Great Crested Newt Non-Licence Mitigation Plan

Rhosddu Industrial Estate, Main Rd, Old Rhosrobin, Gwersyllt, Wrexham LL11 4YL

LVW Group

Status	Issue	Name	Date
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Industry Guidelines and Standards

This report has been written with due consideration to:

- Chartered Institute of Ecology and Environmental Management (2017). Guidelines for Preliminary Ecological Appraisal. 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2018). Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. Version 1.1. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2017). Guidelines on Ecological Report Writing. Chartered Institute of Ecology and Environmental Management, Winchester.
- Chartered Institute of Ecology and Environmental Management (2020). Guidelines for Accessing, Using and Sharing Biodiversity Data in the UK. 2nd Edition. Chartered Institute of Ecology and Environmental Management, Winchester.
- British Standard 42020 (2013). Biodiversity – Code of Practice for Planning and Development.
- British Standard 8683:2021 (2021). Process for Designing and Implementing Biodiversity Net Gain.

Proportionality

> The work involved in preparing and implementing all ecological surveys, impact assessments and measures for avoidance, mitigation, compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development. Consequently, the decision-maker should only request supporting information and conservation measures that are relevant, necessary and material to the application in question. Similarly, the decision-maker and their consultees should ensure that any comments and advice made over an application are also proportionate. The desk studies and field surveys undertaken to provide a Preliminary Ecological Appraisal (PEA) might in some cases be all that is necessary.
>
> (BS 42020, 2013)

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1.0 Introduction and Context

1.1 Background

Arbtech Consulting Ltd. was commissioned by LVW Group to produce a Great Crested Newt (GCN) Non-Licence Mitigation Plan (NLMP) for the proposed development at Rhosddu Industrial Estate, Main Rd, Old Rhosrobin, Gwersyllt, Wrexham LL11 4YL (hereafter referred to as "the site").

The site has been subject to a previous ecological assessment, as follows:

- A Preliminary Ecological Appraisal (PEA) in November 2023 (Arbtech Consulting Ltd).

1.2 Project Description

The planning application pertaining to the site (Wrexham Borough Council Reference: P/2023/0400) describes the development as: erection of 3 no light industrial units including site parking and removal of disused underground tank. A proposed development plan is provided in **Appendix 1.**

1.3 Site Location

The site is located at National Grid Reference SJ 32873 52640 and has an area of approximately 0.4ha a fenced industrial site with grassland, hardstanding and one building. It is surrounded by an industrial estate in the immediate vicinity including hardstanding, buildings, and access roads. There are grasslands and lines of trees/scattered trees to the north, east, and west of the industrial estate in the nearby vicinity. There is also a pond located ~130m northwest of the site boundary. To the south of the industrial estate are residential areas and the centre of Wrexham. The wider landscape comprises rural areas with the Welsh-English border to the east. A site location plan is provided in **Appendix 2**.

1.4 Scope of This Report

Following submission of planning application P/2023/0400, the proposed development was conditionally approved. Of relevance to this report, planning condition 4 states:

"*No development shall take place until a Great Crested Newt Reasonable Avoidance Measures scheme has been submitted to and approved in writing by the Local Planning Authority. The Reasonable Avoidance Measures shall include:*

▪ *Build upon the principles of the Preliminary Ecological Appraisal (Sibley, J., December 2023, Preliminary Ecological Assessment, Rhosddu Industrial Estate, Arbtech Consulting Limited)*

▪ *Details and associated plans concerning Great Crested Newt reasonable avoidance and mitigation measures*

▪ *Measures to be taken to prevent or reduce incidental capture or killing of Great Crested Newts. The measures above shall be carried out in accordance with the approved details*."

The aim of this report is to provide ecological mitigation and enhancement prescriptions to ensure great crested newts and other common amphibians are protected during development works and the ongoing ecological value of the site is maintained and enhanced for amphibians post-development. As a result, this GCN NLMP aims to provide sufficient detail to facilitate the discharge of planning condition 4.

2.0 Ecological Baseline Conditions Relevant to This Report

The ecological baseline conditions at the site of relevance to this GCN NLMP were determined as a result of the PEA undertaken in November 2023 (Arbtech Consulting Ltd. 2023).

2.1 Habitats Recorded on Site

The site is characterised by an area of hardstanding and adjacent grassland associated with a light industrial unit. Habitats recorded on the site include:

- Building;
- Developed; sealed surface;
- Modified Grassland; and
- Trees.

2.2. Value to Great Crested Newts and Other Common Amphibians

No ponds are present within the site, however, there are seven ponds within a 500m radius of the site (P1:P7). P1 is located ~130m northwest of the site boundary and was subject to a Habitat Suitability Index (HSI) assessment in November 2023, which had a result of poor condition. P2 is located ~240m northwest of the site boundary. P3:P6 are located ~430m west of the site boundary. P7 is located ~190m east of the site boundary. P2:P7 were not subject to a HSI assessment as they lie on third party land and access was not possible at the time of survey.

On-site there is grassland, which is a suitable amphibian foraging habitat, however, it is retained to a short sward (~5cm) which would likely increase predation risk for amphibians. There are also some scattered young trees, which have limited value for GCN, but may provide shelter on occasions. The site is encompassed by existing commercial development comprising roads and buildings and it is highly unlikely that GCN would commute from ponds within the local area to utilise the sub-optimal habitats within the site.

It is understood that GCN are present in the locality. Further to this, it is likely that the ponds in the locality also support common species of amphibians such as smooth newts, common toads, and common frogs. Given that the grassland and trees on site provide some terrestrial opportunities for amphibians, albeit there is poor connectivity between the ponds in the wider landscape and the site, the presence of great crested newts and other common amphibians within the grassland cannot be discounted.

2.3 Scope for Mitigation and Enhancement

Mitigation will be required during construction activity to ensure great crested newts and other common amphibians potentially present within the site are suitably protected. There is limited scope to enhance the site for amphibians, however a hibernaculum is proposed to create new shelter/resting opportunities within the site, as well as the provision of gulley pot ladders within existing and proposed gulley pots.

4.0 Ecological Mitigation and Enhancement Plan

4.1. Mitigation

Mitigation prescriptions to reduce adverse impacts to existing ecological features and biodiversity as identified through previous ecological assessment are detailed in **Table 1** below.

Table 1: Mitigation Prescriptions

Mitigation	Specification
Persons responsible and lines of communication	***Overview*** Effective communication between the site and project teams will need to be maintained to ensure mitigation and enhancement measures outlined within this GCN NLMP are adhered to. Should mitigation and enhancement measures not be implemented correctly, the anticipated protection of ecological features and gains to biodiversity as a result of the proposed development may not be achieved. ***Mitigation*** It is recommended that a Development Biodiversity Champion is selected for the construction phase of the development. The Biodiversity Champion should be someone with significant influence during construction, such as the contract or project manager. The Development Biodiversity Champion is responsible for ensuring all actions outlined in this GCN NLMP are implemented. Any queries with regards to the mitigation and enhancement prescriptions should be addressed to the project ecologist and communication should be retained between the Development Biodiversity Champion and project ecologist throughout the project. The project ecologist's contact details are located on the title page of this report. It is recommended that the Biodiversity Champion informs the project ecologist of the commencement of enhancement installation works and provides updates where necessary. Once the ecological enhancements have been installed, a Post-Development Biodiversity Champion should be allocated to who has influence on site once the development is complete, such as a long-term maintenance contractor. The Post-Development Biodiversity Champion will be responsible for ensuring all recommended management is undertaken and any associated remedial measures are completed where necessary.
Pollution prevention to reduce indirect impacts to habitats in the locality of the development	**Overview:** Pollution resulting from increased levels of noise, dust, and water runoff during construction works have potential to pollute watercourses in the locality.

Mitigation:

To limit impacts of pollution resulting from the construction phase of the development, construction works must be completed in accordance with current statutory guidelines relating to pollution prevention. Specifically, Prescriptions detailed within Environment Agency Pollution Prevention Guidance note GPP6: Working at *Construction and Demolition Sites* (Environment Agency 2014) is of relevance to the project. Considering this guidance document, the below mitigation prescriptions are considered suitable to mitigate impacts of pollution during the construction phase of the development. The allocated Biodiversity Champion will be responsible for ensuring the below mitigation recommendations are undertaken successfully during the works.

Materials Storage and water run-off:

It is recommended that the Biodiversity Champion ensures that:

- No stockpiles are created on exposed ground areas and ensure that all materials and chemicals are stored securely and safely on site in accordance with current Control of Substances Hazardous to Health (COSHH) regulations (HSE 2002).
- Stockpiles are located within the development area only and on level ground to prevent any accidental run-off.
- Contaminated materials, chemicals, and other hazardous substances must be stored on an impermeable surface, in a bunded area, within the development area only as per current containment system guidelines (CIRIA 2014).
- All chemicals and hazardous substances must be stored away from areas where there is heightened risk of damage from impact or collision such as areas of intense vehicle and pedestrian movement.
- All chemicals and hazardous substances must be labelled, and their containers effectively sealed when not in use. Such container must be inspected regularly and fit for purpose.
- Any damaged or old containers must be replaced in line with the duty of care requirements. Note such containers may be considered hazardous waste and their disposal must be undertaken appropriately.
- Staff are trained in use of spill kits and emergency procedures.
- Ensure there is a designated 'responsible person' on site at all times.
- Lock storage facilities when not in use.

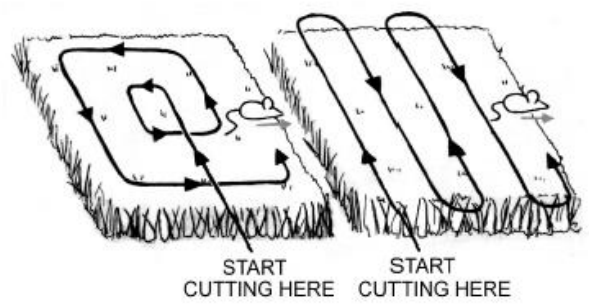
Airborne particle suppression:

It is recommended that the Biodiversity Champion ensures that:

- Effective water suppression is used during demolition and construction operations. Handheld sprays are more effective than hoses attached to equipment as the water can be directed to where it is needed. In addition, high volume water suppression systems, manually controlled, can produce fine water droplets that effectively bring the dust particles to the ground.
- Bag and remove any biological debris or damp down such material before demolition.
- Carry out regular site inspections to monitor compliance.
- Ensure all vehicles switch off engines when stationary.

	• Avoid the use of petrol- or diesel-powered generators and use mains electricity or battery power where possible. • Only use cutting, grinding, or sawing equipment fitted or in conjunction with suitable dust suppression techniques such as water sprays or local extraction. • Ensure an adequate water supply on the site for effective dust/ particulate matter suppression/ mitigation, using non-potable water where possible and appropriate. • Use enclosed shuts and conveyors and covered skips. ***Implementation of the Waste Hierarchy:*** The Biodiversity Champion must ensure that all construction activity is completed in accordance with the Waste Hierarchy (Defra 2011) in an attempt to reduce the amount of waste produced during the construction phase of the development. As such, the construction phase must be completed in accordance with the below core principles: *In the first instance:* • Re-use products and materials where possible. • Recycle and compost material resources where possible. • Attempt to recover energy from waste. *Where none of the above options offer an appropriate solution, waste disposal is the final option:* • Only transfer controlled waste to an "authorised person" (Waste Collection Authority, the holder of an Environmental Permit, Registered Water Carrier or Waste Disposal Authority). • Ensure that non-hazardous waste is transferred under a Waste Transfer Note which must be retained for two years. • Hazardous waste is moved under a waste consignment note that provides a clear description of the waste material. The consignment note must be retained for three years. • The waste is the responsibility of the company until it has been fully recovered or finally disposed of. ***Noise:*** The Biodiversity Champion must ensure that noise levels are kept to a minimum in accordance with best practice as defined in the Control of Pollution Act 1974 to avoid unacceptable levels of noise and vibrations. Further guidance can be found in British Standard 5228-1:2009. Such measures applicable to the proposed development primarily include agreed working hours limiting night work, using the quietest equipment and plant available, shutting down equipment when not in use, and completing deliveries during working hours only. Most notably, prescriptions as to limit the noise of plant machinery as detailed within **Table B.1** within the code of practice for noise control (British Standards Institution, 2014) is likely to have the most significant impact during construction activity. Relevant sections of **Table B.1** are provided in **Appendix 4** for reference.

Sensitive vegetation clearance	***Pre-development vegetation clearance*** Precautionary methods of working when removing any root systems of immature trees is required to prevent causing injury or death during development works. Removal of root systems must take place outside of the hibernation period for amphibians, which is typically between November and February. Amphibians are mostly torpid during this timeframe and are thus most vulnerable to injury or death. Undertaking vegetation clearance works during their active period, typically between March and September, will allow individuals to disperse unperturbed to adjacent retained habitats. Any timber from the vegetation clearance will be used to create new hibernacula/log piles within new habitat on site, which will retain refuge opportunities for amphibians. Areas of grassland will continue to be managed as very short vegetation (<100mm) or bare ground which is unsuitable to support amphibians for prolonged periods and is likely prevent individuals from colonising this section of the site prior to works. Any vegetation arisings created from the cutting will be removed from the area; the arisings will be used to create new hibernacula. In the event that grassland is not subject to continued management prior to the commencement of construction works and comprises a sward length greater than 100mm, grassland removal would be overseen by a suitably qualified ecologist to act as an ecological clerk of works (ECoW) during the clearance of grassland. The ECoW would complete a toolbox talk to contractors immediately prior to vegetation clearance works to highlight the potential presence of amphibians and to outline indicators of their presence. If the grassland has a sward length in excess of 100mm, the grassland clearance would need to comprise a phased cutting method in addition to cutting in systematic patterns. The phased cutting method would be undertaken in two stages; the first cut will remove all vegetation to approximately 200-300mm from ground level and the second cut will be to ground level/ bare ground. Amphibians are most likely to be present at or just below ground level; the phased technique allows any individuals present at this vegetation level to disperse. The systematic vegetation cutting must be applied to both cutting phases and comprises cutting systematically towards retained habitat to encourage any individual amphibians to retreat to retained habitat unharmed. This method also prevents the creation of habitat islands during the second cutting phase which has potential to trap reptiles and amphibians in isolated pockets of habitat and thus increase the potential for injury or death during works. A suitable systematic cutting technique is exemplified below on **Figure 1**.

	 **Figure 1:** A schematic representation of vegetation cutting patterns as best to eliminate terrestrial opportunities for amphibians
Avoiding trapped amphibians during construction	All excavations will either be covered overnight, or a ramp is installed to enable any trapped animals to escape such as a piece of rough timber. In the event that any trapped GCN are found onsite, all works will cease and advice will be sought from the project ecologist. Should any other trapped amphibians or animals be found they should be moved to suitable retained habitat nearby before works continue.
Provision of gulley pot ladders to prevent trapped amphibians post-development	All gulley pots within the site, both existing and proposed will be fitted with gulley pot ladders which will allow provide amphibians with a route of escape in the event that they become trapped within the gulley pots.

4.2 Enhancement

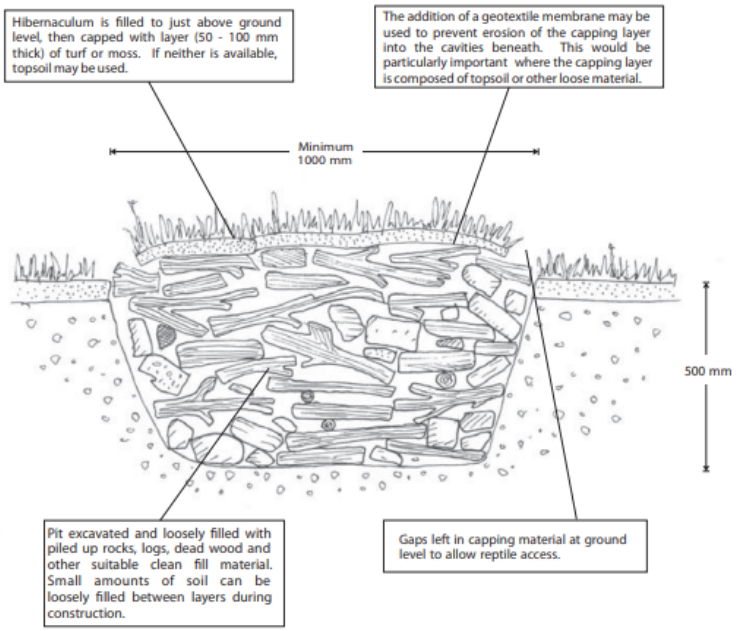
Enhancement of the site and subsequent management to ensure the ongoing biodiversity value of the site post-development are detailed in **Table 2** below.

Table 2: Enhancement Prescriptions

Ecological Enhancement	Specification
Hibernaculum creation	One hibernaculum will be created using natural materials such as logs, stone, vegetation arisings, and earth. The hibernacula will provide enhanced refuge and over-wintering opportunities at the site for amphibians. A suitable specification is illustrated in **Figure 2** below. The hibernaculum will be installed in the southeast of the site as shown in the plan in **Appendix 3**.

Hibernaculum on free-draining ground

Where ground conditions allow, the hibernaculum should be incorporated into a shallow pit. This design is more likely to remain frost-free, and will be less obtrusive and thus unlikely to be subject to interference.



Hibernaculum on impermeable ground

Where ground conditions are impermeable, then an 'above-ground' or mounded design should be utilised in order to prevent the hibernaculum from flooding. This design should also be used if it is not possible to excavate a pit for any other reason.

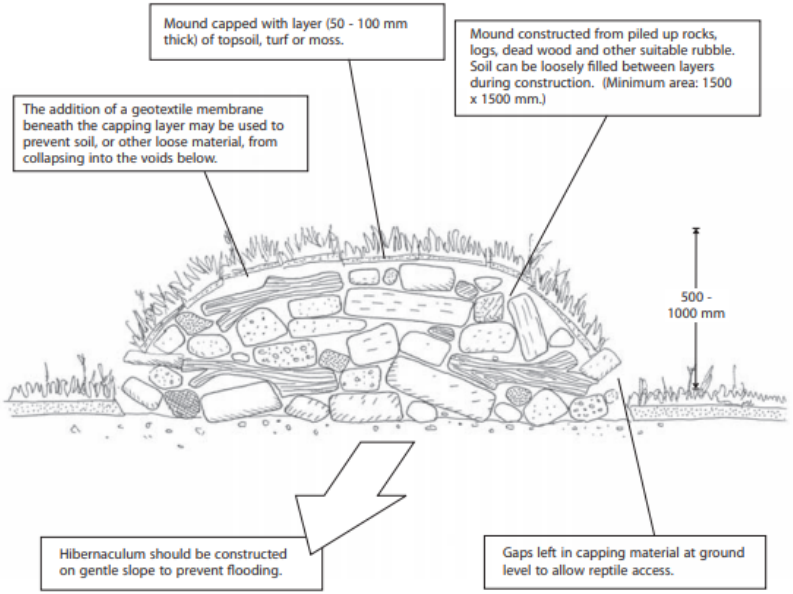
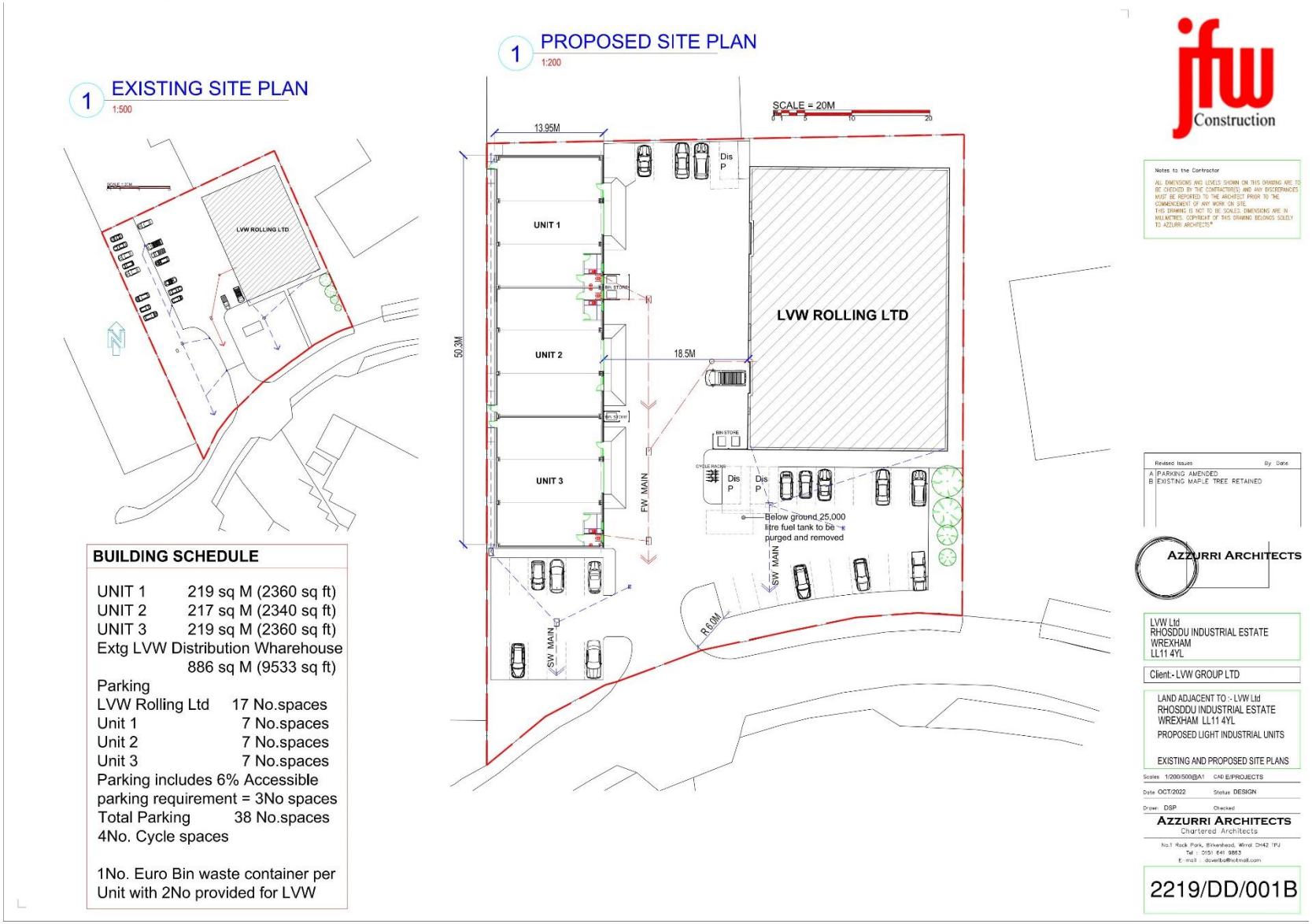


Figure 2: A schematic representation of a man-made hibernaculum.

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Appendix 1: Proposed Development Plan



BUILDING SCHEDULE

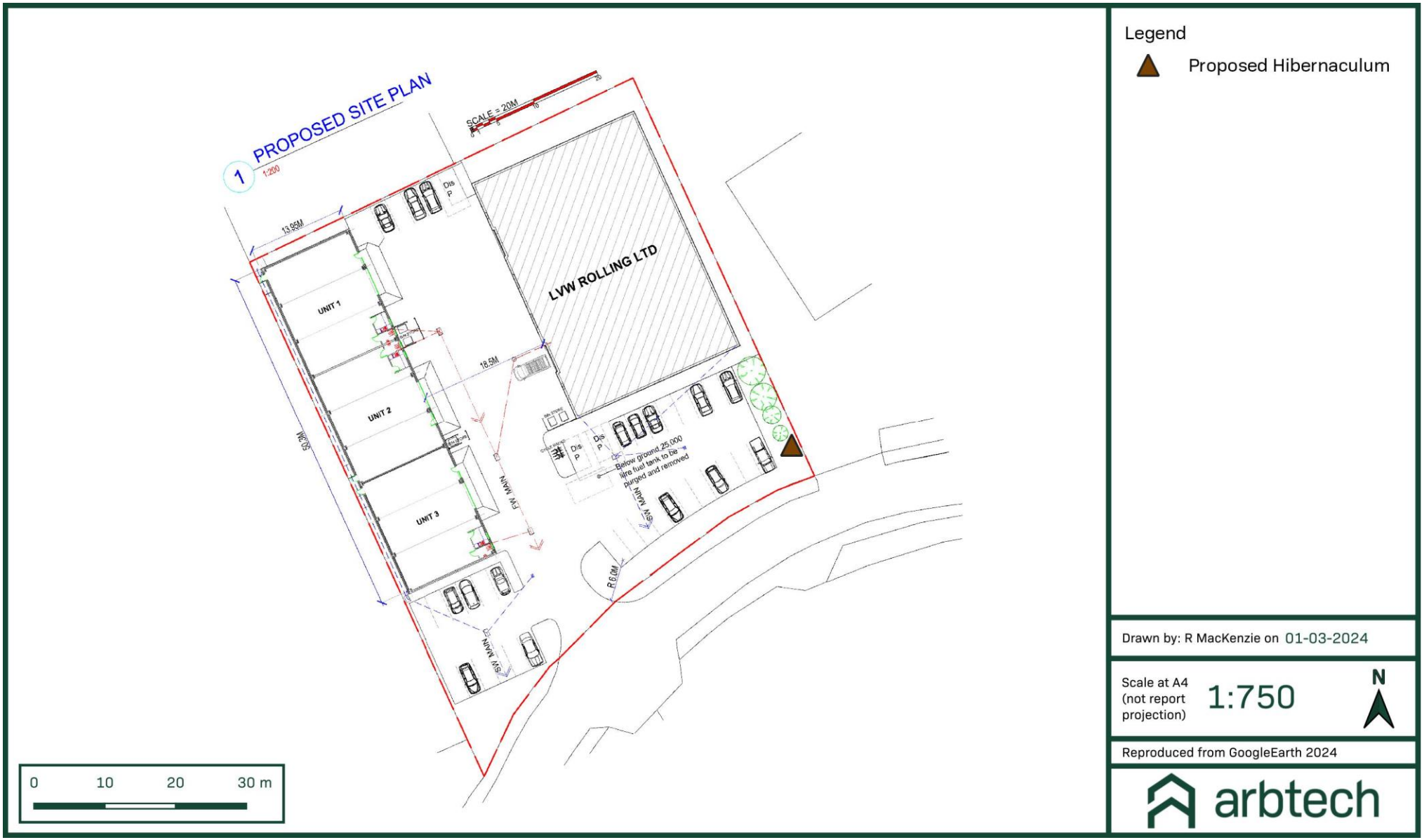
UNIT 1	219 sq M (2360 sq ft)
UNIT 2	217 sq M (2340 sq ft)
UNIT 3	219 sq M (2360 sq ft)
Extg LVW Distribution Wharehouse	886 sq M (9533 sq ft)
Parking	
LVW Rolling Ltd	17 No.spaces
Unit 1	7 No.spaces
Unit 2	7 No.spaces
Unit 3	7 No.spaces
Parking includes 6% Accessible parking requirement = 3No spaces	
Total Parking	38 No.spaces
4No. Cycle spaces	

1No. Euro Bin waste container per Unit with 2No provided for LVW

Appendix 2: Site Location Plan



Appendix 3: Ecological Mitigation and Enhancement Plan



Appendix 4: Table B.1 from the code of practice for noise control (British Standards Institution, 2014)

Table B.1 **Methods of reducing noise levels from construction plant**

Plant	Noise reduction of plant			Alternative plant
	Source of noise	**Possible remedies** (to be discussed with machine manufacturers)	**A-weighted sound reduction** dB	
Hammer drive piling equipment	Pneumatic/diesel hammer or steam winch vibrator driver	Enclose hammer head and top of pile in acoustic screen	5 to 10	Bored piling Vibratory system Drop hammer completely enclosed in box with opening at top for crane access Steel jacket completely enclosing drop hammer with dolly and polystyrene chips fed to impact surface to dissipate energy Pressed-in piling which generates its driving force from the frictional restraint of other piles
	Sheet pile	Acoustically dampen sheet steel piles to reduce levels of resonant vibration		
	Impact on pile	Use resilient pad (dolly) between pile and hammer head. Packing needs to be kept in good condition		
	Cranes cables, pile guides and attachments	Careful alignment of pile and rig		
	Power units or base machine	Fix more efficient sound reduction equipment or exhaust. Acoustically dampen panels and covers. When intended by the manufacturer, engine panels need to be kept closed. Use acoustic screens when possible		
Earth-moving plant: • bulldozer • compactor • crane • dump truck • dumper • excavator • grader • loader • scraper	Engine	Fit more efficient exhaust sound reduction equipment Manufacturers' enclosure panels need to be kept closed	5 to 10	Alternative super silenced plant might be available. Consult manufacturers for details

Table B.1 **Methods of reducing noise levels from construction plant** *(continued)*

Plant	Noise reduction of plant			Alternative plant
	Source of noise	**Possible remedies** (to be discussed with machine manufacturers)	**A-weighted sound reduction** dB	
Compressors and generators	Engine Compressor or generator body shell	Fit more efficient sound reduction equipment Acoustically dampen metal casing Manufacturers' enclosure panels need to be kept closed	Up to 10	Super silenced plant is available. Consult manufacturers for details Electric-powered compressors are available as opposed to diesel or petrol Sound-reduced compressor or generator can be used to supply several pieces of plant. Use centralized generator system
	Total machine	Erect acoustic screen between compressor or generator and noise-sensitive area. When possible, line of sight between top of machine and reception point needs to be obscured	Up to 10	
		Enclose compressor or generator in ventilated acoustic enclosure	Up to 20	
Pneumatic concrete breaker, rock drills and tools	Tool	Fit suitably designed muffler or sound reduction equipment to reduce noise without impairing machine efficiency	Up to 15	Hydraulic and electric tools are available For large areas of concrete, machine designed to break concrete in bending can be used Thermic lance
		Ensure all leaks in air line are sealed		
	Bit	Use dampened bit to eliminate ringing		
	Total machine	Erect acoustic screen between compressor or generator and noise-sensitive area. When possible, line of sight between top of machine and reception point needs to be obscured	Up to 10	
		Enclose breaker or rock drill in portable or fixed acoustic enclosure with suitable ventilation	Up to 20	
Rotary drills, diamond drilling and boring	Drive motor and bit	Use machine inside acoustic shed with adequate ventilation	Up to 15	Thermic lance

Appendix 5: Legislation and Planning Policy

LEGAL PROTECTION

National and European Legislation Afforded to Habitats

International Statutory Designations

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are sites of European importance and are designated under the EC Habitats Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (the Habitats Directive) and the EC Birds Directive 2009/147/EC on the conservation of wild birds (the Wild Birds Directive) respectively. Both form part of the wider Natura 2000 network across Europe.

Under the Habitats Directive Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe. Over 1000 animal and plant species, as well as 200 habitat types, listed in the directive's annexes are protected in various ways:

Annex II species (about 900): core areas of their habitat are designated as Sites of Community importance (SCIs) and included in the Natura 2000 network. These sites must be managed in accordance with the ecological needs of the species.

Annex IV species (over 400, including many Annex II species): a strict protection regime must be applied across their entire natural range, both within and outside Natura 2000 sites.

Annex V species (over 90): their exploitation and taking in the wild is compatible with maintaining them in a favourable conservation status.

SPAs are classified under Article 2 of the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds both for rare bird species (as listed on Annex I) and for important migratory species.

The Conservation of Habitats and Species Regulations 2017 (as amended) form the legal basis for the implementation of the Habitats and Birds Directives in terrestrial areas and territorial waters out to 12 nautical miles in England and Wales (including the inshore marine area) and to a limited extent in Scotland and Northern Ireland.

Ramsar sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention covers all aspects of wetland conservation and recognises the importance of wetland ecosystems in relation to global biodiversity conservation. The Convention refers to wetlands as "*areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres*". However, they may also include riparian and coastal zones. Ramsar sites are statutorily protected under the Wildlife & Countryside Act 1981 (as amended 01.04.1996) with further protection provided by the Countryside and Rights of Way (CRoW) Act 2000. Policy statements have been issued by the Government in England and Wales highlighting the special status of Ramsar sites. The Government in England and Wales has issued policy statements which ensure that Ramsar sites are afforded the same protection as areas designated under the EC Birds and Habitats Directives as part of the Natura 2000 network (e.g. SACs & SPAs). Further provisions for the protection and management of SSSIs have been introduced by the Nature Conservation (Scotland) Act 2004.

National Statutory Designations

Sites of Special Scientific Interest (SSSI) are designated by nature conservation agencies in order to conserve key flora, fauna, geological or physio-geographical features within the UK. The original designations were under the National Parks and Access to the Countryside Act 1949 but SSSIs were then re-designated under the Wildlife & Countryside Act 1981 (as amended). As well as reinforcing other national designations (including National Nature Reserves), the system also provides statutory protection for terrestrial and coastal sites which are important within the European Natura 2000 network and globally.

Local Statutory Designations

Local authorities in consultation with the relevant nature conservation agency can declare Local Nature Reserves (LNRs) under the National Parks and Access to the Countryside Act 1949. LNRs are designated for flora, fauna or geological interest and are managed locally to retain these features and provide research, education and recreational opportunities.

Non- Statutory Designations

All non-statutorily designated sites are referred to as Local Wildlife Sites (LWS) and can be designated by the local authority for supporting local conservation interest. Combined with statutory designation, these sites are considered within Local Development Frameworks under the Town and Country Planning system and are a material consideration during the determination of planning applications. The protection afforded to these sites varies depending on the local authority involved.

Regionally Important Geological Sites (RIGs) are the most important geological and geomorphological areas outside of statutory designations. These sites are also a material consideration during the determination of planning applications.

The Hedgerow Regulations 1997

The Hedgerow Regulations 1997 are designed to protect ‘important’ countryside hedgerows. Importance is defined by whether the hedgerow (a) has existed for 30 years or more; or (b) satisfies at least one of the criteria listed in Part II of Schedule 1 of the Regulations.

Under the Regulations, it is against the law to remove or destroy hedgerows on or adjacent to common land, village greens, SSSIs (including all terrestrial SACs, NNRs and SPAs), LNRs, land used for agriculture or forestry and land used for the keeping or breeding of horses, ponies or donkeys without the permission of the local authority. Hedgerows 'within or marking the boundary of the curtilage of a dwelling-house' are excluded.

National and European Legislation Afforded to Species

The Conservation of Habitats and Species Regulations 2017 (as amended)

The Conservation of Habitats and Species Regulations 2017 (as amended) aims to promote the maintenance of biodiversity by requiring the Secretary of State to take measures to maintain or restore wild species listed within the Regulations at a favourable conservation status.

The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild population of the species concerned.

The Wildlife and Countryside Act (WCA) 1981 (as amended)

The Wildlife and Countryside Act (WCA) 1981 (as amended) implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention 1979, implemented 1982) and implements the species protection requirements of EC Birds Directive 2009/147/EC on the conservation of wild birds in Great Britain (the birds Directive). The WCA 1981 has been subject to a number of amendments, the most important of which are through the Countryside and Rights of Way (CRoW) Act (2000).

Other legislative Acts affording protection to wildlife and their habitats include:

- Deer Act 1991
- Natural Environment & Rural Communities (NERC) Act 2006
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996

Badgers

Badgers *Meles meles* are protected under The Protection of Badgers Act 1992 which makes it an offence to:

- Wilfully kill, injure, take, or attempt to kill, injure or take a badger
- Cruelly ill-treat a badger, including use of tongs and digging
- Possess or control a dead badger or any part thereof
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when it is occupying a badger sett
- Intentionally or recklessly cause a dog to enter a badger sett
- Sell or offers for sale, possesses or has under his control, a live badger

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

A development licence will be required from the relevant countryside agency (i.e. Natural Resources Wales) for any development works likely to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agencies to define what would constitute a licensable activity. It is no possible to obtain a licence to translocate badgers.

Birds

With certain exceptions, all birds, their nests and eggs are protected under Sections 1-8 of the WCA. Among other things, this 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 an egg of any wild bird
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof.

Certain species of bird, for example the barn owl, bittern and kingfisher receive additional protection under Schedule 1 of the WCA and are commonly referred to as "Schedule 1" birds.

This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young
- Intentional or reckless disturbance of dependent young of such a bird

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

Works should be planned to avoid the possibility of killing or injuring any wild bird or damaging or destroying their nests. The most effective way to reduce the likelihood of nest destruction in particular is to undertake work outside the main bird nesting season which typically runs from March to August. Where this is not feasible, it will be necessary to have any areas of suitable habitat thoroughly checked for nests prior to vegetation clearance.

Schedule 1 birds are additionally protected against disturbance during the nesting season. Thus, it will be necessary to ensure that no potentially disturbing works are undertaken in the vicinity of the nest. The most effective way to avoid disturbance is to postpone works until the young have fledged. If this is not feasible, it may be possible to maintain an appropriate buffer zone or standoff around the nest.

Amphibians and Reptiles

The sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita*, pool frog *Pelophylax lessonae* and great crested newt *Triturus cristatus* receive full protection under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
- To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
- To impair their ability to hibernate or migrate
- To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

With the exception of the pool frog, these species are also listed on Schedule 5 of the WCA and they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection
- Selling, offering or exposing for sale, possession or transporting for purpose of sale.

Other native species of reptiles are protected solely under Schedule 5, Section 9(1) & (5) of the WCA, i.e. the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis*. It is prohibited to:

- Intentionally or recklessly kill or injure these species.

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural Resources Wales) will be required for works likely to affect the breeding sites or resting places amphibian and reptile species protected under Habitats Regulations. A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow derogation from the relevant legislation, but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the WCA.

Water Voles

The water vole *Arvicola terrestris* is fully protected under Schedule 5 of the WCA. This makes it an offence to:

- Intentionally kill, injure or take (capture) water voles
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection
- Intentionally or recklessly disturb water voles while they are occupying a structure or place used for shelter or protection

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

If development works are likely to affect habitats known to support water voles, the relevant countryside agency (i.e. Natural Resources Wales) must be consulted. It must be shown that means by which the proposal can be re-designed to avoid contravening the legislation have been fully explored e.g. the use of alternative sites, appropriate timing of works to avoid times of the year in which water voles are most vulnerable, and measures to ensure minimal habitat loss. Conservation licences for the capture and translocation of water voles may be issued by the relevant countryside agency for the purpose of development activities if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will then only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of works.

Otters

Otters *Lutra lutra* are fully protected under the Conservation Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
- To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
- To impair their ability to hibernate or migrate
- To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Otters are also currently protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural Resources Wales) will be required for works likely to affect otter breeding or resting places (often referred to as holts, couches or dens) or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, and rear young). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored

Bats

All species are fully protected by Habitats Regulations 2010 as they are listed on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (e.g. All bats)
- Deliberate disturbance of bat species in such a way as:
- To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
- To impair their ability to hibernate or migrate
- To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Bats are afforded the following additional protection through the WCA as they are included on Schedule 5:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

A European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural Resources Wales) will be required for works are likely to affect a bat roost or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSL. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Hazel Dormice

Hazel dormice *Muscardinus avellanarius* are fully protected under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
- To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
- To impair their ability to hibernate or migrate
- To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Dormice are also protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

Works which are liable to affect a dormice habitat or an operation which are likely to result in an illegal level of disturbance to the species will require a European Protected Species Licence (EPSL) issued by the relevant countryside agency (i.e. Natural Resources Wales). The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

White Clawed Crayfish

There is a considerable amount of legislation in place in an attempt to protect the White-clawed crayfish *Austropotamobius pallipes*. This species is listed under the European Union's (EU) Habitat and Species Directive and is listed under Schedule 5 of the Wildlife and Countryside Act (1981). This makes it an offence to:

- Protected against intentional or reckless taking
- Protected against selling, offering or advertising for sale, possessing or transporting for the purpose of sale

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

The relevant countryside agency (i.e. Natural Resources Wales) will need to be consulted about development which could impact on a watercourse or wetland known to support white clawed crayfish. Conservation licences for the capture and translocation of crayfish can be issued if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of the works.

Wild Mammals (Protection Act) 1996

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it an offence to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

To avoid possible contravention, due care and attention should be taken when carrying out works (for example operations near burrows or nests) with the potential to affect any wild mammal in this way, regardless of whether they are legally protected through other conservation legislation or not.

Legislation Afforded to Plants

With certain exceptions, all wild plants are protected under the WCA. This makes it an offence for an 'unauthorised' person to intentionally (or recklessly in Scotland) uproot wild plants. An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.

Certain rare species of plant, for example some species of orchid, are also fully protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). This prohibits any person from:

- Intentionally picking, uprooting or destruction of any wild Schedule 8 species

- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof
- In addition to the UK legislation outlined above, several plant species are fully protected under Schedule 5 of The Conservation of Habitats and Species Regulations 2010. These are species of European importance. Regulation 45 makes it an offence to:
- Deliberately pick, collect, cut, uproot or destroy a wild Schedule 5 species
- Be in possession of, or control, transport, sell or exchange, or offer for sale or exchange any wild live or dead Schedule 5 species or anything derived from such a plant.

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

A European Protected Species Licence (EPSL) will be required from the relevant countryside agency (i.e. Natural Resources Wales) for works which are likely to affect species of planted listed on Schedule 5 of the Conservation or Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Invasive Species

Part II of Schedule 9 of the WCA lists non-native invasive plant species for which it is a criminal offence in England to plant or cause to grow in the wild due to their impact on native wildlife. Species included (but not limited to):

- Japanese knotweed *Fallopia japonica*
- Giant hogweed *Heracleum mantegazzianum*
- Himalayan balsam *Impatiens glandulifera*

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

It is not an offence for plants listed in Part II of Schedule 9 of the WCA 1981 to be present on the development site, however, it is an offence to cause them to spread. Therefore, if any of the species are present on site and construction activities may result in further spread (e.g. earthworks, vehicle movements) then it will be necessary to design and implement appropriate mitigation prior to construction commencing.

Injurious weeds

Under the Weeds Act 1959 any landowner or occupier may be required prevent the spread of certain ‘injurious weeds’ including (but not limited to):

- Spear thistle *Cirsium vulgare*
- Creeping thistle *Cirsium arvense*
- Curled dock *Rumex crispus*

- Broad-leaved dock *Rumex obtusifolius*
- Common ragwort *Senecio jacobaea*

EFFECT OF LEGISLATION AND POLICY ON DEVELOPMENT WORKS

It is a criminal offence to fail to comply with a notice requiring such action to be taken. The Ragwort Control Act 2003 establishes a ragwort control code of practice as common ragwort is poisonous to horses and other livestock. This code provides best practice guidelines and is not legally binding.

NATIONAL PLANNING POLICY

Environment (Wales) Act 2016 and the Biodiversity Duty

The Environment (Wales) Act 2016 introduces a new biodiversity duty, which highlights biodiversity as an essential component of ecosystem resilience. This new duty replaces the biodiversity duty in the Natural Environment and Rural Communities Act 2006 (referred to as the NERC Act). Part 1 of the Act deals with Sustainable management of natural resources including Biodiversity and Resilience of Ecosystems Duty. The Environment Act enhances the current NERC Act duty to require all public authorities, when carrying out their functions in Wales, to seek to "maintain and enhance biodiversity" where it is within the proper exercise of their functions. In doing so, public authorities must also seek to "promote the resilience of ecosystems". As under the NERC Act the new duty will apply to a range of public authorities such as the Welsh Ministers, local authorities, public bodies and statutory undertakers. This ensures that biodiversity is an integral part of the decisions that public authorities take in relation to Wales. It also links biodiversity with the long-term health and functioning of our ecosystems, therefore helping to align the biodiversity duty with the framework for sustainable natural resource management provided in the Act.

Planning Policy Wales (2021)

Paragraph 6.4.3 of the document refers to Biodiversity and Ecological Networks and states:

The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. Addressing the consequences of climate change should be a central part of any measures to conserve biodiversity and the resilience of ecosystems. Information contained in SoNaRR, Area Statements and species records from Local Environmental Record Centres should be taken into account. Development plan strategies, policies and development proposals must consider the need to:

- support the conservation of biodiversity, in particular the conservation of wildlife and habitats;
- ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats;
- ensure statutorily and non-statutorily designated sites are properly protected and managed;
- safeguard protected and priority species and existing biodiversity assets from impacts which directly affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water and soil, including peat; and
- secure enhancement of and improvements to ecosystem resilience by improving diversity, condition, extent and connectivity of ecological networks.

Biodiversity and Resilience of Ecosystems Duty (Section 6 Duty)

Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. Planning authorities must also take account of and promote the resilience of ecosystems, in particular the following aspects:

a) Diversity between and within ecosystems;
b) The connections between and within ecosystems;
c) The scale of ecosystems;
d) The condition of ecosystems (including their structure and functioning); and
e) The adaptability of ecosystems.

In fulfilling this duty, planning authorities must have regard to:

a) The list of habitats of principal importance for Wales, published under Section 7 of the Environment (Wales) Act 2016;
b) The State of Natural Resources Report (SoNaRR), published by NRW; and
c) Any Area Statement that covers all or part of the area in which the authority exercises its functions.

Planning Authorities should also refer to up to date ecological survey information (where appropriate).

A proactive approach towards facilitating the delivery of biodiversity and resilience outcomes should be taken by all those participating in the planning process. In particular, planning authorities should demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions.

The broad framework for implementing the duty and building resilience through the planning system includes addressing:

- Diversity: to ensure mechanisms are in place to minimise further loss and that circumstances allow for species' populations to expand and recolonise their natural range (former range) or adapt to future change. This means development should provide a net benefit for biodiversity, and at the very least, with no significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity;
- Extent: to ensure mechanisms allow for the maintenance of existing assets and networks and promote the restoration of damaged, modified or potential habitat and the creation of new habitat. This means that planning choices should incorporate measures which seek the creation and restoration of green networks and linkages between habitats and maintaining and enhancing other green infrastructure features and networks;
- Condition: Ecosystems need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services. Planning decisions should not compromise the condition of ecosystems. By taking an integrated approach to development, for example, which considers both direct and wider impacts and benefits it should be possible to make a positive contribution. Planning for the long term management of retained habitats is key to maintaining condition through for example, the use of planning obligations;
- Connectivity: to take opportunities to develop functional habitat and ecological networks within and between ecosystems and across landscapes, building on existing connectivity and quality and encouraging habitat creation, restoration and appropriate management. The opportunities could include enlarging habitat

areas, developing buffers around designated sites or other biodiversity assets or corridors, including transport and river corridors, and the creation of 'stepping stones' which will strengthen the ability of habitats and ecological networks to adapt to change, including climate change; and

- Adaptability to change: primarily in the form of climate change, for both species (diversity) and ecosystems requires action to protect the extent, condition and connectivity of habitats, features and ecological networks. Development plans, planning proposals and applications which build on protecting designated sites and securing and enhancing green infrastructure will be key ways of addressing the attributes of ecosystems resilience identified in the Environment Act as well as facilitating social and economic resilience aspirations of the Well-being of Future Generations Act.

Good Practice Guide GPG 3 (October 2015) NRW Approach to Bats and Planning

As explained in Planning Policy Wales (Chapter 5 - Conserving and Improving Natural Heritage and the Coast), the presence of a European protected species is a material consideration for a development proposal that would be likely to result in disturbance or harm to the species or its breeding sites or resting places. Planning Policy Wales also explains that planning authorities should seek the advice of Natural Resources Wales for all planning applications likely to result in disturbance or harm to bats and should always consult them before granting permission. Local Planning Authorities address this by screening applications to identify when there is a reasonable likelihood that bats may be present and, therefore, when to require a bat survey and report that will confirm if bats are present and if they likely to be disturbed or harmed by the proposal. The overall requirement on Local Planning Authorities, Natural Resources Wales and developers is to avoid harm or disturbance to bats and their breeding sites and resting places, unless Natural Resources Wales has given a licence to allow the harm or disturbance. Natural Resources Wales may only give a licence if the requirements for derogation are met, including that disturbance or harm to individual bats (or to their breeding sites and resting places) would not be detrimental to the maintenance of the population.

LOCAL PLANNING POLICY

Wrexham Unitary Development Plan (adopted 14th February 2005)

The Wrexham Unitary Development Plan can be viewed here: https://www.wrexham.gov.uk/service/development-plans-and-other-planning-policy/wrexham-unitary-development-plan

The following planning policies have implications for developers in relation to biodiversity:

- Policy EC6 Biodiversity Conservation - Encouragement will be given to proposals which improve the biodiversity value of sites and to the establishment of local nature reserves where the nature conservation and landscape interest of the land will be protected and enhanced.

Wrexham Local Planning Guidance Note – Biodiversity and Development

The Wrexham Local Planning Guidance Note – Biodiversity and Development can be viewed here: https://www.wrexham.gov.uk/sites/default/files/2020-05/lpg-32e.pdf

This guidance note is intended to raise the quality and profile of nature conservation, protected species and biodiversity issues when submitting and considering planning applications.