

CHURCH ROAD, DISTINGTON
PRELIMINARY ECOLOGICAL APPRAISAL

A Report to: Distington Big Local

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REPORT VERIFICATION AND DECLARATION OF COMPLIANCE

This study has been undertaken in accordance with British Standard 42020:2013 "Biodiversity, Code of practice for planning and development".

Report Version	Date	Completed by:	Checked by:	Approved by:
Final	31/01/2016	Ellie Rickman MCIEEM (Principal Ecological Consultant)	Colin Bundy MCIEEM MCIEEM (Associate Director)	Tom Docker MCIEEM (Executive Director)

The information which we have prepared is true, and has been prepared and provided in accordance with 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.

DISCLAIMER

The contents of this report are the responsibility of Middlemarch Environmental Ltd. It should be noted that, whilst every effort is made to meet the client's brief, no site investigation can ensure complete assessment or prediction of the natural environment.

Middlemarch Environmental Ltd accepts no responsibility or liability for any use that is made of this document other than by the client for the purposes for which it was originally commissioned and prepared.

VALIDITY OF DATA

The findings of this study are valid for a period of 24 months from the date of survey. If works have not commenced by this date, an updated site visit should be carried out by a suitably qualified ecologist to assess any changes in the habitats present on site, and to inform a review of the conclusions and recommendations made.

NON-TECHNICAL SUMMARY

Middlemarch Environmental Ltd was commissioned by Distington Big Local to carry out a Preliminary Ecological Appraisal at the site of a proposed development at Church Road, Distington in Cumbria. To fulfil this brief an ecological desk study and a walkover survey (in accordance with Phase 1 Habitat Survey methodology) were undertaken.

The ecological desk study identified two County Wildlife Sites within 1 km of the site. Records of several protected bird species, common frog, smooth newt, common lizard, pipistrelle bat, badger, otter, hedgehog and red squirrel were also identified within 1 km of the site.

The walkover survey was undertaken on 24th January 2020 by Ellie Rickman MCIEEM, Principal Ecological Consultant. The survey found the site to be dominated by hardstanding to the north and poor semi-improved grassland to the south. An outgrown hedgerow was present along the south western boundary.

The key ecological features on site in relation to the works proposed are the hedgerow and the potential occasional presence of bats, herpetofauna, nesting birds and terrestrial mammals.

In order to ensure compliance with wildlife legislation and relevant planning policy, the following recommendations are made:

- R1 Hedgerow:** The development proposals should be designed (where feasible) to allow for the retention of existing notable habitats including the hedgerow to the south west of the site. The hedgerow should be protected in accordance with British Standard 5837: 2012 "Trees in relation to design, demolition and construction - recommendations". If retention is not possible, appropriate replacement planting should be incorporated into the soft landscape scheme in accordance with the ecological mitigation hierarchy. Only native and/or wildlife attracting species should be planted.
- R2 Biodiversity Enhancement:** In accordance with the provision of Chapter 15 of the National Planning Policy Framework (Conserving and Enhancing the Natural Environment) and Local Planning Policy, biodiversity enhancement measures should be incorporated into the landscaping scheme of any proposed development to work towards delivering net gains for biodiversity.
- R3 Bats and Lighting:** In accordance with best practice guidance relating to lighting and biodiversity (Miles et al, 2018; Gunnell et al, 2012), any new lighting should be carefully designed to minimise potential disturbance and fragmentation impacts on sensitive receptors, such as bat species.
- R4 Herpetofauna:** The clearance of suitable reptile and amphibian habitat (semi-improved grassland and hedgerow bases) should be undertaken under the supervision of an experienced ecologist. This will involve the clearance of vegetation in a directional manner to allow any herpetofauna to disperse and careful removal of any hibernacula. This should be completed when reptiles and amphibians are active. This is weather dependent but generally extends between March and October inclusive.
- R5 Nesting Birds:** Hedgerow, tree and shrub clearance should be undertaken outside the nesting bird season. The nesting bird season is weather dependent but generally extends between March and September inclusive (peak period March-August). If this is not possible then any vegetation to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing.
- R6 Terrestrial Mammals:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120 mm must be covered at the end of each work day to prevent animals entering/becoming trapped.

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1. INTRODUCTION

1.1 PROJECT BACKGROUND

In January 2020, Distington Big Local commissioned Middlemarch Environmental Ltd to undertake a Preliminary Ecological Appraisal of the site of a proposed development at Church Road, Distington. This assessment is required to inform a planning application associated with the construction of new residential apartments on the site.

To assess the existing ecological interest of the site an ecological desk study was carried out, and a walkover survey was undertaken on 24th January 2020.

1.2 SITE DESCRIPTION AND CONTEXT

The site was an irregularly shaped parcel of land, approximately 0.7 hectares in area located to the south of Church Road in Distington, centred at National Grid reference NY 0056 2351. The site had a gentle slope down to the south. The northern third of the site was dominated by concrete and tarmac hardstanding whilst the southern two thirds was vegetated by rough species poor grassland. A footpath ran just beyond the western boundary of the site and a defunct hedgerow separated the site from this. The remaining boundaries were marked by garden fencing, hedges and walls from surrounding residential properties.

Access to the site was through a tarmac entrance from Church Road to the north. The surrounding landscape was dominated by residential properties to the north, east and south. To the west was a primary school and an area of rough grassland and scrub was located just off-site to the south west. The Distington Brook was located approximately 260 m east of the site beyond housing and roads. The site was approximately 2.3 km east of the Cumbrian coast.

1.3 DOCUMENTATION PROVIDED

The conclusions and recommendations made in this report are based on information provided by the client regarding the scope of the project. Documentation made available by the client is listed in Table 1.1.

Document Name / Drawing Number	Author
Working Base Plan: 2808-SK_4	Halsall Lloyd Partnership
Topographical Survey: PS-1668-TS-3D	Paragon Surveys
Site Plan Draft Layout: 2808-02SK	Halsall Lloyd Partnership
Unit Layouts: 2808-04SK	Halsall Lloyd Partnership
Elevations: 2808-05SK	Halsall Lloyd Partnership

Table 1.1: Documentation Provided by Client

2. METHODOLOGIES

2.1 DESK STUDY

An ecological desk study was undertaken to determine the presence of any designated nature conservation sites and protected species in proximity to the site. This involved contacting appropriate statutory and non-statutory organisations which hold ecological data relating to the survey area. Middlemarch Environmental Ltd then assimilated and reviewed the desk study data provided by these organisations.

The consultees for the desk study were:

- Natural England - *MAG/C* website for statutory conservation sites;
- Cumbria Biodiversity Data Centre

The desk study included a search for European statutory nature conservation sites within a 5 km radius of the site (extended to 10 km for any statutory site designated for bats), UK statutory sites within a 2 km radius and non-statutory sites and protected/notable species records within a 1 km radius.

The data collected from the consultees is discussed in Chapter 4. Selected raw data are provided in Appendix 1. In compliance with the terms and conditions relating to its commercial use, the full desk study data is not provided within this report.

The desk study also included a review of relevant local planning policy with regard to biodiversity and nature conservation (see Chapter 3).

2.2 PHASE 1 HABITAT SURVEY

The walkover survey was conducted following the Phase 1 Habitat Survey methodology of the Joint Nature Conservation Committee (JNCC, 2010) and the Institute of Environmental Assessment (IEA, 1995). Phase 1 Habitat Survey is a standard technique for classifying and mapping British habitats. The aim is to provide a record of habitats that are present on site. During the survey, the presence, or potential presence, of protected species was noted.

Whilst every effort is made to notify the client of any plant species listed on Schedule 9 of the Wildlife and Countryside Act (1981, as amended) present on site, it should be noted that this is not a specific survey for these species.

Data recorded during the field survey are discussed in Chapter 5.

3. LEGISLATION AND POLICY

This chapter provides an overview of the framework of legislation and policy which underpins nature conservation and is a material consideration in the planning process in England. The reader should refer to the original legislation for the definitive interpretation.

3.1 GENERAL BIODIVERSITY LEGISLATION AND POLICY

Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations 2017)

The Habitats Regulations 2017 consolidate and update the Habitats Regulations 2010 (as amended). The Habitats Regulations 2017 are the principal means by which the EEC Council Directive 92/43 (The Habitats Directive) as amended is transposed into English and Welsh law.

The Habitats Regulations 2017 place duty upon the relevant authority of government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria are, in conjunction with the European Commission, designated as Sites of Community Importance, which are subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. The regulations also place a duty upon the government to maintain a register of European protected sites designated as a result of EC Directive 79/409/EEC on the Conservation of Wild Birds (The Birds Directive). These sites are termed Special Protection Areas (SPA) and, in conjunction with SACs, form a network of sites known as Natura 2000. The Habitats Directive introduces for the first time for protected areas, the precautionary principle; that is that projects can only be permitted having ascertained no adverse effect on the integrity of the site. Projects may still be permitted if there are no alternatives, and there are imperative reasons of overriding public interest.

The Habitats Regulations 2017 also provide for the protection of individual species of fauna and flora of European conservation concern listed in Schedules 2 and 5 respectively. Schedule 2 includes species such as otter and great crested newt for which the UK population represents a significant proportion of the total European population. It is an offence to deliberately kill, injure, disturb or trade these species. Schedule 5 plant species are protected from unlawful destruction, uprooting or trade under the regulations.

The Wildlife and Countryside Act (WCA) 1981 (as amended)

The WCA, as amended, consolidates and amends pre-existing national wildlife legislation in order to implement the Bern Convention and the Birds Directive. It complements the Habitats Regulations 2017, offering protection to a wider range of species. The Act also provides for the designation and protection of national conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSIs).

Schedules of the act provide lists of protected species, both flora and fauna, and detail the possible offences that apply to these species.

The Countryside and Rights of Way (CRoW) Act 2000

The CROW Act, introduced in England and Wales in 2000, amends and strengthens existing wildlife legislation detailed in the WCA. It places a duty on government departments and the National Assembly for Wales to have regard for biodiversity, and provides increased powers for the protection and maintenance of SSSIs. The Act also contains lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

The Natural Environment and Rural Communities (NERC) Act 2006

Section 40 of the NERC Act places a duty upon all local authorities and public bodies in England and Wales to promote and enhance biodiversity in all of their functions. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity. These lists superseded Section 74 of the CRoW Act 2000.

The Hedgerow Regulations 1997

The Hedgerow Regulations make provision for the identification of important hedgerows which may not be removed without permission from the Local Planning Authority.

UK Post-2010 Biodiversity Framework

The UK Biodiversity Action Plan (BAP), published in 1994, was the UK Government's response to signing the Convention on Biological Diversity (CBD) at the 1992 Rio Earth Summit. The new UK Post-2010 Biodiversity Framework replaces the previous UK level BAP. The UK Post-2010 Biodiversity Framework covers the period 2011-2020 and forms the UK Government's response to the new strategic plan of the United Nations Convention on Biological Diversity (CBD), published in 2010 at the CBD meeting in Nagoya, Japan. This includes five internationally agreed strategic goals and supporting targets to be achieved by 2020. The five strategic goals agreed were:

- Address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society;
- Reduce the direct pressures on biodiversity and promote sustainable use;
- To improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity;
- Enhance the benefits to all from biodiversity and ecosystem services; and,
- Enhance implementation through participatory planning, knowledge management and capacity building.

The Framework recognises that most work which was previously carried out under the UK BAP is now focused on the four individual countries of the United Kingdom and Northern Ireland, and delivered through the countries' own strategies. Following the publication of the new Framework the UK BAP partnership no longer operates but many of the tools and resources originally developed under the UK BAP still remain of use and form the basis of much biodiversity work at country level. In England the focus is on delivering the outcomes set out in the Government's 'Biodiversity 2020: a Strategy for England's Wildlife and Ecosystem Services' (DEFRA, 2011). This sets out how the quality of our environment on land and at sea will be improved over the next ten years and follows on from policies contained in the Natural Environment White Paper.

Species and Habitats of Material Consideration for Planning in England

Previous planning policy (and some supporting guidance which is still current, e.g. ODPM Circular 06/2005, now under revision), refers to UK BAP habitats and species as being a material consideration in the planning process. Equally many local plans refer to BAP priority habitats and species. Both remain as material considerations in the planning process but such habitats and species are now described as Species and Habitats of Principal Importance for Conservation in England, or simply priority habitats and priority species under the UK Post-2010 Biodiversity Framework. The list of habitats and species remains unchanged and is still derived from Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006. As was previously the case when it was a BAP priority species hen harrier continues to be regarded as a priority species although it does not appear on the Section 41 list.

3.2 NATIONAL PLANNING POLICY FRAMEWORK AND PRACTICE GUIDANCE

In February 2019, the National Planning Policy Framework (NPPF) was updated, replacing the previous framework published in 2012 and revised in 2018. The government circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, which accompanied PPS9, still remains valid. A presumption towards sustainable development is at the heart of the NPPF. This presumption does not apply however where developments require appropriate assessment under the Birds or Habitats Directives.

Chapter 15, on conserving and enhancing the natural environment, sets out how the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing existing sites of biodiversity value;
- minimising impacts on and providing net gains for biodiversity; and,
- establishing coherent ecological networks.

If a proposed development would result in significant harm to the natural environment which cannot be avoided (through the use of an alternative site with less harmful impacts), mitigated or compensated for (as a last resort) then planning permission should be refused. With respect to development on land within or outside of a Site of Special Scientific Interest (SSSI) which is likely to have an adverse effect (either alone or in-combination with other developments) would only be permitted where the benefits of the proposed development clearly outweigh the impacts on the SSSI itself, and the wider network of SSSIs. Development resulting in the loss of deterioration of irreplaceable habitats (such as ancient woodland and ancient or

veteran trees) should be refused unless there are wholly exceptional reasons for the development, and a suitable compensation strategy is provided.

Chapter 15 identifies that development whose primary objective is to conserve or enhance biodiversity should be supported and opportunities to incorporate biodiversity improvements in and around development should be encouraged, especially where this can secure measurable net gains for biodiversity.

Chapter 11, making effective use of the land, sets out how the planning system should promote use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs. Opportunities for achieving net environmental gains, including new habitat creation, are encouraged.

In March 2014 the Department for Communities and Local Government released guidance to support the National Planning Policy Framework (NPPF), known as the National Planning Practice Guidance (NPPG). This has been produced to provide guidance for planners and communities which will help deliver high quality development and sustainable growth in England.

The guidance includes a section entitled 'Natural Environment: Biodiversity, geodiversity and ecosystems and green infrastructure', which was updated in July 2019. This document sets out information with respect to the following:

- the statutory basis for seeking to conserve and enhance biodiversity;
- the local planning authority's requirements for planning for biodiversity;
- what local ecological networks are and how to identify and map them;
- how plan-making bodies identify and safeguard Local Wildlife Sites, including Standard Criteria for Local Wildlife Sites;
- the sources of ecological evidence;
- the legal obligations on local planning authorities and developers regarding statutory designated sites and protected species;
- definition of green infrastructure;
- where biodiversity should be taken into account in preparing a planning application;
- how policy should be applied to avoid, mitigate or compensate for significant harm to biodiversity and how mitigation and compensation measures can be ensured;
- definitions of biodiversity net gain including information on how it can be achieved and assessed; and,
- the consideration of ancient woodlands and veteran trees in planning decisions and how potential impacts can be assessed.

The NPPG July 2019 issue also includes a section entitled 'Appropriate assessment: Guidance on the use of Habitats Regulations Assessment' which provides information in relation to Habitats Regulations Assessment processes, contents and approaches in light of case law. This guidance will be relevant to those projects and plans which have the potential to impact on European Sites and European Offshore Marine Sites identified under the Conservation of Habitats and Species Regulations 2017 (as amended).

3.3 LOCAL PLANNING POLICY

<https://www.allerdale.gov.uk/en/planning-building-control/planning-policy/>

The Allerdale Local Development Plan consists of Part 1: 'Strategic and Development Management Policies, adopted in 2014 and Part 2 Part 2: 'Site Allocations' Development Plan Document (DPD)', which is still to be formally adopted.

The planning policy also includes a number of supplementary planning documents (SPDs) which cover: Developer Contributions Supplementary Planning Document which looks at all the extra obligations which a developer can be made to commit to under a Section 106 agreement, such as for affordable housing, education and roads; Conservation Area Supplementary Planning Document; Wind Energy Supplementary Planning Document and Cockermouth Conservation Area - Conservation and Design Guide

The Allerdale Local Plan 2014 (Part 1) - Strategic and Development Management Policies

Allerdale Borough Council formally adopted the Allerdale Local Plan (Part 1) on 16 July 2014. The key policies with regards to ecology are as follows:

S24: Green Infrastructure

The Council will promote the creation, enhancement, maintenance and protection of a range of green infrastructure assets that contribute to a diverse network of natural and man-made green and blue spaces, links, habitats and landscapes, which is accessible to all. The Council will work with partners and developers to:

- a) Promote high quality, attractive places which allow everyone to enjoy direct and regular contact with the natural environment;
- b) Seek to ensure green infrastructure is woven into new development wherever possible;
- c) Protect, manage, enhance and create key natural and semi-natural habitats and wildlife corridors, including watercourses, wetlands, woodlands (including ancient woodland and trees) and parklands;
- d) Seek to alleviate open space deficiencies in existing communities whilst ensuring all new open space provision is high quality, attractive and safe;
- e) Promote design and management of parks and natural green spaces to increase biodiversity and maximise their function as nature reserves;
- f) Promote health and fitness through provision of open space and opportunities for community involvement in outdoor exercise, sport and active recreations;
- g) Encourage use of street trees, where appropriate, to define streets, improve the urban environment and provide linkages in habitat networks;
- h) Promote creation of multi-functional habitat networks, such as communal / private courtyards, pocket green spaces and green buildings, which are responsive to a range of microclimatic conditions and provide an experience of nature on people's doorstep;
- i) Seek the creation of new and enhanced links and corridors between towns and settlements such as cycle ways and footpaths;
- j) Promote improvements in air, water and soil quality and more sustainable drainage and flood mitigation solutions;
- k) Seek the protection and rehabilitation of landscapes and habitats damaged or lost by development or land management practices;
- l) Maximise opportunities to enhance and create assets which have the potential to attract visitors, create employment and attract investment to the area;
- m) Explore the potential of existing and new green infrastructure assets to provide opportunities for renewal energy schemes;
- n) Promote opportunities for farmers, foresters and other land managers to diversify and promote woodland management, including opportunities for new planting schemes;
- o) Support key specific projects which would contribute significantly to the Green Infrastructure network.

S35: Protecting and Enhancing Biodiversity and Geodiversity

Conditions for biodiversity will be maintained and improved and important geodiversity assets will be protected. Nationally and internationally protected sites and species will be afforded the highest level of protection. A high priority is also given to the protection of locally identified biodiversity or ecologically valuable assets. The Council will seek positive improvements to the quality of the natural environmental through sustainable development resulting in net gains for biodiversity across the Plan Area.

Developments, projects and activities will be expected to:

- a) Protect and enhance key ecological habitats and wildlife corridors and stepping stones including watercourses and wetlands;
- b) Maintain, and where appropriate enhance, conditions for priority habitats and species identified in the Cumbria and UK Biodiversity Action Plan Priority Species and habitats or the Cumbria Biodiversity Data Centre at Tullie House;
- c) Maintain and where appropriate enhance recognised geodiversity assets identified in the Local Geodiversity Action Plan for Cumbria;
- d) Protect soil and water resources in line with Policy S36;
- e) Contribute to Allerdale's green infrastructure network in line with Policy S24;
- f) Protect existing trees, hedgerows and woodland (including ancient trees and hedgerows) that are considered important to the local community, contribute positively to the character of the area and/or are of a nature conservation value.

Development that present significant economic or social benefits for the local community may be permitted where the Council, in consultation with relevant partner organisations are satisfied that any necessary impacts can be mitigated or compensated through appropriate habitat creation, restoration or enhancement on site or elsewhere secured via planning conditions, agreements or obligations. Where a development poses significant harm to an irreplaceable habitat which cannot be mitigated or compensated for, permission will be refused.

DM17: Trees Hedgerows and Woodland

Wherever possible, existing trees, hedgerows and woodland that are considered important to the local community, contribute positively to the character of the area and/or are of nature conservation value will be protected.

Proposals that involve felling, removal or are considered likely to cause demonstrable harm to existing trees, hedgerows and woodland will normally be resisted, unless acceptable mitigation or compensation measures can be secured. Felling and/or removal may be permitted in exceptional circumstances where it can be demonstrated that the economic viability of the development is prejudiced and there are proposed wider benefits that outweigh the loss incurred. However, where a development poses significant harm to an irreplaceable habitat which cannot be mitigated or compensated for, permission will be refused. Replacement planting that maintains local amenity, the character of the area and nature conservation interest will be required.

A tree or hedgerow survey will be required to accompany a planning application when trees or hedgerows are either present on the proposal site or are adjacent to it and are likely to influence or be affected by the development. Details required by tree and hedgerow surveys will be set out by the Council in a Local Validation Checklist.

4. DESK STUDY RESULTS

4.1 INTRODUCTION

The data search was carried out in January 2020 by the Cumbria Biodiversity Data Centre. All relevant ecological data provided by the consultees was reviewed and the results from these investigations are summarised in Sections 4.2 to 4.4. Selected data are provided in Appendix 1.

4.2 NATURE CONSERVATION SITES

Statutory and non-statutory nature conservation sites located in proximity to the survey area are summarised in Table 4.1.

Site Name	Designation	Proximity to Survey Area	Description
Non-statutory Sites			
Beck Green Meadows	CWS	600 m south east	Areas of grassland and woodland linked by a disused railway line. The meadows have been managed sympathetically and so remain species-rich. Grasses include marsh foxtail (<i>Alopecurus geniculatus</i>), meadow foxtail (<i>Alopecurus pratensis</i>), fescue (<i>Festuca</i> sp.), soft brome (<i>Bromus hordeaceus</i>), Yorkshire fog (<i>Holcus lanatus</i>), creeping soft grass (<i>Holcus mollis</i>), common bent (<i>Agrostis capillaris</i>) and creeping bent (<i>Agrostis stolonifera</i>). Common sedge (<i>Carex nigra</i>), carnation sedge (<i>Carex panicea</i>), field woodrush (<i>Luzula campestris</i>), soft rush (<i>Juncus effusus</i>) and sharp flowered (<i>Juncus acutiflorus</i>) rush also occur. Herb species include intermediate lady's mantle (<i>Alchemilla</i> sp.), pignut (<i>Conopodium majus</i>), forget-me-not (<i>Myosotis</i> sp.), sticky mouseear (<i>Cerastium glomeratum</i>) and ragged robin (<i>Lychnis flos-cuculi</i>). The wooded areas have wood horsetail (<i>Equisetum sylvaticum</i>), wood sedge (<i>Carex sylvatica</i>), hard farn (<i>Blechnum spicant</i>), bilberry (<i>Vaccinium myrtillus</i>), yellow pimpernel (<i>Lysimachia nemorum</i>), moschatel (<i>Adoxa moschatellina</i>) and ramsons (<i>Allium ursinum</i>).
Hayes Castle Meadows	CWS	620 m south west	Wet meadow and stream. In the wetter areas, yellow iris (<i>Iris pseudacorus</i>), ragged robin (<i>Lychnis flos-cuculi</i>) and cuckooflower (<i>Cardamine pratensis</i>) are found. In drier parts common spotted orchid (<i>Dactylorhiza fuchsii</i>), northern marsh orchid (<i>Dactylorhiza purpurella</i>) can be found along with heath bedstraw (<i>Galium saxatile</i>), knapweed (<i>Centaurea nigra</i>), betony (<i>Stachys officinalis</i>), selfheal (<i>Prunella vulgaris</i>) and devil's-bit scabious (<i>Succisa pratensis</i>).
Ancient Woodland Sites			
Woodland at Stubsgill Beck	ASW	560 m south east	
Key: CWS: County Wildlife Site ASW: Ancient Semi-natural Woodland			

Table 4.1: Summary of Nature Conservation Sites

No Sites of Special Scientific Interest (SSSIs) are located within a 2 km radius of the survey area, however the survey area does fall within a SSSI Impact Risk Zone for The River Derwent and Tributaries SSSI which is located approximately 5.5 km north and west of the site.

4.3 PROTECTED / NOTABLE SPECIES

Table 4.2 and the following text provide a summary of protected and notable species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Species of Principal Importance?	Legislation / Conservation Status
Birds					
Grey partridge <i>Perdix perdix</i>	9	2010	Potentially within 1 km west*	✓	LBAP
Lapwing <i>Vanellus vanellus</i>	8	2010	Potentially within 1 km west*	✓	LBAP
Curlew <i>Numenius arquata</i>	18	2011	Potentially within 1 km west*	✓	LBAP
Herring gull <i>Larus argentatus</i>	29	2011	Potentially within 1 km west*	✓	LBAP
Skylark <i>Alauda arvensis</i>	13	2011	Potentially within 1 km west*	✓	LBAP
Dunnock <i>Prunella modularis</i>	40	2011	Potentially within 1 km west*	✓	LBAP
Song thrush <i>Turdus philomelos</i>	27	2011	Potentially within 1 km*	✓	LBAP
Ringed plover <i>Charadrius hiaticula</i>	6	2010	Potentially within 1 km west*	✓	LBAP
Redwing <i>Turdus iliacus</i>	2	2008	Potentially within 1 km*	-	WCA1i
Spotted flycatcher <i>Muscicapa striata</i>	4	2011	Potentially within 1 km*	✓	LBAP
Willow tit <i>Poecile montanus</i>	2	2000	Potentially within 1 km*	✓	LBAP
Marsh tit <i>Poecile palustris</i>	1	1998	Potentially within 1 km*	✓	LBAP
Starling <i>Sturnus vulgaris</i>	35	2011	Potentially within 1 km west*	✓	LBAP
House sparrow <i>Passer domesticus</i>	33	2011	Potentially within 1 km west*	✓	LBAP
Linnet <i>Linaria cannabina</i>	21	2011	Potentially within 1 km west*	✓	LBAP
Bullfinch <i>Pyrrhula pyrrhula</i>	8	2008	Potentially within 1 km west*	✓	LBAP
Reed bunting <i>Emberiza schoeniclus</i>	25	2011	Potentially within 1 km west*	✓	LBAP
Herpetofauna					
Smooth newt <i>Lissotriton vulgaris</i>	2	1998	280 m north west	-	WCA 5 S9(5)
Common frog <i>Rana temporaria</i>	2	1998	280 m north west	-	WCA 5 S9(5)
Common lizard <i>Zootoca vivipara</i>	2	2016	600 m north east	✓	WCA 5 S9(1) WCA 5 S9(5), LBAP
Mammals					
Pipistrelle species <i>Pipistrellus sp.</i>	2	2005	490 m north east	#	ECH 4, WCA 5, WCA 6, LBAP
Badger <i>Meles meles</i>	1	2009	Confidential†	-	WCA 6, PBA
Hedgehog <i>Erinaceus europaeus</i>	9	2016	120 m south east	✓	WCA 6, LBAP
Otter <i>Lutra lutra</i>	7	2007	260 m south east	✓	ECH 2, ECH 4, WCA 5, WCA 6, LBAP
Red squirrel <i>Sciurus vulgaris</i>	44	2016	160 m south	✓	WCA 5, WCA 6, LBAP

Table 4.2: Summary of Protected/Notable Species Records Within 1 km of Survey Area [continues]

Key:

†: Badger records are confidential and therefore proximity is not provided within the report.

*: Grid Reference given as 2 figures only.

#: Dependent on species.

ECH 2: Annex II of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest whose conservation requires the designation of Special Areas of Conservation.

ECH 4: Annex IV of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest in need of strict protection.

WCA 1i: Schedule 1 Part 1 of Wildlife and Countryside Act 1981 (as amended). Birds protected by special penalties at all times.

WCA 5: Schedule 5 of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds).

WCA 5 S9(1): Schedule 5 Section 9(1) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to intentional killing, injury or taking.

WCA 5 S9(5): Schedule 5 Section 9(5) of Wildlife and Countryside Act 1981 (as amended). Protected animals (other than birds). Protection limited to selling, offering for sale, processing or transporting for purpose of sale, or advertising for sale, any live or dead animal, or any part of, or anything derived from, such animal.

WCA 6: Schedule 6 of Wildlife and Countryside Act 1981 (as amended). Animals which may not be killed or taken by certain methods.

LBAP: Cumbria Local Biodiversity Action Plan

Note. This table does not include reference to the Berne Convention (Convention on the Conservation of European Wildlife and Natural Habitats), the Bonn Convention on the Conservation of Migratory Species of Wild Animals or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Table 4.2: Summary of Protected/Notable Species Records Within 1 km of Survey Area [continued]

Three bird species of high conservation protection were highlighted in the desk study but not identified due to restrictions imposed by the data providers.

In addition, the desk study highlighted a number of bird species listed as Amber of the RSPB lists of Birds of Conservation Concern. These included swift *Apus apus*, swallow *Hirundo rustica*, sand martin *Riparia riparia*, redshank *Tringa tetanus* and oystercatcher *Haematopus ostralegus*.

4.4 INVASIVE SPECIES

Table 4.3 provides a summary of invasive species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Legislation / Conservation Status
American mink <i>Neovison vison</i>	2	2007	600 m south west	WCA9
Grey Squirrel <i>Sciurus carolinensis</i>	3	2008	Potentially on site	WCA9
Key: WCA9: Schedule 9 of Wildlife and Countryside Act 1981 (as amended). Invasive, non-native, plants and animals.				

Table 4.3: Summary of Invasive Species Records Within 1 km of Survey Area

5. PHASE 1 HABITAT SURVEY

5.1 INTRODUCTION

The results of the Phase 1 Habitat Survey are presented in the following sections. An annotated Phase 1 Habitat Survey Drawing (Drawing C151607) is provided in Chapter 8. This drawing illustrates the location and extent of all habitat types recorded on site. Any notable features or features too small to map are detailed using target notes. Photographs taken during the field survey are presented in Chapter 9.

The survey was carried out 24th January 2020 by Ellie Rickman MCIEEM, Principal Ecological Consultant. Table 5.1 details the weather conditions at the time of the survey.

Parameter	Condition
Temperature (°C)	8
Cloud (%)	100
Wind (Beaufort)	F2
Precipitation	Light rain

Table 5.1: Weather Conditions During Field Survey

5.2 SURVEY CONSTRAINTS AND LIMITATIONS

January is not an optimal time for completing botanical assessments however, given the nature of the habitats present, this was not considered to be a significant constraint to a robust initial site assessment.

5.3 HABITATS

The following habitat types were recorded on site during the field survey:

- Boundary Features (fences and walls);
- Hardstanding;
- Hedgerow;
- Ornamental Shrub;
- Scattered trees; and,
- Species-poor Semi-improved grassland.

These habitats are described below. They are ordered alphabetically, not in order of ecological importance.

Boundary Features (fences and walls)

The site was bounded on all sides by garden fences and walls (Plate 9.1) apart from part of the western boundary which was lined by an outgrown hedgerow. The boundaries were marked by a mixture of wooden panel and chain-link fencing with a small section of drystone wall to the east (Plate 9.2) and brick and breezeblock low walls to the north west. Some fences had vegetation growing over them including ivy *Hedera helix* and bramble *Rubus fruticosus* agg (Plate 9.3).

Hardstanding

The northern third of the site was dominated by tarmac and concrete hardstanding, likely to be the footprint of former buildings and car park areas. The access to the site from Church Road was also tarmac. Some vegetation had encroached onto the hardstanding areas including stonecrop *Sedum sp*, moss and grass (Plate 9.4).

Hedgerow

A hedgerow was present along the south western boundary of the site, separating the site from the adjacent tarmac footpath and school (Plate 9.5). The hedgerow was unmanaged and very outgrown, almost becoming a tree line in places, with numerous gaps along its length. It contained predominantly hawthorn *Crataegus monogyna* with some elm *Ulmus sp.*, and elder *Sambucus nigra* which was encroaching onto the site. The base of the hedgerow contained bramble with some ornamental species including tutsan *Hypericum androsaemum* and box leaved honeysuckle *Lonicera pileata* also recorded.

Ornamental Shrub

Scattered ornamental shrubs were recorded at the boundaries of the site overhanging the fences from adjacent gardens. A small patch of forsythia *Forsythia intermedia* was present in a small fenced area to the north of the site just east of the site access (Plate 9.6).

Scattered trees

Two semi-mature conifers were recorded on the western side of the site (Plate 9.7). These were in a very poor condition, with only a small amount of foliage present.

Species-poor Semi-improved grassland

The majority of the site, particularly to the south, was species-poor semi-improved grassland (Plate 9.8). This had a long sward to approximately 30 cm and contained cocks foot *Dactylis glomerata*, red fescue *Festuca rubra* and false oat grass *Arrhenatherum elatius*. There were only a few forbs present including creeping buttercup *Ranunculus repens* and broad leaved dock *Rumex obtusifolius*, with nettle *Urtica dioica* and white deadnettle *Lamium album* recorded at the edges.

In the centre of the main area of grassland, the ground was slightly wetter and tussocks of soft rush *Juncus effusus* and abundant creeping buttercup recorded.

5.4 FAUNA

During the survey field signs of faunal species were recorded. The time of year at which the survey is undertaken will affect species or field signs directly recorded during the survey.

Birds

The following bird species were observed on site during the field survey: blackbird *Turdus merula*, black headed gull *Chroicocephalus ridibundus*, dunnock *Prunella modularis* and jackdaw *Corvus corone*.

Mammals

Evidence of mammal foraging (snuffle marks) was recorded in the grassland (Plate 9.9) and a vole nest was recorded.

5.5 INVASIVE PLANT SPECIES

No invasive plant species were recorded on site during the field survey.

6. DISCUSSIONS AND CONCLUSIONS

6.1 SUMMARY OF PROPOSALS

The proposals are for a new residential development for persons over 50 years of age. Proposals include the construction of 9 new bungalows in the northern half of the site and 39 apartments in the southern half of the site along with car parking areas and hard and soft landscaping. All of the hardstanding and grassland areas of the site are likely to be lost as a result of the development. It is not clear whether the hedgerow to the south west will be retained or removed and replaced.

6.2 NATURE CONSERVATION SITES

The desk study exercise identified no European statutory sites within 5 km of the survey area, no UK statutory sites within 2 km and two non-statutory sites within 1 km. The site is not located within 10 km of a statutory site designated for bats. The significance of these sites to the proposed development is discussed below.

Non-Statutory Sites

Two County Wildlife Sites are located within 1 km of the proposed development, Hayes Castle Meadows and Beck Green Meadows. These are both designated for species rich grasslands. They are both located over 600 m from the site and are separated from the proposed development by significant areas of residential housing and roads. There are no ecological links between the proposed development and the County Wildlife Sites, therefore no impacts to non-statutory sites are predicted and they are not a notable consideration.

Ancient Woodland

One ancient woodland site was identified by the desk study within 1 km of the proposed development. This was associated with Stubsgill Beck, 560 m south east of the site. This woodland is separated from the proposed development by residential housing and two roads and does not share any ecological connectivity to the site. No impacts to this ancient woodland are predicted as a result of the proposed works.

6.3 HABITATS

The ecological importance of the habitats present on site is determined by their presence on the list of Habitats of Principal Importance in England and on the Local BAP. It also takes into account the intrinsic value of the habitat. Those habitats which are considered to be of intrinsic importance and have the potential to be impacted by the site proposals are highlighted as notable considerations.

A discussion of the implications of the site proposals with regard to the habitats present on site is provided in the text below. A separate discussion of the value of the habitats on site to protected or notable species is provided in Section 6.4.

Species-Poor Semi-improved Grassland

The majority of the site consisted of species-poor semi-improved grassland and the majority of this habitat will be lost as a result of the proposed works. The grassland does not fit the criteria for any Habitats of Principal Importance or local BAP habitats. It contained only a small number of common and widespread species and can easily be recreated. It is not a notable consideration in itself. However, the loss of a large area of grassland could result in a reduction in biodiversity on the site, therefore a recommendation for biodiversity enhancement in the proposed landscaping is made in Chapter 7.

The grassland may also provide habitat for fauna such as common amphibians. This is discussed further in Section 6.4 below.

Hedgerow

All hedgerows consisting predominantly (i.e. 80% or more cover) of at least one woody UK native species are considered a Habitat of Principal Importance due to their value as corridors through the landscape. The hedgerow along the south western boundary of the site would fit these criteria although it was very unmanaged, outgrown and gappy. It contained only a small number of common species, some of which were garden escapes.

Nevertheless, hedgerows are valuable ecological features and provide habitat for a range of fauna such as nesting birds. The hedgerow is therefore a notable consideration and a recommendation regarding its retention and enhancement, or replacement is made in Chapter 7.

Boundary Features, Hardstanding, Ornamental Shrub and Scattered Trees

The remaining habitats on site were of low biodiversity value. The boundary features and hardstanding did not provide significant ecological value and the ornamental shrubs and scattered trees were non-native and had low species diversity. In addition, the scattered trees were in a very poor condition. These habitats are therefore not notable considerations with regards to the proposed development.

Habitats considered to be of relevance to the proposed development are summarised in Table 6.1.

Habitat Type	Habitat of Principal Importance?	Local BAP Habitat?	Summary of Potential Impacts
Species Poor semi-improved grassland	-	-	Habitat loss
Hedgerow	✓	✓	Habitat loss

Table 6.1: Summary of Potential Impacts on Notable Habitats

6.4 PROTECTED/NOTABLE SPECIES

The following paragraphs consider the likely impact of the site proposals on protected or notable species. This is based on those species highlighted in the desk study exercise (Chapter 4) and other species for which potentially suitable habitat occurs within or adjacent to the survey area.

Bats

The desk study identified records of pipistrelle bats within 1 km of the site. There were no potential bat roost locations on the site, and the site was generally considered to be of low value to foraging and commuting bats. The hedgerow along the south western boundary could, however, provide a commuting corridor for bats and the grassland may be used for occasional foraging by local bat species. The proposed development may therefore impact upon local bat species, for example, through increased lighting disturbance and a recommendation regarding lighting minimisation is made in Chapter 7.

Birds

A large number of protected and/or priority bird records were identified within 1 km of the site through the desk study. Of these, dunnoek, a Species of Principal Importance, was recorded on site during the survey.

The site was generally of low value for birds as the grassland had limited foraging value and was likely to be disturbed by dog walkers. Nevertheless, the grassland did provide some foraging habitat for common species such as robin and blackbird and the boundary hedgerow, ivy and ornamental shrubs offered some potential nesting habitat for species such as dunnoek and song thrush. Therefore, nesting birds are a notable consideration and a recommendation regarding their protection is made in Chapter 7 to ensure works do not breach legislation or Allerdale Local Planning Policy S35.

Herpetofauna (Amphibians and Reptiles)

The desk study identified records of common frog and smooth newt within 1 km of the site. Reference to Ordnance Survey data shows that there are 5 ponds within 500 m of the site, however all of these are located on the opposite side of the A595 which is a large dual carriageway and a significant barrier to dispersal.

The site does contain some suitable habitat for amphibians such as toads and frogs in the long semi-improved grassland and hedgerow base. A pile of rubble was also recorded on the site which could provide a shelter feature (Plate 9.10). However, considering the distance and separation of the site from any waterbodies, the site is unlikely to support significant numbers of amphibians and would not be suitable for protected species such as great crested newt.

The desk study also highlighted records of common lizard within 1 km of the site. These were from 600 m north east of the site. The habitats on site were not considered to be of high value for reptiles as the grassland was very species poor and not likely to provide significant foraging and shelter opportunities. The

site was also relatively isolated as it was surrounded by residential housing. However, an area of rough ground including grassland and scrub was present off-site to the south west and would offer better habitat for reptiles such as common lizard and grass snake.

It is considered that the site is unlikely to support significant herpetofauna populations, but there is a small risk of presence of a few individual animals, which would be at risk of harm during site clearance. A recommendation has therefore been made in Chapter 7 regarding sensitive working methods.

Terrestrial Mammals including Badger, Hedgehog and Red Squirrel

The desk study identified records of badger, hedgehog, otter and red squirrel within 1 km of the site. The site is unlikely to support red squirrel or otter as there are very few trees and no watercourses in close proximity. No badger setts were recorded on or close to the site during the field survey. However, evidence of mammal foraging in the form of snuffle marks were recorded within the grassland.

In general, the site is of low value for terrestrial mammals as it contains little shelter and limited foraging opportunities. However, there is the potential for terrestrial mammals such as badger and hedgehog to occasionally forage within the grassland on the site and they could, therefore be at risk of entrapment in equipment or excavations during the construction phase of the development. A recommendation regarding this has been made in Chapter 7.

Other Species

The following protected species are not considered to be material considerations due to the lack of desk study records and absence of suitable habitats within the development site and its surroundings: dormouse, aquatic species, invertebrates.

Summary

Species considered to be of relevance to the proposed development are summarised in Table 6.2.

Species / Species Group	Species of Principal Importance?	Summary of Potential Impacts
Bats	#	Disturbance to foraging/commuting routes from lighting
Nesting Birds	#	Disturbance/direct harm
Herpetofauna	#	Direct harm
Terrestrial Mammals	#	Risk of entrapment in equipment and excavations

Table 6.2: Summary of Potential Impacts on Notable Species

6.5 INVASIVE PLANT SPECIES

No invasive plant species were identified by the desk study within 1 km of the site and no invasive plants were recorded on site during the field survey. Invasive plants are not a notable consideration on this site.

7. RECOMMENDATIONS

All recommendations provided in this section are based on Middlemarch Environmental Ltd's current understanding of the site proposals, correct at the time the report was compiled. Should the proposals alter, the conclusions and recommendations made in the report should be reviewed to ensure that they remain appropriate.

The ecological mitigation hierarchy should be applied when considering development which may have a significant effect on biodiversity. The ecological mitigation hierarchy, as set out in the National Planning Policy Framework (NPPF), and the National Planning Practice Guidance (NPPG) should follow these principles:

- **Avoidance** – development should be designed to avoid significant harm to valuable wildlife habitats and species.
- **Mitigation** – where significant harm cannot be wholly or partially avoided, it should be minimised by design or through the use of effective mitigation measures.
- **Compensation** – where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, compensation should be used to provide an equivalent value of biodiversity.

7.1 NATURE CONSERVATION SITES

No recommendations are made with regards to nature conservation sites.

7.2 HABITATS

The following recommendations are made regarding the habitats present on site:

- R1 Hedgerow:** The development proposals should be designed (where feasible) to allow for the retention of existing notable habitats including the hedgerow to the south west of the site. The hedgerow should be protected in accordance with British Standard 5837: 2012 "Trees in relation to design, demolition and construction - recommendations" and protection should be installed on site prior to the commencement of any works on site.

If retention is not possible, appropriate replacement planting should be incorporated into the soft landscape scheme in accordance with the ecological mitigation hierarchy. Only native and/or wildlife attracting species should be planted.

- R2 Biodiversity Enhancement:** In accordance with the provision of Chapter 15 of the National Planning Policy Framework (Conserving and Enhancing the Natural Environment) and Local Planning Policy, biodiversity enhancement measures should be incorporated into the landscaping scheme of any proposed development to work towards delivering net gains for biodiversity. This could involve, for example, the enhancement of existing and planting of new hedgerows to increase structure and diversity; the planting of native seed/fruit bearing species which will be of value to wildlife, installation of bird boxes adjacent to greenspace areas and creation of open flower-rich habitats for bees.

7.3 PROTECTED / NOTABLE SPECIES

To ensure compliance with wildlife legislation and the Allerdale Local Planning Policy S35, the following recommendations are made:

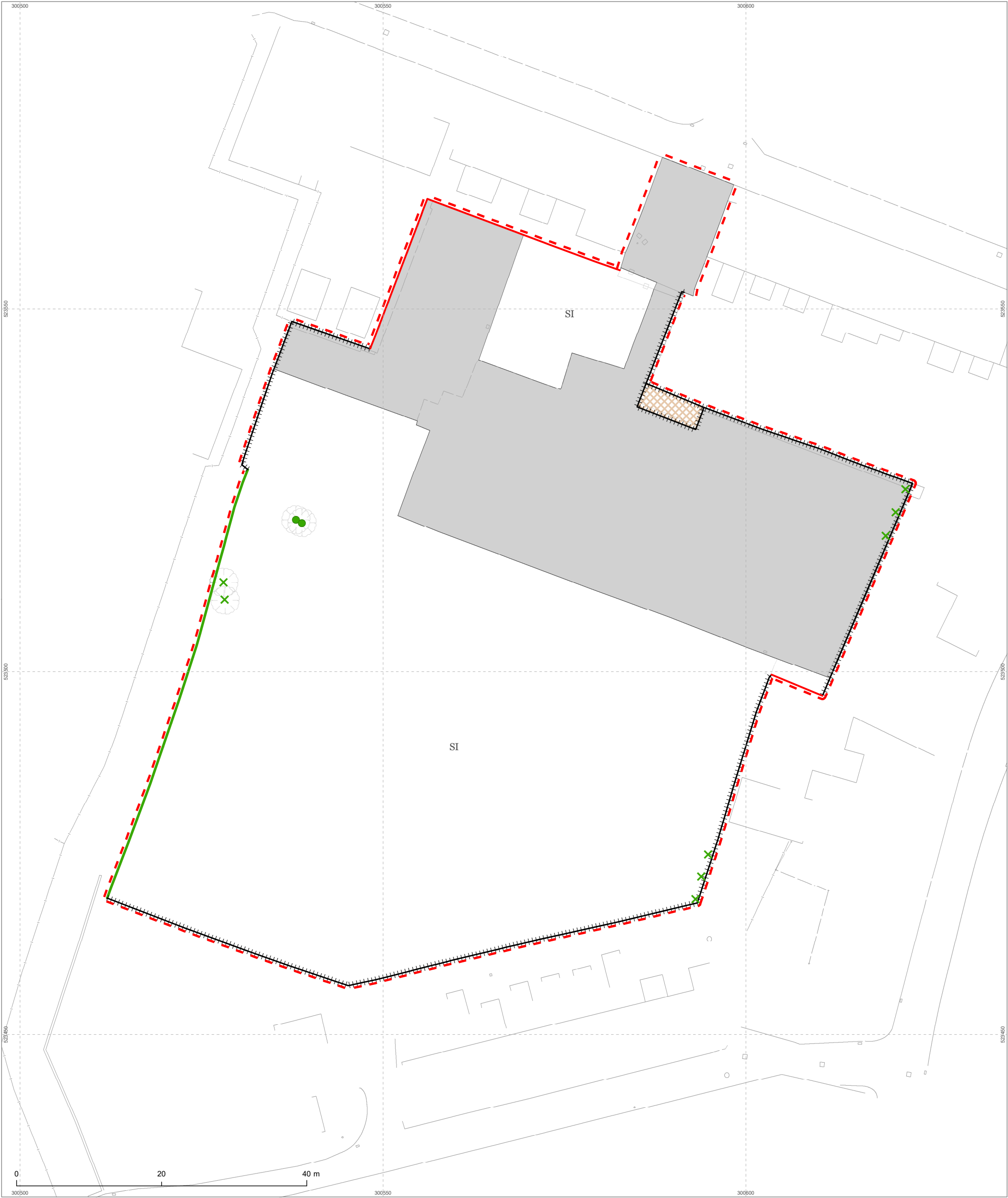
- R3 Bats and Lighting:** In accordance with best practice guidance relating to lighting and biodiversity (Miles et al, 2018; Gunnell et al, 2012), any new lighting should be carefully designed to minimise potential disturbance and fragmentation impacts on sensitive receptors, such as bat species. Examples of good practice include:
- Avoiding the installation of new lighting in proximity to key ecological features, such as the south western hedgerow.

- Using modern LED fittings rather than metal halide or sodium fittings, as modern LEDs emit negligible UV radiation.
- The use of directional lighting to reduce light spill, e.g. by installing bespoke fittings or using hoods or shields. For example, downlighting can be used to illuminate features such as footpaths whilst reducing the horizontal and vertical spill of light.
- Where the use of bollard lighting is proposed, columns should be designed to reduce horizontal light spill.
- Implementing controls to ensure lighting is only active when needed, e.g. the use of timers or motion sensors.

- R4 Herpetofauna:** The clearance of suitable reptile and amphibian habitat (semi-improved grassland and hedgerow bases) should be undertaken under the supervision of an experienced ecologist. This will involve the clearance of vegetation in a directional manner to allow any herpetofauna to disperse and careful removal of any hibernacula. This should be completed when reptiles and amphibians are active. This is weather dependent but generally extends between March and October inclusive.
- R5 Nesting Birds:** Hedgerow, tree and shrub clearance should be undertaken outside the nesting bird season. The nesting bird season is weather dependent but generally extends between March and September inclusive (peak period March-August). If this is not possible then any vegetation to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing. If birds are found to be nesting any works which may affect them should be delayed until the young have fledged and the nest has been abandoned naturally, for example via the implementation of an appropriate buffer zone (species dependent) around the nest in which no disturbance is permitted until the nest is no longer in use.
- R6 Terrestrial Mammals:** Any excavations that need to be left overnight should be covered or fitted with mammal ramps to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120 mm must be covered at the end of each work day to prevent animals entering/becoming trapped.

8. DRAWINGS

Drawing C151607 – Phase 1 Habitat Map



Legend

- Site boundary
- Scattered broad-leaved tree
- Scattered scrub
- Fence
- Species-poor intact hedgerow
- Wall
- Hardstanding
- Introduced shrub
- SI Poor semi-improved grassland

Project		Church Road, Distington	
Drawing		Phase 1 Habitat Map	
Client		Distington Big Local	
Drawing Number	C151607-01	Revision	00
Scale @ A3	1:500	Date	February 2020
Approved By	ER	Drawn By	VO

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C151607-01

9. PHOTOGRAPHS



Plate 9.1: Access and Boundary Fencing



Plate 9.2: Drystone Wall Section to East



Plate 9.3: Ivy on Boundary Fencing



Plate 9.4: Hardstanding with encroaching moss and sedum



Plate 9.5: Outgrown Hedgerow to South West



Plate 9.6: Forsythia at the Northern boundary



Plate 9.7: Scattered Leylandii



Plate 9.8: Poor Semi-improved Grassland



Plate 9.9: Snuffle Marks in the Grassland



Plate 9.10: Wood and Rubble Pile to West of Site

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APPENDICES

APPENDIX 1: Summary of Statutory Nature Conservation Sites

APPENDIX 2: Overview of Relevant Species Specific Legislation

APPENDIX 1

Summary of Statutory Nature Conservation Sites

Site Check Report Report generated on Wed Feb 05 2020

You selected the location: Centroid Grid Ref: NY00562349

The following features have been found in your search area:

SSSI Impact Risk Zones - to assess planning applications for likely impacts on SSSIs/SACs/SPAs & Ramsar sites (England)

1. DOES PLANNING PROPOSAL FALL INTO ONE OR MORE OF THE CATEGORIES BELOW?

2. IF YES, CHECK THE CORRESPONDING DESCRIPTION(S) BELOW. LPA SHOULD CONSULT NATURAL ENGLAND ON LIKELY RISKS FROM THE FOLLOWING:

All Planning Applications

Infrastructure

Airports, helipads and other aviation proposals.

Wind & Solar Energy

Solar schemes with footprint > 0.5ha, all wind turbines.

Minerals, Oil & Gas

Rural Non Residential

Residential

Rural Residential

Air Pollution

Livestock & poultry units with floorspace > 500m², slurry lagoons > 4000m².

Combustion

General combustion processes >50MW energy input. Incl: energy from waste incineration, other incineration, landfill gas generation plant, pyrolysis/gasification, anaerobic digestion, sewage treatment works, other incineration/ combustion.

Waste

Landfill. Incl: inert landfill, non-hazardous landfill, hazardous landfill.

Composting

Discharges

Water Supply

Notes 1

Notes 2

GUIDANCE - How to use the Impact Risk Zones

[/Metadata for magic/SSSI IRZ User Guidance MAGIC.pdf](#)

Areas of Outstanding Natural Beauty (England)

No Features found

National Nature Reserves (England) - points

No Features found

National Nature Reserves (England)

No Features found

Ramsar Sites (England) - points

No Features found

Ramsar Sites (England)

No Features found

Sites of Special Scientific Interest (England) - points

No Features found

Sites of Special Scientific Interest (England)

No Features found

Special Areas of Conservation (England) - points

No Features found

Special Areas of Conservation (England)

No Features found

Special Protection Areas (England) - points

No Features found

Special Protection Areas (England)

No Features found

APPENDIX 2

Overview of Relevant Species Specific Legislation

Bats

Bats and the places they use for shelter or protection (i.e. roosts) receive European protection under The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that bats, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2017, states that a person commits an offence if they:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats; or
- damage or destroy a bat roost (breeding site or resting place).

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2017 for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead bats, part of a bat or anything derived from bats, which has been unlawfully taken from the wild.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to *intentionally* kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to *intentionally or recklessly** damage or destroy, or *obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to *intentionally or recklessly** disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

*Reckless offences were added by the Countryside and Rights of Way (CROW) Act 2000.

As bats re-use the same roosts (breeding site or resting place) after periods of vacancy, legal opinion is that roosts are protected whether or not bats are present.

The following bat species are Species of Principal Importance for Nature Conservation in England: Barbastelle Bat *Barbastella barbastellus*, Bechstein's Bat *Myotis bechsteinii*, Noctule Bat *Nyctalus noctula*, Soprano Pipistrelle *Pipistrellus pygmaeus*, Brown Long-eared Bat *Plecotus auritus*, Greater Horseshoe Bat *Rhinolophus ferrumequinum* and Lesser Horseshoe Bat *Rhinolophus hipposideros*.

All bat species which occur within the county are priority species on the Cumbria Local BAP

The reader should refer to the original legislation for the definitive interpretation.

Birds

The Conservation of Habitats and Species Regulations 2017 places a duty on public bodies to take measures to preserve, maintain and re-establish habitat for wild birds.

Nesting and nest building birds are protected under the Wildlife and Countryside Act WCA 1981 (as amended).

Subject to the provisions of the act, if any person intentionally:

- kills, injures or takes any wild bird;
- takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- takes or destroys an egg of any wild bird, he shall be guilty of an offence.

Some species (listed in Schedule 1 of the WCA) are protected by special penalties. Subject to the provisions of the act, if any person intentionally or recklessly:

- disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturbs dependent young of such a bird, he shall be guilty of an offence.

Several bird species are Species of Principal Importance for Nature Conservation in England, making them capable of being material considerations in the planning process.

SCHEDULE 1 BIRDS

Schedule 1 - Part I

Birds and their young, for which it is an offence to intentionally or recklessly disturb at, on or near an 'active' nest.

Avocet
Bee-eater
Bittern
Bittern, little
Bluethroat
Brambling
Bunting, ciril
Bunting, Lapland
Bunting, snow
Buzzard, honey
Capercaillie (Scotland only)
Chough
Corncrake
Crake, spotted
Crossbills (all species)
Divers (all species)
Dotterel
Duck, long-tailed
Eagle, golden
Eagle, white-tailed
Falcon, gyr
Fieldfare
Firecrest
Garganey
Godwit, black-tailed
Goshawk
Grebe, black-necked
Grebe, Slavonian
Greenshank
Gull, little
Gull, Mediterranean
Harriers (all species)

Heron, purple
Hobby
Hoopoe
Kingfisher
Kite, red
Merlin
Oriole, golden
Osprey
Owl, barn
Owl, snowy
Peregrine
Petrel, Leach's
Phalarope, red-necked
Plover, Kentish
Plover, little ringed
Quail, common
Redstart, black
Redwing
Rosefinch, scarlet
Ruff
Sandpiper, green
Sandpiper, purple
Sandpiper, wood
Scaup
Scoter, common
Scoter, velvet
Serin
Shorelark
Shrike, red-backed
Spoonbill
Stilt, black-winged
Stint, Temminck's
Stone-curlew
Swan, Bewick's
Swan, whooper
Tern, black
Tern, little
Tern, roseate
Tit, bearded
Tit, crested
Treecreeper, short-toed
Warbler, Cetti's
Warbler, Dartford
Warbler, marsh
Warbler, Savi's
Whimbrel
Woodlark
Wryneck

Schedule 1 - Part II

Birds afforded special protection during the close season which is 1 February to 31 August (21 February to 31 August below high water mark) but which may be killed or taken outside this period.

Goldeneye

Pintail

Greylag goose (in Outer Hebrides, Caithness, Sutherland and Wester Ross only)

Common Amphibians

Common frogs, common toad, smooth newt and palmate newt are protected in Britain under Schedule 5 of the Wildlife and Countryside Act (1981, as amended) with respect to sale only. They are also listed under Annex III of the Bern Convention 1979. Any exploitation of wild fauna specified in Appendix III shall be regulated in order to keep the populations out of danger. The convention seeks to prohibit the use of all indiscriminate means of capture and killing and the use of all means capable of causing local disappearance of, or serious disturbance to, populations of a species.

Common toad is listed as a Species of Principal Importance for Nature Conservation in England. Common toad is included on the Cumbria Local BAP.

Reptiles

All of the UK's native reptiles are protected by law. The two rarest species – sand lizard (*Lacerta agilis*) and smooth snake (*Coronella austriaca*) – benefit from the greatest protection; however these two species are not known to occur within Cumbria. Common lizard (*Zootoca vivipara*), slow-worm (*Anguis fragilis*), adder (*Vipera berus*) and grass snake (*Natrix natrix*) are protected under the Wildlife and Countryside Act 1981 as amended from intentional killing or injuring.

In England and Wales, this Act has been amended by the Countryside and Rights of Way Act 2000 (CRoW), which adds an extra offence, makes species offences arrestable, increases the time limits for some prosecutions and increases penalties. The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on Government Departments to have regard for the conservation of biodiversity and maintains lists of species and habitats which are of principal importance for the purposes of conserving biodiversity in England and Wales. All native reptile species are included on these lists.

This is a simplified description of the legislation. In particular, the offences mentioned here may be absolute, intentional, deliberate or reckless. Note that where it is predictable that reptiles are likely to be killed or injured by activities such as site clearance, this could legally constitute intentional killing or injuring.