

Coltsdene Solar Farm
Large Mammal Report

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Client	Renewable Energy Systems Limited
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Reviewed	Claire Dewson	Associate Director	31 July 2025
Approved for issue to client	Claire Dewson	Associate Director	01 August 2025
Issued to client	Jennifer Peacock	Assistant Ecologist	01 August 2025

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1 Introduction

Background to commission

- 1.1 In March 2025, Renewable Energy Systems Ltd. (RES) commissioned BSG Ecology to undertake various mammal surveys. These include badger *Meles meles*, otter *Lutra lutra* and water vole *Arvicola amphibius*, including habitat suitability assessment within a 30 m buffer of the Site for badgers. Additionally, habitat suitability surveys of the network of agricultural ditches, watercourses and ponds identified during the preliminary ecological appraisal undertaken in October 2024. The land at Kibblesworth is centred on Ordnance Survey (OS) Grid Reference NZ232566 (the 'Site') (Figure 1, Section 1).
- 1.2 The protected species surveys were conducted to support the proposed solar farm planning application, comprising approximately 49.9 MW solar array and associated infrastructure, including access tracks, boundary fencing, inverters and a sub-station (the 'Development'). At the time of writing, detailed plans were not available.
- 1.3 This report provides the results of the surveys only, a full Environmental Statement Chapter will detail the significance of indirect and direct effects and subsequent impacts and mitigation as required.

Site description

- 1.4 Habitats within the Site consist predominantly of arable land with associated margins and boundary hedgerows. Pockets of modified grassland, scrub and woodland are also present. Notably, Coltspool Burn flows in an easterly direction through the north of the Site and Strandy Burn is located offsite to the north, both of which are tributaries of the River Team (a statutory main river).
- 1.5 Habitats adjacent to the Site are dominated by arable and pastoral land with the village of Kibblesworth to the east. Four local wildlife sites (LWS) are present onsite or directly adjacent. Other habitats in the locality include pockets of deciduous woodland, connected through hedgerow networks and riparian corridors, semi-improved grassland and open mosaic habitat on previously developed land to the east.
- 1.6 The Site is located within the Gateshead Greenbelt (Gateshead Local Policy CS19) and the northern extent is sited within the designated Wildlife Corridor (Gateshead Local Policy 37). The Bowes Railway Line LWS runs through the centre of the Site (Gateshead Local Plan 2010-2030). The Site is also located within the Impact Risk Zone (IRZ) for three Sites of Special Scientific Interest (SSSI) (MAGIC accessed December 2024).

Personnel

- 1.7 Senior ecologist Hannah Shone (MCIEEM) an experienced ecologists undertook a number of the surveys. Hannah has eight years' experience undertaking protected species surveys, including field sign surveys and habitat suitability assessments for badger, otter and water vole, for a variety of projects across England.
- 1.8 Ecologist Naomi Eckersley (ACIEEM) also completed some of the survey work and has extensive experience undertaking protected species surveys, including field sign surveys and habitat suitability assessments for badger, otter and water vole, for a variety of projects across England.
- 1.9 Assistant ecologist Jennifer Peacock, a Qualifying member of CIEEM, has experience of assisting on a number of otter and water vole surveys for a variety of projects across the north east of England.

The report has been reviewed by Associate Director Claire Dewson. Claire is an experienced professional ecologist with over 20 years' experience. Her survey and project management experience extends from small scale schemes to large scale infrastructure projects with multiple ecological considerations. She has undertaken badger, otter and water vole surveys and prepared reports for these species and managed and/or contributed to numerous projects over the years where these species have been present.

2 Methods

Desk study

Local ecological records centre

2.1 Information was requested from the Environmental Records Information Centre (ERIC) North East on the following:

- Legally protected plant and animal species and notable species e.g. Species of Principal Importance (SPI);
- Species listed within the Durham Local Biodiversity Action Plan (LBAP); and
- Non-statutory designated sites.

2.2 The data was provided by ERIC on 7th November 2024.

2.3 The buffer area used was 2 km for statutory designated sites, extended to 10 km for international designations and 2 km for non-statutory sites and habitat and species information around the Survey Area boundary. These search distances are based on the nature and scale of potential impacts that could arise from the development.

Online resources

2.4 Publicly available sources of information such as the government's MAGIC website, the Ordnance Survey, and Bing Maps were also consulted.

Field study

Survey Conditions

2.5 A survey for protected species, including badger was carried out as part of the PEA (BSG, 2025) in November 2024, with an additional badger survey undertaken on 22nd April 2025. The otter and water vole surveys were undertaken on the 24th and 25th April 2025 and 9th and 10th July 2025, during dry and sunny weather conditions, with varying cloud cover and wind. Further weather details can be found in Table 1.

2.6 Weather conditions for the week preceding the riparian mammal assessment included no known periods of heavy rainfall. Heavy rainfall can cause high water levels and/or remove field signs indicative of species presence.

Table 1: *Field sign survey weather conditions and surveyors*

Date	Surveyor	Start weather conditions
22 nd April 2025	Hannah Shone Jennifer Peacock	9°C, 2/8 Oktas (cloud cover), 1/12 Beaufort (wind speed) in north-north-east direction, visibility > 2 km, no precipitation or snow on the ground.
24 th April 2025	Naomi Eckersley Jennifer Peacock	10°C, 7/8 Oktas (cloud cover), 1/12 Beaufort (wind speed) in north-north-east direction, visibility > 2 km, no precipitation or snow on the ground.
25 th April 2025	Naomi Eckersley Jennifer Peacock	9°C, 8/8 Oktas (cloud cover), 0-1/12 Beaufort (wind speed) in south-east direction, no precipitation or snow on the ground.

9 th July 2025	Naomi Eckersley	16°C, 5/8 Oktas (cloud cover), 1/12 Beaufort (wind speed) in south-south-east direction, visibility > 2 km, no precipitation or snow on the ground.
10 th July 2025	Naomi Eckersley	18°C, 3/8 Oktas (cloud cover), 1/12 Beaufort (wind speed) in south-east direction, visibility > 2 km, no precipitation or snow on the ground.

2.7 The watercourses, agricultural ditches, ponds and other suitable habitat to be surveyed included Strandy Burn, Coltspool Burn, D1 to D8 (agricultural ditches), P1 and P6 (ponds), as well as the associated habitat (e.g. woodland, reedbed, scrub and grassland). Refer to Figure 2 in Section 4 for their locations.

Badger

2.8 The survey involved walking around the Site and, where possible, adjacent land within 30 m of the Site boundary searching for evidence of badgers (including setts, latrines, paths, snuffle holes, hairs and footprints) within and adjacent to the Site (Harris et al, 1989).

2.9 A single burrow was located throughout the badger survey effort, a camera trap (Figure 3) was deployed twice between 23rd April – 4th May and 12th May – 9th June.

Limitations

2.10 The camera on the identified burrow was deployed in May-June. Ordinarily, to form a complete assessment off sett use, additional seasonal camera deployments would be required. However, due to the small size of the burrow, its partially collapsed nature and lack of latrines in the immediate area, this was not considered proportionate. Pre-construction badger checks will be stipulated within the impact assessment.

Otter

2.11 Otter surveys were conducted under accepted industry survey guidance Natural England (2014). All habitat (e.g. watercourses, agricultural ditches and ponds) with potential to support otter on Site and within a 200 m impact buffer of the proposed Development were taken into consideration (see Figure 2).

2.12 Habitat was assessed for the suitability to support otters, where features beneficial for otter were noted. Beneficial features include presence of water, presence of food source (fish, amphibians, crustaceans) and connectivity to other bodies of water, as well as suitable terrestrial habitat for holt (den) creation and undisturbed couch/resting areas.

2.13 A professional judgement was then made to determine whether the habitat was suitable to support otter and therefore inform the need for further survey.

2.14 Field sign surveys were undertaken on suitable habitat, comprising a systematic search of the habitat for signs (e.g. spraints, prints, otter paths and slides, feeding remains, holts as well as couch/resting areas) and their locations recorded.

Limitations

2.15 Dense vegetation restricted access, where in some cases, not all the suitable habitat was surveyed. However, it was not considered to be a significant limitation as over 75% of the overall habitat was accessible, and therefore surveyed, to collect results that reflect a true representation of the utilisation of the habitat by otter.

2.16 A camera trap was deployed to monitor the potential resting place, however, the survey period (total 14 days) was insufficient to confirm that otter never utilise the resting place. However, the lack of signs in the immediate area throughout the survey effort suggest that the area is utilised by otter on

an infrequent basis only. Additionally, the root system has an open exposed structure, making it largely unsuitable for breeding otter.

Water vole

2.17 In accordance with Strachan et al (2011), all habitat (e.g. watercourses, agricultural ditches and ponds) with potential to support water vole on Site and within a 200 m buffer of the proposed Development was taken into consideration (Figure 1).

2.18 The habitat was assessed for its suitability to support water vole, the assessment was based on a scoring system produced by Harris et al, (1989). The water vole habitat suitability scoring system (1 to 8) was used to give a general indication of the suitability of the habitat for water voles for each agricultural ditch, watercourse and pond. The scoring system consisted of determining the presence of the below suitable features, where a score of ‘1’ was provided if present and ‘0’ is absent:

- Well-developed (>60%) bankside and emergent vegetation to provide cover;
- Permanent open water;
- Year round availability of food sources;
- Presence of berm;
- Suitable refuge areas above extreme water levels;
- Lack of disturbance, e.g. poaching and grazing;
- Step banks suitable for burrowing; and
- Nest building opportunities in vegetation above water level.

2.19 The total score of each habitat was then applied to habitat categories of those detailed in Table 2, where there is a demonstrable positive relationship between the suitability score and the probability of use by water vole (Harris *et al.*, 2009).

Table 2: Habitat scores and suitability categories

Habitat score	Suitability to support water vole
< 3	Unsuitable
3 – 5	Sub-optimal
> 5	Optimal

2.20 In accordance with Dean et al. (2021 two field sign surveys (April to June, July to September) were undertaken on suitable habitat, comprising a systematic search of the habitat for signs (e.g. latrines, feeding stations and burrows), and their locations recorded.

Limitations

2.21 The limitations are the same as those identified for otter.

3 Results and Evaluation

Desk study

Priority habitats

- 3.1 No rivers identified as a priority habitat by Natural England¹ were located on Site or within 2 km. However, there was significant riparian connectivity within the locality. Coltspool Burn (located on Site) provided direct connectivity to the River Team (approximately 0.7 km east), which in turn connected to the River Tyne (approximately 5 km north) and the River Derwent (approximately 5.3 km west). The Rivers Team, Tyne and Derwent are all statutory main rivers.
- 3.2 In addition, several priority habitats were identified within a 2 km search buffer, as well as on Site. Priority habitats included ancient semi-natural woodland, traditional orchards, ancient, replanted woodland, lowland heathland, lowland dry acid grassland, lowland fens and wood pasture and parkland, with deciduous woodland identified on Site.
- 3.3 Priority watercourses and woodland have potential to support foraging, commuting and holt building otter, whilst smaller watercourses have suitability for water vole and woodland has potential for sett building badger.

Protected species

Badger

- 3.4 ERIC NE returned twelve records for badger within 2 km of the Survey Area, due to the sensitivity of the species, locations are not discussed within this report. However, badger appear on the LWS citation for Hagg Wood/Gill & Mitcheson's Gill LWS immediately north of the Survey Area.
- 3.5 A badger walkover was undertaken of the Site and a 30 m buffer. Findings are mapped in Figure 3, and comprise the following:
- Two sets of footprints on arable field margins (Photograph 1)
 - A collapsed burrow located within woodland associated with Bowes Railway LWS within the centre of the Site (Photograph 2).
 - A single latrine located north of the coniferous woodland within the south of the Site (Photograph 3).
- 3.6 Habitats onsite are suitable for commuting and foraging badger. Woodland onsite also has potential for sett building badger. The network of hedgerows, woodland, scrub and riparian corridors provide excellent connectivity onsite and offsite, notably to Hagg Wood/ Gill & Mitcheson's Gill LWS. Additionally, offsite habitats within 30 m of the Survey Area also comprise suitable habitat for badger, notably the woodland.
- 3.7 A burrow was identified during the field work and is illustrated on Figure 3. The burrow was partially collapsed and smaller than usually expected for a badger sett. However, due to the presence of footprints and a latrine in the wider site, a camera trap was installed at the burrow as a precaution. Camera footage did not capture any use of the burrow, however a badger was recorded commuting along the woodland corridor on one occasion.
- 3.8 It was concluded that the Site is likely to be used by commuting/ foraging badger, but no active setts are currently present. Overall, the Site is considered to offer high suitability for badger, and they are considered to utilise the Site for both foraging and commuting. Badger are a mobile species and the Site does present suitable habitat for sett building (notably the wooded slopes adjacent Bowes Railway LWS).

¹ Natural England Priority River Dataset: <https://naturalengland-defra.opendata.arcgis.com/datasets/Defra::priority-river-habitat-rivers-england/explore?location=54.901417%2C-1.647224%2C12.92> (Accessed January 2025)

Otter

- 3.9 ERIC NE returned 63 records of otter *Lutra lutra* within 2 km of the Survey Area. The closest record is 210 m north of the Survey Area at Strandy Burn, dated April 2013. Strandy Burn flows along the northern boundary of the Site. Four records (most recently in 2016) relate to otter sightings on Coltspool Burn which flows through the Survey Area and 41 of the records relate to the River Team which has direct riparian connectivity to the Survey Area.
- 3.10 Strandy Burn (photograph 4), Coltspool Burn (photograph 6) and two ponds (P1 and P6), and the associated habitats both on and off Site (e.g. woodland, reedbeds, scrub) were determined suitable to support otter. They held water and were likely to support a consistent food source, including small fish, invertebrates and amphibians. The associated habitats provided undisturbed areas for holt creation and areas to rest and shelter. Additionally, the two watercourses provided opportunities for otter to move throughout the landscape to find additional food, shelter, territories and mates, connecting to the River Team and eventually the River Tyne, (which has a known otter population).
- 3.11 The agricultural ditches were not suitable to support otter, they were limited in extent, lacked water (except D1 holding very low levels) and therefore a consistent food source, and lacked direct connectivity to more suitable watercourses.
- 3.12 Signs of otter recorded throughout the survey effort were limited to:
 - Two spraints recorded on Coltspool Burn offsite on either side of pond 1, both recorded on 9th April 2025 (Photograph 8). Both spraints were approximately 2 days old at the time of survey.
 - An exposed root system was identified on Coltspool Burn 190 m south of the Site (Figure 1) (Photograph 9). Whilst no signs of otter were recorded in this location, it has potential to provide lay-up opportunities.
- 3.13 No spraint or signs of recent otter presence were recorded during the July 2025 survey visit.
- 3.14 Due to the potential of the exposed root system providing an otter resting site, this was monitored with a camera trap between 4th and 18th June 2025. No otter activity was recorded throughout this period,
- 3.15 Table 3 summarises the habitat suitability information and Table 4 summarises the field survey results while Figure 3 in Section 4 includes the locations of all field signs.

Table 3: *Otter habitat suitability summary*

Habitat ID	Habitat suitability	Reasoning
Strandy Burn	Suitable	<ul style="list-style-type: none"> • Flowing water the majority (if not all) the year. • Likely to provide a food source of; small fish, invertebrates and potentially amphibians in pooled areas. • Good surrounding terrestrial habitat, predominately woodland. • Predominately undisturbed (watercourse and associated wooded habitat). • Good, continued connectivity through landscape. • Connects to River Team, which connects to River Tyne (known populations of otter and food source).
Coltspool Burn	Suitable	<ul style="list-style-type: none"> • Flowing water the majority (if not all) the year. • Likely to provide a food; fish, crustaceans, invertebrates and potentially amphibians in pooled areas. • Good surrounding terrestrial habitat, including scrub and wooded areas. • Predominately undisturbed (watercourse and associated scrub/wooded habitat). • Good, continued connectivity through landscape.

		<ul style="list-style-type: none"> Connects to River Team, in which connects to River Tyne (known populations of otter and food source).
D1	Not suitable	<ul style="list-style-type: none"> Limited in length, not providing continued connectivity through landscape. Although some water present during April survey, unlikely to provide consistent food source (if at all). No connectivity to other suitable habitat.
D2	Sub optimal	<ul style="list-style-type: none"> Limited in length. Dry at the time of survey, likely to hold water following heavy rain events only and therefore not a consistent food source (if at all). Connected to Coltspool Burn, potential for otter to use it to navigate through wooded habitat towards Strandy Burn in the north.
D3	Sub-optimal	<ul style="list-style-type: none"> Dry at the time of survey, likely to hold water following heavy rain events only and therefore not a consistent food source (if at all). Good surrounding terrestrial habitat, including scrub and wooded areas. Predominately undisturbed (watercourse and associated scrub/wooded habitat). Connected to Coltspool Burn, potential for otter to use it for holt creation, resting and/or shelter.
D4	Not suitable	<ul style="list-style-type: none"> Dry at the time of survey, likely to hold water following heavy rain events only and therefore not a consistent food source (if at all). Limited in length, not providing continued connectivity through landscape. No connectivity to other suitable habitat.
D5	Not suitable	<ul style="list-style-type: none"> Dry at the time of survey, likely to hold water following heavy rain events only and therefore not a consistent food source (if at all). Limited in length, not providing continued connectivity through landscape. No connectivity to other suitable habitat.
D6	Not suitable	<ul style="list-style-type: none"> Dry at the time of survey, likely to hold water following heavy rain events only and therefore not a consistent food source (if at all). Limited in length, not providing continued connectivity through landscape. No connectivity to other suitable habitat.
D7	Not suitable	<ul style="list-style-type: none"> Dry at the time of survey, likely to hold water following heavy rain events only and therefore not a consistent food source (if at all). Limited in length, not providing continued connectivity through landscape. No connectivity to other suitable habitat.
D8	Not suitable	<ul style="list-style-type: none"> Dry at the time of survey, likely to hold water following heavy rain events only and therefore not a consistent food source (if at all). Limited in length, not providing continued connectivity through landscape. No connectivity to other suitable habitat.
P1	Not suitable	<ul style="list-style-type: none"> No connectivity to other suitable habitat.
P6	Not suitable	<ul style="list-style-type: none"> No connectivity to other suitable habitat.

Table 4: Otter field sign survey summary

Habitat ID	Field sign (date found)	Location of sign
Strandy Burn	No signs	N/A
Coltspool Burn	Single spraint (09 April 2025)	NZ 24920 57646 (270 m north east)
	Single spraint (09 April 2025)	NZ 24854 57589 (190 m north east)
	Potential resting site (09 April 2025)	NZ 24547 57167 (190 m south)
D1	No signs	N/A
D2	No signs	N/A
D3	No signs	N/A
D4	No signs	N/A
D5	No signs	N/A
D6	No signs	N/A
D7	No signs	N/A
D8	No signs	N/A
P1	No signs	N/A
P6	No signs	N/A

Water vole

- 3.16 A total of four records of water vole within a 2 km search buffer were returned by ERIC NE, the closest being approximately 1 km north of the Site at the River Team (2017), the River Team has a direct riparian connectivity to the Site.
- 3.17 Strandy Burn (photograph 5), Coltspool Burn (photograph 7), ditches 1 – 8, and the associated habitats both on and off Site (e.g. woodland, reedbeds, scrub) were determined suitable to support water vole. The associated habitats provided limited food plants and habitat for burrowing.
- 3.18 No evidence of water vole using waterbodies within the red line boundary or within a 200 m buffer were observed during the surveys. Table 5 summarises the habitat suitability information.

Table 5: Water vole field sign survey summary

ID	Grid reference	WDBV	POA	YRFA	POB	SRA	LOD	SBB	NBO	Score	Suitability category	Comments
Strandy Burn	NZ 23811 57377	✓	✓	✓	X	X	X	X	✓	4	Unsuitable	Running water, some pools present. Some earth banks for burrowing, and some food plants present, but neither consistent throughout river course.
Coltspool Burn	NZ 24195 57010	X	✓	✓	X	X	X	X	X	2	Unsuitable	Running water, some pools present. Some earth banks for burrowing, and some food plants present, but neither consistent throughout river course.
D1	NZ 23394 56484	✓	X	✓	X	X	✓	✓	✓	5	Sub optimal	Predominately dry, a few shallow pools likely to be wet only during heavy rain events to aid fast runoff.
D2	NZ 24524 57471	X	X	✓	X	X	X	X	X	1	Unsuitable	Dry, likely to be wet only during heavy rain events to aid fast runoff.
D3	NZ 23951 57057	✓	X	✓	X	X	X	X	✓	3	Unsuitable	Dry, likely to be wet only during heavy rain events to aid fast runoff.
D4	NZ 24970 56457	X	X	✓	X	X	X	X	X	1	Unsuitable	Dry, likely to be wet only during heavy rain events to aid fast runoff.
D5	NZ 23289 56549	✓	X	✓	X	X	X	X	✓	3	Unsuitable	Dry, likely to be wet only during heavy rain events to aid fast runoff.
D6	NZ 23951 57057	✓	X	✓	X	X	X	X	✓	3	Unsuitable	Dry, likely to be wet only during heavy rain events to aid fast runoff.
D7	NZ 24604 57560	X	X	✓	X	X	X	X	X	1	Unsuitable	Dry, likely to be wet only during heavy rain events to aid fast runoff.

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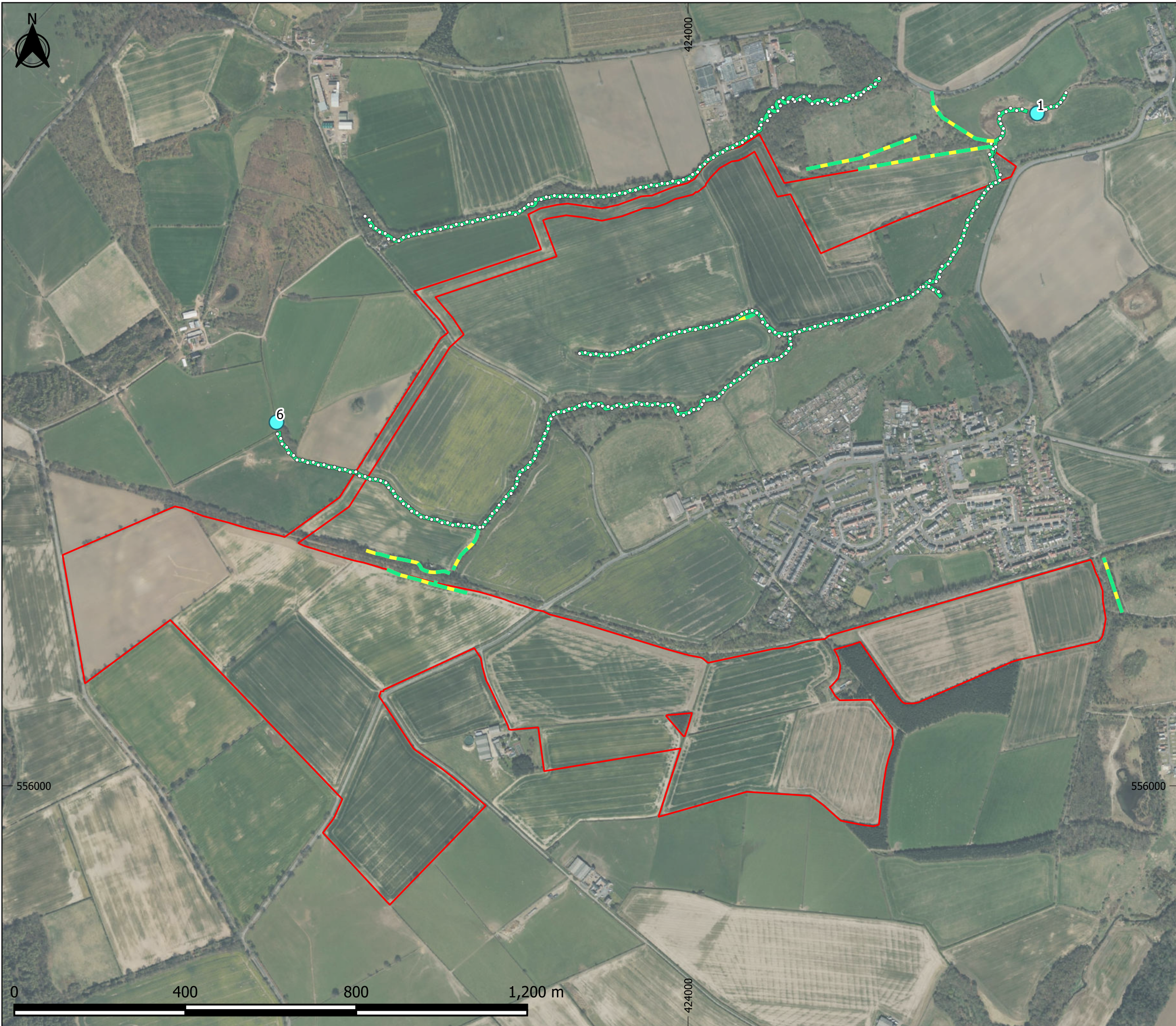
5 Figures

(overleaf)





Figure 1: Site boundary and waterbody locations.

Figure 2: Field sign locations for otter.

Figure 3: Field sign locations for badger.



Legend

-  Pond
-  Ditches
-  Other Rivers and Streams
-  Site boundary



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PROJECT TITLE
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DRAWING TITLE
Figure 1: Site boundary and waterbody
locations

DATE: 28/07/2025	CHECKED: JP	SCALE: 1:8,500
DRAWN: CS	APPROVED: HS	VERSION: 1.0

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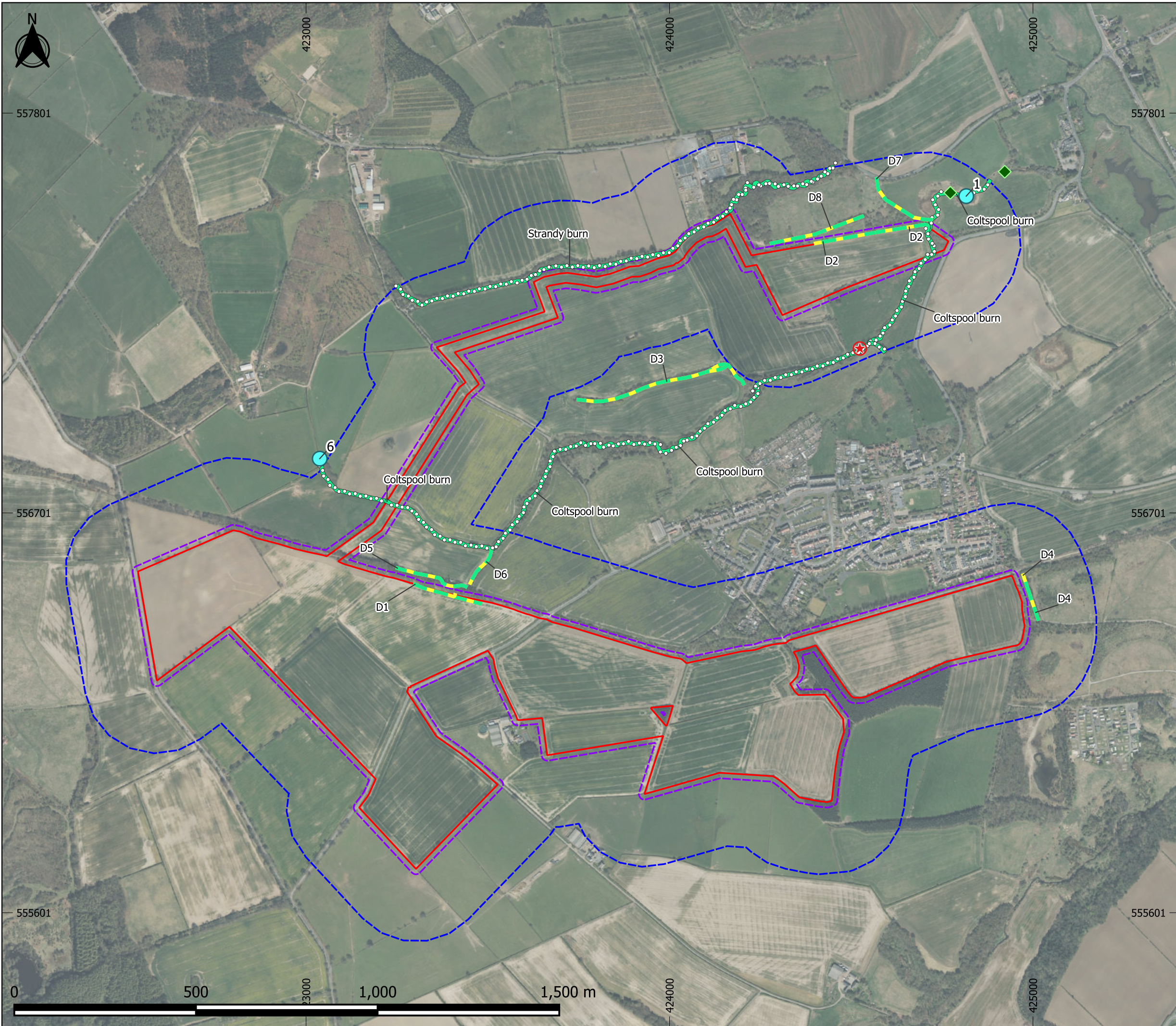
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Sources: BSG Ecology survey data



- Legend
- Site boundary
 - Otter & Water Vole Survey 2025 200 m buffer
 - Otter & Water Vole Survey 2025 15 m buffer
 - Pond
 - Ditches
 - Other Rivers and Streams
 - ★ Otter - Potential Resting site
 - ◆ Otter - Spraint



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PROJECT TITLE
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DRAWING TITLE
Figure 2: Otter and Water Vole Survey 1, Results

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 DRAWN: BH APPROVED: HS VERSION: 1.2

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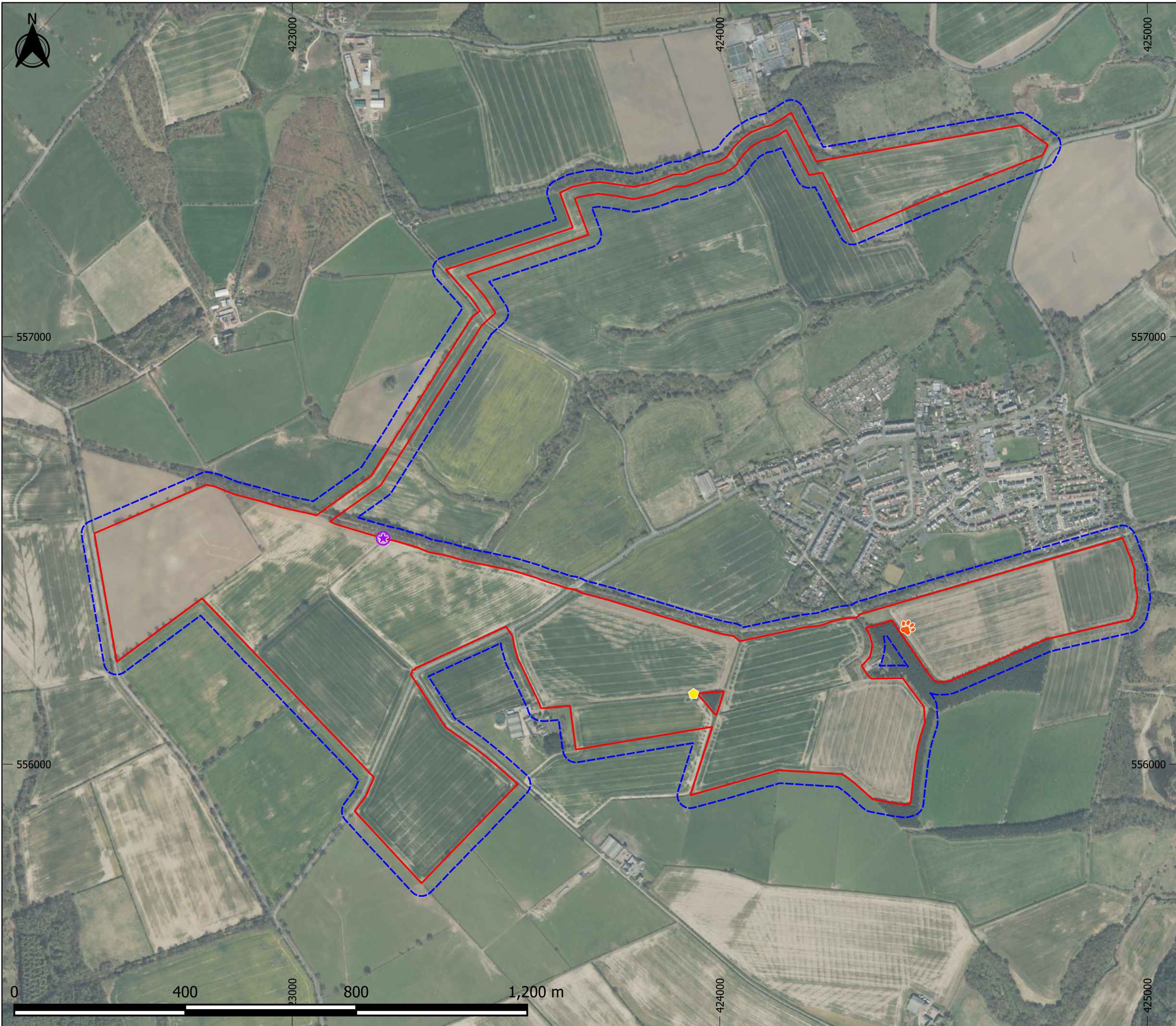
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- Legend
-  Footprint
 -  Latrine
 -  Disused burrow
 -  Survey boundary
 -  Site boundary



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 Figure 3: Badger Survey

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6 Photographs

Photographs	
 <p>A close-up photograph of a muddy surface with several distinct paw prints. Small green plants are growing around the prints.</p>	 <p>A photograph showing a dark, narrow opening in a dense thicket of green plants and dry sticks, likely a potential badger sett.</p>
<p>Photo 1: Badger footprint</p>	<p>Photo 2: Potential badger sett</p>
 <p>A photograph of a dark, circular hole in the ground, surrounded by tall grass and other vegetation, which is a badger latrine.</p>	 <p>A photograph of a narrow, shallow stream or burn flowing through a wooded area with dense vegetation on either bank.</p>
<p>Photo 3: badger latrine</p>	<p>Photo 4: Strandy Burn onsite</p>



Photo 5: Strandy Burn offsite but adjacent within Hagg Wood/ Gill and Mitcheson's Gill LWS



Photo 6: Coltspool Burn onsite



Photo 7: Coltspool Burn offsite within woodland (W5)



Photo 8: Evidence of Otter spraint located at Coltspool Burn.



Photo 9: Exposed root system on Coltspool Burn.

Appendix 1: Relevant Legislation of European protected species (Animals)

The Conservation of Habitats and Species Regulations 2017 (as amended) consolidates various amendments that have been made to the original (1994) Regulations which transposed the EC Habitats Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (Council Directive 92/43/EEC) into national law.

“European protected species” (EPS) of animal are those which are shown on Schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended). They are subject to the provisions of Regulation 43 of those Regulations. All EPS are also protected under the Wildlife and Countryside Act 1981 (as amended). Taken together, these pieces of legislation make it an offence to:

- a. Intentionally or deliberately capture, injure or kill any wild animal included amongst these species
- b. Possess or control any live or dead specimens or any part of, or anything derived from a these species
- c. deliberately or recklessly disturb wild animals of any such species
- d. deliberately take or destroy the eggs of such an animal, or
- e. intentionally, deliberately or recklessly damage or destroy a breeding site or resting place of such an animal, or obstruct access to such a place

For the purposes of paragraph (c), disturbance of animals includes in particular any disturbance which is likely—

- a. to impair their ability—
 - i. to survive, to breed or reproduce, or to rear or nurture their young, or
 - ii. in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
- b. to affect significantly the local distribution or abundance of the species to which they belong.

Although the law provides strict protection to these species, it also allows this protection to be set aside (derogated) through the issuing of licences. The licences in England are currently determined by Natural England (NE) for development works and by Natural Resources Wales in Wales. In accordance with the requirements of the Regulations (2017, as amended), a licence can only be issued where the following requirements are satisfied:

- a. The proposal is necessary ‘to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment’
- b. ‘There is no satisfactory alternative’
- c. The proposals ‘will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.’

Definition of breeding sites and resting places

Guidance for all European Protected Species of animal, including bats and great crested newt, regarding the definition of breeding and of breeding and resting places is provided by The European Council (EC) which has prepared specific guidance in respect of the interpretation of various Articles of the EC Habitats Directive.² Section II.3.4.b) provides definitions and examples of both breeding and resting places at paragraphs 57 and 59 respectively. This guidance states that ‘The provision in Article 12(1)(d) [of the EC Habitats Directive] should therefore be understood as aiming to safeguard the ecological functionality of breeding sites and resting places.’ Further the guidance states: ‘It thus follows from Article 12(1)(d) that such breeding sites and resting places also need to be protected when they are not being used, but where there is a reasonably high probability that the species concerned will return to these sites and places. If for example a certain cave is used every year by a number of bats for hibernation (because the species has the habit of returning to the same winter roost every year), the functionality of this cave as a hibernating site should be protected in summer as well so

² Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC. (February 2007), EC.

that the bats can re-use it in winter. On the other hand, if a certain cave is used only occasionally for breeding or resting purposes, it is very likely that the site does not qualify as a breeding site or resting place.'

Badger

Badger is protected under the Protection of Badgers Act 1992. It is not permitted to wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so; or to intentionally or recklessly interfere with a sett. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it. A badger sett is defined in the legislation as "a structure or place, which displays signs indicating current use by a badger".

ODPM Circular 06/2005³ provides further guidance on statutory obligations towards badger within the planning system. Of particular note is paragraph 124, which states that "The likelihood of disturbing a badger sett, or adversely affecting badgers' foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions."

Natural England provides Standing Advice⁴, which is capable of being a material consideration in planning decisions. Natural England recommends mitigation to avoid impacts on badger setts, which includes maintaining or creating new foraging areas and maintaining or creating access (commuting routes) between setts and foraging/watering areas.

Water vole

Water vole are protected under the Wildlife and Countryside Act 1981 (as amended). This makes it an offence to kill, injure or take any water vole, damage, destroy or obstruct access to any place of shelter or protection that the animals are using, or disturb voles while they are using such a place. Water vole is listed as a Species of Principal Importance under the provisions of the NERC Act 2006 in England and under the provisions of the Environment Act.

Otter

Otter are protected under the Wildlife and Countryside Act 1981 (as amended). This makes it an offence to kill, injure or take any otter, damage, destroy or obstruct access to any place of shelter or protection that the animals are using, or disturb otter while they are using such a place. Otter is listed as a Species of Principal Importance under the provisions of the NERC Act 2006 in England and under the provisions of the Environment Act.

³ ODPM Circular 06/2005. *Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impacts within the Planning System* (2005). HMSO Norwich.

⁴ <http://www.naturalengland.org.uk/ourwork/planningdevelopment/spatialplanning/standingadvice/specieslinks.aspx>