

APPENDIX 8.6A

BREEDING BIRD SURVEY



Breeding Bird Survey Report

**Radwinter Road
Saffron Walden
Harris Lamb Ltd.**

FE-019-200-024-400-R-01-V1

October 2021



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1 Executive Summary

Introduction

FALCO Ecology Ltd. was commissioned by Harris Lamb Property Consultant (HLPC) to undertake a suite of breeding bird surveys on the land south of Radwinter Road, Saffron Walden.

The purpose of the surveys was to determine the number of territories within the Site and how birds use the Site. Details of the breeding bird survey (BBS) and subsequent assessment are included within this report.

The surrounding area of the Site was predominantly arable and pasture farmland with woodland blocks. Residential dwellings were present to the west which formed Saffron Walden.

It is proposed to develop the Site into residential dwellings.

Methodology

A desktop study included a data search from web resources which included the Government's Multi-Agency Geographic Information for the Countryside or 'MAGIC' website and Google Earth Pro.

A three-visit breeding bird survey was undertaken within the indicative site boundary. The territory mapping methodology was based on a reduced survey effort of the Common Bird Census. The surveys were carried out during the mid-June to mid-July 2021 period, which was within the core breeding bird season of April to July, inclusive. Birds heard and seen outside the survey area were recorded to an approximate distance of 100m; therefore, accurate territory counts outside the Site were not obtained.

The direction of travel of the BBS route was reversed on each visit to prevent temporal bias. The survey route followed the site boundary and along hedgerows within the Site.

All survey visits were undertaken by a suitably experienced ornithological surveyor.

The survey started in mid-June and therefore, it is plausible that early breeding species such as Mistle Thrush may have been under recorded. However, given the arable nature of the Site, it is unlikely that many early breeding species that would be impacted by the proposed development would be present within the survey area.

Results

The Site did not lie within a statutory designated site and there were no statutory designated sites within 2km of the Site.

A total of 31 species were recorded during the 2021 survey, of which 18 species were considered to be holding territory and potentially breeding within the Site. Species of conservation concern (Key Breeding Species) that were recorded holding territory and potentially breeding within the Site included Skylark (4 territories), Song Thrush (1 territory), Dunnock (1 territory) and Yellowhammer (2 territories).

Overall the Site has a low variety of urban and farmland species including those which are considered as UK Red Listed on the BOCC and are therefore of high conservation concern.

Evaluation

Assessment

Priority farmland bird species, such as Skylark, Dunnock, Song Thrush, Linnet, House Sparrow and Yellowhammer were recorded breeding in low numbers within the Site and wider survey area. The Site is considered to be of **low** value to farmland birds.

Impact

To minimise the potential loss of nests of ground-nesting species, it is recommended that clearance of ground vegetation, including arable crops, set aside or tall ruderal vegetation, is undertaken outside the breeding season.



There is the potential for disturbance to nesting birds during the construction phase. Given the scale of the development, it is likely that some construction works will occur within the breeding season (approximately March to August) and may cause a temporary disturbance to nesting birds, this is considered to be **negligible** and not significant.

Required Actions

Vegetation clearance should be undertaken outside of the bird breeding season (April to July inclusive). Breeding can occur in some of the farmland and hedgerow nesting species present in the survey area earlier and later than the above date range, therefore all vegetation removal should take place between September and February. If vegetation removal occurs between March and August an ornithologist or Ecological Clerk of Works (ECoW) should be present to survey for any breeding activity.



2 Introduction

2.1 Background

- 2.1.1 FALCO Ecology Ltd. was commissioned by Harris Lamb Property Consultant (HLPC) to undertake a suite of breeding bird surveys on the land south of Radwinter Road, Saffron Walden (hereon referred to as the "Site").
- 2.1.2 The purpose of the surveys was to determine the number of territories within the Site and how birds use the Site. Details of the breeding bird survey (BBS) and subsequent assessment are included within this report.
- 2.1.3 This report was written by Andrew Walker, Associate Principal Ornithologist with FALCO Ecology Ltd and reviewed by Adrian George, Director of FALCO Ecology Ltd. Adrian is a full member of the Chartered Institute of Ecology and Environmental Management and both have over 15 years experience in the ecology sector.
- 2.1.4 All bird species detailed within this report follow the sequence and taxonomy recommended by the British Ornithologists' Union (BOU) (2021). Bird names used differ from those recommended by the BOU in that they follow the British (English) vernacular names in common usage by birders and ornithologists in the UK. These vernacular names are detailed in BOU (2021) and their conservation status are shown in Appendix 2.

2.2 Site Description and Locality

- 2.2.1 The address of the Site was land south off Radwinter Road, Saffron Walden, CB10 2NR. The central Ordnance Survey grid reference for the Site was TL 55786 38187 and the Site was ~75m rising to ~115m above sea level. The indicative site boundary and habitats within the Site, from 2021, are shown in Figure 1 (page 4).
- 2.2.2 The surrounding area of the Site was predominantly arable and pasture farmland with woodland blocks. Residential dwellings were present to the west which formed Saffron Walden. The wider surrounding area and habitats are shown in Figure 2 (page 4).

2.3 Development Proposals

- 2.3.1 It is proposed to develop the Site into residential dwellings.
- 2.3.2 The unmitigated proposed development has the potential to destroy active nests and remove important breeding and foraging habitat for birds.



Figure 1: Indicative site boundary.

© Google Earth. Imagery Date: 22/04/2021.



Figure 2: Surrounding habitats.

© Google Earth. Imagery Date: 22/04/2021.



2.4 Survey and Reporting Objectives

- 2.4.1 A desk study and a series of breeding bird surveys were carried out between June and June 2021 to provide the basis on which to assess the potential for effects to bird species during the construction and operation of the Development.

2.5 Legislation

- 2.5.1 Active bird nests are fully protected from deliberate and reckless destruction under the Wildlife & Countryside Act 1981 (as amended) (hereon referred to as 'WCA'). This is the principal mechanism for the legislative protection of wildlife in the UK. This legislation is the chief means by which the 'Bern Convention' and the Birds Directive are implemented in the UK. Since it was first introduced, the Act has been amended several times. In short, the WCA makes it an offence to:
- Intentionally kill, injure or take any wild bird;
 - intentionally take, damage or destroy the nest of any wild bird while it is in use or being built;
 - intentionally take or destroy the egg of any wild bird; and
 - intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.
- 2.5.2 If convicted of an offence under the WCA then a penalty may be imposed with an unlimited fine and/or up to six months imprisonment per offence.
- 2.5.3 Further legislation related to birds are shown in Appendix 3.



3 Methodology

3.1 Desktop Study

Data Search

3.1.1 A data search from following web recourses was used:

- The Government's Multi-Agency Geographic Information for the Countryside or 'MAGIC' website, which provides details of statutory sites designated for their ecological interest; and
- Google Earth Pro was utilised to assess the habitats surrounding the Site for their suitability to support foraging and nesting birds.

3.2 Field Surveys

3.2.1 A three-visit breeding bird survey (hereon referred to as the "survey") was undertaken within the indicative site boundary and ~100m buffer (hereon referred to as the "survey area"). The territory mapping methodology was based on a reduced survey effort of the Common Bird Census (CBC) as described in both Gilbert et al. (1998) and Bibby et al. (2000). The surveys were carried out during the mid-June to mid-July 2021 period, which was within the core breeding bird season of April to July, inclusive. Birds heard and seen outside of the survey area were recorded to an approximate distance of 100m; therefore, accurate territory counts outside of the Site were not obtained.

3.2.2 The direction of travel of the BBS route was reversed on each visit to prevent temporal bias. The survey route followed the indicative site boundary.

3.2.3 Equipment used during the surveys included Opticron 10x42 DBA binoculars.

3.2.4 The dates, survey times, weather conditions and surveyor details of each survey visit are detailed in Table 1. Wind speed is recorded as per the standard Beaufort scale and cloud cover in aviation oktas scale. The field surveys were undertaken by James Hanlon.

Table 1: Breeding bird survey dates, times, weather details.

Visit	Date	Time (hours)	Visibility	Wind direction	Wind speed	Rain	Cloud	Temp.
1	24.06.21	07:45-10:15	Good	N/A	0	Nil	3-6/8	18°C
2	09.07.21	08:00-10:30	Good	N	1	Nil	Cloudy start then sunny spells	17°C > 19°C
3	16.07.21	07:30-09:55	Good	NE	2-3	Nil	2/8	18°C > 20°C



3.3 Surveyor's Experience

James Hanlon

- 3.3.1 James has been an active birder for more than 35 years, who undertakes local bird recording on a near daily basis. James has undertaken a range of bird surveys for several ecological consultancies over the last seven years using various survey methodologies, including BBS/CBC, vantage points, winter bird surveys and species-specific surveys. He also undertakes nocturnal sound recording of migrant birds.

3.4 Limitations

- 3.4.1 The survey started in mid-June and therefore, it is plausible that early breeding species such as Mistle Thrush may have been under recorded. However, given the arable nature of the Site, it is unlikely that many early breeding species would be present within the survey area.
- 3.4.2 The details within this report will remain valid for a period of 12 months. Beyond this period, it is recommended that an updated breeding bird survey is carried out.



4 Results

4.1 Desktop Study

Data Search

Statutory Designated Sites

- 4.1.1 The Site did not lie within a statutory designated site and there were no statutory designated sites within 2km of the Site.

4.2 Field Survey

- 4.2.1 A total of 31 species were recorded during the 2021 survey, of which 18 species were considered to be holding territory and potentially breeding within the Site. Table 2 (page 9) provides details of all species that were recorded during the surveys, including the number of pairs and their conservation status of each species. For species that are of conservation concern, thus one or more of the following criteria – Annex 1, Schedule 1, UK Red & Amber List are considered within this report as a Key Breeding Species. Further breeding status and descriptions on these species are included within this section. Figure 3 (Appendix 1) shows the approximate central location of the territories for Key Breeding Species.
- 4.2.2 Overall the Site had a low variety of urban and farmland species including those which are considered as UK Red Listed on the BOCC and are therefore of high conservation concern.

**Table 2: Breeding bird population within the Site and additional survey area.**

Species	Number of territories on Site	Estimated number of territories within survey area	Annex 1	Schedule 1	UK Red List	UK Amber List	Sect.41	Notes
Mallard	0	0				✓		See Key Breeding Species account.
Stock Dove	0	(1)				✓		See Key Breeding Species account.
Woodpigeon	Common	Common						Common within the Site and wider survey area. Breeding was not confirmed but highly likely in this nationally and locally abundant species.
Collared Dove	0	3						Several individuals and pairs recorded in east of survey area. Breeding was not confirmed but likely in this nationally common species.
Red Kite	0	0	✓	✓		✓		See Key Breeding Species account.
Buzzard	0	(1)						Individuals were recorded flying around the Site and survey area. Breeding was not confirmed but probable in this increasingly common species.
Kestrel	(1)	(1)				✓		See Key Breeding Species account.
Magpie	Common	Common						Present within the survey area although breeding was not confirmed, but likely in this nationally abundant species.
Jackdaw	Uncommon	Uncommon						Present within the survey area in low numbers although breeding was not confirmed, but likely in this common species.
Rook	0	Scarce						Present within the survey area although breeding was not confirmed. No evidence of rookery on site or in survey area.



Species	Number of territories on Site	Estimated number of territories within survey area	Annex 1	Schedule 1	UK Red List	UK Amber List	Sect.41	Notes
Carrion Crow	(2)	Common						Present within the Site and wider survey area although breeding was not confirmed but likely in this nationally and locally common species.
Blue Tit	Scarce	Common						Present in low numbers within the Site and greater numbers within the wider survey area. Breeding was not confirmed but highly likely in this nationally abundant species.
Great Tit	0	Scarce						Not recorded in the Site, present in low numbers within the wider survey area. Breeding was not confirmed but likely in this nationally abundant species.
Skylark	4	6			✓		✓	See Key Breeding Species account.
Long-tailed Tit	0	(1)						Not recorded in the Site, present in low numbers within the wider survey area. Breeding was not confirmed but likely in this common species.
Chiffchaff	(1)	Scarce						Present in low numbers within the Site and greater numbers within the wider survey area. Breeding was not confirmed but highly likely in this common summer migrant species.
Blackcap	(1)	Scarce						This common summer migrant visitor was present in low numbers within the Site and greater numbers within the wider survey area. Breeding confirmed within the survey area (juvenile birds recorded) and likely bred within the Site.
Lesser Whitethroat	(1)	(2)						Present in low numbers within the Site and wider survey area. Breeding was not confirmed but likely in this highly secretive summer migrant species.
Whitethroat	(1)	Scarce						Present in low numbers within the Site and greater numbers within the wider survey area. Breeding confirmed within the



Species	Number of territories on Site	Estimated number of territories within survey area	Annex 1	Schedule 1	UK Red List	UK Amber List	Sect.41	Notes
								survey area (juvenile birds recorded) in this common summer migrant visitor.
Wren	(1)	Common						Present in low numbers within the Site and greater numbers within the wider survey area. Breeding was not confirmed but highly likely in this nationally abundant species.
Starling	0	1			✓		✓	See Key Breeding Species account.
Blackbird	0	Uncommon						Several territories held in suitable breeding habitat although breeding was not confirmed.
Song Thrush	1	2			✓		✓	See Key Breeding Species account.
Robin	Uncommon	Uncommon						Several territories of this nationally common species held in suitable breeding habitat. Breeding confirmed (juvenile bird recorded).
House Sparrow	0	2			✓		✓	See Key Breeding Species account.
Dunnock	1	4				✓	✓	See Key Breeding Species account.
Chaffinch	Scarce	Common						Present in low numbers within the Site and greater numbers within the wider survey area. Breeding was not confirmed but highly likely in this nationally abundant species.
Greenfinch	0	Scarce						Not recorded in the Site, present in low numbers within the wider survey area. Breeding was not confirmed but likely in this nationally common, but declining species.
Linnet	0	2			✓		✓	See Key Breeding Species account.



Species	Number of territories on Site	Estimated number of territories within survey area	Annex 1	Schedule 1	UK Red List	UK Amber List	Sect.41	Notes
Goldfinch	1	Common						Present in low numbers within the Site and greater numbers within the wider survey area. Breeding was not confirmed but highly likely in this nationally abundant species.
Yellowhammer	1	2			✓		✓	See Key Breeding Species account.

Notes on Table 1

Annex 1 = Birds listed under the EU Birds Directive

Schedule 1 = Species listed on Schedule 1 of the Wildlife & Countryside Act (1981) as amended

UK Red = UK Red List Species of Conservation Concern (Eaton et al. 2015)

UK Amber = UK Amber List Species of Conservation Concern (Eaton et al. 2015)

Sect. 41 = Priority species listed on the 2006 Natural Environment and Rural Communities (NERC) Act

() = Bracketed number indicates number of plausible territories.

Scarce = 1-3 territory, Uncommon = 4-10 territories, Common = >10 territories



Key Breeding Species Accounts

Mallard – UK Amber List

- 4.2.3 This nationally and locally common species was not considered to be holding territory within the survey area. The only record during the breeding bird survey was of a female bird in flight along the southern Site boundary. It is probably birds might have bred in the local area outside the survey area.

Stock Dove – UK Amber List

- 4.2.4 This nationally and locally common species was not considered to be holding territory within the survey area. The only record during the breeding bird survey was of birds in flight along the southern Site boundary. It is probably birds might have bred in the local area outside the survey area.

Red Kite – Annex 1, Sch. 1

- 4.2.5 Individuals were recorded within the Site and wider survey area during the July 2021 breeding bird surveys (both of them). It is considered likely that these birds were not breeding in the survey area given the habitats present. Given the time of the year of the sightings, they are considered likely to have been foraging in the area or on passage.

Kestrel – UK Amber List

- 4.2.6 Individuals were recorded along the eastern boundary of the Site and within the survey area to the north of the site. It is considered likely that these birds were not breeding in the Site, but may have bred in the local area just outside the survey area. It is likely this species uses the Site and surrounds as a foraging area.

Skylark – UK Red List, UK BAP, Sect. 41, Essex LBAP

- 4.2.7 Six pairs were considered to be holding territory within suitable arable habitat within the survey area, of these, four territories were within the Site. Post-breeding flocks (<20 birds) were found to also be utilising the survey area later in the breeding season suggesting birds from the wider area were using the survey area and Site for foraging, likely as they move around the general landscape which is a patchwork of suitable arable foraging habitat.

Starling – UK Red List, UK BAP, Sect. 41

- 4.2.8 One pair considered likely to be holding territory in the west of the survey area outside the Site. Only recorded in flight over the Site but likely birds will use the site for foraging at times when conditions allow.

Song Thrush – UK Red List, UK BAP, Sect. 41, Essex LBAP

- 4.2.9 Two pairs considered to be holding territory within the survey area with one of those pairs along the western Site boundary, the second pair further west in areas of suitable dense vegetation.



House Sparrow – UK Red List, UK BAP, Sect. 41

- 4.2.10 Two pairs considered to be holding territory within the survey area, both outside the Site and to the west in buildings. It is likely that birds will use the site for foraging when conditions are suitable.

Dunnock – UK Amber List, UK BAP, Sect. 41

- 4.2.11 Four pairs considered to be holding territory within the survey area, one of these pairs within the site in hedgerow habitat. The three other pairs were all to the northwest of the site in areas of scrub and gardens.

Linnet – UK Red List, UK BAP, Sect. 41

- 4.2.12 Two pairs considered to be holding territory within the survey area in areas of scrub/gardens to the northwest of the survey area. A pair were recorded within the Site during the June 2021 survey, but considered to be foraging.

Yellowhammer – UK Red List, UK BAP, Sect. 41

- 4.2.13 Two pairs considered to be holding territory within hedgerows along the eastern/south-eastern Site boundary.



5 Assessment

5.1 Evaluation

Breeding Birds

- 5.1.1 Priority farmland bird species, such as skylark, dunnoek, song thrush, linnet, house sparrow and yellowhammer were recorded breeding in low numbers within the Site and wider survey area. The Site is considered to be of **low** value to farmland birds.

5.2 Impact

Breeding Birds

- 5.2.1 To minimise the potential loss of nests of ground-nesting species, it is recommended that clearance of ground vegetation, including arable crops, set aside or tall ruderal vegetation, is undertaken outside the breeding season.
- 5.2.2 There is the potential for disturbance to nesting birds during the construction phase. Given the scale of the development, it is likely that some construction works will occur within the breeding season (approximately March to August) and may cause a temporary disturbance to nesting birds, this is considered to be **negligible** and not significant.



6 Required Actions

- 6.1.1 Vegetation clearance should be undertaken outside of the bird breeding season (April to July inclusive). Breeding can occur in some of the farmland and hedgerow nesting species present in the survey area earlier and later than the above date range, therefore all vegetation removal should take place between September and February. If vegetation removal occurs between March and August an ornithologist or Ecological Clerk of Works (ECoW) should be present to survey for any breeding activity. It should be noted that some common birds present in the survey area, such as corvids (Rook, Carrion Crow, Jackdaw and Magpie), Woodpigeon, and Collared Doves along with other species such as Blackbird, Robin, and Song Thrush may nest very early in the year. If evidence of breeding is found during vegetation removal outside the main breeding season work should stop and an ornithologist should visit the site to advise.



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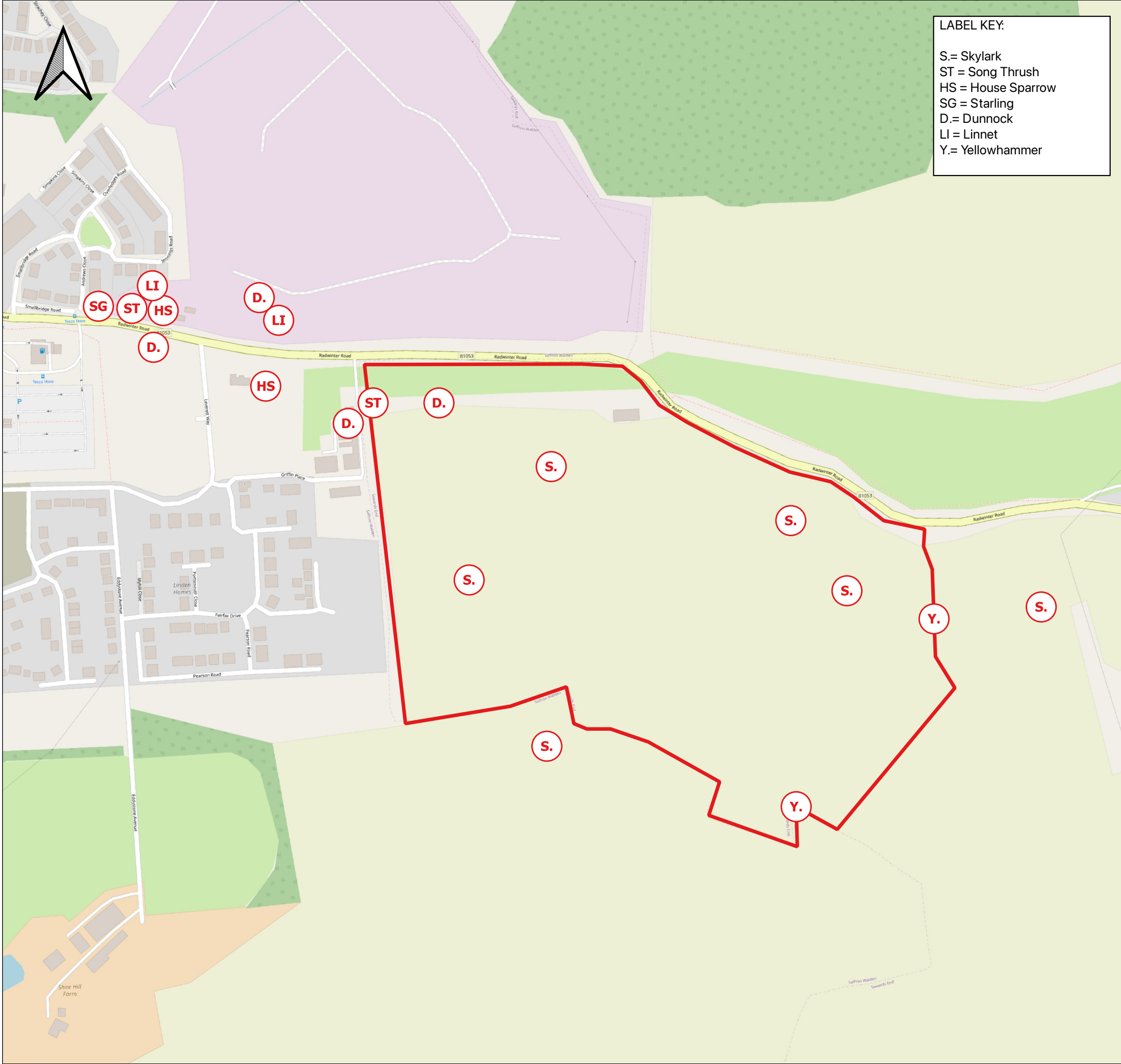
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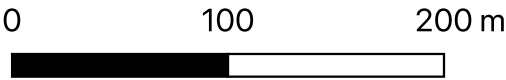
Appendix 1 – Figures



LEGEND

- Key species
- Indicative site boundary

OpenStreetMap



REV.	Details	DRA	CHD	APP	DATE
RO	Final	AJG	AJG	AJG	11.10.21
R1					

Client	Harris Lamb Property Consultant
Project	Radwinter Road
Title	Approximate Central Location of Territories for Key Breeding Species
Figure Number	3
Scale	1:3,500 @A3
Document Reference	FE-019-200-024-500-D-01



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Appendix 2 – Vernacular English Bird Names, International Bird Names & Scientific Bird Names.



British (English) vernacular name 2021	IOC International English name BOU (2021) when different to vernacular	Scientific name 2021
Mallard		<i>Anas platyrhynchos</i>
Stock Dove		<i>Columba oenas</i>
Woodpigeon	Common Wood Pigeon	<i>Columba palumbus</i>
Collared Dove	Eurasian Collared Dove	<i>Streptopelia decaocto</i>
Red Kite		<i>Milvus milvus</i>
Buzzard	Common Buzzard	<i>Buteo buteo</i>
Kestrel	Common Kestrel	<i>Falco tinnunculus</i>
Magpie	Eurasian Magpie	<i>Pica pica</i>
Jackdaw	Western Jackdaw	<i>Corvus monedula</i>
Rook		<i>Corvus frugilegus</i>
Carrion Crow		<i>Corvus corone</i>
Blue Tit	Eurasian Blue Tit	<i>Cyanistes caeruleus</i>
Great Tit		<i>Parus major</i>
Skylark	Eurasian Skylark	<i>Alauda arvensis</i>
Long-tailed Tit		<i>Aegithalos caudatus</i>
Chiffchaff	Common Chiffchaff	<i>Phylloscopus collybita</i>
Blackcap	Eurasian Blackcap	<i>Sylvia atricapilla</i>
Lesser Whitethroat		<i>Curruca curruca</i>
Whitethroat	Common Whitethroat	<i>Curruca communis</i>
Wren	Eurasian Wren	<i>Troglodytes troglodytes</i>
Starling	Common Starling	<i>Sturnus vulgaris</i>
Blackbird	Common Blackbird	<i>Turdus merula</i>
Song Thrush		<i>Turdus philomelos</i>
Robin	European Robin	<i>Erithacus rubecula</i>
House Sparrow		<i>Passer domesticus</i>
Dunnock		<i>Prunella modularis</i>
Chaffinch	Common Chaffinch	<i>Fringilla coelebs</i>
Greenfinch	European Greenfinch	<i>Chloris chloris harrisoni</i>
Linnet	Common Linnet	<i>Linaria cannabina</i>
Goldfinch	European Goldfinch	<i>Carduelis carduelis</i>
Yellowhammer		<i>Emberiza citrinella</i>



Appendix 3 – Environmental Legislation & Convention Relating to Birds



Introduction

The UK has ratified several Conventions and implemented legislation pertaining to the protection of birds, either independently or as member state of the European Union. These are defined and summarised below.

Lists of threatened, endangered and extinct species are also provided, together with a summary explanation of each.

Bern Convention (1982)

The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) was adopted in Bern, Switzerland in 1979, and was ratified in 1982. Its aims are to protect wild plants and animals and their habitats listed in Appendices 1 and 2 of the Convention and regulate the exploitation of species listed in Appendix 3. The regulation imposes legal obligations on participating countries to protect more than 1000 animals.

To meet its obligations imposed by the Convention, the European Community adopted the EC Birds Directive (1979) and the EC Habitats Directive (1992 – see below). Since the Lisbon Treaty, in force since 1st December 2009, European legislation has been adopted by the European Union.

Bonn Convention

The Convention on the Conservation of Migratory Species of Wild Animals or 'Bonn Convention' was adopted in Bonn, Germany in 1979 and came into force in 1985. Participating states agree to work together to preserve migratory species and their habitats by providing strict protection to species listed in Appendix I of the Convention. It also establishes agreements for the conservation and management of migratory species listed in Appendix II.

In the UK, the requirements of the convention are implemented via the Wildlife & Countryside Act 1981 (as amended), Wildlife (Northern Ireland) Order 1985, Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 and the Countryside and Rights of Way Act 2000 (CROW)

The UK has currently ratified four legally binding Agreements under the Convention, one of which is the African-Eurasian Migratory Waterbird Agreement (AEWA) and Agreement on the Conservation of Albatrosses and Petrels (ACAP).

The UK has ratified the Conservation of Migratory Birds of Prey in Africa and Eurasia and the Memorandum of Understanding on the Aquatic Warbler.

National Planning Policy Framework (2021)

Following the publication of the first revision of the National Planning Policy Framework (NPPF) in March 2012, Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation (2005) has been withdrawn. However, ODPM 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System (the guidance document that accompanied PPS9) has not been withdrawn and, where more detailed guidance is required than is given within the NPPF, local planning authorities will continue to rely on ODPM 06/2005. The NPPF has been revised and was published in July 2021.

The natural environment is covered within the NPPF 2021 in Chapter 15, paragraphs 174-188.

The purpose of the NPPF is to conserve and enhance the natural environment including:



- *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*

To protect and enhance biodiversity and geodiversity, plans should:

- *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*
- *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.*

This guidance requires local planning authorities (planning policies and planning decisions) to take account of the conservation of protected species when determining planning applications and makes the presence of a protected species a material consideration when assessing a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Furthermore, the NPPF 2021 still includes the requirement for developments to *improve biodiversity* including ecological *net gain*. In the case of birds, planning policy emphasises that strict statutory provisions apply (including the Conservation of Habitats and Species (Amendment) Regulations 2012), to which a planning authority must have due regard.

Where developments requiring planning permission are likely to impact upon protected species it is necessary that protected species surveys are undertaken and submitted to meet the requirements of paragraph 98 of ODPM Circular 06/2005 which states that:

'The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat.'

Potential Special Protected Areas, possible Special Areas of Conservation, listed or proposed Ramsar site should be given the same protection as fully designated sites.

Species of Principal Importance in England

Section 41 (S41) of this Act requires the Secretary of State to publish a list (in consultation with Natural England) 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 such as public bodies including local and regional authorities, in implementing their duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, to have regard to the conservation of biodiversity in England, when carrying out their normal (e.g. planning) functions.

The S41 list includes 49 bird species which are primarily designated as UKBAP species.

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

The Conservation of Habitats and Species (Amendment) (EU exit) Regulations 2019 came into force on 1st February 2020 and ensures that the species and habitat protection and standards derived from EU law will continue to apply during the Brexit transitional period. No alterations have been made within the amendment from the Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose Council Directive 92/43/EEC, on the



conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales.

Regulations place a duty on the Secretary of State to propose a list of sites which are important for either habitats or species (listed in Annexes I or II of the Habitats Directive respectively) to the European Commission. These sites, if ratified by the European Commission, are then designated as Special Protection Areas (SPAs) within six years. The 2012 amendments include that public bodies help preserve, maintain and re-establish habitats for wild birds.

Schedule 2 of the 2019 Regulations do not include any avian species.

Wildlife & Countryside Act 1981 (as amended)

Active bird nests are fully protected from deliberate and reckless destruction under the Wildlife & Countryside Act 1981 (as amended) (WCA). This is the principal mechanism for the legislative protection of wildlife in the UK. This legislation is the chief means by which the 'Bern Convention' and the Birds Directive are implemented in the UK. Since it was first introduced, the Act has been amended several times. In short, the WCA makes it an offence to:

- Intentionally kill, injure or take any wild bird;
- intentionally take, damage or destroy the nest of any wild bird while it is in use or being built;
- intentionally take or destroy the egg of any wild bird; and
- intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

If convicted of an offence under the WCA then a penalty may be imposed with an unlimited fine and/or up to six months imprisonment per offence.