

Table 3: Trees with Bat Potential

Tree Ref	Species	Features	Bat Potential	Photo
T1	Horse chestnut	Broken limb and rot hole on south face of trunk, flaking bark	Moderate	
T2	Horse chestnut	Rot hole and crevice on south face of limb	Moderate	
T3	Prunus sp	Broken limb and rot hole	Low	Feature not visible on photo
T4	Beech	Large rot hole and potential cavity on north face of trunk	Moderate	

Tree Ref	Species	Features	Bat Potential	Photo
T5 T6	Ash Ash	Small rot holes on limb Cracked limb	Low Low	
T7	Beech (potential veteran)	Large broken limb on east face with cracks and potential cavity	Moderate	
T8 (group)	4 x Beech, 1 Scots Pine	Five trees within H6 exhibited features such as rot holes, cracked limbs and potential cavities	All with moderate potential	

Tree Ref	Species	Features	Bat Potential	Photo
T9	Horse chestnut	Flaking bark, small rot holes on north face of trunk	Moderate	
T10	Sycamore	Two rot holes on trunk and one rot hole on branching limb	Moderate	

Preliminary Protected Species Assessment

- 5.14 The potential for the site to support protected and notable surveys has been assessed based on the desktop study results, the habitats present on site and their connectivity to suitable offsite habitats. Based on an evaluation of these factors, the habitats present on site are considered to have potential to support a small number of protected/notable species as discussed in Table 4.

Table 4: Preliminary Protected/Notable Species Assessment

Species	Relevant Legislation	Site Assessment	Likelihood of Presence
Bats	WCA, CHSR	The hedgerows and trees provide suitable foraging and commuting habitats for bats, however the improved fields which form the core of the site offer limited value for foraging and commuting bats. Bats are a common species group that will range far for foraging and it is therefore considered likely that bat species will be using the site as commuting and/or foraging habitat. Mature trees on the field boundaries provided potential for roosting bats with features such as rot holes, cavities, flaking bark and broken limbs. There is moderate potential for roosting bats to be utilising trees within the site.	Moderate
Nesting Birds	WCA	The site supports nesting opportunities for birds within hedgerows and trees. Ground nesting birds are not considered likely due to the intensity of grazing on the site.	Moderate
Badgers	PBA	Habitats onsite were suboptimal for badgers, with some limited foraging opportunities along the hedgerows. No evidence of badger was recorded during the extended Phase 1 survey however the desktop study indicates the presence of this species within the locality (precise location omitted from this report for confidentiality).	Low
Great Crested Newt	CHSR, WCA	There are no aquatic habitats onsite and terrestrial habitat is limited to the base of hedgerows. The field compartments are considered unsuitable for this species due to the grazing intensity. No records of GCN or other amphibian species were recorded within the desktop study search area. A single pond is shown to exist on OS maps within 500m of the site. This is located 230m to the east of the site, however, the pond was visited during the survey and found to be a dry depression with trees. It is considered likely to be permanently dry, with no vegetation indicative of wet conditions.	Low
Reptiles	WCA	The habitats on site were suboptimal for reptiles with grassland providing limited vegetation structure and being continuous grazed. Hedgerows may provide connectivity and/or refuge throughout the site but are considered offer low potential to support this species group. No reptile records were noted in the desk study.	Low
Water vole	WCA	A single record of water vole was identified in the desktop study over 500m from the site, however, the site does not support any suitable water vole habitat and is isolated from any streams or ponds in the area.	Negligible

6.0 DISCUSSION AND RECOMMENDATIONS

- 6.1 The results of this preliminary ecological appraisal of the site have been assessed against the most up-to-date understanding of the proposals which comprises a battery storage facility with associated infrastructure.
- 6.2 The proposals are expected to result in the loss of the majority of improved grassland on site, with the exception of the north-west corner where electricity pylons are located. Hedgerows along the site boundary and through the centre of the site are expected to be retained, although a small section of hedgerow H6 will require removal to facilitate the access road. Mature boundary trees are all expected to be retained throughout the proposals.
- 6.3 Table 6 provides an overview of the potential ecological constraints associated with the site along with recommendations for avoidance, protection, mitigation and/or compensation measures that can be designed into the scheme as appropriate. The following ecological features identified during this appraisal are not considered to pose a constraint to the proposals and are therefore not discussed in Table 6.
- **Designated sites** – Wetley Moor SSSI is located over 1400m from the site and is designated for the heathland habitat it supports. This is not a habitat that exists on site and many of the species supported by this habitat are considered unlikely to use the site. Given the proximity from the site and the designated feature, it is considered very unlikely that the proposals would impact the integrity of the SSSI and is therefore not considered a constraint to proposals.
 - **Habitats of low conservation importance** – the improved grassland habitat is considered to be of low nature conservation value. This habitat is extremely species poor and all species recorded are common and widespread. The loss of this habitat is therefore not considered to be a constraint to proposals.
 - **Badgers** – there are no badger setts on site. Any potential use by badgers is considered limited to occasional foraging. Given the amount of suitable foraging and connective habitats in the immediate landscape, the loss of the grassland is not considered significant and therefore badgers are not considered to be a constraint to the proposals.
 - **Reptiles** – reptiles were considered very unlikely to be present on site and are therefore not considered to be a constraint to the proposals.
 - **Great Crested Newts** – There are no GCN records within 1km of the site, no suitable aquatic habitat and limited suitable terrestrial habitat within the site boundary. A single pond is shown to exist on OS maps within 500m of the site. This is located 230m to the east of the site, however, the pond was visited during the survey and found to be a dry depression with trees. It is considered likely to be permanently dry, with no vegetation indicative of wet conditions. The presence of GCN onsite is considered unlikely and therefore not considered to be a constraint to the proposals.
 - **Water Vole** – water vole are considered very unlikely to be present on site and are therefore not considered to be a constraint to the proposals.

Table 6: Potential Ecological Constraints and Recommended Mitigation/Further Survey/Habitat Enhancements/Net Gain

Ecological Feature	Potential Constraints	Recommended Mitigation/Further Work	Recommended timings
Hedgerows	Hedgerow H6 is considered to be 'Important' under the Hedgerow Regulations (1997). A section of hedgerow H6 is anticipated to be lost to the proposals to facilitate site access. The remaining retained hedgerows will be in close proximity to the works and are therefore susceptible to damage either through direct above-ground damage or through damage to roots. All hedgerows are habitats of principal importance under NERC S.41.	The loss of a section of hedgerow H6 required for access should be designed to avoid/reduce loss of trees and make use of existing gaps. Suitable compensation through new hedgerow planting should be undertaken using native species, providing a net gain in biodiversity value. All retained hedgerows should be protected during works through the implementation of appropriate measures including root protection areas and protective fencing.	N/A
Bats/ trees	The majority of the site provided a limited resource owing to the dominance of species-poor improved grassland. However, mature trees provided potential for roosting bats and hedgerows could support foraging and commuting bats.	It is anticipated that all mature trees will be retained, however, should this change, any trees with bat potential should be subject to further survey by a licenced bat work. This would involve a detailed aerial inspection by roped access in order to confirm the roosting potential of features. Quite often potential roosting features can be downgraded following a detailed inspection. Should it not be possible to inspect the features fully and/or some potential remains, nocturnal surveys between May and August will be required. Hedgerows are also expected to be retained and enhanced. The scheme should follow a sensitive lighting strategy in accordance with best practice guidance to avoid indirect impacts for foraging and commuting bats.	Aerial inspection – anytime May – August if nocturnal surveys are required
Nesting Birds	The site provides nesting opportunities for a range of common and widespread bird species utilising the trees and hedgerows.	Where removal of woody vegetation (trees and hedgerows) is necessary, this should take place outside of the bird breeding season to minimise the risk of disturbance to breeding birds. If this is not possible, such vegetation should be checked prior to removal by a suitably experienced ecologist. If active nests are found, vegetation should be left untouched and suitably buffered from works until all birds have fledged. Specific ecological advice should be sought prior to undertaking the clearance.	Avoid March - August

- 6.4 Design of the development should seek to demonstrate a biodiversity net gain of habitats and linear features, calculated using the Defra Biodiversity Metric 3.0. Subsequent to the Environment Act 2021, developments should strive for 10% net gain however, a lower percentage may be accepted by the LPA in the transition period.
- 6.5 Current proposals include the retention of approximately 0.75ha of improved grassland that has the potential to be enhanced with green hay/seed and appropriate management. New tree and hedgerow planting is proposed for the eastern boundary of the site.
- 6.6 However, given the percentage of the site being lost to development, off-site areas are required to compensate for the loss and deliver a net gain in biodiversity. Use of pasture fields to the south of the site have been assessed in order to provide this off-site enhancement.
- 6.7 Full details of Biodiversity Net Gain proposals are provided in the Biodiversity Impact Assessment (BIA) report (FPCR, 2021).
- 6.8 The site provides the opportunity to easily incorporate enhancement features on the retained mature trees, detailed in Table 7.

Table 7: Fauna Enhancement Opportunities

Target Groups	Enhancement Opportunities	Recommended Specifications
Bats	Given the presence of mature boundary trees around the site boundaries, there are opportunities available to increase the roosting opportunities for this group through the erection of suitable bat boxes.	Schwegler (or similar alternative) 1F bat boxes placed on suitable trees along the eastern or northern boundary of the site.
Birds	A range of nest boxes suitable for generalist species should be affixed to retained mature trees around the site peripheries.	A mixture of small hole (26mm and 32mm) nest boxes such as the 1B Schwegler nest box.

APPENDIX A: RELEVANT LEGISLATION, POLICY AND GUIDANCE

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

- 1.1 The Regulations ensure that the habitat and species protection and standards derived from EU law as per “The Habitat Regulations” Amendment will continue to apply after Brexit.

The Conservation of Habitats and Species Regulations (“The Habitats Regulations”) (Amendment) 2017

European Protected Sites

The Habitats Regulations ratifies into UK law the “Habitats Directive” (92/43/EEC) and the “Birds Directive” (79/409/EEC). It places a duty on the Secretary of State to propose a list of sites which are important for species listed in Annex I and II of the Habitats Directive respectively to the European Commission. Once the Commission and EU Member States have agreed that the sites submitted are worthy of designation, they are identified as Sites of Community Importance (SCIs). The EU Member States must then designate these sites as Special Areas of Conservation (SACs) within six years.

- 1.2 The Regulations require the compilation and maintenance of a register of European sites to include SACs as well as Special Protection Areas (SPAs) designated for birds and sites designated as internationally important wetlands under the Ramsar Convention known as “Ramsar Sites”. These three designations form a collective Europe wide network of internationally protected sites known as Natura 2000. All European sites are also designated under UK law as Sites of Special Scientific Interest (SSSIs; please see below).

Habitats Regulation Assessment

- 1.3 There is a requirement under EU law that Member States’ take measures to reach and maintain European Protected Sites’ at Favourable Conservation Status (FCS). An Appropriate Assessment is required for plans or projects that may potentially damage a European Protected Site. This is based on an assessment against a given European Protected Site’s Conservation Objectives. The process is commonly known as a Habitats Regulations Assessment (HRA).
- 1.4 The HRA must be conducted by, or on behalf of, the Competent Authority. The HRA process assesses plans or projects alone or in combination. It involves a four stage approach as follows:
- Stage One: Screening - also known as the Test of Likely Significant Effect (TOLSE). If the Competent Authority cannot screen out a *likely significant effect*, an Appropriate Assessment is required.
 - Stage Two: Appropriate Assessment - the Competent Authority will only agree to plans or projects that will not affect the *integrity* of a European site also known as the “Integrity Test”.
 - Stage Three: Alternative Solutions - assesses any alternative solutions of a potentially damaging plan or project that failed the Integrity Test, and if it is determined there are no alternative solutions, the project cannot be agreed to and it will either need to be changed or refused.
 - Stage Four: The final stage may allow a plan or project to proceed if after failing stage three if it is for Imperative Reasons of Overriding Public Interest, and only if suitable compensatory measures are secured.

- 1.5 Any plan or project that may have a potentially damaging effect on a transient species or the habitat on which it relies (for example bats or birds), that is both a Qualifying Features of a European Protected Site and considered *functionally linked* with a European Protected Site, are required under law to be considered as part of any HRA process.

European Protected Species

- 1.6 The Habitats Regulations includes a list of animals and plant species taken from the Annex IV of the Habitats Directive that have a natural range which includes any area in Great Britain. These are collectively known as European Protected Species (EPS). The regulations make it an offence to deliberately capture, kill, disturb, take or destroy eggs of, or damage or destroy a breeding or resting place of animals listed in Schedule 2 of the Regulations, and to pick, collect, cut, uproot or destroy wild plants listed in Schedule 5 of the Regulations. All listed EPS are shown in Table 1 below. The Regulations also protect these species alive or dead and parts thereof from various forms of possession and trade.

Table 1: The Habitats Regulations Schedule 2 and Schedule 5 species

Schedule 2 – European Protected Animal Species		Schedule 5 – European Protected Plant Species	
Common name	Scientific name	Common name	Scientific name
Horseshoe bats – all species	<i>Rhinolophidae</i>	Shore dock	<i>Rumex rupestris</i>
Bats – all species	<i>Vespertilionidae</i>	Killarney fern	<i>Trichomanes speciosum</i>
Large blue butterfly	<i>Maculinea arion</i>	Early gentian	<i>Gentianella anglica</i>
Wild cat	<i>Felis silvestris</i>	Lady's-slipper	<i>Cypripedium calceolus</i>
Dolphins, porpoises & whales - all species	<i>Cetacea</i>	Creeping marshwort	<i>Apium repens</i>
Hazel dormouse	<i>Muscardinus avellanarius</i>	Slender naiad	<i>Najas flexilis</i>
Pool frog	<i>Rana lessonae</i>	Fen orchid	<i>Liparis loeselii</i>
Sand lizard	<i>Lacerta agilis</i>	Floating-leaved water plantain	<i>Luronium natans</i>
Fisher's estuarine moth	<i>Gortyna borelii lunata</i>	Yellow marsh saxifrage	<i>Saxifraga hirculus</i>
Great crested newt	<i>Triturus cristatus</i>		
Otter	<i>Lutra lutra</i>		
Lesser Whirlpool Ram's-horn snail	<i>Anisus vorticulus</i>		
Smooth snake	<i>Coronella austriaca</i>		
Sturgeon	<i>Acipenser sturio</i>		
Natterjack toad	<i>Bufo calamita</i>		
Marine turtles	<i>Caretta caretta</i> <i>Chelonia mydas</i> <i>Lepidochelys kempii</i> <i>Eretmochelys imbricata</i> <i>Dermochelys coriacea</i>		

- 1.7 These actions may be made lawful in certain circumstances through the granting of licences by the appropriate authority (Natural England). Licences must only be granted after the appropriate authority is satisfied that no satisfactory alternatives are available. In most circumstances, licences are only applied for and granted following full planning permission.
- 1.8 In determining whether or not to grant a licence Natural England must apply the requirements of The Conservation of Habitats and Species Regulations 2012 (amendment) and, in particular, the three derogation tests:
- Test 1: A licence can be granted for the purposes of “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”.
 - Test 2: The appropriate authority shall not grant a licence unless they are satisfied “that there is no satisfactory alternative”.
 - Test 3: The appropriate authority shall not grant a licence unless they are satisfied “that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Wildlife and Countryside Act 1981 (as amended)

- 1.9 The Wildlife and Countryside Act 1981 (WCA) (as amended) is the principal legislation providing protection for wildlife in the UK. It prescribes legislation for wild birds, other animals, wild plants and non-native species. In addition, it provides for the designation of Sites of Special Scientific Interest (SSSI) in England.

Wild birds

- 1.10 The WCA as amended by Schedule 12 of the Countryside and Rights of Way Act 2000 makes it an offence (with exception to species listed in Schedule 2) to intentionally or recklessly:
- kill, injure, or take any wild bird;
 - take, damage or destroy the nest of any wild bird while that nest is in use or being built (also [take, damage or destroy the nest of a wild bird included in Schedule ZA1] under the Natural Environment and Rural Communities Act 2006); or
 - take or destroy an egg of any wild bird.
- 1.11 For birds listed on Schedule 1 of the WCA, protection extends to offences relating to the intentional or reckless disturbance of these birds while at their nests or their dependent young.

Other animals

- 1.12 The WCA (as amended) makes it an offence to (subject to exceptions) intentionally or recklessly kill, injure or take wild animals listed on Schedule 5 of the Act. For some species, the protection extends to interference with places used for shelter or protection, or disturbing animals occupying or obstructing access to such places. These species are regarded as “fully protected” and as well as the EPS species listed above include the mammal species water vole *Arvicola terrestris*, pine marten *Martes martes* and red squirrel *Sciurus vulgaris* as well as selected others from a range of species groups including, fish, butterflies, hemipteran bugs, beetles, crickets, dragonflies, moths, spiders, crustaceans, sea-mats, molluscs, Annelid worms and sea anemones (and allies).

- 1.13 There are seven species on Schedule 5 of the Act that not fully protected but are still protected against killing and injuring these include the common reptile species slow worm *Anguis fragilis*, viviparous lizard *Lacerta vivipara*, grass snake *Natrix helvetica* and adder *Vipera berus*.
- 1.14 The Act prohibits certain methods of killing, injuring, or taking wild animals, and numerous species are protected against sale only as well as other variations for example Atlantic stream (white-clawed) crayfish *Austropotamobius pallipes* are protected against taking and sale.

Vascular plants, bryophytes, lichens and fungi

- 1.15 With regards to native flora the Act makes it an offence to (subject to exceptions) intentionally or recklessly pick, uproot or destroy any wild plant listed in Schedule 8. Similarly, the Act prevents the sale, offer or expose for sale, or possess (for the purposes of trade), any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant.

Non-native species

- 1.16 The Act contains measures for preventing the establishment of non-native species which may be detrimental to native wildlife, prohibiting the release of animals and planting of plants listed in Schedule 9 in England and Wales.

Sites of Special Scientific Interest

- 1.17 The Act provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs). These sites can be identified for their flora, fauna, geological or physiological interest. In England, the power to confirm an SSSI lies with Natural England.
- 1.18 Laws protecting areas designated as SSSIs are described in Sections 28 to 33 of Part 2 of the Wildlife and Countryside Act 1981 (as amended). SSSIs are the principle statutory designation of sites in the UK and offences are enforced through Natural England. Offences include the following:

SSSI owners and occupiers

- carrying out, causing or allowing operations likely to damage an SSSI without Natural England consent.
- failing to keep to a management notice.
- failing to let us know about a change in ownership or occupation of land in an SSSI.

Public bodies

- carrying out or authorising operations likely to damage an SSSI without meeting the requirements to notify Natural England.
- failing to minimise any damage to an SSSI and if there is any damage, failing to restore it to its former state so far as is reasonably practical and possible.

Any person

- intentionally or recklessly damaging, destroying or disturbing any of the habitats or features of an SSSI.
- intentionally or recklessly damaging, destroying, obscuring or taking down a site notice put up on land within an SSSI.
- preventing a Natural England officer lawfully accessing an SSSI.

Protection of Badgers Act 1992

- 1.19 Badgers and their setts are protected under the Protection of Badgers Act 1992. This act is based on the need to protect badgers from persecution by baiting and deliberate harm or injury.

The act makes it an offence to:

- intentionally capture, kill or injure a badger;
- damage, destroy or block access to their setts;
- disturb badgers in setts;
- treat a badger cruelly;
- deliberately send or intentionally allow a dog into a sett; and
- bait or dig for badgers.

A sett is defined as:

“Any structure or place that displays signs indicating current use by a badger”.

Natural Environmental and Rural Communities (NERC) Act 2006

- 1.20 Section 40 of the NERC Act 2006 imposes a duty on every public authority to conserve biodiversity in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.
- 1.21 Section 41 (S41) of the NERC Act 2006 requires the Secretary of State to publish a list of habitats and species that are of principal importance for the conservation of biodiversity in England. The list (including 56 habitats and 943 species) has been drawn up in consultation with Natural England and draws upon the UK BAP List of Priority Species and Habitats. The S41 list is used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under section 40 of the Natural Environment and Rural Communities Act 2006.

National Planning Policy Framework (NPPF) (2019)

- 1.22 The National Planning Policy Framework (NPPF) sets out the Government’s planning policy for England. As such, the NPPF must be a material consideration for local authorities when considering planning decisions. The following points highlight those policies/statements which particularly relate to ecology/biodiversity and the planning system.

Policy 15 – Conserving and enhancing the natural environment

170. The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures