



Land at Tupa, Penley Hall Drive, Penley, Wrexham

Conservation Plan

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1 Introduction

1.1 Background

Outline planning permission has been granted for 9 dwellings on land at Tupa, part of the former Polish hospital/WWII hospital site, located on Penley Hall Drive, Penley, Wrexham (Planning Reference P/2019/0835).

Planning condition 9 of the above permission states that:

No development shall commence until a site species/habitat Conservation Plan has been submitted to and approved in writing by the Local Planning Authority.

The Conservation Plan should include:

- a. Implementation of the proposed mitigation and compensation measures as set out in the Addendum Report - Extended Phase One Survey and Ecological Impact Assessment Land South of Tupa, Penley, Wrexham;*
- b. Submission and implementation of a long term post construction surveillance and monitoring scheme. Monitoring methodology and reporting shall accord with the online Wales GCN Monitoring Scheme and shall include monitoring of the bat roost;*
- c. The submission and implementation of long term, proposals concerning the tenure, funding arrangements, management and wardening of the compensation area and bat roost;*
- d. Details relating to the submission of a compliance audit, carried out by a qualified ecologist, independently of the appointed principal ecologist,*

The Conservation Plan shall be carried out in accordance with the approved details.

To address this planning condition, an appropriate Conservation Plan for the site has been devised (see below) by Richard Roe (BSc, MSc, MCIEEM, CEnv). Richard has over 20 years' experience as a professional ecologist and is a licensed great crested newt and bat worker.

1.2 Key and Protected Species at the Tupa Site

1.2.1 Previous Survey Summary

Ecology works associated with the initial planning application for the site included a series of field surveys which were completed in 2019. Further detail on survey findings can be found within the associated report for the site- '*Addendum Report - Extended Phase One Survey and Ecological Impact Assessment for land to the south of Tupa, Penley, Wrexham*' as produced by Tim Hodnett of EDC in July 2019).

In summary, the previous surveys identified:

- Great crested newt within two ponds located approximately 100m to the north-east of the site boundary.
- No evidence of badger was identified on site,
- A lesser horseshoe bat night roost/feeding perch was identified within a hut present on the site. It was considered that the remaining structures and trees were unsuitable for crevice roosting bats. A transect survey and static bat detector survey recorded no evidence of lesser horseshoe bats at the site however foraging common and soprano pipistrelle, whiskered bat, brown long-eared bats and noctule were recorded passing through the site.
- Suitable nesting habitat for breeding birds was identified within buildings, scrub and trees.

The previous ecology works made recommendations to avoid impacts to key species and recommendations to provide off-site mitigation habitats.

The likely presence of great crested newt and of a lesser horseshoe night roost would require development to be carried out under a European Protected Species Licence as issued by Natural Resources Wales (NRW).

1.2.2 Great Crested Newt and European Protected Species Licensing Implications

During the planning application, the presence of great crested newt was identified within ponds adjacent to the site including within two ponds located approximately 100m to the north-east of the site boundary.

Torch counts of ponds were carried out in 2019, with counts identifying a likely medium-sized population breeding within the nearby ponds.

Greg Given the proximity of the ponds to the development site, it was concluded that great crested newt are likely to also be present within the proposed development area.

Consequently, any works to develop the site could result in a breach of UK and European wildlife legislation and would therefore need to be undertaken under a European Protected Species Licence as issued by Natural Resources Wales (NRW).

As a requirement of the licence application process, it may be necessary to undertake update surveys of the nearby ponds during the peak great crested newt breeding season (March-June inclusive, with the majority of the surveys undertaken between mid-April and mid-May). The requirement and scope for any additional surveys would need to be first agreed with NRW.

As part of the planning application, a mitigation strategy was agreed with Matt Ellis, a Senior Species Adviser at NRW. This strategy can be found in full within section 10.2 of the *'Addendum Report - Extended Phase One Survey and Ecological Impact Assessment for land to the south of Tupa, Penley, Wrexham'* (EDC July 2019).

In summary, this mitigation includes the requirement to provide terrestrial and aquatic great crested newt habitat adjacent to the site which will be retained and managed in perpetuity. In addition, the mitigation strategy will require that the proposed development area and mitigation area are fenced with temporary amphibian fencing and are trapped out for an appropriate number of days as specified within the European Protected Species Derogation License, which will be acquired for the site. Full details of measures to remove great crested newt from the proposed development site will be contained within the associated method statement attached to the European protected species derogation license. This is yet to be agreed with NRW, with further engagement to be made with NRW in order to establish the detail of the EPS licence method statement.

However, in summary, this is likely to include the following:

- Update surveys of ponds to establish great crested newt presence and likely population size-class.
- Installation of temporary amphibian fencing and pitfall trapping following standard specifications as outlined in section 8.4.2.1 of the Great Crested Newt Mitigation Guidelines. The amphibian fencing would be installed along the northern and eastern boundaries of the proposed development site.
- Pitfall trapping will be completed for an appropriate number of days as agreed with NRW (minimum 25 days with five clear days with no newt captures).

- Following the completion of pitfall trapping, further reasonable avoidance measures will be followed to avoid further harm to great crested newt. Appropriate Reasonable Avoidance Measures are contained within the great crested newt Method Statement which has also been produced for the site to discharge planning condition 7 (see Kingdom Ecology report- *Land at Tupa, Penley Hall Drive - Great Crested Newt RAMS*).

As part of habitat mitigation measures, two wildlife ponds will be created at the site along with suitable amphibian terrestrial habitat within the adjacent ecology mitigation area.

1.2.3 Lesser Horseshoe Bats and Licensing Implications

The previous site surveys identified the presence of a lesser horseshoe bat feeding perch/night roost within the interior of a hut building.

Consequently, any works to develop the site could result in a breach of UK and European wildlife legislation and would therefore need to be undertaken under a European Protected Species Licence as issued by Natural Resources Wales (NRW).

As a requirement of the licence application process, it will be necessary to undertake update surveys of the site. This will include daytime inspections of buildings and the previously identified roosting location. In addition, further surveys including visual nocturnal checks and static bat detector surveys of the night roost will likely be required to establish the status of the roost site.

As part of the planning application, a mitigation strategy was agreed with Matt Ellis, a Senior Species Adviser at NRW. This strategy can be found in full within section 10.2 of the '*Addendum Report - Extended Phase One Survey and Ecological Impact Assessment for land to the south of Tupa, Penley, Wrexham*' (EDC July 2019).

The mitigation measures for lesser horseshoe bat include the construction of a new building on the eastern edge of the site within the proposed mitigation area. The bat house would be designed to offer suitable roosting habitat for lesser horseshoe bats.

The update site visits will inform methods to be followed during demolition/destruction of the existing roost site. However, given that the building represents a night roost only, this is likely to comprise of a pre-works check for bats, as the building is unlikely to be used for roosting during daylight hours.

1.2.4 Breeding Birds

The existing huts and areas of trees, scrub and tall ruderal vegetation within the survey area offer suitable habitat for use by nesting birds. It is therefore recommended that any vegetation clearance or demolition works are undertaken outside of the nesting season (March-August inclusive).

If clearance works are to be undertaken in this period, then a pre-works check for nesting birds must be carried out by an appropriately qualified ecologist within 48 hours of proposed clearance. If any nesting birds are found to be present, the works will need to wait until the ecologist has confirmed that all young birds have fledged.

1.2.5 Badgers

The previous surveys have not recorded any evidence of badger on the site.

It is proposed that an update badger survey is completed no more than two months prior to the start of works. Pending the findings of this update badger survey a Badger Method Statement may need to be produced. If any new badger setts are identified within proximity to the works area, then works may need to be undertaken under a Badger Disturbance Licence.

Irrespective of the findings of the further update badger surveys, it is recommended that the following precautionary measures are followed during construction :

- Where any trenches or other excavations are to be left open overnight these should be fitted with mammal ramps or should have the sides battered to form a slope to allow badgers to escape.
- A tidy works area should be maintained during construction and any hazardous substances should be fenced off to remove any badger hazards from the site.

2 Mitigation and Compensation Site

2.1 Overview

2.1.1 Ecology Mitigation Area

The proposed Ecology Mitigation area is situated immediately to the east of the main development site. The design and extent of the proposed mitigation area was determined and designed as part of discussions with NRW during the planning application stage.

The habitat mitigation layout is shown on Figure 1 in the Appendix. The area will comprise of approximately 1 ha of land comprising areas of rough grassland, tree and scrub planting and will include the construction of two new wildlife ponds. Four amphibian hibernacula will be constructed within the mitigation area and a new bat house/horseshoe will also be constructed. An outline design for the bat house is provided in section 2.2.7. Detailed design of the bat house will be specified within the method statement attached to the associated European Protected Species Licence for the site and will be designed in agreement with NRW. A new length of native hedgerow will be constructed between the proposed development and the ecology mitigation area.

The mitigation area will link with an existing pond which has been identified as supporting great crested newt and will also connect with areas of existing woodland located to the east of the site.

As well as providing recommendations for habitat creation within the ecology mitigation area, the conservation plan also identifies habitat management aims and methods of delivery.

2.1.2 Mitigation Plan Aims

The habitat management plan for the on-site mitigation habitat has been designed around the following key principles and aims:-

- Where possible, retain blocks of interlinked habitat as opposed to isolated pockets of habitat;
- Maximise the biodiversity value of retained habitats at the site;
- Maintain a diverse range of habitats within the mitigation area including two wildlife ponds and a range of terrestrial habitats to comprise of approximately 30-70% scrub/woodland habitats and 30-70% scrub/woodland habitats wildflower grassland habitats.
- Ensure the long-term viability of the habitat by appropriate, long-term management and long-term protection of the habitat;
- Allow for a flexible and iterative process with regards to the management of the habitats through an annual review of the

habitats present and the management plan to allow biodiversity opportunities to be explored and promoted.

2.1.3 Management Plan Delivery

A Unilateral Undertaking has been signed, a copy of which is provided in the Appendix. The Unilateral Undertaking will require the developer to appointment a Management Company. Clause 2(d) of the Unilateral Undertaking states that the Management Company shall have a specific legal responsibility “to maintain and manage the ‘*wildlife mitigation area*’ for the benefit of wildlife and in particular great crested newt and lesser horseshoe bats and in accordance with an agreed management plan.”

Funding for the ongoing management of the sites would need to include for the following:-

- Initial habitat preparation and creation
- Ongoing management and maintenance
- Wardening and monitoring of the site
- Production of an annual report for the sites
- A contingency fund to allow for any modifications to the habitat management plan or ad-hoc remediation works

2.1.4 Pre-Site Clearance Works

As described in section 1.2, EPS licences will be required prior to site clearance owing to the presence of lesser horseshoe bats and great crested newt on site higher .

Both of these licences will include specific method statements to allow appropriate supervised demolition of the existing bat roost and to allow great crested newt to be cleared from the site.

As previously described, great crested newt clearance works will require the installation of appropriate temporary amphibian fencing with pitfall traps and will require a period of pitfall trapping to be undertaken.

Following the completion of pitfall trapping, hand/destructive searches will need to be undertaken on site by the licensed ecologist.

As also described in section 1.2, a pre-works survey for badgers should be undertaken. Works will need to consider the presence of nesting birds either through avoidance of vegetation clearance during the bird breeding season (March-August inclusive bracket or through a pre-clearance nesting bird check. Both the badger and nesting bird surveys would be carried out by an appropriately qualified ecologist.

2.2 Initial Habitat Preparation/ Habitat Creation

2.2.1 Overview

The proposed Ecology Mitigation area is located immediately adjacent to the proposed development area.

The area will comprise of approximately 1 ha of land comprising areas of rough grassland, tree and scrub planting and will include the construction of two new wildlife ponds. The habitat mitigation layout is shown on Figure 1 in the Appendix.

Proposals within the mitigation area will include:-

- Creation of a two ponds to be of benefit to wildlife
- Management of grassland, scrub and woodland habitat
- Construction and maintenance of a 'bat house'
- construction of 4 x great crested newt hibernacula

An Ecological Clerk of Works (EcOW) will be appointed to oversee and advise on sensitive stages of the initial ground works. An initial site meeting will be undertaken between the EcOW and the construction contractors to work through this management plan.

2.2.2 2 x Wildlife Ponds

The proposed 2 x wildlife ponds should each measure at least 200m² in area. The ponds should have gently sloping sides that allow fauna to easily move between the terrestrial and aquatic habitats and to encourage a 'draw-down' zone at the pond margin which will be seasonally wet. These marginal habitats can be of value to invertebrates and aquatic vegetation. The pond should have an irregular shape to increase the length of pond margin habitat. Excavation of the ponds should be supervised by the ecological clerk of works.

Each wildlife pond should reach a depth of at least 1m in some parts so the pond will be permanently wet.

If ground conditions dictate, the wildlife pond should be lined with either butyl pond lining or clay and be overlaid with a subsoil substrate. One of the ponds should be planted up with appropriate native marginal and submerged vegetation. Marginal planting should be located around the northern edge of the pond to limit over-shading.

Native pond species valuable for wildlife include:

- Submerged plants- spiked water milfoil, rigid hornwort, water violet
- Floating pond plants- water lily, common water crowfoot, frogbit
- Marginal plants- water forget-me-not, bog bean, water mint, yellow flag iris, lesser spearwort, brooklime and marsh marigold

Invasive pond species which should be avoided including parrot's feather, Canadian pondweed, water fern, and New Zealand pygmyweed,

One of the ponds will not be planted up with any additional vegetation with the pond vegetation allowed to develop by natural colonisation. This is because the 'new-pond' stage is relatively short compared to the whole life of a pond and can provide a distinctive habitat type which has value in its own right and is different to the habitats offered by older ponds.

Under no circumstances, should the ponds be stocked with fish as these can diminish the ecological value of a pond by predating invertebrates and amphibian larvae and by reducing water quality.

When constructing the pond the ECoW will attend site to ensure that the pond is constructed following the recommendations of this Management Plan.

2.2.3 Grassland Restoration

Areas of existing grassland around the habitat mitigation area will largely be retained.

However areas of bare ground around the ponds and elsewhere within the habitat mitigation area (as required) will be re-seeded with an appropriate wildflower mix (e.g. Emorsgate Seeds EM2- General Purpose Meadow Mix).

Ground preparation and aftercare would follow the recommendations provided by Emorsgate Seeds, with the preparation of an appropriate soil tilth, followed by sowing of the seeds ideally during the autumn or spring or at other times of the year if there is sufficient warmth and moisture. Once sown, the seeds will be firmed in with a roll, or by treading, to give good soil/seed contact.

Most sown meadow wildflower and grass species are perennial; they will be slow to germinate and grow and will not usually flower in their first growing season. There will often be a flush of annual weeds from the soil in the first growing season which may grow up and obscure the meadow seedlings beneath. This annual weed growth can be controlled by topping or mowing.

The newly sown grassland will be mown regularly throughout the first year of establishment to a height of 40-60mm, removing cuttings if dense. This will control annual weeds and help maintain balance between faster growing grasses and slower developing wildflowers. Any residual perennial weeds should be spot treated or dug out.

2.2.4 Tree, Hedgerow And Scrub Planting

Blocks of tree and scrub planting will be provided within the ecology mitigation area along with a new length of native hedgerow as identified on the landscaping plan in the Appendix.

Tree planting will comprise of three standard trees along with blocks of mixed scrub habitat.

The new area of scrub habitat will include a mix of hawthorn (30%), hazel (30%), dog rose (5%), rowan (10%), holly (10%) and silver birch (15%). It is recommended that the scrub habitat is planted in parallel rows spaced 1m apart, with plants staggered between rows and located at approximate 1m intervals.

A new length of native hedgerow will be planted along the boundary between the development site and the proposed ecology mitigation area.

The additional hedgerow planting should comprise of:

- 60% Hawthorn
- 20 % Blackthorn
- 10% Hazel
- 5% Dog rose
- 5% Holly

This mix will provide lengths of hedgerow which offer foraging and refuge habitat for various local wildlife. The native hedge planting should be planted in a double staggered row at 6 specimens per metre.

It is also recommended that a further 4 x native standard trees are provided within the ecology mitigation area

Proposed trees would include 2 x wild cherry and 2 x oak.

The hedge, tree and scrub habitat should be planted between November and March as this is the period when trees are dormant. Planting should avoid taking place in cold or windy weather to limit the risk of damage to routes before they become established. No planting to be undertaken in frozen or waterlogged soils.

Initial habitats will be created during the construction phase of works. The construction contractor will be responsible for the maintenance and establishment of the scrub habitat, hedgerow and trees until completion of the construction contract.

Maintenance completed by the contractors shall include all horticultural operations required to ensure soft landscaping is able to develop and thrive and to maintain a tidy appearance; operations to include watering, weeding and pruning. A minimum of monthly maintenance visits is required throughout the growing season.

Any plant defects at the end of the maintenance period will be replaced by the contractor.

All plants will comply with the requirements of BS3936 Specification for Nursery Stock. All planting to be undertaken in accordance with BS4428 Code of Practice for General Landscape Operations.

2.2.5 Great Crested Newt Hibernacula

Four great crested newt hibernacula are to be provided within the mitigation area.

The design for each hibernaculum should be as follows. Each hibernacula will measure approximately 2 m length x 1 m width by 1 m in height. The hibernacula will be constructed within a shallow depression (approximately 400 mm in depth). The base layer of the hibernacula will comprise of clean fill comprising of brick rubble, logs, sleepers, hard-core etc with loose topsoil. The base layer will be left exposed at ground level and to a height of up approximately 200 mm above ground level, to allow amphibians to crawl into exposed crevices. This layer of fill will extend to approximately 600 mm in height. The top of the hibernacula will be capped with an approximate 300 mm of topsoil and capped with a layer of turf.

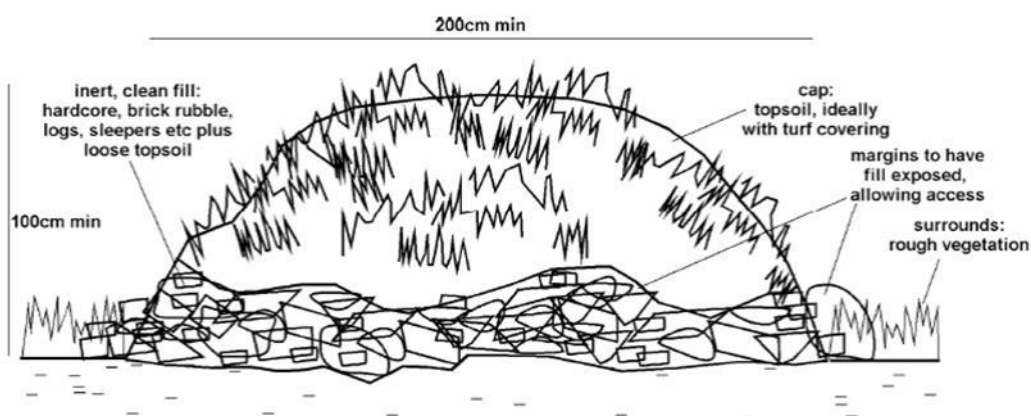
The hibernacula will be constructed in advance of site clearance within the proposed ecology mitigation area. The hibernacula will provide a receptor site for any amphibians encountered during site clearance works.

Design for the hibernacula shown below (design taken from English Nature's Great Crested Newt Mitigation Guidelines - August 2001).

Recommended locations for the hibernacula within the proposed ecology mitigation area are shown on the landscaping plan in the Appendix.

Figure 3: Suggested hibernaculum design

This design mimics artificial and natural conditions in which great crested newts have frequently been found overwintering. Dimensions should not be below 2m length x 1m width x 1m height. The illustrated design would be suitable for locating on an impermeable substrate. On free-draining substrates, the design is largely similar but the bulk of the fill is sited in an excavated depression in the ground. Hibernacula should ideally be positioned across a site, both close to and distant from breeding ponds, always in suitable terrestrial habitat and above the flood-line.



2.2.6 Bat House

In order to compensate for the loss of the lesser horseshoe bats like to roost, a replacement night roost structure would be created within the Habitat mitigation area.

The replacement night roost has been designed following recommendations within the Vincent Wildlife Trusts Lesser Horseshoe Bat Conservation Handbook (Vincent Wildlife Trust 2008).

The proposed night roost would comprise of a small stand-alone structure which will measure 1.5 m in width by 2 m in length by 2.5 m in height. The structure will be constructed of rendered block work with a pitched roof clad in either slate or corrugated bitumen roof panels. A ceiling will be installed to provide a small roof void space. An open hatch would be incorporated into the ceiling (measuring 600 mm x 600mm), to allow bats to fly into the roof space and perch from the roof structure. A large opening will be provided on the east facing gable wall to allow bats to enter the structure. The opening will measure 1500mm x 600mm.

an appropriate design for the bat house/night roost is shown in the Appendix.

The bat house would be installed prior to the completion of construction works.

3 Habitat Management Proposals

3.1 Management Plan Delivery and Responsibilities

The Habitat Mitigation Areas will be managed in accordance with this Habitat Management Plan in perpetuity.

The developer will be responsible for the management and maintenance costs and for arranging the required monitoring, management and maintenance activities as described within the associated Unilateral Undertaking.

Annual ecological monitoring would be undertaken at the site for a minimum of 10 years. The monitoring works will record habitats present, confirm whether management prescriptions are being completed and will make adjustments to the management plan, where required.

An Ecological Compliance Audit will be completed during the construction phase and for the first three years post construction to ensure that the Habitat Management Plan is being appropriately followed.

The developer will appoint an appropriately qualified ecologist to undertake monitoring works and to complete the Ecological Compliance Audit.

3.2 Habitat Management

3.2.1 Grassland Management

Habitat management at the Ecology Mitigation Site should seek to encourage a diverse range of habitats. In this instance proposals will seek to retain areas of grassland, varying ages of scrub habitat and woodland habitats. The management proposals will also aim to prevent overshadowing of the proposed wildlife ponds.

As previously described, the Habitat mitigation should aim to maintain a range of terrestrial habitats. Ratios of woodland to grassland habitats should comprise of approximately 30-70% scrub/woodland habitats and 30-70% scrub/woodland habitats wildflower grassland habitats.

Parts of the grassland area may be damaged and require restoration following the completion of pond excavation. Once established, the grassland will be managed as hay meadow habitat, with the grasslands to go uncut between April and late August. This will allow a hay meadow type habitat with associated wildflowers to come through during the summer. After flowering in August, a 'hay cut' of the meadow will be taken using a power scythe or petrol strimmer. The grassland will be cut back to a height of approximately 50mm.

The 'hay' will be left to dry and shed seed for 1-7 days and then will be removed from site. Failure to remove the 'hay' will result in a build-up of litter forming a dense mat which can impact upon plant diversity. No fertiliser would be applied to these areas.

3.2.2 First Year Maintenance of all Habitats

During the summer, the base of the scrub habitat, hedges and trees should be weeded. This is to limit competition from grasses and other plants. A mulch of chopped bark placed the base of the shrubs will prevent weeds from growing the first instance and will help reduce moisture loss.

An inspection should be carried out in late summer. Where any trees or shrubs are found to have died, these should be replaced with new shrubs in the autumn and winter.

In the first spring the hedge and scrub habitat should be cut down to 45-60 cm above the ground. This hard pruning will encourage the shrubs to bush out. This will be particularly important to allow the hedgerow habitats to develop into an appropriate thick hedge.

Beyond the first year, the proposed habitats will require very little management to achieve the desired condition scores. Habitat management prescriptions for each habitat type are provided below.

3.2.3 Individual Trees

With regards to the individual trees and the trees located within the proposed new hedgerow, no pruning would be undertaken whatsoever, with the trees allowed to naturally develop to an appropriate height and appropriate canopy for their age.

Annual care for trees in their first five years is important. Many young trees die from neglect, especially from the failure to carry out basic weed control.

It is important to check on newly-planted trees at least once a year and carry out a few simple maintenance tasks including:

- watering (if necessary)
- fertilising (if necessary)
- clearing grass and weeds
- adjusting/replacing/removing tree stakes and ties
- checking guards and shelters
- ensuring roots remain covered

3.2.4 Mixed Scrub Habitat

Likewise, following establishment, the proposed scrub habitat will require only low levels of management. Mixed scrub stands on reasonably fertile soils begin to develop towards woodland after about 15 years, so a rotation of around that duration will ensure that all stages of scrub, including open ground are present within the standard of scrub. It is recommended that 50% is selectively thinned in Year 8 and 50% in year 15.

The selective thinning or removal of individual stems or shrubs will reduce the density of the scrub stand creating dappled light conditions and with regeneration within any gaps creating a fine-scale structural diversity. Thinning can be carried out using a chainsaw or bow saw.

No scrub cutting should take place during peak bird nesting season, which runs from March to September. Where possible, maintenance work should be delayed until January or February, as berries amongst the scrub habitat can provide a valuable autumn and winter food source for birds.

No other management to scrub habitat is proposed.

3.2.5 Hedgerow Habitat

Once the hedgerow habitat is established, rotational hedge trimming will also be carried out. Hedges should not be cut every year, as flower buds often form on second-year growth.

Once the hedges have established, the relevant sections of hedge would be trimmed on a three-year rotation, targeting different sections each year. This will make ensure there are always flowers for pollinators in spring and berries for birds in autumn. Hedges cut every three years can produce two and a half times as much blossom as those cut annually.

As for the scrub habitat, no hedge cutting should take place during peak bird nesting season, (March to September), with maintenance work delayed until January or February.

3.2.6 Pond Management

Intermittent management and control of vegetation within the wildlife pond may be required on a 3-5 year basis. The pond should be managed to retain at least 30% open water. Where vegetation is to be removed, this should be carried out over the Autumn/Winter to have the least impact upon any wildlife present.

Any invasive aquatic plant species should be monitored and treated as appropriate to prevent colonisation of the pond.

If water levels within the deepest part of the pond fall regularly below 500mm, de-silting of the pond should be carried out by a long-armed

excavator. Where possible this should be carried out from one entry point to limit disturbance to the pond and adjacent habitats. These works would ideally be carried out over the winter months.

Annual monitoring of the site will be undertaken to assess the success of the management regimes. The ecologist will also determine whether any pond and scrub maintenance is required.

A summary of Management proposals along with frequency and time of year is provided in Table 1 below.

Table 1- Habitat Management Summary

<i>Habitat</i>	<i>Frequency of Management</i>	<i>Time of Year</i>	<i>Management Proposal</i>
Grassland Management	Annual management of established grassland starting in year 1 of construction. Patches of grassland strimmed annually. Frequency/extent may be increased/decreased pending findings of monitoring surveys.	Works to be undertaken August/September to allow plants to flower and set seed.	Established Grasslands will be managed as hay meadow habitat, with area undergoing an annual cut. Frequent cuts of newly seeded grassland required in first year to control weed growth. All cuttings/ arisings to be removed. No fertiliser to be applied.
Scrub management	To be cut on a 15 year rotation with 50% cut in Year 8 and 50% in year 15.	Avoid nesting bird season (March-August inclusive)	All arisings to be removed.
Pond Management	Intermittent management and control of vegetation within the wildlife pond may be required on a 3-5 year.	Vegetation clearance to be carried out Autumn/Winter, if required	Management proposals to be determined based upon annual ecological monitoring surveys. May require vegetation or silt removal.
Ecological Monitoring Survey	To be completed annually	To be completed during the summer	Ecological site visit to be conducted annually with findings and recommendations for management presented before late summer habitat management works

4 Wardening, Monitoring and Reporting

4.1 Wardening

The Ecology Mitigation Area is largely set back from the main housing development. Consequently, vehicular access is restricted and the risk of the described undesirable activities are considered to be low.

Nevertheless, some infrequent wardening of the site should be carried out at least once every six months.

Where identified during wardening visits, remediation works should be promptly carried out at each site. This could include repair of fencing, clearance of fly-tipped debris, litter picking etc.

4.2 Monitoring

Monitoring of habitats at the site should be carried out annually during May/June to assess the success of the habitat management plan, to allow for any refinement of management practices, to check for the status of great crested newt and of lesser horseshoe bats at the site. The monitoring works should be completed by an appropriately qualified ecologist.

Monitoring of habitats should comprise of an assessment of the botanical value of the site and also an assessment of the ecological value of the wildlife ponds.

The ecologist will determine whether any additional works to the standard mowing regimes are required and whether the wildlife ponds require any remediation works. An assessment of woodland and scrub habitats would also be undertaken in years 5, 10, 15 and 20 in order to inform management prescriptions for woodland and scrub habitats.

Monitoring for great crested newt would comprise of presence/absence following standard survey techniques (either eDNA survey or using traditional methods e.g. newt egg searches) surveys of the two mitigation ponds and of the retained pond located to the north-east of the site. Monitoring of the ponds would be carried out for five years from the completion of development. Surveys would be completed by an appropriately licensed great crested newt surveyor.

Monitoring of the bat house/night roost would comprise of a daytime visual check of the bat house interior to search for bat droppings or other field signs indicative of bat usage. Monitoring of the bat house would be carried out for five years from the completion of development. Surveys would be completed by an appropriately licensed bat surveyor.

An annual monitoring report with management recommendations (where relevant) would be produced and submitted to the council.

4.3 Ecological Compliance Audit

A biodiversity compliance audit will also be undertaken by a further ecological consultant appointed separately from the principal ecologist/ecological clerk of works ecologist to confirm that the site recommendations have been undertaken and appropriately completed.

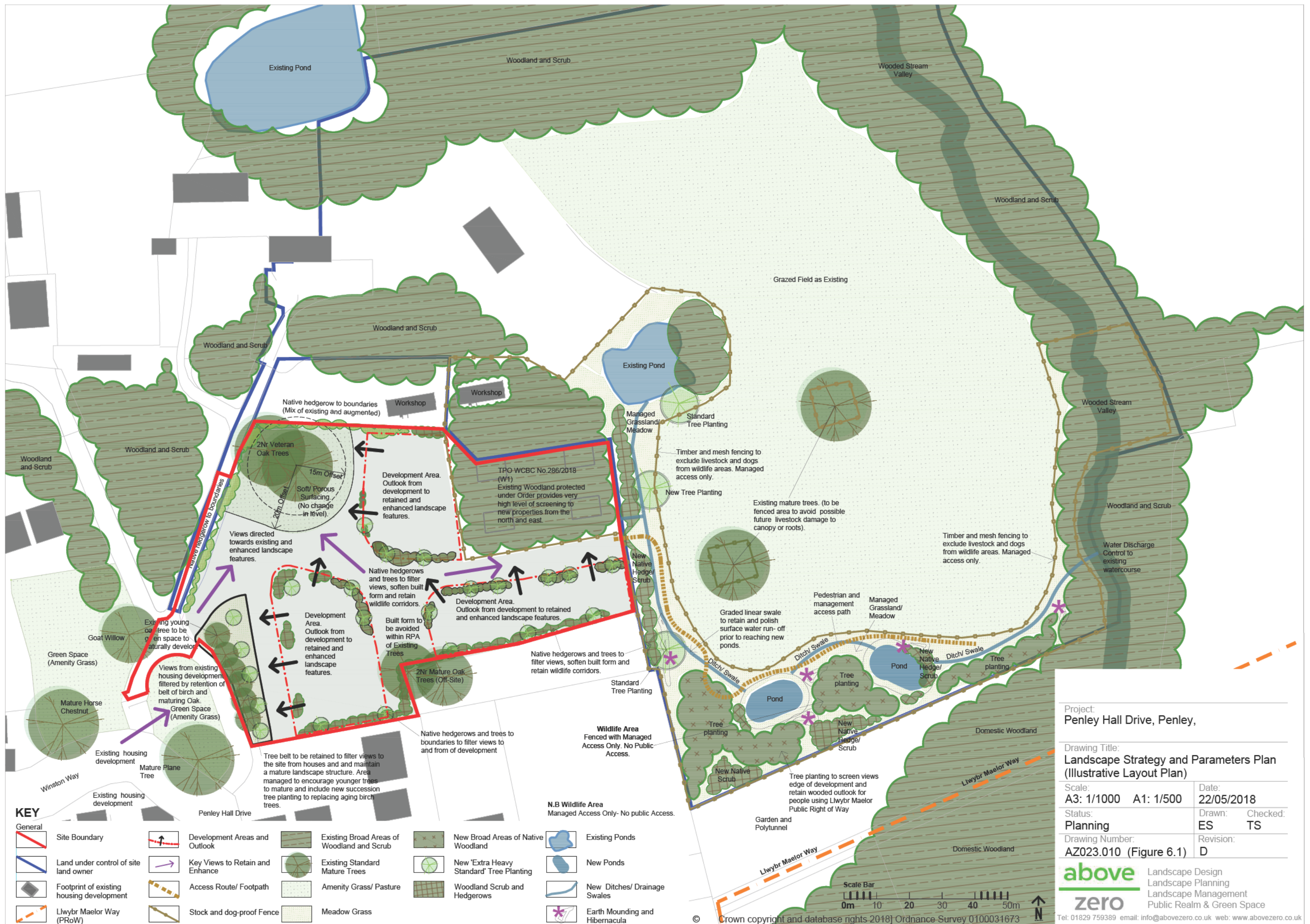
The compliance audit would last for the duration of construction works and for the first three years of the ongoing habitat management works.

The appointed Ecological Consultant will submit the annual Compliance Audit to Wrexham CBC.

The Compliance Audit will require that the following Key Performance indicators are completed/undertaken.

1. A suitably experienced ecologist has been appointed for the project duration and for monitoring of the future habitat management works, mitigation ponds and bat house.
2. Prior to the start of any works, the ecologist will confirm that appropriate EPS Licences have been obtained and will check that appropriate mitigation measures have been followed during site clearance.
3. Prior to the completion of construction, confirmation that the bat house has been constructed.
4. Prior to the completion of construction, confirmation that the wildlife ponds have been appropriately installed including recommended features for wildlife.
5. Confirmation that the proposed Ecology Mitigation Area has been suitably retained, landscaped and protected during construction works.
6. Implementation of post development habitat/site management and maintenance and, annual habitat monitoring as described above.
7. Successful implementation of the management plan to achieve habitat goals including a mosaic of woodland, wildflower grassland, scrub and pond habitats.

Appendix



Project:
Penley Hall Drive, Penley,

Drawing Title:
Landscape Strategy and Parameters Plan
(Illustrative Layout Plan)

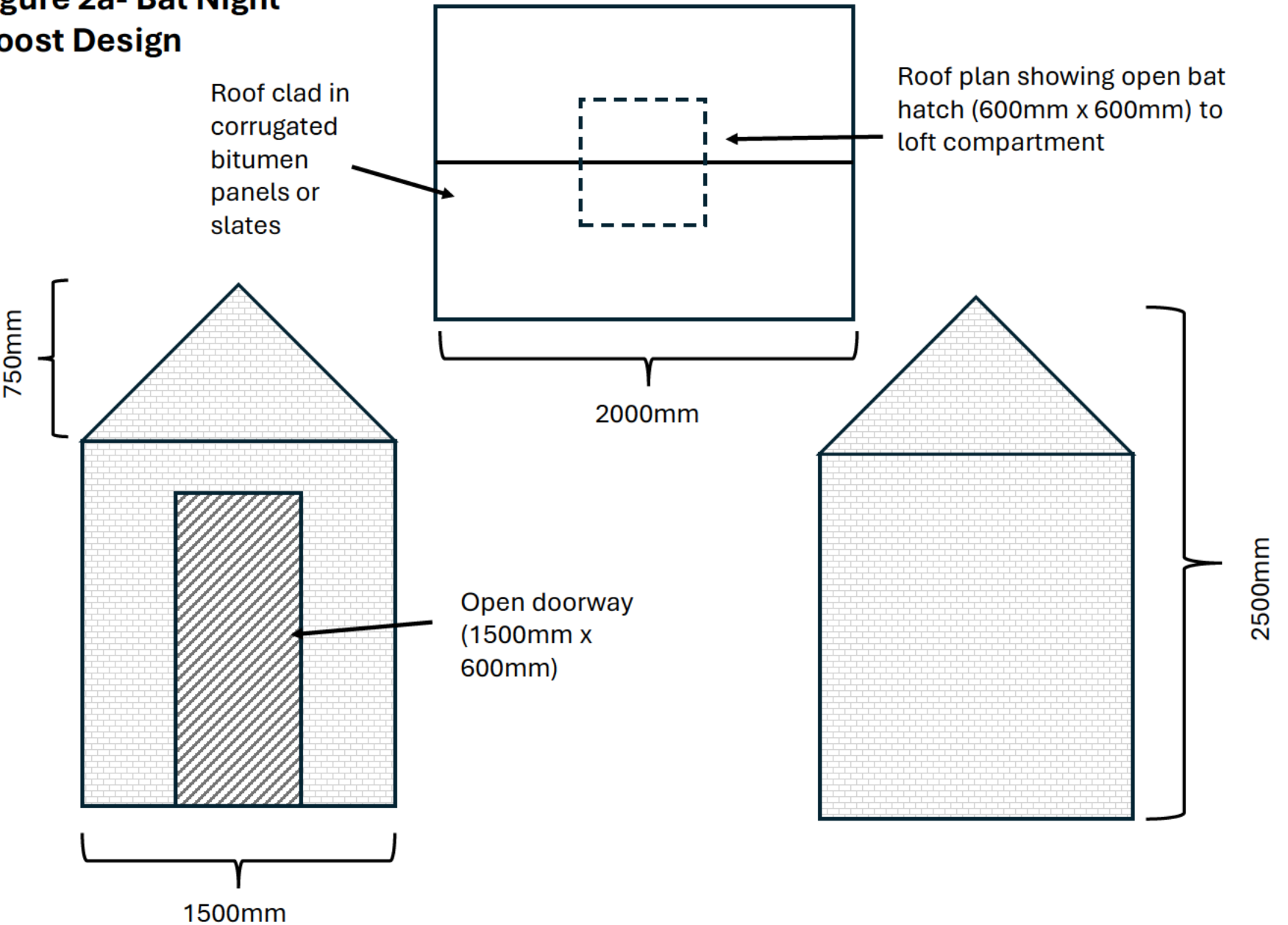
Scale:
A3: 1/1000 A1: 1/500 Date:
22/05/2018

Status:
Planning Drawn: ES Checked: TS

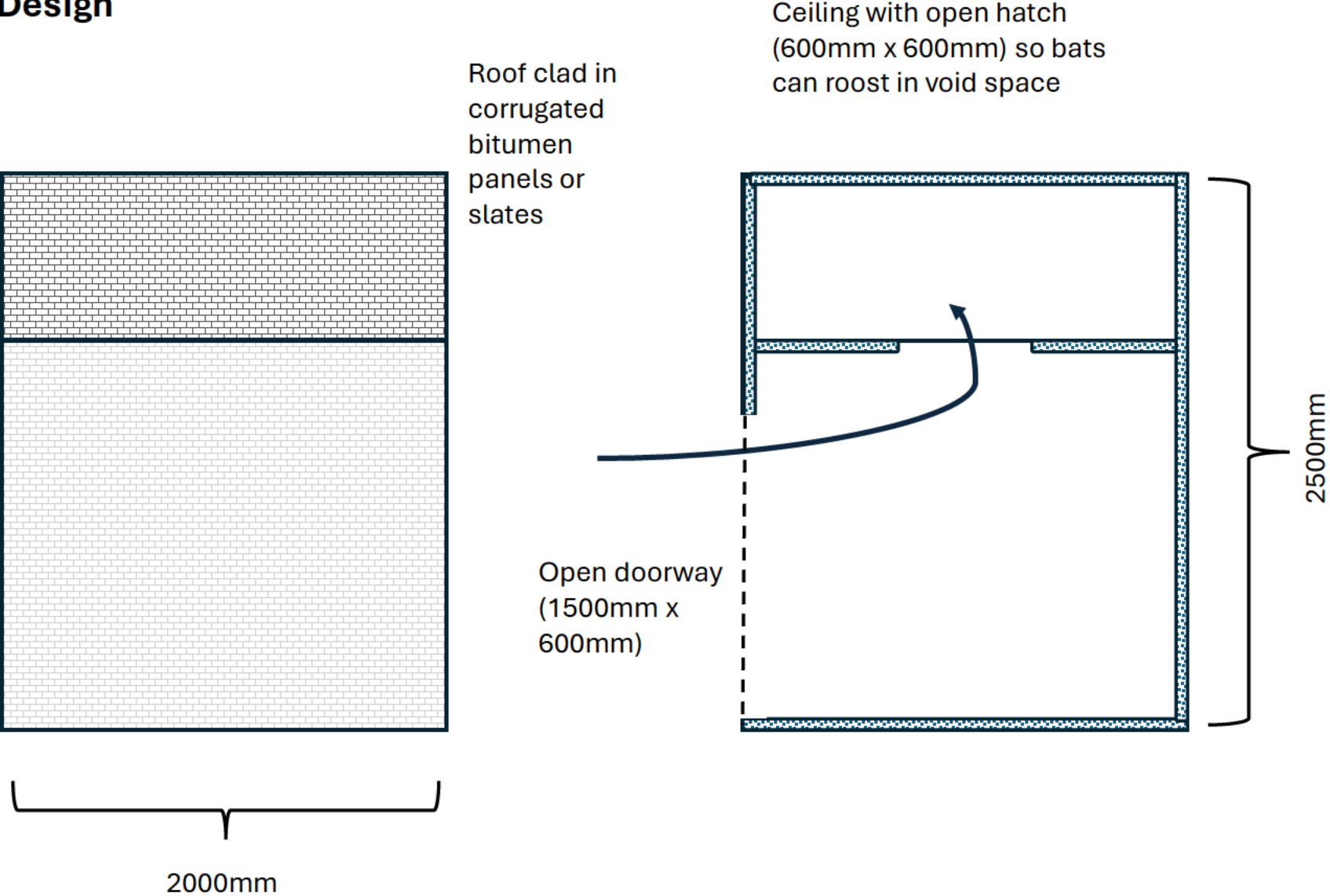
Drawing Number:
AZ023.010 (Figure 6.1) Revision:
D

above zero Landscape Design
Landscape Planning
Landscape Management
Public Realm & Green Space
Tel: 01829 759389 email: info@abovezero.co.uk web: www.abovezero.co.uk

**Figure 2a- Bat Night
Roost Design**



**Figure 2b- Bat Night
Roost Design**



DATED

4 January

2021

KALERVO ROY BARKER

AND

TARJA HELEN BARKER

TO

WREXHAM COUNTY BOROUGH COUNCIL

UNILATERAL UNDERTAKING

PLANNING OBLIGATION BY WAY OF UNILATERAL UNDERTAKING UNDER SECTION 106 OF THE TOWN & COUNTRY PLANNING ACT 1990 RELATING TO THE REDEVELOPMENT OF LAND AND BUILDINGS AT LAND AT TUPA, PENLEY HALL DRIVE, PENLEY, WREXHAM, LL13 0LU



Aaron & Partners
Solicitors

5-7 Grosvenor Court
Foregate Street
Chester
CH1 1HG
DX 19990 CHESTER

Telephone: 01244 405405

Facsimile: 01244 405566

Email: marc.sorrentino@aaronandpartners.com

Reference: MS.BAR268.1

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SCHEDULE 1

Education Contribution

SCHEDULE 2

Management Company

THIS DEED is dated 04 / 01 / 2021

- (1) **KALERVO ROY BARKER** of Tupa, Penley Hall, Penley, Wrexham, LL13 0LU (the **First Owner**).
- (2) **TARJA HELEN WILSON** of 32 Parson Lane, Clitheroe, BB7 2JP (the **Second Owner**).
- (3) **WREXHAM COUNTY BOROUGH COUNCIL** of 16 Lord Street, Wrexham, LL11 1LG (the **Council**).

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the Planning Act for the area in which the Property is situated.
- (B) The First Owner and the Second Owner (together hereinafter referred to as 'the Owners') are the registered joint freehold proprietors of the Property.
- (C) The Owners have made the Planning Application in respect of the Property.
- (D) The Owners enter into this undertaking to perform the obligations set out in this Deed.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this Deed.

Definitions:

Development: the development of the Property described in the Planning Application.

Education Contribution: means a single payment made by the Owners to the Council on the terms set out within Schedule 1 to this Deed.

Management Company: means a private limited company established by the Owners prior to the first occupation of any single dwelling constructed under the Planning Permission for the purposes of managing the site in accordance with the terms set out in Schedule 2 to this Deed.

Planning Act: means the Town and Country Planning Act 1990 as amended.

Plan 1: means the plan attached to this Deed and identified as Plan 1.

Planning Application: means the planning application numbered MAE P/2019/0835 submitted to the Council for outline permission for 9 dwellings with all matters reserved except for the layout of the buildings.

Planning Permission: means the planning permission granted pursuant to the Planning Application.

Property: means the land shown edged red on the Plan registered at HM Land Registry under title number: CYM218122.

The Site: means the land shown edged red on Plan 1.

The Owners: means the First Owner and the Second Owner together.

Working Day: means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England or Wales.

- 1.1 Clause headings shall not affect the interpretation of this Deed.
- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.6 A reference to the Council shall include the successors to its respective statutory functions.
- 1.7 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.9 A reference to **writing** or **written** includes fax but not e-mail.
- 1.10 A reference to **this Deed** or to any other Deed or document referred to in this Deed is a reference to this Deed or such other Deed or document as varied or novated (in each case, other than in breach of the provisions of this Deed) from time to time.

- 1.11 References to clauses are to the clauses of this Deed.
- 1.12 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISIONS

- 2.1 This Deed constitutes a planning obligation for the purposes of Section 106 of the Planning Act, Section 111 of the Local Government Act 1972 and any other enabling powers.
- 2.2 The obligations contained in clause 3 of this Deed are planning obligations for the purposes of Section 106 of the Planning Act and are entered into by the Owners with the intention that they bind the interests held by the Owners in the Property and their respective successors and assigns.
- 2.3 This Deed shall come into effect on the date of grant of this Deed.
- 2.4 The obligations contained in clause 3 of this Deed are enforceable by the Council in accordance with Section 106 of the Planning Act.

3. OWNER COVENANTS

- 3.1 The Owners covenant with the Council to pay the Education Contribution to the Council on the terms set out within Schedule 1 of this Deed.
- 3.2 The Owners covenant with the Council that, prior to the first occupation of any dwelling constructed under the Planning Permission, they will establish a private limited company on the terms set out at Schedule 2 of this Deed, the purpose of which will be the management of the site.

4. RELEASE

No person shall be liable for any breach of an obligation, restriction or covenant contained in this Deed after parting with all of their interest in the Property, except in respect of any breach subsisting prior to parting with such interest.

5. DETERMINATION OF DEED

This Deed shall be determined and have no further effect if the Planning Application:

- a) is not approved;
- b) is varied or revoked other than at the request of the Owners; or
- c) is quashed following a successful legal challenge; or
- d) the Development is not commenced within the period prescribed in the condition limiting the duration of planning permission within the Planning Permission pursuant to section 91 of the Planning Act.

6. LOCAL LAND CHARGE

This Deed is a local land charge and shall be registered as such by the Council.

7. COUNCIL'S COSTS

The Owners shall pay to the Council, prior to commencement of the Development, up to £500 towards the Council's reasonable and proper legal costs incurred in connection with the preparation, completion and registration of this Deed.

8. OWNERSHIP

- 8.1 This Deed is entered into by the Owners on the understanding that, prior to commencement of Development, the Owners have obtained all legal and equitable interests in the Property.
- 8.2 The Owners shall give to the Council within a reasonable period of time, the following details of any conveyance, transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Property following the execution of this Deed:
 - (a) the name and address of the person to whom the disposition was made; and
 - (b) the nature and extent of the interest disposed of.

9. NOTICES

9.1 A notice to be given under or in connection with this Deed must be in writing and must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service.

9.2 Any notice or other communication to be given under this Deed must be sent to the relevant party at the addresses given above or as otherwise specified by the relevant person by notice in writing to each other person.

9.3 Any notice given in accordance with clause 9.1 and clause 9.2 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt provided that if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day;
- (b) if sent by pre-paid first class post or other next working day delivery service at 9.00 am on the second Working Day after posting.

9.4 A notice given under this Deed shall not be validly given if sent by e-mail unless otherwise agreed by the parties.

9.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

10. THIRD PARTY RIGHTS

A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

11. GOVERNING LAW

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

This document has been executed as a Deed and is delivered and takes effect on the date stated.

Signed as a Deed by **KALERVO ROY BARKER**

Witness Signature:

Name:

Address:

Signed as a Deed by **TARJA HELEN WILSON**

In the presence of:

Witness Signature:

Name:

Address:

SCHEDULE 1

Education Contribution

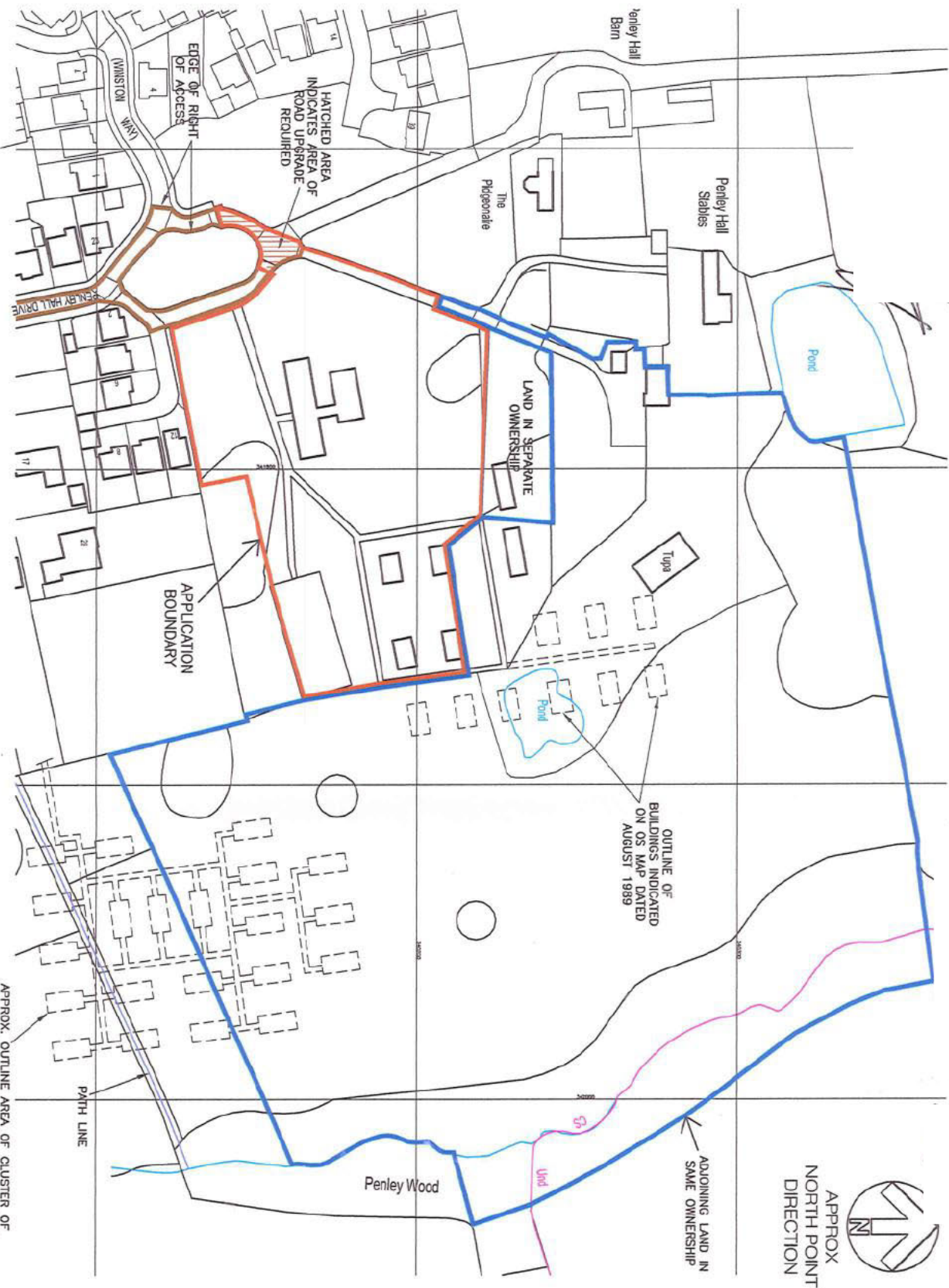
1. The Owners hereby undertake to pay the Education Contribution to the Council prior to commencement of the Development where reasonably required to do so in accordance with local planning policy.
2. The amount of the Education Contribution shall be determined in accordance with the *Local Planning Guidance Note 27 – Developer Contributions to Schools* (as may be varied or updated from time to time) and/or any other relevant guidance and planning policy released by the Council.
3. The Education Contribution is made by the Owners on the understanding that the Council will spend the Education Contribution on provision of and/or improvements to local education facilities.

SCHEDULE 2

Management Company

1. The Owners hereby undertake, prior to the first occupation of any single dwelling constructed under the Planning Permission, to establish a private limited company ('the Management Company') whose purpose shall be the maintenance and management of the Site to the common benefit of the residents and in perpetuity.
2. The Articles of Association of the Management Company shall specify that the Management Company shall have a specific legal responsibility to:
 - a. Maintain the common parts of the Site in a reasonably good repair and condition and to clean, renew, maintain, replace, repair and cultivate them as appropriate in accordance with the principles of good estate management and to the common benefit of the residents; and
 - b. Maintain the private section of road which connects the Site to Penley Hall Drive in a reasonably good repair and condition and to clean, renew, maintain, replace, repair it as appropriate in accordance with the principles of good estate management and to the common benefit of the residents; and
 - c. Keep all common parts of the Site properly lit as the Management Company deems appropriate in the interests of good estate management; and
 - d. Maintain and manage the 'wildlife mitigation area' for the benefit of wildlife and in particular great crested newts and lesser horseshoe bats and in accordance with an agreed management plan; and
 - e. Manage the identified open spaces within the Site, insofar as it is reasonably necessary to do so, in accordance with the post development open space management plan; and
 - f. Maintain and manage and where necessary enhance the boundary features of the Site, insofar as it is reasonably necessary to do so, for the benefit of wildlife; and
 - g. Pay all rates and other outgoings assessed or charged upon the common parts of the Site; and

- h. Effect appropriate insurance against the liability of the Management Company to third parties; and
 - i. Carry out such additional works and provide such additional services as it may consider to be necessary or to the common benefit of the residents; and
 - j. To manage the general operational and financial affairs of the Management Company (which may include but shall not be limited to expenses incurred, general meetings submission of annual accounts); and
 - k. Any other matters which are reasonably required for the common benefit of the residents.
3. The Owners hereby undertake that, prior to the first occupation of any single dwelling constructed under the Planning Permission, adequate steps shall be taken to ensure that no transfer of the ownership of any such dwelling shall unless the transferee agrees, upon completion of the transfer, to enter into an appropriate deed of covenant with the Management Company.

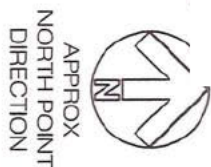


LOCATION PLAN SCALE 1:1250

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APPLICATION AREA: 0.981 hectares (2.424 acres)
BASED ON BOUNDARY ON TOPOGRAPHICAL SITE PLAN

APPROX. OUTLINE AREA OF CLUSTER OF 21 No BUILDINGS INDICATED ON FIG. 6 IN CLYWD POWYS HERITAGE STATEMENT



APPROX
NORTH POINT
DIRECTION

NOTES:
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Revision: C	By: ERM	Date: 30/07/18	Checked: WRS
APPLICATION AREA AMENDED FOLLOWING HPS COMMENTS			
Revision: B	By: ERM	Date: 26/07/18	Checked: WRS
APPLICATION AREA AMENDED			
Revision: A	By: ERM	Date: 17/07/18	Checked: WRS
APPLICATION AREA AMENDED FOLLOWING CLIENT COMMENTS 15.07.18			

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Client:
MR K. BARKER & MRS T. WILSON

Project:
**LAND AT TUPA, PENLEY HALL DRIVE,
PENLEY, WREXHAM, LL13 0LU**

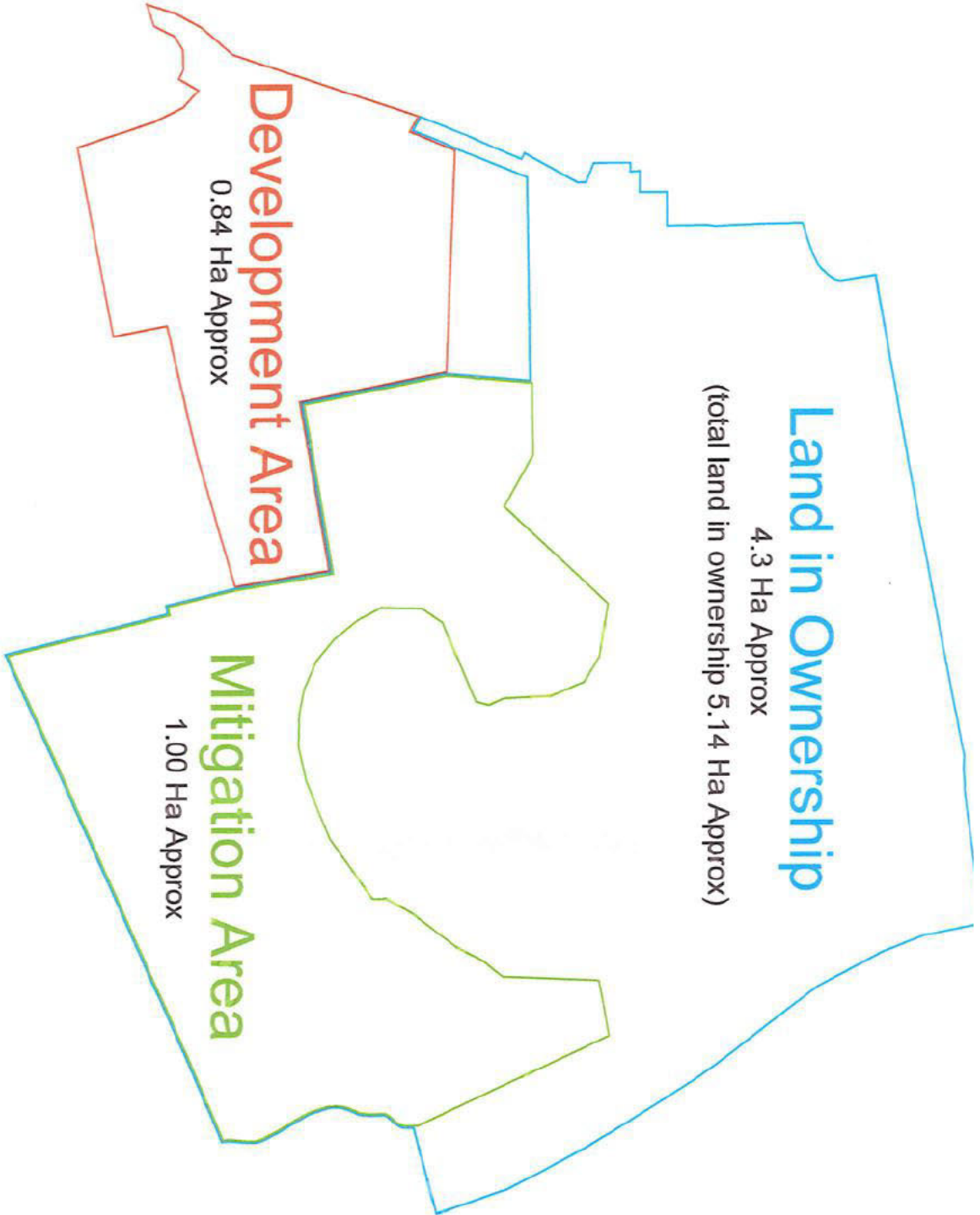
Date:
**OUTLINE PLANNING APPLICATION
LOCATION PLAN**

Scale:
FOR INFORMATION

Drawn By: OS
Date: 19/06/2018
Scale: 1:1250 @ A3

Checked By: WRS
Date: 19/06/2018
Signature: W. ROBERTS

Job No: 4184/1
Proj No: A050/07
Revision: C



Notes

Mitigation area to consist of a single storey mitigation bat roost approx. 4 x 6 m with multiple rooms and pit area specifically designed for Lesser Horseshoe bats, two ponds interconnected with swales, ponds to be approximately 10 m². Swales/ponds to have surface water overflow feed from the development area (runover catchment). The habitat area is to be developed to attain woodland block, scrub and boundary hedging and rank grassland areas of native species to increase biodiversity. A grassland walkway around the site is to be provided, however the wildlife mitigation area is to be fenced out, access to the existing GCH pond will include the removal of the dense willow growth to the pond to create more open water areas.

client

Mr K. Barker and Mrs T Wilson

project title

Land at Tupa, Penley Hall Drive, Penley, Wrexham, LL13 0LU

draw. title

Mitigation Location Plan

to be read in conjunction with the Penley Hall, Landscape Strategy Plan

scale

NTS @ A3

date

JUNE '19

drawn

TJH

rev.

chkd.

project ref.

0968B

drawing no.

MIT-01

