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Ecological Impact Assessment

Bersham Colliery Pit, Bersham, Wrexham

Report Reference: CE-BC-2320-RP01-Final

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SUMMARY OF KEY INFORMATION CONTAINED WITHIN THIS REPORT

- An extended Phase 1 habitat survey was conducted at the Site on 4th May 2023.
- The survey has determined that the habitats present on Site are of generally common and widespread and of moderate ecological value.
- The site also contains habitats which are suitable for use by foraging and commuting bats and reptiles.
- Based on the characteristics of the site it is expected that further data would be required to support the application. These include: Monthly bat surveys and presence/absence reptile surveys.
- Any removal of trees/scrub that is undertaken during the nesting bird season (March – August) would need to be overseen by an Ecological Clerk of Works (ECoW). This would involve a pre-commencement check for nesting birds and trees/scrub will be removed within the following 48 hours if no active nests are recorded.
- In addition a Biodiversity Net Gain assessment will be required to demonstrate the level of BNG that would be achieved at the Site through current designs.
- Johnstown Newt Sites SAC and Stryt Las a'r Hafod SSSI are designated for their populations of GCN. Although it is unlikely that these populations would be affected, we would anticipate that a HRA screening assessment is undertaken due to the site's proximity.

1 INTRODUCTION

1.1 BACKGROUND

1.1.1 Brownshore Management Ltd is assisting Bersham (Glenside) Limited ('the Client'), in relation to the previously granted, but conditioned planning permission for reclamation of colliery spoil together with associated works including the siting of temporary structures and the installation of rail freight sidings ('the Permitted Development'), Planning reference ESC P/2015/0337. Crestwood Environmental Ltd. ('Crestwood') was appointed by the Client on 28th April 2023, to conduct a Preliminary Ecological Appraisal (PEA) at Bersham Colliery Tip, Wrexham, LL14 4EJ centred at National Grid Reference SJ 31206 47813 ('the Site').

1.1.2 The aim of the PEA was to:

- Understand the broad habitat types and their suitability for protected and notable species;
- Identify any further ecological work (including baseline surveys, desk study and additional report such as Biodiversity Net Gain or Habitats Regulations Assessment) which may be required to inform an Ecological Impact Assessment (EclA); and
- Identify high-level ecological constraints and opportunities presented by the proposals.

1.2 PURPOSE OF THIS REPORT

1.2.1 This PEA has been produced to document the methods, results and conclusions from the ecology work undertaken in respect of the Site. This report is intended to be an update to the ecology report from the original permission granted for the extraction of minerals from the Site and to identify any ecological constraints present since the previous survey was completed.

1.2.2 Bersham Colliery Tip was categorised in accordance with the interim categorisation system for coal tips as devised by the Welsh Government. Following a Coal Authority inspection Llay has been categorised as Category C.

1.3 SITE LOCATION AND CONTEXT

1.3.1 The site is located at Bersham Colliery Tip. The surrounding areas include a mixture of agricultural land and the town of Rhostyllen to the north. To the west of the Site is the A483 and the village of Pentre Bychan. Running directly to the south and east of the Site is a railway line.



Plate 1 Site Location

2 METHODOLOGY

2.1 DESK STUDY

2.1.1 The desk study was informed by a review of existing available information provided by North Wales Environmental Information Service (COFNOD) and web-based resourced such as Multi-Agency Geographic Information for the Countryside (MAGIC) (see Table 1). Ordnance Survey (OS) maps and aerial imagery were used to gain contextual information about the Site.

Table 1 Desk Study Information

Source	Information Sought (search buffer from Site)
North Wales Environmental Information Centre (COFNOD)	- Statutory designated wildlife sites (2km) - Non-statutory designated wildlife sites (2km) - Protected and notable species (2km) - Schedule 9 invasive species (2km)
MAGIC maps	- Designated sites of international importance, including SPAs, SACs and Ramsar sites (5km) - Designated sites of national importance, including SSSIs and National Nature Reserves (2km) - Priority habitats listed on Section 41 on NERC Act (0.25km) - Granted European Protected Species (EPS) Licences (1km) - Ponds (500m)

2.2 HABITATS

2.2.1 The survey was undertaken on 4th May 2023 by Sue Worsfold (BSc, ACIEEM) for and on behalf of Crestwood.

- 2.2.2 The survey including classifying and mapping habitat types following the handbook for Phase 1 habitat survey by Joint Nature Conservancy Council (JNCC, 2010).
- 2.2.3 An assessment of the suitability of habitats and features for protected and notable species was also conducted, and any incidental sightings were recorded. Where specific assessment methodologies were used, they are described in more detail within the following sections.
- 2.2.4 The weather conditions at the time of survey are shown in the table below.

Table 2 Survey Weather Conditions

Parameter	Recorded Figure
Temperature (°C)	10
Cloud Cover (in Oktas)	6/8
Wind Speed (Beaufort Scale)	2
Precipitation	N/A

2.3 ROOSTING AND FORAGING BATS

- 2.3.1 A Preliminary Roost Assessment (PRA) was undertaken on trees within the Site. These were externally inspected from ground level, recording any Potential Roost Features (PRFs), potential access points, surrounding habitat and other relevant characteristics, and were categorised for their overall level of suitability for roosting bats in accordance with Bat Conservation Trust (BCT) guidelines (see table below).
- 2.3.2 The broad habitats present within and around the site were also assessed to determine their level of suitability for foraging and commuting bats in accordance with BCT guidelines (see table below).

Table 3 BCT Guidelines for Assessing the Potential Suitability for Bats (Collins, 2016).

Suitability	Roosting Habitats	Commuting and Foraging Habitats
Negligible	Negligible habitat features likely to be used by roosting bats	Negligible habitat features likely to be used by commuting or foraging bats
Low	A structure with one of more potential roost sites that could be used by individual bats opportunistically. However, these potential roost sites do not provide enough space, shelter, protection or appropriate conditions and/or suitable surrounding habitat to be used on a regular basis or by larger numbers of bats. A tree of sufficient size and age to contain PRFs but none seen from the ground or features seen with only limited roosting potential.	Habitat that could be used by low numbers of commuting bats such as a gappy hedgerow or unvegetated stream, but isolated, i.e. not very well connected to the surrounding landscape by other habitat. Suitable, but isolated habitat that could be used by small numbers of foraging bats such as a lone tree (not in parkland situation) or a patch of scrub.
Moderate	A structure or tree with one or more potential roost sites that could be used by bats due to their size, shelter, protection, condition and surrounding habitat but unlikely to support a roost of high conservation status (with respect to roost type only – the assessments in this table are made irrespective of species conservation status, which is established after presence is confirmed).	Continuous habitat connected to the wider landscape that could be used by bats for commuting such as lines of trees and scrub or linked back gardens. Habitat that is connected to the wider landscape that could be used by bats for foraging such as trees, scrub, grassland or water.

Suitability	Roosting Habitats	Commuting and Foraging Habitats
High	A structure or tree with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, condition and surrounding habitat.	Continuous, high-quality habitat that is well connected to the wider landscape that is likely to be used regularly by commuting bats such as river valleys, streams, hedgerows, lines of trees and woodland edge. High-quality habitat that is well connected to the wider landscape that is likely to be used regularly for foraging bats such as broadleaved woodland, tree-lined watercourses and grazed parkland. Site is close to and connected to known roosts.

2.4 BADGER

- 2.4.1 A badger (*Meles meles*) survey was carried out at the Site, plus within a 30m buffer outside of the Site boundary (where accessible), in accordance with published guidance (Harris, et al., 1989). The survey included a search for setts, badger pathways, latrines, footprints, badger hairs and feeding signs such as snuffle holes.
- 2.4.2 A sett is defined as a single, isolated hole, or series of holes that seemed to be connected underground. Setts can be categorised according to main, annexe, subsidiary or outlying (Harris, et al., 1989). Setts were assessed as being in current use ('Active') or not in current use ('Inactive') at the time of the survey in accordance with Natural England guidance (Natural England, 2009).

3 RESULTS

3.1 DESIGNATED WILDLIFE SITES

- 3.1.1 There is one Site of Special Scientific Interest (SSSI) and one Special Area of Conservation (SAC) located within 2km of the Site.

Table 4 Statutory Designated Wildlife Sites

Site	Distance & Direction	Description
Stryt Las a'r Hafod (SSSI)	510m South-west	Stryt Las a Hafod is a composite site located close to the village of Johnstown, south west of Wrexham, at an altitude of 130m. It is of special interest for its amphibians. Of particular interest is the population of the great crested newt <i>Triturus cristatus</i> . This species has suffered a marked decline throughout Great Britain and Continental Europe as a result of habitat loss. Great Britain is considered to be one of the strongholds for this species in western Europe
Johnstown Newt Sites (SAC)	510m south-west	This site lies near to Wrexham in north-east Wales and is composed of two post-industrial sites where coal and clay have been extracted. The population of great crested newts <i>Triturus cristatus</i> is one of the largest known in Great Britain and has been the focus of much conservation management over the last few years. Breeding sites are provided in part by a mining subsidence pool, and natural water-filled hollows on clay, whilst other ponds have been created as part of nature conservation management. Terrestrial habitat varies from marshy grassland, grazed farmland and swamp through to scrub and broad-leaved woodland. Good populations of the widespread amphibian species are also present.

- 3.1.2 There are four non-statutory designated wildlife sites within 2km. These include Local Wildlife Sites. These do not receive statutory protection but are recognised through the planning system as they are important for their nature conservation value.

Table 5 Non-Statutory Designated Wildlife Sites

Site	Distance & Direction	Description
Big wood	1.5km north-west	The wood along the River Clywedog is a mixture of conifer plantation, beech plantation and patches of semi-natural broad-leaved woodland. The broad-leaved canopy is dominated by sycamore and beech and there is a variable ground flora, with abundant brambles and frequent ferns. Holly is prominent in the understorey, but rhododendron is abundant. Brittle bladder fern is present. The woodland is undergoing management and many conifer trees have been felled.
Crematorium	1km west	The two hay meadows in front of the crematorium are herb-rich semi-improved neutral grassland. The field on the north side of the drive is dominated by ribwort plantain, sweet vernal grass and lesser trefoil, with frequent cat's ear and yellow rattle. The field on the south side of the drive has an abundance of sweet vernal grass, common bent and crested dog's tail. Pignut, yellow oat grass and black knapweed are frequent. Behind the crematorium there is a broadleaved woodland with many exotic trees and shrubs and patches of parkland. There are two ponds with fringed water lily, common reedmace, water plantain and reed sweet grass. Royal fern and ostrich fern also occur.
Legacy Substation	1.6km north-west	Electricity substation surrounded by embankment with semi-improved grasslands and scrub. Bee orchid, yellow-wort and common centuary occur.
Erddig Estate	780m east	National Trust estate with woodlands, semi-improved neutral grasslands and marshes. The woodlands have a lot of planted beech but there is also much oak, sycamore and ash. Hafod and Lewis Wood have areas of wet alder woodland. The field layer under the latter canopy is good; great horsetail, hemlock water-dropwort, meadowsweet, hemp-agrimony and marsh marigold are prevalent. Species found within the dryer woods include bluebell, wood millet, wood melick, wood-sorrel and giant fescue. Most of the pasture is improved but several areas are managed for wildlife. The dry grassland contains such species as harebell, yellow rattle, goat's-beard, ox-eye daisy, lousewort and restharrow. The marshy grassland has excellent diversity; marsh horsetail, common spikerush, ragged robin, hairy sedge, false fox sedge, spiked sedge, lesser water-parsnip, cowbane, purple loosestrife, horse mint, creeping jenny and slender tufted sedge among the many species found. The amount of mature trees in the park is exceptional and these have correspondingly excellent insect communities with 12 notable species and 1 red data species discovered.

3.2 HABITATS ON SITE

- 3.2.1 The Site was dominated by broadleaved woodland mainly consisting of self-seeded silver birch throughout all areas of the Site. Three areas of poor semi-improved grassland were present within the south and north-east of the Site. Two areas of scattered scrub were present to the south, with areas of bare ground located throughout the Site in the form of pathways.
- 3.2.2 The location and extent of habitats on Site are shown on Figure E1 in Appendix 2. Photos of habitats are shown in Appendix 5. All habitats within the Site are described below.

Broadleaved Woodland – Semi-Natural

- 3.2.3 The site was dominated by semi-natural self-seeded broadleaved woodland. The dominant species was silver birch (*Betula pendula*), other species included oak (*Quercus robur*), sycamore (*Acer pseudoplatanus*), ash (*Fraxinus excelsior*), goat willow (*Salix caprea*), cherry (*Prunus avium*), elder (*Sambucus nigra*) and hawthorn (*Crataegus laevigata*). The trees were mainly sapling or semi-mature.

- 3.2.4 The value of the broadleaved woodland was low due to the self-seeded nature of the habitat and the dominant species was self-seeded silver birch, other species were rare.

Scattered Scrub

- 3.2.5 Two areas of scattered scrub were present within the centre and to the south of the Site. The dominant species was bramble (*Rubus fruticosus*) however it included other species such as rosebay willow herb (*Chamaenerion angustifolium*), forget me not (*Myosotis sylvatica*), foxglove (*Digitalis purpurea*) and cat's ear (*Hypochaeris radicata*).

Bare Ground

- 3.2.6 Throughout the Site bare ground pathways were present.

Poor Semi-improved Grassland

- 3.2.7 Three areas of poor semi-improved grassland were present within the Site, sward length being circa 15cm. Species included gorse (*Ulex europaeus*), daisy (*Bellis perennis*), chickweed (*Stellaria media*), ribwort plantain (*Plantago lanceolata*), common vetch (*Vicia sativa*), creeping buttercup (*Ranunculus repens*), Yorkshire fog (*Holcus lanatus*), creeping thistle (*Cirsium arvense*), Spurge (*Euphorbia peplus*), forget me not, teasel (*Dipsacus fullonum*), yarrow (*Achillea millefolium*), common hogweed (*Heracleum sphondylium*), rosebay willowherb. The species within the grassland were noted to be common and widespread however they offered value to wildlife at a local level.

Invasive or Otherwise Notable Flora

- 3.2.8 No invasive or notable plant species were identified during the survey.

3.3 PROTECTED SPECIES ASSESSMENT

Great Crested Newt and Amphibians

- 3.3.1 There are no European Protected Species Licences records for GCN within 1km of the Site.
- 3.3.2 The desk study returned 62 records of Great crested newt within 2km of the Site. The nearest record was 168m south-west of Site, from 2019.
- 3.3.3 There are no ponds within the Site boundary. Although there are ponds within 500m of the Site, these are located beyond barriers to dispersal, such as the main A483 dual carriageway to the west of Site, or railway lines directly adjacent to Site on the east. The vegetative habitats present on Site provided sub-optimal foraging and commuting habitat for GCN, but due to the lack of nearby, accessible waterbodies (i.e. not separated by barriers) the Site is considered to be unsuitable for GCN and this species is not considered further within this report.

Reptiles

- 3.3.4 The desk study returned 5 entries for grass snake (*Natrix helvetica*) within 2km of the Site. The nearest record was approximately 1.6km east of Site, from 2020.
- 3.3.5 The poor semi-improved grassland provides suitable habitat for reptiles, the areas to the north of the Site boundary provide suitable connective habitat and therefore the site is considered as suitable for

reptiles and further survey recommendations are detailed in section 4 of the report.

Birds

- 3.3.6 The desk study returned a total of 620 records for birds within 2km of the Site. No records of birds were returned from the site itself, the nearest record for a hobby (*Falco Subbuteo*) 117m south west of site. Birds listed under Schedule 1 (Wildlife & Countryside Act 1981) within 2km of the Site include; hobby, peregrine (*Falco peregrinus*), redwing (*Turdus iliacus*), fieldfare (*Turdus pilaris*), barn owl (*Tyto alba*), red kite (*Milvus milvus*) and kingfisher (*Alcedo atthis*).
- 3.3.7 The broadleaved woodland and scattered scrub provide suitable foraging and nesting habitat for birds. Precautionary working methods are detailed within section 4 of the report.

Invertebrates

- 3.3.8 The desk study returned 79 records of invertebrates from within 2km of the Site, however none were returned from the Site itself. The nearest records were for small garden bumblebee (*Bombus hortorum*), red tailed bumblebee (*Bombus lapidaries*), white-tailed bumblebee (*Bombus lucorum*), common carder bee (*Bombus pascuorum*), buff-tailed bumblebee (*Bombus terrestris*), early colletes (*Colletes cunicularius*) and harlequin ladybird (*Harmonia axyridis*), all from 235m north of Site, in 2017.
- 3.3.9 The Site provided suitable habitat for terrestrial invertebrates, particularly the broadleaved woodland and poor semi-improved grassland, details of enhancement measures are detailed within section 4.

Bats

- 3.3.10 There are no European Protected Species Licences records for bats within 1km of the Site.
- 3.3.11 The desk study returned 272 records of bats within 2km of the Site. This included seven records from within the Site boundary. The on-site records were for; Long-eared bat species (*Plecotus sp.*), noctule bat (*Nyctalus noctule*), common pipistrelle (*Pipistrellus pipistrellus*), myotis bat species (*Myotis sp.*), Daubenton's bat (*Myotis daubentonii*) and soprano pipistrelle (*Pipistrellus pygmaeus*), all from 2019 surveys.
- 3.3.12 Records from within 2km of the Site also included; Brandt's bat (*Myotis brandtii*), brown long-eared bat (*Plecotus auritus*) and Natterer's bat (*Myotis nattereri*)
- 3.3.13 The Site contains Moderate quality habitat for foraging and commuting bats; habitat that is connected to the wider landscape that could be used by bats for foraging such as the trees and scrub areas.
- 3.3.14 The Site contains no suitable habitat for roosting bats; the majority of the woodland was immature sapling and the few that were of suitable age did not contain any PRFs during the Phase 1 survey.
- 3.3.15 Further surveys for bats are detailed in Section 4.

Badger

- 3.3.16 The desk study returned 13 records of badger within 2km of the Site, however none were from the Site itself. The nearest record was 155m south west of a dead badger on the A483, from 2020. There were eight records of 'dead badger' in total. The closest record of a badger sett was 1.5km away, from 2019.
- 3.3.17 No evidence of badger was identified within the survey. Precautionary recommendations for badgers are detailed within section 4.

Other Mammals

- 3.3.18 The desk study returned 39 records of 'other mammals' from within 2km of the Site, although none from the Site itself. The nearest record was of a dead polecat on the A483, 265m south of the Site from 2014. Other recorded mammals included; otter (*Lutra lutra*), hedgehog (*Erinaceus europaeus*), American mink (*Neovison vison*) and stoat (*Mustela erminea*).
- 3.3.19 There was no evidence of other mammals present at the Site, however it may be used by species such as hedgehog and rabbits due to the presence of poor semi-improved grassland and broadleaved woodland.

Invasive Animal Species

- 3.3.20 No evidence of invasive animal species was observed during the survey.

4 CONSTRAINTS, OPPORTUNITIES AND RECOMMENDATIONS

4.1 DESIGNATED WILDLIFE SITES

- 4.1.1 Johnstown Newt Sites SAC and Stryt Las a'r Hafod SSSI are designated for their populations of GCN. These populations may be impacted by the Scheme and, therefore, a HRA screening assessment should be carried out and a Section 28H SSSI Assent application should be prepared and submitted once details of the required works are known.

4.2 HABITATS AND BIODIVERSITY NET GAIN

- 4.2.1 A Biodiversity Net Gain assessment will be required to demonstrate the level of BNG that would be achieved at the Site through current designs.
- 4.2.2 Johnstown Newt Sites SAC and Stryt Las a'r Hafod SSSI are designated for their populations of GCN. These populations may be impacted by the Scheme, therefore a HRA screening assessment should be carried out and a Section 28H SSSI Assent application should be prepared and submitted once details of the required works are known.
- 4.2.3 It is recommended that the woodland that is proposed to be lost as part of the permitted development would need to be replaced and enhanced. This would help the permitted development to achieve a positive BNG.

4.3 PROTECTED SPECIES

Birds

- 4.3.1 Any removal of trees should be undertaken between September – February to avoid impacts on nesting birds. If removal is required during the nesting bird season (March – August), an Ecological Clerk of Works (ECOW) will undertake a pre-commencement check for nesting birds and trees will be removed within the following 48 hours if no active nests are recorded.

Bats

- 4.3.2 If the Permitted Development requires the removal of the broadleaved woodland monthly bat surveys are required to determine the use of the habitat for foraging and commuting bats. These can be

undertaken between April and October

- One survey visit per month (April to October) in appropriate weather conditions for bats. At least one of the surveys should comprise dusk and pre-dawn (or dusk to dawn) within one 24-hour period.

4.3.3 The habitats present on Site provided suitable habitat for reptiles, particularly the poor semi-improved grassland and scattered scrub there is habitat connectivity to the north of the Site boundary.

- Seven presence/absence surveys for reptiles are required to determine whether reptiles are using the Site.

Other Mammals

4.3.4 To enable continued dispersal and foraging of hedgehogs and other small mammals across the Site and within the local area following development, small access gaps measuring c.13x13cm are recommended at the base of all new fence boundaries.

4.3.5 Artificial lighting has severe adverse impacts on bats and other nocturnal wildlife. The use of external lighting will be avoided or reduced to the minimum required for its intended purpose, during both construction and operation. Where external lighting is to be used, it should follow guidance provided by the Bat Conservation Trust (BCT, 2018) and Eurobats (Voigt, 2018) to avoid impacts on wildlife.

4.3.6 All excavations left overnight will either be covered over or provided with a ramp to ensure no wildlife becomes trapped. Open pipework greater than 150mm diameter will be capped off at the end of each working day.

4.3.7 Destruction of any fox dens or rabbit warrens will be done in accordance with the Mammals Act 1996.

4.3.8 Should any distressed or injured animal be found on site, all works should cease, and an ecologist should be contacted.

Summary of Ecological Requirements

4.3.9 Further surveys are recommended prior to development. Some species can only be surveyed for at certain times of year and without consideration this has potential to cause project delays.

Table 6 Recommendations

Receptor	Recommendations
Habitats	BNG An assessment will be required to demonstrate the level of BNG that would be achieved at the Site through current designs. HRA Johnstown Newt Sites SAC and Stryt Las a'r Hafod SSSI are designated for their populations of GCN. These populations may be impacted by the Scheme and, therefore, a HRA screening assessment should be carried out and a Section 28H SSSI Assent application should be prepared and submitted once details of the required works are known.
Reptiles	Seven surveys to determine presence/absence of reptiles within the Site
Bats (Activity)	One survey per season to determine the use of the broadleaved woodland for foraging and commuting bats.

Badger	Pre-commencement walkover survey (if permitted development does not commence within 12 months of the report)
Birds	Precautionary working methods
Other Mammals	Precautionary working methods

5 CONCLUSION

- 5.1.1 The survey identified suitable habitats for bats and reptiles, A Biodiversity Net Gain assessment will be required to demonstrate the level of BNG that would be achieved at the Site through current designs.
- 5.1.2 Johnstown Newt Sites SAC and Stryt Las a'r Hafod SSSI are designated for their populations of GCN. Due to the proximity of the site it would be expected that the local authority would request a screening assessment against the habitat regulations.
- 5.1.3 Further surveys are recommended so that the baseline data can be used to inform the EcIA. These include monthly bat activity surveys and presence/absence reptile surveys.

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APPENDIX 1 LEGISLATION AND PLANNING CONTEXT

LEGISLATION

The main legislative framework for ecological protection in Great Britain are the Wildlife and Countryside Act 1981 (WCA, as amended), Countryside and Rights of Ways Act 2000 (CRoW, as amended), Natural Environment and Rural Communities Act 2006 (NERC) and the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations, as amended).

The WCA 1981 is the principal mechanism for the legislative protection of wildlife in Great Britain. Schedules of the act list protected species of flora and fauna, as well as invasive species, and detail the possible offences that apply to these species.

The CRoW Act 2000 provides a statutory framework for biodiversity conservation. It placed a duty on government departments & the National Assembly for Wales to have regard for biodiversity, provided increased powers for the protection and maintenance of SSSI, and created a right of access to parts of the countryside. The Act contained lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

The Habitat Regulations 2017 (as amended) are one of the pieces of domestic law that transposed the land and marine aspects of the Habitats Directive (Council Directive 92/43/EEC) and certain elements of the Wild Birds Directive (Directive 2009/147/EC) (known as the Nature Directives). It covers requirements for protecting sites that are internationally important for threatened habitats and species (European sites) and a legal framework for species requiring strict protection (European protected species).

The NERC Act 2006 created Natural England and the Commission for Rural Communities, and, amongst other measures, it extended the biodiversity duty set out in the CRoW Act to public bodies and statutory undertakers to ensure due regard to the conservation of biodiversity. Section 40 of the Act places a duty upon all local authorities and public bodies in England and Wales to have regard to the purpose of conserving biodiversity in exercising all of their functions, including by restoring or enhancing habitats and species populations. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity (otherwise known as priority habitats/species as listed in the now superseded UK Biodiversity Action Plan). These species and habitats are a material consideration in the planning process.

Protection of Badgers Act 1992 makes it an offence to take, kill injure or ill-treat a badger, or interfere with their setts including damaging or destroying a sett, obstructing access and disturbing a badger whilst occupying a sett. The Act defines a badger sett as 'any structure or place, which displays signs indicating the current use by a badger'.

Wild Mammals (Protection) Act 1996 makes provision for the protection of wild mammals from certain cruel acts.

Hedgerow Regulations 1997 makes provision for the protection of important hedgerows.

Environment Act (Wales) 2016 - introduced an enhanced biodiversity and resilience of ecosystems.

PLANNING CONTEXT

National Planning Policy Framework Agreement

The National Planning Policy Framework Agreement (NPPF) outlines the Governments planning policies for England and provides guidance to local planning authorities on their local plans.

Section 15: Conserving and Enhancing the Natural Environment seeks to ensure local planning authorities design and enforce appropriate planning policies to conserve and protect the natural environment from new development.

When determining planning applications, local planning authorities should aim to protect and enhance biodiversity and provide net gains in biodiversity where possible. The NPPF makes clear that the planning system should help minimise the impacts that development can have, by applying the 'mitigation hierarchy' which puts avoiding significant harm to biodiversity or mitigating such harm ahead of compensation, which is a last resort.

Welsh Planning Policy

The following policy is relevant to the Permitted Development

6.4 Biodiversity and Ecological Networks - Biodiversity underpins the structure and functioning of ecosystems. It is the diversity of living organisms whether at the genetic, species or ecosystem level. An ecosystem is made up of living organisms, plants, animals and micro-organisms, in conjunction with their non-living environment, air, water, minerals and soil, and all the diverse and complex interactions that take place between them.

LOCAL PLANNING POLICY

The following policies of Wrexham County Borough Council Local Development Plan 2 (LDP2)

are of relevance to ecology:

- Policy SP15: Natural Environment - Development will only be supported where it protects, conserves and enhances the natural environment.
- Policy SP20: Green Infrastructure - Wrexham's distinctive natural heritage provides a network of green and blue infrastructure. Protection, conservation and enhancement of natural heritage networks needs to be reconciled with the benefits of development.

APPENDIX 3 SITE PHOTOGRAPHS



Photo 1: Broadleaved woodland



Photo 2: Poor semi-improved grassland



Photo 3: Bare ground



Photo 4: Scattered Scrub

