, or to disturb the dependent young of such a bird.

The Conservation of Habitats and Species Regulations 2017 (as amended) places duties on competent authorities (including Local Authorities and National Park Authorities) in relation to wild bird habitat. These provisions relate back to Articles 1, 2 and 3 of the EC Directive on the conservation of wild birds (2009/147/EC, 'Birds Directive'<sup>9</sup>) (Regulation 10 (3)) requires that the objective is the 'preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom, including by means of the upkeep, management and creation of such habitat, as appropriate, having regard to the requirements of Article 2 of the new Wild Birds Directive...' Regulation 10 (7) states: 'In considering which measures may be appropriate for the purpose of security or contributing to the objective in [Regulation 10 (3)] Paragraph 3, appropriate account must be taken of economic and recreational requirements'.

In relation to the duties placed on competent authorities under the 2017 Regulations, Regulation 10 (8) states: 'So far as lies within their powers, a competent authority in exercising any function [including in relation to town and country planning] in or in relation to the United Kingdom must use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds (except habitats beyond the outer limits of the area to which the new Wild Birds Directive applies).'

### Water vole

Water vole is protected under the Wildlife and Countryside Act 1981 (as amended). This makes it an offence to kill, injure or take any water vole, damage, destroy or obstruct access to any place of shelter or protection that the animals are using, or disturb voles while they are using such a place. Water vole is listed as a Species

<sup>8</sup> Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC. (February 2007), EC.

<sup>9</sup> 2009/147/EC Birds Directive (30 November 2009. European Parliament and the Council of the European Union.

of Principal Importance under the provisions of the NERC Act 2006 in England and under the provisions of the Environment (Wales) Act 2016.

**Invasive non-native species**

An invasive non-native species is any non-native animal or plant that has the ability to spread causing damage to the environment.

Under the Wildlife and Countryside Act 1981 (as amended) it is an offence to release, or to allow to escape into the wild, any animal which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state or is listed under Schedule 9 of the Act.

It is an offence to plant or otherwise cause to grow in the wild invasive non-native plants listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended).