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ECOLOGICAL IMPACT ASSESSMENT

COAST DRIVE CAR PARK,

GREATSTONE, NEW ROMNEY, KENT, TN28 8NS

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1. EXECUTIVE SUMMARY

S.1 Folkestone and Hythe District Council is seeking a hybrid planning permission for a mixed residential development of 20 units on land adjacent to Coast Drive, Greatstone. The outline planning application was submitted in September 2016, accompanied by the first *Ecological Impact Assessment* report (Lloyd Bore, 2016).

S.2 This document is a revised version of that report, incorporating results from botany surveys conducted by Ecological Planning and Research (EPR) Ltd and Dr Lesley Mason. It has also been updated to reflect the results of the winter bird survey undertaken by Lloyd Bore, and the contents of the outline Habitat Regulations Assessment (HRA) and the Information Towards a Habitat Regulations Assessment (ITHRA) reports produced by EPR Ltd.

S.3 The main findings of this assessment are: -

- The Dungeness, Romney Marsh and Rye Bay Ramsar site, Dungeness Special Area of Conservation (SAC), Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA) and Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI) are located *c.*15m from the eastern boundary of the application site. Sections of the Dungeness SAC and SSSI are also located adjacent to the northern site boundary;
- The application site supports bare ground, degraded and relict sand dune, tall ruderal vegetation and a small number of ornamental shrubs;
- The botanical survey visits recorded three non-native invasive plants listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) within the application site; and
- Winter roosting sanderlings occurred at high-tide on the shingle ridge within *c.*55m of the application site. Disturbance events, primarily by walkers with dogs off the lead, occurred to foraging and roosting sanderling located adjacent to the application site.

S.4 The proposed development will require loss of on-site degraded and relict sand dune grassland and ruderal habitats along the western and southern parts of the application site. The key ecological mitigation and compensation measures that will be implemented to minimise adverse ecological effects, including the risk of likely significant effects upon the SPA, Ramsar site and SAC, are: -

- The implementation of the submitted Biodiversity Management Plan (Flora), which sets out management prescriptions for the soft-landscaped areas within the application site and within the adjacent Habitat of Principal Importance (degraded sand dune grassland) adjacent to the southern boundary;
- Any soft landscaping scheme will need to consider the sensitive botanical communities associated with the nearby internationally and nationally designated sites;
- The implementation of the submitted Outline Construction Environmental Management Plan (OCEMP) (Biodiversity), which sets out project-specific works management measures to minimise the risk of adverse ecological impacts occurring during the construction stage of the proposed development;
- Through a Section 106 Agreement including Unilateral Obligations or through a SARMS Contribution Agreement Form, developer contributions can be secured that can be used as additional funding for the additional project-specific designated site mitigation measures set out in this report and the associated HRA and ITHRA reports; and

- To inform the evolving mitigation approach, surveys to monitor high-tide winter foraging and roosting sanderlings will be conducted for five years post construction.

S.5 This report contains further details of ecological avoidance, mitigation and enhancement measurements and as such it should be read in full. The associated outline HRA and ITHRA reports contain key and additional details and must also be referred to.

2. INTRODUCTION

2.1. Lloyd Bore Ltd was instructed on the 27th May 2016 to conduct a Preliminary Ecological Appraisal of Coast Drive Car Park, Greatstone, New Romney, Kent, TN28 8NS (approximate centre TR 0831 2379).

2.2. An updated Ecological Impact Assessment (EcIA) report has been produced following additional survey work. This report is suitable for planning submission.

DESCRIPTION OF PROPOSED DEVELOPMENT

2.3. Folkestone and Hythe District Council (FHDC) is seeking a hybrid planning permission on land adjacent to Coast Drive, Greatstone (hereafter referred to as 'the Site'). The hybrid planning application comprises an outline application for the erection of 20 residential units with matters of layout, scale, appearance and landscaping reserved for later consideration, and a full application for the re-provision of a public car park, residential parking for the 20 units and landscaping areas

2.4. The details of the proposed development are provided in the submitted planning documents.

SCOPE OF WORKS

2.5. The instruction included a biological records search from Kent and Medway Biological Records Centre (KMBRC) and the Kent Reptile and Amphibian Group (KRAG), a site visit and report to inform the proposals.

2.6. Additionally, this assessment has been informed by the results of additional botanical and winter bird survey work.

2.7. The impact assessment process documented in this report has been informed by guidance produced by the Chartered Institute of Ecology and Environmental Management (CIEEM) (CIEEM, 2016 and 2018).

ASSESSMENT OBJECTIVES

2.8. The objectives of the survey and report are to: -

- Record the existing habitats on-site;
- Identify habitats and/or structures that are suitable for legally protected species;
- Identify any invasive plant species present within the site, and make recommendations for management where required;
- Make recommendations, if required, for additional protected species surveys, avoidance measures, mitigation or, if necessary, compensation measures;
- Identify statutory and non-statutory designated sites within the Zone of Influence (ZoI) of the proposed development;
- Determine the ecological importance of the site where it is possible to do so; and
- Identify potential enhancement measures that could improve the ecological importance of the site for priority habitats and species.

3. SURVEY AREA

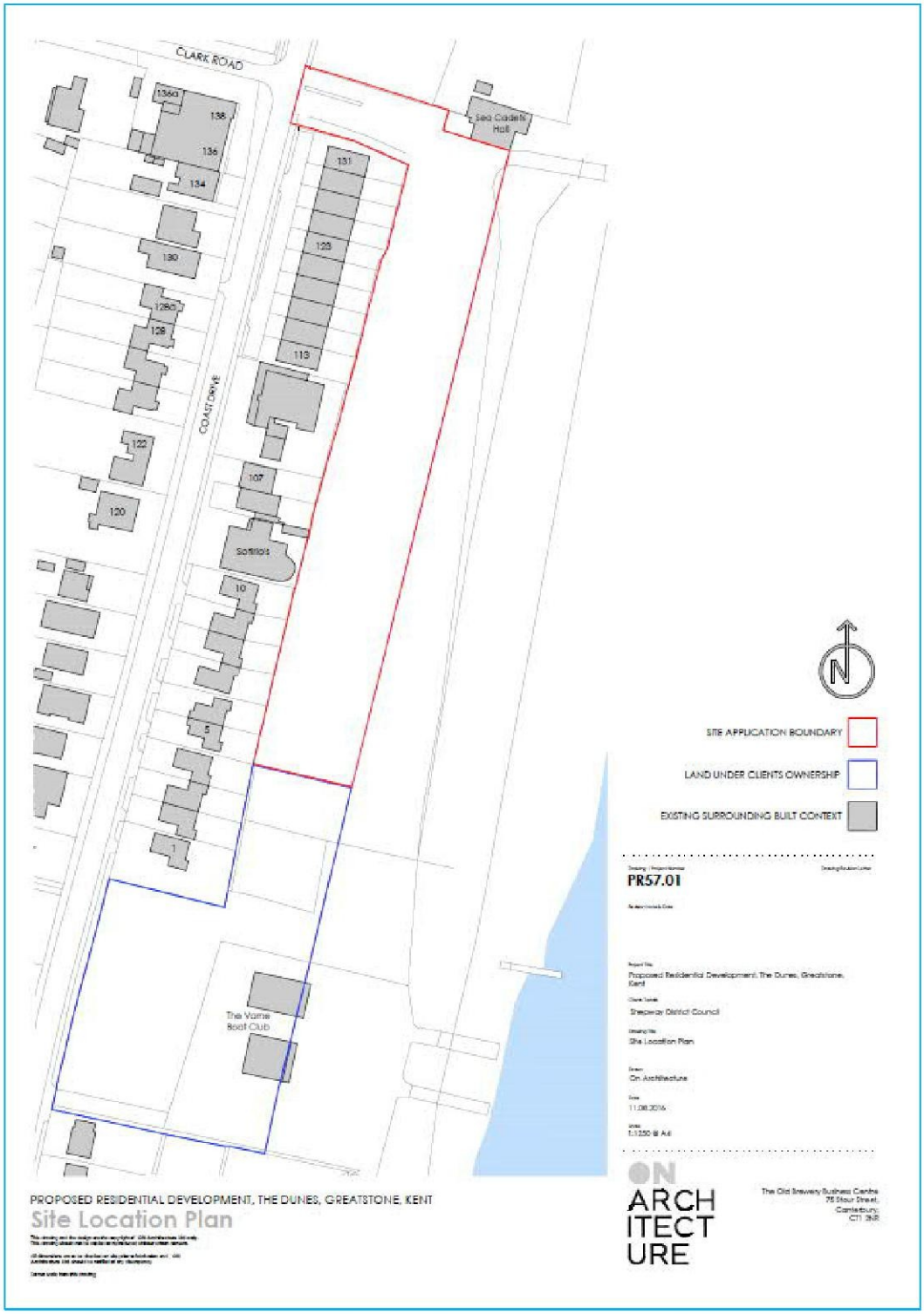


Fig. 1: Site application boundary and survey area as indicated by the approximate red-line boundary, and land also under the clients ownership as indicated by the blue-line boundary (Drawing PR57.01, dated 011.08.2016, ONARCHITECTURE).

4. METHOD

INITIAL SURVEY DETAILS

Date of Survey:	29th June 2016
Surveyor (s):	Lucy Lincoln BSc (Hons), MCIEEM
Weather:	19°C, dry, moderate wind

SURVEY METHOD

4.1. The survey comprised a site walkover and ecological assessment of habitats. Habitat classifications were based on standardised habitat descriptions (JNCC 2003; 2010a).

4.2. The survey included an assessment of the site's potential to support legally protected species. Where best practice guidelines exist, for example the Amphibian and Reptile Groups (ARG) UK *Advice Note 5* (2010) and *Bat Surveys for Professional Ecologists: Good Practice Guidelines* (BCT, 2016), these have been used to assess the likelihood that animals will be present.

4.3. Any evidence or known occurrence of invasive plant species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended), for example Japanese knotweed (*Fallopia japonica*), were noted.

Since the initial survey (June 2016), this report has been revised following additional botanical survey work by Andy Cross BSc (Hons), MSc, MCIEEM of Ecological Planning and Research (EPR) Ltd (EPR, 2017) and Dr Lesley Mason, ACIEEM (Mason, 2018) and winter bird survey work by Lloyd Bore (Lloyd Bore, 2018a). The two botanical surveys were undertaken in June 2017 and May and June 2018. The winter bird survey was conducted between December 2017 and March 2018. Survey details are provided in the associated botanical and winter bird survey (coastal) reports.

DESK STUDY

4.4. A biological records search was undertaken by KMBRC on 16th June 2016. The dataset obtained through this search includes records of: -

- Protected species;
- Invasive Species;
- Species of Principal Importance (SPI); and
- Local Biodiversity Action Plan (BAP) Species.

4.5. A search radius of 1km was used for the biological records search conducted by KRAG and KMBRC.

4.6. The Multi Agency Geographic Information for the Countryside (MAGIC) website was used to obtain information about: -

- Statutory designated sites of international, national and local importance;
- Proposed and possible statutory designated sites of international importance;
- Impact Risk Zones (IRZs) associated with SSSIs and statutory designated sites of international importance; and
- Granted European Protected Species Mitigation (EPSM) licences.

4.7. The search radius for national statutory designated sites was 2km, measured from the site boundary. This radius was extended to 6km for international statutory designated sites. The search radius for granted EPSM licences was 2km.

4.8. The search radius for granted EPSM licences was 5km for bats and hazel dormouse (*Muscardinus avellanarius*) and 1km for great crested newt (*Triturus cristatus*).

Dungeness Complex Sustainable Access and Recreation Management Strategy (SARMS)

4.9. The Local Plan for Shepway Council includes the production of a SARMS for the Dungeness complex. The application site lies within '*Sub Area 5 - Romney and Lade Foreshore*' which is considered by the SARMS (Shepway District Council and Rother District Council, 2017).

4.10. A review of the draft SARMS for the Dungeness complex indicated that data from the British Trust for Ornithology wetland bird survey (WEBs) counts for the section of coastline adjacent to the application site was possibly incomplete.

4.11. Therefore, the winter bird survey (coastal) report (Lloyd Bore, 2018a) was provided on 24th August 2018 to inform the emerging SARMS for the eastern coastline of the Dungeness complex.

4.12. The report also included detail of human activity and disturbance events data on roosting shorebirds, including sanderling (*Calidris alba*).

ASSESSMENT AND EVALUATION

4.13. The initial site visit was conducted in accordance with the *Preliminary Ecological Appraisal guidelines* (CIEEM, 2013) and where possible, the evaluation of ecological features followed CIEEM's *Guidelines for Ecological Impact Assessment* (IEEM 2006; CIEEM, 2016).

4.14. Subsequent assessments and the content of this EcIA has since been informed by guidance provided within CIEEM's *Guidelines for Ecological Impact Assessment in the United Kingdom and Ireland: Terrestrial, Freshwater, Coastal and Marine* (CIEEM, 2018), and within CIEEM's *Guidelines for Ecological Report Writing* (CIEEM, 2017b)

4.15. Habitat criteria listed in best practice guidelines for individual species or species groups, such as Oldham *et al.*, (2000), ARG UK (2010) and BCT (2016) have been used to assess the suitability of habitats to support protected and/or priority species.

4.16. If trees are present, they have been classified as per BCT (2016) guidelines with regard to potential for roosting bats.

4.17. This assessment has also been informed by the Natural England Discretionary Advice Service (DAS) request response ref: DAS/12859/233243, dated 19th January 2018.

4.18. Where best practice guidelines are unavailable or unclear, experienced ecologists have used their judgement to categorise the suitability of habitats to support protected or priority species.

4.19. The need and scope for further protected species surveys has been determined on the basis of the suitability of the habitats to support protected species, the potential impacts of the proposed development and the nature of the legal protection afforded to the species most likely to be present.

4.20. Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 has been used to identify habitats and species considered to be of conservation priority on a national scale. These are also called Habitats or Species of Principal Importance. The importance of these habitats and species are recognised in the National Planning Policy Framework (NPPF).

4.21. Although it does not offer any legal protection, the *Birds of Conservation Concern* (Eaton *et al.*, 2015) provides guidance on the conservation status of UK bird species. Thus, it can be used to inform judgements on the ecological importance of bird populations and the habitats that they rely on, particularly at a local level. Red status species are those species of highest conservation concern and green status species are those of low or no conservation concern. Amber status species are those species of some conservation concern.

4.22. A summary of relevant wildlife legislation and national planning policies can be found in Appendix 1.

ZONE OF INFLUENCE

4.23. The potential impacts of a development are not always limited to the boundaries of the site concerned. The area over which a development may impact ecologically valuable receptors is known as the Zone of Influence (ZoI).

4.24. The ZoI is determined by the source/type of impact, a potential pathway for that impact and the location and sensitivity of the ecologically valuable receptor beyond the boundary.

4.25. Given the degraded and relict condition of the HPI present within the application site, the development will mostly result in the loss of habitats of '*low*' ecological importance.

4.26. Without appropriate mitigation, there might be an increase in light spillage onto surrounding areas. Light spillage may impact nearby high-tide winter roosting shorebirds (Figure 3) and potential bat foraging habitat - although the extent of adjacent potential bat foraging habitat is extremely limited.

4.27. The ZoI associated with the nearby HPI and Annex 1 habitats is likely to extend beyond the red-line boundary of the development (Figure 3). As a result, the ZoI is likely to include the construction zone, areas just beyond this and potentially Annex 1 habitats that occur to the north, east and south of the site.

4.28. Without appropriate mitigation, invasive non-native plants that occur within the application site could spread onto adjacent and nearby HPI and Annex 1 habitats.

4.29. Based on the estimated Core Sustenance Zones (CSZs) (BCT, 2016) for the six species of bat recorded roosting within 5km of the application site, it is possible that bats roosting within 4km of the application site could use on-site habitats as a foraging resource. For this reason, the ZoI for bats is likely to extend up to 4km from the application site boundary.

4.30. Further details of the ZoI associated with these designated habitats is provided in the outline HRA (EPR, 2018a) and ITHRA (EPR, 2018b) reports.

SURVEY LIMITATIONS

4.31. The ecological appraisal provides an initial view of the likelihood of protected and priority species occurring on-site. This is based on the suitability of the habitat, any previous surveys of the site and any direct evidence of presence.

4.32. The records search did not include details of non-statutory Local Wildlife Sites (LWS).

4.33. The survey and ecological appraisal are considered to provide a robust assessment of the site's ecological conditions and therefore suitable to fulfil the aims of the report.

5. RESULTS

DESIGNATED SITES

Statutory designated sites

5.1. There are three statutory designated sites of international importance, one with two designations, located within 6km of the application site. Details are provided in Table 1.

Table 1: Designated sites of International Importance within 6km of application site.

International site	Distance and direction from application site	Qualifying Features
Dungeness, Romney Marsh and Rye Bay Ramsar	*c.*15m east and adjacent to the northern boundary.	**Criterion 1** The Ramsar site contains representative, rare, or unique examples of natural or near natural wetland types (annual vegetation of drift lines and the coastal fringes of perennial vegetation of stony banks, natural shingle wetlands: saline lagoons, freshwater pits and basin fens). **Criterion 2** The site supports nationally scarce plants and at least seven British Red Data Book invertebrates. **Criterion 5** Waterfowl assemblages (winter) of international importance. **Criterion 6** Species/populations occurring at levels of international importance: - • Redshank (*Tringa t totanus*); • Dark bellied brent goose (*Branta b benicula*); • Grey plover (*Pluvialis squatarola*); • Ringed plover (*Charadrius hiaticula*); • Eurasian wigeon (*Anas penelope*); • Northern pintail (*Anas acuta*); • Northern shoveler (*Anas clypeata*); and • Black-tailed godwit (*Limosa l islandica*).

Dungeness SAC	*c.*35m east.	• Annex I habitats, 1210 Annual vegetation of drift lines and 1220 Perennial vegetation of stony banks; and • Annex II species, great crested newt.
Dungeness, Romney Marsh and Rye Bay SPA	*c.*15m east	• Bewicks swan (*Cygnus columbianus bewickii*) (non-breeding); • Bittern (*Botaurus stellaris*) (non-breeding); • Hen harrier (*Circus cyaneus*) (non-breeding); • Golden plover (*Pluvialis apricaria*) (non-breeding); • Ruff (*Philomachus pugnax*) (non-breeding); • Aquatic warbler (*Acrocephalus paludicola*) (passage migrant); • Marsh harrier (*Circus aeruginosus*) (breeding); • Avocet (*Recurvirostra avosetta*) (breeding); • Mediterranean gull (*Larus melanocephalus*) (breeding); • Sandwich tern (*Sterna sandvicensis*) (breeding); • Common tern (*Sterna hirundo*) (breeding); • Little tern (*Sterna albifrons*) (breeding); • Northern shoveler (non-breeding); and • Assemblage of waterbirds.

5.2. The application site is located within an IRZ of the Ramsar, SAC and SPA. Based on the results obtained using the IRZ search tool, all planning applications require assessment to determine whether they are likely to result in any likely significant effects upon these statutory designated sites.

5.3. All other details associated with designated sites of International Importance are provided in the associated Outline HRA report (EPR, 2017b) and ITHRA (EPR, 2017c).

5.4. There are two statutory designated sites of national importance located within 2km of the application site. All of the Dungeness National Nature Reserve (NNR) lies within the Dungeness, Romney Marsh and Rye Bay SSSI. Details are provided in Table 2.

Table 2: Designated sites of National Importance within 2km of application site.

International site	Distance and direction from application site	Qualifying Features
Dungeness, Romney Marsh and Rye Bay SSSI	Adjacent to the northern boundary and *c.*15m east.	• A nationally important site by reason of a diverse range of biological and geological features; • Nationally important habitats: saltmarsh, sand dunes, vegetated shingle, saline lagoons, standing waters, lowland ditch systems and basin fens; • Habitats and other support nationally important species including: populations of four vascular plant species listed in Schedule 8 of the Wildlife and Countryside Act 1981 (as amended); assemblage of Schedule 8, nationally rare and nationally scarce plants; populations of Warne's thread-moss (*Bryum warneum*); populations of water voles (*Arvicola amphibius*); breeding bird assemblage; winter bird assemblage; metapopulations of great crested newt; and populations of vulnerable and rare invertebrate species.
Dungeness NNR	*c.*980m to the south-west.	• Main habitat: coastal, lowland grassland, maritime; and • Diverse wildlife with unique communities of plants and animals.

5.5. The closest SSSI Units to the application site are: Unit 57, which is adjacent to the northern boundary of the application site; and Unit 53, which is located *c.*110m to the south.

5.6. There are no statutory designated sites of local importance within 1km of the application site.

Non-statutory designated sites

5.7. There are no non-statutory designated sites within 1km of the application site.

HABITATS OF PRINCIPAL IMPORTANCE

5.8. The botanical survey in 2018 indicated that areas of degraded and relict sand dune grassland are located along the western boundary, south-west corner and within the central grassland areas of the application site (Photos 1, 2 and 3).

5.9. The area of degraded sand dune grassland that lies adjacent to the south of the application site is within the land ownership of FHDC.

5.10. The area of land containing the relict sand dune grassland that occurs in the existing car park between the eastern application site boundary and the base of the shingle bank is leased by FHDC from the land owner, Crown Estates.

5.11. Sand dune grassland is listed as a Habitat of Principal Importance (HPI).

OTHER HABITATS AND FLORA

5.12. There are no water bodies either within or immediately adjacent to the site.

5.13. The site comprises shingle hardstanding, utilised as car parking.

5.14. Ruderal vegetation occurs within the sand dune grassland along the western and southern boundaries.

5.15. A small number of introduced shrub and ornamental species are present along the western boundary, growing along and over the western wooden panel fence / brick wall. Some garden encroachment was observed on-site. A shed has been built on-site, adjacent to the western boundary, and access tracks have been cut from adjacent properties onto site.

5.16. The grassland is dominated by perennial ryegrass (*Lolium perenne*). Species also present include red clover (*Trifolium pratense*), white clover (*Trifolium repens*), common bent (*Agrostis capillaris*), false oat-grass (*Arrhenatherum elatius*), rabbit's tail grass (*Lagurus ovatus*), yarrow (*Achillea millefolium*), common restharrow (*Ononis repens*), dandelion (*Taraxacum officinale agg*), black medick (*Medicago lupulina*), common vetch (*Vicia sativa*), crown vetch (*Securigera varia*) and scarlet pimpernel (*Anagallis arvensis*).

5.17. Within the longer grassland habitat and ruderal vegetation, species include broad-leaved dock (*Rumex obtusifolius*), buddleia (*Buddleja sp*), red valerian (*Centranthus ruber*), rough hawksbit (*Leontodon hispidus*), hedge bindweed (*Calystegia sepium*), large flowered evening primrose (*Oenothera glazioviana*), pyramidal orchid (*Anacamptis pyramidalis*), fennel (*Foeniculum vulgare*), common poppy (*Papaver rhoeas*) and spear thistle (*Cirsium vulgare*).

5.18. The ornamental species orange California poppy (*Eschscholzia californica*) was noted adjacent to the western residential gardens.

5.19. Further details of additional plant species recorded can be found in the Botanical Survey Reports conducted by Andy Cross BSc (Hons), MSc, MCIEEM of EPR Ltd (EPR, 2017a) and Dr Lesley Mason, ACIEEM (Mason, 2018).

5.20. Results from the botanical survey visits undertaken in 2017 (EPR, 2017a) and 2018 (Mason, 2018) indicate that on-site habitats have not materially changed since the initial site visit in 2016.

INVASIVE FLORA

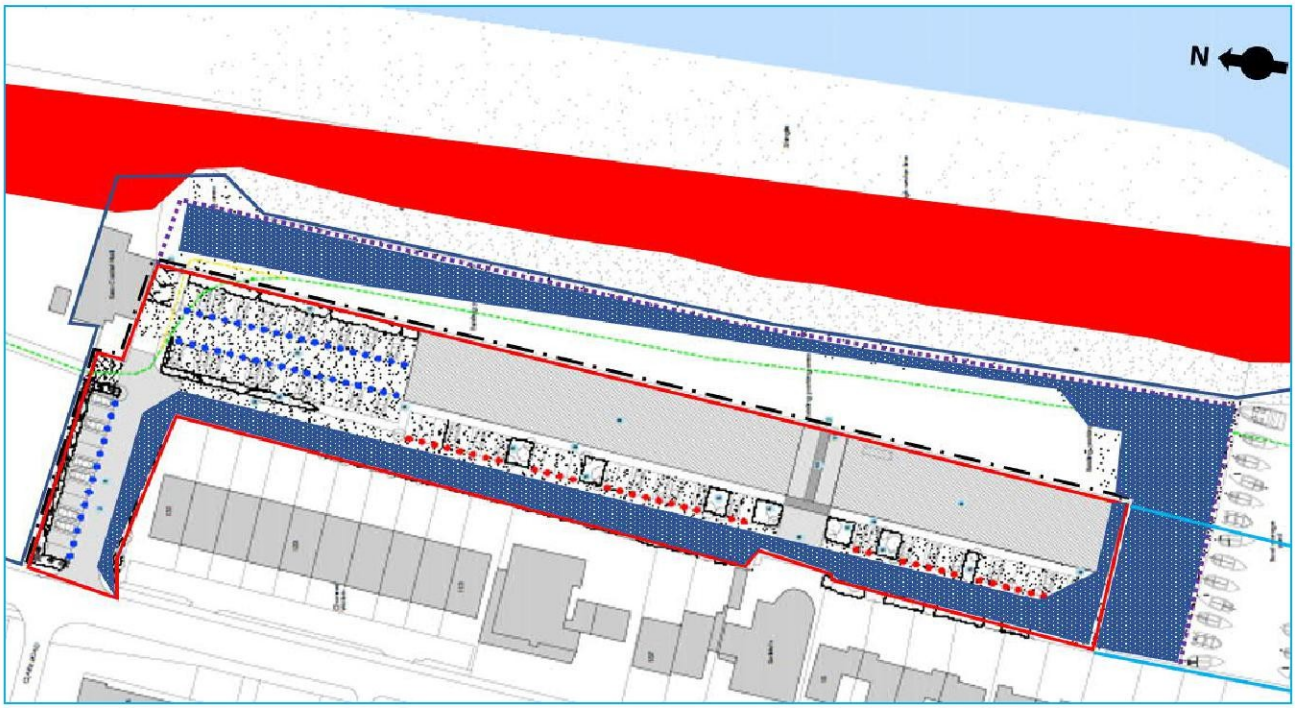


Fig. 2: Mark-up showing approximate location of Schedule 9 and other invasive (non-native) plant species.

Legend

- Approximate red-line and working area boundary.
- Approximate blue-line FHDC land ownership boundary.
- Areas where Schedule 9 plant species and other invasive (non-native) plant species were recorded.
- Annex 1 habitats

5.21. Results from the botanical survey indicate that invasive plant species Virginia-creeper (*Parthenocissus quinquefolia*), hottentot-fig (*Carpobrotus edulis*) and wall cotoneaster (*Cotoneaster horizontalis*) - which are all listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended), occur within the application site boundary.

5.22. During the botanical survey visits, red valerian was recorded close to the Coast Drive car park site. This species is non-native and can be very invasive on shingle habitats.

INVERTEBRATES (INCLUDING WHITE-CLAWED CRAYFISH)

5.23. Data obtained from KMBRC returned no recent or historic records of white-clawed crawfish (*Austropotamobius pallipes*).

5.24. Data obtained from KMBRC returned recent records of 40 moth species listed as SPIs within c.700m to the south-west of the site. Recent records of small heath (*Coenonympha pamphilus*) butterfly was returned *c.*650m to the south of the site and red-shanked carder bee (*Bombus (Thoracobombus) ruderarius*) *c.*720m to the north-west of the site. Small heath and red-shanked carder bee are listed as SPIs.

5.25. The habitats within the red line boundary are limited to bare ground, ornamental shrubs and sections of degraded and relict sand dune grassland. It is likely that this habitat mosaic benefits a number of

the invertebrate SPIs returned within the data search and the on-site habitats are likely to be of importance to common and widespread invertebrates.

GREAT CRESTED NEWTS AND OTHER AMPHIBIANS

5.26. Data obtained from Kent Reptile and Amphibian Group (KRAG) returned no recent or historic records of great crested newts within 1km of the development site.

5.27. Data obtained from the relevant OS map and online tools indicate there no standing waterbodies within 250m of the application site.

5.28. The majority of the habitat present within the development site is of negligible quality to great crested newts.

5.29. The area of longer grassland along the western and southern boundary provides terrestrial habitat of moderate quality for great crested newts.

REPTILES

5.30. Data obtained from KRAG indicates that three species of native UK reptiles have been recorded within 1km of the development site.

5.31. Slow worm (*Anguis fragilis*) have been recorded within Adie Road, approximately 700m south-west of the site in 2013 (grid ref: TR 078 233).

5.32. Common lizard (*Zootoca vivipara*) have been recorded 800m north of the site in 2007 (grid ref: TR 082 246), and 800m south-west of the site in 2004 (grid ref: TR 07641 23483).

5.33. Grass snake (*Natrix natrix*) have been recorded 280m south-west of the site in 2005 (grid ref: TR 081 236). This species has been more recently recorded within Adie Road, which is approximately 700m south-west of the site in 2013 (grid ref: TR 078 233).

5.34. The site is dominated by bare ground and short 'trampled' grassland areas which do not provide suitable habitat for reptiles.

5.35. The areas of degraded sand dune grassland along the western and southern boundary (Photos 1 and 2) provide suitable habitat for reptiles. This habitat is isolated from suitable off-site habitat and is *c.*0.1ha in area.

NESTING BIRDS

5.36. The majority of the site contains negligible habitat for nesting birds.

5.37. The taller ornamental shrubs both within the site and growing over the western fence / brick wall provide suitable nesting habitat for common bird species.

WINTERING BIRDS

5.38. During the winter bird survey, roosting sanderlings occurred at high-tide on the shingle ridge within *c.*55m of the application site.

5.39. Disturbance events, primarily by walkers with dogs off the lead, occurred to foraging and roosting sanderling located within the winter bird survey area.

5.40. Disturbance by walkers and joggers was mainly caused when the activity followed the top of the shingle back or the shoreline where the birds preferred to roost.

5.41. Black redstart (*Phoenicurus ochruros*) was recorded foraging around the boat yard and RNLI ramp on 26th December 2017, 23rd January and 2nd February 2018. Black redstart is listed as a Schedule 1 species under the Wildlife and Countryside Act 1981 (as amended).

5.42. Further detail of the winter bird survey results, and recreational and disturbance effects on foraging and roosting sanderling, can be found in the *Winter Bird Survey (Coastal)* report (Lloyd Bore, 2018a).

WATER VOLES

5.43. Data obtained from KMBRC returned one historic record of water vole in 1999 (grid ref: TR 02R).

5.44. There are no waterbodies or habitat within or immediately adjacent to the site that is suitable for water vole.

HAZEL DORMOUSE

5.45. Data obtained from KMBRC returned no records of hazel dormice (*Muscardinus avellanarius)* within 1km of the development site.

5.46. There is no habitat within or immediately adjacent to the site that is suitable for hazel dormice.

BADGER

5.47. Data obtained from KMBRC returned nine records of badger (*Meles meles*) within 1km of the development site.

5.48. Six records were returned from Coast Drive, Greatstone between 2004 and 2005 (grid ref: TR 081 233). The most recent record (2007) was returned from Greatstone (TR 082 246).

5.49. During the site survey, no signs of badger, such as snuffle holes, latrines or setts, were found.

OTTER

5.50. Data obtained from KMBRC returned no records of otter (*Lutra lutra*) within 1km of the development site.

5.51. There are no waterbodies or habitats within or immediately adjacent to the site that are suitable for otter.

BATS

5.52. Data obtained from the KMBRC indicates that three bat species have been recorded within 1km of the survey site: serotine (*Eptesicus serotinus*), common pipistrelle (*Pipistrellus pipistrellus*) and soprano pipistrelle (*P. pygmaeus*).

5.53. Data obtained from the Kent Bat Group indicates that ten bat species have been recorded within a 5km radius of the site. Species include: serotine, common pipistrelle, soprano pipistrelle, Daubenton's bat (*Myotis daubentonii*), whiskered bat (*M. mystacinus*), Leisler's (*Nyctalus leisleri*), noctule (*N. noctula*), Natterer's bat (*M. nattereri*), Nathusius' pipistrelle (*P. nathusii*) and brown long-eared bats (*Plecotus auritus*).

5.54. A *Pipistrellus sp.* maternity roost was recorded in 2002 approximately 500m from the development site (grid ref: TR 079 234).

5.55. Other maternity roosts recorded within 5km of the development proposals include Daubenton's, Natterer's, Leisler's, soprano pipistrelle, Nathusius' pipistrelle and common pipistrelle bats.

5.56. There are no habitats within or immediately adjacent to the site suitable for roosting bats.

5.57. The building immediately adjacent to the northern boundary was externally inspected and assessed as being of negligible suitability for roosting bats. This is a relatively new weather-boarded structure, which has tightly fitted boards with no crevices suitable for bats.

5.58. The site has no obvious lighting and is not obviously subject to light spill from street lights or adjacent residential properties.

5.59. The habitats on-site are of negligible importance for foraging bats and are isolated within the wider landscape, but animals may occasionally pass over or adjacent to the site.

OTHER MAMMALS

5.60. The site may be used by common and widespread mammal species such as fox (*Vulpes vulpes*).

6. PHOTOGRAPHS



Photo 1: Degraded sand dune grassland habitat located predominantly along the western and southern boundaries and central area of the car park.



Photo 2: Degraded sand dune grassland, ruderal and ornamental vegetation strip along the western boundary.



Photo 3: Relict sand dune grassland habitat running through the centre of the car park.

7. ECOLOGICAL MITIGATION AND ENHANCEMENT PLAN

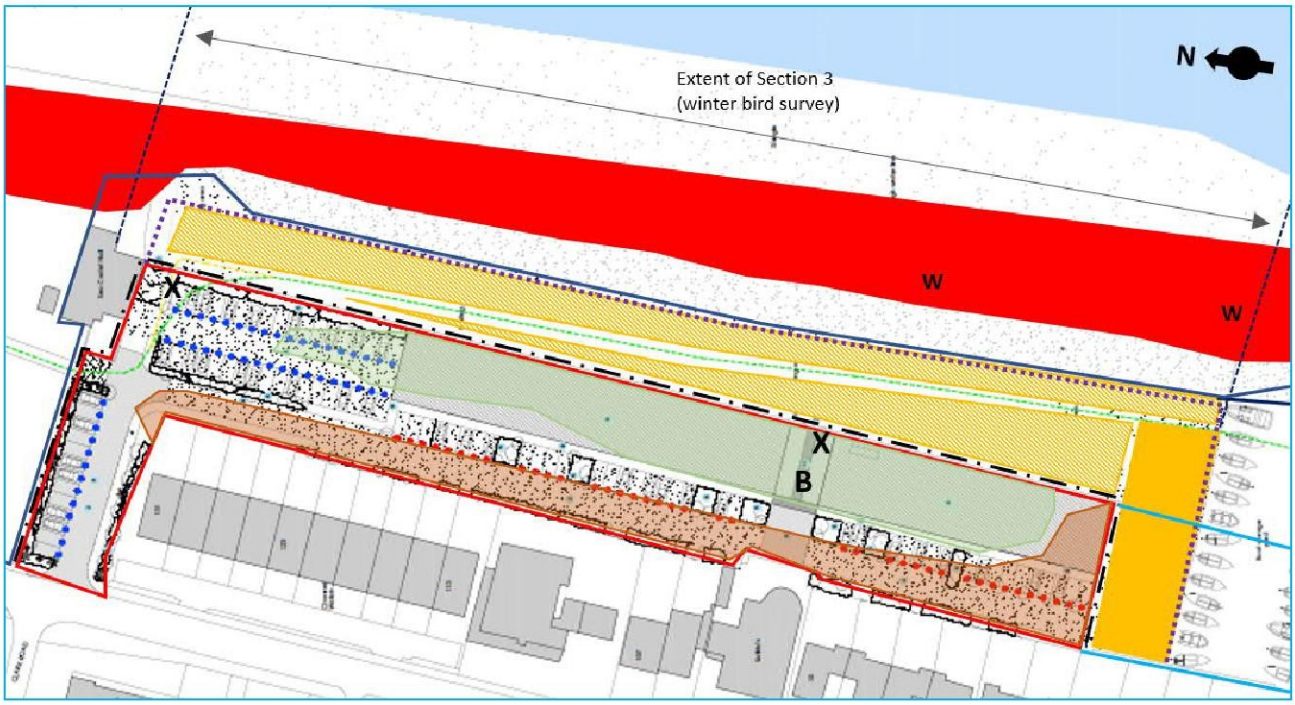


Fig. 3: Ecological mitigation and enhancement plan overlaid on proposed block plan (Drawing PR57.02 Rev E, dated 28.07.17, On Architecture). A large copy of this plan is available in Appendix 2. (Blue and red dots indicate parking spaces).

Legend

- Approximate red-line boundary.
- Approximate blue-line FHDC land ownership boundary.
- Propped Heras fencing fitted with debris netting.
- Annex 1 habitats.
- Degraded sand dune grassland.
- Area of degraded sand dune grassland. Land leased from Crown Estates by FHDC.
- Approximate area of impacted degraded sand dune grassland.
- Approximate area of impacted relict sand dune grassland.
- Approximate boundary of Coast Drive car park.
- Approximate boundary of designated sites.
- Existing trail.
- Proposed trail.
- X — Proposed location of ecological feature protection signage.
- W — Shorebird high-tide winter roosts both used by sanderling.
- B — Board walk.

8. EVALUATION AND RECOMMENDATIONS

DESIGNATED SITES

Potential effects

8.1. Evaluation and assessment of the threats and pressures associated with the qualifying features of the Dungeness, Romney Marsh and Rye Bay Ramsar and SPA sites and the Dungeness SAC are provided in the associated outline HRA report (EPR, 2018a) and the ITHRA report (EPR, 2018b). These reports also include associated impact avoidance and mitigation measures.

8.2. The Dungeness, Romney Marsh and Rye Bay SSSI lies adjacent to the northern boundary and *c.*15m east of the site. The two closest SSSI units, 53 and 57, were last assessed on 29/10/2010 resulting in a '*Favourable*' condition rating and have been so since their first assessment in 2005 (Natural England, undated).

8.3. The Local Plan for Shepway Council includes the production of a SARMS for the Dungeness complex. The SARMS '*sets out commitments to prepare a "sustainable access strategy" for the Natura 2000 sites that are within the Dungeness complex. This strategy addresses recreational pressure and provides a strategic, cross boundary approach to issues relating to disturbance, to ensure that any increase in access and recreational usage resulting from the planning policies of Shepway Council do not adversely impact on the integrity of these internationally important wildlife sites and proposed supporting actions to ensure sensitive management of recreation and access for the Dungeness complex of sites.*' (Shepway District Council and Rother District Council, 2017).

Mitigation measures

Construction phase

8.4. To ensure habitats within the neighbouring SSSI, Ramsar, SPA and SAC are protected during construction, an OCEMP (Biodiversity) has been produced (Lloyd Bore, 2018b).

8.5. The OCEMP (Biodiversity) sets out project-specific works management measures that will need to be implemented to minimise and manage the risk of adverse ecological impacts occurring during the construction stage of the proposed development.

8.6. The OCEMP (Biodiversity) can be used to inform a detailed Construction Environmental Management Plan (CEMP). The CEMP can be secured using a pre-commencement planning condition.

Occupational phase

8.7. The application site lies within '*Sub Area 5 - Romney and Lade Foreshore*' which is considered by the SARMS.

8.8. Both the Dungeness, Romney Marsh and Rye Bay SSSI and the Dungeness NNR lie within the boundaries of the internationally designated sites.

8.9. Therefore, conclusions and actions recommended by the SARMS for '*Sub Area 5 - Romney and Lade Foreshore*,' once implemented, will mitigate against the threats and pressures associated with both the sites of international importance and the sites of national importance.

HABITATS OF PRINCIPAL IMPORTANCE

Potential effects

8.10. Degraded and relict sand dune grassland, *c.*0.25ha in area, of will be lost to the proposed development (Figure 3).

8.11. The sand dune grassland sections within the Coast Drive car park area are subject to significant and varying levels of nutrient enrichment and disturbance from local residents gardening activities, vehicles and trampling by visitors and dogs. However, a degree of disturbance is essential to maintain this habitat and species diversity.

8.12. A section of degraded and relict sand dune grassland *c.*0.7ha in area will not be impacted by the proposed development. This area lies outside of the likely zone of construction to the south of the application site and within the existing car park between the eastern boundary of the application site and the base of the shingle bank (Figure 4).

8.13. It is not possible to undertake any habitat management activities in the area between the eastern boundary of the application site and the base of the shingle bank (i.e. the remaining area of the existing car park to the east of the application site) - because any such activities are not permitted under the scope of a lease between FHDC and the landlord, Crown Estates (Figure 3). Therefore, no management of this area is proposed or considered within this assessment.

Mitigation measures

8.14. To limit disturbance and trampling, access to the shingle beach from the proposed development will be restricted to exit / entry points of the existing trail at the north of the application site.

8.15. The proposed masterplan includes no direct public access from the southern boundary of the application site to the retained area of degraded sand dune grassland between the application site and the boat yard.

8.16. The Coast Drive car park bank is very disturbed as visitors climb and trample it all along its length. Therefore, the access route on to the beach from this car park and the route of the proposed and existing trail will be more formalised to limit the trampling and disturbance to the adjacent bank and the shingle beyond containing the Annex 1 habitat 1220.

8.17. The proposed design includes a 'formalised and focused' access pathway, part-way down the eastern site boundary of the development in the form of a board-walk. This will help to minimise potential vegetation damage and help regeneration of vegetation by directing footfall, which may result in an environmental benefit (Figure 3).

8.18. Prominent permanent signage will be installed. This signage will include information on the adjacent international designated sites and sand dune grassland habitat. These details will also be included within information packs for new residents (Figure 3).

8.19. Any soft landscaping scheme will need to consider the sensitive botanical communities associated with the nearby SAC and SPA, and as such it is essential any planting scheme considers this (Figure 4).



Fig. 4: Proposed areas of soft landscaping (green, light brown overlaid on Drawing PR57.02 Rev E, dated 28.07.17, On Architecture. (Blue and red dots indicate parking spaces).

Legend

Approximate red-line boundary.	Degraded sand dune grassland.
Approximate blue-line FHDC land ownership boundary.	Proposed areas of cellular paving laid within retained substrate.
B Boardwalk.	Proposed areas for functional grassland sward and retained substrate.

8.20. Any planting scheme must be determined by a suitably experienced botanist / plant ecologist, in consultation with a suitably experienced landscape architect and/or horticultural professional.

8.21. Only non-invasive, native plant species of local provenance can be used - to minimise the risk of colonisation and degradation of the SAC.

8.22. The planting scheme will need to avoid any native or non-native species that are competitive or have invasive tendencies (even if native/naturalised) - to ensure that there is minimal risk to Annex 1 habitats & other associated botanical communities through colonisation by invasive plants.

8.23. It is proposed that a functional grassland sward is created - introducing as few species as possible. The sward will be managed to allow the local flora to populate the site.

8.24. The scheme should retain some of the existing substrate (and seedbank within the substrate) from the impacted areas of degraded sand dune grassland for use within the landscaping scheme.

8.25. The retained substrate within the cellular paving used for the car park and driveway areas will be left to re-populate through the seedbank and local flora, encouraging those plant species that tolerate and benefit from footfall, trampling and disturbance (Figure 4).

8.26. Native, non-invasive plant species that are of value to local wildlife will be used within on-site plantings. No known invasive plant species will be planted on the application site.

8.27. The detailed planting schedule will include open space areas and initial planting within any residential curtilages.

8.28. A *Biodiversity Management Plan (Flora)* (Lloyd Bore, 2018c) has been produced to inform management prescriptions in relation to the soft landscaped areas within the application site and within the adjacent Habitat of Principal Importance (degraded sand dune grassland) adjacent to the southern boundary.

8.29. The pollution prevention guidance for England, which was available on the Environment Agency (GOV.UK) website, has now been withdrawn and archived. However, a replacement guidance series *'Guidance for pollution prevention'* (GPP) outlines good practice for the whole of the UK and should be followed to minimise the risk of ecological impacts arising from fuel or chemical spillages.

OTHER HABITATS AND FLORA

8.30. The enhancements section of this report and the OCEMP (Biodiversity) (Lloyd Bore, 2018b) and *Biodiversity Management Plan (Flora)* (Lloyd Bore, 2018c) provide details of mitigation and management with respect to flora both within and adjacent to the application site.

INVASIVE FLORA

8.31. It is a legal offence to cause any plant species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) to 'grow in the wild.'

8.32. The *Biodiversity Management Plan (Flora)* (Lloyd Bore, 2018c) and OCEMP (Biodiversity) (Lloyd Bore, 2018b) address the presence of plants listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended).

INVERTEBRATES (INCLUDING WHITE-CLAWED CRAYFISH)

Potential effects

8.33. The site is of negligible importance for white-clawed crayfish.

8.34. The proposed development will result in the loss of foraging and shelter habitats for a range of invertebrate species.

8.35. However, given the small amount of habitat being lost the proposed development is unlikely to result in a significant adverse effect upon the local invertebrate assemblage.

Mitigation measures

8.36. The compensatory planting and habitat management measures proposed within the *Biodiversity Management Plan (Flora)* (Lloyd Bore, 2018c) will provide foraging and shelter opportunities which are likely to benefit a range of invertebrate species.

GREAT CRESTED NEWTS AND OTHER AMPHIBIANS

Potential effects

8.37. Great crested newts are afforded protection by the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended).

8.38. Great crested newts are most commonly found within 250m of water bodies (WBs) (Natural England, 2013) and the likelihood of them being present reduces beyond 250m. There is also evidence that the risks of newt presence decreases 150m (Jehle and Arntzen, 2000) or even 100m from ponds.

8.39. Degraded sand dune grassland *c.*0.1ha in area located along the western and southern boundaries will be impacted by the proposed development (Figure 3). This area of suitable terrestrial habitat for great crested newt does not connect to wider areas of suitable terrestrial habitat off-site. The grassland habitat is isolated by bare ground to the east and north, and by small, managed residential gardens to the west.

8.40. Given the small, isolated area of suitable terrestrial habitat and that there are no waterbodies within 250m of the application site, it is considered unlikely that great crested newts would be present on-site.

8.41. No further survey, assessment or mitigation is required with regards to amphibians.

8.42. In the unlikely event a great crested newt is found on-site prior to or during works, they should cease immediately because of the nature of the legal protection afforded to this species and a suitably qualified ecologist should be contacted for advice.

REPTILES

8.43. All native UK reptile species are afforded legal protection from intentional or reckless killing or injury by the Wildlife and Countryside Act 1981 (as amended).

Potential effects

8.44. Suitable reptile habitat comprising degraded sand dune grassland *c.*0.1ha in area located along the western and southern boundaries will be impacted by the proposed development (Figure 3).

8.45. Given the isolation of these habitats, reptiles are unlikely to be present on-site and no further survey work is recommended for reptiles.

8.46. No further survey or assessment is required with regards to reptiles.

Mitigation measures

8.47. Due to the presence of an isolated on-site area of suitable reptile habitat - adjacent to the southern boundary of the application site, a precautionary approach to the clearance of suitable reptile habitat within the site is provided within the OCEMP (Lloyd Bore, 2018b).

NESTING BIRDS

8.48. Nesting birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981 (as amended).

Potential effects

8.49. In the absence of mitigation, removal of nesting bird habitat could result in destruction of active bird nests.

8.50. Construction-type activities have the potential to disturb Schedule 1 breeding birds in the event that black redstart breeds close to the construction area.

Mitigation measures

8.51. Mitigation measures relating to the clearance of suitable bird nesting habitat within the site, and detail of a precautionary survey methodology for Schedule 1 breeding bird species, is provided within the OCEMP (Lloyd Bore, 2018b).

WINTERING BIRDS

Potential effects

8.52. Given the number of disturbance events recorded during the survey period, the proximity of the development proposal to shorebird roosting locations (especially within survey section 3, Figure 3) (Lloyd Bore, 2018a) and the extent of the human activity recorded during the survey, the proposed development in isolation and without mitigation is likely to increase the magnitude and/or frequency of disturbance events on wintering sanderlings.

8.53. In the absence of mitigation, the proposed development is likely to result in light spill onto off-site high-tide foraging and roosting habitats for sanderling within the adjacent designated site.

8.54. However, if the mitigation measures set out below are adopted and effectively implemented, including effective delivery of the emerging SARMS, it is considered unlikely that the proposed development will result in a likely significant effect upon the qualifying feature of the SPA and Ramsar site (wintering sanderling population).

Mitigation measures

On-site

8.55. To limit disturbance, access to the shingle beach from the proposed development will be restricted to exit / entry points of the existing trail at the north and centre of the application site.

8.56. Prominent, easily understood signage will include information on the adjacent international designated sites and on the roosting shorebirds including a maximum approach distance and high risk (red) period. These details will also be included within information packs for new residents.

8.57. The limits of this restriction could be denoted by a painted symbol (dog on the lead) on the surfaces of the pathways leading from the application site to the beach at the north and centre of the application site, along with the prominent signage at these locations.

8.58. Surveys to monitor high-tide winter foraging and roosting sanderlings within the survey area and local area will be conducted for five years post construction. This will help to inform the mitigation approach over time. Monitoring results will be used to inform the need for any revisions to the mitigation measures set out in this document.

SARMS

8.59. As the shingle beach is used as a shorebird roost at high-tide, walkers and dogs off the lead using the exposed sandflats are likely to disturb roosting shorebirds. Through the delivery of the SARMS it is recommended that from October to March (inclusive), only dogs on the lead should be permitted on the shingle beach adjacent to the proposed development site (survey Section 3, Figure 3). Dogs off the lead should be prohibited during this period.

8.60. Prominent, easily understood signage at beach access points, particularly opposite Littlestone Road and The Varne Boat Club, should be extended to the local area as defined by this survey and form part of the emerging SARMS.

Mitigation (lighting)

Construction stage

8.61. Details of lighting mitigation during the construction stage can be found in the OCEMP (Lloyd Bore, 2018b).

Occupational stage

8.62. The use of light-cancelling glazing for any windows overlooking the designated site is recommended and this can be secured using a planning condition.

8.63. Minimisation of lighting during the occupational stage will be determined through the design of a lighting strategy and the completion of a Lighting Impact Assessment based on that lighting strategy.

8.64. External lighting will be directed away from the designated site.

8.65. Installation of external lighting on the southern, northern and eastern aspects of the buildings will be prohibited. Enforcement can potentially be applied through use of a covenant that home buyers will need to agree to in writing.

8.66. Additional detail will be provided in the detailed Lighting Strategy. The strategy will include measures including the following: -

- The Site will be lit using narrow spectrum lighting with no UV content and/or white (preferably 'warm white' LED lighting);
- Timers and motion sensors will be used to minimise the duration of any nocturnal illumination;
- All lighting will be directed to ground and light spill will be minimised through use of optics; and
- Use of tall lighting columns will be avoided wherever possible.

WATER VOLES

8.67. Water voles are afforded 'full' legal protection by the Wildlife and Countryside Act 1981 (as amended).

8.68. No further survey, assessment or mitigation is required with regards to water voles, and this species has been scoped out of further assessment.

HAZEL DORMOUSE

8.69. Hazel dormice are afforded legal protection by the Conservation of Habitat and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

8.70. No further survey, assessment or mitigation is required with regards to hazel dormouse, and this species has been scoped out of further assessment.

BADGER

8.71. Badgers are afforded protection by the Protection of Badgers Act 1992 (as amended).

8.72. No signs of badger were located during the survey.

8.73. In the unlikely event fresh animal burrows are found that indicate the presence of badgers within the site or within 20m of the site boundary, because of the legal protection afforded to badger a suitably qualified ecologist should be contacted for advice.

8.74. In order to reduce the risk of harm to badgers (and other animals) that may enter the site, the following recommendations are proposed:

- Any holes that are excavated on-site are covered overnight to prevent badgers and other animals from falling into them;
- Alternatively, a wooden plank or similar can be placed in the excavation to allow animals to escape; and
- The development site should be checked first thing each morning prior to the start of works that day.

OTTER

8.75. Otter is afforded legal protection by the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

8.76. No further survey, assessment or mitigation is required with regards to otter, and this species has been scoped out of further assessment.

BATS

8.77. Bats and their places of shelter and protection (roosts) are afforded legal protection by the Conservation of Habitat and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

Potential effects

8.78. The construction zone is of negligible importance for roosting bats and the site provides limited, poor quality foraging habitat. Therefore, no further survey or assessment is required with regards to bats.

8.79. Bats may occasionally pass over or adjacent to the site.

8.80. Therefore, where security and/or health and safety constraints allow, light spillage should be minimised through the use of cowled, shielded or directed external lighting. In general, and where possible, lighting should follow the principles outlined in *Sections 6.4 and 6.5 of Bats and lighting: Overview of current evidence and mitigation guidance (Stone, 2013)* and Section 3 of *Bats and artificial lighting in the UK* (BCT, 2018) and should only be used where necessary.

OTHER MAMMALS

8.81. The site is likely to be of negligible importance to common and widespread mammals, such as fox.

8.82. All wild mammals receive some protection by the Wild Mammals (Protection) Act 1996 (as amended) and it includes offences of crushing and asphyxiation of any wild mammal with intent to inflict unnecessary suffering.

8.83. If any animal burrows (excluding active badger setts) are found during works, careful excavation of animals from their burrows before works commence should be sufficient to avoid an offence.

9. ECOLOGICAL ENHANCEMENTS

9.1. The application site is of low ecological importance at a 'Local' level.

9.2. The habitats within the application site are not currently managed for wildlife. The outline scheme provides an opportunity to manage habitats to benefit wildlife.

9.3. The outline scheme provides an opportunity to manage public access to the adjacent section of coastal habitat. In particular, educating visitors and controlling access to areas supporting HPIs, qualifying features of the adjacent designated sites and winter high-tide roosts containing sanderling and other shore birds.

9.4. The draft SARMS for the Dungeness complex states that *'Greatstone dunes are in a Higher-Level Stewardship agreement with White Cliffs Countryside Project (WCCP) with additional funding from Natural England…Shepway DC maintain the sand fencing on Greatstone Dunes through a Defra-funded EA grant for flood management purposes.*' The uses of the funding include the management of invasive native and alien garden plant species and monitoring rare plants.

9.5. Through a Section 106 Agreement including Unilateral Obligations or through a SARMS Contribution Agreement Form, financial contributions can be secured that can be used as additional funding for habitat management, educational signage (on the use of the area by wintering shorebirds) and to support monitoring and educational programmes delivered through the SARMS.

9.6. The *Biodiversity Management Plan (Flora)* (Lloyd Bore, 2018c) incorporates habitat management prescriptions to benefit pollinating invertebrates.

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11. APPENDIX 1: SUMMARY OF WILDLIFE LEGISLATION AND NATIONAL PLANNING POLICY

11.1. The level of protection afforded to protected species varies dependent on the associated legislation. A full list of protected species and their specific legal protection is provided within the Schedules and/or Sections of the associated legislation. Case law may further clarify the nature of the legal protection afforded to species.

11.2. The legal protection afforded to protected species overrides all planning decisions.

European Protected Species (EPS) - and the Conservation of Habitats and Species Regulations 2017

11.3. European Protected Species (EPS) are afforded the highest level of protection through the Conservation of Habitats and Species Regulations 2017. EPS are also afforded legal protection by parts of the Wildlife and Countryside Act 1981 (as amended).

11.4. There are several relatively common and widespread EPS. These include great crested newt, all species of UK bat, dormice and otter.

11.5. There are other species of plant and animal that are also EPS, but generally these are scarcer / rare and are restricted to narrow geographies or specific habitat types. Examples of this latter group include natterjack toad (*Epidalea calamita*), sand lizard (*Lacerta agilis*) and smooth snake (*Coronella austriaca*).

11.6. In general, any person and/or activity that: -

- Damages or destroys a breeding or resting place of an EPS. (This is sometimes referred to as the strict liability or absolute offence);
- Deliberately captures, injures or kills an EPS (including their eggs);
- Deliberately disturbs an EPS, and in particular disturbance likely to impair animals ability to survive, breed or nurture young, their ability to hibernate and migrate and disturbance likely to have a significant effect on local distribution and abundance;
- Intentionally or recklessly disturbs an EPS while occupying a structure or place used for shelter and/or protection (Wildlife and Countryside Act 1981 (as amended)); and
- Intentionally or recklessly obstructs access to any structure or place that an EPS uses for shelter or protection (Wildlife and Countryside Act 1981 (as amended)).
- ...may be guilty of an offence.

11.7. The legislation applies to the egg, larval and adult life stages of great crested newts and to bat roosts even when they are not occupied.

11.8. Actions affecting multiple animals can be construed as separate offences and therefore penalties can be applied per animal impacted.

11.9. Under certain circumstances licences can be granted by the Statutory Nature Conservation Organisation (Natural England in England) to permit actions that would otherwise be unlawful.

11.10. There are some very specific defences associated with the Conservation of Habitats and Species Regulations 2017. However, these are unlikely to apply to construction related projects. The Sections of the Regulations provide further details of these defences.

11.11. The Wildlife and Countryside Act (1981) includes defence for those aspects of the legislation that apply to an EPS. These defences are unlikely to apply to construction related projects and do not apply to those acts included in the Conservation of Habitats and Species Regulations 2017. The Schedules of the Act provide further details of defences.

11.12. Local authorities have obligations under sections 40 and 41 of the Natural Environment and Rural Communities Act (NERC) 2006 to have regard to the purpose of conserving biodiversity in carrying out their duties. The majority of EPS are listed on Section 41 the NERC Act.

Wildlife and Countryside Act 1981 (as amended)

11.13. The level of protection afforded to species listed on the Wildlife and Countryside Act 1981 (as amended) varies considerably.

11.14. 'Fully protected species', such as water vole, are afforded the highest level of protection. Any person who intentionally kills, injures, or takes 'fully protected species', or who intentionally or recklessly damages or destroys a structure or place used for shelter and/or protection, disturbs the animal whilst occupying a structure and/or place used for shelter and protection, or obstructs access to any structure and/or place used for shelter or protection is likely to have committed an offence.

11.15. Other species, such as common reptiles, are afforded less protection and for these species it may only be an offence to intentionally or recklessly kill or injure animals.

11.16. All active bird nests, eggs and young are protected from intentional destruction. Schedule 1 listed birds are also protected from intentional and reckless disturbance whilst breeding.

11.17. Schedule 9 of The Wildlife and Countryside Act lists plant species for which it is an offence for a person to plant, or otherwise cause to grow in the wild. Schedule 9 also lists animals for which it is an offence to release into the wild.

The Protection of Badgers Act 1992 (as amended)

11.18. The Protection of Badgers Act (1992) makes it an offence to wilfully kill, injure, take or ill-treat a badger and to interfere with a sett, including damage, disturbance and obstruction.

The Protection of Mammals Act 1996 (as amended)

11.19. The Protection of Mammals Act (1996) provides protection for all wild mammals against certain cruel acts with the intention of causing unnecessary suffering, including crushing and asphyxiation.

The Natural Environment and Rural Communities Act 2006 (as amended)

11.20. Section 41 (S41) of the Natural Environment and Rural Communities (NERC) Act (2006) requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England. The S41 list is used to guide decision-makers, including local and regional authorities, in implementing their duty under Section 40 of the act to have regard to the conservation of biodiversity in England when carrying out their normal functions.

11.21. S41 lists 56 habitats and 943 species of principal importance.

11.22. Section 42 of the NERC Act relates to Wales.

Environment Protection Act 1990 (as amended)

11.23. Japanese Knotweed is classed as 'controlled waste' and if taken off-site it must be disposed of safely at a licensed landfill site. Soil containing rhizome material should also be regarded as contaminated and treated accordingly.

Statutory designated sites

11.24. Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) are afforded protection under the Conservation of Habitats and Species Regulations 2017. Ramsar sites, which are designated under the Convention on Wetlands of International Importance (1971), are afforded the same level of protection as SPAs and SACs via national planning policy.

11.25. Sites of Species Scientific Interest (SSSI) are afforded protection by the Wildlife and Countryside Act 1981 (as amended).

11.26. National Nature Reserves (NNRs) are declared by the statutory country conservation agencies under the National Parks and Access to the Countryside Act 1949 (as amended) and the Wildlife and Countryside Act 1981 (as amended). They are managed to conserve their habitats or to provide special opportunities for scientific study of the habitats communities and species represented within them. In addition, they may be managed to provide public recreation that is compatible with their natural heritage interests (JNCC website).

11.27. Local Nature Reserves (LNRs) are declared by local authorities after consultation with the relevant statutory nature conservation agency under the National Parks and Access to the Countryside Act 1949 (as amended). LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature (JNCC website).

Non-statutory designated Sites

11.28. Non-statutory sites may be given various titles, including Local Wildlife Sites (LWS), Sites of Importance for Nature Conservation (SINCs), Sites of Nature Conservation Importance (SNCIs) and County Wildlife Sites (CWS).

11.29. These sites are not normally legally protected but are recognised in the planning system and are afforded some protection through planning policy.

National Planning Policy Framework (NPPF)

11.30. In addition to primary legislation, the government published the National Planning Policy Framework on 18th July 2018 to make the planning system less complex and more accessible.

11.31. Within the NPPF, Chapter 15 is headed *Conserving and enhancing the natural environment* (Paragraphs 170 to 183).

11.32. Of relevance are the following statements: -

'The planning system should contribute to and enhance the natural and local environment by, amongst other things… 'minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures…' (Paragraph 170); and

11.33. To protect and enhance biodiversity and geodiversity, plans should: -

'a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including: the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and

'b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.'

11.34. When determining planning applications, local planning authorities should apply the following principles: -

'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;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported, while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'

11.35. In addition to the above, the NPPF confirms that the following should be afforded the same protection as sites that are included within the definition at Regulation 8 of the Conservation of Habitats and Species Regulations 2017 (Special Areas of Conservation, Sites of Community Importance, Special Protection Areas and any relevant Marine Sites): -

a) possible Special Protection Areas and possible Special Areas of Conservation;

b) listed or proposed Ramsar sites; and

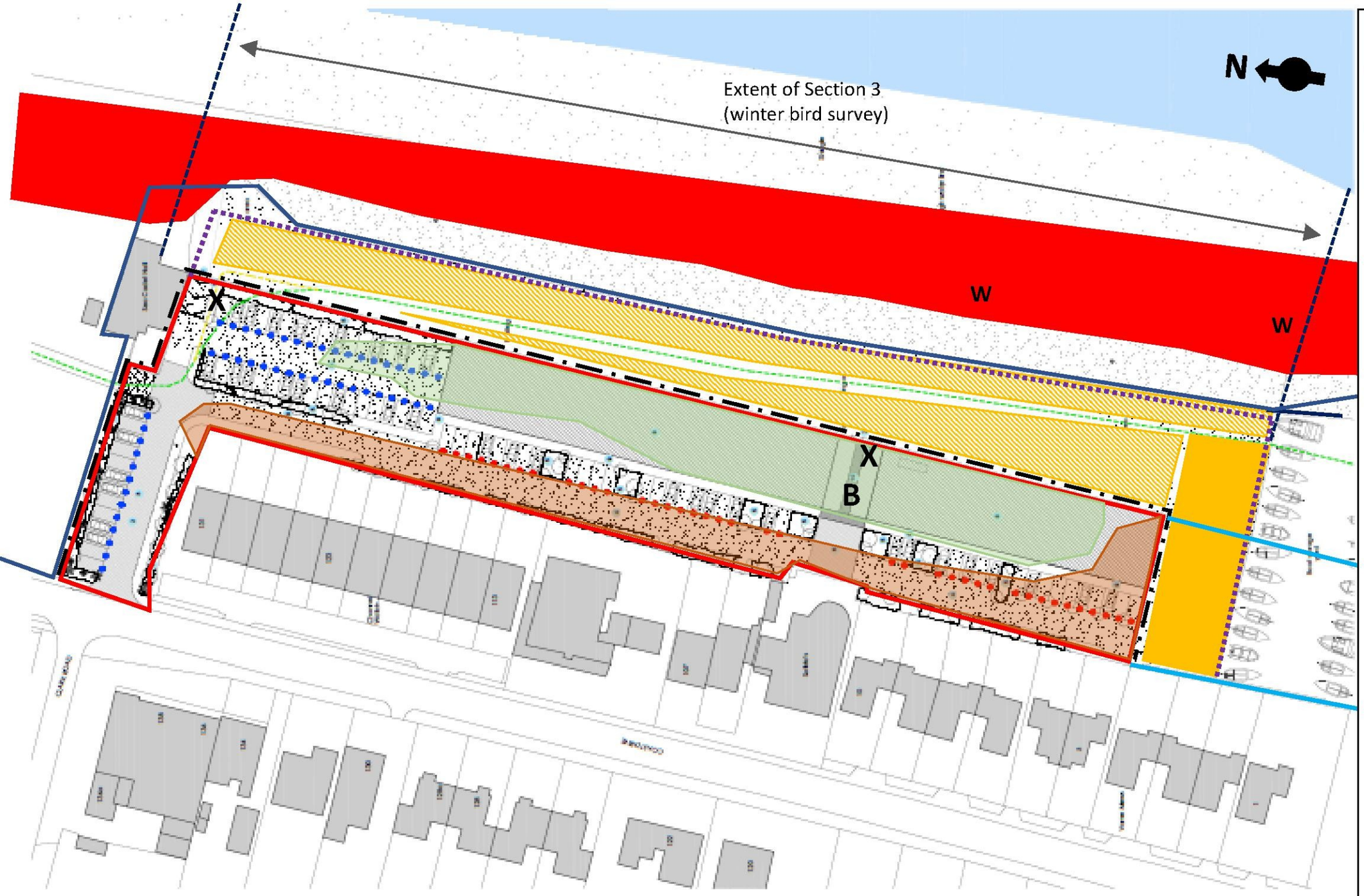
c) sites identified, or required, as compensatory measures for adverse effects on Special Areas of Conservation, Special Protection Areas, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

11.36. The presumption in favour of sustainable development does not apply where a development that requires appropriate assessment, because of its potential impact on one or more of the above categories of site, is being planned or determined.

12. APPENDIX 2: ECOLOGICAL MITIGATION AND ENHANCEMENT PLAN

[SEE BELOW]

Ecological Mitigation and Enhancement Plan



Legend

- Approximate red-line boundary.
- Approximate blue-line FHDC land ownership boundary.
- Propped Heras fencing fitted with debris netting.
- Annex 1 habitats.
- Degraded sand dune grassland.
- Area of degraded sand dune grassland. Land leased from Crown Estates by FHDC.
- Approximate area of impacted degraded sand dune grassland.
- Approximate area of impacted relict sand dune grassland.
- Approximate boundary of Coast Drive car park.
- Approximate boundary of designated sites.
- Existing trail.
- Proposed trail.
- **X** Proposed location of ecological feature protection signage.
- **W** Shorebird high-tide winter roosts both used by sanderling.
- **B** Board walk.

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