



Report Type: Ecological Appraisal

Client Name: RGM Construction

Site Address: Land adjacent to
School Lane
Bronington
SY13 3HN

Report Reference: 23-09 217.1R

Date of Issue: October 2023

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The report should be read in its entirety. Questions arising from the survey report should be directed to the author of the report who will be pleased to clarify any technical issues raised.

Whilst the surveyors make every reasonable effort, Greenscape Environmental Ltd cannot guarantee that all protected species have been identified and survey results are definitive. Many species are cryptic and transitional in habit.

Reports are considered valid for two years for planning purposes, after which time further survey information may be required.

Greenscape Environmental Ltd can provide advice and support for recommendations and planning conditions.

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1 Executive Summary

1.1 Purpose of the Report

Greenscape Environmental Ltd was commissioned by RGM Construction, to undertake a preliminary ecological appraisal of a site at School Lane, Bronington to provide supporting information for a planning application for a new dwelling.

The survey report has these principal aims:

- To provide an initial assessment of the ecological value of the site in local context.
- To provide details supporting further surveys that may be required.
- To identify potential ecological constraints relating to the development, and recommend measures to avoid, reduce or manage negative effects.

1.2 Methodology

The appraisal included a desktop study for nearby designated sites and previously recorded protected species, reviews of other surveys previously conducted in the area by Greenscape Environmental, and a site visit undertaken at the site, OS grid reference SJ48793948 on 2nd October 2023 by P Marshall.

1.3 Key Impacts and Mitigation Measures

There are no designated areas within a zone of influence for this site. Typical bat species and great crested newts have been recorded and it was considered prior to the site visit that these should be the main focus of the ecological appraisal. Dormice and other protected species such as otters were scoped out at the desktop survey.

The site comprises approximately 320m², of hard standing and disturbed ground. It is considered to be of low ecological value. The plot has fences on three boundaries which are of negligible value.

There are no specific features on site which would provide for foraging, commuting or roosting bats. And there are no features to be disturbed which would support nesting birds.

No evidence of badger activity was seen within 30m of the site.

There are no ponds within 250m, although there are known to be great crested newts in the area. The terrestrial habitat on site is of low value for newts, with no hibernacula. A method statement outlining reasonable avoidance measures will be recommended.

No invasive non-native plant species were observed.

An offence is considered highly unlikely. Further surveys are not considered necessary.

1.4 Conclusion

It is recommended that the ecological functionality of the site will be enhanced with the inclusion of bat and bird boxes.

The method statements provided in 6 of this report will be followed to provide the scenario whereby individual newts are protected.

There are no other ecological constraints to the development as currently proposed.

**Table 1.1. Timing of Works**

Action	Timing	Justification
Update phase 1 survey	After 24 months from report issue date	Ecological features can change and develop over time
Construction work to follow reasonable avoidance measures for newts	Any time pre and during construction	To create the scenario whereby individual newts are protected.



2 Introduction

This report has been compiled by Peta Marshall BSc (hons) MA who has over 15 years' experience conducting ecological appraisals.

For full details of surveyors and licences please see Appendix A.

2.1 Project Background

Greenscape Environmental Ltd was commissioned by RGM Constuction to conduct a survey to determine the presence of protected species and potential for the damage or destruction of habitats of value. This forms part of the planning application for a dwelling on a small plot adjacent to Church View, School Lane, Bronington

Sites have been surveyed by Greenscape previously and the company is aware of the records of:

- Great crested newts
- Typical bat species such as crevice dwelling pipistrelles, long eared bats and myotis species bats.

2.2 Purpose of the Report

This report aims to:

- Identify the key ecological constraints to the proposed development relating to priority habitats and species and protected species (HMSO, 1981).
- Inform planning to allow significant ecological effects to be minimised or avoided where possible.
- Allow any necessary mitigation or compensation measures to be developed following the mitigation hierarchy.
- Identify any additional surveys that may be required to inform the assessment.
- Identify the opportunities offered by a project to deliver ecological enhancement (Ministry of Housing, Communities and Local Government, 2021).
- Provide information to assist landowners with avoiding committing legal offences in relation to wildlife (HMSO, 2000)

The development does not trigger the requirement for a preliminary bat survey as it does not involve the conversion, modification, demolition or removal of buildings:

2.3 Site Context and Location

The site is located to the north of Bronington, OS grid reference SJ48793948. It is set in a mainly rural environment with open fields to the north, and housing to the west, south and east. There is connectivity to Whixall Moss via hedge boundaries to the south, but this is interrupted with housing.



3 Methodology & Constraints

Broad methodologies for data collection and interpretation were informed by PEA guidance (CIEEM, 2017). Full details can be found in Appendix B.

3.1 Desk Study

The desk study provides contextual information such as the site's proximity to designated areas and previously granted licences (Natural England, 2018). Previously recorded species in the vicinity are obtained from Greenscape local records. Purchase of records from COFNOD was not considered proportional to the size of development at this site.

3.2 Field Survey

3.2.1 Date and Survey Conditions

Table 3.1. Survey conditions

Date	Time Start – End (Sunrise/set Time)	Study Area	Equipment Used	Weather (Start/End)
02/10/2023	21:00-22:30 (sunset not applicable)	Site	Camera, strong torch,	15C, 100% High cloud, overcast <F1 breeze
Comments	One surveyor used: Peta Marshall Constraints: Non, all area was accessible All undated photographs in this document were taken on this date by the author unless otherwise stated.			

3.2.2 Habitats

The habitats on site were assessed for their potential to support protected species and therefore assist in the determination of site value.

Although the survey was conducted in October, the floral diversity could still be assessed.

The site had not been subject to any form of pre-visit management, maintenance or clearing.

3.3 Species Survey

3.3.1 Bats

An assessment of the suitability of site to support roosting bats was conducted following best practice guidance looking for evidence of roosting or potential access points (Collins, J. BCT, 2023).

3.3.2 Other Mammals

An assessment of the suitability of site and its surrounds to support badgers was conducted following best practice guidance looking for tracks, signs or setts (Scottish Badgers, 2018). There were no constraints to this methodology.

Other mammals such as water vole, otters, hazel dormice were scped out due to the lack of appropriate habitat.



3.3.3 Birds

An assessment of the suitability of site and its surrounds to support nesting birds was conducted, looking for current/old nests and listening for bird calls. There were no constraints to this methodology.

3.3.4 Amphibians

An assessment of terrestrial habitats of site and its surrounds to support great crested newts was conducted by looking for potential shelter and commuting features (Langton, et al., 2001).

Ponds were scoped out of the survey requirement during the scoping survey as none were found to be within 250m of the development area and this is taken to be an appropriate zone of influence for a development of this scale.

3.3.5 Reptiles

An assessment of the suitability of site and its surrounds to support reptiles was conducted following best practice guidance by turning over detritus and other refugia and checking for suitable basking sites (Edgar, et al., 2010).

3.3.6 Invertebrates

An assessment of the suitability of site and its surrounds to support invertebrates was conducted following best practice guidance looking for food source plants (Buglife, 2019).

3.3.7 Invasive Species

Signs of invasive non-native plant species were searched for throughout the site.



4 Baseline Ecological Conditions

4.1 Nearby Features of Importance

4.1.1 Designated Sites

The map from Natural England presented in Figure 4.1 indicated that the site is not within 1km of any designated areas. Whixall Moss, part of the Midland Meres and Mosses Ramsar, is 1km to the south.

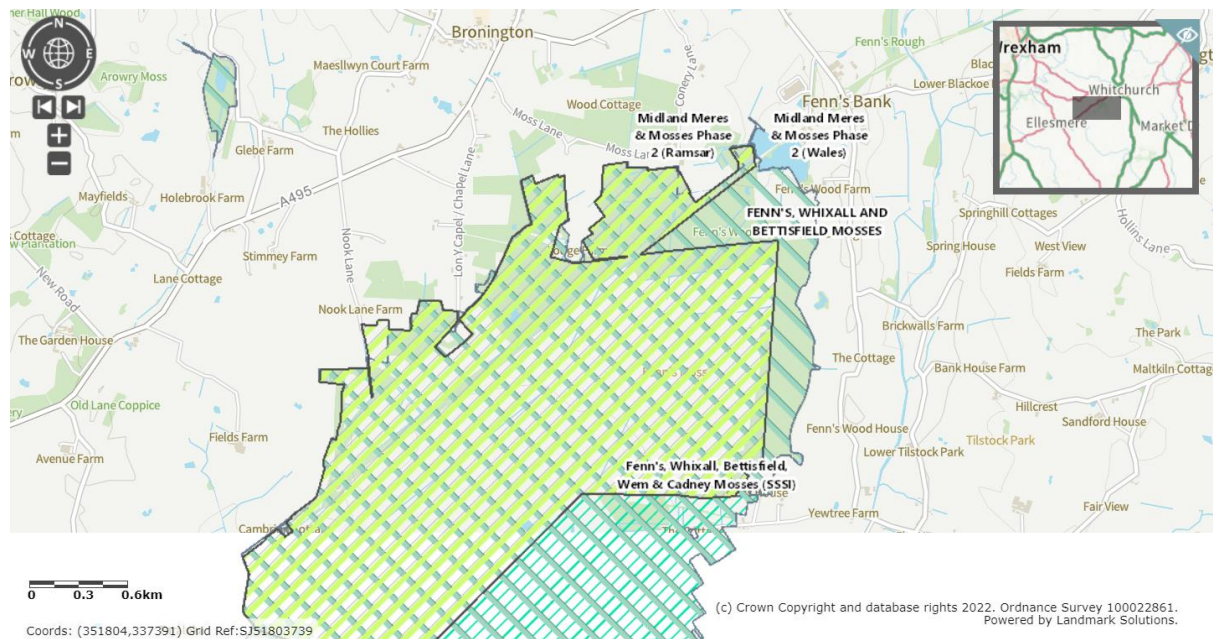


Figure 4.1. Identifying any designated areas near site,
Table 4.1. Details of statutory designated sites within 1km

Type of Designation	Site Name & Ref	Reason for Designation	Distance & Direction
RAMSAR and SSSI	Whixall Moss	This is known for its peatland designation and unique flora and habitat.	1km south

4.1.2 Nearby European Protected Species Licences and information

The site is not within 2km of any EPS licences for bats held by Greenscape. However there have been EPS licences within 3km, for pipistrelle species, brown long eared bats Great crested newts have been recorded within 1km.



4.2 Habitats on Site

The site comprises 320m². The southern section is hard standing, comprising a gravel access, and the remaining is vacant or derelict land as a result of the nearby new construction.



Figure 4.2. Plot

There was evidence that the site has been used during the construction of the adjacent new bungalow, with areas of sand remaining, and areas of broken brick. Colonisation with native and non native garden plant species was apparent, with the following species recorded.

Plant	Latin Name
Cocksfoot	<i>Dactylis glomerata</i>
Rye grass	<i>Lolium perens</i>
Purple Toadflax	<i>Linaria purpurea</i>
Rose bay willow herb	<i>Chamaenerion angustifolium</i>
White clover	<i>Trifolium repens</i>
Lesser trefoil	<i>Trifolium dubium</i>
Thistle	<i>Cirsium spp</i>
Common Mullein	<i>Verbascum thapsus</i>
Dead nettle	<i>Lamium purpureum</i>
Lobelia	<i>Lobelia erinus</i>

The boundaries of the site comprise fence to the west, north and east. There is a mixed hedge to the south which supports roses.

The site is considered to be small enough to not warrant a habitat map.



Table 4.2. UK Habitat codes © UKHAB LTD, under licence. No onward licence implied or provided. All rights reserved [<https://ukhab.org/register/>]

Label	Description	UK Habs
1	Driveway	u1c
2	Vacant or derelict land	u1a
L1	Fencing	u1e



4.3 Bats

4.3.1 Field Observations

The site had no features suitable for foraging, commuting or roosting bats which would be negatively impacted by this development.

4.4 Other Mammals

4.4.1 Field Observations

The site has low potential for supporting other mammal species, and no evidence of badger activity was recorded on or around the adjacent field within 30m.

4.5 Birds

4.5.1 Field Observations

No habitat suitable for nesting birds was observed on the plot.

4.6 Amphibians

4.6.1 Records

Records of amphibians within 2km include great crested newts.

The nearest records are to the west of the site, but this is separated from the development area with significant infrastructure such as roads and buildings including the school.

4.6.2 Field Observations

The site offers negligible features suitable for the terrestrial phase for newts and other amphibians. There are no known ponds within 250m, although garden ponds cannot be ruled out to the south of the site. The houses to the south have brick walls along the boundaries which would provide a barrier to significant passage of amphibians.

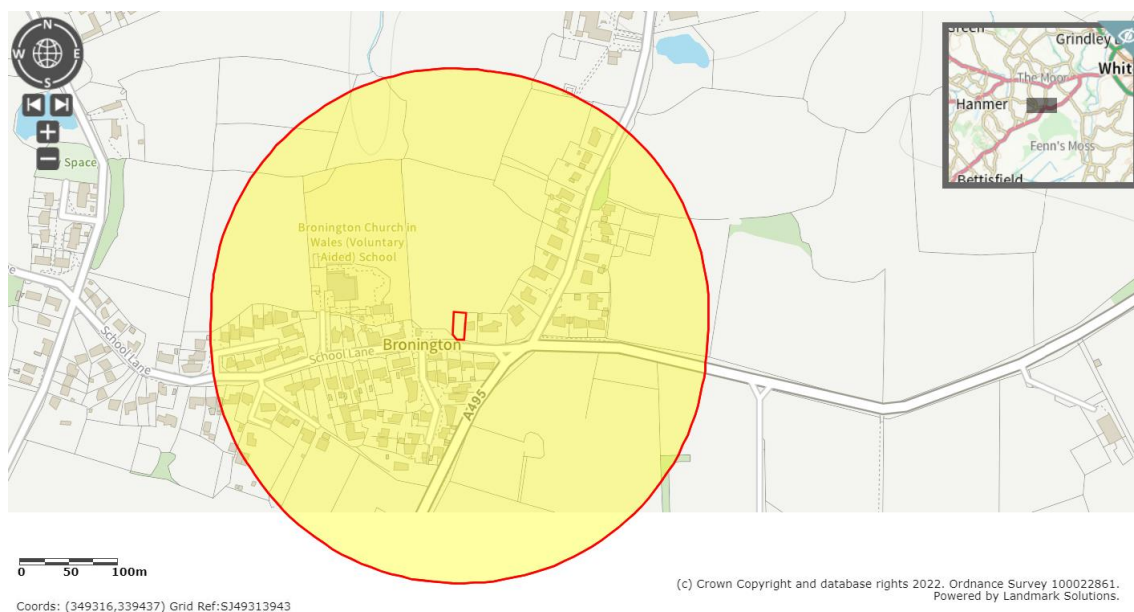


Figure 4.3. OS Map showing a 250m buffer around site



4.7 Reptiles

4.7.1 Field Observations

The plot is consider to offer negligible potential for reptile species.

4.8 Invertebrates

4.8.1 Field Observations

The site had negligible features for invertebrates of ecological concern.

4.9 Invasive Species

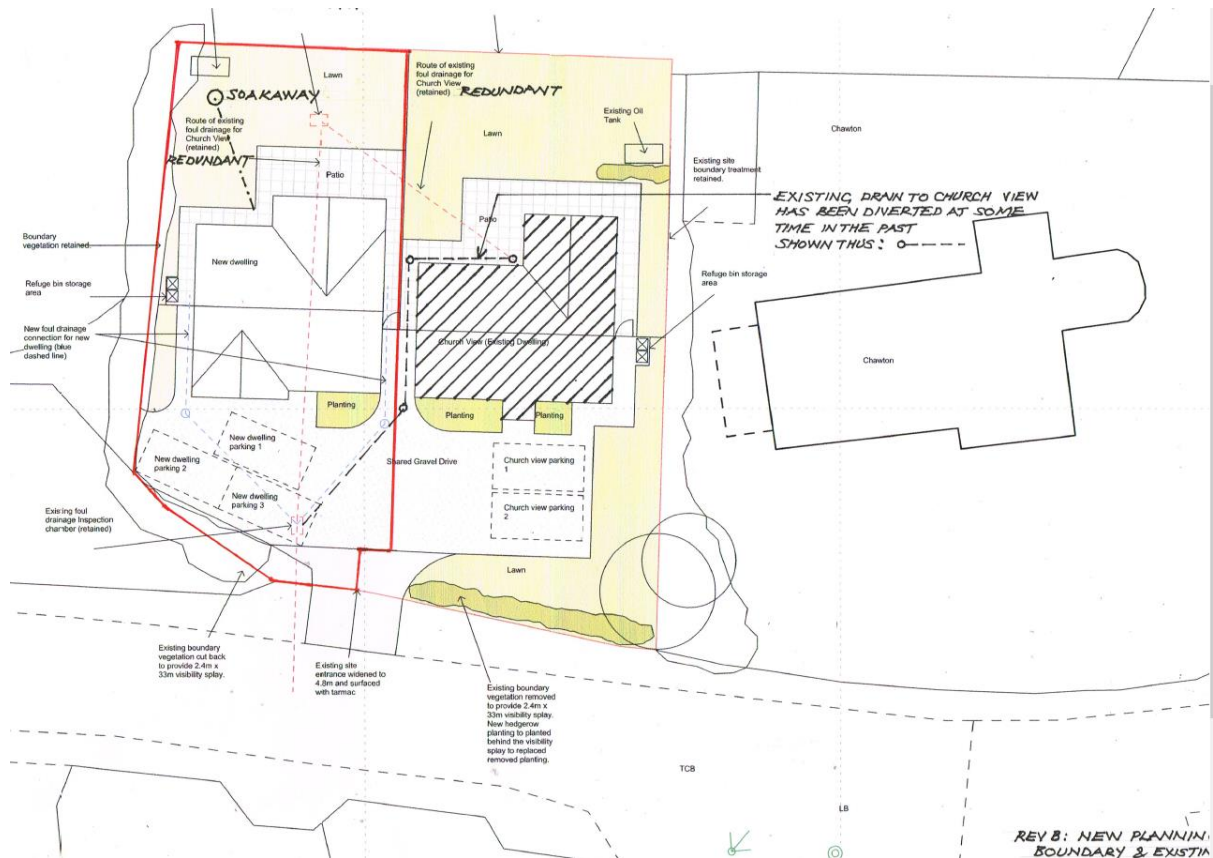
4.9.1 Field Observations

No invasive non-native plant species such as Japanese Knotweed or Himalayan Balsam were observed..



5 Description of Proposed Development

The current plans are for the erection of a dwelling adjacent to a newly constructed bungalow. Access has already been prepared and the drive way created with a flat gravelled section.





6 Impacts, Enhancements and Mitigation

6.1 Nearby Features of Importance

6.1.1 Impacts

Figure 4.1 shows that the nearest RAMSAR/SSSI is Whixall Moss to the south. No negative impact is anticipated on this area as there is no direct connection such as water courses or hedgerows. Standard biosecurity measures are recommended to stop potential spread of noxious plants, seeds and diseases through soilborne vectors.

6.2 Habitats on Site

6.2.1 Impacts

The development will not result in the loss of any habitats of principal importance listed in Section 41 of the NERC Act (HMSO, 2006) or Section 7 of the Environment (Wales) Act (HMSO, 2016), mitigation will be delivered at a species level.

Table 6.1. Summary of potential impacts on habitats recorded

Habitat	Value to Protected Species	Impact Without Consideration
Vacant or derelict land u1a	low	negligible

Mitigation and Enhancements

There is little potential to enhance the landscaping for biodiversity as it is a very small plot.



6.3 Bats

6.3.1 Impacts

No negative impact on bat roosts, foraging areas or commuting areas are anticipated.

6.3.2 Ecological Enhancement

Lighting

Lighting will be designed to have minimal impact on bats and their commuting and foraging areas. This results in the recommended use of downlights and the horizontal spread of lighting to be kept to a minimum.

Where it is not possible to reduce the horizontal spread of light, a 2700°K to 3000°K LED light bulb is recommended, which will provide a warm white light. This range has the least impact on bats and invertebrates.

1. A lighting scheme will be drawn up in line with best guidance (ILP, 2023).
2. All newly proposed external lighting will be directed away from the field to the north of the site.
3. There will be no direct illumination of any enhancement features erected for bats.
4. All domestic lighting will be orientated towards the ground and controlled by PIR (Passive Infra-red), set on a short timer.



Figure 6.1. Example external down light design

Bat box

It is recommended that provision be made for roosting opportunities for bats with the erection of one woodcrete bat box suitable for day roosts on the new dwelling. This will be erected at a height of 3-4 m and in a westerly facing direction.



Figure 6.2. Example woodcrete bat box: Beaumaris Bat Box Midi



6.4 Other Mammals

6.4.1 Impacts

No negative impact on other mammal species is anticipated. There is no habitat on site suitable for hedgehog, but it will be recommended that there is access allowed across the site once the development has been completed.

6.4.2 Ecological Enhancement

Hedgehog

Fences within and around the development will include holes at the base to allow hedgehogs to move freely.

The holes will measure 13x13cm. Hedgehog Highway signs will be installed above the holes to highlight their purpose, these can be purchased from <https://ptes.org/shop/just-in/hedgehog-highway/>.

The new homeowners welcome pack will include details of hedgehog friendly features.

Permanent hedgehog nesting provision will be implemented around site by including purpose-built hedgehog dome. These will be used in quiet parts of a garden and covered with leaf-litter for further camouflage.



Figure 6.3. Example hedgehog dome



6.5 Birds

6.5.1 Impacts

There is no potential nesting opportunities for bird that will be disturbed during the development. No mitigation or timing is considered necessary.

6.5.2 Ecological Enhancement

It is recommended that a range of woodcrete boxes are erected around the site to provide an enhancement for passerine birds, and a selection of the following would be appropriate.

- a. A Sparrow Terrace should be erected under the eaves of a building at a minimum height of 3m, in a westerly, northerly or easterly aspect.
- b. 26/32mm hole nest boxes (e.g. Schwegler 1b) should be installed at a minimum height of 3m in a westerly, northerly or easterly aspect.
- c. House martin boxes should be erected on the eastern or northern walls as high as possible under the eaves



Cedarwood Sparrow Terrace



Schwegler 1b Bird Box



House Martin Nest Box

Figure 6.4. Bird boxes



6.6 Amphibians

6.6.1 Impacts

Potential impacts were ascertained in conjunction with chapter 6 of the Mitigation Guidelines (English Nature, 2001).

There are no ponds within 250m and the site has negligible value for amphibians such as great crested newts, however, as great crested newts have been recorded in the area of Bronington, a method statement outlining reasonable avoidance measures is considered to be proportionate. This will create the scenario where risk to individual newts is negated.

Pre-and mid-development impacts

Although the site has limited potential for amphibians, including GCN, there is a small risk that soil crevices or holes could be used for shelter or hibernation. Site clearance could harm amphibians if suitable precautions are not taken.

During constructions amphibians may disperse across the site and therefore there is a risk of accidentally trapping newts in excavations. There is also risk that stored items can act as refuges or shelters for amphibians and this may result in amphibians being harmed when materials are moved.

Post-development Interference Impacts

Post-development there is unlikely to be any negative impact with local populations of newts.

6.6.2 Mitigation and Enhancements

Appropriate mitigation for amphibians has been designed in line chapters 7 and 8 of the Mitigation Guidelines.

Working Method Statement

The aim of the working method statement is to eliminate as far as possible, the risk of killing, injuring or disturbing amphibians, particularly GCN.

Pre-Construction

1. The site will be kept under management prior to construction. This will reduce the potential for newts to cross the land and reduce the potential for the terrestrial features to improve. All plants will be kept short (<10cm) to ensure there is no shelter for great crested newts on the site.

Site Setup

2. A consultant will be employed as the ECoW to oversee the work in areas sensitive to great crested newts on site. This person will need to be licensed and an experienced surveyor for great crested newts.
3. The ECoW will provide contractors with a toolbox talk prior to work commencing. This will include information about the legal status of newts and responsibilities of the construction company to ensure an offence is not committed. A document to assist with the identification of newts will be left on site.
4. Contractors will be advised not to handle newts at any time.



- 5.
6. The site will be checked thoroughly by the ECoW prior to construction commencing. This will confirm there are no newts present and that there are no potential places of shelter.
7. Vegetation will be stripped prior to setting up a site compound to ensure the compound contains no vegetation which could potentially attract great crested newts. Ideally this will be undertaken outside the period of November to March when newts are hibernating.
8. Preconstruction works will be conducted when night temperatures have been over 5C to avoid disturbing hibernating amphibians.
9. All cabins and equipment will be located on firm compacted ground, preferably the gravel drive.

Construction Phase

10. The site foreman will be responsible for ensuring all contractors are aware of the potential to find newts, and that they are familiar with the appearance of newts. If in doubt the ECoW will be contacted.
11. Stored subsoil must not be tipped onto any tall vegetation. The location of the storage area will be checked by the ECoW immediately before use.
12. Any plants around the site will be kept short during the construction phase to stop the development of an area of terrestrial habitat more suitable for newts.
13. Removal of any unwanted plants will be conducted between mid-February and May when there is least opportunity for newts to be hibernating in the roots. The ECoW will be on site when this occurs.
14. All groundwork will be conducted during daylight hours as newts are least likely to move during this time.
15. Trenches will be dug and filled in on the day created or will be covered over with close-fitting boards at the end of each working day a ramp will be placed from the edge of the trench to the base to allow newts and small mammals to escape.
16. The ECoW will conduct site visits until groundworks have been completed or areas deemed unsuitable for newts.
17. Open or covered trenches will be checked the following morning. This is particularly important when newts are most active, between March and November.
18. If a newt is found, then work will stop immediately and the ECoW contacted for advice.
19. Any heavy machinery will be stored on an area of hardstanding to avoid refugia being created.
20. Stored material will be raised on pallets to reduce the potential they might act as a temporary resting place. This reduces the potential for damage or destruction of individual newts.



21. All waste will be placed straight into skips to reduce the potential of creating refugia.
22. Great crested newts will not be handled or moved without permission from Natural Resources Wales as this would constitute an offence.
23. It is recommended that regular site visits are carried out by the ECoW to ensure compliance with the legislation and the Method Statement. A record of these visits will be made as part of the audit trail.

6.7 Reptiles

6.7.1 Impacts

No negative impact on reptiles is anticipated, but the reasonable avoidance measures for newts will also provide some protection for newts.

6.8 Invertebrates

6.8.1 Impacts

No negative impact on invertebrates is anticipated.

6.8.2 Mitigation and Enhancements

It is recommended that a bug house will be added to the garden of the new dwelling.



Figure 6.5. Bug house

6.9 Invasive Species

6.9.1 Impacts

There was no evidence of invasive non-native plant species on site. So no mitigation is required.



7 Concluding Remarks

The survey has focussed on the potential habitats or protected species to be damaged or destroyed as part of this development.

No negative impact on habitats or species is anticipated, but a method statement outlining reasonable avoidance measures for newts has been outlined as these are known to be in the Bronington area.

The development can proceed without the loss of habitat of significant value, and without the loss of the favourable conservation status of any protected species. As there is no evidence of protected species within and around the development site, there is no requirement to address the three tests under Regulation 55 of The Conservation of Habitats and Species (HMSO, 2019). An offence is considered to be highly unlikely.

The method statements provided in sections 6 of this report will be followed. Other than those listed above, there are no ecological constraints to the development as currently proposed.



Appendix A – Surveyor Details

Table A.1. Details of surveyors' experience and licences held

Name	Membership of associations/ experience	Licenses
Peta Marshall BSc(hons)MA	Principal Consultant MCIEEM PIEMA Peta has a degree in Applied Biology and has been working in commercial environmental assessment for over 17 years. She has 17+ years' experience surveying for protected species. As a member of the CIEEM she is bound by professional conduct.	Holder of survey licenses for bats and newts in England and Wales. Registered Consultant for Mitigation Class Licence for Bats <u>England:</u> Bats - 2015-12200-CLS-CLS BMCL - RC084 GCN - 2015-18939-CLS-CLS <u>Wales:</u> Bats – S090542/1 GCN – S090807/1
Logan Maggs BSc(hons)	Senior Consultant Logan has a degree in Conservation and Land Management. He has over 10 years' experience conducting environmental appraisals and phase 2 surveys for bats and newts in England and Wales.	Holder of survey licenses for bats and newts in England and Wales. <u>England:</u> Bats - 2016-24901-CLS-CLS GCN - 2017-29218-CLS-CLS <u>Wales:</u> Bats – S091096/1
Ben Jones BSc(hons) MSc	Senior Consultant MCIEEM Ben has a degree in Marine and Freshwater biology and a Master's degree in "Managing the Environment". He has 8 years' experience conducting environmental appraisals and phase 2 surveys for bats and newts in England and Wales. As a member of the CIEEM he is bound by professional conduct.	Holder of survey licenses for bats and newts in England and Wales. <u>England:</u> Bats - 2017-29112-CLS-CLS GCN - 2016-25209-CLS-CLS <u>Wales:</u> Bats – S091847/1 GCN – S091242/1



Appendix B – Methodology

Desk Study

Table B.1. Data sources

Organisation/Resource	Information Assessed
MAGIC website	International statutory designations (1km) • Special Protection areas (SPA) • Special Areas of Conservation (SAC) • RAMSAR sites National statutory designations (1km) • Sites of Special Scientific Interest (SSSI) • National Nature Reserves (NNR) EPS Licenses for protected species (2km)

As the development is a small-scale householder application a full data search is not required, a search was conducted from Greenscape's own records in the area.

A search on Multi Agency Geographic Information for the Countryside (Magic Maps) determined nearby designated areas. The map is presented in Section 4.1.

Field Survey

An assessment of habitats was conducted broadly following the UK Habitat Classification.

Table B.2. UK Habs metadata

Metadata	Information
Scope and purpose of survey	Preliminary ecological appraisal
Area surveyed	~1ha
Edition of UKHAb used	The UK Habitat Classification Version 2.0
Minimum Mapping Unit	50m ²
UKHab Primary Hierarchy used	Level 5
Secondary groups recorded	All secondary Codes
Year of survey	2023
Organisation and individual undertaking survey	Greenscape Environmental Ltd Logan Maggs

The level of survey is aimed to identify field signs of or habitats with the potential to support protected species and therefore assist in the determination for detailed phase 2 surveys.



Determination of Ecological Value is based on the general criteria provided by CIEEM (2017).

Table B.3. Criteria of ecological values

Ecological Value	Description and Examples
High	Habitats or features that have high importance for nature conservation, such as statutory designated nature conservation sites of international or national importance or sites maintaining viable populations of species of international or national importance (e.g. Red Data Book species; European protected species).
Medium	Sites designated at a county or district level, e.g. Local Wildlife Site (LWS), ancient woodland site, ecologically 'important' hedgerows or ecological features that are notable within the context of a region, county or district (e.g. a viable area of a Priority Habitat or a site that supports a viable population of a priority species).
Low	Sites of nature conservation value within the context of a parish or neighbourhood, low-grade common habitats, such as arable fields and improved grasslands and sites supporting common, widespread species.

Species Surveys

Bats

Features on site were assessed for potential for bat roosts, foraging and commuting.

Badgers

Surveys were conducted in line with Harris, S., Cresswell, P. and Jefferies, D. (1989) Surveying Badgers. Mammal Society - No9.

Daytime surveys for badgers involved looking for:

- Scrapings where badgers have dug for food or used as latrines.
- Signs of a sett, including signs of use such as presence of badger hair.
- Tracks and prints.

Birds

Searching for evidence of nesting birds, including barn owls, involved looking for:

- Presence of nests
- Collections of droppings and/or feathers
- Highly distinctive droppings or splats under roosting points.
- Presence of owl pellets/feathers
- Listening for bird song
- Recording bird activity

Amphibians and Reptiles

The terrestrial habitats at the application site were surveyed and assessed for their suitability and potential value for the support of GCN. The general topography, ground conditions and presence or absence of vegetation were recorded. A refugia search was conducted for amphibians and reptiles by looking under any logs, large stones and other debris.

Invertebrates

These are conducted between April and September on a weekly basis, in warm and bright weather with no more than moderate winds of less than Windspeed 5 on the Beaufort



scale, and not when it is raining. The minimum criteria are 13-17°C with at least 60% sunshine of over 17°C if there is no sunshine.



Appendix C – Policy

The following areas of policy and legislation are of relevance to ecology and provide context to the surveys conducted. Findings presented in this report are in line with the following:

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 – as listed in:

- Schedule 2. European protected species of animals
- Schedule 5. European protected species of plants

The Wildlife and Countryside Act (1981) – as listed in:

- Schedule 1. Birds protected by special penalties at all times
- Schedule 5. Protected animals
- Schedule 8. Protected plants

Countryside and Rights of Way Act (2000)

Environment Act (2021) – Part 6 – Nature and Biodiversity

Natural Environment and Rural Communities (NERC) Act (2006)

Planning Policy Wales 2002, updated Dec 2018

Section 6.4 – Biodiversity and Ecological Networks

The Nature Recovery Plan for Wales – Setting the course for 2020 and beyond (2015)

Environment Act (Wales) (2016)

Section 7

Wrexham Unitary Development Plan – EC6 Biodiversity Conservation

Bats

All bat species are protected under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 which implements the EC Directive 92/43/EEC in the United Kingdom. It is an offence, with certain exceptions, to:

- Deliberately capture or kill any wild animal of a European Protected Species.
- Deliberately disturb any such animal.
- Damage or destroy a breeding site or resting place of such a wild animal.
- Keep (possess), transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal or plant of a European Protected Species, or any part of, or anything derived from such a wild animal or plant.

A person found guilty of an offence is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine or to both.

Seven bat species are on the UK Biodiversity Action Plan and are listed as Species of Principal Importance under the provisions of the Natural Environment and Rural Communities (NERC) Act 2006. The National Planning Policy Framework (NPPF) states that to minimise impacts on biodiversity and geodiversity, *“planning policies should... promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations”*.



Badgers

Badgers and their setts are specifically protected (HMSO, 1992). The act was primarily brought into force to prevent the deliberate injury to or death of badgers. Some aspects of the act affect developers. It is important that developers are aware of any badger setts located on the land they intend to develop.

All personnel working on sites where there are badgers should be aware of the Protection of Badgers Act 1992. Under this legislation it is an offence to:

- Damage a badger sett or any part of it.
- Destroy a badger sett.
- Obstruct access to, or any entrance of a badger sett.
- Causing a dog to enter a badger sett.
- Disturbing a badger when it is occupying a badger sett.

Birds

Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), birds, their nests and young are all protected from damage, particularly during the breeding season. The Act allows for fines or prison sentences for every bird, egg or nest destroyed. It makes it an offence to:

- Intentionally kill, injure or take any wild bird.
- Take, damage or destroy the nest of any wild bird whilst it is in use or being built.
- Take damage or destroy the egg of any wild bird.
- To have in one's possession or control any wild bird, dead or alive or egg or any part of a wild bird or egg.

Some bird species are included in the UK and local BAPS and are recognised as species of principal importance for nature conservation in accordance with section 41 of the NERC Act 2006. Such species and their habitats receive protection through the provisions of the NPPF.

Amphibians

All species of amphibians receive a measure of protection under legislation.

The Wildlife and Countryside Act 1981 has been amended by the Countryside and Rights of Way Act (CROW) 2000. This applies to England and Wales only. The key relevant fact is:

- Section 9(4) is amended to create an additional offence of reckless damage to, destruction of, or obstruction of access to, any structure or place used for shelter or protection; and reckless disturbance while occupying such a structure or place.

Great Crested Newts

Great crested newts are protected under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 which implements the EC Directive 92/43/EEC in the United Kingdom. It is an offence, with certain exceptions, to:

- Deliberately capture or kill any wild animal of a European Protected Species.
- Deliberately disturb any such animal.
- Deliberately take or destroy eggs of any such wild animal.
- Damage or destroy a breeding site or resting place of such a wild animal.



- Keep (possess), transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal or plant of a European Protected Species, or any part of, or anything derived from such a wild animal or plant.

Great crested newts are listed as a priority species on the UK BAP and Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. The National Planning Policy Framework (NPPF) states that to minimise impacts on biodiversity and geodiversity, *"planning policies should... promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations"*.

A person found guilty of an offence is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Work can be conducted under derogation licence from Natural Resources Wales providing suitable compensation and mitigation is provided and the "three tests" can be met. These are:

- Regulation 55(2)(e) states: a licence can be granted for the purposes of "preserving public health or public safety" or other imperative reason of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.
- Regulation 55(9)(a) States: the appropriate authority (Natural Resources Wales / England) shall not grant a licence unless they are satisfied "that there is no satisfactory alternative"
- Regulation 55(9)(b) states that the appropriate authority shall not grant a licence unless they are satisfied "that the action licensed will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in its natural range."

The method statement in the EPS licence is a legally binding document which outlines the species, context of the colony, method of mitigating and compensating and ongoing habitat management for ensuring favourable conservation status.

Reptiles

Smooth snakes and sand lizards are designated and protected as European protected species (EPS). They are protected via a combination of Regulation 41 of the conservation of Habitats and Species Regulations 2010 and Sub-sections 9(4) b & c and Section 9(5) of the Wildlife & Countryside Act 1981 (as amended). These prohibit:

- a) deliberate capturing, injuring or killing
- b) deliberate disturbance; Disturbance of animals includes in particular any disturbance which is likely-
 - i. to impair their ability to survive, to breed or reproduce or to rear or nurture their young; or
 - ii. to impair the ability of hibernating or migratory species, to hibernate or migrate; or
 - iii. to affect significantly the local distribution or abundance of the species to which they belong;
- c) deliberate taking or destroying the eggs of such an animal; or
 - i. damaging or destroying a breeding site or resting place of such an animal and/or



- ii. intentionally or recklessly –
 - a) disturbing any such animal while it is occupying a structure or place which it uses for shelter or protection; or
 - b) obstructing access to any structure or place which any such animal uses for shelter or protection.
- d) any person having in their possession or control, transporting, selling or exchanging, offering for sale or exchange, any live or dead animal or part of an animal, or anything derived from such an animal which has been taken from the wild and which is of a species or subspecies listed in Annex IV(a) to the Habitats Directive (This section also covers all other species listed on Annex IV of the Habitats Directive including those that are not native to the UK) unless the animal from which the part or the thing in question is derived, was lawfully taken from the wild (i.e. taken from the wild in the European Union without contravention of appropriate domestic legislation and before the implementation date of the Habitats Directive (in that Country e.g. 1994 in UK) or if it was taken from elsewhere).

Reptiles only (adder, grass snake, common lizard and slow worm) are protected via part of Section 9(1) of the Wildlife & Countryside Act 1981 (as amended) against:

- a) intentional killing and injuring (note the provision in Section 9(1) of Wildlife & Countryside Act 1981 prohibiting “taking” does not apply to reptiles) Both reptiles (adder, grass snake, common lizard and slow worm) and amphibians (common frog, common toad, smooth newt, palmate newt) are protected via part of Section 9(5) of the Wildlife & Countryside Act 1981 (as amended) against:
- b)
 - a. selling, offering or exposing for sale, or having in possession or transporting for the purpose of sale, any live or dead wild animal or any part of, or anything derived from, such an animal; or
 - b. publishing or causing to be published any advertisement likely to be understood as conveying buying or selling, or intending to buy or sell, any of those things.



Invertebrates

There are three invertebrate species that are European protected species (EPS) in the UK. They are:

- Large blue butterflies (eggs, caterpillars, chrysalises and adults)
- Fisher's estuarine moths (eggs, caterpillars, chrysalises and adults)
- Little ramshorn whirlpool snails

It is an offence to:

- capture, kill, disturb or injure, on purpose or by not taking enough care, an EPS species
- damage or destroy a breeding or resting place (even accidentally)
- obstruct access to their resting or sheltering places (on purpose or by not taking enough care)
- possess, sell, control or transport live or dead EPS invertebrates, or parts of them

A person found guilty of an offence is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine or to both.

400 other species form the invertebrate species of Principal Importance in England and are included within Schedule 5 of the Wildlife and Countryside Act 1981, and Section 7 of the Environment (Wales) Act 2016.

Some species are listed under The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and The Conservation Regulations 1994 which implement the EC Directive 92/43/EEC in the United Kingdom.

It is illegal to:

- Intentionally kill, injure or take a protected invertebrate.
- Possess or control any live or dead specimen of anything derived from a protected invertebrate.
- Cause intentional damage to or destruction of any structure or place used by a protected invertebrate for shelter or protection
- Cause intentional disturbance of a protected invertebrate occupying such a structure or place
- Cause obstruction of access to any structure or place used for shelter or protection
- Selling, offer for sale, possess or transport a protected invertebrate for the purpose of sale (live or dead animal, part or derivative)
- Advertise for buying or selling a live or dead protected invertebrate, part or derivative

Such species and their habitats listed under the NERC Act 2006 receive protection through the provisions of the NPPF. The National Planning Policy Framework (NPPF) states that to minimise impacts on biodiversity and geodiversity, "*planning policies should... promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations*".



Invasive Species

Himalayan Balsam

Himalayan Balsam is identified as an invasive non-native plant. It is listed under Section 9 schedule 14 of The Wildlife and Countryside Act. It is illegal to plant or otherwise cause Himalayan Balsam to grow in the wild in the UK.

Action will be taken to prevent invasive plants on one's land to spread into the wild and cause a nuisance.

Japanese Knotweed

The management of Japanese knotweed (*Fallopia japonica*) is regulated by several pieces of legislation:

- The Wildlife and Countryside Act (as amended) 1981
- The Environment Protection Act 1990
- The Waste (England & Wales) Regulations 2011
- Third party litigation where damages may be sought for allowing Japanese knotweed to spread onto other properties.

Japanese Knotweed is listed in Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). It is an offence to plant, cause the plant, or allow the plant to grow in the wild.

Giant Hogweed

Giant hogweed is a non-native invasive species originally introduced as an ornamental plant. It is now listed under Schedule 9 of the Wildlife and Countryside Act 1981. This means it is an offence to plant or otherwise cause this species to grow in the wild.

Rhododendron

Rhododendron is an invasive species introduced to the UK as an ornamental plant. The species is listed under Schedule 9 and Schedule 14 of the Wildlife and Countryside Act 1981. It is illegal to plant or otherwise cause Rhododendron to grow in the wild in the UK.



Appendix D - Bibliography

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