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West Pier, Scarborough, North Yorkshire

PRELIMINARY ECOLOGICAL APPRAISAL

February 2023

	Staff Member	Position
Habitat Survey and Preliminary Ecological Appraisal :	Chris Toohie MSc MCIEEM Daniel Lombard BSc MCIEEM	Ecologist
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DOCUMENT CHECKING

Issue No.	Date .	Status .	Verified by.
1	01/03/2023	Draft for internal review.	Chris Toohie MSc MCIEEM
2	13/06/2023	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 2022, Wold Ecology was commissioned by Scarborough Borough Council to undertake an extended phase 1 habitat survey and a preliminary ecological appraisal on the West Pier (national grid reference TA 04788 88678) in Scarborough, 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 hard standing and buildings located in coastal urban environment.
- 1.4 The proposed development involves renovation of existing buildings, demolition of two buildings, two new builds and Public Realm.
- 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:

		Application Site Status
Bat Activity Surveys Required - Buildings 3, 4 and 6	Bats	Additional bat activity survey work between May and August will be required to determine the impact on bat populations. The bat activity surveys should target buildings 3, 4 and 6. The recommended bat activity surveys will follow survey methods detailed in the Bat Surveys for Professional Ecologists –3rd Edition.
Proceed with caution, timing constraints	Birds	The site is suitable for nesting birds with various designations. Any buildings 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.
Proceed with caution	Working adjacent to watercourses	Potential discharge of foul water into the adjacent harbour should be addressed by Land Drainage Consultant. A working adjacent to watercourses method statement is included in section 9.0.
No ecological constraints.	Invasive non-native species	No invasive species recorded on site.
	Great crested newt	No further surveys recommended.
	Reptiles	
	Habitats	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.

- 1.6 This report is valid until **August 2024**. 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 2022, Wold Ecology was commissioned by Scarborough Borough Council to undertake an extended phase 1 habitat survey and a preliminary ecological appraisal on the West Pier (national grid reference TA 04788 88678) in Scarborough, 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 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.
 - 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.
 - c) Protect and enhance 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).
 - d) recognise 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.
 - e) Minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
 - f) Prevent 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.
- 2.4 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.
 - 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 incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 2.5 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.
- 2.6 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).
- 2.7 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.
- 2.8 The LPA has to assess whether the development proposal would breach Article 12(1) of the Habitats Directive. If Article 12(1) would be breached, 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'.
- 2.9 Relevant Case Law
- Woolley v Cheshire East Borough (2009).
R. (Morge) v Hampshire County Council (2011).
Prideaux v. Buckinghamshire County Council and Fcc Environmental UK Limited (2013).
- 2.9.1 The rulings summarise that if it is clear or perhaps very likely that the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable 'other imperative reasons of over-riding public interest' then the authority should act on that and refuse permission.'

- 2.9.2 The conclusion of the judgement is that LPAs must ensure that the option/alternative that best takes into account all the relevant considerations (not just EPS) should be the preferred option assuming that the other two tests specified in Article 16 (1) are also met.
- 2.9.3 The judgements also clarified that it was not sufficient for planning authorities to claim that they had discharged their duties by imposing a condition on a consent that requires the developer to obtain a licence from Natural England. Natural England considers it essential that appropriate survey information supports a planning application prior to the determination. Natural England does not regard the conditioning of surveys to a planning consent as an appropriate use of conditions.
- 2.10 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 phase 1 habitat survey.
Preliminary ecological appraisal.
- 2.11 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.
- 2.12 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.
- 2.13 Consultation with the planning ecologists for Hull City Council, Ryedale District Council and East Riding of Yorkshire Council (July 2020) 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 400 Preliminary Ecological Appraisals between 2015 and 2022 for similar sites and schemes; this report format and content within has been accepted by Local Authority 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.
- 2.14 Where further ecological surveys have been recommended, the impact assessment will be included within those specific reports.
- 2.15 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.

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.
 - Arboricultural Surveys.
 - Ecological Construction Method Statements and Ecological Enhancements Plans.
 - Ecological Clerk of Works.
- 3.3 Wold Ecology is committed to working towards the conservation of our natural heritage. Wold Ecology support The Wolds Barn Owl Study Group, Driffeld Millennium Green, Filey Bird Observatory, Cornfield Project (Ryedale Folk Museum), Butterfly Conservation (Yorkshire Branch) and RSPB projects with volunteer staff time and financial resources. Wold Ecology has adopted an important site for nature conservation on Flamborough Head.
- 3.4 Wold Ecology is an Associate Member of the RSPB and Corporate Member of the Bat Conservation Trust.
- 3.5 Surveyor Profile –Daniel Lombard B Sc., MCIEEM.
- 3.5.1 Job title: Senior Field Ecologist.
- 3.5.2 Expertise.
- Phase 1 habitat field surveys and biodiversity assessments including BREEAM assessments.
 - Bat surveys, bat ecology, bats and wind turbine assessments, bat sound analysis and monitoring.
 - Great crested newt and reptile surveys.
 - Mammal surveys including water vole, otter, and badger.
 - Ornithological surveys including bird ringing (ringing officer at Filey Bird Observatory).
 - Invertebrates studies, principally Lepidoptera, Odonata, Coleoptera and Diptera plus habitat management/creation for these groups.
 - Management planning, pond, and wetland management.
- 3.5.3 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

- 3.5.4 Professional Membership.
Full member of the Chartered Institute of Ecology and Environmental Management.
- 3.6 A detailed surveyor profile is included in Appendix 5.
- 3.7 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).
- 3.8 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 A field survey was undertaken at the Application Site on 27th January 2022 and 2nd February 2023. During the site visit, the whole of the Application Site and accessible neighbouring land was examined in detail.

Survey	Date	Wind Speed	Wind Direction	Temperature		Rainfall	Cloud Cover
				Start	Finish		
Field	27/01/2022	5mph	SW	10°C	10°C	None	10%
Field	02/02/2023	Still	-	6°C	6°C	None	50%

- 4.2 The habitats within the Application Site were mapped (see Appendix 2) according to the techniques described in the publication *Handbook for Phase 1 Habitat Survey* (JNCC 2010). The CIEEM ‘Guidelines for Preliminary Ecological Appraisal - Second Edition’ (December 2017) state that this is an appropriate habitat classification system.
- 4.3 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.
- 4.4 Sufficient detail on the composition of the vegetation was obtained from the field survey, which enabled it to be successfully characterised and assessed.
- 4.5 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.
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).

- 4.6 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 phase 1 habitat 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 However, a phase 1 habitat 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 DESKTOP STUDY

6.1 General description

6.1.1 The Application Site is located on the eastern coastal edge of Scarborough town, in an urban seaside location. The Application Site is less than 1ha and is immediately surrounded by seashore, residential dwellings, fishing units, commercial units, retail outlets, businesses and a harbour including well-lit and heavily disturbed infrastructure.

6.1.2 Terrestrial habitats within 2km surrounding Scarborough West Pier is primarily urban habitat dominated by buildings and roads. Additionally, coastal habitat including sandy beaches, harbour and open inshore water is present albeit in a relatively exposed location. Woodland cover within 2km is limited and occurs as small areas of tree cover associated with Scarborough Castle Headland. Terrestrial habitat connectivity from the Application Site is poor, although the coastal location provides dispersal opportunities for some species.

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

- Buildings –business, retail, fishing, and residential properties
- Scarborough Castle
- Hedgerow
- Mature trees and woodland
- Oliver's Mount Plantation
- Arable
- Mature private gardens
- Ponds and watercourses
- Grazed pasture
- The North Sea Coastline

6.2 Desktop Study.

6.2.1 Natural England, the North & East Yorkshire Ecological Data Centre (NEYEDC), 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 International Designated Sites

6.2.3.1 There are no International Designated Sites within 2 km of the Application Site.

6.2.4 Nationally Designated Sites

6.2.4.1 The following National Designated Sites lie within 2 km of the Application Site (see figure 1):

Designation	Name or location of site	Grid reference in relation to the search area
SSSI	North Bay to South Toll House Cliff	TA049894
SSSI	Cayton, Cornelian, and South Bays	TA049872

6.2.4.2 North Bay to South Toll House Cliff SSSI is described by Natural England as:

The site comprises both cliff and foreshore exposures which together demonstrate a remarkably complete succession through the Callovian Stage and the Lower Oxfordian Substage.

The lowest Callovian rocks exposed are the limestones of the Abbotsbury Cornbrash Formation (=“Upper Cornbrash” of authors) which have historically yielded a rich molluscan fauna, including age-diagnostic ammonites (Herveyi Zone, Lower Callovian). The overlying Cayton Clay Formation (=“Shales-of-the-Cornbrash” of authors) is rarely seen but traces can occasionally be found on the foreshore on the north-west side of Castle Hill.

The Cayton Bay Formation is succeeded by the sandstones and chamosite-oolites of the Osgodby Formation. The steep cliff below Queens Parade demonstrates a full sequence of the formation including the component Redcliff Rock (= “Kellaways Rock” of authors), Langdale and Hackness Rock members. Foundered blocks on the foreshore north-west of Castle Hill allow the characteristic lithologies of the Redcliff Rock and Langdale members to be examined. The former have yielded age diagnostic ammonites indicating the Koenigi Zone (Lower Callovian); the latter are of presumed Coronatum Zone (Middle Callovian) age.

The Hackness Rock Member is best examined at the southern extremity of the site (South Toll House Cliff) and on the foreshore below the northern tip of Castle Hill. Historically the Hackness Rock of Scarborough has been a rich source of ammonites including the type specimens of several nominal species. Faunas present indicate both the Athleta Zone and the Lamberti Zone (Upper Callovian).

The Osgodby Formation is succeeded by the silty mud rocks of the Upper Oxford Clay which are well exposed in the lower part of Castle Cliff. Many ammonites have been obtained from near the base of Upper Oxford Clay

around Castle Hill and probably include the type specimen of the aptly named *Cardioceras Scarburgiceras scarburgense* (Young & Bird 1828). The fauna indicates the Mariae Zone (Lower Oxfordian).

Scarborough Castle Hill is capped by sandstones and limestones of the Corallian Group which overlie the Upper Oxford Clay. Various levels in the succession are accessible along the base of the cliff north of the archway below Scarborough Castle. The Lower Calcareous Grit Formation (Tenant's Cliff Member and Saintoft Member) is well developed and overlain by the Passage Beds and Hambleton Oolite members of the Coralline Oolite Formation. Certain levels in the Corallian Group have yielded important shelly faunas including ammonites indicating the *Cordatium* Zone (Lower Oxfordian) and *Thalassinoides* –type burrows are often prominent in fallen blocks.

The superb exposure of a remarkably complete and accessible Callovian to Lower Oxfordian sequence have made the cliffs and foreshore exposures of Castle Hill a classic geological locality. The site has great educational potential and is invaluable as a lithostratigraphical reference section

6.2.4.3 Cayton, Cornelian, and South Bays is described by Natural England as:

The cliffs of Cayton and Cornelian Bays support areas of species-rich grassland and semi natural woodland in association with frequent springs and open pools. The bare and eroding boulder clay on the more unstable areas of the cliff also support a rich invertebrate fauna. Cornelian Bay and the northern half of Cayton Bay were planted with sycamore *Acer pseudoplatanus*, wych elm *Ulmus glabra* and ash *Fraxinus excelsior* in the last century but tree species thought to be native to the site, alder *Alnus glutinosa* and willow *Salix alba*, are still abundant by springs and damp hollows in the woods. Around the edge of the woodland and in the southern portion of the site semi-natural grassland and scrub are prominent. On the plateau at Tenants' Cliff there are open pools in which the locally scarce tubular water-dropwort *Oenanthe fistulosa* grows, and in damp areas grass of *Parnassus Parnassia palustris* and marsh arrowgrass *Triglochin palustris* occur. Here the grassland is rank and contains abundant scrub of hawthorn *Crataegus monogyna*, elder *Sambucus nigra* and gorse *Ulex europaeus*. The most species-rich grassland has common spotted-orchid *Dactylorhiza fuchsii*, twayblade *Listera ovata*, glaucous sedge *Carex flacca*, cowslip *Primula veris* and pignut *Conopodium majus* and occurs on the steep slopes extending down to the beach. Kidney vetch *Anthyllis vulneraria* is abundant on the sea-cliff.

The woodland flora includes opposite-leaved saxifrage *Chrysosplenium oppositifolium*, polypody *Polypodium vulgare* and hart's-tongue fern *Phyllitis scolopendrium*.

The Cayton and Cornelian Bay area is believed to have the richest invertebrate fauna of ground beetles and soldier flies associated with soft-rock cliffs in the whole of Northern England. Assemblages include those associated with cliff seepages and wet grassland, and also species associated with the bare earth and seasonal accumulation of dislodged boulder clay blocks at the foot of the unstable cliffs. Naturally disturbed, open wetland habitats of this type are generally scarce in lowland areas. Significant species include the nationally scarce shore ground beetle *Nebria livida* and a high diversity of ground beetles of the genus *Bembidion*, including the nationally scarce *B. saxatile* and the local species *Pterostichus macer* at its second most northern location in Britain. Seepages on the cliff grasslands supports

populations of local soldier flies Stratiomyidae, as well as the nationally scarce weevil Grypidius equiseti.

During the winter months, the intertidal areas support purple sandpiper and turnstone in nationally significant numbers.

6.2.4.5 The Nationally Designated Sites are located over 300m from the Application Site. Consequently, the impact to the Nationally Designated Site is considered to be negligible.

6.2.5 Locally Designated Sites

6.2.5.1 The following locally designated sites lie within 2 km of the Application Site (see figure 2):

6.2.5.1.1 North Yorkshire Site of Importance for Nature Conservation

Site Name	Site Ref	Grid Reference	Status
Castle Dyke	TA08-08	TA049889	SINC
Oliver's Mount	TA08-22	TA038870	SINC
Orchid Terrace	TA09-08	TA036900	SINC
South Cliff Grasslands	TA08-14	TA047872	SINC
Wheatcroft Cliff and South Bay	TA08-24	TA049869	Deleted SINC

6.2.5.2 The Locally Designated 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 SINC which is greater than 300 metres. Consequently, the impact to Locally Designated Sites is considered to be negligible.

6.2.6 Natural England Habitat Inventories

6.2.6.1 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 3).

Ancient Woodland Inventory

published July 2013, revised January 2020

There are no woodlands identified on the Ancient Woodland Inventory in or partly within the search area.

Priority Habitat Inventory

published August 2017

The following areas of priority habitat are in or partly within the search area and are shown on the accompanying map

Habitat type	Location description
Maritime cliff and slope	Castle Cliff and towards the south of the search area at Black Rocks.
Deciduous woodland	Several polygons throughout the search area, mostly close to Cemy, and a small amount on Castle Cliff.
Lowland calcareous grassland	Small group of polygons at TA048871, near Black Rocks.
Lowland dry acid grassland	Two small areas at TA038870.
Mudflats	Within the Old and East Harbours, TA050887.

6.2.6.2 The Natural England Priority Habitats will not be impacted on due to the small-scale nature of the proposed development on existing developed land and the distance between the Application Site and the notable habitat, which is greater than 100 metres. Consequently, the impact to the Natural England Priority Habitat is considered to be negligible.

Figure 1.

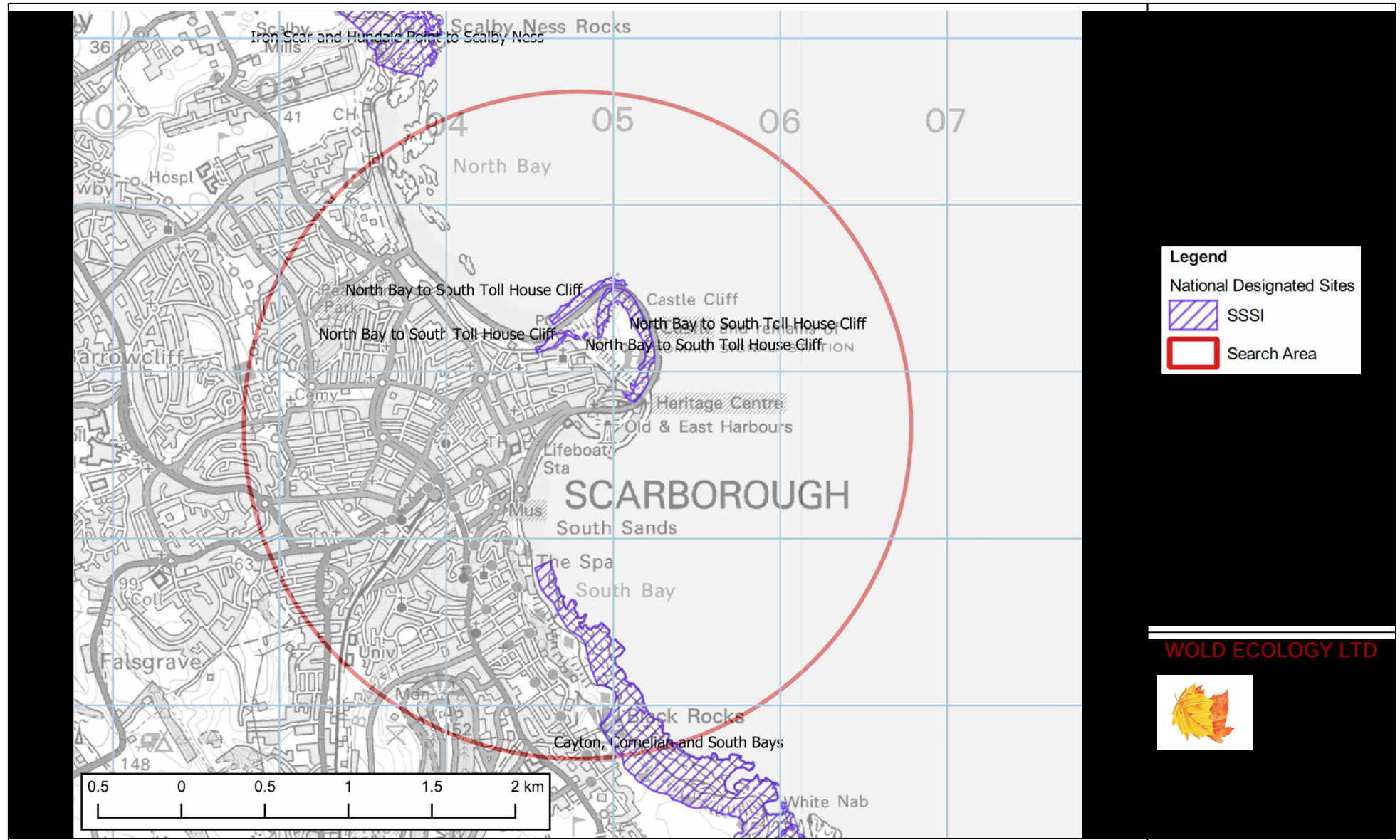
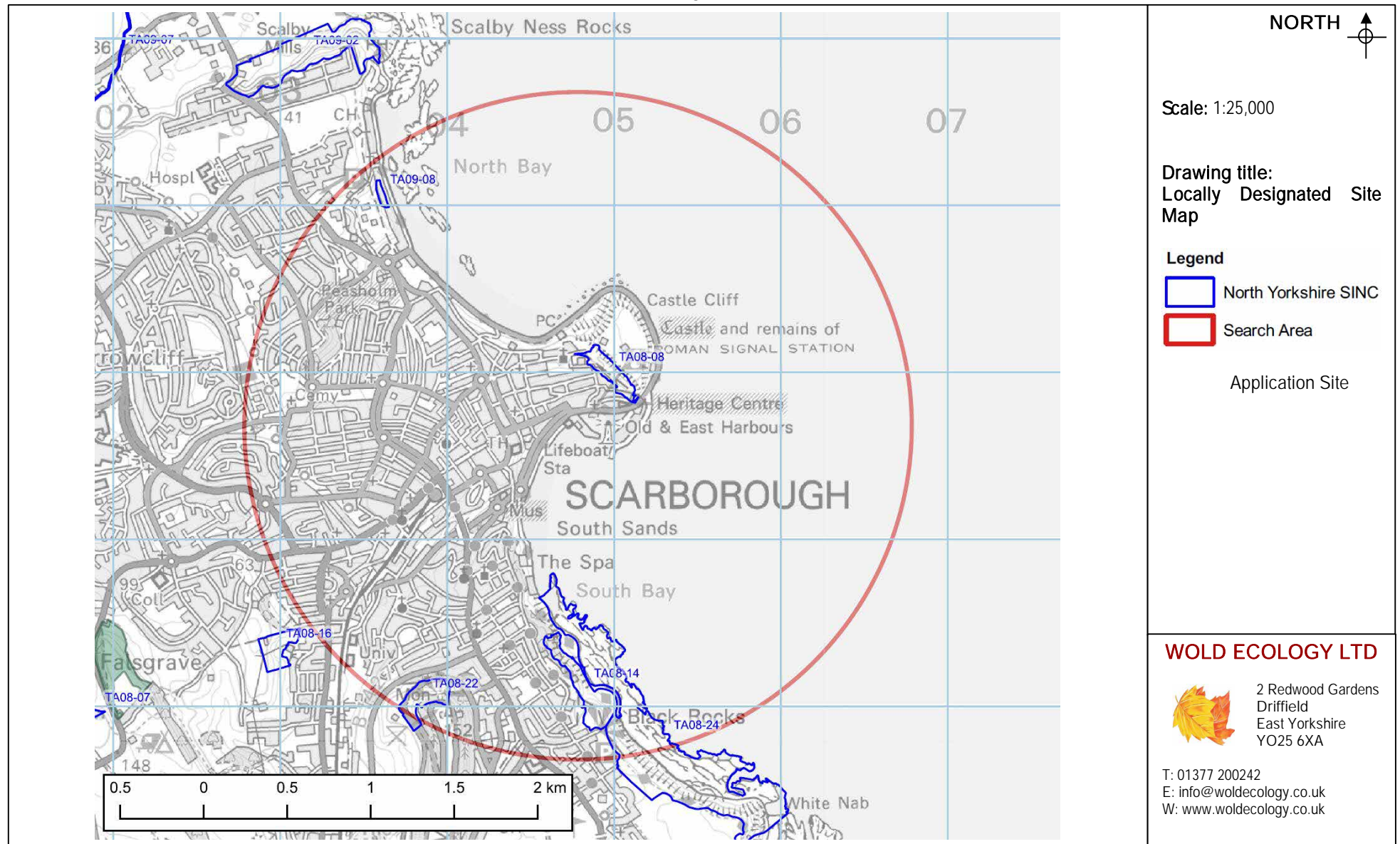



Figure 2.





NORTH 

Scale: 1:25,000

Drawing title:
Locally Designated Site
Map

Legend

-  North Yorkshire SINC
-  Search Area

Application Site

WOLD ECOLOGY LTD



2 Redwood Gardens
Driffield
East Yorkshire
YO25 6XA

T: 01377 200242
E: info@woldecology.co.uk
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Figure 3.



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 25 The North York Moors and Cleveland Hills and is summarised below:
- 6.3.3.1 The North York Moors and Cleveland Hills National Character Area (NCA) comprises a well-defined upland area, rising from the Tees Lowlands to the north, the Vale of Mowbray and Howardian Hills to the west and the Vale of Pickering to the south. To the east it is bordered by the North Sea, the extensive stretches of high coastal cliffs exposing the geology that shaped these uplands. Some 85 per cent of the area falls within the North York Moors National Park.
- 6.3.3.2 The North York Moors and Cleveland Hills are an elevated upland of sandstone geology, incised by valleys, which features the largest continuous expanse of upland heather moorland in England, internationally recognised for its important habitats and the moorland bird population it supports. The expansive, largely treeless, central moorland plateau contrasts strongly with the enclosed valleys; some are narrow and wooded, while others such as the Esk are wider, with an upland landscape of walled and hedged pastures. Over 25 per cent of the area is semi-natural moorland habitat (upland heathland and blanket bog), much of which is designated as Sites of Special Scientific Interest, and the area has about 21 per cent woodland cover (mostly located to the south-west and south-east). It is largely unpopulated, with scattered farmsteads and small villages, and the main population centres lie along the coast and southern edge.
- 6.3.3.3 A substantial part of the area forms the North York Moors National Park, with both its natural and cultural heritage shaping a distinctive sense of place, drawing many visitors from afar. Sustainably managed uplands provide many ecosystem services of benefit to the wider area. These services include storing carbon in soils, preventing its loss to the air and water; holding rainfall in these wetland habitats and other vegetation, slowing its journey to major rivers and thence regulating flow through more densely populated areas vulnerable to river flooding; providing an expansive, open landscape, long views and a sense of remoteness.
- 6.3.3.4 Providing functioning ecosystems and preventing fragmentation of habitats presents a real challenge, particularly in the face of environmental change, as we increasingly depend on a resilient landscape supported by sustainable land management practices. There are opportunities here to strengthen the networks of semi-natural habitats, particularly wetlands, native woodland and species rich grassland, enhancing their regulation of natural processes and provision of the

public benefits mentioned. At the coast the dynamic processes of erosion and accretion can be accommodated, thus creating a more resilient natural environment that is capable of both ameliorating and adapting to climate change. Sustainable management of these natural resources will ensure that the landscape continues to provide food, clean water, energy, and inspiration and enjoyment to people locally, regionally and beyond.

6.3.3.4 The following Statements of Environmental Opportunities (SEO) are relevant to the Application Site:

SEO 2: Conserve, enhance and promote the special qualities of the coast, inshore waters and sheltered harbours allowing the operation of natural coastal processes, the creation of new habitats. Manage the development and recreational needs of coastal settlements and secure a sustainable future for communities that are dependent on inshore fisheries.

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



6.4.2 Bats

Currently, there is no pre-existing information on bats at the site.

There are records of brown long-eared bat *Plecotus auritus*, Daubenton's bat *Myotis daubentonii*, whiskered bat *Myotis mystacinus*, soprano pipistrelle *Pipistrellus pygmaeus* and common pipistrelle *Pipistrellus pipistrellus* within the surrounding 5km radius of the Application Site. (source –NEYEDC 2022 and Wold Ecology network pers comm). Wold Ecology bat records date from 2006 and include over 1000 bat activity surveys.

There are no known Natural England development licenses relating to bats within 1km of the Application Site (source –www.magic.gov.uk).

Wold Ecology have recorded the following bat roosts within 2km of the Application Site:

Date	Taxon Name	Common Name	Location	County	Grid reference	Record Type	Abundance
June 2018	Pipistrellus pipistrellus	Common Pipistrelle	Bramcote pavilion, Scarborough	N. Yorkshire	TA 04448 87193	Day	1

6.4.3 Great crested newts

Great crested newt *Triturus cristatus* is recorded within the surrounding 2km radius with records at:

Location	Distance from site	Direction
Northstead Manor Gardens	1.67km	NW
source –NEYEDC 2022 and Wold Ecology network pers comm		

There are no great crested newt Natural England development licenses within 1km of the Application Site (source –www.magic.gov.uk).

- 6.4.4 Water vole
There are no modern water vole *Arvicola amphibious* records within 2km of the Application Site (>40 years old) (source –NEYEDC 2022 and Wold Ecology network pers comm).
- 6.4.5 Otter
Otter *Lutra lutra* is recorded within the surrounding 2km radius with occasional records in Scarborough Harbour (source - Wold Ecology network pers comm).
- 6.4.6 Reptiles
There are no modern reptile records within 2km of the Application Site (>40 years old) (source –NEYEDC 2022 and Wold Ecology network pers comm).

7.0 PHASE 1 FIELD SURVEY RESULTS

7.1 The following habitat types were recorded within the Application Site:

Phase 1 Habitat Classification	JNCC Reference Code
Buildings	J3.6
Bare ground	J4

7.2 Buildings

7.2.1 The following buildings are present within the Application Site:

- a. *Building 1* - is two storeys and comprises brick walls and a pitched roof covered with rosemary tiles. The roof is supported by smooth sawn timbers and is partially lined with a breathable membrane; part of the roof was replaced during 2022. The building is used as offices and a public toilet.
- b. *Building 2 (see target note 1)* – is two storeys and comprises brick walls and a pitched roof covered with rosemary tiles. The roof is supported by smooth sawn timbers and is not lined. The building is used for offices, retail, storage and seafood processing.
- c. *Building 3 (see target note 2)* – is two storeys and comprises brick walls and a pitched roof covered with flat concrete tiles. The building is used for offices, retail, a café, storage and seafood processing.
- d. *Building 4 (see target note 3)* – is single storey and comprises brick walls with steel cladding and a pitched roof covered with corrugated pressed steel; a small section of building has a flat roof covered in asphalt. The building is used for seafood processing.
- e. *Building 5 (see target note 5)* – is two storeys and comprises brick walls and a pitched roof covered with flat concrete tiles. The building is used offices and for storage.
- f. *Building 6* – is single storey and comprises brick walls and a mono pitched roof covered with asphalt. The roof is supported by smooth sawn timbers and is not lined. The building is used as food stalls.

7.3 Bare ground

7.3.1 Bare ground habitats within the Application Site consist of pathways, roads, storage areas and parking areas. They comprise almost exclusively of concrete and tarmac with smaller areas of paving. These form a pier which has concrete seawalls as well as sections comprising steel pilings. These habitats have been colonised by an ephemeral/short perennial vegetation community through a lack of disturbance, especially in marginal areas.

7.3.2 Species observed included broad-leaved dock *Rumex obtusifolius*, annual meadow grass *Poa annua*, groundsel *Senecio vulgaris*, sea pearlwort *Sagina maritima*, procumbent pearlwort *Sagina procumbens*, ivy-leaved toadflax *Cymbalaria muralis*, biting stonecrop *Sedum acre*, dandelion *Taxacrum officinale agg.*, red valerian *Centranthus ruber* and smooth sow thistle *Sonchus oleraceus*. Locally, harts-tongue fern *A splegium scolopendrium* and stunted male fern *Dryopteris filix-mas* grow adjacent to blocked gutters associated with buildings.

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

House sparrow	<i>Passer domesticus</i>
Feral pigeon	<i>Columba livia</i>

Herring gull	<i>Larus argentatus</i>
Great black-backed gull	<i>Larus marinus</i>
Turnstone	<i>Arenaria interpres</i>
Great northern diver	<i>Gavia immer</i>
Red-throated diver	<i>Gavia stellata</i>
Sea slater	<i>Ligia oceanica</i>

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
██████████
Reptiles
Birds

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 41 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 buildings had any signs of occupancy and/or bat usage. This took the form of a methodical search, both internally and externally, for actual roosting bats and their signs. Specifically, the visual survey involved the following:

8.2.2.3 Buildings

Assessment for droppings on walls, windowsills and in roof spaces
Scratch marks and staining on beams, other internal structures and potential entrance and exit holes
Assessment for droppings on walls and windowsills
Scratch marks, staining and potential entrance and exit holes

The presence of dense spider webs at a potential roost can often indicate absence of bats

Assessment of crevices and cracks in the buildings to assess their importance for roosting bats

8.2.3 Field Survey Results

8.2.3.1 Following the visual inspection, an assessment was made of the buildings suitability to support roosting bats.

8.2.3.2 **Building 1** - no roosting opportunities were present within the fabric of the building due to the following:

During the 2022 survey, this building was in the process of being re-roofed making it unlikely any bat roosting potential will exist after these works within the roof. It is unknown whether this roof had bat roosting potential or support roosting bats prior to these works.

During 2023, sections of the roof remained unaltered and numerous broken tiles were present although due to the majority of the roof not being lined, the gaps were unsuitable for roosting bats.

There are no gaps in the external mortar suitable for roosting bats. Wind damaged stonework was of insufficient depth to support roosting bats.

The timber doors and timber window frames were tight fitting.

The building is well lit and in an exposed location.

There are no gaps in the roof structure to support roosting bats.

There were no obvious bat access points into the roof void.

Due to the unlined nature of the roof structure, the roof void was very draughty ensuring fluctuating temperatures and climates within the roof.

No evidence of bats was observed.

The building has been assessed as having a NEGLIGIBLE SUITABILITY to support bats.

8.2.3.3 **Building 2** - the following roosting opportunities were present within the fabric of the building:

There are no gaps beneath the lead ridges, and none are missing.

Loose fitting tiles with gaps beneath although the majority (over 95%) are tight fitting.

Missing/slipped tiles.

Lead flashing is tight fitting.

Missing mortar in the external stone work although these were checked with an endoscope and no evidence of bats were observed.

Gaps adjacent to timber doors and timber windows although these were checked with an endoscope and no evidence of bats were observed.

There was no open doors/window access into the building.

Gaps adjacent to steel lintels.

The building is well lit and in an exposed location.

Gaps above the internal wall plates were too wide to support roosting bats.

Gaps between the internal roof timbers and tiles above were too wide to support roosting bats.

Due to the partially unlined nature of the roof structure and gap between tiles and internal roof boarding, the roof void was very draughty ensuring

fluctuating temperatures and climates within the roof.

There were no obvious bat access points into the roof void.

No evidence of bats was observed.

The building has been assessed as having a LOW SUITABILITY to support bats.

8.2.3.4 **Building 3** - no roosting opportunities were present within the fabric of the building due to the following:

There are no gaps beneath the ridge tiles, and none are missing.

Approximately 5 loose fitting tiles with gaps beneath were present adjacent to roof vents; the remaining tiles are tight fitting.

Gaps behind lead flashing which had peeled back due to strong winds and was unsuitable for roosting bats.

Coping stones were tight fitting.

The boxed timber eaves are tight fitting and there are no gaps in the external mortar suitable for roosting bats.

The timber doors and timber window frames were tight fitting.

The building is well lit and in an exposed location.

There were no obvious access points into the roof void.

No evidence of bats was observed.

The building has been assessed as having a NEGLIGIBLE SUITABILITY to support bats.

8.2.3.5 **Building 4** - no roosting opportunities were present within the fabric of the building due to the following:

The flat roof asphalt covered roof was tightfitting.

The eaves are tight fitting and missing mortar in putlock holes on walls were inspected with an endoscope and no evidence of bats were observed. The majority were full of debris and of insufficient depth to support roosting bats.

The timber/UPVC doors and window frames were tight fitting.

There are no gaps within the metal roof structure to support roosting bats.

The doors frames were tight fitting.

Steel cladding on walls is tight fitting.

The building is well lit and in an exposed location.

There were no obvious access points into the roof void.

No evidence of bats was observed.

The building has been assessed as having a NEGLIGIBLE SUITABILITY to support bats.

8.2.3.6 **Building 5** - the following roosting opportunities were present within the fabric of the building:

There are no gaps beneath the ridge tiles, and none are missing.

Gaps in missing mortar below gable coping stones.

Gaps above the eaves.

Missing mortar in putlock holes.

Gaps adjacent to timber doors and timber windows.

The building is well lit and in an exposed location.

There was no open doors/window bat access into the building.

No evidence of bats was observed.

The building has been assessed as having a LOW SUITABILITY to support bats.

8.2.3.7 **Building 6** - no roosting opportunities were present within the fabric of the kiosks due to the following:

The single pitched asphalt covered roof was tightfitting.

The eaves are tight fitting and there are no gaps in the external mortar suitable for roosting bats.

The single skin brick structure ensures that there are no gaps within a wall cavity.

The timber doors and timber window frames were tight fitting.

There are no gaps in the roof structure to support roosting bats.

There was no open doors/window access into the building.

No evidence of bats was observed.

The kiosks have been assessed as having a NEGLIGIBLE SUITABILITY to support bats.

8.2.4 **Site Status Assessment**

8.2.4.1 From the current results, it is not possible to fully determine whether bats are using the building as a roost. Whilst there were no signs of bat activity i.e. droppings, moth wing fragments, staining's, grease marks etc., age and composition of the building suggests that there is potential for bats to be present. These features include:

Loose fitting tiles with gaps beneath.

Missing/slipped tiles.

Gaps in missing mortar below gable tiles.

Missing mortar in the external brick work.

Subsidence cracks.

Gaps adjacent to timber doors and timber windows.

Small number of gaps beneath the ridge tiles where mortar has been displaced.

Missing mortar in putlock holes.

Gaps in missing mortar below gable coping stones.

Gaps beneath timber eaves.

8.2.4.2 **Additional bat activity survey work between May and August will be required to determine the impact on bat populations. The bat activity surveys should target buildings 2 and 5. The recommended bat activity surveys will follow survey methods detailed in the Bat Surveys for Professional Ecologists –3rd Edition.**

8.2.4.3 If a bat roost is identified and the proposed development activity will result in roost destruction or disturbance to the roost, it will be necessary to obtain a Natural England development licence prior to site works. The licence application process currently requires the input of a qualified bat ecologist/consultant and includes:

Up to three bat activity surveys between May and September to support the license application. The submission of a licence to capture, disturb and/or destroy the roosts or resting places of bats.

A walk over survey/check must be undertaken within 3 months prior to the Natural England application submission to ensure that conditions have not

changed since the most recent bat survey was undertaken. Details of any changes to conditions and habitats and/or structures on site will be documented.

The production of a detailed Method Statement to support the application. **This will** include a proposed work programme. One copy will be sent to a Natural England wildlife adviser for assessment. It should be noted that the Method Statement will be appended to any licence granted. The Method Statement will include the necessary mitigation required of the development. This will include:

- A work timetable which must be followed. This will include completing works when bats are not present in their roost (winter) or when bats are less vulnerable to disturbance (spring/autumn).
- A suitable mitigation plan allowing bats to be able to roost in a like for like replacement for any closed roost (this can be allowing bats back into the roof void).
- Additional bat boxes placed as habitat improvement.
- Bats must not be left without a roost during the active season (April to September inclusive).

The production of a Reasoned Statement of Application to support the application. This will provide a rational and reasoned justification as to why the proposed activity meets the requirements of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, Regulations 53(2) (e-g) and 53(9) (a-b).

The usual timescale expected for the process of an application is approximately 30 working days from the date of acknowledgement of receipt. Natural England wildlife advisers are given 20 working days to fulfil requests for information. This timescale will also apply to requests for licence amendments.

Additional on-site surveys, watching brief and implementation of license by a bat ecologist.

For additional information on licences please refer to Natural England Guidance Leaflet WML-G12 (see www.naturalengland.org).

- 8.2.4.4 If no bat roosts are detected during the emergence/return surveys, the work can commence with adherence to a method statement which will identify safe working practices and precautions necessary to avoid injury or death to any bats that may be present in the buildings.
- 8.2.4.5 The bat activity survey results will be valid for 12 months. Further bat activity surveys will be required within 1 year of any site works that impact upon bat roosting features. This will also ensure local planning good practise guidelines are followed.
- 8.2.4.6 The impact to roosting bats is currently unknown until further surveys have been completed.
- 8.2.4.7 The wider area supports several woodland habitats, mature gardens and grasslands which offer alternate foraging and commuting habitat for bats. The Application Site habitats are not extensive and are similar to surrounding exposed habitats and consequently, the Application Site is not considered integral to the favourable population status of local bat populations. The impact to foraging and commuting bats is considered to be **neutral**.

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 **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 and www.bct.org.uk.

8.2.5.3 Wold Ecology recommends that at least 2 bat boxes are sited on 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.

8.2.5.4 Lighting has a detrimental effect on bat activity; many bats will actually avoid areas that are well lit. Lighting can cause habitat fragmentation by preventing bats from commuting between roosts and foraging grounds (A.J Mitchell-Jones 2004).

8.2.5.5 It is recommended that a lighting consultant is employed to design a lighting plan based on the following principles:

Luminaire and light spill accessories - Lighting should be directed to where it is needed, and light spillage avoided. This can be achieved by the design of the luminaire and by using accessories such as hoods, cowls, louvres and shields to direct the light to the intended area only.

If applicable, the height of lighting columns in general should be as short as is possible as light at a low level reduces the ecological impact. However, there are cases where a taller column will enable light to be directed downwards at a more acute angle and thereby reduce horizontal spill. For pedestrian lighting, this can take the form of low level lighting that is as directional as possible and below 1 lux at ground level.

Aim for lighting column of 5m or less, hooded and cowled to prevent light spill, for main lighting columns.

All luminaires should lack UV elements when manufactured. Metal halide, 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 spectrum (ideally <2700Kelvin) should be adopted to reduce blue light component.
- Luminaires should feature peak wavelengths higher than 550nm to avoid the component of light most disturbing to bats (Stone, 2012).

Internal luminaires can be recessed where installed in proximity to windows to reduce glare and light spill.

- The use of specialist bollard or low-level downward directional luminaires to retain darkness above can be considered.
Only luminaires with an upward light ratio of 0% and with good optical control should be used.
- Luminaires should always be mounted on the horizontal, i.e. no upward tilt.
- Any external security lighting should be set on motion-sensors and short (1min) timers.
As a last resort, accessories such as baffles, hoods or louvres can be used to reduce light spill and direct it only to where it is needed.
Light spill can be successfully screened through soft landscaping and the installation of walls, fences and bunding

8.2.5.6 At this site, new lighting design will ensure lights will **not** be mounted where they will shine directly on to bat boxes.

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 1.5km of the Application Site. The closest known populations are in excess of 1.5km and are fragmented by urban habitats, the castle headland, coastal waters and road networks.

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 >800m from the Application Site.

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 negligible probability of great crested newts being present are:

No records of great crested newt exist within 1km 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 500m of the Application.

The Application Site is coastal and subjected to high levels of salinity toxic to amphibians.

The Application Site comprises bare ground and buildings 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 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.

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.

The Application Site is surrounded on three sides by sea and one side by a town with busy road networks. Consequently it is extremely fragmented habitat highly unsuitable to amphibians.

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

8.4 Birds

8.4.1.1 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.

8.4.1.2 Schedule 1 Birds

8.4.1.2.1 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.

8.4.1.3 Planning consent for a development does not provide a defence against prosecution under this act.

8.4.2 Field Survey Methodology

8.4.2.1 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.

8.4.2.2 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*.

8.4.2.3 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.

8.4.3 Field Survey Results

8.4.3.1 Schedule 1 Listed Birds

8.4.3.1.1 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 and adjacent habitats with no features to support nesting Schedule 1 listed species.

8.4.3.2 None-schedule 1 birds - breeding birds

8.4.3.2.1 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 gull species, particularly those associated with the buildings on site including herring gull and kittiwake *Rissa tridactyla*, as well as nesting house sparrow.

8.4.3.3 None-schedule 1 birds - wintering birds

8.4.3.3.1 The Application Site and immediate area is used by a variety of wintering birds including waders, divers, grebes, auks, wildfowl and gulls. These birds are habituated to the regular disturbance of a harbour environment with a lot of human disturbance present on site. It is considered unlikely that proposed works on site will significantly disturb wintering species present within this area.

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

8.4.5 Biodiversity Gains and Recommendations

8.4.5.1 There is nesting potential for a range of birds including herring gull, kittiwake and house sparrow. Several simple management prescriptions can improve the site for breeding bird species.

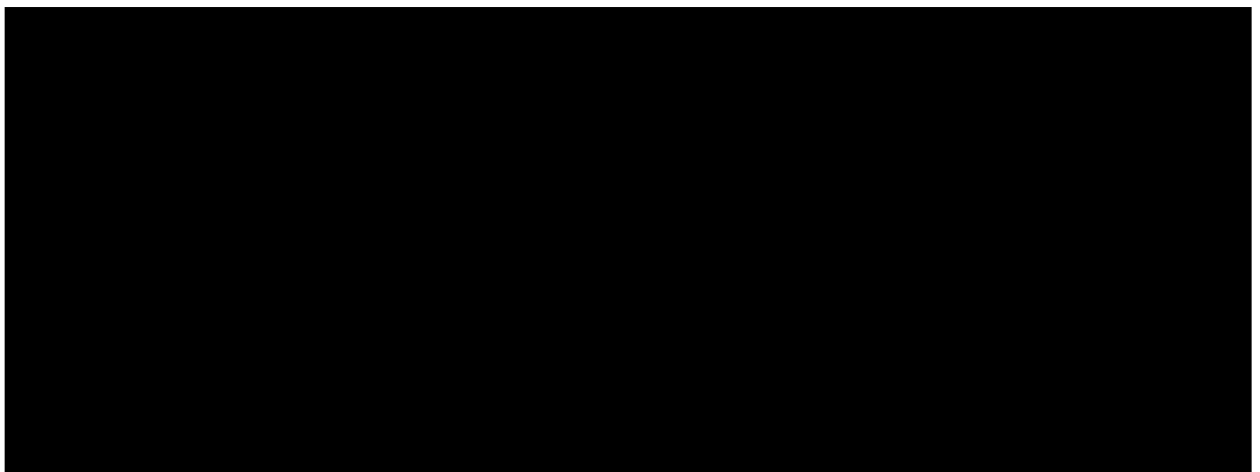
8.4.5.2 Any buildings to be removed should be cleared outside of the bird nesting season (i.e. clearance should be undertaken between mid-September and early February inclusive) or be carefully checked* by an ecologist to confirm no active nests are present - prior to removal during the summer period. 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.

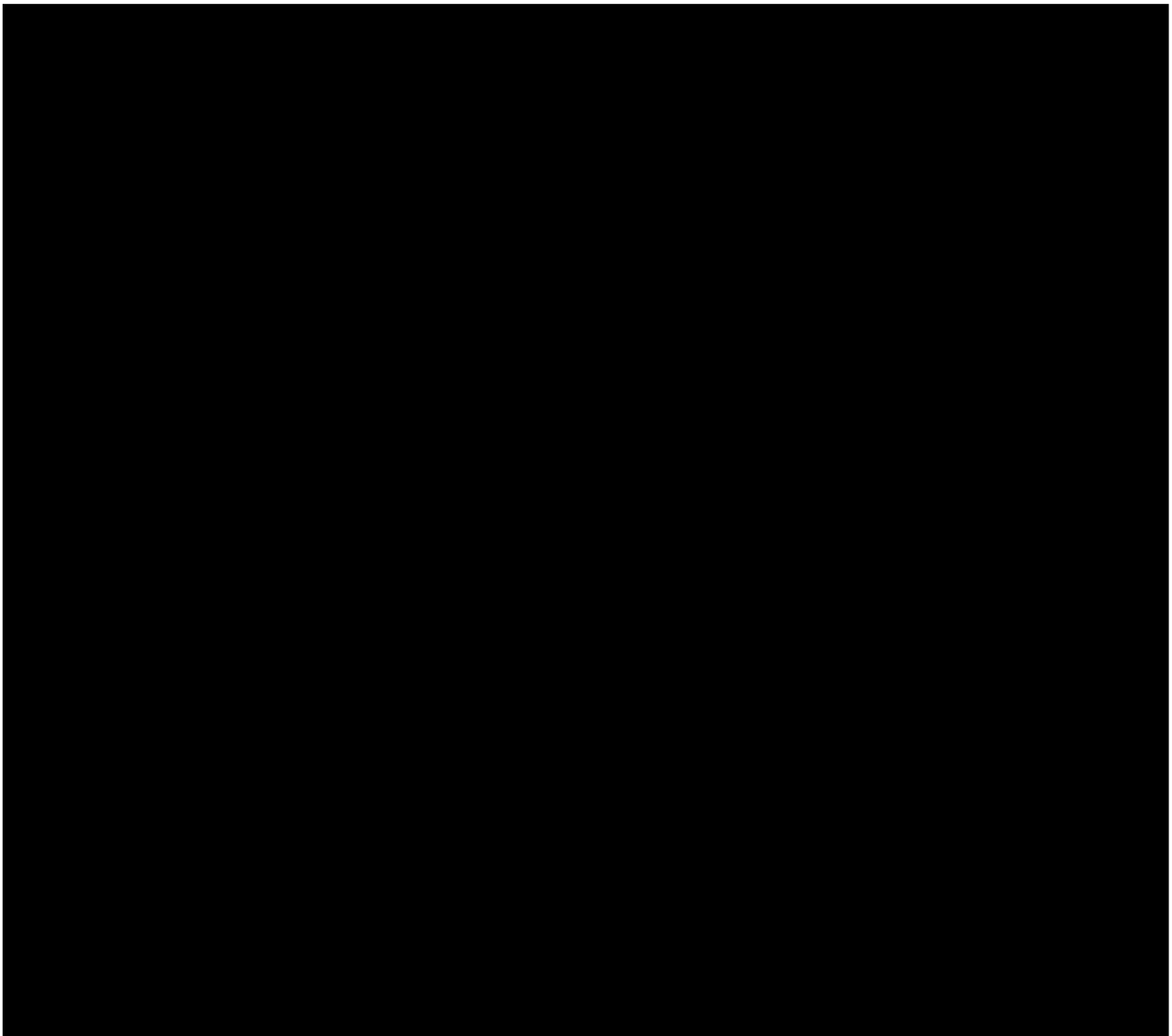
* Thick and overgrown hedgerows are often difficult to inspect fully and removal of a hedge during the spring/summer period is not recommended.

8.4.5.3 In order to increase nesting opportunities for birds, it is recommended that Schwegler bird boxes are erected throughout the site. A summary of recommended bird boxes is listed below:

Name	Description	Number
Schwegler sparrow terrace #1SP	Brick building box	3

8.4.5.4 Additionally, compensation for the loss of ledges for kittiwakes should be incorporated into the scheme. This may include new suitable ledges and a new platform containing nesting habitat should be considered.





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 January 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 modern 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:

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 consists of open exposed habitat, with no marginal vegetation, making reptiles prone to predation.

Compost heaps, rotten logs and decaying vegetation provide important breeding, foraging and thermoregulation habitat for slow worm and grass snake. None of which are present within the Application Site.

Reptiles use cracks, crevices, and small mammal burrows to access underground refugia and hibernacula. These habitat features are not present within the Application Site, reducing the value to reptiles.

The lack of the above features, with a sufficient depth to remain frost free reduces the potential for reptiles to hibernate within the Application Site.

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.

No records of reptiles exist within 1km of the Application Site.

There is no current knowledge of reptiles within the Application Site.

The Application Site comprises bare ground and buildings 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 reptiles.

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 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.

The Application Site is surrounded on three sides by sea and one side by a town with busy road networks. Consequently it is extremely fragmented habitat highly unsuitable to reptiles.

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

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 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	Hedge rows	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
Coniferous Woodland	Upland Birchwoods	N
Acid Grassland	Native Pine Woodlands	N
Calcareous Grassland	Lowland Dry Acid Grassland	N
	Lowland Calcareous Grassland	N
Neutral Grassland	Upland Calcareous Grassland	N
	Lowland Meadows	N
Improved Grassland	Upland Hay Meadows	N
	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
Marine Habitats		N

9.2 Working adjacent to watercourses

9.2.1 Legislation

9.2.1.1 Under the Water Resources Act 1991 and associated byelaws, works in, over, under or adjacent to 'main rivers' require the consent of the Environment Agency. This is to ensure that they neither interfere with the Agency's work nor adversely affect the environment, fisheries, wildlife and flood defence in the locality. The Environment Agency functions under the responsibilities of the Environment Act 1995. The EC Habitats Directive protects Special Areas of Conservation (SAC) and Special Protection Areas (SPA), and special consents are required from Natural England or the Countryside Council for Wales (in Wales only).

9.2.1.3 Potential discharge of foul water into the adjacent watercourses should be addressed by the contractor.

9.2.2 Method statement

9.2.2.1 Run off from site roads and river crossings can contain high levels of silt. Reducing the pollution risk can be achieved by:

brushing or scraping roads to reduce dust and mud deposits

9.2.2.2 Fresh concrete and cement are very alkaline and corrosive and can cause serious pollution. Concrete and cement mixing and washing areas should:

be sited at least 30 metres from any watercourse or surface water drain to minimise the risk of run off entering a watercourse

have settlement and re-circulation systems for water reuse, to minimise the risk of pollution and reduce water usage

have a contained area for washing out and cleaning of concrete batching plant or ready-mix lorries

wash waters from concrete and cement works should never be discharged in to the water environment.

- 9.2.2.3 Ensure machinery is properly maintained, check for oil leaks before use. There are risks of pollution from fuel, oils and silt associated with use of machinery which could result in prosecution. Particular attention should be paid to using chainsaws in or near the water's edge as chain oil sprayed during operation easily contaminates the water. Follow the correct procedures and if possible, use biodegradable oil to reduce this risk
- 9.2.2.4 Ensure fuel, oil and chemical storage on site is secure. Site the storage on an impervious base within a secondary containment system such as a bund. The base and bund walls should be impermeable to the material stored and able to contain at least 110% of the volume stored. Site the storage area above any flood water level and where possible away from high-risk locations (such as within 10 metres of a watercourse or 50 metres of a well, borehole or spring), to minimise the risk of a spill entering the water environment. Biodegradable chainsaw chain bar lubricant and biodegradable hydraulic oil in plant should be used when working in or near watercourses. The Environment Agency and its contractors use biodegradable oils for their own operations. Biodegradable oils are less toxic than most of the synthetic oil but should still be stored and used to the same standards as other oils.
- 9.2.2.4 Keep a spill kit with sand, earth or commercial products that are approved for your stored materials, close to your storage area. Train staff on how to use these correctly.
- 9.2.2.5 In no circumstance should burning take place in the water course channel or close to the bank edge and ash must not blow or wash into the watercourse as it is harmful to water life
- 9.2.2.6 Be sure to stack or remove any material well away from the river to avoid it being washed into the water again during the next flood.
- 9.2.2.7 Accident Plan

Condition	Likelihood	Consequences	Response
Machinery breakdown	Low to medium.	Potential damage to habitat due to spilled fuel or oil.	Call out of hirer to effect repairs. Competent operators will minimise the likelihood of mal-operation leading to a breakdown. Incident commander will be briefed about the environmental hazard.
Machinery fire	Low, since machinery will be maintained.	Potential damage to habitat due to spilled fuel or oil	Call out of fire brigade. Incident commander will be briefed about the environmental hazard.
Toppling of machinery	Low, since competent operators will be used	Damage to equipment. Personal injury. Damage to habitat, if near the watercourse	Pre-emptive: Machinery will be used as far away as possible from the bank, consistent with safe excavation Personal injury: first aid kit available on site; ambulance call.

Vandalism	Low to medium Equipment will be in a field,	Minimal. With machines parked away from the watercourse when in use, and damage would be limited to the parking place.	Pre-emptive: As a matter of course, machinery will be parked away from the watercourse at the end of each working day. Machines will be locked when not in use
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9.3 Management planning

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

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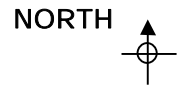
http://www.english-nature.org.uk/citation/citation_photo/1003238.pdf. 1984

<http://www.ukbap.org.uk/UKPlans.aspx?ID=7>

<http://www.natureonthemap.org.uk/identify.aspx>

11.0 APPENDICES

11.1 Appendix 1



Scale: 1:25,000

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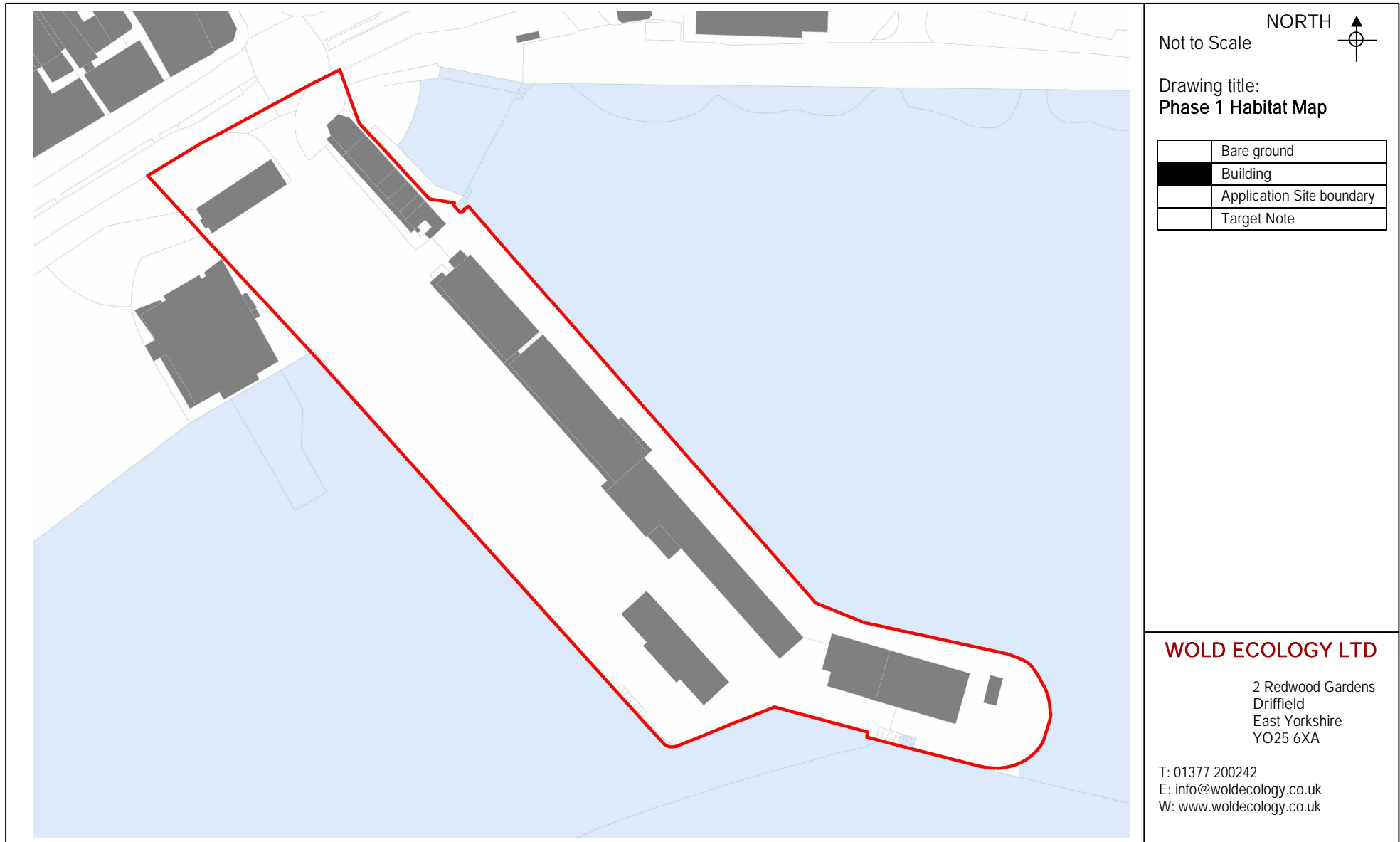
Site Location

WOLD ECOLOGY LTD

2 Redwood Gardens
Driffeld
East Yorkshire
YO25 6XA

T: 01377 200242
E: info@woldecology.co.uk
W: www.woldecology.co.uk

11.2 Appendix 2



Target Notes

Target Note	Description	Grid Reference
1	Building 2 – Contains low bat roosting suitability.	TA 04779 88716
2	Building 3 – Contains low bat roosting suitability.	TA 04800 88693
3	Building 4 – Contains low bat roosting suitability.	TA 04831 88657
4	Building 5 – Contains low bat roosting suitability.	TA 04822 88638

11.3 Appendix 3 – Summary of desktop study

Organisation.	Response Summary.	Date.
Natural England.	Local designations.	January 2022
Natural England.	UKBAP species and habitats within 2 km.	January 2022
North and East Yorkshire Ecological Data Centre.	Species lists within 2 km.	January 2022
www.magic.gov.uk	European Protected species licenses within 2km.	January 2022
World Ecology network.	Species lists within 5 km of the Application Site.	2006 – to present day.

11.4 Appendix 4 - 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>			√	√	√	√	√	√	
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	✓	✓							
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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 offense 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 41 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—

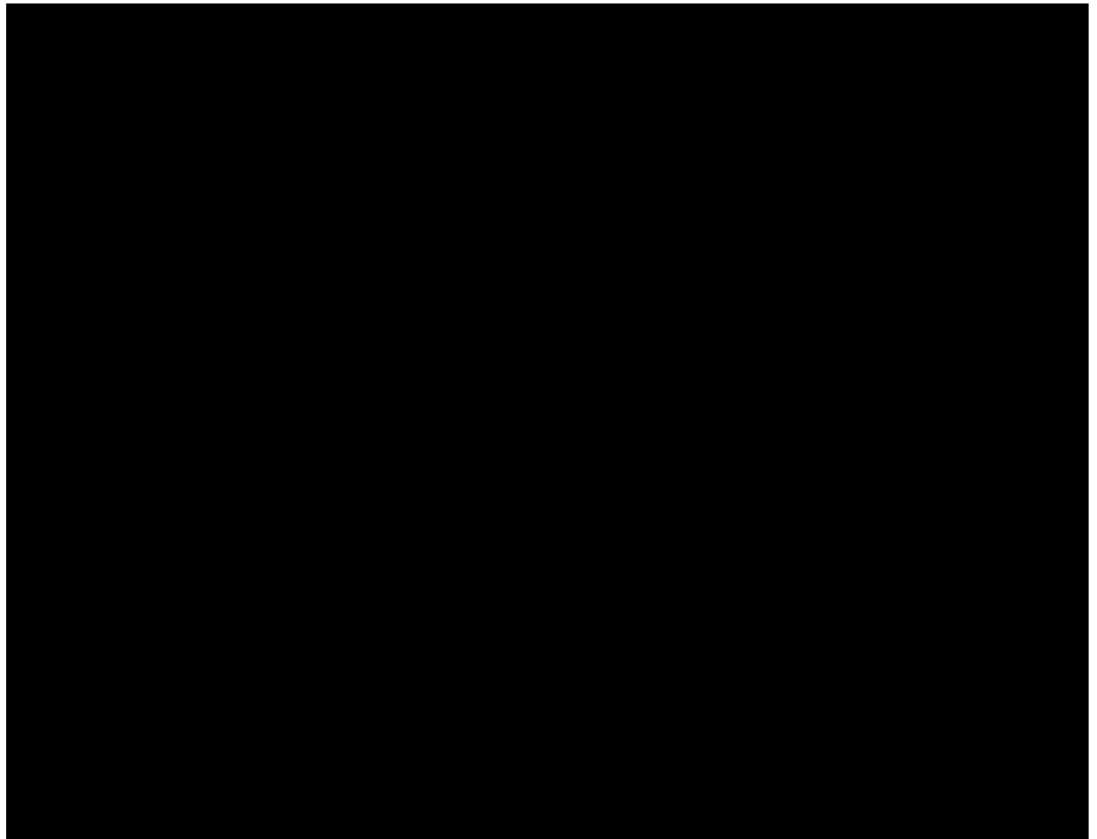
- (a) deliberately captures, injures or kills any wild animal of a European protected species,
- (b) deliberately disturbs wild animals of any such species,
- (c) deliberately takes or destroys the eggs of such an animal, or
- (d) damages or destroys a breeding site or resting place of such an animal,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





Appendix 5 - 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. He 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, 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 a large number of Phase 1 ecology surveys and Preliminary Ecological Appraisals and EIA assessments.

Daniel has undertaken and helped supervise 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 leasing with a variety of conflicting stakeholders to mitigate against potential adverse impacts to the colony.

11.6 Appendix 6 – 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 Phase 1 habitat 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 Phase 1 habitat survey are compared with those listed in animal welfare legislation, i.e. [REDACTED] 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, extended phase 1 habitat 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 extended phase 1 habitat 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.