

STATEMENT OF COMMON GROUND BETWEEN WIRRAL BOROUGH COUNCIL (WBC), MERSEYSIDE ENVIRONMENTAL ADVISORY SERVICE (MEAS) AND THE APPELLANT, LEVERHULME ESTATES LTD

Version 5 – 31st May 2023

Amended to take account of SANG Appeal site being withdrawn and agreement of full payments towards Wirral Borough Council's Interim Approach (WBCIA) for mitigating recreational pressure.

Topic: Ecology and Biodiversity

- **Site A) Land east of Glenwood Drive, Irby – up to 290 units**
LPA Ref: OUT/22/00946, Appeal Ref: APP/W4325/W/22/3313729
- **Site B) Land east of Dale View Close, north of Gills Lane, Pensby - up to 92 units**
- LPA Ref: OUT/22/00941, Appeal Ref: APP/W4325/W/22/3313734
- **Site C) Land east of Thorncroft Drive, north of Gills Lane, Pensby – up to 15 units**
- LPA Ref: OUT/22/00942, Appeal Ref: APP/W4325/W/22/3313737
- **Site D) Land west of Barnston Road, north of Gills Lane, Pensby – up to 153 units**
- LPA Ref: OUT/22/00944, Appeal Ref: APP/W4325/W/22/3313741
- **Site E) Land at Milner Road and Barnston Road, Heswall – up to 120 units**
LPA Ref: OUT/22/00943, Appeal Ref: APP/W4325/W/22/3313743
- **Site F) Land west of Raby Hall, Raby Hall Road, Raby Mere – up to 38 units**
LPA Ref: OUT/22/00945, Appeal Ref: APP/W4325/W/22/3313775
- **Site G) Land east of Raby Hall, Raby Hall Road, Raby Mere – up to 80 units**
LPA Ref: OUT/22/00947, Appeal Ref: APP/W4325/W/22/3313777

Introduction

1. This Statement of Common Ground is between Wirral Borough Council, Merseyside Environmental Advisory Service (MEAS) and The Appellant “Leverhulme Estates” and relates solely to matters of ecology and biodiversity.

Residential Sites A-G

2. It is agreed that full contribution towards the Wirral Borough Council Interim Approach (‘WBCIA’) for mitigating recreational pressure taking account of both Strategic SANG and SAMMs payments is sufficient to mitigate for the anticipated recreational pressure and all other Habitat Regulations issues brought about by development at Leverhulme residential sites A-G. This is also confirmed in correspondence between WBC and The Appellant (see **Appendix A** to this document). WBC and MEAS have no objection to the withdrawal of the SANG and it is no longer needed as an option to mitigate for recreational pressure.
3. It is agreed that the Appellant will produce a single ‘Addendum’ Stage 2 Shadow HRA report, which will cover all residential sites concerned. The Addendum will provide an update to the previous sHRAs, taking account of withdrawal of the SANG and considered in-combination with the sHRAs. The Addendum, along with the sHRAs, will confirm the mitigation strategy per site and tariff payment for each dwelling in line with the Wirral IA for the Competent Authority. It is agreed that the Addendum will be provided for review by WBC and MEAS and consultation with Natural England. WBC and MEAS agree to provide information on implementation of the Wirral IA to inform the Competent Authority’s Stage 2 HRA (Appropriate Assessment).
4. As confirmed in the correspondence (**Appendix A**), the fourth reason for refusal on each of the decision notices for Sites A – G will not be pursued. The Appellant, WBC and MEAS agree that ecology or biodiversity evidence during the Inquiry, should be focussed around Biodiversity Net Gain (BNG) outcomes.
5. Each residential site is of low ecological value and taking account of the SANG withdrawal and agreement to fully opt into the WBCIA, sufficient information has been submitted to

fully assess ecological impacts in relation to the seven residential applications (see Statement of Common Ground [Planning] at Paragraph 3.15.

6. For Sites B-G, together with off-site habitat creation and enhancement measures, there is the potential to result in a net gain in biodiversity for each site exceeding the 10% target set by the Environment Act, 2021 provided that the (i) proposed on-site and off-site BNG measures are fully implemented and (ii) claimed off-site biodiversity gains are clearly identified on blue line plans which identify the land within Leverhulme ownership for each residential development site B to G inclusive. The land identified for off-site BNG are also within the area(s) edged in varying colours on the accompanying Unilateral Undertakings for each site. For Site A, the overall net gain is targeted at a 10% minimum for both on and off-site measures, which is compliant with both existing and emerging policy. Sites B to G can deliver at least 20% BNG uplift through a combination of on and off-site measures and the BNG uplifts identified in Table 1 will be delivered as proposed. The agreed on-site figures, as well as the Appellant's claimed off-site figures, are set below in Table 1:

	Uplift - Habitat Units and % change from baseline		Uplift - Hedgerow Units and % change from baseline	
Sites	On-Site Habitat Units (shown as a % and as BUs).	Claimed Habitat Units Off Site (shown as a % change from baseline and as BUs).	On-Site Hedgerow Units (shown as a % change from baseline and as BUs).	Claimed Hedgerow Units Off Site (shown as a % change from baseline and as BUs).
A	+15.09% +7.17	+16.34% +0.49	+43.97% +3.38	+76% +8.44
B	+10.41% +0.98	+118.54% +6.99	+235.9% +3.94	-
C	+12.02%	+128.39%	+67.81%	-

	+0.22	+0.23	+1.61	
D	+10.25%	+234.74%	+11.29%	+130.81%
	+1.85	+12.14	+1.28	+4.03
E	+28.30%	+223.65%	+11.83%	+19.47%
	+6.15	+3.49	+0.58	+0.82
F	+20.11%	+142.03%	+459.58%	+100%
	+1.80	+44.43	+2.43	+0.43
G	+10.22%	+91.96%	+27.72%	+100%
	+1.45	+11.45	+0.99	+1.29

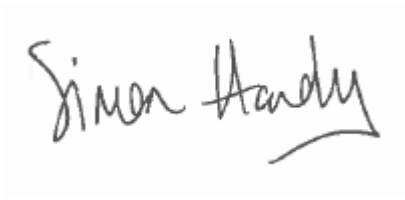
Table 1 – Agreed Biodiversity Net Gain figures (habitats and hedgerows)

7. The Appellant confirms that the claimed on-site and off-site BNG uplifts is entirely consistent with the habitat areas included within the Biodiversity Accounting Assessments (BAA's) submitted in support of the planning applications, and the off-site land and habitat creation measures are entirely within the ownership and control of Leverhulme Estates. The location of the off-site measures is accounted for in the Figures appended to this SoCG (**Appendix B**) that identify the blue-line ownership plans associated with each residential development sites A to G inclusive.
8. The Appellant, WBC and MEAS agree that, for the avoidance of doubt, should the Reserved Matters biodiversity baseline position show a decline from the baseline position within the BAA's then the baseline position is to be used in the BNG Calculation according to document ref: BNG. 170523 Freeths.docx (or successor document).
9. It is agreed that with the full implementation of the mitigation measures outlined in the ecological material¹ for each site; provision of a consolidated sHRA addendum report and the full payment towards the WBCIA on commencement of each development; implementation of the BNG onsite uplifts, BNG off-site uplifts identified in red and blue line plans secured through appropriate legal mechanisms (Unilateral Undertakings/BNG Schedules) and effective management, monitoring and reporting through a full and detailed

¹ Which comprises the Ecology and Nature Conservation Chapters of the Environmental Statement(s) and associated Protected/Notable species appendices, the Biodiversity Accounting Assessment (BAA) report for each site and associated Defra Metric spreadsheets, blue and red-edged plans detailing the off-site areas proposed for biodiversity improvements associated with each site, and the addendum consolidated sHRA report

Landscape and Ecological Management Plan (LEMP) for each site for a minimum period of 30 years, there would be no residual adverse impacts on protected species, habitats or sites as a result of the proposals.

This Statement of Common Ground is jointly agreed by:

A handwritten signature in black ink that reads "Simon Handy". The signature is written in a cursive style with a horizontal line at the end.

Signed:

Name: Simon Handy

Date: 31/05/2023

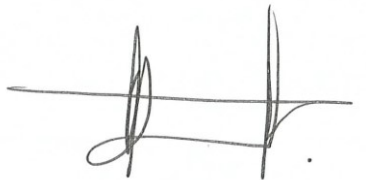
On behalf of Leverhulme Estates Ltd

Signed: *M.P.Loughran*

Name: Mark Loughran

Date: 31/05/2023

On behalf of Wirral Borough Council

A handwritten signature in black ink. It features a horizontal line with two vertical strokes crossing it, and a small loop at the bottom left.

Signed:

Name: Alan Jemmett, MEAS Director

Date: 31/05/2023

On behalf of Merseyside Environmental Advisory Service (MEAS)

Appendix A Email correspondence

HANDY Simon

From: Lawless, Kathleen <kathleenlawless@wirral.gov.uk>
Sent: 01 May 2023 14:16
To: HANDY Simon; Loughran, Mark P.; 'Peter Black'; johnheath@barnstables233.co.uk; 'David Gregg'; Jackie Copley; Alan Jemmett
Cc: inquiry@programmeofficers.co.uk; NEAGLE Oliver; WATSON Edward; Lacey, Steven J.; Joseph Dance (joseph.dance@tylergrange.co.uk)
Subject: [EXTERNAL] RE: Leverhulme SANG appeal (ref 3313726)

EXTERNAL SENDER - EMETTEUR EXTERNE

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Simon

I write to confirm that the Council has no objection to the withdrawal of the SANG appeal. We agree that if the appellant agrees to pay the full off site contribution of £280.26 per dwelling (index linked) that there is no need for the SANG to be provided. As such on behalf of WBC and MEAS I confirm my agreement to the statement below

Without prejudice to the Appellant's position, I write to ask both WBC and WGSA to confirm whether our above interpretation is accurate and, if so, whether formal written confirmation can be provided by both parties (including MEAS who are advising WBC) that the fourth reason for refusal on each of the decision notices for residential Sites A – G will not be pursued and there will be no need to consider ecology or biodiversity evidence during the inquiry – apart from potentially a short discussion around understanding biodiversity net gain outcomes – subject to the Appellant withdrawing the SANG appeal

However, it may be necessary to discuss BNG at the Inquiry so ecology evidence may be needed. The Council would be happy to work with you on this point to seek agreement. The Council requires further information on how and where you intend to provide the off site BNG to deliver the proposed 20% uplift as this isn't clear in the application.

Regards

Kath Lawless

From: HANDY Simon <Simon.Handy@struttandparker.com>
Sent: Friday, April 28, 2023 3:11 PM
To: Loughran, Mark P. <markloughran@wirral.gov.uk>; 'Peter Black' <peterblack62@gmail.com>; johnheath@barnstables233.co.uk; 'David Gregg' <davidgregg@talktalk.net>; Jackie Copley <jackie.copley@cprelancashire.org.uk>; Lawless, Kathleen <kathleenlawless@wirral.gov.uk>; Alan Jemmett <Alan.Jemmett@eas.sefton.gov.uk>
Cc: inquiry@programmeofficers.co.uk; NEAGLE Oliver <Oliver.Neagle@struttandparker.com>; WATSON Edward <Edward.Watson@struttandparker.com>; Lacey, Steven J. <stevenlacey@wirral.gov.uk>; Joseph Dance (joseph.dance@tylergrange.co.uk) <joseph.dance@tylergrange.co.uk>
Subject: Leverhulme SANG appeal (ref 3313726)

Dear WBC and WGSA,

I write in relation to the Leverhulme SANG appeal (PINS ref. APP/W4325/W/22/3313726).

You will probably be aware that the Appellant, Leverhulme Estates Ltd, is proposing the SANG as a solution for providing mitigation to increased recreational pressure on the protected coastlines as a result of Leverhulme's plans for building new housing. As well as delivering an entirely new SANG within the Wirral, the Appellant is also proposing to make a financial contribution towards Site Access Management and Monitoring Measures ('SAMMs'), which will be secured through the Appellant's Unilateral Undertakings.

There is currently disagreement among parties about the effectiveness of the SANG and also whether the full amount of the SAMMs payment requested by MEAS and WBC (£280.26) should be paid, regardless of whether the SANG is effective or not.

We noted during the first week of examination hearings into WBC's new Local Plan that Natural England provided a Statement of Common Ground ('SoCG') prepared alongside WBC relating to the 'Interim Approach'. This SoCG is attached for the avoidance of doubt, but was also previously circulated by Kath Lawless. This SoCG provides clarity around the Interim Approach and how it intends to address recreational disturbance issues to protect the European sites of the Liverpool City Region from recreational pressure.

We have also noted the contents of WBC's Ecology proof of evidence ('PoE') prepared by Alan Jemmett from MEAS (cc'd). In particular, paragraph 13.3 of Mr Jemmett's PoE states the following:

"13.3 Should the Appellant agree to pay the full recreation mitigation contribution, then the proposed SANG, Barnston Road (Appeal site H) is no longer necessary to provide mitigation for alone and in-combination recreation pressure for Appeal sites A to G inclusive."

The publication of the SoCG between Natural England and WBC and receipt of WBC's Ecology PoE did not occur until last week and, therefore, represents a significant change in circumstances from where we were when the SANG application and subsequent appeal were submitted.

It would appear that if the Appellant agrees to make the full SAMMs financial contribution of £280.26 per residential unit proposed/approved, then there will no longer be a need for the Appellant's SANG to be delivered and, in addition, there will be no outstanding ecological issues on any of the residential appeals and no need to progress the SANG appeal.

Without prejudice to the Appellant's position, I write to ask both WBC and WGSa to confirm whether our above interpretation is accurate and, if so, whether formal written confirmation can be provided by both parties (including MEAS who are advising WBC) that the fourth reason for refusal on each of the decision notices for residential Sites A – G will not be pursued and there will be no need to consider ecology or biodiversity evidence during the inquiry – apart from potentially a short discussion around understanding biodiversity net gain outcomes – subject to the Appellant withdrawing the SANG appeal.

Please can a spokesperson from each party, perhaps Kath and Jackie (?), provide a response to the above?

A withdrawal would not be made until we have clear agreement from both parties on the above stance and, therefore, I would like to reiterate that this email does not prejudice the Appellant's decision on whether to proceed with the SANG appeal at this current time.

Many thanks.

Simon Handy BA (Hons) MPlan MRTPI

Director – Head of Oxford Planning
Development & Planning

Strutt & Parker, 269 Banbury Road, Oxford, OX2 7LL
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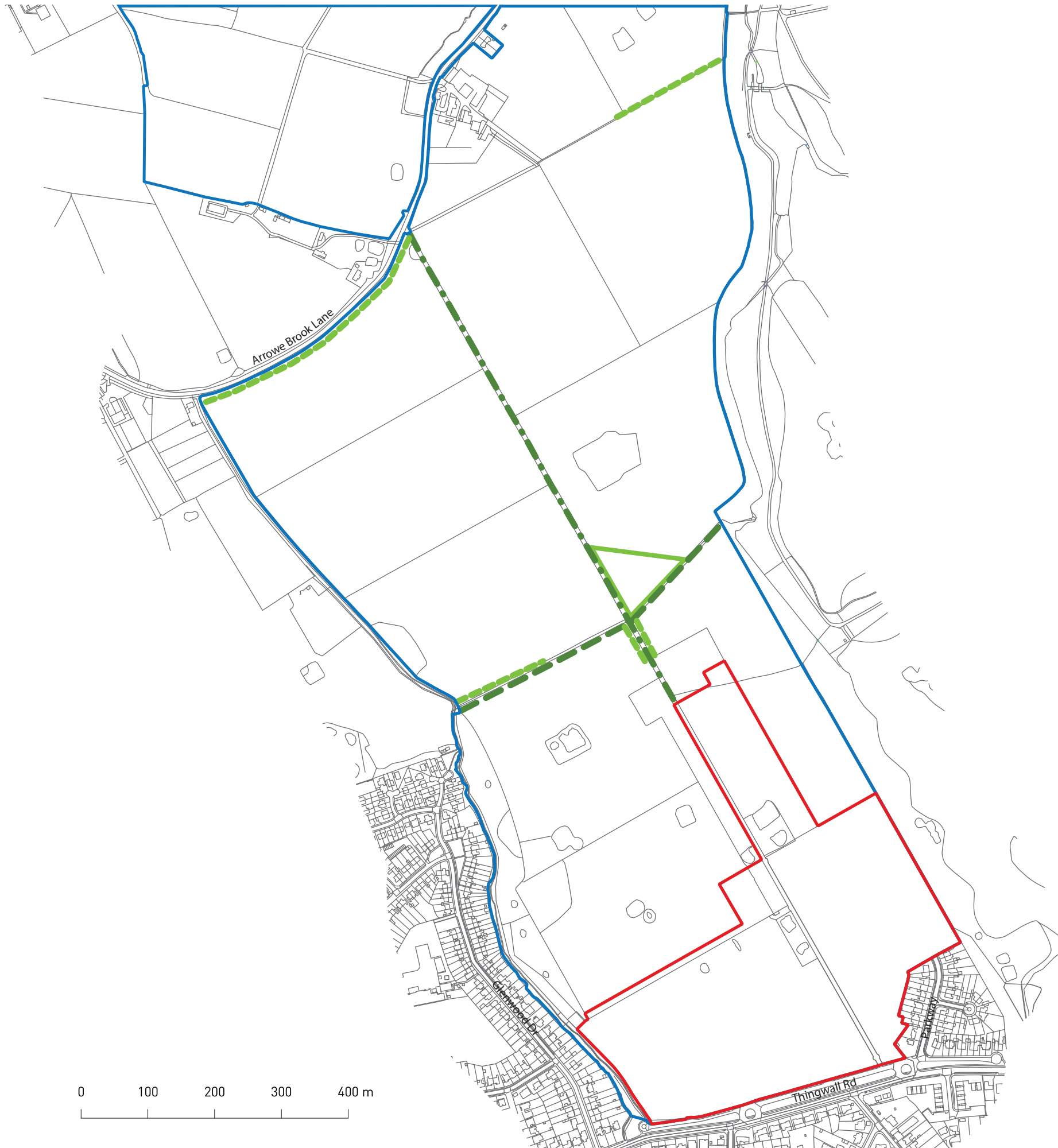
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Appendix B Off-site BNG plans



0 100 200 300 400 m



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- Site boundary
- Other land owned by Leverhulme Estates Limited
- New woodland planting
- Hedgerow enhancement
- Grassland and bare ground
- Land sealed surface

LEVERHULME ESTATES
LAND EAST OF GLENWOOD DRIVE

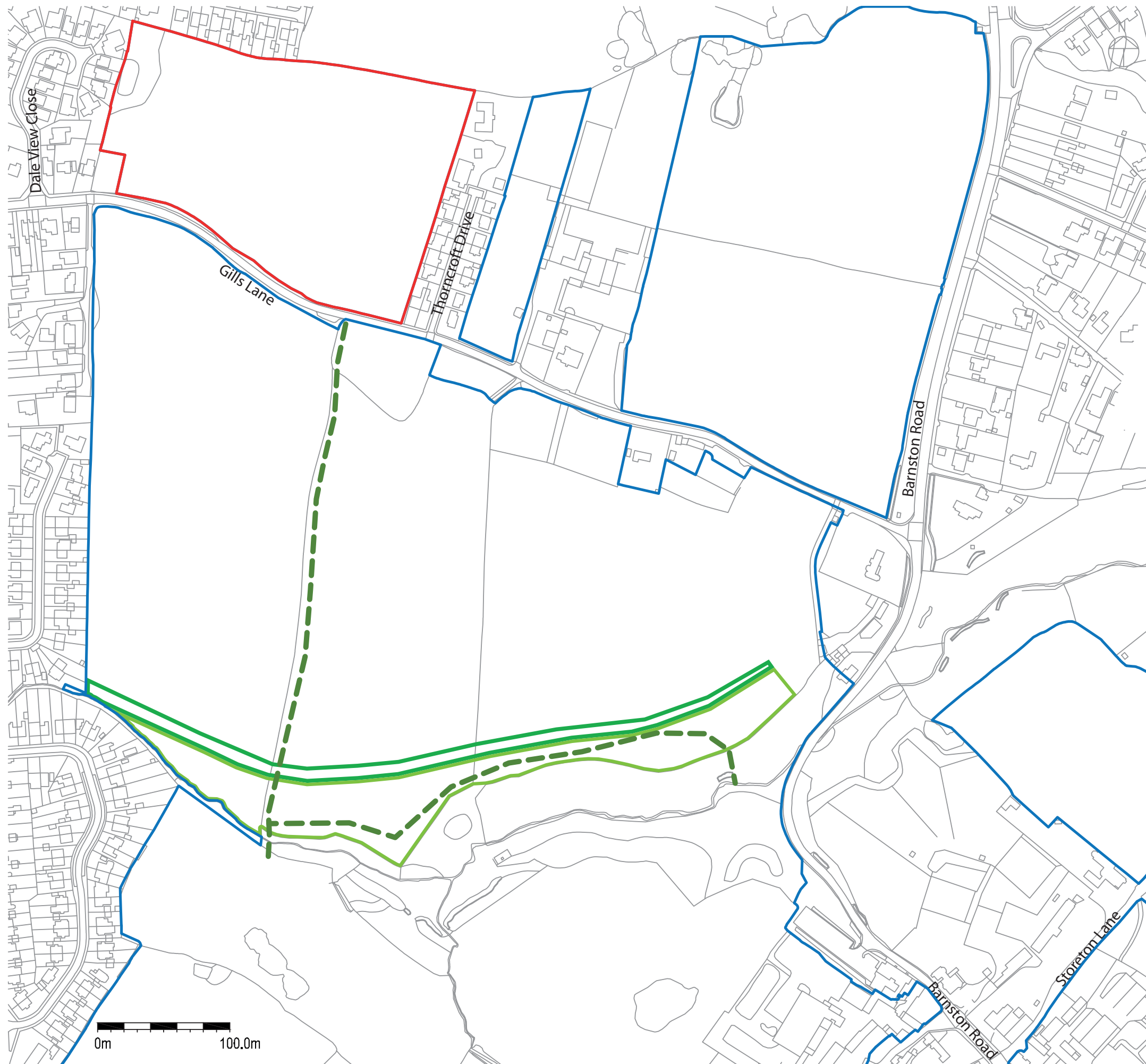
OFF-SITE BNG
ENHANCEMENT(S)

1815/01/2100

Not to scale

MAY 2023

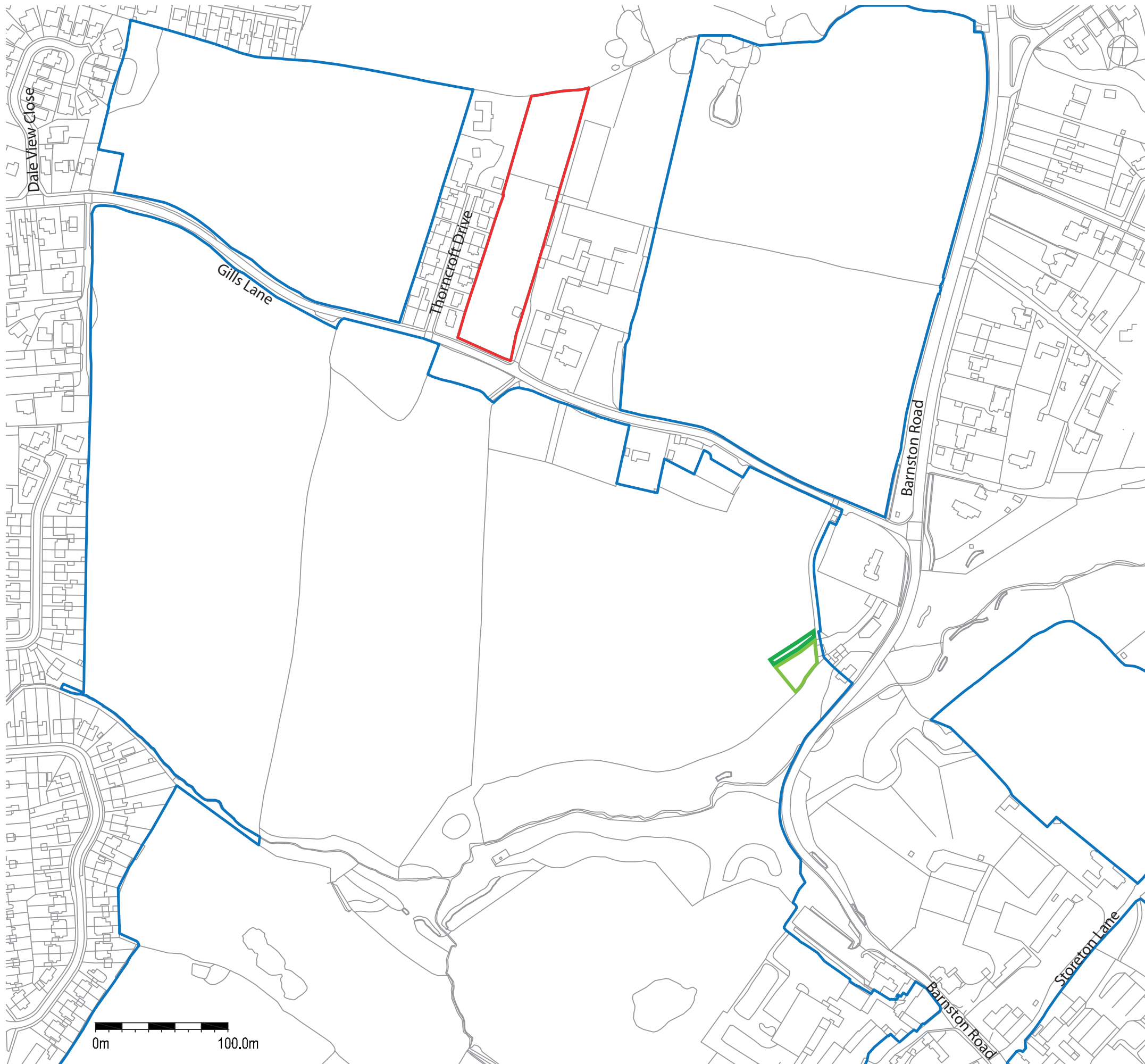
Alan Baxter



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-  Site boundary
-  Other land owned by Leverhulme Estates Limited
-  New woodland planting
-  New non-woodland habitat creation and enhancement
-  Grassland and bare ground

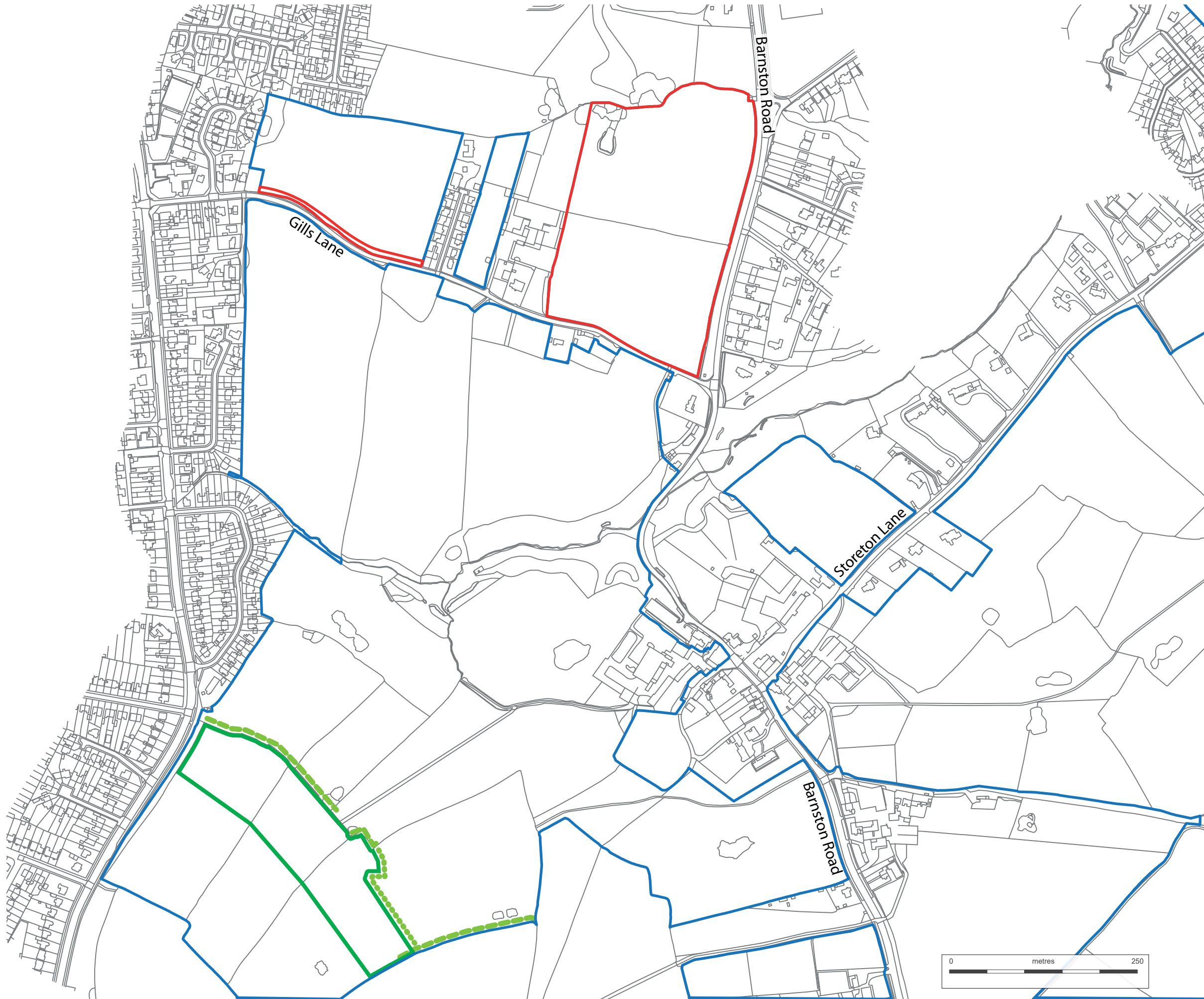
LEVERHULME ESTATES LAND EAST OF DALE VIEW CLOSE, PENSBY	
OFF-SITE BNG ENHANCEMENT(S)	
1815/01/2101	Not to scale
MAY 2023	Alan Baxter



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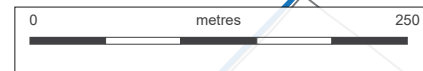
-  Site boundary
-  Other land owned by Leverhulme Estates Limited
-  New woodland planting
-  New non-woodland habitat creation and enhancement

LEVERHULME ESTATES LAND EAST OF THORNCROFT DRIVE, PENSBY	
OFF-SITE BNG ENHANCEMENT(S)	
1815/01/2102	Not to scale
MAY 2023	Alan Baxter

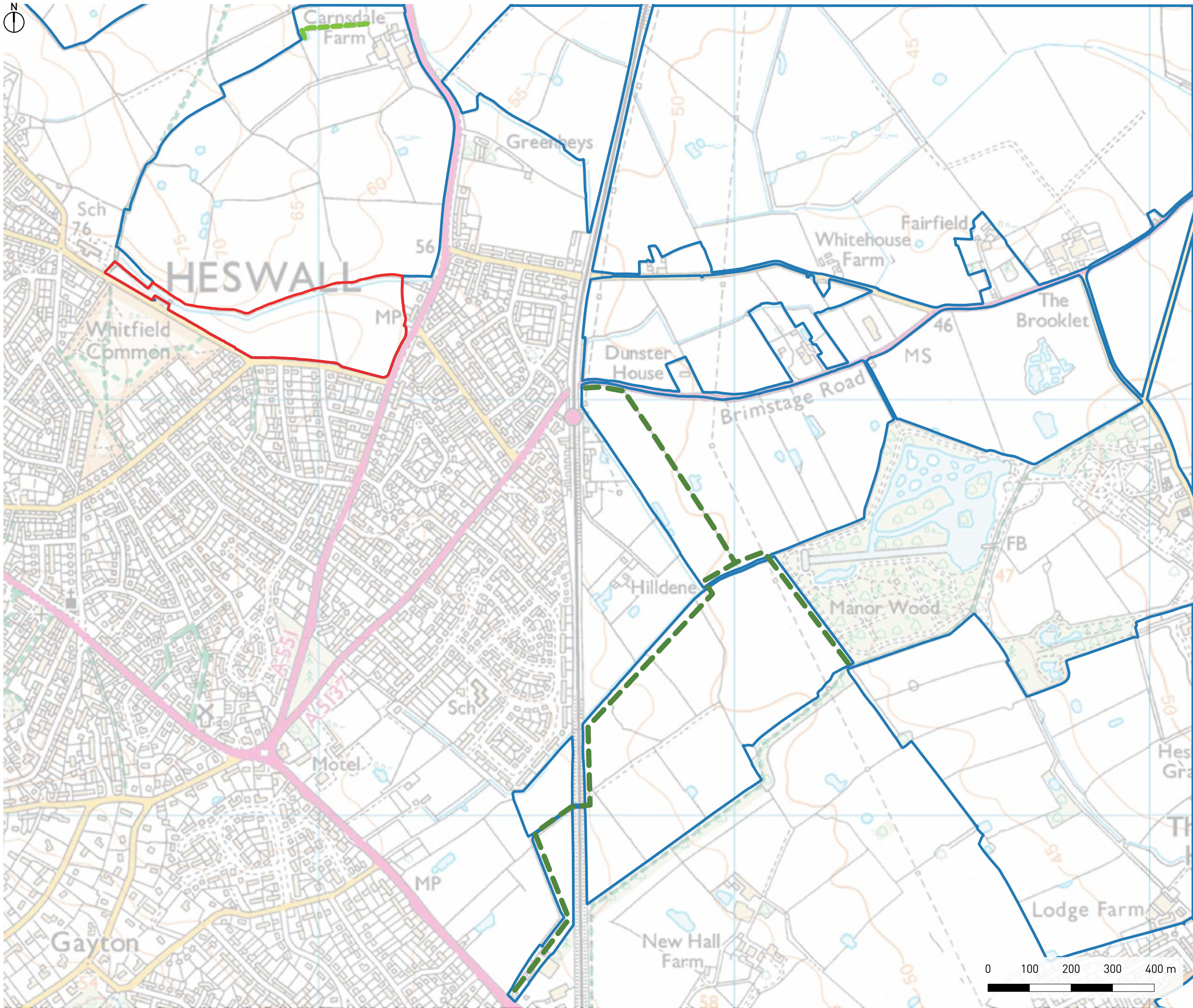


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-  Site boundary
-  Other land owned by Leverhulme Estates Limited
-  New non-woodland habitat creation and enhancement
-  Hedgerow enhancement
-  Hedgerow creation



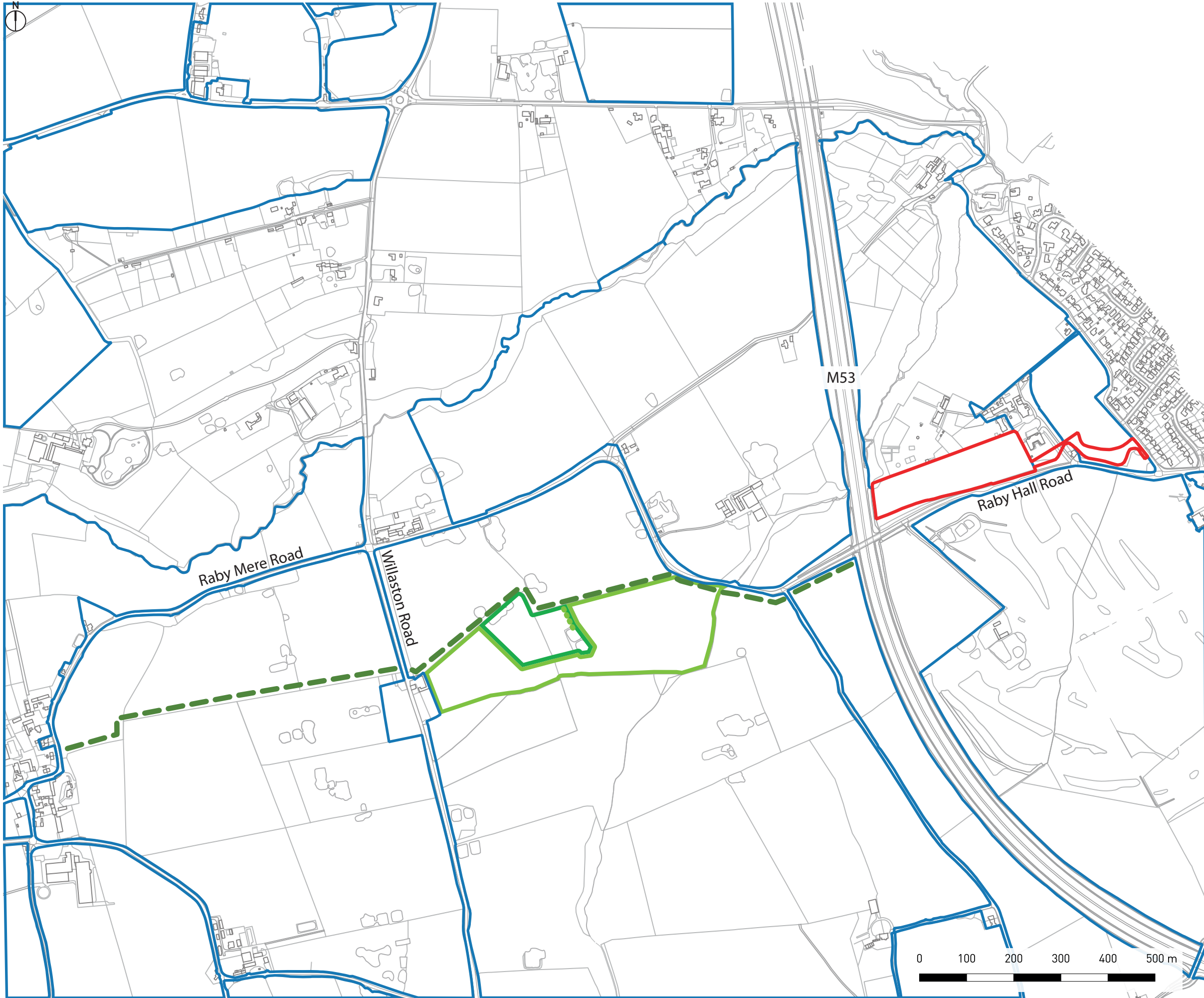
LEVERHULME ESTATES LAND WEST OF BARNSTON ROAD, NORTH OF GILLS LANE, PENSBY	
OFF-SITE BNG ENHANCEMENT(S)	
1815/01/2103	1:5,000 @ A3
MAY 2023	Alan Baxter



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-  Site boundary
-  Other land owned by Leverhulme Estates Limited
-  Hedgerow enhancement
-  Grassland and bare ground

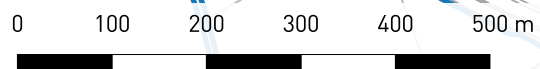
LEVERHULME ESTATES LAND AT MILNER ROAD AND BARNSTON ROAD, HESWALL	
OFF-SITE BNG ENHANCEMENT(S)	
1815/01/2104	Not to scale
MAY 2023	Alan Baxter

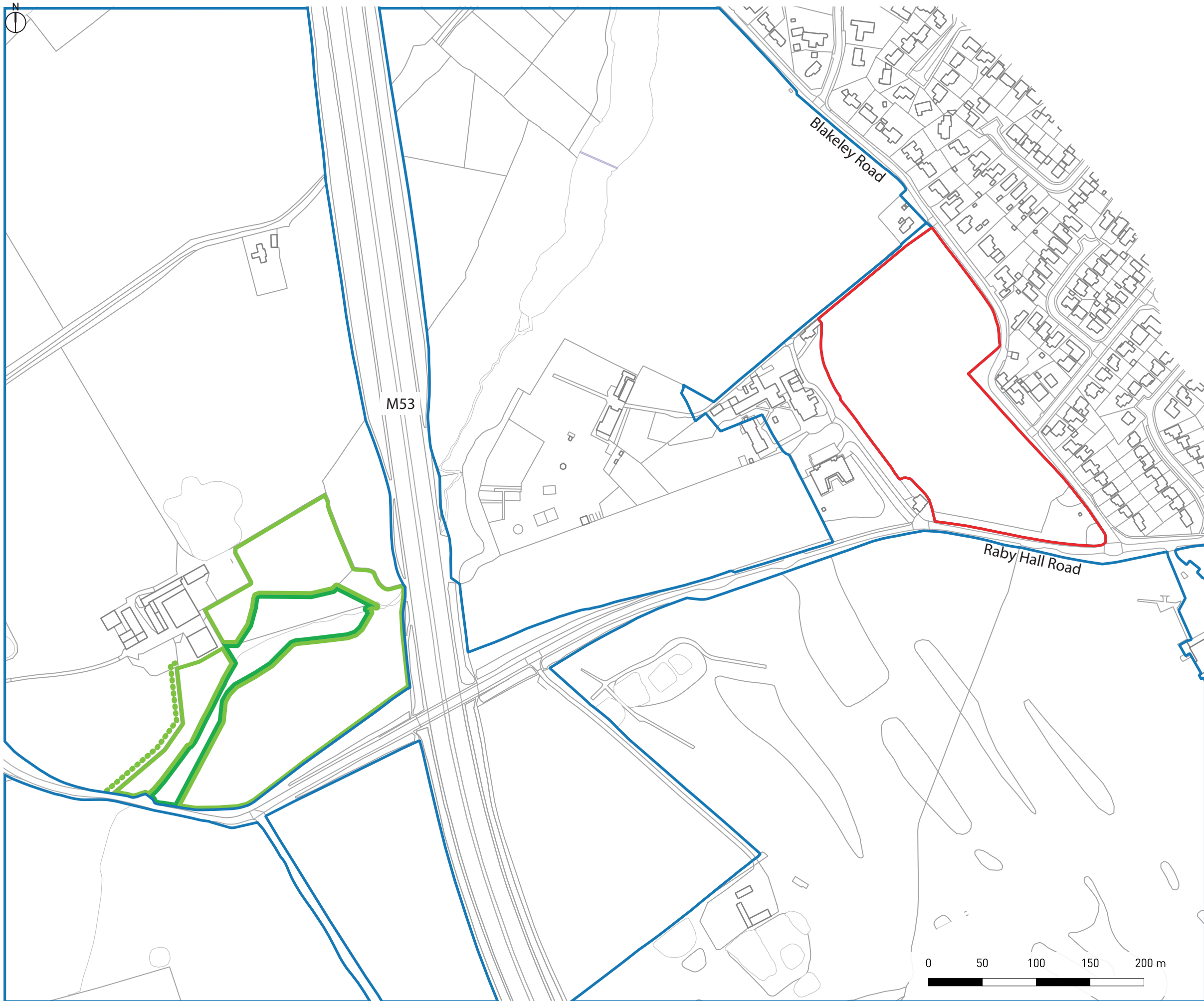


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- Site boundary
- Other land owned by Leverhulme Estates Limited
- New woodland planting
- New non-woodland habitat creation and enhancement
- Hedgerow creation
- Grassland and bare ground

LEVERHULME ESTATES LAND WEST OF RABY HALL, RABY HALL ROAD, RABY MERE	
OFF-SITE BNG ENHANCEMENT(S)	
1815/01/2105	Not to scale
MAY 2023	Alan Baxter





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-  Site boundary
-  Other land owned by Leverhulme Estates Limited
-  New woodland planting
-  New non-woodland habitat creation and enhancement
-  Hedgerow creation

LEVERHULME ESTATES LAND EAST OF RABY HALL, RABY HALL ROAD, RABY MERE	
OFF-SITE BNG ENHANCEMENT(S)	
1815/01/2106	Not to scale
MAY 2023	Alan Baxter