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**PLOT AT HILL CREST
PENLEY
WREXHAM
LL13 0NL**

BUILDING DEVELOPMENT

PRELIMINARY ECOLOGICAL APPRAISAL

Report by:

Stephen Cutmore BSc (Hons), MICFor

Client	Mark Roberts
Planning Authority	Wrexham County Borough Council
Grid Reference	SJ4141839242
Date of Survey	15 December 2023
Reference	012024/PEA/MR



PRO3755



Veteran tree specialist
– Consulting level

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1.0 SUMMARY

The site located at Grid Reference SJ4141839242 is adjacent to the West boundary of the fairly recently constructed dwelling at 23 Hill Crest, Penley, Wrexham, LL13 0NL.

The A539 road is approximately 715m to the Northeast of the site. An area of woodland (unnamed) is adjacent to the West boundary of the site. Other areas of woodland, trees and hedgerows are in the locality. A small watercourse/drain is some 270m to the Southeast of the site. There are no ponds on the site. The nearest pond is some 220m to the North, with other ponds approx. 260m to the East and approx. 330m to the West.

The development proposal is to erect 1 No. new detached dwelling on the plot, with access driveway, parking and associated works.

The Cofnod Data Request (E12011) provided information regarding Priority Species within a 1km radius of the site. Due to the sensitivity of the data, specific records for protected species cannot be disclosed, but there are records of Priority Species mammals (badgers, bats, otter), amphibians (great crested newt, smooth newt) within 1km radius of the site. There are records of non-native invasive plant species (including Himalayan Cotoneaster, Japanese Knotweed, Montbretia, Variegated Yellow Archangel) within 1km radius of the site.

There is high potential for nesting birds in the scrub and trees. Trees provide potential flight-lines for foraging/commuting bats. The scrub and trees have some potential as terrestrial

There are no hedges on site, so none qualify as 'important', with regards to the Hedgerow Regulations 1997, made under Section 97 of the Environment Act 1995 which came into effect 1 June 1997, due to the number of species present. The scrub will be removed to facilitate the proposed development, so there will be a small loss of habitat on the site.

By using mitigation and Reasonable Avoidance Methods (RAM), the proposed development should have no detrimental effect on the favourable conservation status of amphibians, badgers, bats, nesting birds, otters, reptiles and small mammals. RAM statements will be provided in separate documents.



2.0 INTRODUCTION

Stephen Cutmore, a licensed bat worker ([S091618/1]), and licenced Amphibian Worker ([S092048/1]), was instructed by Mark Roberts, to carry out a Preliminary Ecological Appraisal of the proposed development site at Hill Crest, Penley, Wrexham, LL13 0NL. The purpose of the survey was to identify habitats present, assess the conservation value of the survey areas, the likely presence of rare or protected species, to identify any features, habitats or species which would constitute potential constraints to any development which might take place and to make recommendations for mitigation and/or further survey work as appropriate.

2.1 Site Location

The site located at Grid Reference SJ4141839242 is adjacent to the West boundary of the fairly recently constructed dwelling at 23 Hill Crest, Penley, Wrexham, LL13 0NL.

The A539 road is approximately 715m to the Northeast of the site.

2.2 Site Description

The site is adjacent to a dwelling (23 Hill Crest) which was constructed in the recent past. The site is covered with scrub and small self-set saplings. An area of mixed species woodland (unnamed) is adjacent to the West boundary of the site. Other areas of woodland, trees and hedgerows are in the locality. A small watercourse/drain is some 270m to the Southeast of the site. There are no ponds on the site. The nearest pond is some 220m to the North, with other ponds approx. 260m to the East and approx. 330m to the West.

2.3 Proposed development

The development proposal is to erect 1 No. new detached dwelling on the plot, with access driveway, parking and associated works.



3.0 METHODOLOGY

3.1 Preliminary Ecological Appraisal

The site was surveyed on the afternoon of 15 December 2023, in accordance with the JNCC methodology (2010) in order to produce a Phase 1 habitat map. Target notes with supplementary information or identifying the potential for protected species are also given.

The value of the sites for foraging bats, great crested newts and other protected species and habitat features was also assessed.

A search was also made for signs of invasive plant species such as Japanese Knotweed.

Any hedgerows present were surveyed to determine if any of the hedges meet the requirements of important hedgerows under the 1997 Hedgerows Regulations.

3.2 Desk Study

The 1: 25000 Ordnance Survey map covering the site and aerial photos accessed from the internet, were scrutinised to initially assess the wildlife value of the proposed development site and surrounding habitat at a basic level. This involved looking for any semi-natural habitat that may be of value to wildlife (e.g. woodland, parkland, hedges, ponds, rivers, wetland, with interconnecting habitat links. The Cofnod (Local Ecological Records Centre) website was accessed (www.cofnod.org.uk) and a Cofnod Data Request [E12011] was made for a data search for Priority Species and designated wildlife sites within a 1km radius of the site.

4.0 SURVEY LIMITATIONS

This is solely an ecological survey report and cannot comment on topics outside this discipline. If additional advice is required, it is strongly recommended that other professionals are consulted.

- 1) information contained in this report covers only the sites that were examined:
- 2) the inspection is limited to visual examination of the sites.
- 3) there is no warranty or guarantee, expressed or implied, that Protected Species may not utilise the sites after the surveys have been completed, that are not discovered utilising the sites during the inspection. This report gives an assessment of the suitability of the habitats on the site to support Protected Species, to determine if there is a need for further surveys.
- 4) this report has been prepared for the sole use and benefit of the client. Any liability of Stephen Cutmore Arboricultural & Ecological Services shall not be extended to any third party.



5.0 SURVEY RESULTS

5.1 Desk Study

The Cofnod Data Request (E12011) provided information regarding Priority Species within a 1km radius of the site. Due to the sensitivity of the data, specific records for protected species cannot be disclosed, but there are records of Priority Species mammals (bats, otter), amphibians (great crested newt, smooth newt) within 1km radius of the site. There are records of non-native invasive plant species (including Himalayan Cotoneaster, Japanese Knotweed, Montbretia, Variegated Yellow Archangel) within 1km radius of the site.

Designated sites within 1km radius of the site are Penley Wood and Lees Wood (Wildlife Site), Brook Mill Grassland (Wildlife Site), Llanerch Panna and Penley Bank (Wildlife Site) and several Ancient Semi Natural Woodland sites.

Other designated sites within 10km radius of the site include:

Cloy Brook Pastures (SSSI), Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses (SAC/SSSI), Hanmer Mere (SSSI), Llyn Bedydd (SSSI), Midlands Meres and Mosses Phase 2 (SSSI), Nant y Belan and Prynellu Woods (SSSI), River Dee and Bala Lake (SAC), Shell Brook Pastures (SSSI).

5.2 Habitats

For the purposes of accurate habitat survey, the site can be divided into three distinct areas.

Target Notes

A1: Broadleaved Plantation Woodland (adjacent to site) has potential for nesting birds and foraging/commuting bats, , amphibians/reptiles.

A2: Scrub

J5: [Other habitat] Hardstanding road and footpaths (adjacent to site) have no value for wildlife.



5.0 SURVEY RESULTS

5.2 Habitats

The wild plant list for Area A comprises:

A1 Broadleaved Plantation Woodland:

Ash (*Fraxinus excelsior*), Bramble (*Rubus fruticosus*), Common Oak (*Quercus robur*), Common Yew (*Taxus baccata*), Hawthorn (*Crataegus monogyna*), Hazel (*Corylus avellana*), Holly (*Ilex aquifolium*), Ivy (*Hedera helix*), Sycamore (*Acer pseudoplatanus*), Willow (*Salix* spp.), Wych Elm (*Ulmus glabra*).

A2 Scrub:

Ash, Bracken (*Pteridium aquilinum*), Bramble, Common Violet (*Viola odorata*), Couch grass (*Elymus repens*), Hawthorn, Hazel, Ivy, Moss (*Brachythecium rutabulum*), Soft Rush (*Juncus effusus*), Snowberry (*Symphoricarpos albus*), Stinging Nettle (*Urtica dioica*), Sycamore, Teasel (*Dipsacus fullonum*), Yorkshire Fog (*Holcus lanatus*), Willow.

There is high potential for nesting birds in the scrub and trees. Trees provide potential flight-lines for foraging/commuting bats. The scrub and trees have some potential as terrestrial habitat to be used by amphibians/reptiles/hedgehogs for foraging and emigration corridors.

There are no hedges on the site, so none qualify as ‘important’, with regards to the Hedgerow Regulations 1997, made under Section 97 of the Environment Act 1995 which came into effect 1 June 1997, due to the number of species present.

See maps in Appendix 1 and photographs in Appendix 2. For ranking of abundance (DAFOR scale) of the habitats, please see Appendix 3.



6.0 SPECIES

6.1 Bats

Bats often roost in trees in holes/cavities in the trunk, cracks/splits in branches, beneath dead loose bark and behind dense Ivy growth. Linear features such as hedgerows and mature trees provide valuable flight-lines used by bats whilst foraging and commuting. The trees and scrub provide good foraging habitats for bat species due to the invertebrate species associated with them. Some of the trees within the adjacent woodland have potential roost features (splits/cracks, cavities, dead loose bark) for roosting bats, but none of these trees are to be removed.

There are records of Brown Long-eared, Common Pipistrelle, Myotis species and Soprano Pipistrelle bat species within 1km radius of the survey site according to the data search.

6.2 Great Crested Newts and other amphibians

No signs of great crested newts (GCN) were observed during the survey, however the scrub and adjacent woodland have potential as terrestrial habitat to be used by GCN and other amphibians for foraging and emigration corridors. The piles of brash (from previous coppicing work) at the edge of the woodland have some potential as resting places/hibernacula for amphibians.

There are no ponds on the site. The nearest pond is some 220m to the North, with other ponds approx. 260m to the East and approx. 330m to the West.

There are records of amphibians (common frog, common toad, great crested newts, smooth newt), within 1km radius of the survey site according to the data search (nearest record of GCN 270m).

6.3 Reptiles

No signs of reptiles or shed skins, eggs etc. were noted during the survey; however the scrub and adjacent woodland have potential as terrestrial habitat to be used by reptiles for foraging and emigration corridors. The dense scrub on site has little potential as basking areas, due to the shade cast. The piles of brash (from previous coppicing work) at the edge of the woodland have some potential as resting places/hibernacula for reptiles.

There are no records of reptiles within 1km radius of the survey site according to the data search.

6.4 Badgers

No evidence of badgers was observed on the site (setts, tunnel entrances, latrines, badger hairs on wire fences, tracks, 'snuffle holes' etc.).



6.0 SPECIES (continued)

6.5 Hazel Dormice

No signs of hazel dormice were noted during the survey and there is no potential habitat for this species on the site. There are no records of hazel dormice within 1km radius of the survey site according to the data search.

6.6 Otters

No signs of otters were observed on the site and there is no potential habitat for this species on the site. There are records of otters within 1km radius of the survey site according to the data search (nearest record 215m).

6.7 Other mammal species

There are records of other mammal species (grey squirrel) within 1km radius of the site. The adjacent woodland provide suitable habitat for these other mammal species.

6.8 Nesting birds

There are numerous records of birds within 1km of the site according to the data search. The scrub and trees all have potential for nesting birds.

6.9 EPS Plant species

There are no records of EPS plant species within 1km of the site according to the data search.

6.10 Invasive non-native species

No Invasive non-native plant species were observed on the site. There are records of INNS plant species (including Himalayan Cotoneaster, Japanese Knotweed, Montbretia, Variegated Yellow Archangel) within 1km of the site according to the data search.

6.11 Survey Constraints

There were no particular constraints to surveys, apart, perhaps from the time of year making it difficult to account for the full range of some species of flowering plants.

6.12 Data Search Results

A summary of the data search results are included in Appendix 3. Sites of nature conservation interest within 1km of the site are:

Designated sites within 1km radius of the site are Penley Wood and Lees Wood (Wildlife Site), Brook Mill Grassland (Wildlife Site), Llanerch Panna and Penley Bank (Wildlife Site) and several Ancient Semi Natural Woodland sites.

There are records of Priority Species mammals amphibians (great crested newt, smooth newt) within 1km radius of the site. There are records of non-native invasive plant species (including Himalayan Cotoneaster, Japanese Knotweed, Montbretia, Variegated Yellow Archangel) within 1km radius of the site.

The absence of recent records for certain species in this area is in part likely due to a lack of survey effort or the non-submission of records, rather than the absence of these species.



7.0 EVALUATION

Please note that all conclusions and recommendations are based upon the current survey findings and on the proposal outlined in 2.0 above. If the site management changes then the potential for protected species to use the site may change accordingly. Many protected species are highly mobile and re-survey of the site may be necessary in the future.

7.1 Conclusions

7.1.1 Habitats

There is high potential for nesting birds in the scrub and trees. Trees provide potential flight-lines for foraging/commuting bats. The scrub and trees have some potential as terrestrial habitat to be used by amphibians/reptiles/hedgehogs for foraging and emigration corridors. The adjacent woodland has potential for foraging badgers, but the scrub has low potential for foraging badgers on the site.

There are no hedges on the site, so none qualify as ‘important’, with regards to the Hedgerow Regulations 1997, made under Section 97 of the Environment Act 1995 which came into effect 1 June 1997, due to the number of species present.

7.1.2 Bats

Bats often roost in trees in holes/cavities in the trunk, cracks/splits in branches, beneath dead loose bark and behind dense Ivy growth. Linear features such as hedgerows and mature trees provide valuable flight-lines used by bats whilst foraging and commuting. The trees and hedges provide good foraging habitats for bat species due to the invertebrate species associated with them. Some of the trees within the adjacent woodland have potential roost features (splits/cracks, cavities, dead loose bark) for roosting bats, but none of these trees are to be removed.

There are records of Brown Long-eared, Common Pipistrelle, Myotis species and Soprano Pipistrelle bat species within 1km radius of the survey site according to the data search. If bat boxes are to be installed on the site, as part of wildlife enhancement for the proposed development, it is important that the bat boxes, roost entry points and flightlines are not directly illuminated.

The proposed development should have no detrimental effect on the favourable conservation status of locally recorded bats.



7.0 EVALUATION (continued)

7.1.3 Great Crested Newts and other amphibians

No signs of great crested newts (GCN) were observed during the survey, however the scrub and adjacent woodland have potential as terrestrial habitat to be used by GCN and other amphibians for foraging and emigration corridors. The piles of brash (from previous coppicing work) at the edge of the woodland have some potential as resting places/hibernacula for amphibians.

There are no ponds on the site. The nearest pond is some 220m to the North, with other ponds approx. 260m to the East and approx. 330m to the West.

There are records of amphibians (common frog, common toad, great crested newts, smooth newt), within 1km radius of the survey site according to the data search (nearest record of GCN 270m).

The scrub will need to be removed to facilitate the proposed development, so there will be a minimal loss of habitat on the site. The piles of brash may need to be removed, if they are within the development area. A landscaping scheme will include new tree/shrub/hedge planting as compensation to mitigate for any loss of habitat and also to provide additional wildlife enhancements.

By using Reasonable Avoidance Methods, the proposed development should have no detrimental effect on the favourable conservation status of GCN and other amphibians.

7.1.4 Reptiles

No signs of reptiles or shed skins, eggs etc. were noted during the survey; however the scrub and adjacent woodland have potential as terrestrial habitat to be used by reptiles for foraging and emigration corridors. The dense scrub on site has little potential as basking areas, due to the shade cast. The piles of brash (from previous coppicing work) at the edge of the woodland have some potential as resting places/hibernacula for reptiles.

There are no records of reptiles within 1km radius of the survey site according to the data search.

The scrub will need to be removed to facilitate the proposed development, so there will be a minimal loss of habitat on the site. A landscaping scheme will include new tree/shrub/hedge planting as compensation to mitigate for any loss of habitat and also to provide additional wildlife enhancements.

By using Reasonable Avoidance Methods, the proposed development should have no detrimental effect on the favourable conservation status of reptiles.



7.0 EVALUATION (continued)

7.1.5 Badgers

No evidence of badgers was observed on the site (setts, tunnel entrances, latrines, badger hairs on wire fences, tracks, 'snuffle holes' etc.).

7.1.6 Hazel Dormice

No signs of hazel dormice were noted during the survey and there is no potential habitat for this species on the site. There are no records of hazel dormice within 1km radius of the survey site according to the data search. The proposed development should have no detrimental effect on the favourable conservation status of dormice.

7.1.7 Otters

No signs of otters were observed on the site and there is no potential habitat for this species on the site. There are records of otters within 1km radius of the survey site according to the data search (nearest record 215m). The proposed development should have no detrimental effect on the favourable conservation status of otters.

7.1.8 Other mammal species

There are records of other mammal species (grey squirrel) within 1km radius of the site. The adjacent woodland provide suitable habitat for these other mammal species.

By using Reasonable Avoidance Methods, the proposed development should have no detrimental effect on the favourable conservation status of these other mammal species.

7.1.9 Nesting Birds

The scrub and trees have potential to be used by a variety of bird species for nesting. Under the Wildlife and Countryside Act, 1981 (as amended), it is illegal to take, damage or destroy the nests of wild birds whilst being built or in use (with exceptions). However it is not an offence to carry out works in areas that they use, outside of the nesting period. Therefore it is recommended that works, particularly clearance of vegetation, are carried out between the period between 1st October and end of February to avoid the bird nesting season.

If works to clear potential nesting habitat need to be carried out during the nesting period (1st March – 30th September) a check should be made by an ecologist for nesting birds, the day before the works are due to commence. Any birds nesting should be left to complete their breeding (i.e. until the young have fully fledged) before any works that will disturb the birds can take place.

7.1.10 EPS plant species

There are no records of EPS plant species within 1km of the site according to the data search. The proposed development should have no detrimental effect on EPS plant species.



7.0 EVALUATION (continued)

7.1.11 Invasive non-native plant species

No invasive non-native species [INNS] of plant were observed on the site. There are records of INNS plant species (including Himalayan Cotoneaster, Japanese Knotweed, Montbretia, Variegated Yellow Archangel) within 1km of the site according to the data search. The site entrance will be locked at night, so there is no foreseen potential of access by fly-tippers dumping material containing invasive non-native plants. Biosecurity measures will be implemented to minimise the risk of spreading INNS.

7.1.12 Summary of further survey

Survey type	Timing	Where	Notes
Nesting birds	March - September	A2	Only if trees/hedge are being removed in these months.
GCN (soft demolition of brash piles on edge of woodland).	April - October	A1/A2	Only if brash piles need to be removed.



8.0 IMPACT ASSESSMENT

Whilst there are no GCN breeding sites on the proposed development land, there is GCN terrestrial habitat, with breeding sites in the locality. The small scale housing development is considered a Medium Risk Category.

Risk Category	Scale of development/activity	Types of Scheme (example)	Associated Ecological interest
Low	Small	Loft conversion	Bat Feeding or night roost GCN terrestrial habitat
	Medium	Utility replacement or refurbishment schemes	GCN Breeding sites
	Large	Proposal is likely to be of local importance e.g. small scale housing, utility replacement or refurbishment schemes	GCN Breeding sites
Medium	Small	Demolition of unsafe structures, barn conversions and small scale housing	Bat roost none breeding or Common Pipistrelle breeding roost (Excluding hibernation sites or roosts of rarer species) GCN Breeding sites
	Medium	Proposal is likely to be of regional or national importance e.g. industrial developments, housing developments, new schools, hospitals, mineral extraction	GCN Breeding sites
	Large	Proposal is likely to be of local importance e.g. small scale housing, utility replacement or refurbishment schemes	GCN Breeding sites
High	Small	Demolition of unsafe structures, barn conversions and small scale housing	Proposal is likely to be of regional or national importance e.g. Nursery roost (excluding Common Pipistrelle) and key hibernation sites; All sites supporting SAC features near SACs
	Medium	Proposal is likely to be of regional or national importance e.g. industrial developments, housing developments, new schools, hospitals, mineral extraction	
	Large	Proposal is likely to be of regional or national importance e.g. industrial developments, housing developments, new schools, hospitals, mineral extraction, development near European sites with possible implications for such sites	
Factors that may inform Risk categorization	Location near statutory site especially N2K sites, complexity of case, capacity and competencies of contractors; third party engagement, social/political risks; infraction or other legal proceedings; timing/methodologies		



8.0 IMPACT ASSESSMENT

8.1 Short-term impact

Disturbance through increased human presence, noise and changes in site layout may have a detrimental effect on nesting birds, foraging bats and amphibians/reptiles, particularly site clearance, topsoil stripping and drainage installation. The remaining risk is that emigrating GCN may stray onto the development site, seek shelter in temporary construction materials or fall into temporary trenches, during the construction works.

8.2 Long-term impact – roost losses

If scrub vegetation is removed, this could have a negative impact on GCN using this habitat feature for foraging and emigration corridors. If piles of logs and brash are removed, this could have a negative impact on GCN using these features for resting places/hibernacula sites. A landscaping scheme will include new tree/shrub/hedge planting as compensation to mitigate for any loss of habitat and also to provide additional wildlife enhancements.

8.3 Long-term impact – fragmentation and isolation

The scrub will need to be removed to facilitate the proposed development, so there will be a minimal loss of habitat on the site. A landscaping scheme will include new tree/shrub/hedge planting as compensation to mitigate for any loss of habitat and also to provide additional wildlife enhancements. There is no predicted long-term impact from fragmentation.

8.4 Post-development interference impacts

A major cause of amphibian mortality on development sites is via the use of gully pots located adjacent to the kerbs. To mitigate this, the gully pots and kerbs will be modified to minimise the impact on all amphibian species.

Bats and other species can be disturbed by bright, artificial lighting. Where lighting is essential in the vicinity of the proposed development, subdued lighting should be used and the illumination should be directed downwards (upward light ratio 0%). LED luminaires should be used where possible, with a warm white spectrum (<2700Kelvin) to minimise blue light component. Luminaires should have peak wavelengths higher than 550nm to avoid the component of light most disturbing to bats. The use of motion sensor-triggered security lighting with short (1 min) timers, is preferable to permanent lighting. It is essential that bat flightlines used for foraging/commuting (e.g. hedgerows, lines of trees) are not illuminated. The use of soft landscaping and fencing [supported by concrete posts to ensure long-term contribution] can be used to screen light spill. The latest Guide Note 08/18 can be downloaded at www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/

As an ecologist I am not qualified to recommend specific makes/models of lights, so further advice should be obtained from a qualified lighting specialist, to ensure that the lighting conforms to the above BCT/ILE specification.



8.0 IMPACT ASSESSMENT (continued)

8.5 Predicted scale of impact

If suitable and appropriate mitigation is provided and Reasonable Avoidance Measures are implemented and followed, the predicted impact of the proposed development on amphibians, badgers, bats, nesting birds, reptiles, otters and other small mammals is low. By planting new trees, hedges and improving flora habitat, an enhanced species diversity and improved connectivity can be achieved, which would have a beneficial impact. Providing artificial hibernacula would also be beneficial.

9.0 MITIGATION

The site has relatively high ecological value for several species and mitigation will be required to compensate for any lost habitat. The scrub will need to be removed to facilitate the proposed development, so there will be a minimal loss of habitat on the site, which may have a short-term impact on nesting birds and amphibians/reptiles. A landscaping scheme will include new tree/shrub/hedge planting as compensation to mitigate for any loss of habitat and also to provide additional wildlife enhancements.

It would be beneficial to consider taking further measures to improve biodiversity by installing bat and bird boxes on the site and to provide hedgehog houses near existing and new hedgerows.

10.0 WILDLIFE AND THE LAW

10.1 European Protected Species

The Bern Convention (The convention on the conservation of European Wildlife and Natural Habitats) was adopted in 1979 and came into force in 1982. To implement this agreement, the European Community adopted the EC Habitats Directive.

The EC Habitats Directive has been transposed into UK legislation by the Wildlife and Countryside Act, 1981 (as amended) and the Conservation of Habitats and Species Regulations, 2010. The Countryside and Rights of Way Act (CROW), 2000 strengthened the existing wildlife legislation in the UK.

The UK has also signed the Bonn Convention (The Convention on the Conservation of Migratory Species of Wild Animals) and is therefore party to various agreements.

The EC Habitats Directive, has been transposed into UK national law by means of The Conservation of Habitats and Species Regulations 2017 (as amended). This has been amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.



10.0 WILDLIFE AND THE LAW (continued)

10.1 European Protected Species

10.1.1 Bats

All 18 bat species found in the UK and their roosts are protected in the UK under Schedules 5 and 6 of the Wildlife & Countryside Act 1981 (as amended) and are therefore afforded protection under Section 9 of this Act. The Countryside Rights of Way Act (CroW) 2000 strengthened the existing wildlife legislation in the UK.

In addition, five British bat species are also listed on Annex II [and all bats are listed on Annex IV] of the EC Habitats Directive, which is transposed into national law by means of The Conservation of Habitats and Species Regulations 2017 (as amended). This has been amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

These are:

- Greater horseshoe bat (*Rhinolophus ferrumequinum*);
- Lesser horseshoe bat (*Rhinolophus hipposideros*);
- Bechstein's bat (*Myotis bechsteinii*);
- Barbastelle (*Barbastella barbastellus*) and
- Greater mouse-eared bat (*Myotis myotis*).

Bats are listed under Appendix III of the Bern Convention. Bats and their habitats are also listed under Appendix II of the Bonn Convention and therefore the UK has an obligation to protect their habitat, including links to important feeding areas. The UK had designated maternity and hibernacula areas as Special Areas of Conservation (SACs) under the Habitats Directive. Implementation of the UK Biodiversity Action Plan also includes action for a number bat species and the habitats which support them.

10.1.2 Amphibians

Great crested newts, natterjack toads and pool frogs are protected under Schedule 5 of the Wildlife and Countryside Act, 1981 (as amended). Great crested newts, natterjack toads and pool frogs are also protected under Schedule 2 of the Conservation of Habitats and Species Regulations, 2017 (as amended) and listed under Annex II and Annex IV of the EC Habitats Directive. This has been amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

10.1.3 Reptiles

Reptiles (adder, common lizard, grass snake, sand lizard, slow worm, smooth snake) are protected under Schedule 5 of the Wildlife and Countryside Act, 1981 (as amended). Sand lizard and smooth snake are also protected under Schedule 2 of the Conservation of Habitats and Species Regulations, 2017 (as amended) and listed under Annex II and Annex IV of the EC Habitats Directive. This has been amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

10.1.4 Hazel Dormice

Hazel Dormice are protected under Schedules 5 and 6 of the Wildlife and Countryside Act, 1981 (as amended) and they are also protected under Schedule 2 of the Conservation of Habitats and Species Regulations, 2017 (as amended). This has been amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

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10.0 WILDLIFE AND THE LAW (continued)

10.1 European Protected Species

10.1.5 Otters

Otters are protected under Schedules 5 and 6 of the Wildlife and Countryside Act, 1981 (as amended) and they are also protected under Schedule 2 of the Conservation of Habitats and Species Regulations, 2017 (as amended) and listed under Annex II and Annex IV of the EC Habitats Directive. This has been amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

10.1.6 Legislation relating to European Protected Species

In relation to a development a person commits an offence if they –

- Deliberately captures, injures or kills a European Protected Species
- Deliberately or recklessly disturbs wild animals of any such species in such a way as to be likely significant to affect:
 - (i) the ability of any significant group of animals to survive, breed, or rear or nurture their young; or
 - (ii) the local distribution or abundance of that species;
- Damages or destroys a breeding site or resting place (even if unintentional or when the animal is not present)
- Intentionally or recklessly obstructs access to a structure or place used for protection or shelter
- This legislation applies, regardless of the life stage (including eggs).

A European Protected Species Licence is required to carry out any activity that would otherwise involve committing an offence.

To avoid disturbance during habitat management, a written strategy is required following guidance provided by Natural Resources Wales and the Forestry Commission. If the guidance is followed and major disturbance can be avoided, then a licence is not required.

10.1.7 European Protected Species Licences

At the present time, Natural Resources Wales requires the following three ‘tests’ to be met, in order that a licence may be granted.

Test 1. Regulation 53 (2) (e) states that licences granted 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’.

Test 2. Regulation 53 (9) (a) states that a licence may not be granted unless the licensing authority is satisfied ‘that there is no reasonable alternative’.

Test 3. Regulation 53 (9) (b) states that a licence cannot be issued unless the licensing authority is satisfied that the action proposed ‘will not be detrimental to the maintenance of the species concerned at a favourable conservation status in its natural range’.



10.0 WILDLIFE AND THE LAW (continued)

10.1.8 Recent changes in Licences

Following a recent intervention from the European Court, there have been significant changes in the interpretation of the way licences are issued. In considering a licence request, Natural Resources Wales will seek information relating to the size and importance of the population/colony and will require evidence to demonstrate that the species will be maintained 'at a favourable conservation status in their natural range'. In effect, this means that to obtain a licence, Natural Resources Wales must be satisfied that the applicant will implement mitigation to safeguard (and ideally enhance) the population concerned. Natural Resources Wales will need to see evidence that the development work which will disturb/destroy a roost site will be undertaken using current best practice, also that the bats can be provided with an alternative roost site on or in the immediate area.

10.1.9 Important EPSL Information

Please note that a European Protected Species Licence can only be obtained once planning permission has been granted. When assessing planning applications where a European Protected Species could be affected by proposed works, the local Planning Authority must take into account the potential impacts on the species concerned. In practice this could make further survey work (such as emergence surveys in the case of bats) essential prior to planning permission being granted. The local Planning Authority must also have regard for the three 'tests' as outlined above – Regulations 53 (2) (e), 53 (9) (a) and 53 (9) (b).

Once planning permission has been granted a European Protected Species Licence application can be submitted to Natural Resources Wales. The application requires detailed Method Statements to be produced by a qualified bat ecologist to demonstrate how Regulation 53 (9) (b) can be satisfied.

The applicant will also need to complete a Reasoned Statement form demonstrating (with evidence) that Regulations 53 (2) (e) and 53 (9) (a) are satisfied. This involves producing evidence to show that no reasonable alternative to the proposed action is available and that the action must take place to either '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.



10.0 WILDLIFE AND THE LAW (continued)

10.2 Other Protected Species

10.2.1 Nesting Birds

All wild birds are protected under Part 1 of the Wildlife and Countryside Act, 1981 (as amended). Therefore in the UK it is an offence to:

- Take, damage or destroy the nest of any wild bird whilst it is being built or in use.
- Kill, injure or take any wild bird.
- Take or destroy the eggs of any wild bird.

To avoid committing an offence no works should be carried out on a structure/feature that is being used by nesting birds. Nesting is deemed to be over when the young have fully fledged.

Certain species which are listed in Schedule 1 of the Wildlife and Countryside Act receive special protection. In these cases any form of intentional or reckless disturbance when they are nesting or rearing dependent young, constitutes an offence.

10.2.2 Reptiles

Common lizard, slow worm, adder and grass snake are all protected under Schedule 5 of the Wildlife and Countryside Act, 1981 (as amended) against intentional injuring, killing or selling.

For development sites in **England, Wales or Scotland**, to avoid prosecution under the ***Wildlife and Countryside Act 1981 (as amended)***, wherever works will impact on slow worms, common lizards, adders and/or grass snakes there must be evidence that every reasonable effort was made to avoid breaking the law – including proof of adequate surveys and mitigation plans. Mitigation measures should, ideally, be agreed with the relevant SNCO (in this case Natural Resources Wales).

Only the sand lizard and smooth snake are fully protected under the Wildlife and Countryside Act, 1981 (Section 9) and Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (as amended) against killing, injuring, capture, damaging or destroying a breeding or resting site, intentionally obstructing access to a place used for shelter, keeping, transporting or selling. This means that not only are the animals themselves protected but so are their habitats. This has been amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

10.2.3 Badgers

Badgers are protected under Schedule 6 of the Wildlife and Countryside Act, 1981 (as amended). They are also protected in the UK by the Protection of Badgers Act, 1992 (as amended). Under this legislation it is an offence to:

- Wilfully kill, injure or take a badger (or attempt to do so).
- Cruelly ill-treat a badger.
- Dig for a badger.
- Intentionally or recklessly damage or destroy a badger sett, or obstruct access to it.
- Cause a dog to enter a badger sett.
- Disturb a badger when it is occupying a sett.



10.0 WILDLIFE AND THE LAW (continued)

10.3 Environment (Wales) Act 2016

This Act sets out Wales' approach to planning and managing natural resources at a national and local level with a general purpose linked to statutory 'principles of sustainable management of natural resources' defined within the Act.

The Environment (Wales) Act 2016 (as amended) introduces a new, enhanced Biodiversity and Resilience of Ecosystem Duty on public bodies to ensure that biodiversity is an integral part of decision making. The Duty will replace the existing Natural Environment and Rural Communities (NERC) Act 2006 Duty. Public authorities will be required to report on the actions they are taking to improve biodiversity and promote ecosystem resilience. Section 6 of the Act places a duty on public authorities to seek to maintain and enhance biological diversity (referred to as biodiversity). All public bodies, statutory undertakers, Ministers of the Crown and other public office holders are required to apply the duty when they are carrying on any functions in Wales, or in relation to Wales. Section 7 of the Act is similar to the duty in *section 42 of the NERC Act 2006* which it replaces. It places a duty on the Welsh Ministers to publish, review and revise lists of living organisms and types of habitat in Wales, which they consider are of key significance to sustain and improve biodiversity in relation to Wales.

10.4 Planning Policy Wales Framework

Planning Policy Wales (Edition 11, Feb 2021) sets out the Welsh Government's planning policies and how these are expected to be applied. The planning system manages the development and use of land in the public interest, contributing to improving the economic, social, environmental and cultural well-being of Wales, as required by the Well-being of Future Generations (Wales) Act 2015 (as amended). It should reconcile the needs of development and conservation, securing economy, efficiency and amenity in the use of land, and protecting natural resources and the historic environment. A well-functioning planning system is fundamental for sustainable development.



10.0 WILDLIFE AND THE LAW (continued)

10.5 Key Principles of PWW (2021)

Chapter 5 ‘Conserving and Improving Natural Heritage and the Coast’ provides policies for protection of biodiversity and geological conservation.

Para.5.2.3 The Welsh Government will ensure that its policies contribute to the conservation of the abundance and diversity of native wildlife and its habitats and will minimise the adverse effects on wildlife where conflict of interest is unavoidable.

Para 5.5.11 The presence of a species protected under European or UK legislation is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat. Local planning authorities should advise anyone submitting a planning application that they must conform with any statutory species protection provisions affecting the site concerned, and should consult Natural Resources Wales before granting permission. An ecological survey to confirm whether a protected species is present and an assessment of the likely impact of the development on a protected species may be required in order to inform the planning decision.

Para 5.5.12 Developments are always subject to the legislation covering European protected species regardless of whether or not they are within a designated site. New developments for which development works would contravene the protection afforded to European protected species require derogations from the provisions of the Habitats Directive. A derogation may only be authorised if there is no satisfactory alternative and if the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. The development works to be authorised must be for the purposes of preserving ‘public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’. Derogations are granted by a licence issued by Natural Resources Wales. Local planning authorities are under a duty to have regard to the requirements of the Habitats Directive in exercising their functions. To avoid developments with planning permission subsequently not being granted derogations in relation to European protected species, planning authorities should take the above three requirements for derogation into account when considering development proposals where a European protected species is present.

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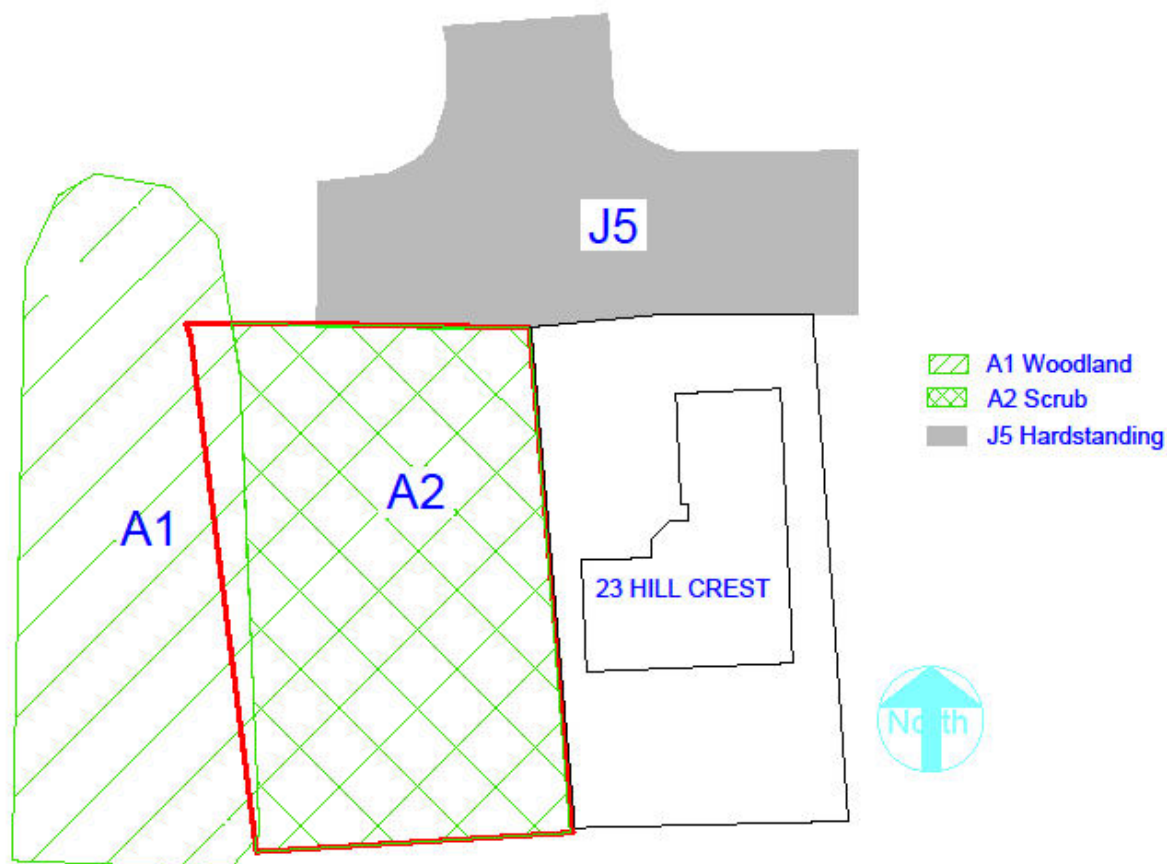
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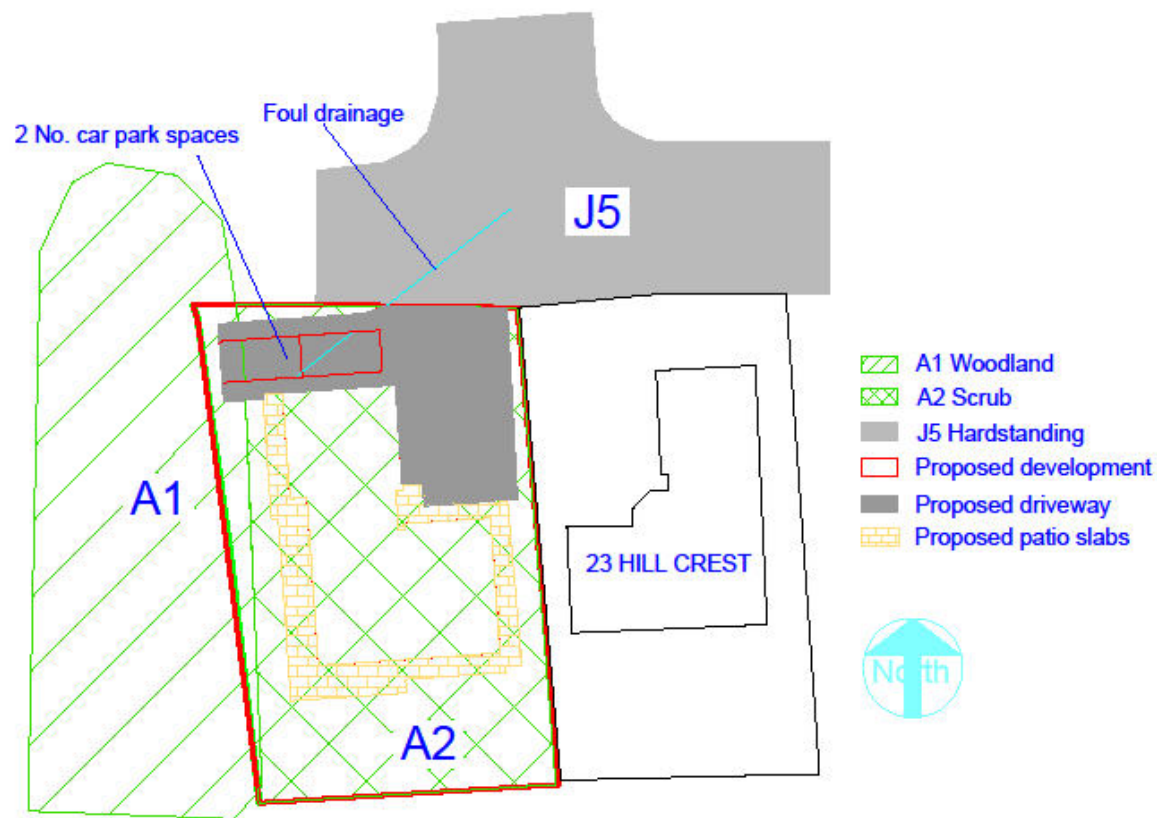
APPENDIX 1 – Site maps

HILL CREST, PENLEY PEA PLAN



APPENDIX 1 – Site maps

HILL CREST, PENLEY PEA PLAN WITH LAYOUT



APPENDIX 2 – Photographs



Photo 1: Hardstanding paths [J5], mixed species broadleaved woodland [A1], scrub [A2].



Photo 2: Scrub [A2].

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APPENDIX 2 – Photographs



Photo 3: Coppiced Ash/Hazel/Willow at edge of woodland.



Photo 4: Coppiced Ash at edge of woodland/scrub areas.

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APPENDIX 3 – Plant species abundance rating (DAFOR)

A1 – Mixed species Broadleaved Woodland

Species	Dominant	Abundant	Frequent	Occasional	Rare
Ash			✓		
Bramble				✓	
Common Oak				✓	
Common Yew					✓
Hawthorn			✓		
Hazel			✓		
Holly				✓	
Ivy			✓		
Sycamore			✓		
Willow			✓		
Wych Elm				✓	

A2 – Scrub

Species	Dominant	Abundant	Frequent	Occasional	Rare
Ash			✓		
Bracken				✓	
Bramble		✓			
Common Violet					✓
Couch grass				✓	
Hawthorn			✓		
Hazel			✓		
Ivy				✓	
Moss				✓	
Soft Rush				✓	
Snowberry					✓
Stinging Nettle				✓	
Sycamore			✓		
Teasel				✓	
Yorkshire Fog				✓	
Willow				✓	



APPENDIX 4 – Data search results

Summary

Designated sites within 1km radius of SJ05797834 are Penley Wood and Lees Wood (Wildlife Site), Brook Mill Grassland (Wildlife Site), Llanerch Panna and Penley Bank (Wildlife Site) and several Ancient Semi Natural Woodland sites.

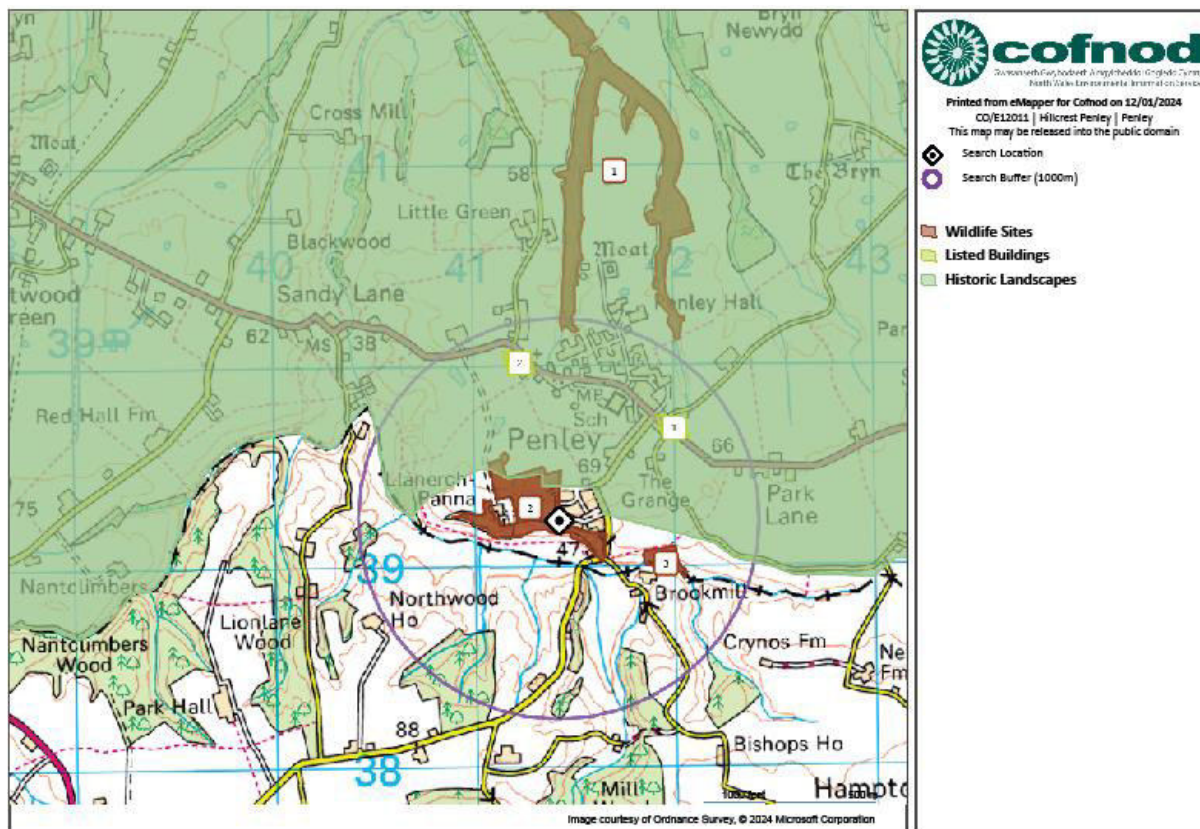


Figure 1: Designated sites within 1km of survey site.



APPENDIX 4 – Data search results

Other designated sites within 10km radius of the site include:

Cloy Brook Pastures (SSSI), Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses (SAC/SSSI), Hanmer Mere (SSSI), Llyn Bedydd (SSSI), Midlands Meres and Mosses Phase 2 (SSSI), Nant y Belan and Prynellu Woods (SSSI), River Dee and Bala Lake (SAC), Shell Brook Pastures (SSSI).

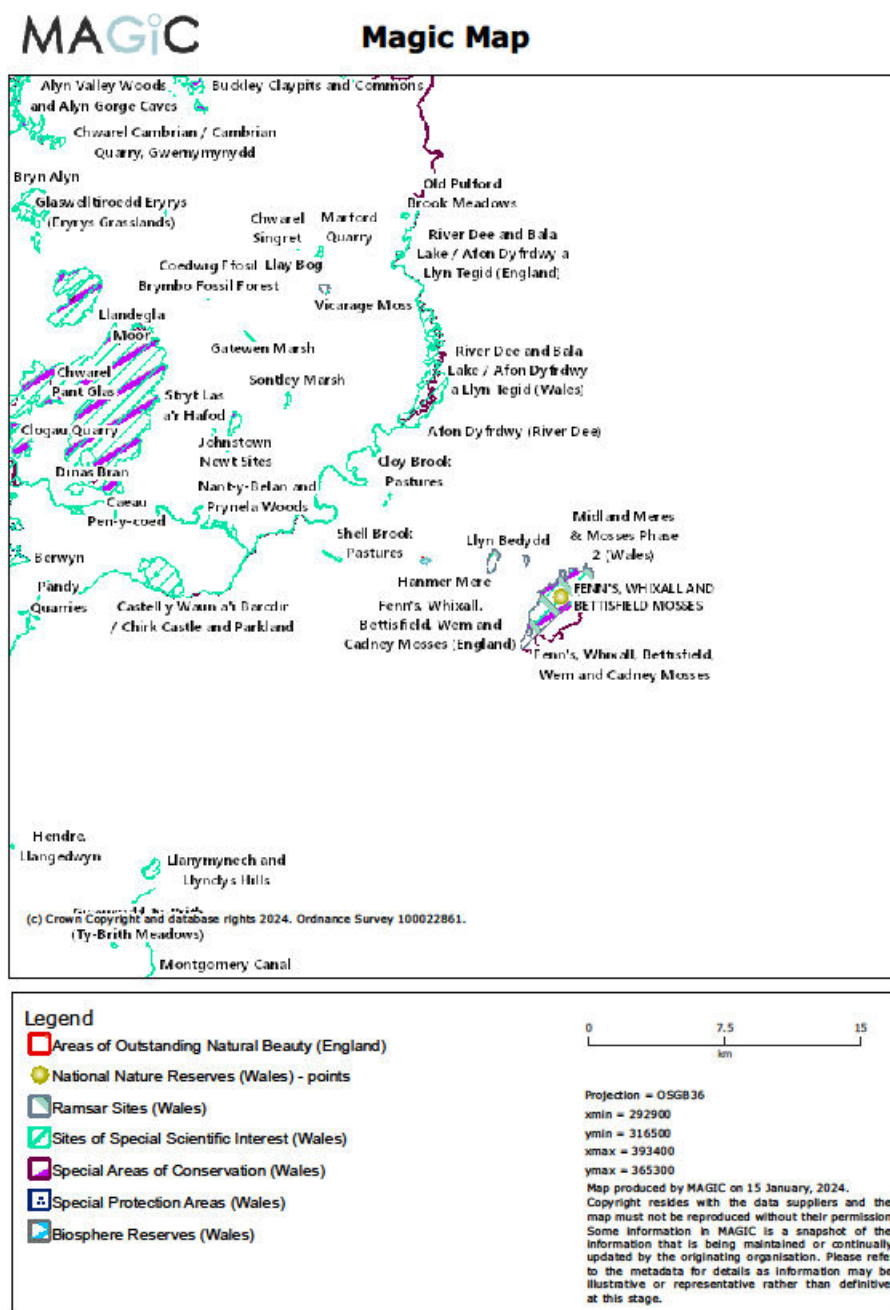


Figure 2: Designated sites within 10km of survey site.



APPENDIX 5 – Hedgerow Regulations 1997

The Hedgerow Regulations 1997 (as amended) were made under Section 97 of the Environment Act 1995 and came into effect 1 June 1997.

It is against the law to remove most hedges without permission. Removal is uprooting or otherwise destroying a hedgerow. Serious damage to the root system or over-maintenance resulting in the death of the hedgerow counts as removal. The regulations only cover hedgerows that are at least 20m long or, if shorter, connected to other hedgerows at both ends, or part of a longer hedgerow. They must be in or adjacent to common land, village greens, SSSIs, LNRs, or land used for agriculture, forestry or breeding or keeping of horses, ponies or donkeys. Garden hedges and former hedgerows that have grown to a line of trees are not covered by the regulations. Trees within a hedgerow are considered to be a part of the hedge.

What is an important hedgerow?

To qualify as ‘important’, a hedgerow must be at least 30 years old and meet at least one of the following eight criteria, which identify hedgerows of particular archaeological, historical, wildlife and landscape value.

- The hedgerow marks the boundary of a historic parish or township existing before 1850.
- The hedgerow incorporates an archaeological feature.
- The hedgerow is a part of or associated with an archaeological site.
- The hedgerow marks the boundary of or is associated with a pre-1600 AD estate or manor.
- The hedgerow forms an integral part of or is associated with a field system pre-dating the Enclosures Act.
- The hedgerow contains a listed species. These have to be listed the Wildlife and Countryside Act 1981 either in Part I of Schedule 1 (birds protected by special penalties), or Schedule 5 (other animals) or Schedule 8 (plants). In addition, species listed in certain red data books qualify. Unfortunately, the list of birds was published in 1990, and does not include species such as song thrush and linnet, whose numbers have declined more recently.
- The hedgerow includes, on average, in a 30 metre length one of:
 - a) at least 7 woody shrub and tree species listed in the regulations (see the list below).
 - b) at least 6 woody species and has at least 3 associated features.
 - c) at least 6 woody species including a black-poplar tree, large-leaved lime, small-leaved lime or wild service tree.In northern England, the number of woody species is reduced by one.
- The hedgerow runs alongside a bridleway, footpath, road used as a public path or a byway open to all traffic, and includes at least four woody species, on average, in a 30 metre length and has at least two associated features.



APPENDIX 5 – Hedgerow Regulations 1997 (continued)

The associated features are:

1. A bank or wall supporting the hedgerow along at least half of its length.
2. Less than 10% gaps.
3. On average, at least one tree per 50 metres of hedge
4. At least three species from a list of 57 herbaceous woodland plants, including bluebell, primrose, wild strawberry and assorted ferns and violets (see list below).
5. A ditch along at least a half of the length of the hedge.
6. A number of connections with other hedgerows, ponds or woodland.
7. A parallel hedge within 15 metres of the hedgerow.

Schedule 2 Woodland plant species

Barren strawberry, bluebell, broad buckler fern, broad-leaved helleborine, bugle, common cow-wheat, common dog violet, common polypody, dog's mercury, early dog violet, early purple orchid, enchanter's nightshade, giant fescue, goldilocks buttercup, great bell-flower, greater wood-rush, hairy brome, hairy woodrush, hard fern, hard shield fern, hart's tongue, heath bedstraw, herb paris, herb-robert, lady fern, lords-and-ladies, male fern, moschatel, narrow buckler-fern, nettle-leaved bell-flower, oxslip, pignut, primrose, ramsons, sanicle, scaly male-fern, small cow-wheat, soft shield fern, sweet violet, toothwort, tormentil, wild strawberry, wood anemone, wood avens/herb bennet, wood false-brome, wood horsetail, wood meadow-grass, wood melick, wood millet, wood sage, wood sedge, wood sorrel, wood speedwell, wood spurge, woodruff, yellow archangel, yellow pimpernel.

Schedule 3 Woody shrub and trees species

Alder, crab apple, ash, aspen, beech, downy birch, silver birch, black-poplar, blackthorn, box, broom, buckthorn, alder buckthorn, butcher's broom, bird cherry, wild cherry, wild cotoneaster, downy currant, mountain currant, dogwood, elder, elm, gooseberry, gorse, dwarf gorse, western gorse, guelder rose, hawthorn, midland hawthorn, hazel, holly, hornbeam, common juniper, large-leaved lime, small-leaved lime, field maple, mezereon, pedunculate oak, sessile oak, osier, Plymouth pear, wild pear, grey poplar, white poplar, wild privet, rose, rowan, sea-buckthorn, wild service-tree, spindle, spurge-laurel, walnut, wayfaring-tree, whitebeam, willow, yew.

