

REPORT N° 1

122 OLD HALL STREET, LIVERPOOL

ECOLOGICAL APPRAISAL

PUBLIC

NOVEMBER 2016

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ECOLOGICAL APPRAISAL

122 Old Hall Street Ltd.

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1 EXECUTIVE SUMMARY

- 1.1.1 WSP| Parsons Brinckerhoff (WSP | PB) was commissioned by 122 Old Hall Street Ltd. to undertake a Preliminary Ecological Appraisal of a site in Liverpool in proximity to 122 Old Hall Street (herein referred to as 'the Site') to inform plans for a proposed residential development (herein referred to as 'the Proposed Development').
- 1.1.2 WSP | PB conducted a Phase 1 habitat survey and assessment for protected species of the Site on 27th September 2016. The Site is almost entirely comprised of hard-standing, with a small area of scattered scrub in the south-eastern corner. The Site is situated within an urban setting and is surrounded by commercial and residential buildings and car parks, with the A5036 to the north of the Site and the A5052 to the west.
- 1.1.3 A desk study was also conducted in support of the assessment and includes known records of protected species and non-statutory designated sites within 2km, with the search radius extended to 10km for statutory designated sites. The Site does not include, or lie in close proximity to any statutory or non- statutory sites designated for nature conservation. The Proposed Development was considered unlikely to impact any sites off-site as it does not form complimentary or connected habitat to any sites identified. Several notable species of terrestrial mammal, invertebrate, bird and flowering plant were also identified, which are all subject to varying degrees of protection under wildlife legislation.
- 1.1.4 The Site has some scrub which offers potential for nesting and foraging for wild birds which are protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). Site clearance is recommended to occur outside of the breeding bird season (March and September, inclusive). If this is not possible a nesting bird check will be required to be undertaken by a suitably qualified ecologist prior to any site clearance to identify any nests and ensure compliance with wildlife legislation should nesting birds be confirmed as present.
- 1.1.5 Due to the size and location of the Site and the habitats present, it is not considered likely to support other species of notable wildlife value that would be a potential constraint to development of the Site.
- 1.1.6 One species of invasive plant listed under Schedule 9 of The Wildlife and Countryside Act 1981 (as amended) was identified during the survey, cotoneaster (considered likely to be *C. horizontalis*), and recommendations for its removal and disposal have been made.
- 1.1.7 Outline recommendations have been made to promote ecological enhancement where possible alongside development of the Site.

2 INTRODUCTION

2.1 INTRODUCTION

2.1.1 In September 2016, WSP | Parsons Brinckerhoff was commissioned by 122 Old Hall Street Ltd. to conduct a Preliminary Ecological Assessment of an area of land earmarked for a proposed development (hereafter referred to as 'the Site'). The Site is located on Back Leeds Street, Liverpool (SJ 33949 91032), close to Liverpool city centre, and comprises a total area of approximately 0.12 ha. For the purpose of this report the Site boundary has been taken to be the planning boundary as defined by the architects Hodders+ Partners (2016) and shown in **Figure 1-Site Location Plan**.

2.1.2 It is understood that the Proposed Development consists of the construction of a 27-storey tower within the Site with an area of "stopping up" in the western part of the Site. It is also understood that existing retaining walls are to be removed, as well as a section of an existing brick planter on the northern boundary of the Site.

2.2 BRIEF AND OBJECTIVES

2.2.1 The aim of the appraisal is to provide sufficient information on ecological conditions and potential constraints of the site to satisfy the requirement of the National Planning Policy Framework (NPPF) to assist informing the appropriate authority for the planning decision. It will identify the likely presence of ecological features within or near the Site that could potentially pose a constraint to the Proposed Development. Specifically the objectives to achieve this aim were as follows:

- Identify statutory and non-statutory designated conservation areas within the vicinity of the site and assess the potential for impact from the Proposed Development.
- Obtain detailed baseline ecological information on the current habitats and ecological features in and adjacent to the Site.
- Identify any signs of, or potential for, the Site to support protected or notable habitats or species.
- Identify any requirements for further specialist survey to be undertaken prior to the Proposed Development.
- Identify any required mitigation and potential habitat enhancement opportunities delivered as part of the Proposed Development.

3

METHODOLOGY

3.1 DESK STUDY

- 3.1.1 A desk study was carried out in accordance with the Chartered Institute of Ecology and Environmental Management (CIEEM) 'Guidelines for Preliminary Ecological Appraisal' (2013). Records of any protected or notable species, habitats and non-statutory sites for nature conservation within a 2km radius of the Site were obtained and reviewed. This radius was extended to 10km in accordance with best practice guidelines (English Nature, 2004) for Statutory designated sites: including Sites of Special Scientific Interest (SSSI), Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar sites and their relevant Risk Zones.
- 3.1.2 The following non-statutory organisations were contacted as the Site lies on the boundary of two local environmental record centres (LERCs):
- Merseyside BioBank; and
 - RECORD Local Record Centre (LRC).
- 3.1.3 Additional information on sites of nature conservation interest was obtained from:
- Natural England – Nature on the map website/Multi Agency Geographical Information for the Countryside (MAGIC) (<http://www.natureonthemap.naturalengland.org.uk/>); and
 - JNCC website (jncc.defra.gov.uk).

3.2 FIELD SURVEY

- 3.2.1 A survey of the Site and a 50m buffer area was conducted by Graduate Ecologist Emily Shipley on 28th September 2016.
- 3.2.2 Habitats present within the Site and within the buffer area were classified and mapped according to the Joint Nature Conservation Committee (JNCC) Phase 1 habitat survey methodology (JNCC, 2010). Fauna and flora present at the time of survey were recorded. A description of each habitat was recorded, an indicative botanical species list gathered and target notes (TN) were made for any features of ecological interest (See **Figure 2**, Phase 1 Habitat Map). In parallel, the Site was assessed for any evidence of or potential for protected and/or notable species that could be impacted on by development following CIEEM guidance (CIEEM, 2013).
- 3.2.3 In addition, any evidence of common invasive species such as Japanese knotweed *Fallopia japonica*, giant knotweed *Fallopia sachalinensis*, hybrid knotweed *Fallopia baldschuanica*, giant hogweed *Heracleum mantegazzianum* and Himalayan balsam *Impatiens glandulifera* was also noted. The list of invasive plant species included on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) is extensive and these plants are found in a range of different habitats, including aquatic habitats. .

PRELIMINARY BAT ROOST POTENTIAL ASSESSMENT

3.2.4

A visual inspection of the trees and structures on Site or within the 50m buffer area was completed from appropriate vantage points to identify features, visible from the ground, which may provide potential bat roosting opportunities, in line with the Bat Conservation Trust's Bat Surveys: Good Practice Guidelines, 3rd Edition (Collins, 2016). Trees were categorised in accordance with descriptions in **Table 1** below.

Table 1 - Guidelines for assessing potential suitability of proposed development sites for bats

BAT ROOST POTENTIAL	DESCRIPTION	
	ROOSTING HABITATS	COMMUTING AND FORAGING HABITATS
Negligible	Negligible habitat features on site likely to be used by roosting bats.	Negligible habitat features on site likely to be used by commuting or foraging bats.
Low	A structure with one or more potential roost sites that could be used by individual bats opportunistically. However, these potential roost sites do not provide enough space, shelter, protection, appropriate conditions and/or suitable surrounding habitat to be used on a regular basis or by larger numbers of bats (i.e. unlikely to be suitable for maternity or hibernation).	Habitat that could be used by small numbers of commuting bats such as a gappy hedgerow or unvegetated stream, but isolated, i.e. not very well connected to the surrounding landscape by other habitat.
	A tree of sufficient size and age to contain Potential Roost Features (PRFs) but with none seen from the ground or features seen with only very limited roosting potential.	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	A structure or tree with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat but unlikely to support a roost of high conservation status (with respect to roost type only – the assessments in this table are made irrespective of species conservation status, which is established after presence is confirmed).	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.
		Habitat that is connected to the wider landscape that could be used by bats for foraging such as trees, scrub, grassland or water.
High	A structure or tree with one or more potential roost sites features that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding 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.
		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. Site is close to and connected to known roosts.

3.3 NOTES AND LIMITATIONS

- 3.3.1 A Phase 1 survey does not comprise a full botanical assessment of all species present within a site, therefore species lists are indicative only. However, the survey was undertaken in September which is considered to be within the optimal period for botanical surveying (April-October) and it is considered that the majority of botanical species on site have been identified.
- 3.3.2 No additional species-specific information has been requested from local specialist groups. Due to the position of the Site (i.e. it lies within an urban environment) and the limited habitat opportunities available, more information was not considered a requirement to inform this assessment.
- 3.3.3 The baseline conditions described in this report are accurate at the time at which the survey was undertaken. Should considerable time pass (e.g. 2+ years) and/or conditions/land-use on the Site change prior to the commencement of works, it is recommended that an update survey is undertaken.

4 RESULTS

4.1 DESK STUDY

4.1.1 The desk study results are summarised in **Tables 2-5**. Data older than 10 years has been excluded from the results as it is unlikely to provide accurate representation of the species within the study area.

NATURE CONSERVATION SITES

STATUTORY SITES

4.1.2 Ten statutory designated sites are present within 10km of the Site, as described in **Table 2** below.

Table 2 - Statutory sites found within 10km of the Site boundary

NAME	DESIGNATION	REASON FOR DESIGNATION	DISTANCE FROM SITE BOUNDARY	POTENTIAL CONSTRAINT
Mersey Narrows and North Wirral Foreshore	RAMSAR, SSSI, SPA	Intertidal sand and mudflats and embryonic saltmarsh which is of importance as a feeding and roosting site for passage and wintering flocks of waders, wildfowl, terns and gulls.	1.39km E	No – Situated distant from site with negligible ecological connectivity
Ribble & Alt Estuaries	RAMSAR, SPA	Estuaries containing extensive intertidal sand-silt flats and one of the largest areas of grazed greenmarsh in Britain, which are of international importance for passage and wintering waterfowl.	6.21km N	No – Situated distant from site with negligible ecological connectivity
Mersey Estuary	RAMSAR, SSSI, SPA	Internationally important site for wildfowl and consists of large areas of intertidal sand and mudflats as well as areas of reclaimed marshland, salt-marshes, brackish marshes and boulder clay cliffs.	5.19km SE	No – Situated distant from site with negligible ecological connectivity
Sefton Coast	SSSI, SAC	Extending over 20km, with habitats of special interest including intertidal mud and sandflats, and dunes, with small areas of saltmarsh present. Plants of special interest include grey hair grass <i>Corynephorus canescens</i> and liverwort <i>Petalophyllum sp.</i> The site also supports populations of internationally important wintering waterfowl and waders.	9.97km N	No – Situated distant from site with negligible ecological connectivity
Mersey Narrows	SSSI	Intertidal sand and mudflats which support internationally important populations of turnstone <i>Arenaria interpres</i> , redshank <i>Tringa tetanus</i> and nationally important populations of	2.50km NW	No – Situated distant from site with negligible ecological connectivity

NAME	DESIGNATION	REASON FOR DESIGNATION	DISTANCE FROM SITE BOUNDARY	POTENTIAL CONSTRAINT
		cormorant <i>Phalacrocorax carbo</i> .		
Liverpool Bay/BAE Lerpwl	SPA (marine)	The site is used regularly by over 20,000 waterbirds and supports populations of notable species such as Red-throated diver <i>Gavia stellata</i> and Common scoter <i>Melanitta nigra</i> .	6.13km NW	No – Situated distant from site with negligible ecological connectivity
Meols Meadows	SSSI	Main habitat is damp unimproved natural grassland with ditches containing tall fen vegetation. The site is the best example of the crested dog's-tail-common knapweed type of grassland known in Greater Manchester and Liverpool.	9.22km W	No – Situated distant from site with negligible ecological connectivity
New Ferry	SSSI	Site is noted for its large areas of intertidal sand, mudflats and other habitats which support two nationally important species of wintering waterfowl; pintail <i>Anas acuta</i> and black-tailed godwit <i>Limosa limosa</i> .	4.09km SW	No – Situated distant from site with negligible ecological connectivity
Dibbinsdale	SSSI	The Site contains the largest block of semi-natural broadleaved woodland in Merseyside, characterised by ash-wych elm woodland. Reed swamp, fen pasture and neutral grassland also present.	8.2km SSW	No- Situated distant from site with negligible ecological connectivity
Croxteth	LNR	Created from former woodland areas with rough grassland, pasture and ponds and bounded by the River Alt. A variety of birds breed in the woodlands.	7.76km NE	No – Situated distant from site with negligible ecological connectivity
Childwall Woods & Fields	LNR	Habitats include neutral grassland and broadleaved woodland with bluebell <i>Hyacinthoides non-scripta</i> common spotted orchid <i>Dactylorhiza fuchsia</i> and southern marsh orchid <i>Dactylorhiza purpurella</i> present.	7.50km SE	No – Situated distant from site with negligible ecological connectivity
Brookvale	LNR	Wetland site with reed beds and support various wildfowl including reed and sedge warblers.	6.22km N	No – Situated distant from site with negligible ecological connectivity
Bidston Moss	LNR	Former landfill site that has developed into rough grassland and scrub with small wetland areas which support a variety of waterfowl, birds of prey and migrating birds.	5.38km W	No- Situated distant from site with negligible ecological connectivity
Brotherton Park and Dibbinsdale	LNR	Habitats include ancient woodland, reed swamp, parkland, amenity grassland, willow carr and wild flower meadows.	8.65km SSW	No- Situated distant from site with negligible ecological

NAME	DESIGNATION	REASON FOR DESIGNATION	DISTANCE FROM SITE BOUNDARY	POTENTIAL CONSTRAINT
				connectivity and not of ecological significance
Allerton (Eric Hardy)	LNR	Nature trail dedicated to Eric Hardy who was a well-known and respected naturalist on Merseyside and in the North West of England.	9.2km SE	No– not of ecological significance

NON -STATUTORY SITES

4.1.3

Twelve non-statutory designated sites were identified within a 2km radius of the Site, consisting of one Local Wildlife Site (LWS), two proposed LWS (PWS) and seven local geological sites (LGS). These are summarised in **Table 3** below, and assessed to consider if any could be a potential constraint to the development.

Table 3 - Non-statutory designated sites within 2km of the Site boundary

NAME	DESIGNATION	REASON FOR DESIGNATION	DISTANCE FROM SITE BOUNDARY	POTENTIAL CONSTRAINT
Leeds-Liverpool Canal	LWS	Canal connects with the river Mersey which supports a limited range of aquatic plants and marginal vegetation. The canal supports a variety of breeding and wintering birds. Nine locally rare species are present along the canal including common mallow <i>Malva sylvestris</i> yellow water-lily <i>Nuphar lutea</i> and reed sweet-grass <i>Glyceria maxima</i> .	0.85km NNE	No – Situated distant from site with negligible ecological connectivity
Leeds-Liverpool Canal	LWS (proposed)	No citations available ¹	Not given nearest point 0.85km North	No – negligible ecological connectivity to site.
Everton Park Nature Garden	PWS	No citations available ¹	1.58km NE	No – negligible ecological connectivity to site.
Everton Park North	LGS	No citations available ¹	1.86km NE	No - negligible ecological connectivity to site.

¹ According to the data record centres contacted no local wildlife citations are available for Liverpool local wildlife sites (LWS), current or proposed or local geological sites (LGS).

NAME	DESIGNATION	REASON FOR DESIGNATION	DISTANCE FROM SITE BOUNDARY	POTENTIAL CONSTRAINT
Everton Park South	LGS	No citations available ¹	1.69 km NE	No – negligible ecological connectivity to site.
College Street North, Shaw Street	LGS	No citations available ¹	1.75km E	No – negligible ecological connectivity to site.
Lime Street Railway Cutting	LGS	No citations available ¹	1.36km SE	No – negligible ecological connectivity to site.
St Georges Hill, Netherfield Road South	LGS	No citations available ¹	1.15km E	No – negligible ecological connectivity to site.
Metropolitan Catholic Cathedral, Brownlow Hill	LGS	No citations available ¹	1.85km SE	No – negligible ecological connectivity to site.
St Anne Street Underpass	LGS	No citations available ¹	1.15km E	No – negligible ecological connectivity to site.
Everton Gaol	LGS	No citations available ¹	1.65km NE	No – negligible ecological connectivity to site.
Whitley Gardens (south)	LGS	No citations available ¹	1.76km E	No – negligible ecological connectivity to site.
Whitley Gardens (north)	LGS	No citations available ¹	1.76km E	No – negligible ecological connectivity to site.
Key: LWS – Local Wildlife Site (Liverpool) PWS – Potential Wildlife Site (Liverpool) LGS – Local Geological Site (Liverpool)				

LEGALLY PROTECTED AND NOTABLE SPECIES

4.1.4 Records of the following species were provided by Merseyside BioBank and Record LRC within 2km of the Site.

4.1.5 Due to the proximity of the Site to the River Mersey, the species records search has provided records which are not relevant to the Proposed Development (e.g. protected fish species and marine mammals) due to it being away from the river and not containing any habitats in which to support these species. Species of relevance to the Site have been included in **Tables 4** and **5** below, with the full species records provided in **Appendix A**.

Table 4 - Relevant Protected or Notable Species Records within 2km

COMMON NAME	LATIN NAME	NO. OF RECORDS	DISTANCE OF NEAREST RECORD	MOST RECENT RECORD	STATUS/PROTECTION
Terrestrial Mammals					
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	5	0.95km W	2015	Hab Regs, W&CA 1981 5/9.5a, 9.4b, 9.4c, LBAP
European watervole	<i>Arvicola amphibious</i>	2	0.97km N	2015	W&CA 1981 5/9.4a, 9.4c, LBAP
European hedgehog	<i>Erinaceus euopaeus</i>	2	0.05km SE	2010	NERC S41
Birds					
Herring gull	<i>Larus argentatus</i>	1	1.62km WSW	2015	BoCC – Red listed species
Lesser black-backed gull	<i>Larus fuscus</i>	1	1.62km WSW	2015	BoCC – Amber listed species
Peregrine	<i>Falco peregrinus</i>	2	1.2km NW	2007	W&CA 1981
Invertebrates					
Blue-tailed Damselfly	<i>Ischnura elegans</i>	1	0.69km NE	2006	LBAP
Brown Hawker	<i>Aeshna grandis</i>	1	0.69km NNE	2006	LBAP
Common Blue Damselfly	<i>Enallagma cyathigerum</i>	1	0.69km NNE	2006	LBAP
Common Darter	<i>Sympetrum striolatum</i>	3	1.58km NE	2015	LBAP
Emperor Dragonfly	<i>Anax imperator</i>	1	0.69km NNE	2006	LBAP
Southern Hawker	<i>Aeshna cyanea</i>	1	0.69km NNE	2006	LBAP
Flowering Plants					
Cornflower	<i>Centaurea cyanus</i>	3	1.77km ENE	2015	NERC S41
Large-flowered Hemp-nettle	<i>Galeopsis speciosa</i>	2	0.93km ENE	2008	IUCN Red List - vulnerable
Key: BoCC – Birds of Conservation Concern Hab Regs - The Conservation (Natural Habitats, &c.) Regulations 2010 (Schedule 2) IUCN Red List- IUCN Red list of threatened species LBAP – Local Biodiversity Action Plan (North Merseyside) NERC S41 – NERC Act Section 41 Species of Principle Importance W&CA 1981 – Wildlife and Countryside Act 1981 (As amended)					

Table 5 - Invasive species records within 2km of the Site.

COMMON NAME	LATIN NAME	NO. OF RECORDS	DISTANCE OF NEAREST RECORD	MOST RECENT RECORD	STATUS/PROTECTION
Canada Goose	<i>Branta canadensis</i>	2	0.95km W	2011	W&CA 1981 S9
Japanese Knotweed	<i>Fallopia japonica</i>	2	0.95km W	2015	W&CA 1981 S9
Rhododendron ponticum	<i>Rhododendron ponticum</i>	1	0.97km N	2015	W&CA 1981 S9
Eastern Grey Squirrel	<i>Sciurus caolinensis</i>	1	0.06km SE	2012	W&CA 1981 S9

Key:
W&CA 1981 S9 – Wildlife and Countryside Act 1981 (as amended) schedule 9 species

- 4.1.6 Habitats and species listed under the North Merseyside Biodiversity Action Plan (NM BAP, 2008) which may be relevant to the Site include:

→ Urban birds

4.2 FIELD STUDY RESULTS

- 4.2.1 The Site is predominantly made up of a car park, with a blocked off road and associated pavements and is thus dominated by hard standing with a small area of bare ground and scattered scrub.

- 4.2.2 The results of the Phase 1 Habitat Survey are presented below. A Phase 1 habitat survey map, attached as **Figure 2**, illustrates the location and extent of all habitat types recorded on Site and adjacent to it, with notable or relevant features too small to map highlighted using Target Notes (TN). Photographs of the Site are included in **Appendix B**.

HABITAT DESCRIPTIONS

- 4.2.3 The following Phase 1 habitat types were recorded on Site during the field survey:

- Fence (J2.3.4)
- Wall (J2.3.5)
- Bareground (J4)
- Scattered scrub (A2.2)
- Other habitat, hard standing (J5)

- 4.2.4 These habitats are described below, ordered as described in the Phase 1 handbook (JNCC, 2010), not in order of importance. The dominant species are listed within the habitat descriptions below, where applicable.

SCATTERED SCRUB

- 4.2.5 Scattered/overgrown scrub is present behind the brick wall in the south-eastern corner of the Site. The scrub look to have been recently disturbed with chopped vegetation piled up and roots/trunks present (**Photo 1**). Dominant species include bramble *Rubus fruticosus* and common ivy, with bindweed *Calystegia sepium* and cotoneaster sp. *Cotoneaster* sp. (considered likely to be *C. horizontalis*) (**TN1**) also present.

FENCE

- 4.2.6 Steel palisade fencing approximately 2.2m high encloses the car park that takes up the majority of the Site, with a steel gated entrance located on the western side of the car park (**Photo 2**).

WALL

- 4.2.7 A brick planter filled with slate fragments is present along the northern boundary of the Site approximately 1m high (**Photo 3**).

- 4.2.8 A brick wall with barbed wire on top separates the brick planter and a car park, standing at approximately 2m high. On the eastern boundary of the Site, behind the steel fencing is another brick wall that separates the Site from the NCP car park immediately adjacent.
- 4.2.9 A section of brick wall is also present in the south-eastern area of the car park which is partially covered by vegetation dominated by common ivy *Hedera helix* (**Photo 4**).
- 4.2.10 A low brick wall was present on the southern boundary of the Site, approximately 0.5m high which is in a state of disrepair (**Photo 5**), with vegetation such as common ivy and rosebay willowherb *Chamerion angustifolium* present.

BARE GROUND

- 4.2.11 Bare ground is present behind the brick wall in the south-eastern corner of the Site and is covered by scattered/overgrown scrub (**Photo 1**).

HARD STANDING

- 4.2.12 The Site is predominantly hard-standing as it is currently used as a car park (**Photo 6**), with Back Leeds Street consisting of pavement and tarmacked road. Moss is present on the edges of the car park, close to the walls; otherwise the hard-standing is devoid of vegetation.

PROTECTED SPECIES

BREEDING BIRDS

- 4.2.13 The Site offers minimal habitat suitable to support nesting birds, namely the area of overgrown/scattered scrub located in the south-eastern corner of the Site. Scattered trees and scrub located immediately east and south of the east and south of the Site may also provide potential habitat for nesting birds.
- 4.2.14 No nests were identified during the survey and no bird species were recorded at the time of the survey.

BATS

- 4.2.15 There are no trees within the Site or located immediately adjacent to the Site on the north-western and south-eastern boundaries that are assessed to have no bat roost potential. No walls on site contain features suitable for roosting bats.

INVASIVE SPECIES

- 4.2.16 Cotoneaster species (considered likely to be *C. horizontalis*) has been identified in the scattered scrub in the south-eastern corner of the Site.

5

LEGISLATION AND PLANNING POLICY

5.1 OVERVIEW

- 5.1.1 A summary list of wildlife legislation and planning policies relevant to the ecological receptors on the Site is provided below. More detailed information relating to these is provided in **Appendix C** and is discussed in the relevant sections below.

NATURE CONSERVATION SITES

- 5.1.2 The Site is not linked with any sites designated for nature conservation value within the local area. The Site includes habitats considered to be common within the local context and unlikely to be of notable supporting value for any species which may be the reason for designation of statutory or non-statutory site. In view of the location and size of the Proposed Development it is therefore considered unlikely that any direct or indirect impacts would result on any nature conservation site within the local area.

HABITATS

- 5.1.3 There are no habitats on Site listed under Section 41 of the NERD Act (2006) and no other habitats of ecological value were recorded within the Site.

PROTECTED SPECIES

WILD BIRDS

- 5.1.4 The scattered scrub habitat on Site may provide some nesting and foraging habitat for common birds.
- 5.1.5 All wild birds are afforded partial protection under Section 1 of the WICCA (1981, as amended), making it an offence, amongst other things, to intentionally or recklessly kill, injure, or take a wild bird; take or destroy its eggs; and/or to take, damage, destroy, interfere with or obstruct access to its nest whilst it is in use or being built (see **Appendix C**).
- 5.1.6 The scattered scrub present on Site have the potential to support breeding birds and the construction of the Proposed Development could therefore lead to offences under this wildlife legislation, if undertaken vegetation works are undertaken during the bird breeding season (March- September inclusive).

INVASIVE SPECIES

- 5.1.7 Cotoneaster (considered likely to be *C. horizontalis*) was identified in the scattered scrub in the south-eastern corner of the Site, which is listed on Schedule 9 of The Wildlife and Countryside Act 1981 (as amended). As such, it is an offence to plant or otherwise cause this species to grow in the wild.

PLANNING POLICY

- 5.1.8 At a national level, planning policy is driven by the National Planning Policy Framework (NPPF) (2012) which states that:

‘the planning system should contribute to and enhance the national and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures...’

5.1.9 The city of Liverpool currently operates under a Local Plan Document, ‘The Unitary Development Plan (UP)’ which was adopted in 2002. Relevant policies include:

PROTECTED SPECIES

“Part 1 of the Wildlife and Countryside Act 1981 (as amended) makes provision for the protection from disturbance of specified breeding birds and other wild animals and plants. Some of the species occur within the Liverpool boundary. The presence of a protected species, such as barn owls and bats, is a material consideration when considering a planning application for development which could result in harm to that species. Development proposals should cause minimum damage and disturbance to wildlife and natural habitats.”

PROTECTION OF NATURE CONSERVATION SITES AND FEATURES

Planning Policy OE5

“The City Council will seek to protect the nature conservation interest of open land and the water environment in the City by not permitting development which would:

- *destroy, fragment or adversely affect directly or indirectly a designated or proposed Special Protection Area (SPA), Ramsar site, or Site of Specific Scientific Interest (SSSI), unless the City Council is satisfied that there is no alternative solution and there are imperative reasons of overriding public interest;*
- *destroy, fragment or adversely directly or indirectly affect a Site of Nature Conservation Value as identified by the City Council unless it can be clearly demonstrated that there are reasons for the proposal including benefits to the community, which outweigh the need to safeguard the substantive nature conservation value of the site;*
- *destroy, fragment or adversely affect, directly or indirectly, a Regionally Important Geological /Geomorphological Site (RIGS) unless it can be demonstrated that the benefits of the proposal to the community outweigh the need to safeguard the geological value of the site;*
- *have an adverse effect on legally protected wildlife species; or*
- *destroy, fragment or adversely affect, indirectly or directly, sites with known conservation value in a neighbouring authority area.*

In assessing criteria ii to iv full account will be taken of proposed mitigation measures.

DEVELOPMENT AND NATURE CONSERVATION

Planning policy: OE6

In the circumstances where development is permitted on or adjacent to any sites covered by policy OE5, which in the case of the Mersey Estuary will be subject to the most rigorous examination, the City Council will seek to minimise potential damage by:

- *requiring developers to undertake a site investigation to identify the nature conservation interest of the site;*
- *requiring developers to set out proposals for the protection and management of the nature conservation value of the site; and*

- *considering the use of conditions and/or planning obligations to safeguard the nature conservation interest and/or provide compensatory measures for any nature conservation interest damaged or destroyed during the development process.*

HABITAT CREATION AND ENHANCEMENT

Planning policy OE7

The City Council will seek to enhance the nature conservation interest of open land and water courses in the City by:

- *supporting and initiating proposals for habitat creation and enhancement particularly within Sites of Nature Conservation Value and those other sites which, although do not meet the criteria required to be designated as an SYNC, are considered to be of value for nature conservation;*
- *supporting proposals which strengthen and enhance wildlife corridors in the City;*
- *managing its own land, and particularly the City's parks, in a manner more positively beneficial to wildlife and encouraging other landowners to do the same where appropriate;*
- *encouraging the reopening of culverted water courses where opportunities arise and supporting the Alt 2000 initiative;*
- *encouraging developers to undertake landscaping in an ecologically sensitive manner; and*
- *encouraging and supporting community groups, schools and other organisations to work in partnership with the City Council on habitat creation and enhancement initiatives.*

In addition to the designation of Mull Wood Local Nature Reserve at Croxteth Park, the City Council will seek to designate further Local Nature Reserves (LNRs) in the City and secure appropriate management regimes with initial consideration being given to: Mill Wood; Otterspool; Gorge Childwall Woods and Field's Land adjacent to Garston Gas Works; Hillfoot Road and Simpsons Pavilion; Melrose Cutting Mersey Estuary; Croxteth Country Park (extension to existing Local Nature Reserve).

6 DISCUSSION AND RECOMMENDATIONS

6.1 HABITATS

- 6.1.1 The site contains habitats of no more than negligible ecological value that may support protected and/or notable species and as such no ecological constraints have been identified that may influence planning permission, with only the scattered scrub providing potential habitat for breeding birds and small terrestrial mammals.
- 6.1.2 The scattered scrub located in the south-eastern corner of the Site is to be removed during the development of the Site and it is recommended that this is replaced through wider landscape planting using locally sourced native species to provide foraging, commuting, breeding and refuge habitats for birds and terrestrial species. This can be achieved through sensitive ecological landscaping of the new development, and recommendations for native species planting are provided within the Ecological Enhancement section below.

6.2 PROTECTED AND NOTABLE SPECIES

- 6.2.1 The only protected and notable species which may be present on site would be common nesting birds in the scrub. No other habitats with potential for or signs of protected and notable species were noted during the survey

WILD BIRDS

- 6.2.2 It is recommended that vegetation clearance is undertaken outside of the main bird nesting season, i.e. between October and February. Should site clearance activities be required during the nesting season (which lies between March and September inclusive), a suitably qualified ecologist should undertake a nesting bird check at the Site no more than 24 hours prior to clearance activities. Should any active nests be identified, an appropriate buffer should be put in place to reduce any disturbance while the nests are in use and the vegetation will have to remain until the nest has natural ceased use.

INVASIVE SPECIES

- 6.2.3 The survey identified the presence of cotoneaster, which is a Schedule 9 species under the Wildlife and Countryside Act 1981 (as amended). It is recommended that the cotoneaster identified within the Site is fully removed and chipped during clearance activities. Any berries on Site should be carefully collected and disposed of appropriately.

6.3 ECOLOGICAL ENHANCEMENTS

- 6.3.1 The Site sits within a built-up inner city area and as such there are minimal habitats to support wildlife. There is therefore an opportunity to provide habitats to enhance the biodiversity of the Site and where possible it is recommended that the Proposed Development should seek to achieve a net gain in biodiversity, as promoted under the NPPF (2012) and NERC Act 2006.

6.3.2

The Site sits within an urban location and has limited area for landscaping, where landscaping is provided within the Proposed Development, the following key recommendations are made:

- The provision of more natural areas within the landscaping scheme (e.g. low intensity grassland/wildflower meadows/water-bodies) where possible;
- The planting of trees using locally sourced, native species of varying ages; and
- Using native species of local provenance and/or species with specific nature conservation benefits (for example invertebrate rich and/or early-late flowering nectar-rich species and fruit bearing species) in grassland and shrub landscaping associated with a proposed development.

6.3.3

Ecological consultation should be sought to maximise the ecological benefits during detailed design and implementation of the landscaping scheme so that more natural features such as green routes, open spaces and open water habitats are designed and managed for the benefit of wildlife.

7

CONCLUSIONS

- 7.1.1 The Site largely comprises hard standing, steel fencing and brick walls with a small area of bare ground covered with scattered scrub located in the south-eastern corner of the Site which offers potential habitat for wild birds.
- 7.1.2 No impacts upon statutory designated sites within 10km or non-statutory sites within 2km are expected from the Proposed Development due to the ecological context of these sites and their distance from the Site.
- 7.1.3 The Site has potential to support a common assemblage of wild bird species which are protected under wildlife legislation. Avoidance of contravention of legislation regarding birds is recommended through appropriate timing of vegetation clearance or the completion of nest searches prior to the commencement of works.
- 7.1.4 Ecological enhancements have been recommended to improve the biodiversity value where possible and appropriate, including the planting of native trees and shrubs species to create habitat connectivity through the Site.
- 7.1.5 The baseline conditions described in this report are accurate at the time at which the survey was undertaken. Should considerable time pass (e.g. 2+ years) and/or conditions/land-use on the Site change prior to the commencement of works, then it is recommended that an up-date survey is undertaken.

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Figure 1 - Site Location Plan

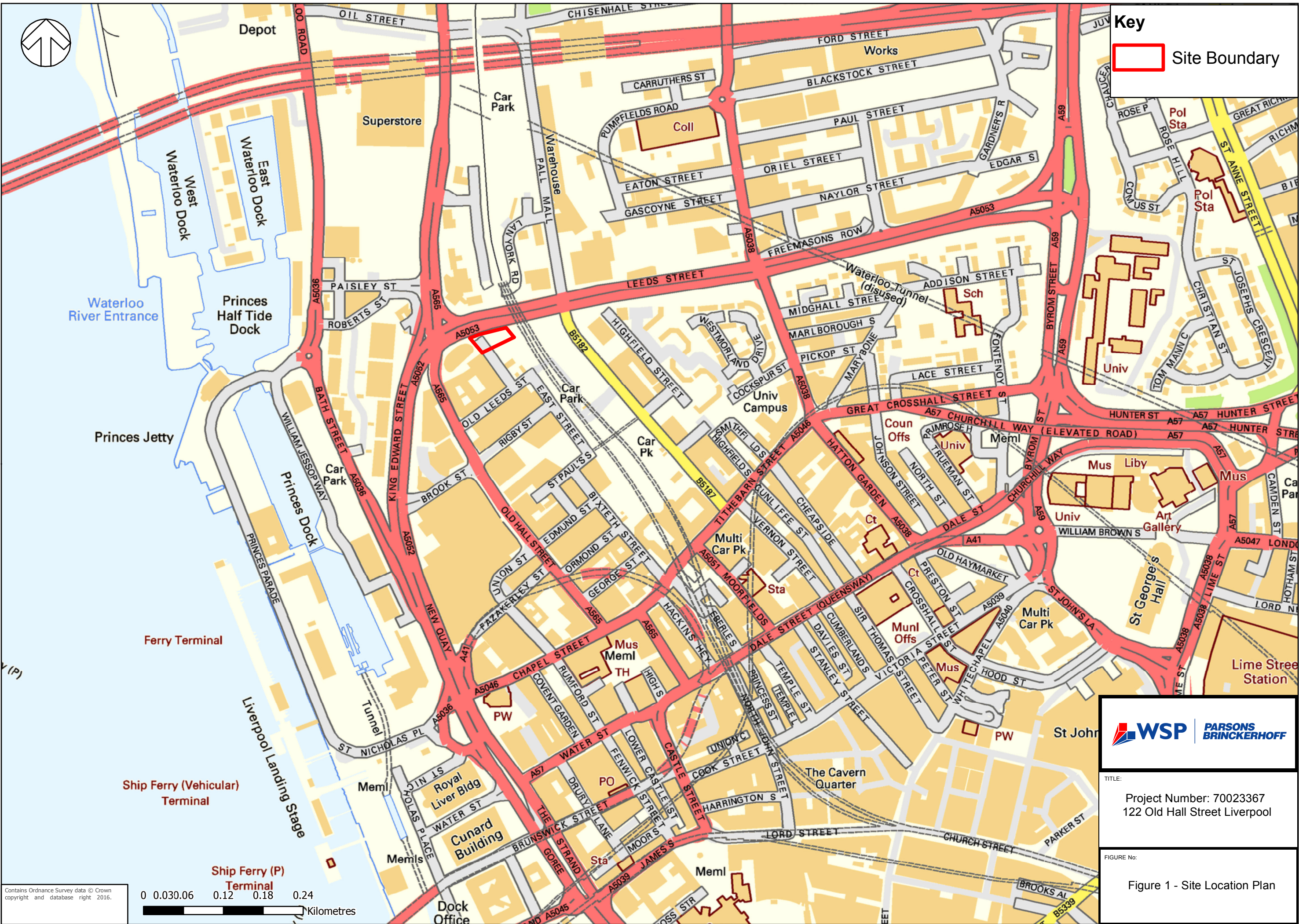
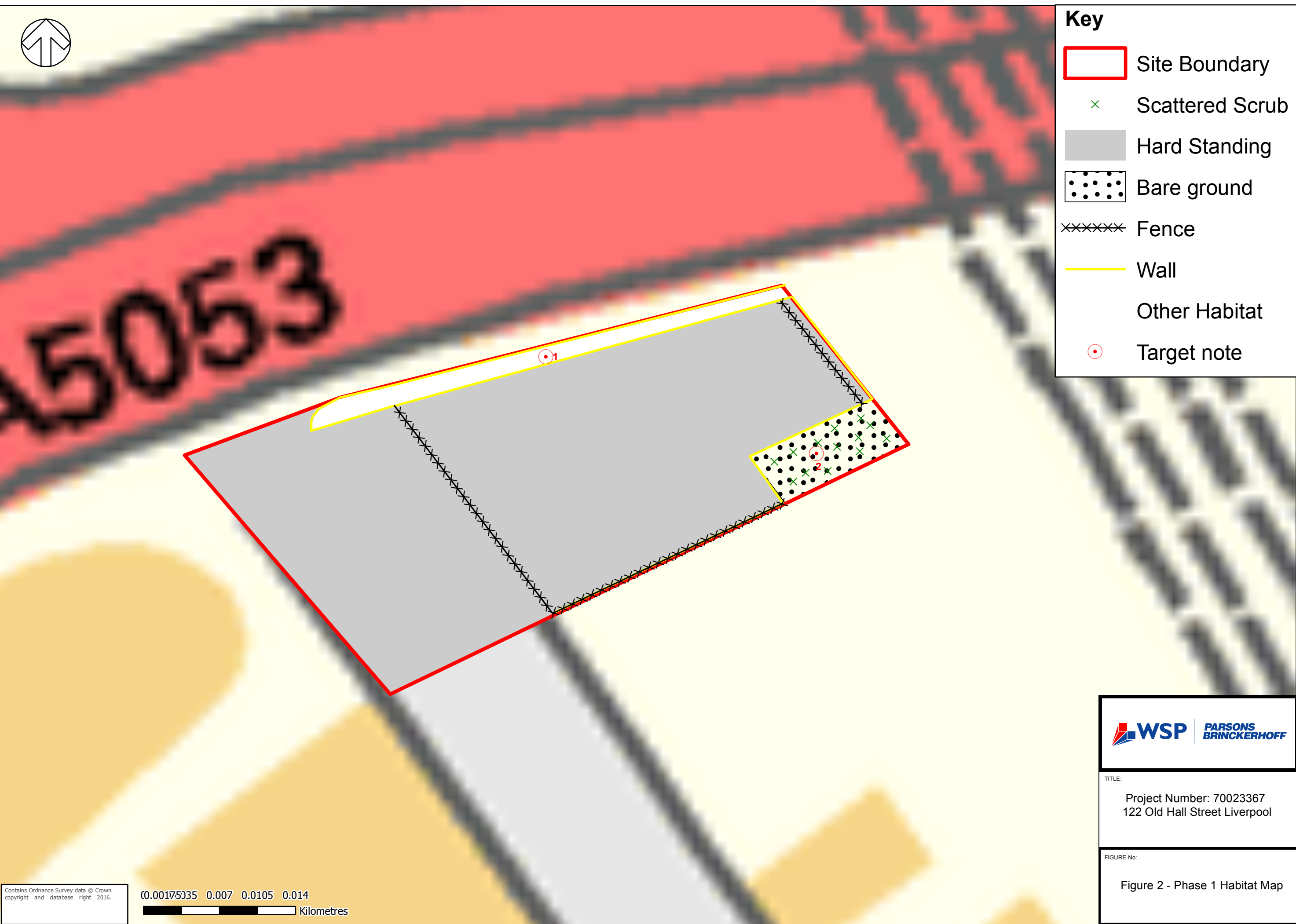




Figure 2 - Phase 1 Habitat Map





TITLE:
Project Number: 70023367
122 Old Hall Street Liverpool

FIGURE No:
Figure 2 - Phase 1 Habitat Map

Appendix A

**ADDITIONAL PROTECTED AND NOTABLE SPECIES RECORDS
WITHIN 2KM OF SITE**

COMMON NAME	LATIN NAME	NO. OF RECORDS	DISTANCE OF NEAREST RECORD	MOST RECENT RECORD	STATUS/PROTECTION
Common Porpoise	<i>Phocoena phocoena</i>	1	0.87km SW	2010	HabRegs2, W&CA 1981 5/9.5a
Atlantic Cod	<i>Cadus morhua</i>	132	0.95km W	2011	NERC S41
European Eel	<i>Anguilla anguilla</i>	3	0.74km SSE	2016	NERC S41
Whiting	<i>Merlangius merlangus</i>	148	0.95km W	2012	NERC S41

Appendix B

SITE PHOTOGRAPHS



Photo 1. Bare ground with scattered scrub located in the south-eastern corner of the Site.



Photo 2. The Site is predominantly made up of a car park, surrounded by steel palisade fencing.



Photo 3. Existing brick wall planter filled with slate fragments on the northern end of the Site.



Photo 4. Brick wall covered in ivy located in the south-eastern corner of the Site.



Photo 5. Low brick wall with common ivy and rosebay willowherb, located on the southern Site boundary.



Photo 6. The Site predominantly consists of hard standing as it is currently used as a car park.

Appendix C

LEGISLATION AND POLICY

LEGISLATION AND POLICY OVERVIEW

This section provides an overview of the framework of legislation and policy which underpins nature conservation and is a material consideration in the planning process in England.

RELEVANT LEGISLATION

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED)

The Conservation of Habitats and Species Regulations 2010 (as amended) consolidate all the various amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994 in respect of England and Wales. The 1994 Regulations transposed Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive) into national law.

CONSERVATION OF HABITATS AND HABITATS OF SPECIES

The Regulations place duty upon the relevant authority of the UK government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria are, in conjunction with the European Commission, designated as Sites of Community Importance, which are subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. The regulations also place a duty upon the UK government to maintain a register of European protected sites designated as a result of EC Directive 79/409/EEC on the Conservation of Wild Birds (The Birds Directive). These sites are termed Special Protection Areas (SPA) and, in conjunction with SACs, form a network of sites known as Natura 2000.

ADAPTATION OF PLANNING AND OTHER CONTROLS

The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European Site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the Site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation). Special provisions are also made as respects general development orders, special development orders, simplified planning zones and enterprise zones.

2011 and 2012 Amendments

In April 2011, the Regulations were amended by The Conservation of Habitats and Species (Amendment) Regulations 2011. Amendments to the Regulations included ensuring certain plans or projects are subject to the requirements of the Habitats Directive and that competent authorities assess the implications of certain plans or projects on a protected site in view of the site's conservation objectives when deciding whether to give regulatory consent. The amendments also reflected that a marine licence will now be required for most activities in UK inshore waters, replacing the need for existing consents. The 2011 amendments also transposed obligations contained in Articles 4 (1) and (2) of the Birds Directive (Ref 4) and impose a duty on the Secretary of State or Welsh Ministers (as appropriate) to classify sites as special protection area (areas designated to safeguard the habitats of migratory birds and particularly threatened bird species).

Further amendments were made to the Regulations, which came into force in August 2012, to ensure the requirements of the Habitats Directive are transposed in a clear manner. These regulations, cited as the Conservation of Habitats and Species (Amendment) Regulations 2012, require public bodies (i.e. any Minister, government department, public body, or person holding a public office) to help preserve, maintain and re-establish habitat for wild birds and comply with the Habitats Directive and the Birds Directive. The regulation amendments also detail that management schemes may be established for European marine sites in order to secure compliance with the requirements of the

Birds Directive as well as the Habitats Directive. Other amendments include changes to simplify particular regulations, such as where land has more than one designation i.e. SSSI & SPA, or remove restrictions posed by previous regulations in relation to protecting European marine sites. The Wildlife and Countryside Act (W&CA) 1981 (as amended).

The W&CA, as amended, consolidates and amends pre-existing national wildlife legislation in order to implement the Bern Convention and the Birds Directive.

It complements the Conservation of Habitats and Species (Amendment) Regulations 2011 offering protection to a wider range of species. The Act also provides for the designation and protection of national conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSIs). Schedules of the act provide lists of protected species, both flora and fauna, and detail the possible offences that apply to these species. All relevant species specific legislation is detailed later in this Appendix.

THE COUNTRYSIDE AND RIGHTS OF WAY (CROW) ACT 2000

The CROW Act, introduced in England and Wales in 2000, amends and strengthens existing wildlife legislation detailed in the W&CA. It places a duty on government departments and the National Assembly for Wales to have regard for biodiversity, and provides increased powers for the protection and maintenance of SSSIs.

The Act also contains lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

THE NATURAL ENVIRONMENT AND RURAL COMMUNITIES (NERC) ACT 2006

Section 40 of the NERC Act places a duty upon all local authorities and public bodies in England and Wales to promote and enhance biodiversity in all of their functions. Section 41 (England) list habitats and species of principal importance (SPIs) to the conservation of biodiversity in England. These species and habitats are a material consideration in the planning process.

THE HEDGEROW REGULATIONS 1997

Under the Hedgerow Regulations 1997 (Ref 8) it is against the law to remove or destroy certain hedgerows without permission from the local authority.

Local planning authority permission is required before removing hedges that are at least 20 metres (66 feet) in length more than 30 years old and contain certain species of plant. The authority will assess the importance of the hedgerow using criteria set out in the regulations.

The wildlife legislation outlined below is subject to certain provisions. A license from an appropriate authority (e.g. Natural England) may be obtainable to permit activities which might otherwise constitute an offense under these Acts and Regulations, subject to the fulfilment of certain criteria relating to the reasons, methods and resulting effect of the activities proposed.

RELEVANT PROTECTED SPECIES LEGISLATION

Nesting Birds

All wild birds are afforded partial or full protection under Section 1 of the Wildlife and Countryside Act 1981 (as amended). Some rarer species, or those that are vulnerable to disturbance or persecution, are protected by special penalties. These species are listed on Schedule 1 of the Act. Under the Act it is an offense to intention-ally or recklessly:

→ kill, injure or take a wild bird;

- take, damage, destroy or interfere with a nest of any wild bird whilst it is in use or being built (or at any time for a nest habitually used by white-tailed eagle);
- obstruct or prevent any wild bird from using its nest;
- take or destroy an egg of any wild bird;
- disturb any wild bird listed on Schedule 1 whilst it is building a nest or is in, on, or near a nest containing eggs or young, or whilst lekking;
- disturb the dependent young of any wild bird listed on Schedule 1; and to
- harass any wild white-tailed eagle.

It is also an offence to possess or control a live or dead wild bird, an egg of a wild bird (or any such derivatives), or to knowingly cause or

Invasive weeds

Schedule 9 of the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) makes it an offence to plant or otherwise cause species such as Japanese knotweed *Fallopia japonica* and Himalayan balsam *Impatiens glandulifera* to grow in the wild.

PLANNING POLICY

National Planning Policy

National Planning Policy Framework (NPPF) 2012

The NPPF sets out, amongst other points, how at an overview level the 'planning system should contribute to and enhance the national and local environment by:

- ...recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures...

The NPPF states that this should be achieved through local planning development frameworks and gives recommendations for criteria based policies which recognise the hierarchy of designated sites which range from internationally important habitat, to sites of importance at a local level and ensure that protection is 'commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'

A list of principles which local planning authorities should follow when determining planning applications is included in the NPPF which includes the following:

- '- if significant harm resulting from a development cannot be avoided...adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- ...opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland...unless the need for, and benefits of, the development in that location clearly outweighs the loss...'

In addition, the ODPM circular 06/2005 remains current; this states that 'The presence of a protected species is a material consideration when a planning authority is considering a development proposal'. The circular advises that local authorities should consult Natural England before granting planning permission if the proposals could adversely affect a protected species.'

Local Nature Reserves (LNRs)

Under the National Parks and Access to the Countryside Act 1949 (Ref 13) LNRs may be declared by local authorities after consultation with the relevant statutory nature conservation agency. LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature.

Local Wildlife Sites

Local authorities for any given area may designate certain areas as being of local conservation interest. The criteria for inclusion, and the level of protection provided, if any, may vary between areas. Most individual counties have a similar scheme, although they do vary.

These sites, which may be given various titles such as 'Listed Wildlife Sites' (LWS), 'Local Nature Conservation Sites' (LNCS), 'Sites of Importance for Nature Conservation' (SINCs), or Sites of Nature Conservation Importance' (SNCIs), together with statutory designations, are defined in local and structure plans under the Town and Country Planning system and are a material consideration when planning applications are being determined.

GUIDANCE

UK Post 2012 Biodiversity Framework (2012)

The UK Post-2010 Biodiversity Framework 2012 succeeded the UK Biodiversity Action Plan (UKBAP), which was first produced in 1994. The Framework sets priorities for the conservation of habitats and species in the UK and includes habitat action plans (HAPs) and species action plans (SAPs), many of which are for habitats and species that are rare, declining or under threat. Published on 17 July 2012, the 'UK Post-2010 Biodiversity Framework'² covers the period from 2011 to 2020. This now supersedes the UK Biodiversity Action Plan³. However, many of the tools developed under the UK BAP remain of use, for example, background information about the lists of priority habitats and species. The lists of priority species and habitats agreed under UK BAP still form the basis of much biodiversity work within the countries.

Although the UK Post-2010 Biodiversity Framework does not confer any statutory legal protection, in practice, many of the species listed already receive statutory legal protection under UK and/or European legislation. In addition, the majority of the Priority national (English) BAP habitats and species are now listed as Habitats and Species of Principal Importance in England (listed under Section 41 of the NERC Act 2006). For the purpose of this report, habitats and species listed under section 41 of the NERC Act are referred to as having superseded the UK BAP. All public bodies have a legal obligation or 'biodiversity duty' under Section 40 of the NERC Act 2006 to conserve biodiversity by having particular regard to those species and habitats listed under Section 41.

EC Directive Conservation of Natural Habitats & Flora (92/43/EEC)

The Conservation of Habitat and Species Regulations 2010 (as amended) are the British response to the Habitats & Species Directive 1992 issued by the European Community (EC). They offer protection to a number of plant and animal species throughout the EC via the designation of Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). In the United Kingdom these regulations are implemented through the Wildlife and Countryside Act 1981 (as amended).

² JNCC and DEFRA (on behalf of the Four Countries' Biodiversity Group). 2012. UK Post-Biodiversity Framework. July 2012. Available on-line from <http://jncc.defra.gov.uk/page-6189>

³ HMSO (1994). The UK Biodiversity Action Plan.

The Regulations for the protection of European Protected Species (EPS) have been amended and consolidated with key changes including the removal of most of the defences from Regulation 40 and Regulation 43 including the removal of the 'incidental result of an otherwise lawful operation' defence, and the increase in the threshold for the offence of deliberately disturbing a EPS. Proposals that will affect European protected species may require a licence from Natural England to allow an otherwise unlawful act. In the 2009 a new offence of 'breaching condition of an EPS licence' was added to the regulations. The licensing process is separate from and planning process. European protected species include all species of bats, great crested newt *Triturus cristatus*, dormouse *Muscardinus avellanarius*, and European otter *Lutra lutra*, amongst others.