

# Habitat Regulations Assessment: Screening Report

**The Heyes Farm**

Liverpool

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Prepared for: Ms McLean

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## EXECUTIVE SUMMARY

- This document describes a Habitat Regulations Assessment Stage 1 Screening Assessment of the likely significant effect of the proposed development on surrounding European sites.
- The proposed development is: The Heyes Farm, Lower Road, Halewood, L26 2XA.

### *European Sites within 10km of the Survey Site.*

- Four European sites are present within a 10km radius of the proposed development site:
  - Mersey Estuary Ramsar
  - Mersey Estuary Special Protection Area (SPA)
- The analysis of potential impacts upon surrounding European sites and the potential impact pathways shows that noise, visual impact and dust are the only potential impacts that required detailed assessment to determine whether or not there would be a likely significant effect on the interest features of the SPA (birds).
- No significant effect is expected due to the following factors:
  - The proposed works are of small scale (ha)
  - The proposed works will not result in loss of area of land that might be functionally linked to the SPA
  - The site is sufficiently distanced from wetlands and coastal habitat upon which high numbers of SPA birds are likely to be present.
  - Initial works will be undertaken in late Summer – Autumn when birds are less likely to be present and dust is least likely to be problematic.
- Although there are other developments in close proximity, in-combination impacts are unlikely to be significant as a result of the proposals at The Heyes Farm due to the small size and low impact of work.
- Considering the above, no likely significant effects of the proposed development upon European sites within 10km radius of the site are expected.

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## **1. Introduction**

### **1.1 Habitats Regulations Assessment**

- 1.1.1 This report details a Habitat Regulations Assessment (HRA) Stage 1 Screening Assessment of Likely Significant Effect of the proposed project 'The Heyes Farm, Lower Road, Halewood' on surrounding European Designated Sites.
- 1.1.2 The project site is located at National grid reference SJ 5532 3396 (centre of site).
- 1.1.3 Ms McLean commissioned Verity Webster Limited to undertake the HRA Screening Assessment in respect of the proposals.

### **1.2 Purpose of this Report**

- 1.2.1 This document satisfies the requirement for Habitat Regulations Assessment (HRA) of projects in accordance with Article 6 of European Habitats Directive, 1992 (Directive 92/43/EEC) transposed into UK law by the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations).
- 1.2.2 The objective of the assessment is to determine whether any aspects of the proposed project will have potential to cause any 'likely significant effect' on Natura 2000 or 'European Sites'. The assessment must consider likely effects in isolation and in combination with other plans and projects in the absence of mitigation.
- 1.2.3 European Sites are considered if they are within the determined zone of influence (refer to Section 2).
- 1.2.4 This report, which comprises the Screening Assessment, covers requirements of Stage 1 of the HRA process, following procedures set out in current guidance (DEFRA, 2012; Tyldseley & Chapman, 2013).

### **1.3 The Proposals**

- 1.3.1 The proposals comprise the demolition of an outbuilding and the erection of an annex (see Appendix B).

### **1.4 Ecologist**

- 1.4.1 The Screening Assessment of 'likely significant effect' was undertaken by Verity Webster. Verity is a Chartered Ecologist and a full member of the Chartered Institute of Ecology and Environmental Management.
- 1.4.2 Verity has worked as an ecological consultant since 2007. She has undertaken Ecological Assessments including Habitat Regulations Assessment, botanical surveys and protected species surveys for a variety of projects and schemes.



## 2. Habitats Regulations Assessment: The Process

### 2.1 The Habitats Regulations 2017

- 2.1.1 Conservation of Habitats and Species Regulations 2017 (As Amended) (the 'Habitats Regulations') transpose the European Habitat Directive (Directive 92/43/EEC) 1992 and the Wild Birds Directive (Directive 79/409/EEC) ('the Directives') into English law.
- 2.1.2 The aim of the Habitats Directive (and therefore the Habitats Regulations) is to conserve natural habitats and wild species across Europe by establishing a network of sites known as Natura 2000 sites. The Member States are required to take measures to maintain and restore the natural habitats and wild species listed on the Annexes to the Directive at a favourable conservation status.
- 2.1.3 Special Areas of Conservation (SACs), candidate Special Areas of Conservation (cSACs) and Special Protection Areas (SPAs) are all Natura 2000 sites protected under the Habitats Regulations. The Government also applies the procedures described below to potential SPAs (pSPAs), Ramsar sites, and (in England) possible SACs, proposed Ramsar sites and sites identified, or required, as compensatory measures for adverse effects on any of the above sites.

### 2.2 Habitats Regulations Assessment

- 2.2.1 Under the Habitats Regulations, a Habitats Regulations Assessment (HRA) must be undertaken with regard to any plan or project that either alone or in combination with other plans or projects that would be *likely to have a significant effect* on a European site (Natura 2000 site) and is not directly connected with the management of the site for nature conservation.
- 2.2.2 The HRA must make an appropriate assessment of the implications for that site in view of the designated sites conservation objectives.
- 2.2.3 The plan or project does not have to be located within the designated area. Significant effects may occur some distance away from the designated site and may be direct or indirect, temporary or permanent, beneficial or harmful to the site, or a combination of these.
- 2.2.4 As the 'competent authority' under the Regulations, the Local Planning Authority has a duty to take into consideration the requirements of the directives and, on the basis of formal assessment undertaken by appropriately qualified persons, assess the potential impacts and to determine whether the project will have any effects on the designated interest features of a European Site and, therefore, whether the project can be permitted. The LPA has a duty to consult Natural England and have regard to Natural England's representations.
- 2.2.5 The *ODPM Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations & Their Impact Within the Planning System* details the requirements of the local authority with regard to the Habitats Regulations.
- 2.2.6 Part 1 A(4) states: '*Planning authorities should follow the procedures described below [the Habitats Regulations Assessment process] for SPAs, cSACs and SACs and, more generally, should*



*have regard to the Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system.'*

- 2.2.7 Case Law: Recent case law has informed the handling of the HRA requirements in the UK. The Wealden judgement (March, 2017) confirms that, when assessing the capacity for development to contribute to air pollution impacts on Natura 2000 Sites, this should include assessments of other plans and projects in combination. The CJEU's People Over Wind/Sweetman 2 judgement (April 2018) clarified that measures that are intended to avoid or reduce harmful effects on a European Site should not be considered at screening stage. The effect of this decision is considered to be that, if specific measures are included with in the plan which are intended to avoid or reduce likely significant impact, reliance should not be placed on those measures at screening stage to reach or support a conclusion that no likely significant effects would arise, but in such circumstances the HRA should proceed to Appropriate Assessment stage.

## 2.3 Stages of the Habitats Regulations Assessment

- 2.3.1 The assessment of impact upon a European Designated Site is described as a 'Habitats Regulations Assessment' or HRA and is composed of different stages:

- **1 – A screening for Likely Significant Effects**

- 2.3.2 The purpose of the screening assessment is to determine whether the plan or project ***is likely to have a significant effect on the interest features of the site, alone or in combination with other plans and projects.***

- 2.3.3 **Regulation 63(2) states:** *'a person applying for a consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an **appropriate assessment** is required.'*

- 2.3.4 The assessment process highlights any potential areas where effects on the interest features of a European Designated site *may occur*.

- **2 – Appropriate Assessment.**

- 2.3.5 If significant effects cannot be excluded, it would be necessary to assess them in more detail through an **Appropriate Assessment (AA)**, which is required to ascertain **whether an adverse effect on the integrity of the site can be ruled out.**

- 2.3.6 Definition of site integrity:

"The coherence of a site's ecological structure and function across its whole area, that enables it to sustain the habitats, complex of habitats and/or the levels of the populations of species for which the [European] site was classified/designated"

- 2.3.7 **Regulation 63(5) states:** *'In the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).*



- **3 – Alternative Solutions.**

2.3.8 If an adverse effect on the integrity of the designated site cannot be ruled out and if no alternative solutions can be identified, it leads to stage 4.

- **4 - Imperative Reasons of Over-riding Public Interest.**

2.3.9 The project can only proceed if there are **Imperative Reasons of Over-riding Public Interest** and if the necessary compensatory measures can be secured.

### 3. Methodology

#### 3.1 European Sites within the Zone of Influence

3.1.1 All European Sites within the zone of influence are considered within this assessment.

3.1.2 European sites include:

- Special Areas of Conservation (SACs) – Animal and plant habitats designated under the Habitats Directive.
- Special Protection Areas (SPAs) – wild bird habitats designated under the Wild Birds Directive
- Sites in the process of becoming SACs or SPAs; and sites identified or required as compensatory measures for adverse effects on European sites.
- Listed and proposed “Ramsar” sites – Wetlands of international importance.

3.1.3 Magic Map (Defra, 2021) was used to identify the locations of European Sites.

#### 3.2 Assessment of likely significant effects

3.2.1 This report refers to Defra (2012). A “significant effect” only includes effects which would undermine a European site’s conservation objectives, for example by reducing the area or quality of protected habitat for which the site was designated, or by the disturbance or displacement of species for which the site was designated.

3.2.2 European case law has interpreted the threshold of “likelihood” of significant effects at a low level. Accordingly, a plan or project must be considered to be “likely to have a significant effect” where, “it cannot be excluded on the basis of objective information that the plan or project will have significant effects on the site concerned” (Paragraph 44 of Case C-127/02 (Waddenzee, 2004).

3.2.3 For this reason, any likely significant effects will assume the *precautionary principal*, that is, to assume a potential impact if the effect cannot be reliably ruled out.

3.2.4 The process will be as follows:



- Identify what (if any) European sites may be affected by the proposal.
- Identify the conservation objectives of any site that may be affected, and the condition of the site.
- Identify the potential effects of the plan or project on the European site(s) (impact pathways), alone or in combination with other plans and projects.
- Identify how those effects may impact on the site's conservation objectives
- Make a high-level assessment of whether likely significant effects can be screened out or not.

3.2.5 Temporary, permanent, direct and indirect effects are considered.

3.2.6 If likely significant effects are found, an Appropriate Assessment will be required.

3.2.7 Records data for birds within the two tetrads closest to the site was obtained from the County Recorder for Birds in Merseyside.

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## 4. The Survey Site

### 4.1 Location

- 4.1.1 The survey site is located on the eastern outskirts of Halewood Village, Halewood, in a semi-rural location.
- 4.1.2 Built-up residential landscape lies to the west and southwest, whilst to the north east and south the landscape is open, comprising arable and pasture land with scattered plots of woodland and scattered waterbodies. The Ditton Brook runs northwest to southeast approximately 450m to the northeast. A railway line with green embankments runs southwest to northeast through the landscape approximately 60m southeast of the site.
- 4.1.3 The A5300 divides the landscape north to south approximately 1.7km to the east and the A562 divides the landscape east to west approximately 1.2km to the south.
- 4.1.4 The Mersey Estuary Ramsar site and Special Protection Area (SPA) lies approximately 3.9km to the southeast of the site. See Figure 1 and 2.

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### Statutory Site Designations

**Special Protection Area (SPA).** A Special Protection area is land classified under Directive 79/409 on the Conservation of Wild Birds. They are classified for rare and vulnerable birds (as listed on Annex 1 of the Directive) and for regularly occurring migratory species.

**Ramsar Site.** Ramsar sites are wetlands of international importance designated under the Ramsar Convention. Ramsar sites in the UK were first designated in 1976. The initial emphasis was on selecting sites of importance to waterbirds within the UK, and consequently many Ramsar sites are also Special Protection Areas (SPAs).



## 4.2 Site and Habitat Description

- 4.2.1 The survey site comprises the outbuilding at Heyes Farm. The outbuilding is a single-storey extension on the southeast elevation of the house. The outbuilding is set on hard standing with well-maintained gardens to the southwest and northeast.

### *The Outbuilding.*

- 4.2.2 The outbuilding is a single-storey brick structure with a pitched, slate roof. The structure is divided into three sections. The northwest section is open to the northeast, the middle section comprises an enclosed space with a single wooden window and the southeast section comprises an outdoor toilet.
- 4.2.3 The roof structure is supported with wooden beams and the slates are unlined. The slates are attached directly to the brick walls.



*The southwest elevation of the outbuilding*



*The northeast elevation of the outbuilding*



Figure 1: Ordnance survey map showing the location of the proposed development site.



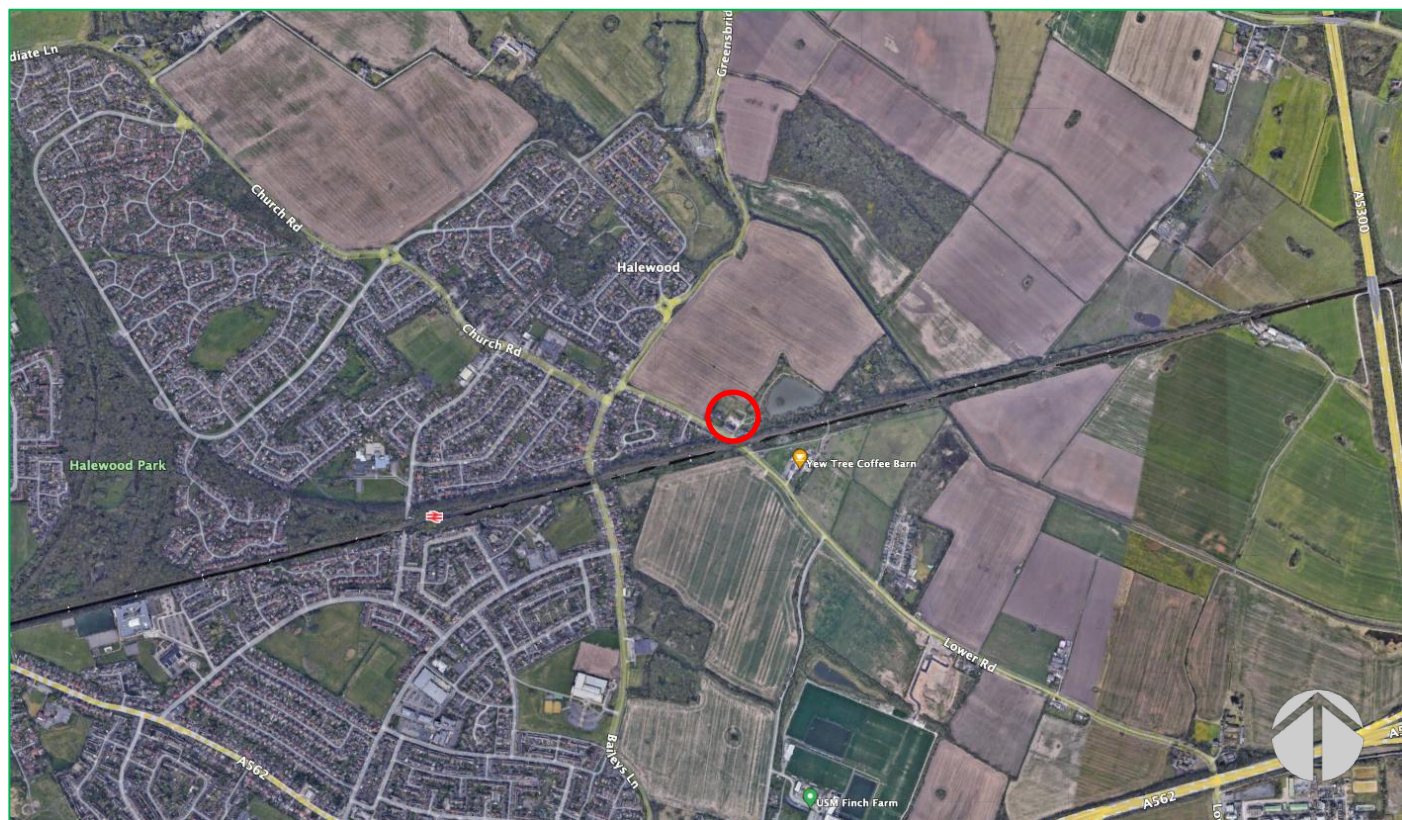
Ordnance survey 1:25000

Key

 Survey site



Figure 2: Aerial image showing the proposed development site within the wider landscape



From BING Maps

250m

Key

 Survey site



**Figure 3: The survey site in relation to the immediate surroundings**



From Google Earth

50m

Key:

 Survey site



## 5. European Designated Sites

5.0.1 The following European Sites lie within 10km of the survey site:

- Mersey Estuary Ramsar
- Mersey Estuary Special Protection Area (SPA)

**Table1: The Surrounding Designated Sites**

| European Sites     | Designation | Nearest Distance to survey site | Direction from survey site | Area of European Site |  |
|--------------------|-------------|---------------------------------|----------------------------|-----------------------|--|
| The Mersey Estuary | Ramsar Site | 3.5km                           | Southeast                  | 5023.35ha             |  |
| The Mersey Estuary | SPA         | 3.5km                           | Southeast                  | 5023.35ha*            |  |

\*The SPA and Ramsar Site cover the same area of land.

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## 5.1 Interest Features (qualifying features of European importance) and Site Conservation Objectives and Threats

### Mersey Estuary Special Protection Area

#### *Principal ecological characteristics and importance of the estuary*

- 5.1.1 The Mersey Estuary is a large, sheltered estuary comprising saltmarsh, intertidal sand and mudflats with brackish marsh, rocky shoreline and boulder clay cliffs. The site is located within a rural and industrial landscape.
- 5.1.2 The intertidal flats and saltmarshes provide feeding and roosting sites for large and internationally important populations of waterfowl.
- 5.1.3 In the winter months the site is of major importance for duck and waders.
- 5.1.4 In the spring and autumn migration periods the site is important for wader populations.

**The site qualifies under article 4.1 of the Directive (79/409/EEC) as it is used regularly by 1% or more of the following species in Annex 1:**

- Golden Plover (*Pluvialis apricaria*)

The site qualifies under article 4.2 of the Directive (79/409/EEC) as it is used regularly by 1% or more of the biogeographical populations of the following migratory species:

#### ***On Passage***

- Redshank (*Tringa tetanus*)

#### ***Over Wintering***

- Shelduck (*Tadorna tadorna*)
- Teal (*Anas acuta*)
- Dunlin (*Calidris alpina alpina*)
- Black-tailed godwit (*Limosa limosa islandica*)
- Redshank (*Tringa tetanus*)

**The site qualifies under article 4.2 of the Directive (79/409/EEC) as it is used regularly by over 20,000 waterbirds in any season:**

In the non-breeding season the area regularly supports 104,599 waterbirds including:

Great crested grebe (*Podiceps cristatus*), shelduck (*Tadorna tadorna*), wigeon (*Anas Penelope*), teal (*Anas crecca*), pintail (*Anas acuta*), ringed plover (*Charadrius hiaticula*), golden plover (*Pluvialis apricaria*), grey plover (*Pluvialis squatarola*), lapwing (*Vanellus vanellus*), dunlin (*Calidris alpina alpina*), black-tailed godwit (*Limosa limosa islandica*), Eurasian curlew (*Numenius arquata*) and redshank (*Tringa tetanus*).

Non-qualifying species of interest include:



Bewick's swan (*Cygnus columbianus bewickii*), whooper swan (*Cygnus cygnus*), merlin (*Falco columbarius*), peregrine (*Falco peregrinus*), ruff (*Philomachus pugnax*), bar-tailed godwit (*Limosa lapponica*) and short-eared owl (*Asio flammeus*).

#### **Conservation Objectives: Potential Impacts**

5.1.5 Factors identified (past, present or potential) adversely affecting the site's ecological functionality, including disturbance to waterbirds:

- Increasing recreational pressure with use of drones and jetskis
- Increasing development pressure, for example the proposed airport expansion
- Increased development on other functionally linked land.
- Wildlife watching from land
- Beach recreation
- Sailing
- Motor boating
- Aircraft

#### **Mersey Estuary Ramsar Site**

##### **Principal ecological characteristics and importance of the wetland**

5.1.6 The Mersey is a large sheltered estuary supporting habitats indicated in paragraph 5.1.1. As shown in the SPA citation, the intertidal flats and saltmarshes provide feeding and roosting sites for large and internationally important populations of waterfowl.

5.1.7 The Ramsar site is designated under criterion 5 for supporting waterfowl assemblages of international importance.

5.1.8 The Ramsar site is designated under criterion 6 for supporting species/populations of international importance.

5.1.9 **Qualifying species/populations with peak counts in spring/autumn:**

- |                                                          |                                     |
|----------------------------------------------------------|-------------------------------------|
| ▪ Common shelduck ( <i>Tadorna tadorna</i> )             | Representing 4.2% of the population |
| ▪ Black-tailed godwit ( <i>Limosa limosa islandica</i> ) | Representing 5.7% of the population |
| ▪ Common redshank ( <i>Tringa totanus totanus</i> )      | Representing 2.6% of the population |

5.1.10 **Qualifying species/populations with peak counts in winter:**

- |                                            |                                      |
|--------------------------------------------|--------------------------------------|
| ▪ Eurasian teal ( <i>Anus crecca</i> )     | Representing 2.6% of the population  |
| ▪ Norther pintail ( <i>Anus acuta</i> )    | Representing 2% of the GB population |
| ▪ Dunlin ( <i>Calidris alpina alpina</i> ) | Representing 3.6% of the population. |

5.1.11 **Other bird species occurring at levels of natural importance with peak counts in spring/autumn include:**

- |                                                       |                             |
|-------------------------------------------------------|-----------------------------|
| ▪ Eurasian curlew ( <i>Numenius arquata arquata</i> ) | Representing 1.3% of the GB |
|-------------------------------------------------------|-----------------------------|



- |                                                 |                                                      |
|-------------------------------------------------|------------------------------------------------------|
| ▪ Ringed plover ( <i>Charadrius hiaticula</i> ) | population<br>Representing 1.3% of the GB population |
| ▪ Spotted redshank ( <i>Tringa erythropus</i> ) | Representing 2.2% of the GB population               |
| ▪ Common greenshank ( <i>Tringa nebularia</i> ) | Representing 1% of the GB population                 |
| ▪ Eurasian wigeon ( <i>Anas Penelope</i> )      | Representing 2% of the GB population                 |

**Conservation Objectives: Management, Condition and Potential Impacts**

- 5.1.12 Currently there are no factors listed in the citation of identified (past, present or potential) adversely affecting the site's ecological character, including changes in land (including water) use and development projects.

## 6 The Proposals

- 6.0.1 The proposals comprise the demolition of an outbuilding and construction of an annex.

### Construction Phase

- 6.0.2 Construction will commence in August 2022 (subject to adjustment) and will take 12-14 weeks, so will be completed by December 2022.
- 6.0.3 The demolition of the outbuilding will take place by hand.
- 6.0.4 Dust will be minimised where possible.
- 6.0.5 Noise will be kept to a minimum, with use of normal construction plant (mixer and grab waggon).

### Operational Phase

- 6.0.6 The annex will be used by the existing owners. There will be no change in the level of use of the property, for example level of traffic.



## 7 Establishing Impact pathways

- 7.0.1 The risks of impacts on European sites as a result of the development need to be identified in order to inform the screening for likely significant effects.
- 7.0.2 European sites are at risk if there are any means by which the proposed project may have a potential threat to the interest features of a site. This is referred to as the 'impact pathway' as it is an identifiable means by which the project to potentially affect a European site.
- 7.0.3 The zones of influence are used to determine whether or not a risk of impact will exist.
- 7.0.4 A 400m zone of influence has been used to represent the boundary within which urban effects may be expected; this includes immediate noise from mixers and dust from drilling and soil excavation (Under-day, 2005).
- 7.0.5 A 1km zone of influence has been used to represent effects out with immediate scope, such as dust and heavy noise.

### Potential Impacts

- 7.0.6 Disturbance is considered one of the most significant potential impact upon breeding and overwintering birds because one of the energy expenditure as a result of a bird taking flight can impact breeding success. This is often a threat at SPA boundaries on mudflats where there is an increase in recreational pressure. This is not a concern in light of the current development as there will be no significant change in use of the property.
- 7.0.7 Other indirect impacts include alterations in use of land, which may result in displacement of birds from feeding grounds resulting in their use of sub-optimal feeding areas or may increase competition between groups (Goss-Custard et al 2020).
- 7.0.8 Impacts as a result of displacement of overwintering and breeding waterfowl from habitat, loss of habitat, alterations in habitat condition are all unlikely to be of significance in respect to the proposals under consideration.
- 7.0.9 The impact pathways are restricted to temporary increase in noise (400m zol) and potential release of dust during demolition and construction works (1km zol). Temporary visual impacts by machinery are a possibility, but also minimal (400m zol).



## 8 Data Analysis: Use of the surrounding landscape by Interest Features

### Records Data

- 8.0.1 The data (see Table 1) of species in the two surrounding tetrads (SJ48M and SJ48N) show that four qualifying species of interest are confirmed present: Golden plover, redshank, teal and lapwing. Non-qualifying species of interest recorded comprise peregrine.
- 8.0.2 All species confirmed present have been recorded in the winter months, whilst only two, teal and lapwing have been confirmed present in the summer months. Other bird species, not having been recorded within 2km are reasonably unlikely to be impacted by the proposals and will not be considered further.

**Table 1 – Species recorded within the surrounding tetrad (c. 2km)**

| Interest feature Species | Confirmed within 2km | Over Winter | Breeding probable/confirmed |
|--------------------------|----------------------|-------------|-----------------------------|
| <b>Golden Plover</b>     |                      |             |                             |
| <b>Redshank</b>          |                      |             |                             |
| Shelduck                 |                      |             |                             |
| <b>Teal</b>              |                      |             | probable                    |
| Dunlin                   |                      |             |                             |
| Black-tailed godwit      |                      |             |                             |
| Wigeon                   |                      |             |                             |
| Pintail                  |                      |             |                             |
| Great crested grebe      |                      |             |                             |
| <b>Lapwing</b>           |                      |             | confirmed                   |
| Ringed plover            |                      |             |                             |
| Gray plover              |                      |             |                             |
| Lapwing                  |                      |             |                             |
| Spotted redshank         |                      |             |                             |
| Common greenshank        |                      |             |                             |
| <b>Non Qualifying</b>    |                      |             |                             |
| Bewick's swan            |                      |             |                             |
| Whooper swan             |                      |             |                             |
| Merlin                   |                      |             |                             |
| <b>Peregrine</b>         |                      |             |                             |
| Ruff                     |                      |             |                             |
| Bar-tailed godwit        |                      |             |                             |
| Short-eared owl          |                      |             |                             |



- 8.0.3 Golden plover forages on lowland farmland and field in the winter months. They are found on winter cereals, bare till, pastures and airfields (Gillings & Fuller, 1999).
- 8.0.4 Lapwing breed on lowland and upland farmland. They favour short (6-14cm) vegetation and prefer wetter fields with a higher water table. In winter lapwing favour the pastures and ploughed fields.
- 8.0.5 Redshank are mostly found in estuaries and coastal lagoons in winter, but may also be seen on saltmarshes and flood meadows.
- 8.0.6 Teal are found on low lying wetlands in winter and will occupy reservoirs and flooded meadows. Breeding teal favour moors and mires and wetlands, nesting in dense vegetation near water.
- 8.0.7 Peregrine nest high on cliffs or high buildings and are frequently seen on upland areas in the UK in the breeding season. They often hunt over coastal marshland in winter.

### Assessment of potential impact within the 400m and 1km zone of influence

- 8.0.8 The landscape within 1km of the survey site comprises residential to the southwest. To the north and northeast, the land within 500m is disturbed and part of construction works. Similarly, land extending approximately 500m to the south, beyond the railway line is also currently disturbed and under construction (refer to In-Combination Effects, Section 9.4). Arable land and a waterbody lie to the east.
- 8.0.9 The arable and pasture beyond the 500m circumference to the north and northeast has potential to support golden plover and lapwing in winter. This potential is considered further in Section 9, assessment of impact of potential effects.
- 8.0.10 The fishing lake, which lies approximately 125m to the northeast of the survey site is very unlikely to support teal due to the fact that visitors are regularly situated on the banks and there is little bankside cover. The impact upon teal as a breeding species is therefore considered to be negligible.
- 8.0.11 The survey site lies approximately 2.9km northwest of coastal saltmarsh, and approximately 3.7km northwest of coastal mudflat according to the Priority Habitat Inventory. This is a significant distance outside the zone of influence. The potential for waders and waterbirds associated with these habitat types, including golden plover in summer and teal and redshank in winter to be impacted by the proposals is considered to be negligible.
- 8.0.12 Peregrine may forage over the surrounding landscape but there are no suitable nesting opportunities within 1km of the survey site. The potential impact upon this species is also considered to be negligible.



## 9 Assessment of Impact of Potential Effects

- 9.0.1 Given the distance of the survey site from coastal habitat and the proximity of surrounding arable and pasture land (beyond existing construction works), the potential impacts are considered in relation to overwintering golden plover and lapwing, which may be associated with arable and pasture land within 1km.

### 9.1 Noise

- 9.1.1 Both distance from the source of disturbance and scale of disturbance (noise level and group size) will both influence response (Liley et al, 2011; Delaney et al. 1999)
- 9.1.2 Permissible sound power levels for hand held concrete-breakers, excavators and tracked loaders and similar is between 93-105 decibels (Noise Emission Regulations, 2001). The distance such sound travels (for humans) is approximately 18-20m (E2S, 2022).
- 9.1.3 The proposed works are unlikely to result in disturbance of the surrounding landscape beyond 25m. In addition, these works are temporary. The impact is unlikely to be any more than working the land with machinery.
- 9.1.4 The likelihood of disturbance of foraging or breeding waders foraging on arable and pasture land over 500m away is very low, and so the likelihood of disturbance by the works is considered to be negligible.

### 9.2 Visual

- 9.2.1 A study by Scarton (2018) in Italy showed that the distance for boat and pedestrian evoked disturbances for the most confiding species ranged from 59-74m (common snipe, Kentish plover and ruddy turnstone) to 121-267m for the most wary (Eurasian oystercatcher, grey plover and Eurasian curlew).
- 9.2.2 With this in mind, foraging waterbirds within 50-300m of the survey site may be temporarily disturbed by the sight of machinery during the works.
- 9.2.3 The proposals are intended to be implemented in August – December 2022, with the initial impacts outside the winter period.
- 9.2.4 Any potential temporary visual impacts as a result of the use of machinery is considered unlikely to be of significance to the breeding success of golden plover and lapwing over the winter months if indeed these species are present within 400m of the site upon occasion. Given that much of the land within 500m is currently part of construction works, the likelihood of presence of foraging waders is near negligible and any additional visual impacts are likely to be negligible.



### 9.3 Dust

- 9.3.1 The distribution of dust as a result of the works is unknown. However, due to the extent of the proposals, this temporary impact is considered to be minimal and is unlikely to be of significance to the interest features of the SPA or the SPA habitats.
- 9.3.2 The initial works will take place in late-Summer/Autumn when the weather is likely to be wetter, reducing the likelihood of dust.

### 9.4 In-Combination Effects

- 9.4.1 There are two other housing developments recently permitted within the last 4 years close proximity (1km) to the proposed site at Whitchurch Road:
- 19/00521/NMA3 Yew Tree Farm 325 Lower Road Halewood, Knowsley, L26 3UA. This proposal involves the erection of 730 dwellings.
- 9.4.2 The Yew Tree Farm development includes land approximately 50m northeast of the survey site within an arable field. This construction project has already commenced. This will significantly reduce the likelihood of waterbirds foraging within 400m-1km of the survey site and will reduce the potential impacts of the development at The Heyes Farm to negligible.
- 9.4.3 In-combination impacts in relation to Yew Tree Farm are, however, considered unlikely as the proposal to demolish and reconstruct the annex are unlikely to have any significant impact upon the surroundings, for example resulting in loss of land or change of use of land.
- 22/00074/FUL Land adjacent to 1-3 Lakeside View, Lower Road, Halewood. This proposal involves the erection of 12 dwellings with vehicular access, parking and landscape.
- 9.4.4 This site is located adjacent to the southeast of the survey site and, as with Yew Tree Farm, will significantly reduce the likelihood that waterbirds will be present within the adjacent fields.
- 9.4.5 In-combination impacts are unlikely to be a consideration with regard to The Heyes Farm proposals since isolation impacts are likely to be negligible given the potential zone of influence and temporary nature of the works.
- 20/00063/NMA1 Land to the north of the railway line bounded by lower Greensbridge land and Ditton Brook Watercourse, Halewood, and land to the south of railway line bounded by Finch Lane, Baileys Lane and Higher Road, Halewood. This proposal involves erection of 413 dwellings.
- 9.4.6 The proposal to erect buildings to the north and south of the railway line is unlikely to result in in-combination impacts as this proposal is located closer to the residential area, south of the survey site. Foraging waders are less likely to be present in close proximity to the residential area.
- 22/00150/COU Brook House Farm, Lower Road, Halewood, Knowsley. This proposal involves the change of use of an agricultural building to commercial use with associated car parking.



- 9.4.7 The proposal at Brook House Farm is located approximately 2km southeast of the survey site. In-combination impacts are considered unlikely given the extent of the proposals.

## 10 Summary and Conclusion

- 10.0.1 Two European sites are present within a 10km radius of the proposed development site; the Mersey Estuary Ramsar site and SPA.
- 10.0.2 The analysis of potential impacts upon surrounding European sites and the potential impact pathways shows that noise and visual disturbance and dust were the only potential impact that required detailed assessment to determine whether or not there would be a likely significant effect upon the interest features (over wintering and breeding birds). Direct or indirect impacts upon the habitats associated with the Ramsar site are not considered likely.
- 10.0.3 Four bird species that are also interest features have been recorded within 2km of the survey site: Golden plover, teal, lapwing and redshank. Peregrine, a Schedule 1 species (Wildlife and Countryside Act, 1981) was also recorded.
- 10.0.4 The survey site is sufficiently distanced from coastal wetlands including marshland and mudflats that there is a negligible impact of teal and redshank being impacted.
- 10.0.5 Given the proximity of arable land and pasture, the risk of disturbance lies with golden plover and lapwing in the winter months.
- 10.0.6 The short duration and limited extent of the works on a small footprint ensure that any visual impacts or noise would only disturb birds within 400m of the site, if they are occasionally present given the ongoing existing construction works to the northeast and south.
- 10.0.7 The degree of dust is unknown, but given the extent of the proposals and the timing of the initial works to late summer/autumn, it is unlikely to have any significant negative impact upon surrounding habitats.
- 10.0.8 These impacts are considered unlikely to be significant and given the presence of works on adjacent development sites (Yew Tree Farm), are likely to be negligible.
- 10.0.9 The in-combination impacts are unlikely to be significant due to the small size and low impact of work at The Heyes Farm.
- 10.0.10 Overall, no likely significant effects of the proposed development upon European sites within 10km are expected.



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## • APPENDIX A: Wildlife Legislation and Planning Policy

### 1.0 UK AND EU LEGISLATION

#### KEY LEGISLATION

In the UK, the following legislation relates to wildlife and habitats:

- Wildlife and Countryside Act 1981 (as amended)
- The Countryside and Rights of Way Act (CROW), 2000
- The Badger Act 1992
- The Natural Environment and Rural Communities Act (NERC, 2006)
- Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations (2017)
- The Hedgerow Regulations (1997)

#### 1.1 WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

1.1.1 The Wildlife and Countryside Act 1981 consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive) in Great Britain (NB Council Directive 79/409/EEC has now been replaced by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version)).

##### BIRDS

1.1.2 The Act makes it an offence (with exception to species listed in Schedule 2) to intentionally:

- 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 (also [take, damage or destroy the nest of a wild bird included in Schedule ZA1] under the Natural Environment and Rural Communities Act 2006), or
- take or destroy an egg of any wild bird.

##### Schedule 1 birds

1.1.3 Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young, for example Barn Owl and Red Kite.

##### Areas of Special Protection for Birds

1.1.4 The Secretary of State may also designate Areas of Special Protection (subject to exceptions) to provide further protection to birds.

##### Other offences

1.1.5 The Act also prohibits certain methods of killing, injuring, or taking birds, restricts the sale and possession of captive bred birds, and sets standards for keeping birds in captivity.

#### OTHER ANIMALS

1.1.6 The Act makes it an offence (subject to exceptions) to intentionally ([or recklessly] - only under the Nature Conservation (Scotland) Act 2004) kill, injure or take any wild animal listed on Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places. The Act also prohibits certain methods of killing, injuring, or taking wild animals.

1.1.7 For animals listed in Schedule 5 of the act, it is an offence under:

- Section 9(1) to kill, injure or take the animal by any method
- Section 9(2) to possess or control a dead or live animal (or part of derivative).
- Section 9(4)(a) to cause damage to, destruction of, obstruction of access to any structure or place used by a scheduled animal for shelter or protection.
- Section 9(4)(b) to disturb any animal on the schedule occupying such as structure or place.
- Section 9(4)(c) to obstruct access to any structure or place which any such animal uses for shelter or protection.



- Section 9(5)(a) to sell, offer or expose for sale, possess or transport for the purpose of sale, any live or dead wild animal, or part or derivative of an animal included in Schedule 5.
- Section 9(5)(b) to publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.

**Species that receive FULL PROTECTION under the act:**

- All UK bats
- Otter
- Water vole
- Dormouse
- Red squirrel
- Wildcat
- Reptiles – Smooth snake and sand lizard
- Amphibians – Great crested newt, Natterjack toad, Pool frog
- Invertebrates – some including, but not restricted to Swallowtail butterfly, Marsh fritillary butterfly, Large copper butterfly, Heath fritillary butterfly, Large blue butterfly, Barberry carpet moth, Rainbow leaf beetle, Violet click beetle, Medicinal leech.

**Species that protected from intentional KILLING, INJURY and SALE only:**

- Reptiles – widespread species; Common lizard, Slow-worm, Grass snake and Adder.

**Species protected from TAKING and SALE only:**

- Atlantic stream (white-clawed) crayfish

**Species protected from SALE only:**

- Common toad
- Common frog
- Palmate newt
- Smooth newt
- Invertebrates – Some including 18 butterflies such as Chalk hill blue butterfly, Adonis blue butterfly, Large tortoiseshell butterfly.

**Vascular Plants, Bryophytes, Lichens and Fungi (PLANTS)**

1.1.8 For any vascular plant, bryophyte, lichen or fungi listed in Schedule 8 of the Act, it makes it an offence under:

- Section 13(1)(a) to Intentionally pick, uproot or destroy plants in Schedule 8.
- Section 13(1)(b) to undertake unauthorised intentional uprooting of any wild plant not included in Schedule 8.
- Section 13(2)(a) to sell, offer for sale, possess or transport for the purpose of sale any plant (live or dead, part or derivatives) on Schedule 8.
- Section 13(2)(b) to publish or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.

1.1.9 Species with protection under Schedule 8 include, but are not restricted to:

1.1.10 Bluebell, Wood calamint, Rock cinquefoil, Early spider orchid, Spring gentian, Stinking goosefoot, Small hare's-ear, Alpine copper moss (*Mielichhoferia mielichhoferi*), Goblin lights lichen (*Catolechia wahlenbergii*).

**Non-Native Species**

1.1.11 Species listed in Schedule 9 of the Act are non-native species, which the establishment of in the wild may be detrimental to native wildlife. Species listed in Schedule 9 include Japanese knotweed, Himalayan Balsam and Giant hogweed.

1.1.12 For species listed in Schedule 9 of the act it is an offence:

- Under Section 14(1) if any person releases or allows to escape into the wild any animal which—
  - (a) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or
  - (b) is included in Part I of Schedule 9,
- Under Section 14ZA (1) to sell, offers or exposes for sale, or has in his possession or transports for the purposes of sale an animal or plant to which this section 14 applies, or anything from which such an animal or plant can be reproduced or propagated.



- Under Section 14ZA (2) to publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell an animal or plant to which this section applies, or anything from which such an animal or plant can be reproduced or propagated.

1.1.13 Section 14ZB gives the Secretary of State the power to issue codes of practice, or approve a code of practice issued by others, relating to non-native animal and plant species. It is intended that the codes will be used to provide recommendations, advice and information on how to stop the damage caused by non-native animals and plants.

## 1.2 SITES OF SPECIAL SCIENTIFIC INTEREST (SSSIs) AND OTHER PROTECTED AREAS

1.2.1 Sections 28 to 33 of Part 2 of the Wildlife and Countryside Act detail the law regarding SSSIs.. Sections 34 to 53 deal with other protected areas within Great Britain.

- The Act provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs) – these sites are identified for their flora, fauna, geological or physiographical features – by the country conservation bodies in England (Natural England) and Wales (Natural Resources Wales).
- The Act also contains measures for the protection and management of SSSIs.
- The Act provides for the making of Limestone Pavement Orders, which prohibit the disturbance and removal of limestone from such designated areas
- The Act provides means for the designation of Marine Nature Reserves.
- The Act prohibits the undertaking of agricultural or forestry operations on land within National Parks which has been either moor or heath for 20 years, without consent from the relevant planning authority.

## 1.3 THE COUNTRYSIDE AND RIGHTS OF WAY (CROW) ACT 2000

1.3.1 The Countryside and Rights of Way Act 2000 strengthened the Wildlife and Countryside Act 1981 in the following ways:

### Schedule 12

1.3.2 Schedule 12 of the Act amends the species provisions of the Wildlife and Countryside Act 1981 and strengthens the legal protection of species by:

- Providing provisions to make certain offences 'arrestable'
- Changing the term 'intentional' to 'reckless' with regard to disturbance offences, such that ignorance of the law is no longer a defence.
- Conferring greater powers to police and wildlife inspectors for entering premises and obtaining wildlife tissue samples for DNA analysis, and;
- Enabling heavier penalties on conviction of wildlife offences.

### Schedule 9

1.3.3 Schedule 9 of the Act amends SSSI provisions of the Wildlife and Countryside Act 1981, including provision to change SSSIs and providing increased powers for their protection and management, placement of a duty on public bodies to further the conservation and enhancement of SSSIs and increases in penalties on convictions where the provisions are breached.

## 1.4 THE BADGER ACT 1992

1.4.1 Under the Badger Act 1992, it is an offence to:

- Section 1 – Take, injure or kill a badger, or attempt to do so
- Section 2 – Cruelly ill-treat a badger, inclusive of digging for a badger
- Section 3 – Interfere with a badger sett. A person is guilty of an offence if, except as permitted by or under this Act, he interferes with a badger sett by doing any of the following things—
  - (a)damaging a badger sett or any part of it;
  - (b)destroying a badger sett;
  - (c)obstructing access to, or any entrance of, a badger sett;
  - (d)causing a dog to enter a badger sett; or
  - (e)disturbing a badger when it is occupying a badger sett,
- Section 4 – To sell or possess a live badger.
- Section 5 – To mark or ring a badger unless under licence to do so.



### 1.5 THE HEDGEROWS REGULATIONS, 1997

1.5.1 The Hedgerows Regulations, 1997 ensure the protection from damage or destruction of 'important' hedgerows. Criteria within the regulations determine the importance.

### 1.6 THE CONSERVATION OF HABITATS AND SPECIES AND PLANNING (VARIOUS AMENDMENTS) (ENGLAND AND WALES) REGULATIONS 2017

1.6.1 In addition to the Wildlife and Countryside Act 1984, certain species have additional protection under European Law.

1.6.2 The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 (the Habitats Regs) consolidate the amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994 in England and Wales. The Regulations transpose the Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora (EC Habitats Directive) into UK law.

1.6.3 The Habitats Regulations 2010 provide protection for 'European Protected Species' and protection and designation for 'European Protected Sites'.

#### Schedule 2: European Protected Species of Animals

- All UK bats
- Dormice
- Otter
- Large blue butterfly
- Wild cat
- Sand lizard
- Smooth snake
- Great crested newt
- Natterjack toad
- Fishers estuarine moth
- Lesser whirlpool ram's-horn snail
- Sturgeon
- Marine turtles
- All dolphins, porpoises and whales.

1.6.4 For species listed in Schedule 2, Under Part 3 Regulation 41(1) it is an offence to

- (a) deliberately capture, injure or kill any wild animal of a European protected species,
- (b) deliberately disturb a wild animal of any such species,
- (c) deliberately take or destroy the eggs of such an animal, or
- (d) damage or destroy a breeding site or resting place of such an animal,

1.6.5 Under Part 3 Regulation 41 (2) For the purposes of paragraph (1)(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.

Under Part 3 Regulation 41.(3) It is an offence for any person—

- (a) to be in possession of, or to control,
- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange any animal in Schedule 2.

#### Schedule 5: European Protected Species of Plants

- Shore dock
- Killarney Fern
- Early Gentian
- Lady's-slipper
- Creeping marshwort
- Slender naiad
- Fen orchid
- Floating-leaved water plantain



- Yellow-marsh saxifrage.

1.6.6 For species listed in Schedule 2, Under Part 3 Regulation 45(1) It is an offence deliberately to pick, collect, cut, uproot or destroy a wild plant of a European protected species.

1.6.7 Under Part 3 Regulation 45(1) (2) It is an offence for any person

- (a) to be in possession of, or to control,
- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange any plant in Schedule 5

#### European Designated Sites

1.6.8 These include:

- Special Protection Areas – SPAs are classified in accordance with Article 4 of the EC Birds Directive for rare and vulnerable birds (as listed in Annex I of the Directive), and for regularly occurring migratory species
- Special Areas of Conservation – SACs are classified in accordance with Article 3 of the EC Habitats Directive. SACs are designated to establish a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive (as amended).

1.6.9 Natura 2000 is the name of the European Union-wide network of nature conservation sites established under the EC Habitats and Birds Directives. This network will comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). Marine Natura 2000 sites contribute to our ecologically coherent network of marine protected areas.

## 1.7 NATURAL ENVIRONMENT AND RURAL COMMUNITIES (NERC) ACT 2006

### Planning Authorities: A Duty to Conserve Biodiversity

1.7.1 Under this legislation, planning authorities are obliged to make sure that they have all the information on the presence of protected species on site *before* they make a decision on the planning permission.

1.7.2 Part 2, Section 40 confers on the planning authorities a duty to conserve biodiversity and states:

*"Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of biodiversity"*

### Species of Principal Importance

1.7.3 Part 3, Section 41 requires the Secretary of State to "*publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of **principal importance** for the purpose of conserving biodiversity*".

1.7.4 This requirement lead to production of a list of species and habitats of Principal Importance, which should be a material consideration during the planning process.

## 1.8 DESIGNATED SITES OF CONSERVATION INTEREST

1.8.1 Sites of conservation interest can be designated on a statutory or non-statutory basis.

### Statutory Sites

1.8.2 Statutory sites can be designated under UK legislation (the Wildlife and Countryside Act 1981), European Law (the Habitats Regulations 2010) or International law (Ramsar Convention).

1.8.3 The designated sites are referred to under the relevant legislation above.

1.8.4 UK designated sites include Sites of Special Scientific Interest (SSSIs).

1.8.5 European designated sites include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).

1.8.6 Ramsar sites are wetlands of international importance designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971.

1.8.7 Local Nature Reserves (LNRs): Under the National Parks and Access to the Countryside Act 1949 LNRs may be declared by local



authorities after consultation with the relevant statutory nature conservation agency. LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature.

1.8.8 National Nature Reserves (NNRs): are declared by the statutory country conservation agencies under the National Parks and Access to the Countryside Act 1949 and the Wildlife and Countryside Act 1981.

#### Non-Statutory Sites

1.8.9 Local authorities for any given area may designate certain areas as being of local conservation interest. The criteria for inclusion, and the level of protection provided, if any, may vary between areas. Most individual counties have a similar scheme, although they do vary.

1.8.10 These sites, which may be given various titles such as 'Listed Wildlife Sites' (LWS), 'Local Nature Conservation Sites' (LNCS), 'Sites of Importance for Nature Conservation' (SINCS), 'Biological Heritage Sites' (BHS) or 'Sites of Nature Conservation Importance' (SNCIs), together with statutory designations, are defined in local and structure plans under the Town and Country Planning system and are a material consideration when planning applications are being determined.

## 2.0 Plans and Policies

In the UK, the following plans and policies relate to wildlife and habitats:

- National Planning Policy Framework (NPPF, 2021)
- The Natural Environment White Paper 'The Natural Choice: Securing the Value of Nature'
- Biodiversity – The UK Action Plan (1994, and subsequent revisions)
- Local Biodiversity Action Plans where applicable
- Neighbourhood plans where applicable

### NATIONAL PLANNING POLICY FRAMEWORK

2.0.1 In March 2012 the Government introduced the National Planning Policy Framework (NPPF). This was revised in 2021

#### Chapter 15: Conserving and Enhancing the Natural Environment

Chapter 15, Para 174 of NPPF states: "The planning system should contribute to and enhance the natural and local environment by:

- a) **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils...**
- d) **minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".**

Para 175 states: "Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries."

Para 179 identifies that plans should do the following to protect and enhance biodiversity and geodiversity:

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

Para 180 states that "when determining planning applications, local authorities should apply the following principles:

- a) **if significant harm to biodiversity from a development cannot be avoided...,adequately mitigated, or, as a last resort compensated for, then planning permission should be refused"**
- b) **Development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;**



- c) ***Development result in the loss of deterioration of irreplaceable habitats (such as ancient woodland or ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensatory strategy exists; and***
- d) ***Development whos 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.***

Para 182 states "*the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.*"

## 2.1 ODPM CIRCULAR 06/2005: BIODIVERSITY AND GEOLOGICAL CONSERVATION

- 2.1.1 This document, to be read in conjunction with NPPF provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It makes it clear that it is the intention of the government that local authorities and developers consider protected species at the earliest possible stage in the planning process. Any planning application that is likely to affect protected species should come with details of the surveys which have been undertaken and should include, if necessary, recommendations for mitigation. Applications which do not include sufficient data should be rejected.

## 2.2 The Natural Environment White paper

- 2.2.1 The Natural Environment White Paper 'The Natural Choice: Securing the Value of Nature' states that 'We want to create a resilient and coherent ecological network at national and local levels across England... To make this happen the government will put in place a clear institutional framework to support nature restoration. This means: establishing Local Nature Partnerships... Creating new Nature Improvement Areas (NIAs) and strengthening support though the planning system.'

### Biodiversity Offsetting

- 2.2.2 Biodiversity offsetting is described in the Natural Environment White Paper as 'conservation activities designed to deliver biodiversity benefits in compensation for losses in a measurable way. Good developments incorporate biodiversity considerations in their design but are still likely to result in some biodiversity loss. One way to compensate for this loss is by offsetting: the developer secures compensatory habitats elsewhere.'
- 2.2.3 The level of biodiversity offsetting required could be determine by means of assessments undertaken in accordance with the Department for Environment, Food and Rural Affairs (DEFRA) metric contained in Biodiversity Offsetting Pilots published in March 2012 as applied in the Defra offsetting pilot projects. Biodiversity offsetting could be delivered by developers in partnership with various partners including conservation organisations, local landowners and the borough council.

## 2.3 Biodiversity Action Plan (Local or UK)

### UK Biodiversity Action Plan

- 2.3.1 Biodiversity: The UK Action Plan outlines how the UK plans to address biodiversity conservation in response to the Rio Convention on Biological Diversity (1992). In 2004 a UK Biodiversity Steering Group was formed and discussions resulted in the publication of 'Biodiveristy: the UK Steering Group Report – meeting the Rio challenge', which established a framework and criteria for identifying species and habitats of conservation concern. From this list, action plans for 391 species and 45 broad habitat types were prepared. In 2007, the UK List of Priority Species and Habitats was reviewd and the revised list identifies 1149 species and 65 habitats requiring conservation action.
- 2.3.2 These species are now listed in Section 41 of the NERC Act, 2006 and referred to as Habitats and Species of Principal Importance (HPI or SPI).
- 2.3.3 Outcome 3 of the Government's Biodiversity 2020 strategy (DEFRA, 2011) contains an ambition to ensure that "By 2020, we will see an overall improvement in the status of our wildlife and will have prevented further human-induced extinctions of known threatened species". Protecting and enhancing England's Species and Habitats of Principal Importance is key to delivering this outcome.



#### Local Biodiversity Action Plans

- 2.3.4 Local Biodiversity Action Plans (LBAPs) are a means for delivering UK Biodiversity Action Plan targets at a local level. LBAPs were launched in 1997 by a partnership of conservation groups, government agencies and local authorities. They set out a framework for nature conservation in the specified area. This framework includes priority species and habitats and sets targets to maintain and enhance their conservation status.

## 2.4 Other Species Lists of Species of Conservation Concern

- 2.4.1 Species lists of Species of Conservation Concern also considered within this assessment are as follows:

- Birds of Conservation Concern: Based on an assessment of the conservation status of British birds. Following an assessment of data on population and trends against established criteria, there are red, amber and green lists of BoCC. The latest review was BOCC 4 (Eaton et al, 2015)

Red Data Book Species: In 1999 the Species Status Assessment project (JNCC) assigned conservation status to the UK flora and fauna using the internationally approved IUCN Red Data Book criteria and categories. The reviews were published in a series of data sheets and assigned a conservation status to each species.

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