TYNE ECOLOGY

Ecological Impact Assessment - Bats and Birds

1 Hall View, Whitburn, SR6 7DQ



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Date: 11th July 2023

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Desk Study | Field Survey Dates	June 2023| 01/06/2023| 10/06/2023 | 08/07/2023

VERSIONING AND QUALITY CONTROL

Status	Version	Author	Reviewed by	Date
Final	1.0	Tim Sexton, BSc Hons	Debbie Goldsmith	11th July 2023

DISCLAIMER

This report has been prepared by Tyne Ecology for Dennis Reed solely as an Ecological Impact Assessment for Bats and Birds. Tyne Ecology 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.

The evidence which we have prepared and provided is true, and in accordance with the guidance of 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.

LONGEVITY

Survey data should ideally be from the last survey season before a planning or licence application is submitted, although the length that survey data remains valid should be decided on a case-by-case basis and is dependent upon several factor (Collins, 2016).

If development works do not begin within eighteen months to two years of the date of the last survey (08/07/2023), an update survey may be required in accordance with guidance in BS 42020:2013[1] and CIEEM (2019), to determine if conditions and evidence of bat use has changed since described in the current report.

[1] As set out in Section 6.2.1, Point 7 which states that ecological information should not normally be more than two/three years old, or as stipulated in good practice guidance.

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SUMMARY

Brief and Site Location	This report presents the findings of an Ecological Impact Assessment (EcIA) for bats and birds of 1 Hall View, Whitburn, SR6 7DQ (Ordnance Survey Grid Reference centred at: NZ 4084 6160), referred to in this report as B1.
Proposed Works	Plans are for extensions on all elevations, new roofs and skylight windows.
Work undertaken	A preliminary roost assessment (PRA) for bats and birds was undertaken by Tyne Ecology in June 2023. The PRA determined that building B1 had **moderate suitability** for supporting roosting bats. Two bat surveys were undertaken: • Dusk emergence survey was undertaken on 10/06/2023 . • Dusk emergence survey was undertaken on 08/07/2023.
Survey Results	No bats were observed roosting in the building B1. Herring gull nesting at base of the chimney.
Requirements for Additional Surveys	No further surveys required.
Recommendations for bats	As the occasional/opportunist bat can turn up at any time, works must be undertaken following the Precautionary Working Method Statement provided within this report (see Appendix II) to ensure that no bats are killed, injured, or disturbed and no roost sites are damaged, destroyed, or have access to them obstructed. Should bats be found during the development, work must cease immediately, and a suitably licenced and experienced ecologist must be contacted for advice. Reason: Bats and their roosts are protected by law. As an enhancement for biodiversity a bat box (e.g. Beaumaris https://www.wildcare.co.uk/beaumaris-bat-box.html) should be installed near the eaves on the south elevation of B1.
Recommendations for birds	Works must avoid the bird nesting season, March to August inclusive.
Impacts on other protected/priority species and habitats	The development exceeds the existing footprint of the existing property, however, no ecological constraints regarding other protected/priority species and habitats were noted.
Conclusions	Providing the recommendations given within this report are successfully implemented, the proposed development can proceed without detriment to the maintenance of the local population of bats at a favourable conservation status and without impacts on other protected/priority species and habitats.

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1 INTRODUCTION

1.1 Tyne Ecology was commissioned by Dennis Reed (the client) to undertake an Ecological Impact Assessment (EcIA) for bats and birds of 1 Hall View, Whitburn, SR6 7DQ (Ordnance Survey Grid Reference centred at: NZ 4084 6160) referred to in this report as B1.

1.2 Plans are for extensions on all elevations, new roofs and skylight windows.

1.3 The principal author of this report is Tim Sexton who holds a Natural England Bat Licence Level 2 no: 2020-44753-CLS-CLS. He has 19 years' experience of surveying for bats and has qualifying membership of the Chartered Institute of Ecology and Environmental Management (CIEEM), membership no: 17054.

Site description

1.4 The site is within the village of Whitburn, 200m west of the east coastline. The wider landscape consists of open farmland, with small woodland areas and playing fields in close proximity.



Figure 1: Aerial image of the site (red dot denotes the site). Image used under licence (Google 2023). Imagery date 01/06/2023.

Purpose of this report

1.5 This report aims where possible to provide sufficient information for the local planning authority to fully assess the potential ecological impacts of the proposed development on bats and birds, or alternatively, to identify what further information is required to fully inform the scheme.

1.6 Surveys have been used to establish the need for, and extent of, any mitigation or compensation measures required as part of the proposed development.

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2 METHODOLOGY

Desk study

2.1 A biodiversity desk study was undertaken in relation to the site in June 2023. The sources consulted and the type of information obtained are summarised in Table 1 below.

Table 1: Sources of biodiversity and ecological records.

Source	Information requested (search buffer from site centre/boundary)
Multi-Agency Geographic Information for the Countryside (MAGIC)[2]	• Statutory Sites (1km) • Priority Habitats (1km) • EPSMLs (2km)
Environmental Records Information Centre North East	• Bat records (2km) • Non-statutory Sites (1km)

2.2 The search buffers are considered sufficient to cover the potential zone of influence (ZoI)[3] of the proposed development.

2.3 The impacts of the proposed development on the biological integrity of any nearby designated protected sites have been fully considered.

2.4 A search was undertaken for previous ecological survey information for the site via the local authority planning portal[4].

Preliminary roost assessment

2.5 A field survey was undertaken on the 01/06/2023.

2.6 An assessment of the structures/trees to be impacted by the development was undertaken in accordance with the latest published best practice guidance (Collins, 2016).

2.7 Structures/trees were externally and internally inspected for bats and their signs with the aid of a Ledlenser P7 torch, close focusing binoculars, and a Bosch endoscope.

2.8 The suitability of structures/trees on-site for bats to roost in was assessed, along with a systematic search for signs of bats (e.g. droppings, moth/butterfly wings, scratch marks, staining) or actual bats that were present. Particular attention was paid to the roof areas, with searches for gaps in walls, gaps between beams and joists, droppings stuck to the walls, floors, or other surfaces, or feeding remains below beams.

2.9 Bat droppings, if found, were collected for DNA analysis.

2.10 In addition, structures/trees were classified according to suitability for bats, based on the presence of features within them and / or landscape, see Table 2 below.

2.11 The site habitats were assessed for suitability for bats, see Table 3 below.

2.12 Evidence for barn owls and other breeding birds was recorded along with any other ecological constraints.

[2] https://magic.defra.gov.uk/
[3] https://www.biodiversityinplanning.org/wp-content/uploads/2019/12/BDS-Guidance-final.pdf
[4] http://planning.southtyneside.info/Northgate/PlanningExplorer/Generic/SearchProperty.aspx

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Table 2: Summary of guidelines for assessing the potential suitability of proposed development sites for bats (from Collins 2016).

Suitability	Description of roosting habitats	Number of activity survey visits required
Negligible	Negligible habitat features on site likely to be used by roosting bats.	None
Low	A structure or tree with one or more potential roost sites that could be used by individual bats opportunistically. However, potential roost sites not suitable for larger numbers or regular use (i.e. maternity or hibernation).	One, in the period May to August
Moderate	A structure or tree with one or more potential roost sites that could be used by bats, but unlikely to support a roost of high conservation status	Two, in the period May to September with at least one of the surveys between May and August
High	A structure or tree with one or more potential roost sites obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time.	Three, in the period May to September with at least two of the surveys between May and August
Confirmed roost	Evidence of bats or use by bats found	Minimum of two surveys to characterise the roost in the period May to September with at least one of the surveys between May and August

Table 3: Summary of guidelines for assessing bat habitat suitability (from Collins 2016).

Suitability	Description of commuting and foraging habitats
Negligible	Negligible habitat features on-site likely to be used by commuting and foraging bats.
Low	Commuting Habitat Habitat that could be used by small numbers of commuting bats such as a gappy hedgerow or un-vegetated stream, but isolated, i.e. not very well connected to the surrounding landscape by other habitat. Foraging Habitat Suitable but isolated habitat that could be used by small numbers of foraging bats such as a lone tree (not in a parkland situation) or a patch of scrub.
Moderate	Commuting Habitat Continuous habitat connected to the wider landscape that could be used by bats for commuting such as lines of trees and scrub or linked back gardens. Foraging Habitat Habitat that is connected to the wider landscape that could be used by bats for foraging such as trees, scrub, grassland or water.
High	Commuting Habitat Continuous high-quality habitat that is well connected to the wider landscape that is likely to be used regularly by commuting bats such as river valleys, streams, hedgerows, lines of trees and woodland edge. Foraging Habitat High-quality habitat that is well connected to the wider landscape that is likely to be used regularly by foraging bats such as broadleaved woodland, tree-lined watercourses and grazed parkland. Proximity to Known Bat Roosts Site is close to and connected to known roosts.

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Surveyor information

2.13 The PRA was undertaken on the 01/06/2023 by Rachel Galler BSc Honours degree who is an Accredited Agent against bat survey licence Level 2 (Class Licence) 2020-44753-CLS-CLS. She has five years' experience surveying for bats.

Limitations and constraints

2.14 No limitations or constraints were encountered during either the desk study or the field survey. It is considered that with the access gained and recording undertaken that an accurate assessment of the sites ecological value with regard to bats and birds has been made.

Bat emergence/re-entry surveys

2.15 Two bat surveys were undertaken of the building by four surveyors observing all potential roost features.

2.16 Surveyors were equipped with night vision aids (NVAs) - infrared video camera (Nightfox Whisker) and/or thermal camera (Hikmicro Lynx 15/Guide IR Pro 19). Video was reviewed in real time using VLC viewer. Without the use of NVAs any bats emerging 45 mins after sunset would not have been visible and reviewing camera footage confirms surveyor observations.

2.17 The positions of surveyors and NVAs are shown in Appendix II: Bat Survey Plan.

2.18 Surveyors were equipped with full spectrum bat detectors (Anabat Scout), survey recording sheets and pens. Each bat detector used by surveyors (numbered/initialled) was recorded.

2.19 A note was made of all bat activity recorded including (where appropriate) roost access points, species, time of emergence/re-entry, direction of flight, behaviour (foraging or commuting) and use of landscape features.

2.20 Analysis of bat recordings was made using Sonobat 30 United Kingdom.

Surveyor information

2.21 Table 4 below shows details of surveyors undertaking each survey, their position and bat detector used.

Table 4: Surveyor information.

Surveyor	Licences & Experience	Survey(s)	Location/Detector
Fabrizio Floccari	2 years' experience surveying for bats.	Dusk 10/06/2023	2/6
Josh Pace	2 years' experience surveying for bats.	Dusk 10/06/2023	1/9
Rachel Galler	5 years' experience surveying for bats.	Dusk 10/06/2023 Dusk 08/07/2023	4/7 3/8
Marcus Cram	3 years' experience surveying for bats.	Dusk 10/06/2023 Dusk 08/07/2023	3/8 2/1
Marius Guraliuc	5 years' experience.	Dusk 15/06/2023	4/4
Gabriela Iacop	5 years' experience.	Dusk 15/06/2023	1/7

Limitations and constraints

2.22 No limitations or constraints were encountered, during the bat emergence/re-entry surveys.

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3 RESULTS

Desk study

Designated sites - statutory

3.1 There are four statutory sites within 1km, see Table 5 below.

Designated sites - non-statutory

3.2 There are three non-statutory sites within 1km of the site, see Table 5 below.

Table 5: Summary of designated sites within 1km of the site

Site name	Designation	Description/ reason for designation	Distance & direction (approx.)
Northumbria Coast	Ramsar and SAOC	The site is notified for features such as large shallow inlets and bays, intertidal mudflats and sandflats, reefs, submerged sea caves and grey seal	200m E
Durham Coast	SSSI and SPA	Considerable biological, geological and physiographic interest. It contains most of the paramaritime magnesian limestone vegetation in Britain, as well as a species-rich dune system, and supports nationally important numbers of wintering shore birds	200m E
Whitburn Bents	LWS	Area of sand dunes with natural vegetation, containing bee orchids, spotted orchids and northern marsh orchids. The site has large areas of lyme-grass	370m S
Whitburn Steel Rocks	LWS	Considered to be of geological interest, in particular for its foreshore plant and animal communities providing a feeding habitat and roosting site for wading birds	470m S
Whitburn Firing Range	LWS	A substantial area of heavily grazed pasture grassland. Considerable ornithological importance with approx. 5000 golden plover and 1000 lapwing	660m N

3.3 There are no protected areas (SSSIs or SACs) designated for their bat populations within 1km of the site.

Protected species

3.4 A search of the magic.gov.uk database for granted European Protected Species Mitigation Licences (EPSMLs) for bats, within a 2km radius of the site, found no roosts have been destroyed under licence (see Table 6 below).

Table 6: Granted EPSMLs (bats) within 2km of the site

Case reference of granted application	Approx. distance from site (m)	Bat Species Effected	Licence Start Date:	Licence End Date:	Impacts allowed by licence
None					

Priority habitats

3.5 A search of the magic.gov.uk database found priority habitats within 1km of the site, see Table 7 below.

Table 7: Priority habitats within 1km of the site.

Habitat	Distance & direction of nearest (approx.)
Deciduous woodland	110m W
Maritime cliffs and slopes	200m E

Historical bat records

3.6 Bat records held by the Local Environmental Records Centre (LERC) within 2km of the site are summarised in Table 8 below.

Table 8: Historical bat records within 2km of the site.

Common name	Scientific binomial	Records
	Vespertilionidae	2 records, 1 roost (max count 60)
	Pipistrellus sp.	1 record
Common pipistrelle	*Pipistrelle pipistrellus*	11 records, closest within 300m
Noctule	*Nyctalus noctula*	1 record

Previous surveys

3.7 A search of the local authority planning portal found no previous surveys for this site or adjacent properties.

Preliminary roost assessment

3.8 Prevailing weather conditions during the field survey are summarised within Table 9 below.

Table 9: Summary of weather conditions during the field survey

Date	Weather conditions			
	Temp [°C]	Cloud cover [Oktas]	Wind speed [Beaufort scale]	Precipitation
01/06/2023	11	7	3	Nil

3.9 A description of the structures/trees inspected during the PRA are given in Table 10 below.

Table 10: Description of building/trees

Building/Tree Reference	Building/Tree type/section	Description	Development plans
B1	Detached house	A two-storey house with a double-pitched pantile roof with uPVC window frames and soffits. The building construction is brick with a rendered wall at the front, and has flat felt roof extensions on the east and south, and a flat felt roof garage on the north. Internally, the roof has a 1F felt bitumen lining and mineral wool insulation. The beams are timber and the gable ends are breezeblocks. The garage internally has an asbestos roof.	Plans are for extensions on all elevations, new roofs and skylight windows

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3.10 The results of the Preliminary Roost Assessment (PRA) are given in Table 11 below

Table 11: PRA Results

Building/Tree Reference	Evidence of use by bats	Bat signs and internal and external Potential Roost features (PRFs) & access points	Evidence of birds
B1	None	A small number of gaps were found that could allow access for bats: • Gap between flat roof at wall on north elevation • Gaps under fascias of flat roofs • Gaps between soffits • Gaps under ridge tile	A herring gull nesting on roof of south elevation

3.11 The site is of moderate suitability for commuting and foraging with mature trees in close proximity and there are woodland habitats directly adjacent.

Other protected/priority species

3.12 No other protected species/priority habitats were noted on-site or in close proximity.

Bat Emergence/Re-entry Surveys

Timing and conditions

3.13 The survey timings and weather conditions during the surveys are shown in Table 12 below.

Table 12: Survey timings and weather conditions.

Date	Type	Survey Timing			Conditions [Start/Finish]			
		Start	End	Sunset/ Sunrise	Temp [°C]	Cloud Cover [Oktas]	Wind Speed [Beaufort]	Rain
10/06/2023	Dusk	22:37	23:05	21:40	14/13	2/1	2/1	Nil
08/07/2023	Dusk	21:24	23:09	21:39	12/11	8/8	0/0	Nil

3.14 The results of the bat emergence surveys are summarised in Table 13 below.

Table 13: Bat activity survey results. SS±xx refers to the time in minutes before/after sunset and SR±xx refers to the time in minutes before/after sunrise.

Survey type and date	Roosts / points of interest	General observations
Dusk emergence 10/06/2023	No bats were observed emerging from the buildings.	Only common pipistrelle bats were recorded during the survey, the first at 22:15 (SS+26). 62 recordings of common pipistrelle bats were made during the survey. Single bats were seen briefly commuting from the north and foraging over the gardens.
Dusk emergence 08/07/2023	No bats were observed emerging from the buildings.	Only common pipistrelle bats were recorded during the survey, the first at 21:55 (SS+16). 38 recordings of common pipistrelle bats were made during the survey. Single bats were seen briefly commuting from the west and foraging over the gardens.

3.15 Bat flight lines in and around the site can be seen in Appendix II: Bat Survey Plan.

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3.16 Field of views of NVAs are shown below in Figures 2-5 below.



Figure 2: FOV of IR camera - east elevation/north.



Figure 3: FOV of Thermal camera - south elevation.



Figure 4: FOV IR camera - west/north elevation.

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Figure 5: FOV of IR camera - east/south elevation.

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4 INTERPRETATION AND ASSESSMENT

4.1 The following interpretation and assessment are provided to ensure full compliance with both UK and European legislation and both local and national planning policy (see Appendix VIII).

Designated sites

4.2 There are seven designated sites within 1km of the site, see Table 5.

4.3 There are no protected areas (SSSIs or SACs) designated for their bat populations within 1km of the site.

4.4 Given the scale of the proposed development, there will be no impacts on designated sites as a result of the development.

Preliminary roost assessment (PRA) for bats (and nesting birds)

4.5 Based on the results of the PRA, an assessment of the potential suitability of the on-site buildings for bats and nesting birds could be made (see Table 14 below).

Table 14: Suitability of surveyed structures/trees for bats and nesting birds.

Structure/Tree Reference	Suitability / confirmed use	
	Bats	Nesting birds
B1	Moderate	Confirmed

Bats

4.6 The building B1 has a number of gaps that could be allow access for bats.

4.7 The roof structure, pantiles with lining, is suitable for maternity roosts.

4.8 The habitats in immediate proximity of the site are of have moderate suitability for bats as there is a deciduous woodland adjacent to the site.

4.9 There are suitable habitats within 1km of the site that would allow for good commuting and foraging.

4.10 The planned works could result in destruction/obstruction of roosts, and if present, death/injury or disturbance of bats.

Nesting Birds

4.11 The building is a confirmed nesting site for a herring gull, observed on the nest during the assessment. The nest is located on the roof alongside the chimney on the south elevation of the building

4.12 Active nests could be destroyed by works if they are undertaken during the bird nesting season March to August inclusive.

Bat Emergence/Re-entry Surveys

4.13 No bats were seen to emerge/enter buildings to roost.

4.14 No impacts are anticipated to bats or their roosts from the proposed development.

Other Protected/Priority Species/Habitats

4.15 No other ecological constraints regarding other protected/priority species and habitats were noted.

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5 CONCLUSIONS AND RECOMMENDATIONS

Designated Sites

5.1 The development will not impact designated sites.

Bats

5.2 No bat roosts were found in B1.

5.3 No further surveys are required.

5.4 As the occasional/opportunist bat can turn up at any time, and there are roosts nearby, works must be undertaken following the Precautionary Working Method Statement provided within this report (see Appendix II) in order to ensure that no bats are killed, injured, or disturbed and no roost sites are damaged, destroyed, or have access to them obstructed

5.5 Should bats be found during the development work must cease immediately and a suitably licenced and experienced ecologist must be contacted for advice.
Reason: Bats and their roosts are protected by law.

5.6 As an enhancement for biodiversity a bat box (e.g. Beaumaris https://www.wildcare.co.uk/beaumaris-bat-box.html) should be installed near the eaves on the south elevation of B1.
Reason: The Local Planning Authority has a duty 'minimising impacts on and providing net gains for biodiversity' under the NPPF (July 2021).

Birds

5.7 Works must avoid the nesting season between March and August inclusive.
Reason: All wild bird species, their eggs and nests are protected by law.

<u>Overall conclusion</u>

5.8 Providing the recommendations given within this report are successfully implemented, the proposed development can proceed without detriment to the maintenance of the local population of bats at a favourable conservation status and without impacts on other protected/priority species and habitats.

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6 REFERENCES

Collins, J. (ed.) (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn). The Bat Conservation Trust, London.

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Mitchell-Jones, A.J. (2004) Bat Mitigation Guidelines. Natural England, Peterborough.

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APPENDIX I: PRA/FIELD SURVEY PLAN

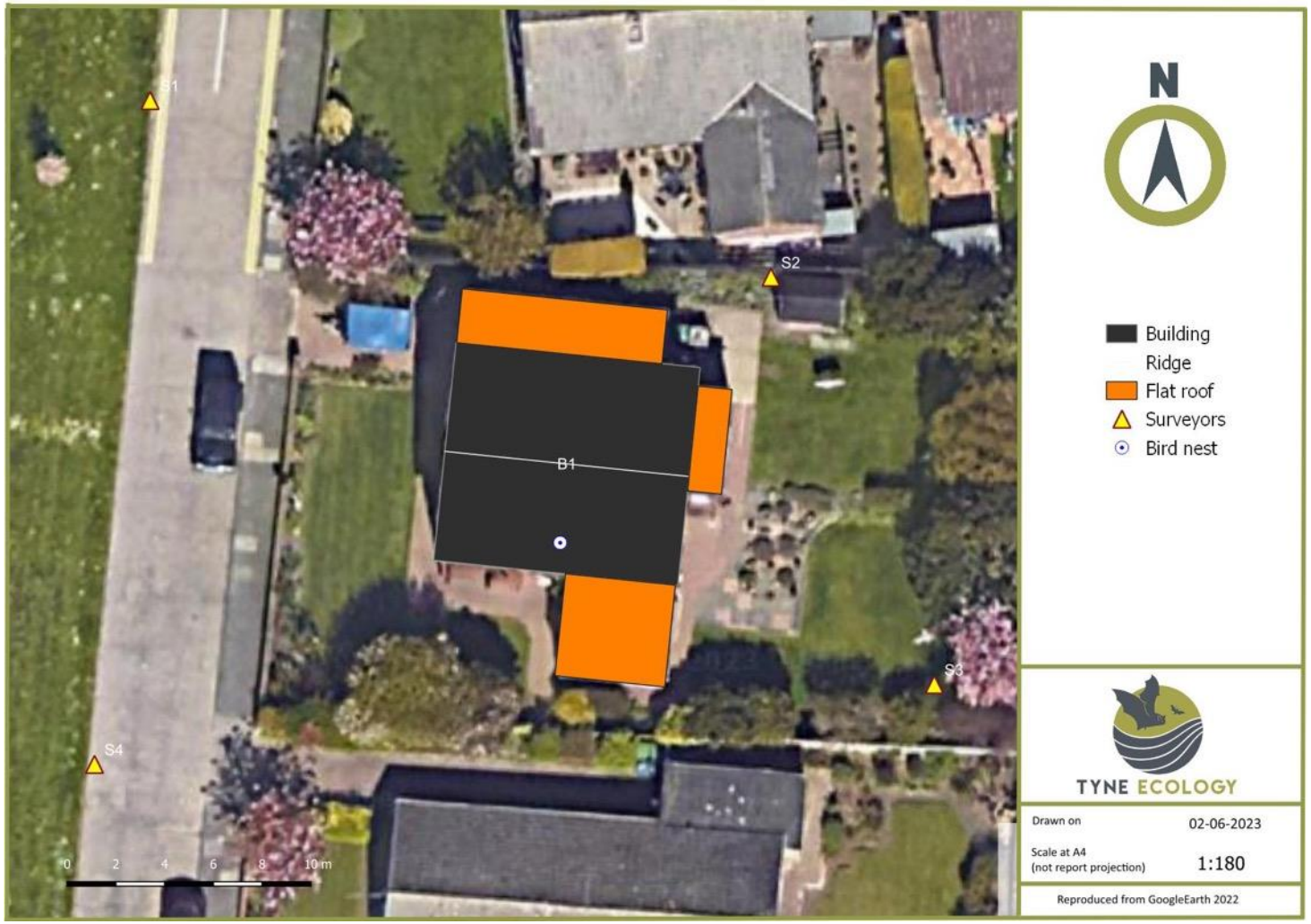


Figure 6: Survey map showing building and position of surveyors.

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APPENDIX II: BAT SURVEY PLAN - ROOSTS AND FLIGHT LINES

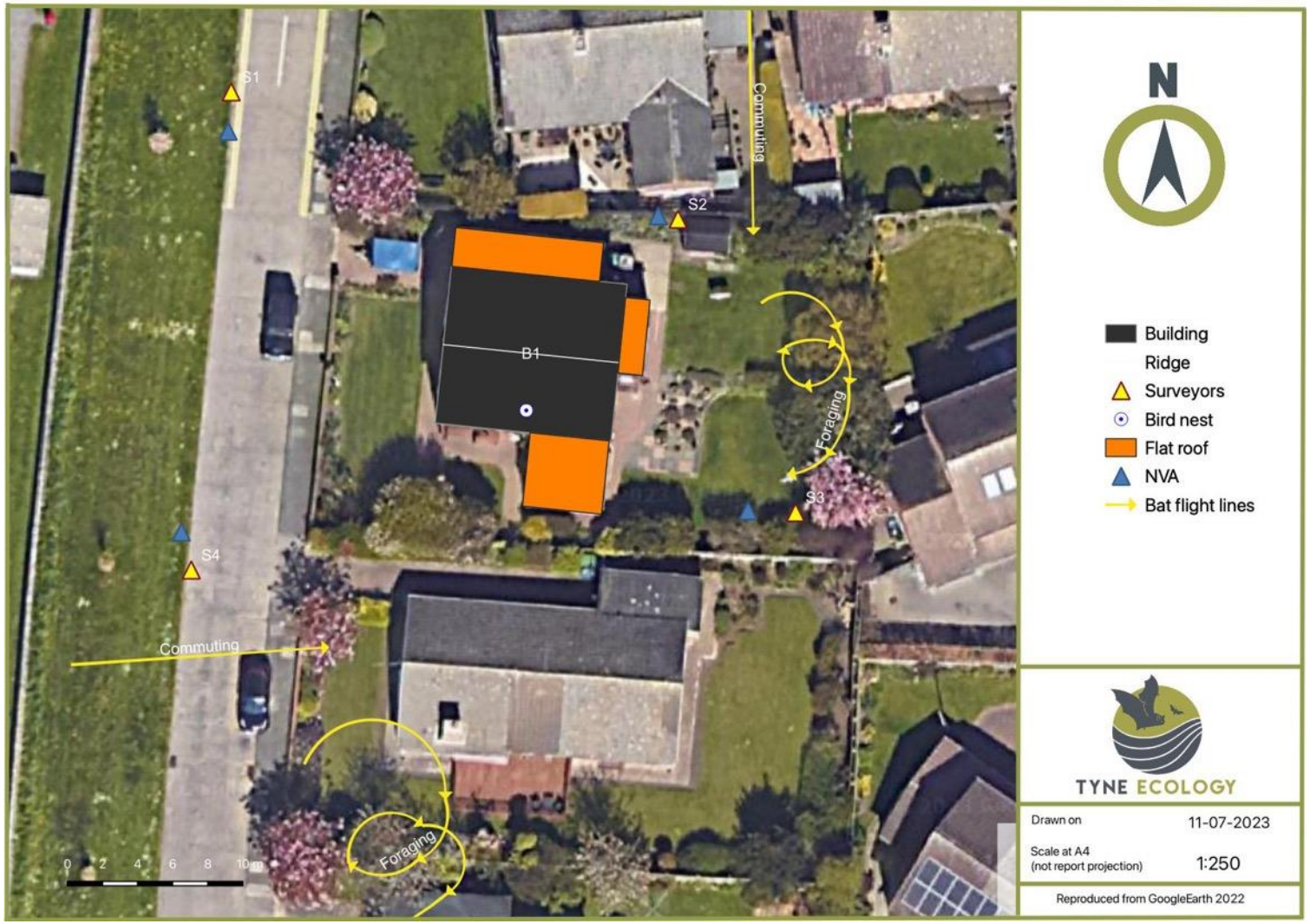


Figure 7: Bat survey plan - roosts and flight lines

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APPENDIX III: PROPOSED DEVELOPMENT PLAN



Figure 8: Proposed development plan.

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APPENDIX IV: DESKTOP SURVEY

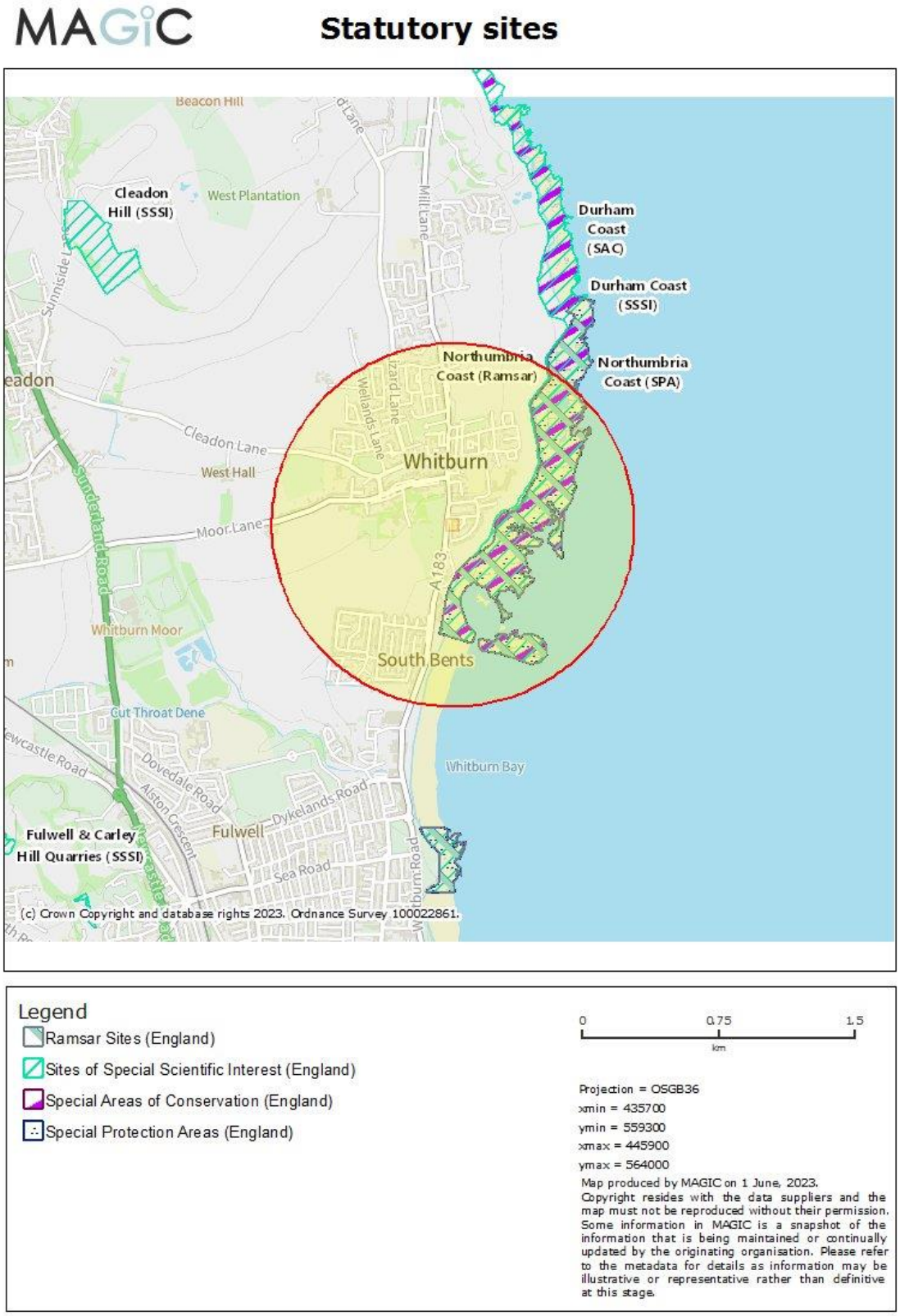


Figure 9: Designated statutory sites.

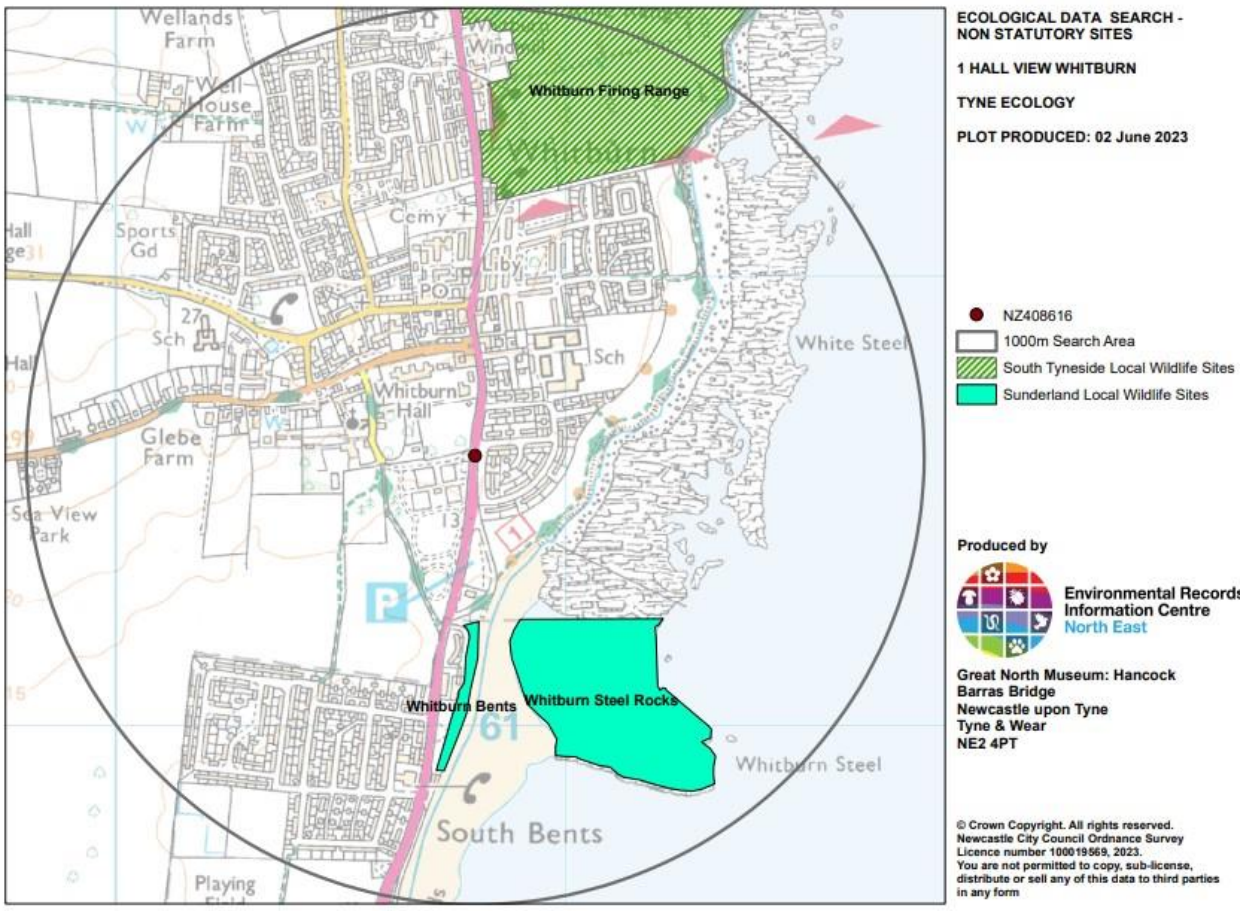


Figure 10: Designated non-statutory sites.

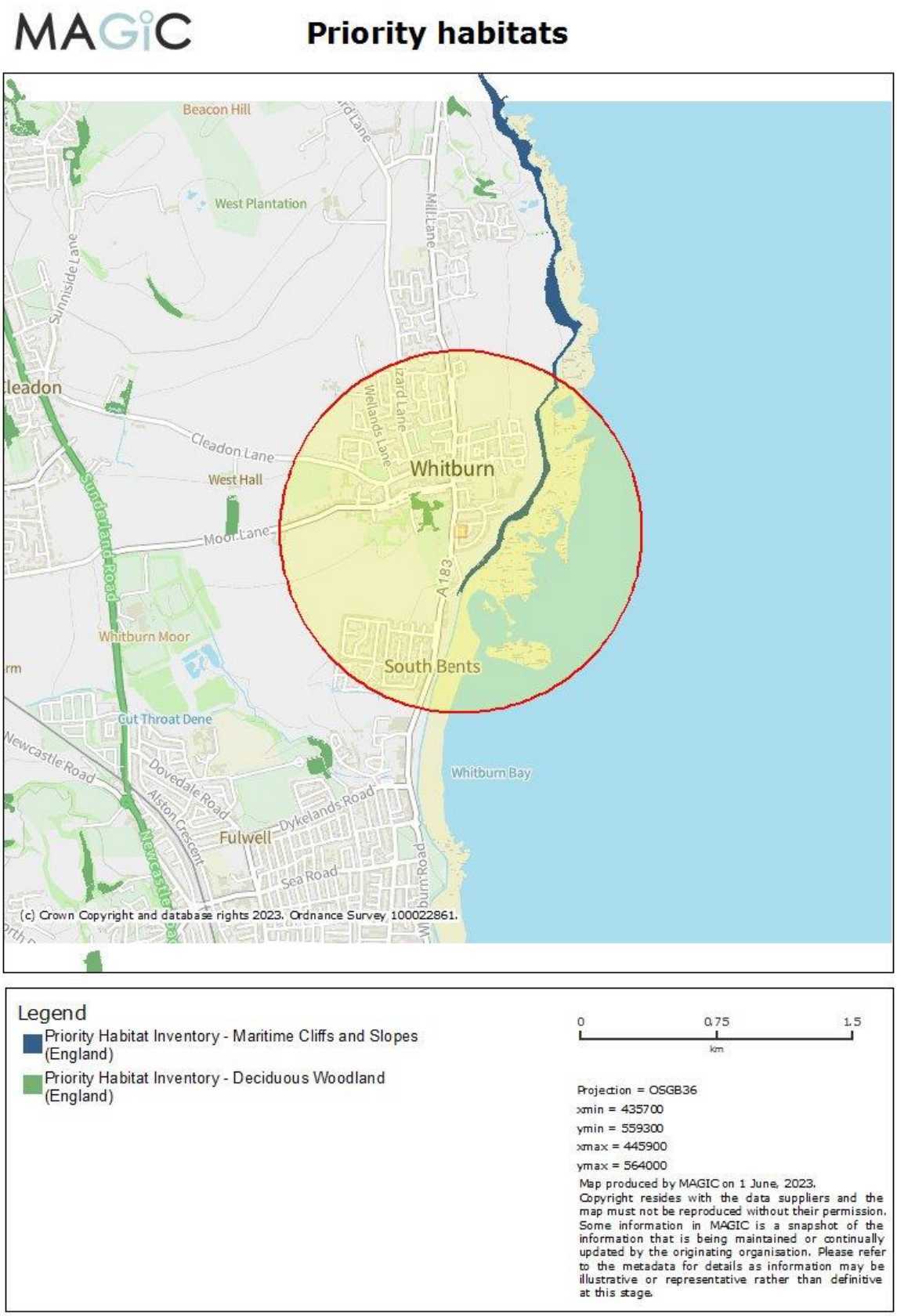


Figure 11: Priority habitats.

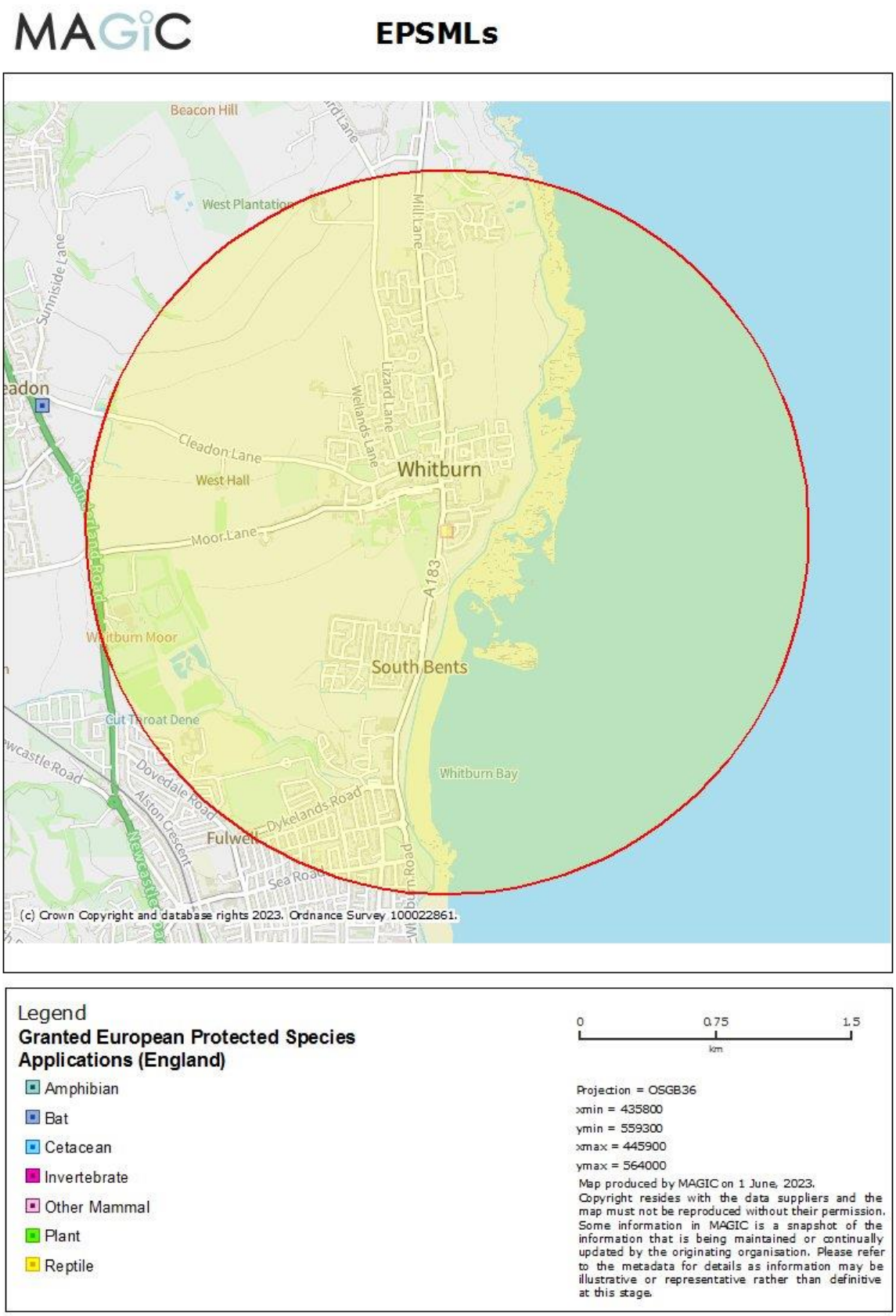


Figure 12: Granted EPSLs.

APPENDIX V: FIELD SURVEY PHOTOGRAPHS



Figure 13: B1 - north elevation



Figure 14: B1 - east elevation



Figure 15: B1 - south elevation



Figure 16: B1 - west elevation



Figure 17: Surroundings



Figure 18: B1 - internal



Figure 19: B1 - internal - garage



Figure 20: B1 - gap between fascia and wall of flat roof extension on north elevation

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Figure 21: B1 - gaps under fascias of flat roofs



Figure 22: B1 - gaps in-between soffits



Figure 23: B1 - gaps under ridge tiles



Figure 24: B1 - Herring gull nesting on south elevation

APPENDIX VI: SPECIES LIST

To be submitted to the Local Environmental Records Centre.

Site Name: South Shields
Grid Ref: NZ 4084 6160
Survey Dates June/July 2023

Submitted by: Tyne Ecology
Verified by: Tim Sexton

Common name	Scientific Name (if known)	Comment
Common pipistrelle	Pipistrellus pipistrellus	

APPENDIX VII: PRECAUTIONARY WORKING METHOD STATEMENT

The following precautions are necessary to ensure that no bats are killed, injured, or disturbed and no roost sites are damaged, destroyed, or have access to them obstructed. They are also aimed at avoiding disturbance of nesting birds.

Bats commonly roost in roofs. They may be present under roof tiles, ridge tiles and at wall tops or within crevices behind fascias. All species of bats are strictly protected by law. Damage or destruction of a bat roost is a criminal offence.

Birds often nest at eaves in roofs. All species of breeding birds, their nests (whilst active), eggs and chicks are also protected by law.

These recommendations must be followed by all of those working on the site:

- Should any bats or evidence of bats be found, work must stop immediately, and the project ecologist contacted.
- Should nesting birds be found, nests must be protected until young have fledged.
- Site contractors must be made aware of the law around bats and nesting birds.
- Roofing features including slates, felt, flashing and fascia boards must be removed by hand, carefully checking for bats.
- Any external paint used should be checked to ensure it will not cause harm to bats or birds.

Failure to follow these recommendations could result in a criminal offence being committed.

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APPENDIX VIII: PLANNING POLICY AND LEGISLATION

The following local and national planning policy and both primary and European legislation relating to nature conservation and biodiversity status are considered of relevance to the current proposal.

Planning and biodiversity

Local Authorities have a requirement to consider biodiversity and geological conservation issues when determining planning applications under the following planning policies.

National Planning Policy Framework July 2021

The National Planning Policy Framework (NPPF) (Ministry of Housing, Communities and Local Government, July 2021) states:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

(a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

(b) 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;

(c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

(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;

(e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

(f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Legislation and biodiversity

Certain species of animals and plants found in the wild in the UK are legally protected from being harmed or disturbed. These species are listed in the Wildlife and Countryside Act 1981 (as amended) or are named as European Protected Species (EPS) in the Conservation of Habitats and Species Regulations 2017. These two main pieces of legislation have been consulted when writing this report and are therefore described in detail within this section.

Other relevant legislation and policy documents that have been consulted include - The Countryside and Rights of Way Act 2000; Natural Environment and Rural Communities Act 2006; The Hedgerow Regulations 1997; Biodiversity Action Plans, both UK-wide (UKBAP) and Local plans (LBAPs), and The National Planning Policy Framework (NPPF).

There is also legislation that legally protects certain animals - for example, the Protection of Badgers Act (1992) protects badgers and their setts, and the Deer Act (1991) places restrictions on actions that can be taken against deer species.

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Wildlife & Countryside Act 1981 (as amended)

The Wildlife & Countryside Act 1981 (as amended) [WCA] is the primary legislation for England and Wales for the protection of flora, fauna and the countryside. Part I within the Act deals with the protection of wildlife.

Most European Protected Species offences are now covered under the Conservation of Habitats and Species Regulations (see below), but some 'intentional' acts are still covered under the WCA, such as obstructing access to a bat roost.

The WCA prohibits the release to the wild of non-native animal species listed on Schedule 9 (e.g. Signal Crayfish and American Mink). It also prohibits planting in the wild of plants listed in Schedule 9 (e.g. Japanese Knotweed and Rhododendron ponticum) or otherwise deliberately causing them to grow in the wild. This is to prevent the release of invasive non-native species that could threaten our native wildlife.

The provisions relating to animals in the Act only apply to 'wild animals'; these are defined as those that are living wild or were living wild before being captured or killed. It does not apply to captive bred animals being held in captivity.

There are 'defences' provided by the WCA. These are cases where acts that would otherwise be prohibited by the legislation are permitted, such as the incidental result of a lawful operation which could not be reasonable avoided, or actions within the living areas of a dwelling house.

Licensing: certain prohibited actions under the Wildlife and Countryside Act may be undertaken under licence by the proper authority. For example, scientific study that requires capturing or disturbing protected animals can be allowed by obtaining a licence - e.g. bat surveys.

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

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 came into force on the 01/01/2021 and are the principal means by which the EC Habitats Directive is transposed in England and Wales) update the legislation and consolidate all the many amendments which have been made to the Regulations since they were first made in 1994.

These regulations provide for the:

- protection of European Protected Species [EPS] (animals and plants listed in Annex IV Habitats Directive which are resident in the wild in Great Britain) including bats, dormice, great crested newts, and otters;
- designation and protection of domestic and European Sites - e.g. Site of Special Scientific Interest [SSSI] and Special Area of Conservation [SAC]; and
- adaptation of planning controls for the protection of such sites and species.

Public bodies (including the Local Planning Authority) have a duty to have regard to the requirements of the Habitats Directive in exercising their function - i.e. when determining a planning application.

There is no defence that an act was the incidental and unavoidable result of a lawful activity.

Licensing: it is possible for actions which would otherwise be an offence under the Regulations to be undertaken under licence issued by the proper authority. For example, where a European Protected Species has been identified and the development risks deliberately affecting an EPS, then a 'development licence' may be required.

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Species protection

The following protected species information is relevant to this report. Legislation is only discussed in relation to planning and development; other offences may exist.

Bats

All British bats are classed as European Protected Species and therefore receive protection under the Conservation of Habitats and Species Regulations 2017, making it an offence inter alia to:

- Deliberately kill, injure or capture a bat;
- Deliberately disturb bats;
- Damage or destroy a breeding site or resting place of a bat.

In addition, all British bats are also listed under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) which contains further provisions making it an offence to intentionally or recklessly:

- Obstruct access to any structure or place which any bat uses for shelter or protection; or
- Disturb any bat while occupying a structure or place which it uses for that purpose.

If proposed development work is likely to destroy or disturb bats or their roosts, then a licence will need to be obtained from Natural England, which would be subject to appropriate measures to safeguard bats.

Birds

In the UK, the provisions of the Birds Directive are implemented through the Wildlife & Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017. All wild birds, their nests and eggs are protected it an offence to:

- kill, injure, or take any wild bird;
- take, damage or destroy the nest of any such bird whilst it is in use or being built; or
- take or destroying an egg of any such wild bird.

The law covers all species of wild birds including common, pest or opportunistic species.

Special protection against disturbance during the breeding season is also afforded to those species listed on Schedule 1 of the Act.

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