APPENDIX 1: RELEVANT LEGISLATION AND PLANNING POLICY

The UK is no longer a member of the European Union (EU). EU legislation as it applied to the UK on 31 December 2020 is now a part of UK domestic legislation. EU legislation which applied directly or indirectly to the UK before 11.00 p.m. on 31 December 2020 has been retained in UK law as a form of domestic legislation known as 'retained EU legislation'.

The Secretary of State for the Environment, Food and Rural Affairs and Welsh Ministers have made changes to parts of the Conservation of Habitats and Species Regulations 2017 (referred to as the 2017 Regulations) so that they operate effectively. Most of these changes involve transferring functions from the European Commission to the appropriate authorities in England. All other processes or terms in the 2017 Regulations remain unchanged and existing guidance is still relevant and are now referred to as The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (the 2019 Regulations).

Designated Sites

Locally Designated Sites

Local Wildlife Sites are sites with 'substantive nature conservation value'. They are defined areas, identified and selected for their nature conservation value, based on important, distinctive and threatened habitats and species with a region.

They are usually selected by the relevant Wildlife Trust, along with representatives of the local authority and other local wildlife conservation groups.

The LWS selection panel, select all sites that meet the assigned criteria, unlike SSSIs, which for some habitats are a representative sample of sites that meet the national standard. Consequently, many sites of SSSI quality are not designated and instead are selected as LWSs. Consequently, LWSs can be amongst the best sites for biodiversity.

Protected Species

Bats / Otter / Great Crested Newt

These species, known as European Protected Species, are protected under Regulation 43 of the 2017 Regulations as amended by the 2019 Regulations. This makes it an offence to deliberately capture, injure or kill an animal; deliberately disturb an animal; or damage or destroy a breeding site or resting place used by an animal.

Deliberate capture or killing is taken to include "accepting the possibility" of such capture or killing. Deliberate disturbance of animals includes in particular any disturbance which is likely a) to impair their ability (i) to survive, to breed or reproduce, or to rear or nurture their young, or (ii) in the case of animals of hibernating or migratory species, to hibernate or migrate; or b) to affect significantly the local distribution or abundance of the species to which they belong.

Where development works are at risk of causing one or more of the offences listed above, a mitigation licence from Natural England can be obtained to facilitate the works that would otherwise be illegal.

These species are also protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). This makes it an offence to intentionally or recklessly obstruct access to any structure or place used for shelter or protection or disturb an animal in such a place.

Lower levels of disturbance not covered by the Conservation of Habitats and Species Regulations 2017 remain an offence under the Wildlife and Countryside Act 1981 although a defence is available where such actions are the incidental result of a lawful activity that could not reasonably be avoided.

Water Vole

Water voles are protected under the Wildlife and Countryside Act 1981 (as amended). There are no licensing purposes that explicitly cover development or other construction activities which could have an impact on water voles.

When development work is proposed in or near an area which is either known to or likely to contain water voles, then the developer will need to implement suitable mitigation to prevent impacts to water voles. The preferred mitigation option is to leave water voles in situ, with the development works adopting avoidance measures through redesign of the proposals.

Where impacts cannot be avoided, operations aimed at displacing water voles from a development site are now no longer covered by the "incidental result of an otherwise lawful action" defence in the Wildlife and Countryside Act 1981 (as amended). Displacement of water voles now needs to be undertaken under a licence.

In England, small scale (limited to continuous lengths of bank not exceeding 50 m) displacement of water voles can be carried out at certain times of the year (February to April) for the purposes of conservation under a Class Licence by a registered person. For larger scale displacements or displacements outside of this period, displacement can be undertaken under a site-specific conservation licence.

Where it is considered that the best outcome for water voles is capture and translocation to a different location then this action is considered by Natural England to be outside the scope of the defence as the intentional capture of water voles is unlikely to be considered 'incidental'. In these circumstances there may be genuine grounds for issuing a conservation licence for the purpose of translocating the water vole population to suitable alternative habitat.

Nesting Birds

All wild birds are protected under the Wildlife and Countryside Act 1981 (as amended), with some species afforded greater protection under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). In addition to the protection from killing or taking that all birds receive, Schedule 1 birds and their young must not be disturbed at the nest.

There are no licensing purposes that explicitly cover development activities affecting wild birds.

Common Species of Reptile (common lizard, slow worm, grass snake and adder)

Common species of reptile are protected against intentional killing and injury under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). There is no requirement for a licence where development works affect common species of reptiles. Instead, Natural England (English Nature, 2004) advise that where reptiles are present, they should be protected from any harm that might arise during the development works through appropriate mitigation.

[redacted]

Species and Habitats of Principal Importance for the Conservation of Biodiversity

Section 40 of the Natural Environment & Rural Communities Act (NERC) 2006 sets out the duty for public authorities to conserve biodiversity in England.

Habitats and species of principal importance for the conservation of biodiversity are identified by the Secretary of State for England, in consultation with Natural England, are referred to in Section 41 of the NERC Act for England. The list, known as the 'England Biodiversity List', of habitats and species can be found on the Natural England web site.

The 'England Biodiversity List' is used as a guide for decision makers such as public bodies, including local and regional authorities, in implementing their duty under Section 40 of the NERC Act 2006 to have regard to the conservation of biodiversity in England when carrying out their normal functions. The habitats and species on the List, are material considerations of planning, where present on an application site.

Hedgerows

Under The Hedgerow Regulations, 1997, it is against the law to remove or destroy certain hedgerows without permission from the local planning authority. In general, permission will be required before removing hedges that are at least 20 metres in length, over 30 years old and contain certain species of plant. The local planning authority will assess the importance of the hedgerow using criteria set out in the regulations.

Planning Policy

7.1 National Planning Policy Framework, 2024

The National Planning Policy Framework (NPPF) (Department of Communities & Local Goverment, 2024) sets out the Governments planning policies for England and how these are expected to be applied by Local Authorities within their Local Development Frameworks (LDF).

Regarding the NPPF, the most pertinent paragraphs are:

187.d) "minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs"

193.a) "if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;"

193.d) "development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate."

195.) "The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has

concluded that the plan or project will not adversely affect the integrity of the habitats site."

7.2 Local Planning Policy

i. The following policies of the Rushcliffe Local Plan are considered to be relevant to ecology and the Scheme:

Policy 17 – Biodiversity
Policy 37 – Trees and Woodlands
Policy 38 – Non-Designated Biodiversity Assets and the Wider Ecological Network.

7.3 Local Biodiversity Action Plans

I The following habitats have action plans within the Nottinghamshire Local Biodiversity Action Plan:

Ancient/sp. Rich hedgerows
Arable fields
Canals
Cereal field margins
Ditches
Eutrophic standing waters
Fen
Improved grassland
Lowland calcareous grassland
Lowland dry acid grassland
Lowland heathland
Lowland wet grassland
Lowland wood pasture and parkland
Marsh
Mesotrophic lakes
Mixed ash dominated woodland
Oak-birch woodland
Planted coniferous woodland
Post-industrial land
Reedbed
Rivers and streams
Saline lagoons
Unimproved neutral grassland
Urban land
Wet broadleaved woodland

ii The following species have action plans within the document:

Black poplar
Depford pink
Nottingham autumn crocus and Nottingham spring crocus
Dingy skipper
Green hairstreak
Grizzled skipper
Hazel pot beetle
White-clawed crayfish
Atlantic salmon
Barn owl
Bats
Dormouse
Harvest mouse
Hedgehog
Nightjar
Otter
Slow-worm
Water vole

Willow tit

APPENDIX 2: METHODOLOGY

Desk Study

Background Records Search

The preliminary ecological assessment includes a desk study to obtain background records relevant to a Site and the Scheme. The data obtained provides contextual information for the scope of field surveys, to aid the evaluation of field survey results, and to provide supplementary information where complete field survey coverage is not possible.

The Study Area is dependent upon the nature, timing and scale of the Scheme, as well as the location of the Site and the surrounding landscape. These variables all contribute to what is referred to as the Zone of Influence (ZoI) of the Scheme, which is the area over which ecological features may be affected by biophysical changes because of the works and associated activities.

On 29/09/24 the Nottinghamshire Biological and Geological Records Centre supplied the following ecological data:

- Records of non-statutory designated sites within 1km of the Site boundary;
- Records of legally protected and notable species (fauna and flora) within 1km of the Site boundary, including Species of Principal Importance for the Conservation of Biodiversity listed under Section 41 of the Natural Environment & Rural Communities Act 2006 in the England Biodiversity List[13].

The Multi-Agency Geographic Information for the Countryside (MAGIC) (www.magic.gov.uk) website was reviewed for the following information:

- Designated sites of nature conservation importance within 1km of the Site;
- European Protected Species Licences and great crested newt licence returns within 1km of the Site; and,
- Notable habitats within 1km of the Site, these being areas of ancient woodland and 'Habitats of Principal Importance for the Conservation of Biodiversity' included in the England Biodiversity List.

Great Crested Newt Pond Search

Ordnance Survey maps and the Where's the Path website (https://wtp2.appspot.com/wheresthepath.htm) have been used to identify the presence of water bodies within 500 m of the Site boundary, in order to help establish if the land within and immediately surrounding the Site could be used by great crested newts. This species can use suitable terrestrial habitat up to 500 m from a breeding pond (English Nature, 2001), though there is a notable decrease in great crested newt abundance beyond 250 m from a breeding pond (Natural England, 2004).

PEA Field Survey

The preliminary ecological assessment includes a walkover survey of the Survey Area (all land within the Site), broadly following the Phase 1 habitat survey methodology as set out in Joint Nature Conservation Committee guidance (Joint Nature Conservation Committee, 2010). This survey method records information on habitat types and is 'extended' to record any evidence of and potential for protected or notable species to be present. Plant names recorded during the survey follow (Stace, 2019).

[13] Section 40 of the Natural Environment & Rural Communities Act 2006 requires that very public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. The Secretary of State has drawn up, in accordance with Section 41 of the Act and in consultation with Natural England, a list of habitats and species of principal importance for the conservation of biodiversity in England that is known as the England Biodiversity List

During the walkover survey, the following protected or notable species are considered:

- **Bats**: the survey involves searching for potential roosting sites for bats within trees and structures (such as buildings, bridges or underground features such as mines) and categorising the potential of those trees or structures to support roosting bats (negligible to high, or confirmed roost), in accordance with Bat Conservation Trust (BCT) (Collins, J. (Eds.), 2016) guidance.
- **Otter**: the survey involves assessing the potential of watercourses and water bodies, and adjacent terrestrial habitat within the Survey Area to support otter, following RSPB (Ward, 1994) and (Chanin, 2003) guidance;
- **Water vole**: the survey involves assessing the potential of watercourses and water bodies within the Survey Area to support water vole, following The Mammal Society (Dean, 2016) guidance;
- **Birds**: the survey involves assessing the potential of habitats within the Survey Area to support breeding, wintering or migrating birds, either individually notable species or assemblages of both common and rarer species;
- **Great crested newt**: the survey involves assessing the potential of habitats within the Survey Area to support great crested newt, following English Nature (English Nature, 2001) and Froglife (Froglife, 2001) guidance;
- **Reptiles**: the survey involves assessing the potential of habitats within the Survey Area to support reptiles (typically adder, grass snake, common lizard and slow worm only, though in some locations and habitat types (most notably heathland) may also include smooth snake and sand lizard), following Froglife (Froglife, 1999) and JNCC ((Joint Nature Conservation Committee, 2003) guidance;
- **Notable species of invertebrate**: the survey involves assessing the potential of habitats within the Survey Area to support notable species of invertebrates, both terrestrial and aquatic (including white-clawed crayfish);
- **Protected or Notable species of plants**: the survey involves recording protected or notable plant species;
- **Other notable species**: the survey involves assessing the potential of habitat within the Survey Area to support other Notable Species, such as hedgehog, brown hare, polecat or common toad;
- **Non-native invasive plant species**: the survey involves recording evidence of the presence of invasive plants listed on (Wildlife and Countryside Act , 1981 (as amended)) and subject to strict legal control.

Habitat Suitability Assessment (HSA)

The Habitat Suitability Assessment (HSA) for otter and water vole has no seasonal restrictions. The otter HSA was carried out on all the ditches present on Site and within 100m of the Site. The water vole HSA was carried out on ditches on Site only.

iii HSA survey area differs for each species. Suitable habitat, including rest sites and foraging habitat, is noted for each species, and surveys are carried out by:

- **Otters:** walking the length of each ditch, up to 100 m either side of the Site boundary.

Water voles: walking the length of the ditch, plus an extra 50 m either side of the Site boundary.

Biodiversity Accounting

The biodiversity net gains assessment involves making a comparison between the biodiversity value of habitats present within the Site prior to a development (i.e. the 'baseline') and the predicted biodiversity value of habitats following the completion of the Scheme (i.e. 'post development'). The comparison is undertaken in terms of 'biodiversity units', with a 'biodiversity metric' providing the mechanism to allow biodiversity values to be calculated and compared.

The metric assesses and generates separate outputs for area-based habitats and linear based habitats (with rivers reported separately to other habitats like hedgerows). A development cannot claim to achieve net gain until biodiversity net gains are predicted across all area-based, linear based and river based habitats.

The calculation for area-based and linear (non-river) habitats calculates biodiversity units as follows:

Before Works = Distinctiveness Score x Condition Assessment x Area/Length x connectivity x strategic significance
After Works = ((Distinctiveness Score x Condition Score x Area/ Length x connectivity x strategic significance) / Time to Target Condition) / Difficulty of Creation/Restoration

The five factors are determined as set out below:

Distinctiveness Score – High, Medium or Low, based on UK habitat classifications.
Condition Score – Good, Fairly good, Moderate, Fairly poor or Poor, based on habitat condition assessment.
Area/Length – hectares (ha)/ length (km) of habitat type.
Connectivity – High, Medium and Low.
Strategic significance – High (Within area formally identified in local strategy), Medium (Location ecologically desirable but not in local strategy) and Low (Area/compensation not in local strategy/ no local strategy).
Time until target condition – time period (in years) until the target condition will be achieved.
Difficulty of creation/restoration – a score applied to account for risk associated with creating/restoring different types of habitat.

Limitations

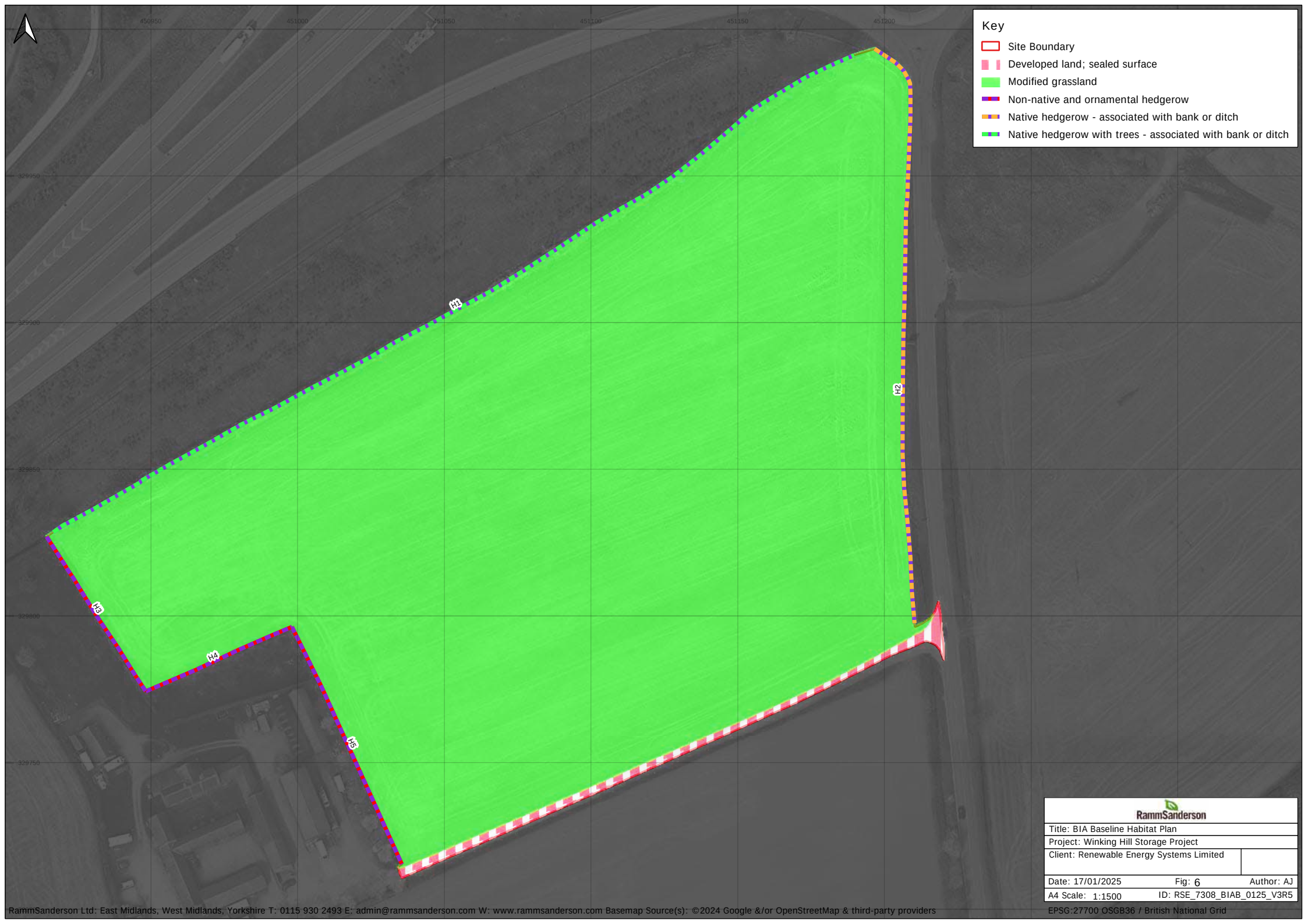
The aim of a desk study is to help characterise the baseline context of a proposed development and provide valuable background information that would not be captured by a single site survey alone. Information obtained during the course of a desk study is dependent upon people and organisations having made and submitted records for the area of interest. As such, a lack of records for a particular habitats or species does not necessarily mean that the habitats or species do not occur in the study area. Likewise, the presence of records for particular habitats and species does not automatically mean that these still occur within the area of interest or are relevant in the context of the proposed development.

An ecological survey represents a ‘snapshot’ in time of the ecological condition of a Site. The ecological character of a Site can change substantially throughout both the course of a year, and from year to year impacting on the extent and quality of habitats potential to support protected species.

APPENDIX 3: BIODIVERSITY IMPACT ASSESSMENT

Figure 5: Biodiversity Impact Assessment Results (from DEFRA Metric)

FINAL RESULTS		
Total net unit change (Including all on-site & off-site habitat retention, creation & enhancement)	*Habitat units*	6.74
	Hedgerow units	4.27
	Watercourse units	0.00
Total net % change (Including all on-site & off-site habitat retention, creation & enhancement)	*Habitat units*	77.40%
	Hedgerow units	66.16%
	Watercourse units	0.00%
Trading rules satisfied?	Yes ✓	



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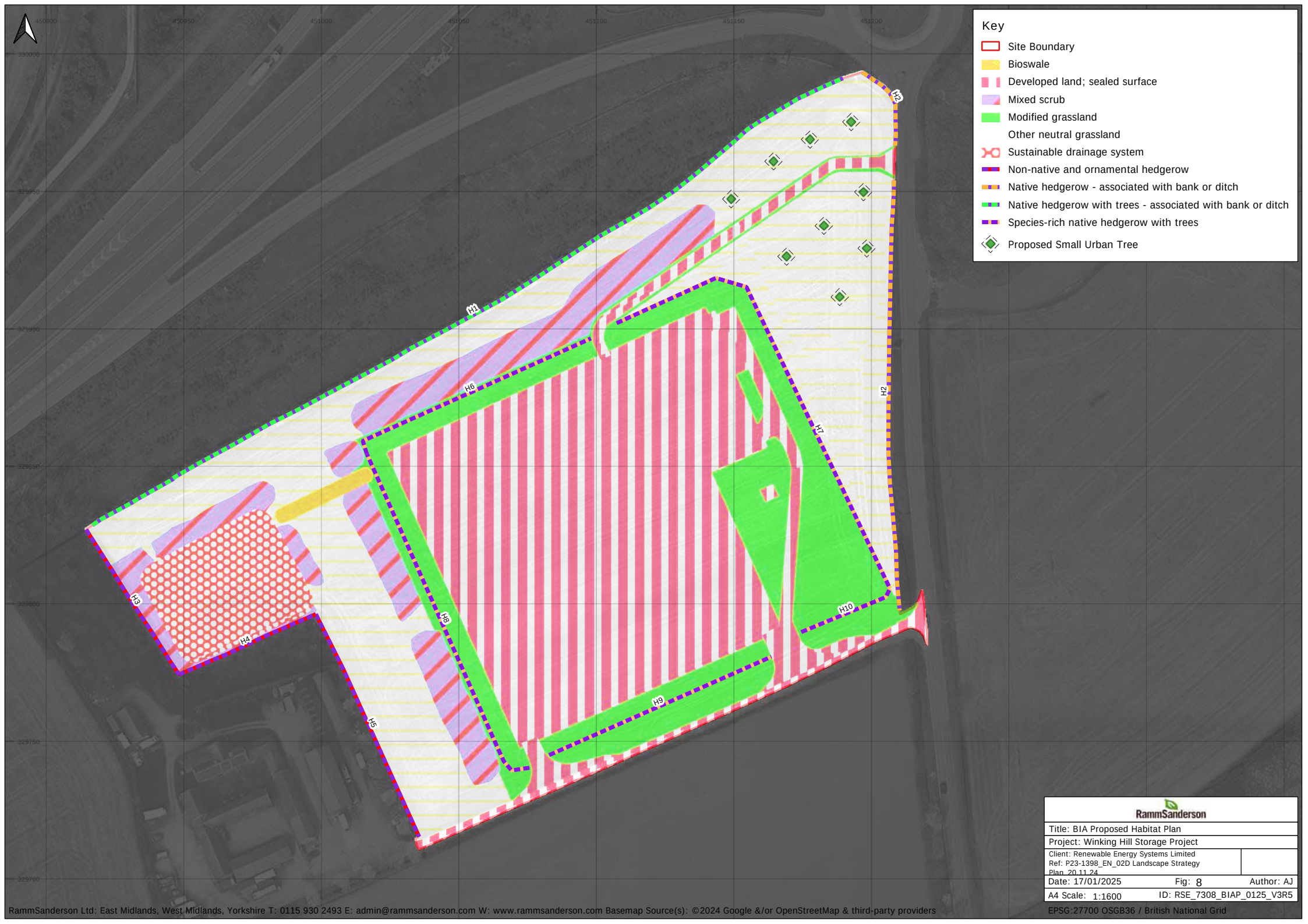
Title: BIA Baseline Habitat Plan	
Project: Winking Hill Storage Project	
Client: Renewable Energy Systems Limited	
Date: 17/01/2025	Fig: 6 Author: AJ
A4 Scale: 1:1500	ID: RSE_7308_BIAB_0125_V3R5

RammSanderson

Title: BIA Baseline Conditions Habitat Plan	
Project: Winking Hill Storage Project	
Client: Renewable Energy Systems Limited	
Date: 17/01/2025	Fig: 7 Author: AJ
A4 Scale: 1:1500	ID: RSE_7308_BIAB_0125_V3R5



RammSanderson

Title: BIA Proposed Habitat Plan	
Project: Winking Hill Storage Project	
Client: Renewable Energy Systems Limited Ref: P23-1398_EN_02D Landscape Strategy Plan_20.11.24	
Date: 17/01/2025	Fig: 8 Author: AJ
A4 Scale: 1:1600	ID: RSE_7308_BIAP_0125_V3R5

EPSG:27700 OSGB36 / British National Grid

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Title: BIA Proposed Conditions Habitat Plan

Project: Winking Hill Storage Project

Client: Renewable Energy Systems Limited
Ref: P23-1398_EN_02D Landscape Strategy Plan_20.11.24

Date: 17/01/2025 Fig: 9 Author: AJ

A4 Scale: 1:1600 ID: RSE_7308_BIAP_0125_V3R5

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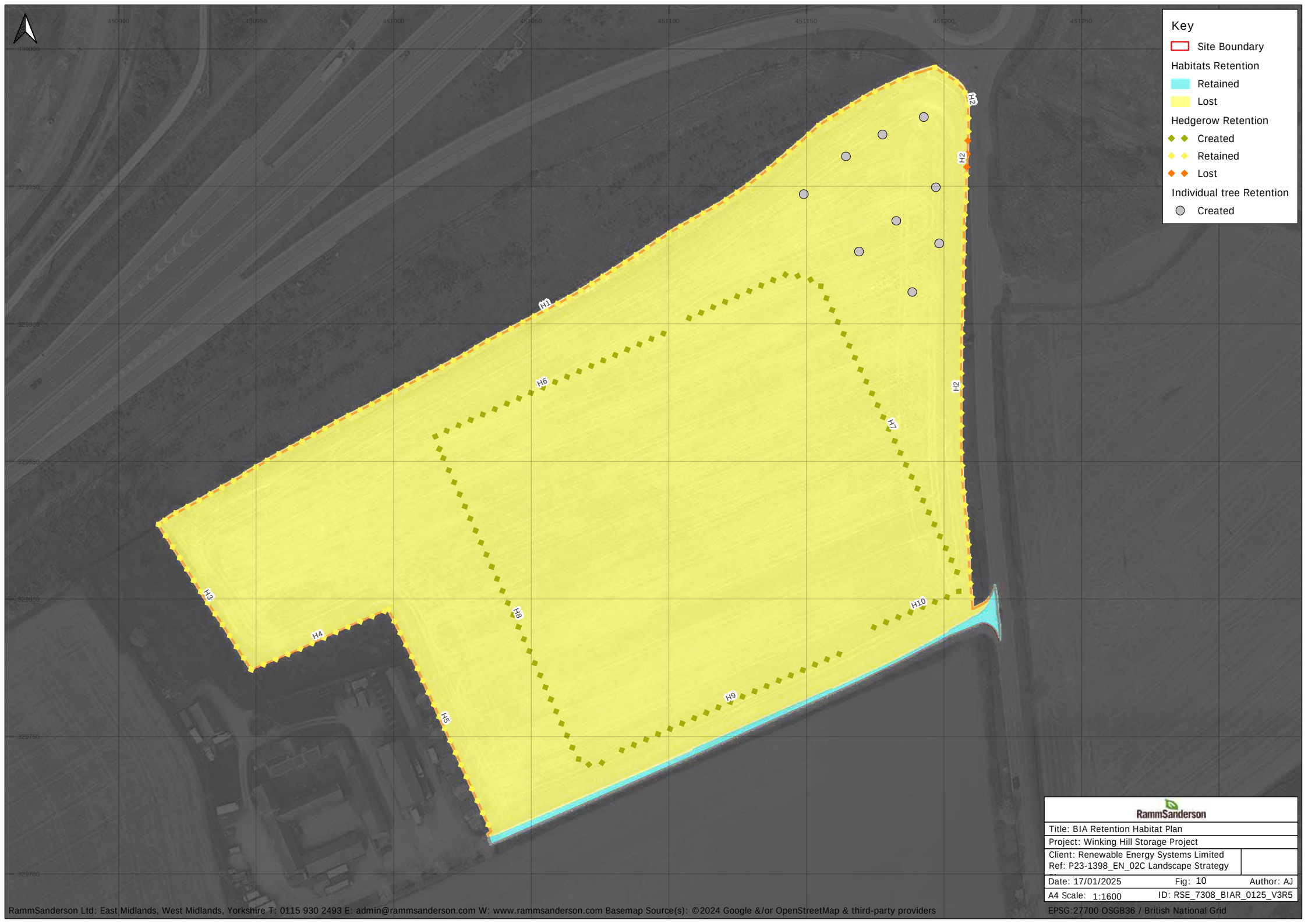

RammSanderson

Title: BIA Retention Habitat Plan	
Project: Winking Hill Storage Project	
Client: Renewable Energy Systems Limited Ref: P23-1398_EN_02C Landscape Strategy	
Date: 17/01/2025	Fig: 10 Author: AJ
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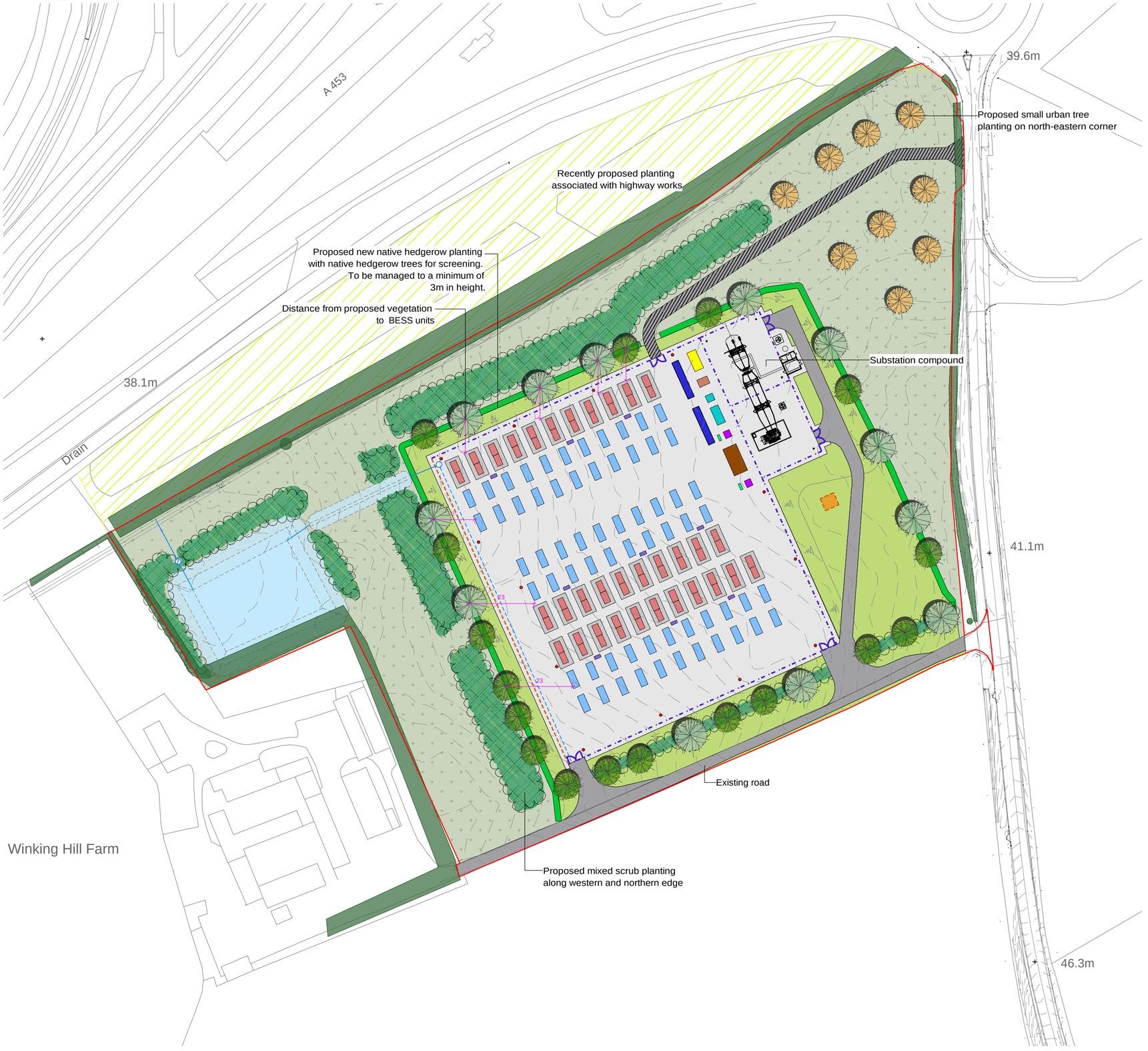

KEY

- Site boundary
- Existing vegetation to be retained
- Proposed native tree planting
- Proposed small urban tree planting
- Proposed native hedgerow planting
- Proposed mixed scrub
- Recently proposed planting associated with highway works
- Neutral grassland - N5 Long Season Meadow Mix, or similar
- Modified grassland - N14 Flowering Lawn Mixture, or similar
- Basin grassland mix - N8F Water's Edge Flowers Mix, or similar
- BESS units
- Power conversion system
- BESS substation building
- Auxiliary transformer
- LV distribution equipment
- Aggregation panel
- Pre-insertion resistor
- Capacitor bank
- Harmonic filter and resistor
- Spares container
- Lighting / CCTV column
- Security fence and gate
- Acoustic fence
- Graveled surface
- Access track
- Emergency access track
- Cesspool allowance area
- Surface water filter drain & inspection chambe
- Surface water pipe & flow control device
- Basins and swale

INDICATIVE PLANTING SCHEDULE

PROPOSED NATIVE TREE PLANTNG

Species	Form	Girth	Height cm	Clear Stem	Root Condition
Acer campestre	HS	12-14	350-425	Min. 200	RB
Betula pendula	HS	12-14	350-425	175-200	RB
Betula pubescens	HS	12-14	350-425	175-200	RB
Quercus robur	HS	12-14	350-425	175-200	RB
Sorbus aria	HS	12-14	350-425	175-200	RB
Sorbus aucuparia	HS	12-14	350-425	175-200	RB

PROPOSED SMALL URBAN TREE PLANTING

Species	Form	Girth	Height cm	Clear Stem	Root Condition
Malus sylvestris	HS	12-14	350-425	175-200	RB
Prunus avium	HS	12-14	350-425	175-200	RB
Prunus padus	HS	12-14	350-425	175-200	RB

PROPOSED NATIVE HEDGEROW PLANTING

To be planted at 7 per linear metre at 0.3 cm offsets in triple staggered rows

Species	Mix %	Height cm	Form	Root Condition
Crataegus monogyna	60	60-80	1+1Branched	B
Corylus avellana	20	60-80	1+1Branched	B
Prunus spinosa	20	60-80	1+1Branched	B

PROPOSED SCRUB PLANTING

Species	Mix %	Height cm	Form	Root Condition
Acer campestre	15	60-80	1+1, Branched	B
Crataegus monogyna	40	60-80	1+1, Branched	B
Prunus spinosa	30	60-80	1+1, Branched	B
Rosa canina	15	60-80	1+1, Branched	B

N 0 25 50 m

WINKING HILL BESS - LANDSCAPE STRATEGY PLAN

| PEGASUSGROUP.CO.UK | TEAM/DRAWN BY: VR | APPROVED BY: DT | DATE: 07/10/2024 | SCALE: 1:1000@A2 | DRWG: P23-1398_EN_02D I CLIENT: RES LTD I

PEGASUS GROUP

APPENDIX 4: HABITAT SUITABILITY ASSESSMENT

Table 5: Habitat Suitability Assessment Results

Feature	Location[14]	Brief Description	Suitability for Fauna	Photograph
Ditch associated with H1	East boundary of Site	Drainage ditch, associated with hedgerow. Ditch present on the road-side of the hedgerow, rather than the field side. Dry, except for a very shallow pool of water. Approximately 0.5m wide by <0.5m depth. Bank profile >45º. Bank substrate: earth. In channel vegetation 90 – 100% cover. Bankside herbaceous vegetation type: tall tussocky grasses and weeds.	Unsuitable for aquatic/semi aquatic fauna.	

[14] Where features are situated outside of the Site boundary, the distance and direction is given at the closest point of the designated site from the Site

Ditch associated with H2	North boundary of Site	Drainage ditch, associated with hedgerow. Ditch present on field-side of the hedgerow. Dry, except for very shallow pools of water (90% dry). Approximately 1m wide by <0.5m deep. Bank profile >45º. Bank substrate: earth. In channel vegetation 90 – 100% cover. Bankside herbaceous vegetation type: tall tussocky grasses and weeds.	Unsuitable for aquatic/semi aquatic fauna.	
D1	Approx. 50m north of Site	Roadside ditch. Dry and very overgrown with grassland and scrub habitat. Approximately 0.5m wide by <0.5m depth. Bank profile >45º. Bank substrate: earth. In channel vegetation 90 – 100% cover. Bankside herbaceous vegetation type: tall tussocky grasses and weeds.	Unsuitable for aquatic/semi aquatic fauna.	

D2	Begins approx. 20m east of Site and extends further south-east.	Drainage ditch. Dry, except for a very shallow pool of water to its northern extent near road. Approximately 1m wide by <0.5m deep. Bank profile >45º. Bank substrate: earth. In channel vegetation 90 – 100% cover. Bankside herbaceous vegetation type: tall tussocky grasses and weeds.	Unsuitable for aquatic/ semi aquatic fauna.	
P1	Approx. 80m north of Site.	Attenuation pond / roadside SUDs. Holding very little water at the time of survey. Surrounded by rough grassland and scrub, and then immediately by busy roads. Approximately 1500m^2. 10% shade, 50% macrophyte cover.	Unsuitable for aquatic/ semi aquatic fauna.