

Examination of the Warrington Local Plan

Statement on behalf of Liberty Properties

Respondent Reference Number: 1435

Matter 6e – Main Development Area: Thelwall Heys

July 2022

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Report title: Liberty Properties Warrington Local Plan Hearing Statement (Matter 6e)

Prepared by: Emma Sandham and reviewed by Richard Woodford

Status: Final

Draft date: 22 July 2022

For and on behalf of Avison Young (UK) Limited

Introduction

Avison Young ('AY') has been instructed by Liberty Properties ('Liberty') to prepare and submit this hearing statement in relation to Matter 6e – Main Development Area: Thelwall Heys ('THMDA').

The statement relates to land at Thelwall Heys, as illustrated on the plan contained within **Appendix I**. The entirety of the Thelwall Heys allocation proposed by Policy MD5 of the 2021 Submission Version Local Plan ('SVLP') is controlled by Liberty.

AY acting for Liberty has submitted representations and technical information over the years at various stages in the plan-making process in relation to THMDA. This statement provides comment on some but not all of the Matters, Issues and Questions identified by the Inspectors [ID02] in relation to Matter 6e and the THMDA.

Question 1 – What is the background to the Main Development Area and how was it identified?

- 1.1 It is understood that the Council will provided a concise background to the site's allocation in their statement.
- 1.2 Liberty has promoted the Thelwall Heys site for residential development since 2017, which has included the submission of representations to all previous consultation stages of the Local Plan. During this period, various evidence documents, including a Development Statement have been submitted to the Council to justify the release of the site from the Green Belt.
- 1.3 The need for deliverable sites in the early years of the Plan period along with the sites excellent locational characteristics and single ownership made the site a suitable candidate for allocation.
- 1.4 Liberty has worked with the Council to provide information on technical issues such as heritage and site accessibility. In addition, evidence has been produced to verify the residential capacity of the site, estimated delivery rates and technical matters which demonstrate the ability of the site to accommodate the level of development anticipated in the draft allocation.

Question 2 – What is the basis for the scale of development proposed and is this justified?

- 1.5 Liberty are supportive of the quantum of development proposed for the THMDA proposed by Policy MD5 of the 2021 SVLP, which requires the delivery of a minimum of 300 homes on the site within the first 10 years of the Plan period. The proposed quantum of development has been derived from capacity studies undertaken on the site as far back as 2017. The scale of development proposed has also given due consideration to any technical constraints associated with the site, as highlighted within the detailed technical assessments undertaken to underpin the Development Statement which was submitted to the Council in September 2017 and subsequently updated.
- 1.6 The Illustrative Masterplan at **Appendix II** has been prepared to demonstrate how the site could meet this development requirement. The Masterplan shows 310 dwellings laid out at an appropriate density, responding to the stated minimum density of 30dph. These dwellings will be delivered in accordance with housing mix and affordability requirements set out within the Local Plan.

Question 3 – What are the conclusions of the Green Belt Assessment in relation to the contribution of the land in question to the purposes of the Green Belt and the potential to alter the Green Belt in this location?

- 1.7 It is understood that the Council will cover this matter in their response.

Question 4 – What would be the effect of developing the site on the purposes of the Green Belt?

- 1.8 The Council have noted the conclusions of the 2021 Green Belt Assessment in their matters statement. The assessment concluded that the development of the site would result in some encroachment into

the countryside, however development would not represent unrestricted sprawl as it would be reasonably contained and well defined along strong permanent boundaries to the south, east and north (Bridgewater Canal, Cliff Lane, All Saints Drive, and the Trans Pennine Trail).

- 1.9 Given the pattern of the built-up area, development could constitute 'rounding off' of the settlement pattern. The removal of this site from the Green Belt will not harm the overall function and integrity of the Warrington Green Belt.
- 1.10 We share this view.

Question 5 – Are there exceptional circumstances to alter the Green Belt in this particular case? If so what are they?

- 1.11 Liberty agrees that "exceptional circumstances" clearly exist which justify the release of the THMDA from the Green Belt. The development of the site early in the Plan period will enable Warrington to meet its short term housing needs. The THMDA would make a significant and sustainable contribution towards accommodating Warrington's housing needs, and would clearly meet the test of soundness.
- 1.12 The August 2021 Housing Needs Assessment for Warrington showed that delivery rates in the last 5 years have dropped off against the Councils targets, noting on page 41 that '*the Borough has substantially under delivered on (past) housing requirements*'. This is now causing some harm to the Borough and its ability to maintain a healthy short term housing land supply, particularly as the Local Plan's delivery trajectory figures illustrate that it is a challenge to deliver sites and homes in the early years of the Plan period. Policy DEV1 of the SVLP identifies that the existing urban area can accommodate around 11,800 new homes. This means there is the requirement to release Green Belt land for around 4,500 homes in order for the Council to meet its housing requirements which cannot be met elsewhere. The release of a small number of sustainable and deliverable sites from the Green Belt provides sharper focus on enabling more short-term housing delivery.
- 1.13 The THMDA is one of three major Green Belt release allocation sites in the SVLP. Along with Fiddlers Ferry (1,300 homes) and the South East Urban extension (2,400 homes), the THMDA is necessary to meet the overall housing needs of the Borough. Liberty are committing to deliver the THMDA site very early on within the Plan period as it is a site without any infrastructure constraints and with a strong market demand; it therefore makes an important contribution to the Local Plan in meeting the need for this early delivery.
- 1.14 The THMDA has been subject to a lengthy site selection process and is considered to be suitable to be released from the Green Belt because there are clear physical boundaries that will act to contain development and reinforce the new Green Belt boundary once the site is developed. The principal consideration is the perceptual or physical coalescence of Thelwall with neighbouring settlements. In terms of the site, this is not a concern; development of the site would not result in the coalescence of Thelwall due to the distance and existing physical boundaries between the site and neighbouring settlements to the east or south. To the east, the nearest settlement is Statham, located 2.2km from the site and beyond the M6 motorway. To the south, the village of Appleton Thorn is located 3.1km away, and separated from the site by extensive open green belt land. Grappenhall village is located immediately west of the site, however the urban form is already continuous between the villages of Grappenhall and Thelwall, and the two villages are perceived as the urban edge of the larger conurbation, rather than separate settlements. The development of the site would therefore constitute infilling and 'rounding off' the south-east urban edge of these two settlements and would not contribute to the coalescence of individual settlements. Development of the site can ensure the retention and enhancement of the vegetated boundaries along the Bridgewater Canal to the south and Trans Pennine

Trail to the north and would ensure containment of the development and prevent the possibility of the developed site acting as a catalyst for further development to the south or east.

Question 6 – What is the approach towards Green Belt compensatory improvements? Is this sufficiently clear?

- 1.15 Liberty does not object in principle to the requirement within Policy MD5 for a scheme of compensatory improvements to be delivered to the land remaining within the Green Belt as part of the redevelopment of the THMDA.
- 1.16 We understand that the Council is proposing a modification to the Policy to clarify the following:
- In the first instance, improvements should be made in the immediate vicinity of the site and delivered by the developer.
 - The Council will consider improvements in the wider area where it can be demonstrated that the improvements cannot be delivered in the immediate vicinity of the site or where this will provide greater benefits.
 - Financial contributions will only be considered where this would help to ensure that the benefits of compensatory improvements can be maximised by providing them in a more appropriate location.
- 1.17 Liberty has agreed to work with the Council on Green Belt compensatory measures in line with the requirement of Policy MD5. A detailed scheme of measures to meet this target would be provided as part of any future planning application. In relation to the THMDA, Liberty has control and access to land in the vicinity of the THMDA which will enable appropriate Green Belt compensatory measures to be delivered.
- 1.18 We consider that it would be helpful if the Policy or explanatory text could provide further clarity on how any financial contribution sought from developers to meet this requirement would be calculated.

Question 7 – What is the background to the specific policy requirements in Policy MD5? Are they justified and consistent with national policy? Do they provide clear and effective guidance on constraints and suitable mitigation?

- 1.19 Liberty is supportive of the site specific requirements of Policy MD5 which provides clear guidance on what the Council expects will be delivered as part of the development including any specific considerations concerning heritage, Green Belt, climate change and the natural environment. The site specific requirements of Policy MD5 are also consistent with the policies of the NPPF and are therefore justified. The specific policy requirements are reflective of the ongoing dialogue which has taken place between Liberty and the Council and the physical and locational characteristics of the site.
- 1.20 Liberty has tested the policy requirements through an iterative process based on technical work and the preparation of a Development Statement and is confident that all requirements can be delivered.
- 1.21 The only observation Liberty has on the detailed wording of the policy is it is stated throughout that “it will be required” which does not appear to provide flexibility in the event for example that up to date

evidence may show that there is no justification for a contribution towards the provision of additional primary care capacity.

Question 8 – Does Policy MD5 identify all appropriate and necessary infrastructure requirements? How will these be provided and funded? Is this sufficiently clear?

- 1.22 The policy sets out a comprehensive list of necessary infrastructure requirements. The only possible additional item based on recent guidance is delivery of Biodiversity Net Gain.
- 1.23 Liberty as an experienced developer has carried out a number of appraisals and has tested the viability of the development. Liberty can confirm that the proposed financial contributions towards infrastructure will be delivered and funded by the developer.

Question 9 – Are there potential adverse effects not covered above, if so, what are they and how would they be addressed and mitigated?

- 1.24 In order to be able to robustly conclude that there would be no adverse effects resulting from the development of the THMDA, Liberty have commissioned a series of technical updates to those reports prepared to underpin the 2017 Development Statement which was prepared by AY to justify the release of the site from the Green Belt and its suitability to accommodate residential development. These technical update notes are on the topics of transport and access, flood risk and drainage, ecology, landscape and heritage and can be found at Appendix 3 of this statement. The technical notes can be summarised as follows:

Transport and Access

- 1.25 Policy MD5 requires a package of Transport improvements to support the development. This includes ensuring appropriate access arrangement, provision of walking and cycling routes and other network improvements or travel plan measures identified through an appropriate Transport Assessment.
- 1.26 Croft Eddisons prepared a March 2021 update note on transport and access in relation to the THMDA. The note confirms that safe and secure access into the site would be provided via a 5.5 metre wide carriageway with 2 metre wide footways on either side coming into the site off Cliff Lane.
- 1.27 In terms of off-site impact, the proposals are likely to generate in the region of 180 vehicular trips in the two busiest hours of the day, which are likely to be between 0800 and 0900 hours and 1700 to 1800 hours. Given the location in relation to Warrington, the M6 and the M56, traffic is likely to disperse over a number of different routes on the highway network. There are no particular capacity constraints to the local highway network which would provide an issue for this additional traffic generation.
- 1.28 As part of any future planning application there may be a package of off-site highway improvements that will ensure that the proposed residential development at the THMDA will not have a severe impact on the transport network. These issues will be covered in detail within a full Transport Assessment at the time of a formal planning application at the site.
- 1.29 The Croft Eddisons note concludes that the modest number of additional vehicular trips onto the local highway network can potentially be mitigated by a range of improvements, which will assist in the capacity of the local network and enhance its safety for all users.

Flood Risk and Drainage

- 1.30 Policy MD5 requires a site-wide foul and surface water strategy incorporating appropriate Sustainable Drainage Systems (SUDS) and flood alleviation measures. The surface water strategy will be required to improve on greenfield run-off rates.
- 1.31 Integra Consulting have prepared an updated advisory note on flood risk and drainage in order to advise on any updates in relevant statutory flood risk / drainage related documentation since January 2017 together with any known changes to flood risk and/or post-development outline drainage strategy for the site.
- 1.32 With regards to flood risk, the majority of the THMDA is located in Flood Zone 1 meaning it is at the lowest possible risk from flooding (1 in 1,000 probability of fluvial flooding). The existing pond directly to the north of Laundry Cottage in the centre of the site is now shown in Flood Zone 2 but this is solely a function of the pond base topography and will not constrain the future development platform.
- 1.33 With regards to drainage, the note comments that the use of post-development surface water infiltration techniques needs to be explored before discharge to the on-site Thelwall Heys Brook at greenfield runoff rates can be considered in detail. In the scenario that post-development surface water infiltration techniques are not possible to implement, it is anticipated that on-site surface water storage for the 1 in 100 year plus 45% climate change event will be provided in the form of open ponds and swales.
- 1.34 With regards to foul water drainage, it is anticipated that post-development foul drainage flows will discharge freely to the local adopted sewer system subject to a future study of the United Utilities (UU) sewer plans and subsequent detailed liaison with UU.

Ecology

- 1.35 Policy MD5 requires a Green Infrastructure Strategy for the site. The Bridgewater Canal is identified as an area where environmental benefits of the area should be enhanced and that a scheme for measurable biodiversity net gain should be demonstrated through the use of the Defra Metric and provided for all development parcels that come forward for planning approval.
- 1.36 Bowland Ecology have prepared an updated technical note to assess the potential ecological value of the site. The note reports that the site is dominated by habitats of low ecological value. Habitats of medium and high distinctiveness are confined to field boundaries. Further survey work would be undertaken at the point of any planning application to inform the need for protected species mitigation strategies. Given the nature of the site and opportunities for habitat creation and enhancement, it is highly likely that any negative impacts to protected species from future development of the site can be reduced to non-significant.
- 1.37 To achieve a measurable net gain for biodiversity on site, it is anticipated that loss of arable habitat could be readily compensated for onsite through a mixture of habitat enhancement, creation of other low distinctiveness habitats (e.g. vegetated gardens, allotments and green amenity space) in addition to meaningful areas of habitat creation (e.g. a wide belt of neutral grassland, scrub and woodland along the southern site boundary). Such measures would strengthen the Boroughs Strategic Green Links Network and satisfy the policies attached to the development of the site in relation to biodiversity net gain, the mitigation hierarchy and habitat creation along the canal.

Landscape and Visual

- 1.38 Policy MD5 requires that the layout of the development should take account of existing landscape features, including trees and significant hedgerows and ensure the site contributes to the wider objectives of the Mersey Forest. It also states that development of the site should integrate the Bridgewater Canal to the south and support measures that maximise and reinforce the environmental and socio-economic benefits of linkage to the canal corridor and its environs.
- 1.39 Tyler Grange have provided updated advice to Liberty with regards to the feasibility of development of the above named site in terms of landscape character and visual amenity matters, as well as to provide a review of the existing Green Belt context. Their advisory note confirms that development on the site could be accommodated with reference to site specific circumstances and the ability to deliver sustainable growth in Thelwall. The site is considered capable of being developed without having significant impact on coalescence or urban sprawl. Although the site is fairly open in terms of its use as an agricultural field, more urban influences are present in the form of views towards the residential edge of Grappenhall Village and Thelwall. There is also a considerable level of visual screening and filtering offered by boundary vegetation and local woodland blocks,
- 1.40 It is evident that due to the visual context of the site and surrounding landscape, there are relatively few receptors that are likely to be impacted on and there is a limited visual relationship between the site and the wider Green Belt. There are opportunities to utilise the screening provided by the framework of green infrastructure already present surrounding the site to create a sensitive settlement extension to Thelwall village that does not impact upon the perceived openness of the wider Green Belt landscape or sensitive receptors. As a result of the containment provided by the surrounding vegetation, few receptors will be affected and the effects on landscape character will be localised to the immediate setting.

Heritage

- 1.41 Policy MD5 requires development to preserve and enhance the historic environment, heritage assets and their settings. This is particularly relevant to the THMDA given that the Grade II listed Thelwall Heys is located 10m from the site's boundary at its nearest point.
- 1.42 Cotswold Archaeology have provided an updated advice note to provide a concise overview of the known and potential archaeological and built heritage issues relating to the proposed development of the Site for residential use. The note identifies built heritage sensitivities in relation to the Grade II Listed Building and a number of other Locally Listed Buildings. It advises that the impact on the setting of these assets can be minimised through sensitive design. Any identified mitigation measures will need to be adopted to ensure the proposals are consistent with the provisions of the National Planning Policy Framework, the Planning Act (1990), Policy QE8: Historic Environment of the Warrington Local Plan and Policy DC2 of the Draft Local Plan.

Question 10 – Is the development proposed viable and deliverable as anticipated within the plan period? What is the situation in relation to land ownership and developer interest?

- 1.43 The site is subject to single land ownership with which Liberty has a Promotional Agreement in place. Therefore, the site is within the control of a highly experienced land promoter who would seek to secure planning permission within the shortest possible timescales, delivering much needed new homes early in the Plan Period. The SVLP recognises the site's availability, stating that development is expected to

come forwards quickly on the adoption of the Plan, and is expected to be completed in full within the first 10 years of the Plan period. Liberty can meet this requirement.

- 1.44 The site has not been marketed by Liberty. However, a significant number of housebuilders have approached Liberty off the back of the draft allocation with several making unconditional offers. It is a highly desirable location for housing given its location near to services, its scale and lack of technical constraints. Based on the anticipated revenue that could be generated from the development of 310 homes, the quantum of development proposed and the level of investment towards local infrastructure is considered to be viable.

Question 11 – How is it intended to bring the site forward for development? What mechanisms will there be to ensure a comprehensive and co-ordinated approach to development, ensuring that infrastructure requirements are provided?

- 1.45 As the site is within one single land ownership which Liberty are in control of through their Promotion Agreement, the development would be brought forward by Liberty under one single planning application following the adoption of the Local Plan. Liberty can confirm that the site can be delivered as per the infrastructure requirements of Policy MD5.

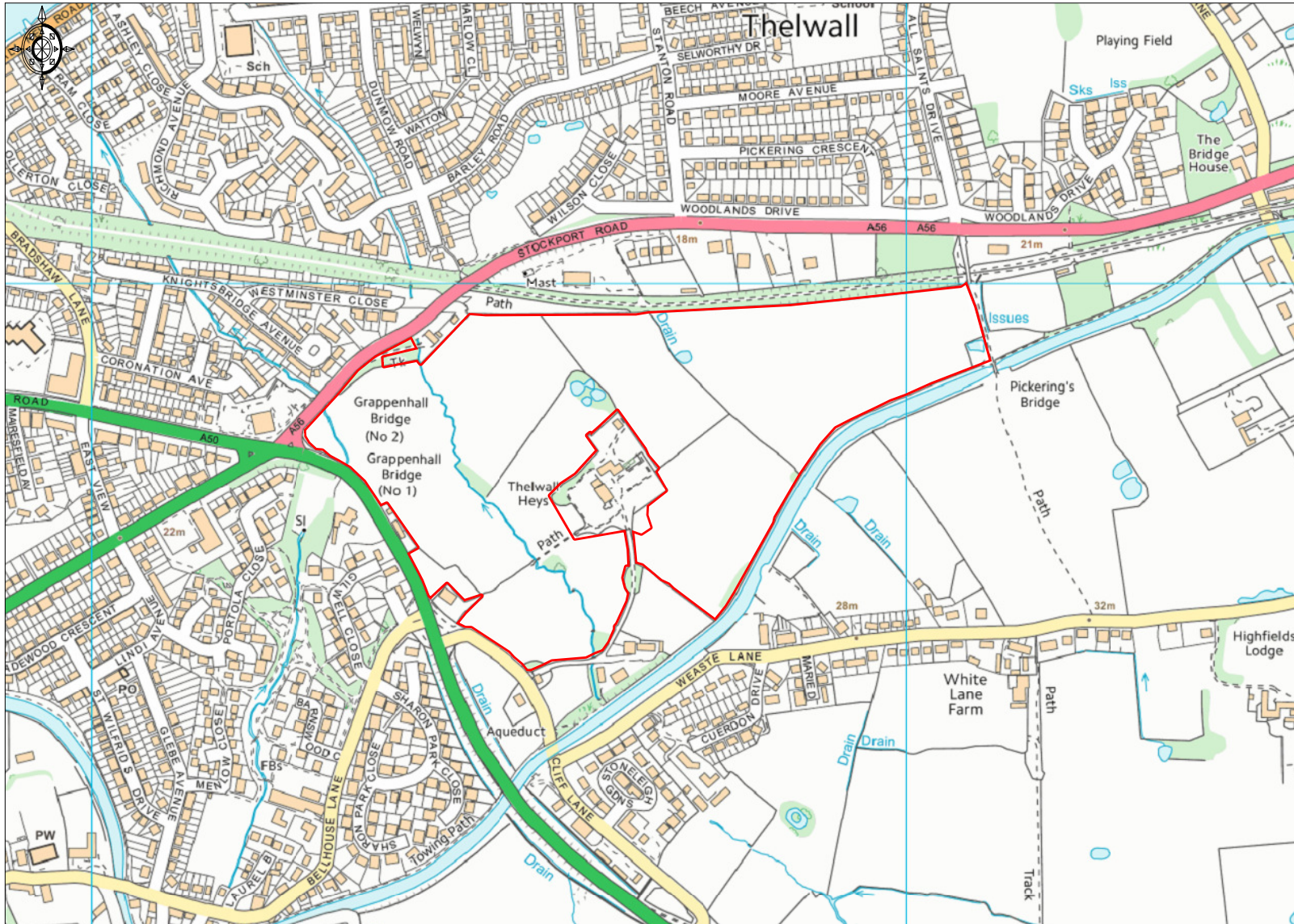
Question 12 – Are any main modifications necessary for soundness?

- 1.46 In overall terms, Liberty is fully supportive of the proposed THMDA allocation and does not consider that any main modifications need to be made to Policy MD5 of the Plan is soundly based as it is fully justified, effective, consistent with national policy and has been positively prepared.
- 1.47 Liberty are supportive of the proposed modification to Policy MD5 in relation to Green Belt compensatory measures.

Appendix I

Land controlled by Liberty Properties within the
Thelwall Heys Main Development Area

Thelwall Hayes, Grappenhall, Warrington



Ordnance Survey © Crown Copyright 2016. All rights reserved. Licence number 100022432. Plotted Scale - 1:7500

Appendix II

Illustrative Masterplan

REFERENCE
2827

PROJECT

**THELWALL HEYS,
GRAPPENHALL**

DOCUMENT

UPDATED SKETCH MASTERPLAN

CLIENT
LIBERTY PROPERTIES

STATUS
DRAFT

DATE
08/10/21



Illustrative Masterplan



Landscape Strategy



Appendix III

THMDA Technical Notes

THELWALL HAYES, GRAPPENHALL (1350) TRANSPORT ISSUES NOTE – MARCH 2021

Location and Accessibility

The site is located around 4 kilometres east of Warrington town centre where the area's primary shopping and employment opportunities can be found. In addition, there are a range of services and facilities in the vicinity of the site itself.

As will be demonstrated later in this note, the site is located in an accessible location with a regular provision of bus routes running in close proximity. There is also strong potential to create new links to nearby existing pedestrian and cycle routes.

This note will demonstrate that the site is in a sustainable location in Grappenhall, with access to local facilities, and should therefore be allocated in the emerging Warrington Local Plan.

Education

St Wilfrid's Church of England Aided Primary School is located to the west of the site off Church Lane. Access to the school can be achieved directly either along Stockport Road, Chester Road and then onto Church Lane.

The nearest secondary school is Sir Thomas Boteler Church of England High School located just over 2 kilometres from the site, around a 25 minute walk of the site. There are also regular buses that run between the site and the vicinity of Sir Thomas Boteler Church of England High School along Knutsford Road in the Latchford area of Warrington.

Healthcare

The nearest Medical Centre is located around a kilometre to the north of the site at Grappenhall Surgery. A pharmacy is located closer to the site along Knutsford Road adjacent to the Co-op convenience store which is only around a 10 minute walk of the site.

Warrington Hospital is located around 5 kilometres from the site but can be reached by bus with a change of service within the town centre.

Employment

Although major employment opportunities may be scarce within the vicinity of the site, with the exception of some small businesses, there are a number of large employment opportunities close by. For example, Warrington Town Centre is a direct bus journey from the site and, with a change of bus service or connection to rail services, so are the major employment areas within Manchester and Liverpool city centres.

Retail

Local retail facilities are located close to the site on Knutsford Road in the form of Co-op and Tesco convenience stores, both within a 10 minute walk of the site.

There are major retail facilities within the vicinity of the site in the form of the Riverside Retail Park which is located around 3 kilometres to the north-west corner of the site. This includes a Homebase, a McDonalds and many other national retail units. Riverside Retail Park is accessible via approximately an 18-minute bus journey and a short walk.

Warrington town centre is also only a short bus journey from the site which takes just over 20 minutes. The town centre has numerous retail opportunities including most of the large national retail chains such as Marks and Spencer and Debenhams located within the town centre.

Sports and Recreation

The area has a number of locations for sport and recreation. There is a local park located approximately a kilometre from the centre of the site on St Anne's Avenue East. This park consists of a play area and a football pitch. Additionally, Warrington Sports club for all is situated around 2.2 kilometres from the centre of the site, off Knutsford Road.

Day to Day Accessibility

Table 1 below summarises the distances from the centre of the site to various day-to-day facilities.

| Local Amenity | Distance from site (metres) |
|----------------------------|--|
| Bus Stop | 530m (Grappenhall, opp Stoneleigh Gardens) |
| Restaurant | Springbrook Restaurant-560m (Knutsford Road) |
| Tesco | 650m (Knutsford Road) |
| ATM | 680m (Knutsford Road) |
| Pharmacy | 760m (Knutsford Road) |
| Co-operative | 800m (Knutsford Road) |
| St Wilfrid's C of E Church | 910m (Church Lane) |
| The Parr Arms | 940m (Church Lane) |
| Primary School | 1060m (Church Lane) |

Table 1 - Distance from Key Day to Day Amenities

The table clearly shows that the Thelwall Hayes site is within a short walking distance of a range of day-to-day amenities including shops and schools.

Plan 1 shows pedestrian catchment plans and identifies the location of key amenities.

There is the scope for a range of improvements to sustainable transport connectivity. These will likely be in the form of potential new bus stops closer to the site or potential improvements to footway and cycleway connectivity.

Vehicular Access

Vehicular access to the site will be via a new access point along Cliff Lane. Cliff Lane forms the minor arm of a priority controlled junction with right turn lane with the A50 Knutsford Road. Around 30 metres to the east of Knutsford Road, Cliff Lane diverts south-eastwards, forming a boundary with the development site.

Access to the site would be provided by extending the carriageway that forms the first 30 metres section of Cliff Lane eastwards into the site. The existing section of Cliff Lane that diverts south-eastwards would then form the minor arm of the newly created priority controlled arrangement.

The site access road will have a 5.5 metre wide carriageway with 2 metre wide footways on either side coming into the site. The proposed site access arrangement is shown in **Plan 2**.

Discussions are ongoing between Croft and Warrington Council regarding the suitability of the Site Access, however, our view is that there are no constraints to accessing the site that cannot be overcome.

In terms of off-site impact the proposals are likely to generate in the region of 180 vehicular trips in the two busiest hours of the day, which are likely to be between 0800 and 0900 hours and 1700 to 1800 hours. Given the location in relation to Warrington, the M6 and the M56, traffic is likely to disperse over a number of different routes on the highway network.

There are no particular capacity constraints to the local highway network which would provide an issue for this additional traffic generation.

As part of any subsequent planning application there may be a package of off-site highway improvements that will ensure that the proposed residential development at Thelwall Hayes will not have a severe impact on the transport network.

These issues will be covered in detail within a full Transport Assessment at the time of a formal planning application at the site.

Transportation

The nearest bus stops to the site are located approximately 500 metres from the centre of the site consisting of a bus stop pole with passing services shown and a bus service timetable. There are also further bus stops located further along Knutsford Road and Weaste Lane. All the nearest bus stops to the site are shown on **Plan 1**.

The site has an extensive frontage to Knutsford Road and the potential exists to create new bus stops much close to the site to improve bus accessibility to the site.

Table 2, below, summarises the bus services that operate in the vicinity of the site together with their frequencies per hour.

| Service | Route | Daytime | Evening | Sat | Sun |
|---------------|-------------------------|---------|---------|-----|-----|
| 41/41B | Walton - Lymm | 2 | 0 | 0 | 0 |
| 42 | Grappenhall Heys - Lymm | 1 | 0 | 0 | 0 |
| 47 | Knutsford - Warrington | 3 | 0 | 0 | 0 |

Table 2 – Summary of Bus Services Operating Close to The Site

The table shows that up to 6 bus services per hour travel past the site during the daytime and these provide direct access to a number of destinations such as Warrington town centre, Walton and Lymm. All these services also serve Warrington bus station which provides access to further local and regional services, as well as the town's two railway stations, to improve the accessibility of the site.

These buses would provide the opportunity to access numerous destinations in and around the site. As such the site can be seen as accessible by bus.

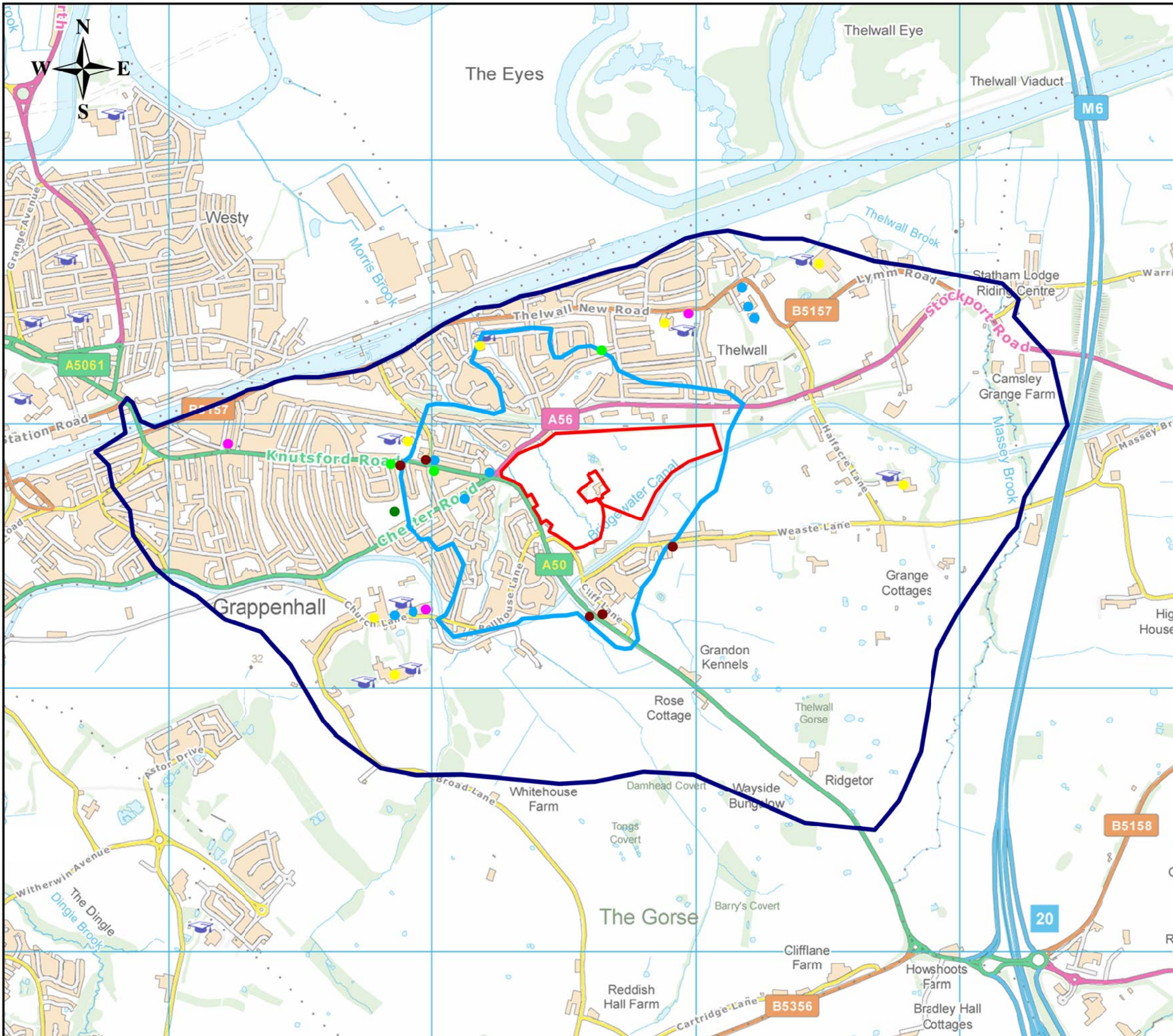
Conclusions

In summary, this note clearly demonstrates that the Thelwall Hayes site in Grappenhall is very well located for new residential development. The site is in close proximity to a good range of shops, employment opportunities, education provisions and other facilities and services. The site also benefits from being in close proximity to key regular public transport routes, which encourage trips by means other than the private car.

The site can be satisfactorily accessed and will generate a modest number of additional vehicular trips onto the local highway network which can potentially be mitigated by a range of improvements, which will assist in the capacity of the local network and enhance its safety for all users.

This site should therefore be allocated in the emerging Warrington Local Plan.

PLANS



NOTES PLAN 1

- Site Location
- 800m Pedestrian Catchment
- 2km Pedestrian Catchment
- Nearest Bus Stops
- Education
- Cafe/Takeaway/PublicHouse
- Community Facilities
- Retail
- Leisure/Sport

| REV. | DETAILS | DRAWN | CHECKED | DATE |
|------|---------|-------|---------|------|
| | | | | |

CLIENT: **LIBERTY**

PROJECT: **THELWALL HAYES, GRAPPENHALL**

DRAWING TITLE: **800M & 2KM PEDESTRIAN CATCHMENT WITH AMENITIES**

SCALE: 15000 @ A3

| | | |
|-----------|-------------|----------------|
| DRAWN: GM | CHECKED: TR | DATE: 16.08.17 |
|-----------|-------------|----------------|



| | |
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| DRAWING NUMBER: 1350-01 | REVISION: . |
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NOTES
 THIS LAYOUT IS FOR INDICATIVE PURPOSES ONLY AND IS SUBJECT TO FURTHER DESIGN ANALYSIS, TOPOGRAPHICAL MAPPING & HIGHWAY/THIRD PARTY LAND BOUNDARIES.

ADOPTED HIGHWAY

PLAN 2

| REV. | DETAILS | DRAWN | CHECKED | DATE |
|------|---------|-------|---------|------|
| | | | | |

CLIENT:
LIBERTY

PROJECT:
THELWALL HAYES, GRAPPENHALL

DRAWING TITLE:
PROPOSED EXTENSION OF CLIFF LANE

SCALES:
1:500 @ A3

| | | |
|-----------|--------------|--------------|
| DRAWN: JC | CHECKED: PJW | DATE: JUL 16 |
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Web: www.crofts.co.uk

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LAND AT THELWALL HEYS, GRAPPENHALL

ADVISORY NOTE ON FLOOD RISK AND DRAINAGE – JUN 22

This brief advisory note summarises our review of the Integra Consulting preliminary Flood Risk Assessment undertaken in January 2017 for the above site. The review has been carried out in order to advise on any updates in relevant statutory flood risk / drainage related documentation since January 2017 together with any known changes to flood risk and/or post-development outline drainage strategy for the site.

Flood Risk

A review of the current on-line Environment Agency (EA) fluvial flood mapping (see attached) indicates an almost identical mapping profile to that identified in January 2017 with the site mainly lying in Flood Zone 1 (less than a 1 in 1000 annual probability of fluvial flooding).

Localised elevated flood risk is still evident around Cliff Lane and in the north west corner of the site where Morris Brook enters and leaves the site. Technically, the existing pond directly to the north of Laundry Cottage in the centre of the site is now shown in Flood Zone 2 but this is solely a function of the pond base topography and will not constrain the future development platform.

On the basis of the localised areas of elevated flood risk identified in the January 2017 report, accurate modelled risk levels were previously procured from the EA for Thelwall Heys Brook. The latest modelled risk levels have also been applied for but typically take circa four weeks to arrive from the Agency – this information will be added to this note when received. It is however noted that the latest on-line flood map for planning (showing fluvial flood mapping) will be based on a combination of LIDAR level data and the latest EA modelled risk levels for Thelwall Heys Brook over the site extent and hence it is unlikely that the latest modelled risk levels will indicate any changes to the site flood mapping.

Similarly, the current on-line EA surface water flood mapping (see attached) shows no discernible changes from the mapping available in January 2017 with surface water flooding still evident along and adjacent to the line of Thelwall Heys Brook as it extends broadly from south to north within the site together with flooding in other isolated 'low' areas of the site.

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There is no identified risk of reservoir flooding at the site.

It is noted that the Warrington Brough Council Strategic Flood Risk Assessments Volume I and II are unchanged from the versions reviewed in January 2017.

Drainage

Surface Water Drainage

As covered in the Integra 2017 report, the hierarchy of surface water discharge dictates that the use of post-development surface water infiltration techniques needs to be explored before discharge to the on-site Thelwall Heys Brook at greenfield runoff rates can be considered in detail. Given that British Geological Society records suggest that the western section of the site is underlain by drift deposits of (permeable) sands, it is possible that infiltration can provide part of the overall post-development drainage strategy for this site.

Whilst there are no changes in the relevant drainage documentation with DEFRA document SC030219 still applicable, we have observed a change in the approach of some Lead Local Flood Authorities (LLFA's) over the past five years which could result in a more limited post-development surface water discharge from this greenfield site if discharge to the on-site Thelwall Heys Brook is to form part / all of the post-development drainage strategy.

The final surface water discharge rate from the post-development site can be determined with certainty following detailed future liaison with the LLFA. The implications of a 'reduced' post-development run off rate would be an increase in the surface water storage requirement at the site. The surface water storage requirement will also increase from the estimated volume quoted in January 2017 on the basis that the relevant climate change allowance has increased from 30% to 45% utilising the latest Gov.UK mapping for the Weaver Gowy catchment which covers the Grappenhall area. In the scenario that post-development surface water infiltration techniques are not possible to implement, it is anticipated that on-site surface water storage for the 1 in 100 year plus 45% climate change event will be provided in the form of open ponds and swales.

Foul Water Drainage

It is still anticipated that post-development foul drainage flows will discharge freely to the local adopted sewer system subject to a future study of the United Utilities (UU) sewer plans and subsequent detailed liaison with UU.

Flood map for planning

Your reference
Thelwall Heys

Location (easting/northing)
364584/386770

Created
29 Jun 2022 18:34

Your selected location is in flood zone 1, an area with a low probability of flooding.

You will need to do a flood risk assessment if your site is **any of the following:**

- bigger than 1 hectare (ha)
- In an area with critical drainage problems as notified by the Environment Agency
- identified as being at increased flood risk in future by the local authority's strategic flood risk assessment
- at risk from other sources of flooding (such as surface water or reservoirs) and its development would increase the vulnerability of its use (such as constructing an office on an undeveloped site or converting a shop to a dwelling)

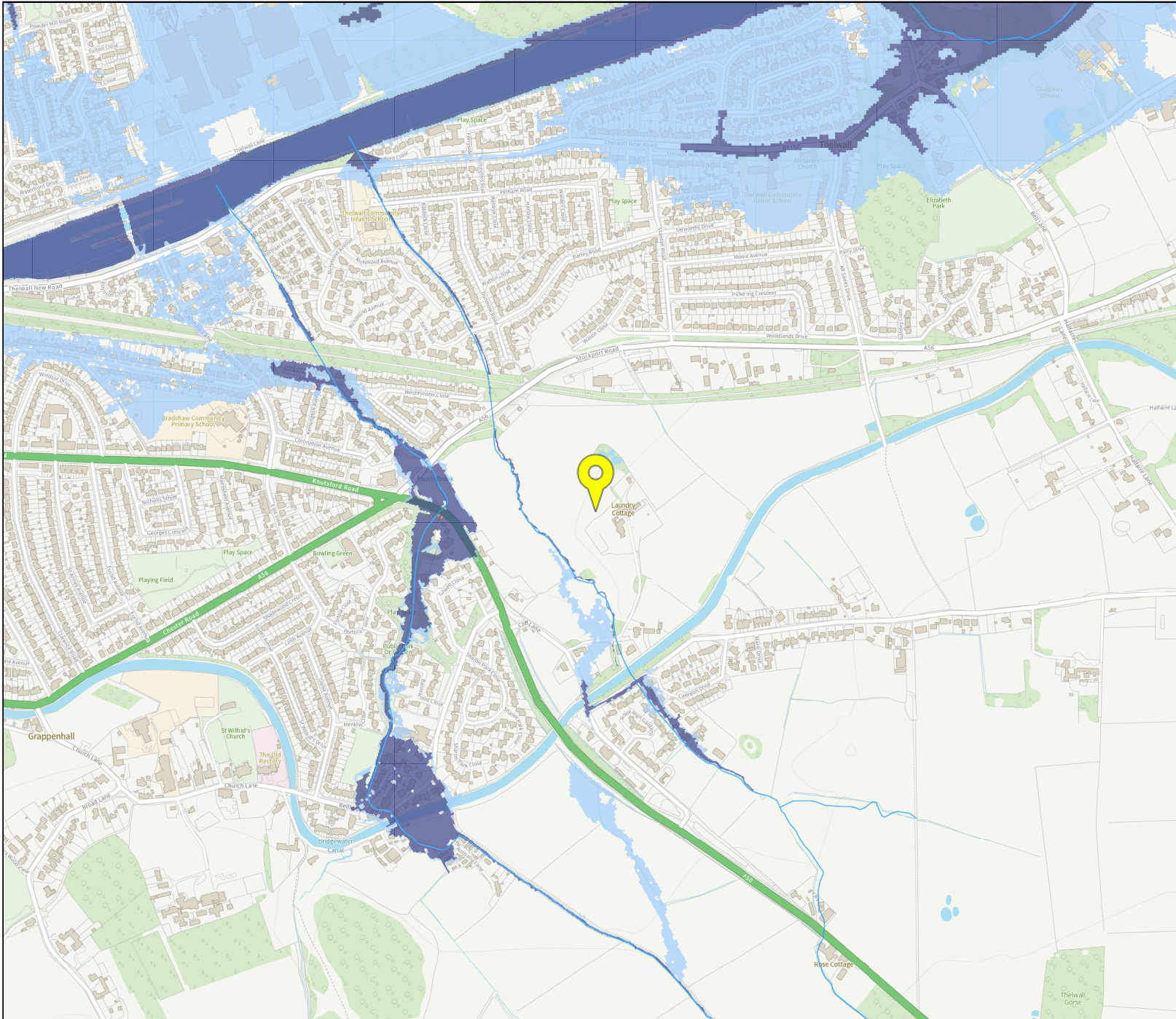
Notes

The flood map for planning shows river and sea flooding data only. It doesn't include other sources of flooding. It is for use in development planning and flood risk assessments.

This information relates to the selected location and is not specific to any property within it. The map is updated regularly and is correct at the time of printing.

Flood risk data is covered by the Open Government Licence **which** sets out the terms and conditions for using government data. <https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

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




Flood map for planning

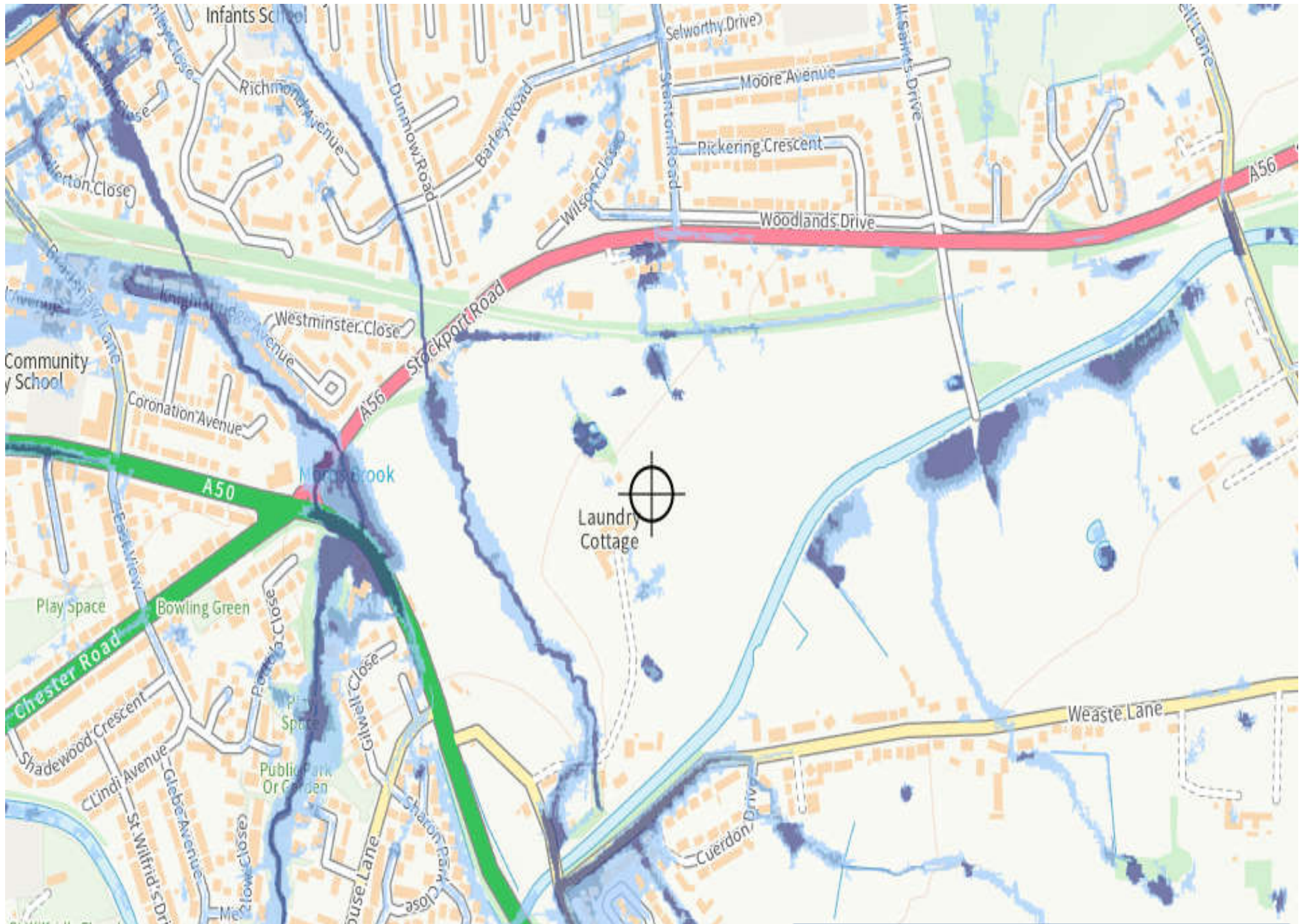
Your reference
Thelwall Heys

Location (easting/northing)
364584/386770

Scale
1:10000

Created
29 Jun 2022 18:34

-  Selected point
 -  Flood zone 3
 -  Flood zone 3: areas benefiting from flood defences
 -  Flood zone 2
 -  Flood zone 1
 -  Flood defence
 -  Main river
 -  Water storage area
- 
 0 100 200 300m





**THELWALL HEYS, GRAPPENHALL,
WARRINGTON**

ECOLOGICAL REVIEW

FINAL REPORT

Date: July 2022

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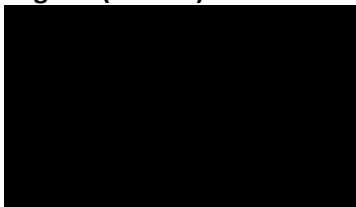
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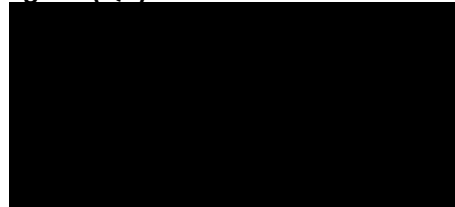
The information which we have prepared and provided is true, and has been prepared and provided in accordance with the BS42020:2013 and the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

Bowland Ecology is accredited to Quality Guild (QG) standards in respect of our Quality, Environmental and Health and Safety procedures. The QG is an independent externally audited and accredited system that has been developed according to the principles of ISO9001, ISO14001 and OHAS18001.

Signed (Author)



Signed (QA)



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1. Introduction

Project background

- 1.1 In June 2022, Bowland Ecology Ltd was commissioned by Avison Young to complete an Ecological Review of land to the east of Grappenhall, Warrington. This review is to inform the potential for the land to be removed from the green belt, to accommodate housing demands within the borough.
- 1.2 To assess the potential ecological value of the site, an ecological desk study data search and UK Habitat Classification Survey was completed at the site on 4th July 2022.

Site description and context

- 1.3 The site measures approximately 20.58ha and is centred at Ordnance Survey Grid Reference SJ 64646 86796, located on the outskirts of Grappenhall and Thelwall, Warrington. The site is bound by the Bridgewater Canal to the south, the A50 to the west and the Trans Pennine Trail bridleway to the north. The wider landscape is characterised by residential areas of Warrington to the north and west, and agricultural land to the south and east.
- 1.4 The site comprises arable fields with hedgerows, mature trees and streams located along field boundaries. The site surrounds, but does not include, the property of Thelwall Heys.

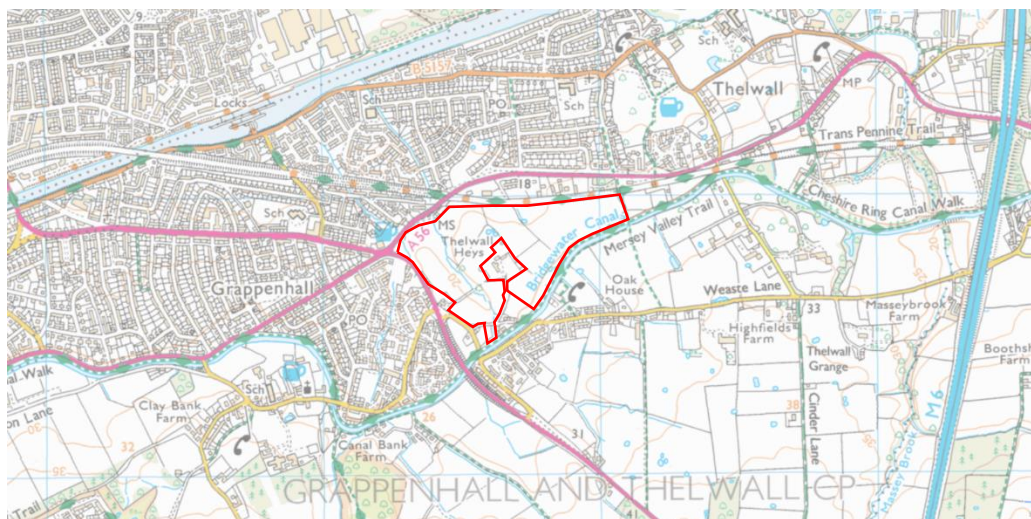


Figure 1: Site location (Ordnance Survey data)

Purpose of Review

- 1.5 The purpose of this report is to review and analyse the potential ecological value and constraints of the site.
- 1.6 Specifically, the review aims to:
 - Identify designated sites and important habitats occurring within the area;
 - Identify the potential for important species including legally protected species;
 - Inform the likely impact of site development on protected and/or notable species, habitats and nature conservation sites;
 - Evaluate the need for further survey work and/or consultation;
 - Identify opportunities for ecological enhancement across the site.

2. Methodology

Desk Study

- 2.1 The aim of the desk study is to identify the presence of statutory and non-statutory designated wildlife sites, legally protected species, and Habitats and Species of Principal Importance (HPI & SPI) for the conservation of biodiversity (Section 41, NERC Act 2006) within a 1km search area.
- 2.2 The Multi-Agency Geographic Information for the Countryside (MAGIC) website (www.magic.gov.uk) was reviewed for information on nationally and internationally designated sites of nature conservation importance (statutory sites only), ancient woodland and areas identified as HPI within 1km of the site boundary. The Woodland Trust Ancient Tree Inventory was also utilised to search for locations of veteran or notable trees, and Ordnance Survey (OS) data and aerial imagery was reviewed to help identify the presence of potentially notable habitats such as ponds, watercourses, hedgerows and woodland within the local area.
- 2.3 Local records of protected sites and species within 1km of the site were obtained from a data search with rECOrd (the Local Biological Records Centre serving Cheshire, Halton, Warrington and Wirral).
- 2.4 Warrington Council's Planning Portal was also consulted for any previous planning applications at the site and associated ecology survey reports.
- 2.5 The desk study also included a review of relevant local planning policy with respect to biodiversity and nature conservation, provided as Appendix D.
- 2.6 The data collected from these consultees is discussed in Section 3. In compliance with the terms and conditions relating to its commercial use, the full desk study data is not provided within this report.

UK Habitat Classification Survey (UKHab)

- 2.7 An assessment was made of all areas of vegetation within the site based on the standardised UKHab survey methodology (Butcher et al., 2020; CIEEM 2018). This involved a walkover survey to identify broad vegetation types, which were then classified against UKHab habitat types, where appropriate. The aim is to provide a record of habitats that are present on site. A map of broad habitat types is provided as Appendix A based on UKHab symbology.
- 2.8 A list of characteristic plant species for each vegetation type was compiled and any protected or invasive species encountered as an incidental result of the survey were noted. Notes were made identifying typical plant species, potential Habitats of Principal Importance (HPIs) and the presence of habitats with potential to support protected or notable species. Data recorded during the field survey are discussed in Section 4.
- 2.9 Evidence of and potential for legally protected and notable species was noted, in particular:
 - habitats utilised by other notable and protected species, including amphibians, badger *Meles meles*, hedgehog *Erinaceus europaeus*, bats, invertebrates, nesting birds, otter *Lutra lutra*, reptiles (e.g. common lizard *Zootoca vivipara*), water vole *Arvicola amphibius* and white-clawed crayfish *Austropotamobius pallipes*;
 - the presence of the most common invasive plant species subject to strict legal control including: Japanese knotweed *Fallopia japonica*, giant knotweed *F. sachalinensis*, hybrid knotweed *F. x bohemica*, giant hogweed *Heracleum mantegazzianum*, rhododendron *Rhododendron ponticum*, *R. ponticum* x *R. maximum* and *R. luteum*, and Himalayan balsam *Impatiens glandulifera*.

Limitations

Desk study

- 2.10 Desk study data should not be treated as a comprehensive list of species present within a search area. Habitat inventories shown on MAGIC vary in terms of their completeness, precision and reliability. Many species are under-recorded and low numbers of records can indicate a lack of survey effort in some areas, rather than confirm the absence of a species.

UKHab Survey

- 2.11 The habitat survey focused on the most prominent and important species within the time available, rather than aiming to identify all species that might present within site. Ecological surveys are also limited by factors that affect the presence of plants and animals, such as the time of year, migration patterns and behaviour. Therefore the survey of the study area has not produced a complete list of plants and animals.
- 2.12 The list of invasive plant species included on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) is extensive and these plants are found in a range of different habitats, including aquatic habitats. The UKHab Survey checked, in particular, for the presence of Japanese knotweed, giant knotweed, hybrid knotweed, giant hogweed, rhododendron and Himalayan balsam. There may be other invasive plant species present on the site which were not recorded, but it is considered that the survey was sufficient to identify any significant constraints posed by invasive plants.

3. Results

Desk Study

Nature Conservation Sites

- 3.1 The desk study identified one statutory nature conservation site within 1km of the site boundary, summarised within Table 1. No non-statutory nature conservation sites are present within 1km of the site.

Table 1: Nature Conservation Sites within 1km of Application site

| Site Name & Designation | Distance from site boundary | Key features |
|--|-----------------------------|---|
| Statutory | | |
| Woolston Eyes Site of Special Scientific Interest (SSSI) | ~0.66km north | Woolston Eyes comprises four large lagoons used for depositing material dredged from the Manchester Ship Canal. The site is operational and as such the habitats present are maintained across the site. The lowland open water and marginal vegetation supports a diverse breeding bird assemblage, including wintering wildfowl, for which the site is recognised for. In particular important flocks of black-necked grebe <i>Podiceps nigricollis</i> , gadwall <i>Anas strepera</i> and pochard <i>Aythya ferina</i> breed within the site. The site also sustains good numbers of amphibian species including common toad <i>Bufo bufo</i> and great crested newt <i>Triturus cristatus</i> . |

- 3.2 Reference to the Natural England MAGIC website indicates that the application site bridges four Site of Special Scientific Interest (SSSI) Impact Risk Zones (IRZs). SSSI IRZs are utilised by Local Planning Authorities to assess planning applications for likely impacts on SSSIs. Two of the IRZs that the site falls into specify consultation with Natural England for any planning applications comprising over 100 dwellings.

Habitats of Principal Importance

- 3.3 The Natural England magic.gov website indicates that the following HPI types occur within 1km of the site:
- Deciduous Woodland
 - Coastal and Floodplain Grazing Marsh
 - Lowland Fen
 - Reedbeds
- 3.4 The closest HPI habitat area comprises linear belts of deciduous woodland along the Trans Pennine Trail, which forms the northern site boundary. The confidence in classification for this habitat area is 'Low', meaning that no survey has been completed on this woodland within the last 10 years to verify HPI status, to the knowledge of Natural England.
- 3.5 The wetland habitat types above are largely associated with Woolston Eyes SSSI.

Ancient woodland and Veteran Trees

- 3.6 Reference to the Natural England magic.gov website indicates that no ancient woodland occurs within 1km of the site.
- 3.7 Reference to the Woodland Trust Ancient Tree Inventory indicates that no veteran or ancient trees occur within 1km of the site area.

Ponds and watercourses

- 3.8 Reference to Ordnance Survey data and aerial imagery indicates the presence of four ponds within the site area, and two ponds immediately adjacent to the site. An additional nine ponds are located within 500m of the site, six of which are located to the south of the site beyond the Bridgewater Canal and three of which are located to the north of the site beyond the A56.
- 3.9 Morris Brook and Thelwall Heys Brook flow north through the site along field boundaries. The Bridgewater Canal lies adjacent to the southern site boundary.

Local Policy

- 3.10 Under the adopted Local Plan (WBC, 2014), the site area is currently situated within the greenbelt. The Bridgewater Canal, which runs parallel to the southern site boundary, forms part of the Borough's Strategic Green Links Network (LPCS CS6). The green links network is stated to be of fundamental importance to the natural environment and character of Warrington. A number of trees at the south-west of the site possess Tree Protection Orders (TPOs).
- 3.11 It is of note that the site area is specified as a 'Main Development Area' in the Draft Local Plan (WBC, 2021) under policy MD5. Draft policy attached to this in relation to the natural environment is quoted below:

The layout of the development should take account of existing landscape features, including trees and significant hedgerows and ensure the site contributes to the wider objectives of the Mersey Forest. Particular regard should be given to sites identified in Policy DC4 (Ecological Network) which should be protected in line with policy DC4 and national guidelines.

A scheme for measurable biodiversity net gain should be demonstrated through the use of the Defra Metric and provided for all development parcels that come forward for planning approval. Mitigation measures for loss of habitat will only be allowed if shown to be necessary by application of the mitigation hierarchy in accordance with the requirements of Policy DC4.

The Bridgewater Canal runs along part of the southern border of the site. This is a Green Infrastructure opportunity and development proposals should integrate and support measures that maximise and reinforce the environmental and socio-economic benefits of linkage to the canal corridor and its environs for both current and future residents.

Previous survey data

- 3.12 Bowland Ecology completed an initial ecological review for the site in 2017, which is superseded by the current document. The walk-over survey was completed in March 2017, which identified two badger setts within the site area as well as habitats suitable for roosting, foraging and commuting bats, nesting birds, amphibians, barn owl, otter and water vole. Ancient woodland indicator species were also identified along Thelwall Heys Brook.
- 3.13 Survey work at the property of Thelwall Heys (adjacent to the site) has previously undertaken for roosting bats and nesting birds, to inform a planning application for a building conversion (Leigh Ecology Ltd, 2015). This concluded the likely absence of roosting bats, the presence of nesting swallow. The report also identified the presence of a garden pond which is stocked with fish.

Field Survey

- 3.14 A UKHab plan is provided as Appendix A, which illustrates the location and extent of all habitat types recorded within the site area. The text below provides overall descriptions of each habitat type with representative and notable species listed only. Plant species nomenclature follows Stace (2010). Descriptions of each individual habitat area and site photographs are provided as Appendix B.

- 3.15 The survey was carried out on 4th July 2022 by Paula Hollings MSc ACIEEM, Senior Ecologist. The weather was warm (16°C), dry, with scattered cloud cover (50%) and a very light breeze (Beaufort Scale: 1).
- 3.16 Habitats recorded by the survey within and adjacent to the site area are listed below, with the corresponding UKHab codes (●: primary codes; ○: secondary codes).
- c1: Arable
 - 17: Ruderal/ephemeral
 - 73: Bare ground
 - c1b: Temporary clover leys
 - g3c: Other neutral grassland
 - 11: Scattered trees
 - 16: Tall herb
 - g4: Modified grassland
 - h2a: Hedgerow (priority habitat)
 - 11: Scattered trees
 - h2b: Hedgerow (other)
 - h3: Dense scrub
 - h3d: Bramble scrub
 - r1: Standing open water
 - 119: Seasonally wet
 - r1e: Canal
 - r2: Stream
 - w1g: Other woodland – broadleaved

Arable

- 3.17 The site comprises four large fields with extensive bare earth, arable weeds and scattered grasses. It is assumed that the fields were being prepared for cultivation and crop-sewing at the time of the survey, with evidence of extensive herbicide across areas of grasses and arable weeds. White clover *Trifolium repens* is locally dominant within the eastern-most field, and scented mayweed *Matricaria chamomilla* is abundant across the western-most field. The central fields are dominated by bare earth with only very sparse vegetation. The ground across the fields is notably compact and was dusty-dry at the time of the survey.
- 3.18 Aside from clover and scented mayweed, establishing species across the four fields include annual meadow grass *Poa annua*, hoary willowherb *Epilobium parviflorum*, wall speedwell *Veronica arvensis*, rough meadow grass *Poa trivialis*, sow thistle *Sonchus* sp., imperforate st john's-wort *Hypericum maculatum*, field pansy *Viola arvensis*, pale persicaria *Persicaria lapathifolia*, marsh cudweed *Gnaphalium uliginosum*, field horsetail *Equisetum arvense*, fat fen *Chenopodium album*, field bindweed *Convolvulus arvensis*, common ragwort *Senecio jacobaea*., broad-leaved dock *Rumex obtusifolius*, wavy bittercress *Cardamine flexuosa*, common mouse-ear *Cerastium fontanum*, shepherd's purse *Capsella bursa-pastoris*, marsh foxtail *Alopecurus geniculatus*, perennial rye-grass *Lolium perenne*, fox and cubs *Pilosella aurantiaca*, great plantain *Plantago major*, couch grass *Elymus repens*, poppy *Papaver rhoeas*, spear thistle *Cirsium vulgare* and sunflower *Helianthus* sp..
- 3.19 Each field possesses a wide (2-5m) margin of unmanaged vegetation, buffering field boundary hedgerows from arable cultivation. Species present along these field margins mainly reflect nutrient enrichment, and include mugwort *Artemisia vulgaris*, cleavers *Galium aparine*, creeping thistle *Cirsium arvense*, false oat-grass *Arrhenatherum elatius*, common nettle *Urtica dioica*, bramble *Rubus fruticosus* agg., common hogweed *Heracleum sphondylium*, rosebay willowherb *Chamaenerion angustifolium*, tufted vetch *Vicia cracca*, Himalayan balsam *Impatiens glandulifera* and burdock *Arctium lappa*. Field margins where Himalayan balsam dominates are highlighted in Appendix A.

Grassland

- 3.20 Small pockets of species-poor grassland are present to the site boundaries, with species mostly indicative of nutrient enrichment.
- 3.21 One area of grassland with scattered mature sycamore *Acer pseudoplatanus* trees contains frequent bluebell *Hyacinthoides non-scripta* (TN6).

Scrub

- 3.22 Small pockets of bramble and willow *Salix* spp. scrub are present to field boundaries and along the two watercourses.

Standing open water

- 3.23 Two ponds are present on site. At the south-western corner of the site, a pond is present with banks of broad-leaved woodland (TN11). The pond is heavily shaded with no aquatic or marginal vegetation.
- 3.24 Within the centre of the site, three depressions are present within a woodland copse (TN12). Two of these were dry at the time of the survey, labelled as 'seasonally wet' on the UKHab plan. Bulrush and common reed are present at the dry ponds. The pond which holds standing water is heavily shaded and supports no aquatic or marginal vegetation. The water colouration appears grey, indicative of pollution. Tipped urban debris is present.
- 3.25 The Bridgewater Canal and towpath are located immediately adjacent to the southern site boundary. The canal measures approximately 10m in width with stone reinforced banks. No aquatic or marginal vegetation is present along this stretch of canal parallel to the site. Bankside vegetation comprises mown grassland along the towpath, and the southern boundary hedgerows of the site. A stand of Japanese Knotweed *Fallopia japonica* was noted on the southern bank of the canal.

Stream & Woodland

- 3.26 Thelwall Heys Brook comprises a narrow watercourse which runs north through the site, which measures approximately 1 m in width and up to ~15cm in depth. The stream possesses a sandy substrate and a gently meandering channel with very turbid, silty water. The bank height varies between 2-3 m and vary from being gently sloping to vertical earth banks. The stream valley is wooded (see paragraph 4.15).
- 3.27 A second narrow watercourse (Morris Brook) runs north across the western corner of the site and is culverted beneath Knutsford Road. This is approximately 2 m wide and lined by semi-mature and mature trees including beech *Fagus sylvatica* and sycamore. The water is silty and turbid. The banks vary between steep and shallow, and bankside vegetation is dominated by bramble, with ivy *Hedera helix*, wood avens *Geum urbanum*, cow parsley *Anthriscus sylvestris*, cleavers *Galium aparine* and Himalayan balsam *Impatiens glandulifera* present.

Woodland

- 3.28 Narrow belts of woodland line the banks of Thelwall Heys Brook, with canopy species including ash *Fraxinus excelsior*, beech *Fagus sylvatica*, turkey oak *Quercus cerris*, holly *Ilex aquifolium*, blackthorn *Prunus spinosa*, hawthorn *Crataegus monogyna*, pedunculate oak *Quercus robur*, goat willow *Salix caprea*, horse chestnut *Aesculus hippocastanum*, black poplar *Populus nigra* sp. and sycamore. Ground flora was dominated by bramble, with occasional foxglove *Dactylis glomerata*, lords and ladies *Arum maculatum*, remote sedge *Carex remota*, red campion *Silene dioica*, hedge woundwort *Stachys sylvatica*, hedge garlic *Alliaria petiolata*, Himalayan balsam, broad-buckler fern *Dryopteris dilatata*, reed canary grass *Phalaris arundinacea* and harts tongue

fern *Asplenium scolopendrium*. Outlet pipes are scattered along the eastern banks of the watercourse. One large, standing dead tree is present at TN26.

- 3.29 The March 2017 walk-over survey identified species indicative of ancient woodland such as wild garlic *Allium ursinum* and opposite-leaved golden saxifrage *Chrysosplenium oppositifolium*, along Thelwall Heys Brook, however dense impenetrable bramble along the brook prevented a detailed survey for these species in 2022, owing to the time of year. An early Spring survey of the brook would verify continued presence of these species.
- 3.30 Other areas of woodland include small pockets of woodland along the southern site boundary at field corners, with canopy species including alder *Alnus glutinosa*, oak, beech, willow, sycamore and horse chestnut. No indicators of ancient woodland or HPI habitats are present, with ground flora generally poor and dominated by ivy and bramble.
- 3.31 The site is bordered to the north by the Trans Pennine Bridleway, which is a disused railway with wooded embankments either side. Canopy trees overhang the site area and include oak, sycamore, horse chestnut, turkey oak, birch *Betula pendula*, common lime *Tilia × europaea*, variegated sycamore *Acer pseudoplatanus f. variegatum*, beech, copper beech *Fagus sylvatica f. purpurea*, Leyland cypress *Cupressus × leylandii*, wild cherry *Prunus avium*, crack willow *Salix × fragilis* and ash. The understorey includes hawthorn, hazel *Corylus avellana*, rowan *Sorbus aucuparia* and grey willow *Sorbus aucuparia*. Natural regeneration is present. Ground flora includes ivy, lady fern *Athyrium filix-femina*, common hogweed, false-oat grass, remote sedge, hart's-tongues fern, ivy and bramble. Standing deadwood is occasionally present.

Hedgerow

- 3.32 The arable fields on site are bound by native hedgerows. These are largely species-poor hawthorn hedgerows, measuring between 2 and 6m in height, with regular mature trees. Other rarely occurring species include elder *Sambucus nigra*, holly, wych elm *Ulmus glabra*, dog rose *Rosa canina*, goat willow, sycamore, honeysuckle *Lonicera periclymenum* and blackthorn *Prunus spinosa*. Two of the hedgerows on site contain five woody species per 30m stretch and thus qualify as species-rich. The standard trees are include oak, turkey oak black poplar, beech, horse chestnut, Lombardy poplar *Populus nigra 'Italica'* and ash. The mature trees are a prominent feature of the site.
- 3.33 A Leyland cypress hedgerow is present along the boundary of Thelwall Heys. This measures ~8m in height. Species amongst the Leyland cypress include copper beech, laburnum *Laburnum anagyroides*, sycamore and grey willow.

Species

Plants

- 3.34 Arable weed assemblages can often contain red-list plant species, however the fields in question are of limited botanical interest, likely owing to nutrient enrichment and the use of herbicides.
- 3.35 The data search returned records of bluebell, which is protected by Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). Bluebell is present within the site area along the driveway to Thelwall Heys to the base of mature sycamore trees (TN6).
- 3.36 The invasive species Himalayan balsam is present throughout the site area and Japanese knotweed was noted off-site, to the south of the canal.

Bats

- 3.37 There are several mature trees on site that have features including ivy cladding, branch splits and cavities, flaking bark, woodpecker holes, and rot holes, that provide varying potential to support roosting bats.

- 3.38 The hedgerows, areas of scrub and scattered trees along the field boundaries provide suitable foraging and commuting habitat for bats and provide connectivity to the wider landscape, particularly habitats to the south of the site.
- 3.39 The data search returned records for the following species within the survey area noctule bat *Nyctalus noctula*, brown long-eared bat *Plecotus auritus*, common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, Natterer's bat *Myotis nattereri* and Daubenton's bat *Myotis daubentonii*. These species may utilise the habitats on or adjacent to the site for roosting, foraging and/or commuting.

Badgers *Meles meles*

- 3.40 The data search returned records for badger on site and within the local area. One badger sett was noted on site as incidental observation during the UKHab survey, and two along the wooded embankments of the Trans Pennine Trail, which provides optimum sett building habitat for badger. These are incidental observations only and it is likely that more setts are present.
- 3.41 Two further setts were identified along Thelwell Hays Brook in 2017, however dense bramble scrub prevented inspection of these locations in 2022.

Otter *Lutra lutra* & water vole *Arvicola amphibius*

- 3.42 The watercourses on site are suboptimal for water vole and otter owing to the shaded and shallow nature of the streams, and lack of a grass thatch for water vole. A survey would be prudent to verify absence.
- 3.43 The section of the Bridgewater canal adjacent to the site provides negligible potential for water vole due to the presence of stone, reinforced banks, however there is potential for otter to forage and commute along the canal. The data search returned a single record for otter along the section of Bridgewater Canal adjacent to the site.

Other mammals

- 3.44 Hedgehog (*Erinaceus europaeus*) and brown hare (*Lepus europaeus*) which are listed as Species of Principal Importance (NERC Act, 2006) have been recorded in the 1 km survey area and may also be present on site utilising areas of longer vegetation along site boundaries.

Birds

- 3.45 The data search with Record returned the following notable and protected bird species within 1 km of the site (none of the records are from within the site boundary and only species that may be present on site are noted below); black-necked grebe *Podiceps nigricollis*, house sparrow *Passer domesticus*, kingfisher *Alcedo atthis*, scaup *Aythya marila*, starling *Sturnus vulgaris* and tree sparrow *Passer montanus*.
- 3.46 The scattered trees, hedgerows and areas of scrub provide suitable habitat for a variety of nesting birds, whilst the vegetated fields at the east and west of the site are suitable for ground nesting birds such as lapwing and skylark, which are listed as Species of Principal Importance (NERC Act, 2006).
- 3.47 Thalwall Heys Brook possesses occasional vertical banks, potentially suitable for kingfisher nests. The stream is suboptimal for hunting kingfisher based on its shallow depth, however the stream has good connectivity to the Bridgewater Canal which is optimum hunting habitat. Kingfisher is legally protected by Section 1 of the Wildlife and Countryside Act 1981 (as amended).
- 3.48 The 2017 walk-over survey noted a barn owl box along the northern site boundary however this is no longer present. The fields at the time of the 2022 survey offer suboptimal hunting habitat for barn owl, with minimal habitat structure for prey species such as field vole.

- 3.49 Birds species noted during the survey include grey heron *Ardea cinerea*, swift *Apus apus*, mallard *Anas platyrhynchos*, buzzard *Buteo buteo*, swallow *Hirundo rustica*, chaffinch *Fringilla coelebs*. Song thrush *Turdus philomelos* which is listed as a Species of Principal Importance (NERC Act, 2006) was also noted on site.

Reptiles

- 3.50 Suitable habitat for reptiles is limited to field margins on site. The site is bordered to the north and west by A-roads and to the south and east by the Bridgewater Canal. These features are considered significant dispersal barriers to reptiles such as common lizard and slow worm. It is possible that grass snake *Natrix natrix* would utilise the Bridgewater Canal however, given the generally hostile nature of the site and local landscape for reptiles, grass snake presence is highly unlikely. No records of reptiles were identified within the local area by the desk study.

Amphibians

- 3.51 There are two ponds within the site, and two ephemeral ponds. A further two ponds are located immediately adjacent to the site. The ponds potentially provide suitable aquatic habitat for amphibians including great crested newt (protected by UK legislation) and common toad (a Species of Principal Importance, NERC Act 2006). Terrestrial habitats on site suitable for amphibians are limited to field boundaries.
- 3.52 A further eleven ponds are located within 500m of the site beyond dispersal barriers (canal and A-roads). The canal is considered a dispersal deterrent to GCN given the vertical stone banks, lack of marginal vegetation and likely presence of predatory fish. No records of great crested newt were identified within 1km of the site by the desk study.

Invertebrates

- 3.53 No records of invertebrate Species of Principal Importance (NERC Act, 2006) were identified by the desk study within the local area. The location of the site adjacent to the Bridgewater Canal lends itself
- 3.54 Given the lack of species-rich habitats or structurally diverse vegetation, the site is highly unlikely to support notable invertebrate communities.

4. Assessment, Recommendations & Conclusion

4.1 An assessment of the effects of the potential future development of the site on the ecological features has been made using the available information and the professional judgement of the ecologist. If the site is removed from the Green Belt the following ecological constraints will require further consideration prior to the submission of a planning application. An ecological opportunities and constraints plan is provided as Appendix C.

Key Ecological Features

4.2 A summary of the ecological interest within and adjacent to the survey area is as follows (see Table 2 below):

- HPI and valuable habitats including;
 - Hedgerows
 - Woodland along Thelwall Heys Brook
 - Aquatic habitats (ponds, canal and watercourses)
 - Mature trees
- Habitat for foraging, commuting and roosting bats within scattered trees, areas of scrub, hedgerows and tree lines watercourses;
- Habitat for badgers along field boundaries and northern site boundary;
- The Bridgewater Canal and watercourses on site which may potentially provide suitable habitat for otter, kingfisher and water vole;
- Habitat for foraging and nesting birds (including ground nesting birds);
- Aquatic habitat for great crested newts within ponds and suitable terrestrial habitat along field boundaries;
- Potential habitat for other Species of Principal Importance, including common toad, hedgehog and brown hare.

Table 2: Summary of habitats and their species associations

| Habitat | Status/value | Potential species associations (notable/protected) |
|------------------|---------------------------------------|--|
| Hedgerows | Habitat of Principal Importance (HPI) | Badger, bat foraging/commuting habitat & nesting bird habitat |
| Scattered trees | Of local value. TPOs on site. | Badger, bat foraging/commuting/roosting habitat & nesting bird habitat |
| Scrub | None | Badger, bat foraging/commuting habitat & nesting bird habitat |
| Watercourses | HPI | Otter/water vole/kingfisher |
| Ponds | HPI | Great crested newt & common toad |
| Tall ruderal | None | Ground nesting bird habitat |
| Marshy grassland | None | Ground nesting bird habitat |
| Arable | None | Habitat for ground nesting birds and S41 Species of Principal Importance |

Opportunities

4.3 The site is dominated by arable land of low ecological value. Habitats that are of a higher value including scattered trees, hedgerows, watercourses and ponds are largely contained to the field boundaries.

4.4 In line with the mitigation hierarchy, any future development of the site should be designed to retain and enhance existing boundary features. Enhancement could involve, for example, planting of additional native woody species along hedgerows to create species-rich hedgerows.

The removal of agricultural fertiliser across the site is likely to inadvertently reduce the cover of undesirable species such as nettle and creeping thistle, and further enhancement could include balsam removal and sowing native tussocky grasses and wildflower mixes along hedgerow margins.

- 4.5 Morris Brook and Thelwall Heys Brook are classed as 'main rivers' by the Environment Agency, and as such a minimum 8 m buffer from the bank tops must be left as undeveloped to allow ease of access to watercourses for maintenance works. This buffer could be enhanced, by the removal of Schedule 9 species and thinning of dense scrub to allow the more diverse ground flora to establish.
- 4.6 The majority of the site is dominated by arable habitat, which is classed as a habitat type of 'low distinctiveness' in relation to biodiversity value (Panks et al., 2022). To achieve a measurable net gain for biodiversity on site, it is anticipated that loss of arable habitat could be readily compensated for onsite through a mixture of habitat enhancement (as described above), creation of other low distinctiveness habitats (e.g. vegetated gardens, allotments and green amenity space) in addition to meaningful areas of habitat creation (e.g. a wide belt of neutral grassland, scrub and woodland along the southern site boundary).
- 4.7 The above measures would strengthen the Boroughs Strategic Green Links Network (LPCS CS6) and satisfy the policies attached to the development of the site in relation to biodiversity net gain, the mitigation hierarchy and habitat creation along the canal.

Further surveys & Assessments

- 4.8 There are a number of ecological features on site that may provide suitable habitat for a variety of protected species. The following further surveys are likely to be required prior to the future development of the site:
 - Trees - assessment of mature and veteran trees on site;
 - Hedgerows - surveys in accordance with HEGS;
 - Invasive species survey to map the extent of the spread of Himalayan balsam;
 - Bats (likely to include including ground based roost assessment, tree climbing surveys, dusk/dawn emergence and activity surveys and static detector surveys);
 - Birds - breeding bird surveys;
 - Badger - monitoring surveys;
 - Otter, water vole and kingfisher surveys of the Bridgewater Canal and watercourses on site;
 - Amphibian presence/absence surveys of ponds within 250 m of the site with habitat connectivity;
 - Biodiversity Net Gain Assessment
- 4.9 Given the nature of the site and opportunities for habitat creation and enhancement, it is assumed that with detailed surveys informing comprehensive mitigation strategies, any negative impacts to protected species from future development of the site can be reduced to non-significant.

Conclusion

- 4.10 The site is dominated by habitats of low ecological value. Habitats of medium and high distinctiveness are confined to field boundaries.
- 4.11 Further survey work is required to inform the need for protected species mitigation strategies. Given the nature of the site and opportunities for habitat creation and enhancement, it is highly likely that any negative impacts to protected species from future development of the site can be reduced to non-significant.

- 4.12 With an appropriate design, site development presents an opportunity to enhance the overall ecological value of the site, as well as strengthen adjacent green corridors for wildlife (i.e. the Trans Pennine Trail and Bridgewater Canal), in line with draft Local Planning Policy MD5.

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Appendix A – UKHab Plan





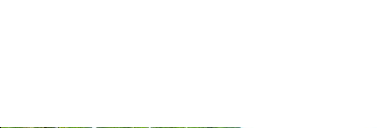


Appendix B – Target Note descriptions

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| <p>TN1 - Arable Eastern-most field, with locally abundant white clover <i>Trifolium repens</i>. Localised bare ground & areas of establishing ephemeral/short perennial vegetation (mostly sprayed with herbicide). Species include annual meadow grass <i>Poa annua</i>, hoary willowherb <i>Epilobium parviflorum</i>, wall speedwell <i>Veronica arvensis</i>, rough meadow grass <i>Poa trivialis</i>, sow thistle <i>Sonchus</i> sp., imperforate st john's-wort <i>Hypericum maculatum</i>, field pansy <i>Viola arvensis</i>, pale persicaria <i>Persicaria lapathifolia</i>, marsh cudweed <i>Gnaphalium uliginosum</i>, field horsetail <i>Equisetum arvense</i>, fat fen <i>Chenopodium album</i>, field bindweed <i>Convolvulus arvensis</i>, common ragwort <i>Senecio jacobaea</i>., broad-leaved dock <i>Rumex obtusifolius</i>, wavy bittercress <i>Cardamine flexuosa</i>, common mouse-ear <i>Cerastium fontanum</i>, shepherd's purse <i>Capsella bursa-pastoris</i>, marsh foxtail <i>Alopecurus geniculatus</i>, perennial rye-grass <i>Lolium perenne</i>, fox and cubs <i>Pilosella aurantiaca</i>, great plantain <i>Plantago major</i> and couch grass <i>Elymus repens</i>.</p> <p>Field possesses a wide (2-5m) margin of unmanaged vegetation. Species reflect nutrient enrichment, and include mugwort <i>Artemisia vulgaris</i>, cleavers <i>Galium aparine</i>, creeping thistle <i>Cirsium arvense</i>, false oat-grass <i>Arrhenatherum elatius</i>, common nettle <i>Urtica dioica</i>, bramble <i>Rubus fruticosus</i> agg., common hogweed <i>Heracleum sphondylium</i>, rosebay willowherb <i>Chamaenerion angustifolium</i>, tufted vetch <i>Vicia cracca</i>, Himalayan balsam <i>Impatiens glandulifera</i> and burdock <i>Arctium lappa</i>.</p> |  |
| <p>TN2 - Arable Central fields with extensive bare earth. Species as per above, although sparse. Himalayan balsam present in field margins.</p> |  |

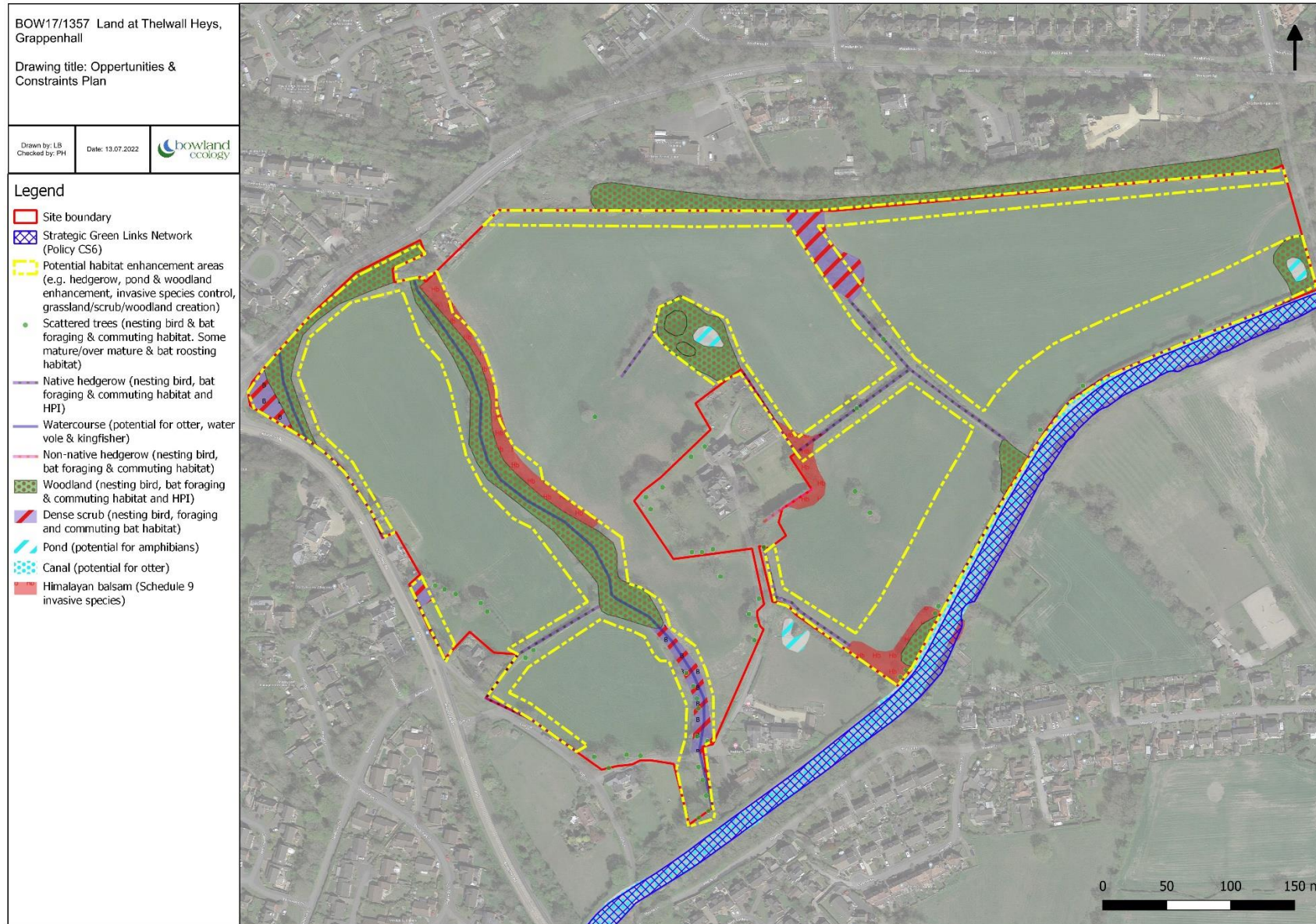
| | |
|---|--|
| <p>TN3 – Arable Western-most fields with abundant scented mayweed. Other species as per above with common poppy <i>Papaver rhoeas</i>, spear thistle <i>Cirsium vulgare</i> and sunflower <i>Helianthus</i> sp. present as additional, rarely occurring species. Himalayan balsam present in margins.</p> |  |
| <p>TN4 - Neutral grassland – other Dense tall herb at the southern corner of arable field. This habitat area was dominated by creeping thistle with common nettle, Yorkshire fog <i>Holcus lanatus</i>, broad-leaved dock and bramble also present. Species are indicative of nutrient enrichment.</p> |  |
| <p>TN5 - Neutral grassland, other with scattered trees The section of Thelwall Heys Brook to south of Thelwall Heys driveway, comprised banks of tall herb, dominated by common nettle. Sycamore <i>Acer pseudoplatanus</i> trees are scattered along this river bank. A small paddock is present immediately adjacent to this. From the driveway, species recorded as present include perennial rye-grass, Yorkshire fog, meadow foxtail <i>Alopecurus pratensis</i>, broad-leaved dock, wild teasel <i>Dipsacus fullonum</i> and common daisy <i>Bellis perennis</i>. Wild teasel is potentially indicative of lower nutrient levels.</p> |  |
| <p>TN6 – Neutral grassland, other with scattered trees Mature sycamore trees. Ground flora dominated by grasses (abundant false oat-grass) and frequent bluebell <i>Hyacinthoides non-scripta</i>.</p> | |
| <p>TN7 – Modified grassland Small pocket of modified grassland within the south-west of the survey area, wholly dominated by perennial rye grass.</p> | |
| <p>TN8 – Dense scrub Pockets of grey willow-dominated scrub present to field boundaries.</p> | |
| <p>TN9 – Bramble scrub An area of bramble scrub at the north-eastern corner of the site, adjacent to a road junction. Other species present include rosebay willowherb, common nettle, lady fern <i>Athyrium filix-femina</i>, Himalayan balsam and great willowherb.</p> | |
| <p>TN10 – Bramble scrub The woodland along Thelwall Heys Brook grades into bramble scrub at the south of the sites, with scattered alder, horse chestnut and sycamore trees and hawthorn. Great willowherb <i>Epilobium hirsutum</i> and meadow vetchling <i>Lathyrus pratensis</i> are present throughout the bramble.</p> |  |

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| <p>TN11 – Woodland & Pond</p> <p>Pond at the south-western corner of the site, a pond is present with banks of broad-leaved woodland. The pond is heavily shaded with no aquatic or marginal vegetation. Semi-mature trees alder <i>Alnus glutinosa</i>, oak <i>Quercus robur</i>, beech <i>Fagus sylvatica</i> and willow <i>Salix</i> sp. surround the pond, with bramble dominated ground vegetation.</p> |  |
| <p>TN12 – Woodland & Pond</p> <p>Within the centre of the site, three depressions are present within a woodland copse. Two of these were dry at the time of the survey, labelled as ‘seasonally wet’ on the UKHab plan. Greater reedmace <i>Typha latifolia</i> and common reed <i>Phragmites australis</i> are present at the dry ponds. The pond which holds standing water is heavily shaded and supports no aquatic or marginal vegetation. The water colouration appears grey, indicative of pollution. Tipped urban debris is present. Woodland canopy species include horse chestnut, sycamore, alder and willow.</p> |  |
| <p>TN13 - Canal</p> <p>The Bridgewater Canal and towpath are located immediately adjacent to the southern site boundary. The canal measures approximately 10m in width with stone reinforced banks. No aquatic or marginal vegetation is present along this stretch of canal parallel to the site. Bankside vegetation comprises mown grassland along the towpath, and the southern boundary hedgerows of the site. A stand of Japanese Knotweed was noted on the southern bank of the canal.</p> |  |
| <p>TN14 – Stream & Woodland</p> <p>A narrow watercourse runs north through the site, which measures approximately 1 m in width and up to ~15cm in depth. The stream possesses a sandy substrate and a gently meandering channel with very turbid, silty water. The bank height varies between 2-3 m and vary from being gently sloping to vertical earth banks.</p> <p>Narrow belts of woodland line the banks of the Thelwall Heys Brook, with canopy species including ash (<i>Fraxinus excelsior</i>), beech (<i>Fagus sylvatica</i>), turkey oak (<i>Quercus cerris</i>), holly (<i>Ilex aquifolium</i>), blackthorn (<i>Prunus spinosa</i>), hawthorn (<i>Crataegus monogyna</i>), pedunculate oak, goat willow, horse chestnut <i>Aesculus hippocastanum</i>, black poplar <i>Populus nigra</i></p> |  |

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|--|--|
| <p>sp. and sycamore. Woodland ground flora along the banks includes bramble, foxglove <i>Dactylis glomerata</i>, lords and ladies <i>Arum maculatum</i>, remote sedge <i>Carex remota</i>, red campion <i>Silene dioica</i>, hedge woundwort <i>Stachys sylvatica</i>, hedge garlic <i>Alliaria petiolata</i>, Himalayan balsam, broad-buckler fern <i>Dryopteris dilatata</i>, reed canary grass <i>Phalaris arundinacea</i> and harts tongue fern <i>Asplenium scolopendrium</i>. Outlet pipes are scattered along the eastern banks of the watercourse. Much of the stream was inaccessible owing to dense bramble scrub. One large, standing dead tree is present at TN26.</p> | |
| <p>TN15 - Stream A second narrow watercourse (Morris Brook) runs north across the western corner of the site, and is culverted beneath Knutsford Road. This is approximately 2 m wide and lined by semi-mature and mature trees including beech and sycamore. The water is silty and turbid. The banks vary between steep and shallow, and bankside vegetation is dominated by bramble, with ivy <i>Hedera helix</i> wood avens <i>Geum urbanum</i>, cow parsley <i>Anthriscus sylvestris</i>, cleavers <i>Galium aparine</i> and Himalayan balsam present.</p> | |
| <p>TN16 – Broadleaved woodland Copse of mature oak, sycamore and horse chestnut, with a holly, hawthorn and elder understory. Ivy and bramble co-dominate the ground flora with occasional wood avens.</p> | |
| <p>TN17 – Broadleaved woodland A narrow belt of sycamore and horse chestnut and holly understory. Ivy and bramble co-dominate the ground flora.</p> | |
| <p>TN18 – Broadleaved woodland The site is bordered to the north by the Trans Pennine Bridleway, which is a disused railway with wooded embankments either side. Canopy trees overhang the site area and include oak, sycamore, horse chestnut, turkey oak, birch <i>Betula pendula</i>, beech, copper beech <i>Fagus sylvatica</i> f. <i>purpurea</i>, Leyland cypress <i>Cupressus × leylandii</i>, wild cherry <i>Prunus avium</i>, crack willow <i>Salix × fragilis</i> and ash. The understory includes hawthorn, hazel <i>Corylus avellana</i>, rowan <i>Sorbus aucuparia</i> and grey willow <i>Sorbus aucuparia</i>. Natural regeneration is present. Ground flora includes ivy, lady fern <i>Athyrium filix-femina</i>, common hogweed, false-oat grass, remote sedge, hart’s-tongues fern, ivy and bramble. Standing deadwood is occasionally present.</p> |  |
| <p>TN19 – Broadleaved woodland Woodland located along driveway. Canopy species comprise common lime <i>Tilia × europaea</i>, variegated sycamore <i>Acer pseudoplatanus</i> f. <i>variegatum</i>, beech and sycamore. Ivy clad trees & ivy dominated ground flora with common hogweed and false-oat grass.</p> |  |

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| <p>TN20 – Native hedgerows</p> <p>The arable fields on site are bound by native hedgerows. These are largely species-poor hawthorn hedgerows, measuring between 2 and 6m in height, with regular mature trees. Other rarely occurring woody species include elder <i>Sambucus nigra</i>, holly, wych elm <i>Ulmus glabra</i>, dog rose <i>Rosa canina</i>, goat willow, sycamore, honeysuckle <i>Lonicera periclymenum</i> and blackthorn <i>Prunus spinosa</i>.</p> <p>The standard trees include oak, turkey oak, black poplar, beech, horse chestnut, Lombardy poplar <i>Populus nigra</i> 'Italica' and ash. The mature & over-mature trees are a prominent feature of the site.</p> |  |
| <p>TN21 – Native species-rich hedgerow</p> <p>Hedgerow ~4m in height containing holly, goat willow, hawthorn and elder.</p> |  |
| <p>TN22 – Non-native hedgerow</p> <p>A Laylandii hedgerow along the boundary with Thelwall Heys. This measures ~8m in height. Species amongst the leylandii include copper beech, laburnum, sycamore and grey willow.</p> |  |
| <p>TN23, 24 & 25 - Single entrance badger setts</p> |  |
| <p>TN26: Large standing dead tree</p> |  |

Appendix C – Opportunities and Constraints Plan



Appendix D – Relevant legislation

This report provides guidance of potential offences as part of the impact assessment. This report does not provide detailed legal advice and for full details of potential offences against protected species the relevant acts should be consulted in their original forms i.e. The Wildlife and Countryside Act, 1981, as amended, The Countryside and Rights of Way Act 2000, The Natural Environment and Rural Communities Act, 2006 and The Conservation of Habitats and Species Regulations 2017.

| Species | Legislation | Offences | Notes on licensing procedures and further advice |
|--|---|---|---|
| Species that are protected by European and national legislation | | | |
| Badger | Protection of Badgers Act 1992 | Wilfully kill, injure or take a badger; Intentionally or recklessly damage, destroy or obstruct access to a badger sett; Disturb a badger in its sett. It is not illegal to carry out disturbance activities in the vicinity of setts that are not occupied. | Where required, licences for development activities involving sett loss, damage or disturbance are issued by Natural England (NE). Licences for activities involving watercourse maintenance, drainage works or flood defences are issued under a separate process. Licences are normally not granted from December to June inclusive because cubs may be present within setts. https://www.gov.uk/badgers-protection-surveys-and-licences |
| Bats <i>European protected species</i> | Conservation of Habitats and Species Regulations 2017 Reg 41 | Deliberately ¹ capture, injure or kill a bat; Deliberate disturbance ² of bats; Damage or destroy a breeding site or resting place used by a bat. The protection of bat roosts is considered to apply regardless of whether bats are present. | An NE licence in respect of development is required in England. https://www.gov.uk/bats-protection-surveys-and-licences <i>European Protected Species: Mitigation Licensing- How to get a licence</i> (NE 2010) <i>Bat Mitigation Guidelines</i> (English Nature 2004) <i>Bat Workers Manual</i> (JNCC 2004) <i>BS8596:2015 Surveying for bats in trees and woodland</i> (BSI, 2015) |
| | Wildlife and Countryside Act 1981 (as amended) ⁴ S.9 | Intentionally or recklessly ³ obstruct access to any structure or place used for shelter or protection or disturb a bat in such a place. | Licence from NE is required for surveys (scientific purposes) that would involve disturbance of bats or entering a known or suspected roost site. |

| Species | Legislation | Offences | Notes on licensing procedures and further advice |
|--|---|---|--|
| Birds | Conservation of Habitats and Species (Amendment) Regulations 2012 | N/A | Authorities are required to take steps to ensure the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom, including by means of the upkeep, management and creation of such habitat. This includes activities in relation to town and country planning functions. |
| | Wildlife and Countryside Act 1981 (as amended) ⁴ S.1 | Intentionally kill, injure or take any wild bird; Intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built; Intentionally take or destroy the nest or eggs of any wild bird. Schedule 1 species Special penalties are liable for these offences involving birds on Schedule 1 (e.g. most birds of prey, kingfisher, barn owl, black redstart, little ringed plover). Intentionally or recklessly ³ disturb a Schedule 1 species while it is building a nest or is in, on or near a nest containing eggs or young; intentionally or recklessly disturb dependent young of such a species. | No licences are available to disturb any birds in regard to development. Licences are available in certain circumstances to damage or destroy nests, but these only apply to the list of licensable activities in the Act and do not cover development. General licences are available in respect of 'pest species' but only for certain very specific purposes e.g. public health, public safety, air safety. https://www.gov.uk/wild-birds-protection-surveys-and-licences https://www.gov.uk/prevent-wild-birds-damaging-your-land-farm-or-business |
| Great crested newt <i>European protected species</i> | Conservation of Habitats and Species Regulations 2017 Reg 41 | Deliberately ¹ capture, injure or kill a great crested newt; Deliberate disturbance ² of a great crested newt; Deliberately take or destroy its eggs; Damage or destroy a breeding site or resting place used by a great crested newt. | Licences issued for development by NE. https://www.gov.uk/great-crested-newts-protection-surveys-and-licences <i>European Protected Species: Mitigation Licensing - How to get a licence</i> (NE 2010) <i>Great Crested Newt Mitigation Guidelines</i> (English Nature 2001) |
| | Wildlife and Countryside Act 1981 (as amended) ⁴ S.9 | Intentionally or recklessly ³ obstruct access to any structure or place used for shelter or protection or disturb a great crested newt in such a place. | Licences issued for science (survey), education and conservation by NE. |
| Otter <i>European protected species</i> | Conservation of Habitats and Species Regulations 2017 Reg 41 | Deliberately ¹ capture, injure or kill an otter; Deliberate disturbance ² of otters; Damage or destroy a breeding site or resting place used by an otter. | Licences issued for development by NE. https://www.gov.uk/otters-protection-surveys-and-licences <i>European Protected Species: Mitigation Licensing- How to get a licence</i> (NE 2010) |
| | Wildlife and Countryside Act 1981 (as amended) ⁴ S.9 | Intentionally or recklessly ³ obstruct access to any structure or place used for shelter or protection or disturb an otter in such a place. | No licence is required for survey in England. However, a licence would be required if the survey methodology involved disturbance. |

| Species | Legislation | Offences | Notes on licensing procedures and further advice |
|---|---|---|---|
| Water vole | Wildlife and Countryside Act 1981 (as amended) ⁴ S.9 | Intentionally kill, injure or take water voles; Intentionally or recklessly ³ damage, destroy or obstruct access to any structure or place used for shelter or protection; Disturb a water vole in such a place. | No licence is required for survey in England, unless you are likely to commit an action that is otherwise illegal. There are currently no licensing purposes that explicitly cover development activities or activities associated with the improvement or maintenance of waterways. However when a proposed lawful activity has no opportunity to retain water voles within a development site and their translocation would result in a conservation benefit then a licence from NE may be obtained. <i>The Water Vole Conservation Handbook</i> (R. Strachan, T. Moorhouse & M. Gelling, Wildlife Conservation Research Unit (WildCRU), 3rd Edition 2011). https://www.gov.uk/water-voles-protection-surveys-and-licences Water voles and development licensing policy - NE Technical Information Note TIN042 2008 |
| Other species | | | |
| Rabbits, foxes and other wild mammals For BAP species and Species of Principal Importance, see below | Wild Mammals (Protection) Act 1996 | Intentionally inflict unnecessary suffering to any wild mammal. | Natural England provides guidance in relation to rabbits (Technical Information note TIN003, Rabbits- management options for preventing damage, July 2007) and foxes (which are also protected under the Wildlife and Countryside Act 1981 from live baits and decoys, see Species Information notes SIN003 (2011), <i>Urban foxes</i> and SIN004 (2011) <i>The red fox in rural areas</i> as well as other wild mammals. Lawful and humane pest control of these species is permitted. |

¹ Deliberate capture or killing is taken to include “accepting the possibility” of such capture or killing ² Deliberate 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 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. Lower levels of disturbance not covered by the Conservation of Habitats and Species Regulations 2017 remain an offence under the Wildlife and Countryside Act 1981 although a defence is available where such actions are the incidental result of a lawful activity that could not reasonably be avoided. Thus deliberate disturbance that does not result in either (a) or (b) above would be classed as a lower level of disturbance. ³ The term ‘reckless’ is defined by the case of Regina versus Caldwell 1982. The prosecution has to show that a person deliberately took an unacceptable risk, or failed to notice or consider an obvious risk. ⁴ The Wildlife and Countryside Act (1981) has been updated by various amendments, including the Countryside and Rights of Way Act 2000 and the Natural Environment and Rural Communities Act 2006. A full list of amendments can be found at <https://jncc.gov.uk/our-work/wildlife-countryside-act/>

| Site Designation | Legislation | Protection | Guidance |
|--|--|---|--|
| Site of Special Scientific Interest (SSSI) | Wildlife and Countryside Act 1981 (as amended) | It is an offence to carry out or permit to be carried out any potentially damaging operation. SSSIs are given protection through policies in the Local Development Plan. | Owners, occupiers, public bodies and statutory undertakers must give notice and obtain the appropriate consent under S.28 before undertaking operations likely to damage a SSSI. S.28G places a duty on all public bodies to further the conservation and enhancement of SSSIs. Further guidance can be found in the National Planning Policy Framework and the accompanying joint Circular (ODPM Circular 6/2005 & Defra Circular 01/2005) England, which is still valid. |
| Habitats & Species | Legislation | Guidance | |
| Species and Habitats of Principal Importance for the Conservation of Biodiversity | Natural Environment & Rural Communities Act 2006 S.40 (which superseded S.74 of the Countryside & Rights of Way Act 2000). | S.40 of the NERC Act 2006 sets out the duty for public authorities to conserve biodiversity in England. Habitats and species of principal importance for the conservation of biodiversity in England (identified by the Secretary of State in consultation with NE) are referred to in S.41 of the NERC Act: http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx The list of habitats and species was updated in 2007 to ensure that it remained focussed on the correct priorities: https://jncc.gov.uk/our-work/uk-bap/ The criteria for selection included international threat, responsibility and importance, rate of decline/risk, importance of habitats for key species, and other important factors. Ecological impact assessments should include an assessment of the likely impacts to these habitats and species. | |
| Hedgerows | The Hedgerow Regulations 1997 | Under the regulations, it is against the law to remove or destroy hedgerows that are classified as “important” under the regulations without permission from the local planning authority. The regulations apply if a hedgerow is in or runs alongside agricultural land, common land including town or village greens, land used for forestry or for the breeding or keeping of horses etc, a local nature reserve or Site of Special Scientific Interest. A hedgerow can be classified as ‘Important’ due to its wildlife and landscape value or due to its heritage value. In general, permission will be required before removing hedges that are at least 20 metres in length, over 30 years old and contain certain species/diversity of plant. The local planning authority will assess the importance of the hedgerow using criteria set out in the regulations. See https://www.gov.uk/guidance/countryside-hedgerows-regulation-and-management for further guidance and information. | |
| Japanese knotweed, hybrid knotweed, giant knotweed Giant hogweed Rhododendron Himalayan balsam | Wildlife and Countryside Act 1981 (as amended) S.14 | It is illegal to plant these species or otherwise cause them to grow or spread in the wild. Any contaminated soil or plant material containing Japanese knotweed or giant hogweed is classified as controlled waste and should be disposed of in a suitably licensed landfill site, accompanied by appropriate Waste Transfer documentation, and must comply with section 34 of the Environmental Protection Act 1990. <i>The Knotweed Code of Practice</i> (Environment Agency, 2013) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/536762/LIT_2695.pdf <i>Managing and controlling invasive rhododendron</i> (Forestry Commission, 2006) https://www.forestryresearch.gov.uk/documents/2557/fcpq017.pdf https://www.gov.uk/guidance/prevent-the-spread-of-harmful-invasive-and-non-native-plants https://www.gov.uk/guidance/prevent-japanese-knotweed-from-spreading | |

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