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Erbistock
Wrexham
LL13 0DH

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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.

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1 Executive Summary

1.1 Purpose of the Report

Greenscape Environmental Ltd was commissioned by Design & Planning Associates on behalf of the clients, Mr and Mrs Jones, to undertake a preliminary ecological appraisal of land at Top Farm to provide supporting information for a planning application for the construction of a new agricultural building.

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, and to provide a net ecological gain.

1.2 Methodology

The appraisal included a desktop study for nearby designated sites and previously recorded protected species and a site visit undertaken at the site, OS grid reference SJ34494189 on 26th May 2023 by C Sheil.

1.3 Key Impacts and Mitigation Measures

The desktop study revealed a SSSI 150m away which is to be protected with a method statement. It was considered that the site and surrounds could provide potential habitat for bat and amphibian species and these should be the main focus of the ecological appraisal.

The site comprises an area of mown grassland of no ecological value.

No habitat suitable for roosting bats was found on site. The woodland to the south may offer foraging and commuting habitat, however, which would be negatively impacted by lighting. Work can be conducted immediately once planning permission has been granted but a lighting plan must be followed.

The site is of very low value to newts in their terrestrial phase as there is no shelter and limited food available. The surrounding woodland is of much higher value and is not to be impacted. It is considered unlikely that newts will be found on site and the rapid risk assessment has shown that an offence is highly unlikely to be committed. However, the development would lead to a net loss of habitat. Work will follow a strict method statement.

1.4 Conclusion

It is recommended that the biodiversity value of the site will be enhanced post-construction with the inclusion of bat and bird boxes. The method statements provided in section 6.1.2, 6.3.2 and 6.6.2 of this report will be followed, and work will be conducted at a suitable time of year to minimise potential impacts.



2 Introduction

This report has been compiled by Chloe Sheil MZool (Conservation) who has 5 years' experience conducting ecological appraisals. It has been reviewed in line with Greenscape's Quality Management System.

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

2.1 Project Background

Greenscape Environmental Ltd was commissioned by DPA 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 new agricultural building on land at Top Farm, Erbistock.

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)

2.3 Site Context and Location

The site is located in northwest Erbistock, OS grid reference SJ34494189. It is set in a rural environment surrounded by open fields and woodland. There is high connectivity to the surrounding countryside via woodland and the river. The river is 150m to the southeast. The surrounds provide potential foraging, hibernating and commuting opportunities for bats, other mammals, birds, amphibians and reptiles.



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 local records centres (Cofnod, 2023).

3.2 Field Survey

3.2.1 Date and Survey Conditions

Table 3.1. Survey conditions

Date	Time	Equipment Used	Weather
26/05/2023	15:30	Camera, strong torch	Hot, dry, partly cloudy
Comments	One surveyor used: C Sheil Constraints: Permission to access the ponds was denied by the landowner. All undated photographs in this document were taken on this date by 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.

The habitats on site were assessed in line with current UKHab classifications and secondary codes (Butcher, et al., 2020).

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, 2016). There were no constraints to this methodology.

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.

No aquatic habitat was found on site so a habitat assessment for water vole or otter was not conducted.

No woodland was on site so no habitat assessment for hazel dormouse was conducted.

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 Barn Owls

An assessment of the suitability of site and its surrounds to support barn owl was conducted following best practice guidance looking for droppings, pellets or nesting signs (Barn Owl Trust, 2012)

3.3.5 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).

3.3.6 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).

A population survey for reptiles using refuge mats was not considered necessary as the habitat is of poor quality.

3.3.7 Invertebrates

No habitat of high ecological value was found on site so no habitat assessment for invertebrates was conducted.

3.3.8 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 within 1km of four designated areas.

MAGiC

Land at Top Farm, Erbistock

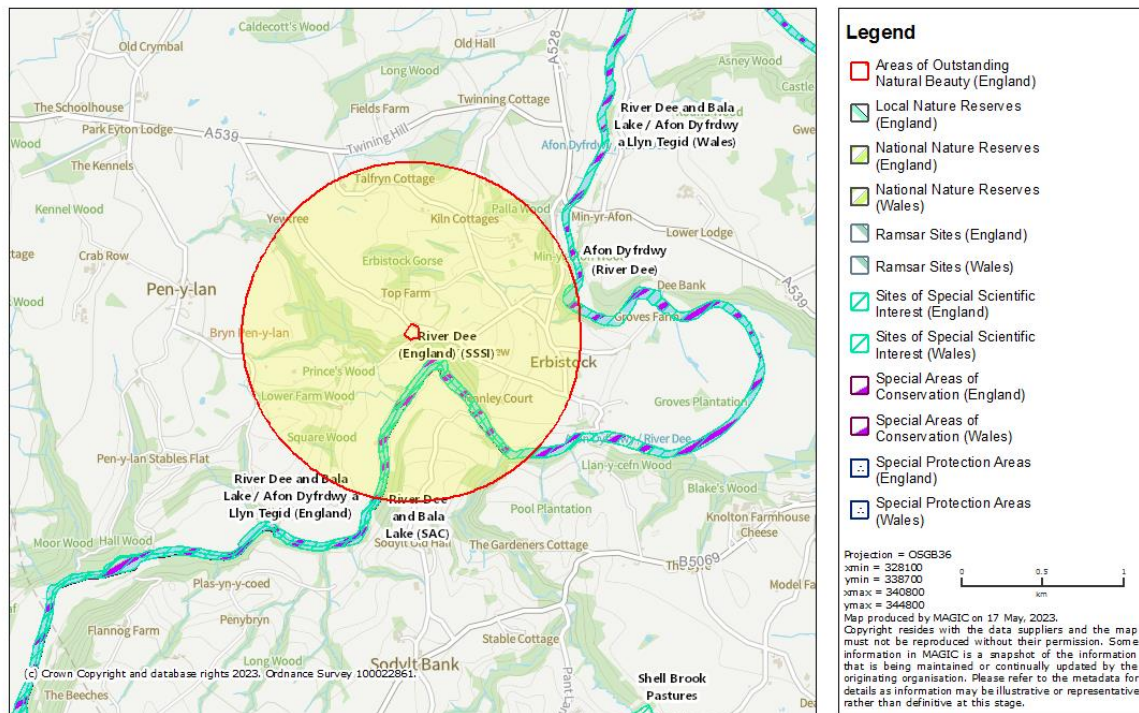


Figure 4.1. Identifying any designated areas near site, a 1km buffer is shown

Table 4.1. Details of statutory designated sites within 1km

Type of Designation	Site Name & Ref	Reason for Designation	Distance & Direction
Statutory - SSSI	River Dee (England) (ref: 1008731)	Biological – Range of river types. Atlantic salmon and otter	150m Southeast
Statutory - SSSI	Afon Dyfrdwy (River Dee)	Biological – Range of river types. Atlantic salmon and otter	150m Southeast
Statutory - SAC	River Dee and Bala Lake (UK Reference: UK0030252)	Biological – Range of river types. Atlantic salmon, lampreys and otter	150m Southeast
Statutory - SAC	Afon Dyfrdwy a Llyn Tegid (UK Reference: UK0030252)	Biological – Range of river types. Atlantic salmon, lampreys and otter	150m Southeast



4.2 Habitats on Site

The site comprises an area of mown grassland adjacent to a mixed woodland.

No discernible species could be found on the development area but species found in the surrounding area of the field include creeping buttercup (*Ranunculus repens*), forget-me-not (*Myosotis scorpioides*), nettle (*Urtica dioica*) and willowherb (*Chamerion angustifolium*).



Figure 4.2. Overview of grassland

Species in the woodland include beech (*Fagus sylvatica*), sycamore (*Acer pseudoplatanus*), hazel (*Corylus avellana*) and holly (*Ilex aquifolium*).



Figure 4.3. Woodland



The access has already been created and comprises crushed stone through a wide gateway.



Figure 4.4. Access

4.3 Bats

4.3.1 Records

The only records of bats within 2km are common pipistrelle (*Pipistrellus pipistrellus*), last recorded in 1994.

4.3.2 Field Observations

No habitat for bats was on the development site. The site is adjacent to a woodland. However, most trees are not mature enough to have potential roost features for bats. A mature beech was found with missing limbs but no features were seen from ground level which may offer suitable roost spaces.



Figure 4.5. Beech tree with missing limbs



4.4 Other Mammals

4.4.1 Records

Records of other mammals within 2km include hedgehog (*Erinaceus europaeus*), hare (*Lepus europaeus*) and badger (*Meles meles*).

The nearest records of badger are within 1km from 2003. Hedgehog was recorded within 1km from 2015. Records of hare were given to a low degree of accuracy, from 2005.

4.4.2 Field Observations

No evidence of mammals was found on site.

4.5 Birds

4.5.1 Records

Records of birds within 2km include sparrowhawk (*Accipiter nisus*), buzzard (*Buteo buteo*), red kite (*Milvus milvus*), tawny owl (*Strix aluco*) and barn owl (*Tyto alba*).

Barn owl is recorded to a low degree of accuracy and is from 2005. All other species listed are within 1km, from between 2008 and 2019.

4.5.2 Field Observations

No habitat on the development site offer nesting habitat for birds. There is nesting habitat in the woodland but this is not part of the development area.

4.6 Amphibians

4.6.1 Records

No records of amphibians were found within 2km.

4.6.2 Field Observations

The development area comprises mown grassland of no ecological value to newts in their terrestrial phase. The woodland offers high value habitat but this is not to be impacted by the development.

There were two ponds within 250m. These could not be assessed as the landowner denied permission to access them. A neighbour reported that pond 1 is a slurry lagoon.

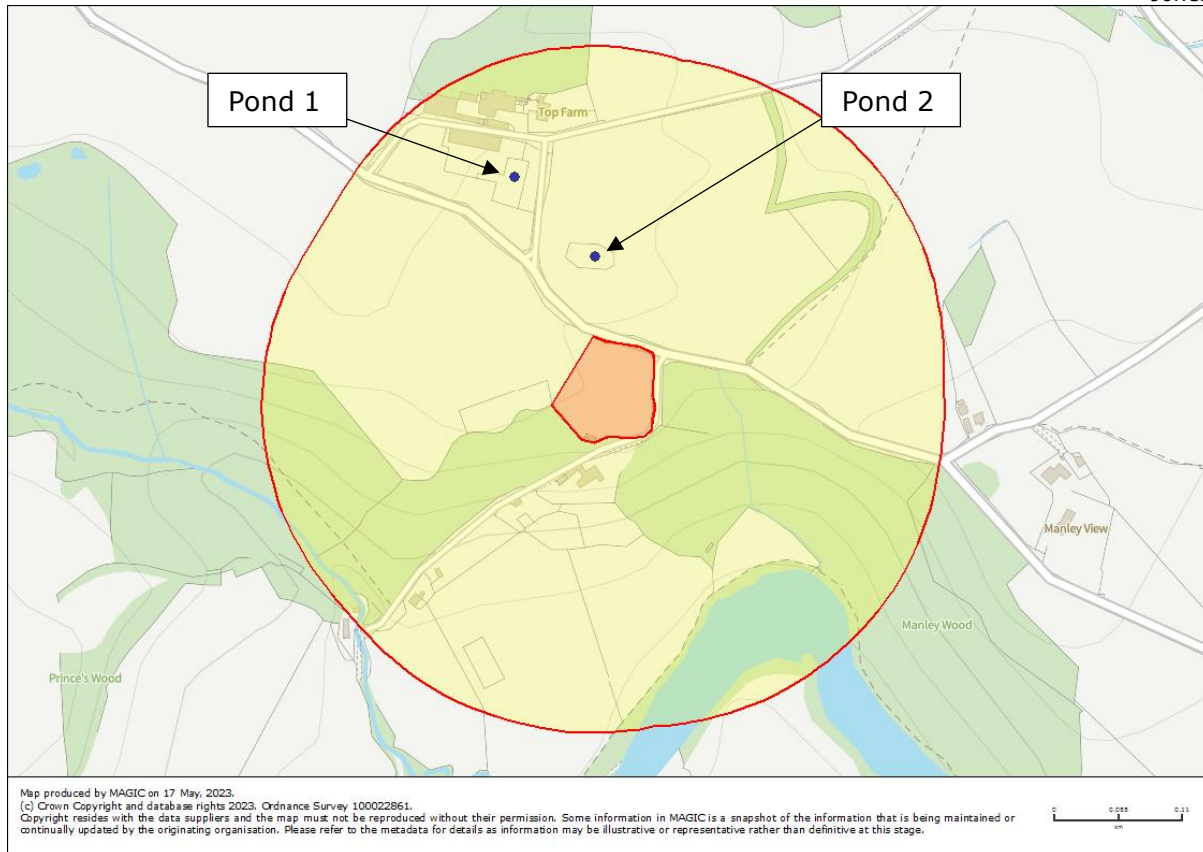


Figure 4.6. OS Map showing a 250m buffer around site, highlighting ponds

4.7 Reptiles

4.7.1 Records

No records of reptiles were found within 2km.

4.7.2 Field Observations

The site had no features for reptiles and no evidence was found.

4.8 Invasive Species

4.8.1 Records

Records of invasive species within 2km include Himalayan balsam (*Impatiens glandulifera*) and Japanese knotweed (*Fallopia japonica*).

The nearest record of Himalayan balsam and Japanese knotweed are 200m to the southeast, on the river, from 2012.

4.8.2 Field Observations

No evidence of invasive species on or around the site was found.

5 Description of Proposed Development

The current plans are for the construction of an agricultural building. Access has also been created.

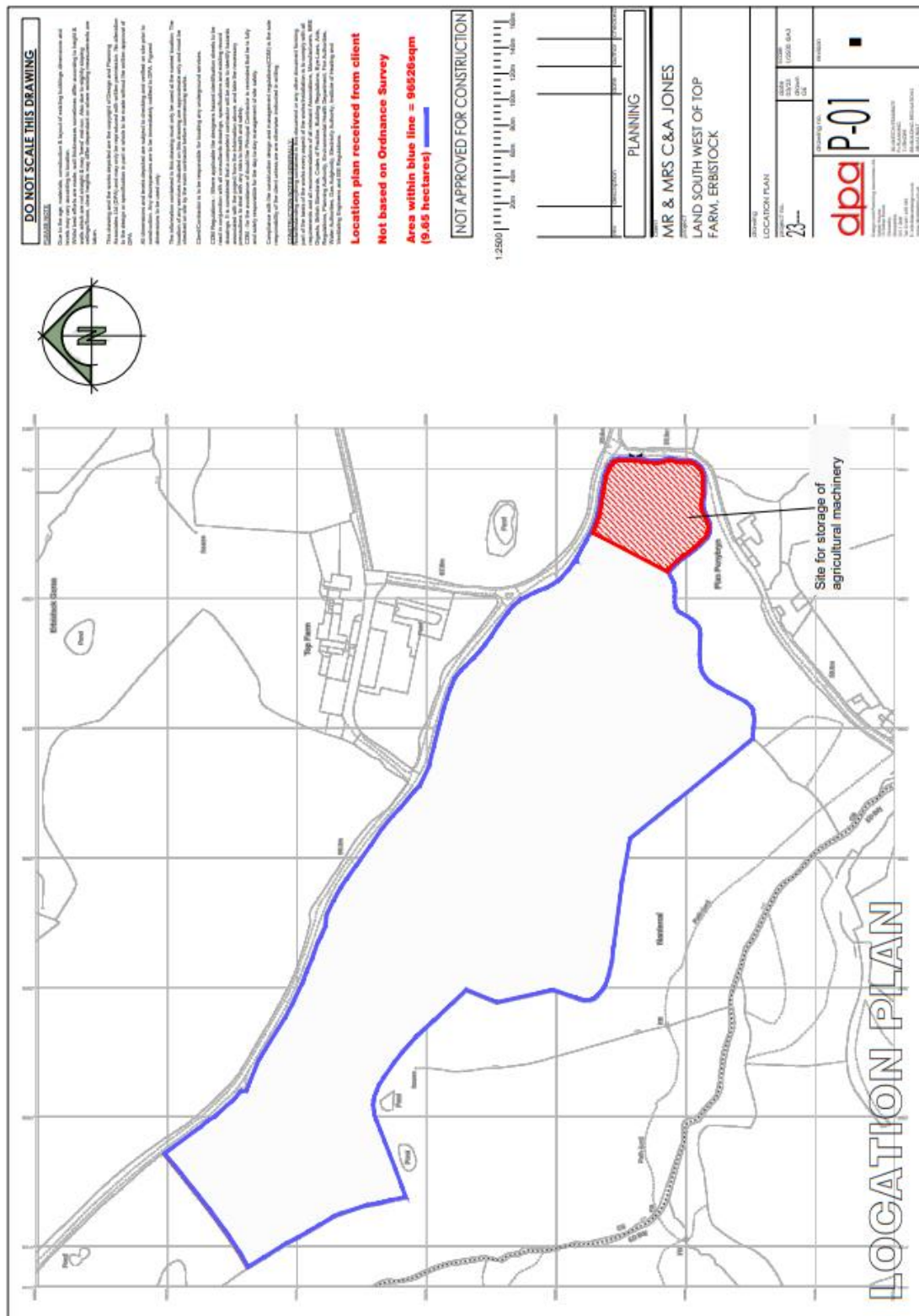


Figure 5.1. Location map



6 Impacts, Enhancements and Mitigation

6.1 Nearby Features of Importance

6.1.1 Impacts

Figure 4.1 shows that the nearest SSSI is 150m away. Potential impacts on these include aerosolised dust and the spillage of silt and chemicals.

6.1.2 Mitigation

- i. The SSSI will be protected from the risks of dust and silt run-off during works by installing Heras fencing between the development site and the watercourse.
 - o The fencing will have a plastic skirt installed along the base, with the plastic flap facing in towards the site and weighted down.
 - o The plastic skirt will be checked daily for tears or gaps and repaired where necessary.
 - o The plastic skirting will be cleaned if there is a build-up of dirt and waste
- ii. Materials stockpiled on site, such as solid hardcore and sand can pollute water and air with silt and dust.
 - o Materials will be stockpiled away from the watercourse and kept in bulk bags
 - o Once opened, easily dispersible materials such as dry cement will be stored in a sealed bag or storage unit
 - o All empty bags will be appropriately stored and disposed of
- iii. Sufficient spills kits will be available on site, and all workers will be aware of their location and how to use them.
 - o Any diesel/oil/chemical spills on site must be cleared as a matter of urgency. Where spills become absorbed into the ground it may be necessary to excavate the contaminated soil and remove from site.
 - o Chemicals will be stored in the site compound in a suitably protected environment.

6.2 Habitats on Site

The development as proposed will result in the loss of mown grassland of very low ecological value.

As the site is not comprised of any habitats of principal importance listed in Section 7 of the Environment (Wales) Act (HMSO, 2016), mitigation will therefore be delivered at a species level.



6.3 Bats

6.3.1 Impacts

No roosting habitat was found on site. The woodland to the south may offer foraging and commuting habitat for bats. External lighting would negatively impact this dark corridor.

6.3.2 Mitigation

Work can be conducted immediately once planning permission has been granted but a lighting plan must be followed to retain dark corridors.

Lighting

Lighting needs to 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, 2018).
2. All newly proposed external lighting will be directed away from any vegetated boundary features to retain dark corridors for commuting bats.
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



6.3.3 Enhancements

It is recommended that provision be made for roosting opportunities for bats with the erection of at least one woodcrete bat box suitable for day roosts in a nearby tree on the new building. These will be erected at a height of 3-4 m and in a southerly, westerly or easterly facing direction.



Figure 6.2. Example woodcrete bat box: Schwegler 1FF & Beaumaris Bat Box Midi

6.3.4 Monitoring

Failing boxes or enhancements will be replaced at the cost of the developer if deterioration or damage is noted within five years post-development.

6.4 Other Mammals

No evidence of any mammals was found on site so no impact is expected.



6.5 Birds

6.5.1 Impacts

There is no nesting habitat for birds on site. No impact is expected.

6.5.2 Enhancements

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.

- Sparrow Terraces should be erected under the eaves of a building at a minimum height of 3m, in a westerly, northerly or easterly aspect.
- Swallow cups should be installed on the exterior of the building at eaves height, ideally beneath an overhang to shelter the cup.
- House martin boxes should be erected on the eastern or northern walls as high as possible under the eaves.



Cedarwood Sparrow Terrace



House Martin Nest Box



Swallow Nest Cup

Figure 6.3. Bird boxes

6.5.3 Monitoring

Failing boxes or enhancements will be replaced at the cost of the developer if deterioration or damage is noted within five years post-development.



6.6 Amphibians

6.6.1 Impacts

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

The rapid risk assessment tool from Natural England has been used to assess the potential impact from the development (Natural England, 2015).

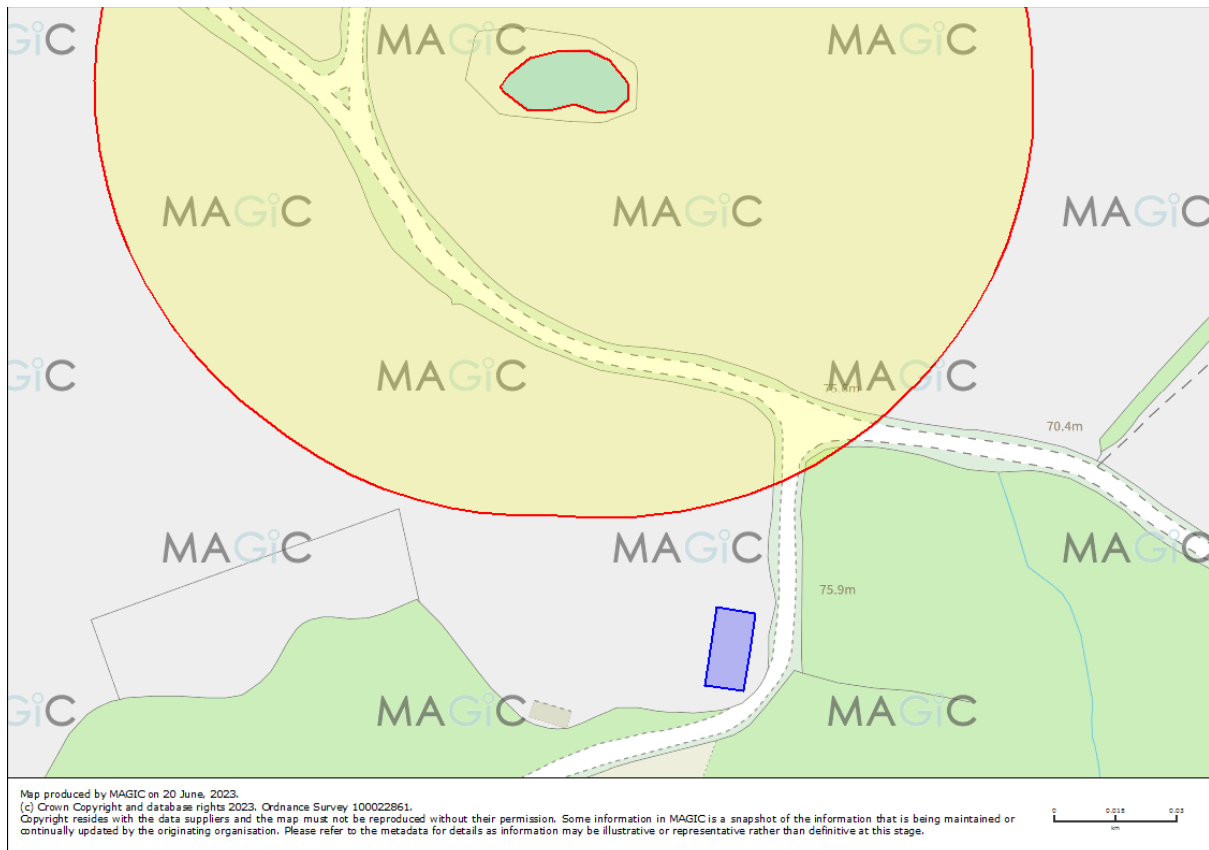


Figure 6.4. 100m buffer from pond 2

Table 6.1. Rapid Risk Assessment tool results

Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability score
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	No effect	0
Land 100-250m from any breeding pond(s)	0.01 - 0.1 ha lost or damaged	0.01
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	No effect	0
Maximum:		0.01
Rapid risk assessment result:	GREEN: OFFENCE HIGHLY UNLIKELY	

The site is of limited value to newts in their terrestrial phase as there is no shelter or food available. They are more likely to use the surrounding woodland instead which is not to be impacted. There are no records of newts within 2km, but this may be due to a lack of recording rather than a lack of presence. It is considered unlikely that newts will be found



on site and the rapid risk assessment has shown that an offence is highly unlikely to be committed.

6.6.2 Mitigation

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

Work will follow a simple method statement outlining reasonable precautions for securing the safety of individual newts. This will create a scenario by which the risk to individual newts is negated.

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. Soil and vegetation will be stripped prior to setting up the 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.
3. All cabins and equipment will be located on firm compacted ground, preferably a stone or concrete base.
4. Contractors are advised not to handle newts at any time.

Construction Phase

5. 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 ecologist will be contacted.
6. Contractors are advised to avoid handling newts at any time.
7. Stored subsoil must not be tipped onto any tall vegetation.
8. Any plants around the site will be kept short to stop the development of an area of terrestrial habitat more suitable for newts.
9. All groundwork will be conducted during daylight hours as newts are least likely to move during this time.
10. 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.
11. If it is not possible to cover the trench, a ramp will be placed from the edge of the trench to the base to allow newts and small mammals to escape.



Jones

12. Open or covered trenches will be checked the following morning. This is particularly important when newts are most active, between March and November.
13. If a newt is found, then work will stop immediately, and the ecologist contacted for advice.
14. Any heavy machinery will be stored on an area of hardstanding to avoid refugia being created.
15. 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.
16. All waste will be placed straight into skips to reduce the potential of creating refugia.
17. Great crested newts will not be handled or moved without permission from Natural Resources Wales as this would constitute an offence.

6.7 Reptiles

No habitat for reptiles was found on site so no negative impact is expected.

6.8 Invasive Species

No invasive species were found so no offence will be committed.



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 habitat suitable for roosting bats was found on site. The woodland to the south may offer foraging and commuting habitat for bats. External lighting may negatively impact this dark corridor. Work can be conducted immediately once planning permission has been granted but a lighting plan must be followed to retain dark corridors. It is recommended that the site is enhanced with bat boxes.

No evidence of any non-bat mammals was found on site, so no impact is expected.

There is no nesting habitat for birds on site. No impact is expected. It is recommended that a range of woodcrete boxes are erected around the site to provide an enhancement for passerine birds.

The site is of limited value to newts in their terrestrial phase as there is no shelter or food available. They are more likely to use the surrounding woodland instead which is not to be impacted. It is considered unlikely that newts will be found on site and the rapid risk assessment has shown that an offence is highly unlikely to be committed. However, the development would lead to a net loss of habitat. This has been taken into consideration and work will follow a method statement outlining reasonable precautions for securing the safety of individual newts.

No habitat for reptiles was found on site so no negative impact is expected.

No invasive species were found so no offence will be committed.

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).

The method statements provided in sections 6.1.2, 6.3.2 and 6.6.2 of this report will be followed and works will be done at a suitable time of year. 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
Chloe Sheil MZool (Conservation)	Chloe has a master's degree in Zoology with Conservation from Bangor University. She has 5 years' experience assisting with surveys.	Holder of survey licence for bats and newts in England; GCN: 2022-10485-CL08-GCN Bats: 2022-10941-CL17-BAT Listed as an accredited agent on Ben Jones' licence: NRW bat licence – S091847/1 NRW newt licence – S091242/1
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
Cofnod	Protected/Priority Species records (1km)
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)

A data search was purchased from Cofnod on 20th June 2023.

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

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 IEEM (IEEM 2006).

Table B.2. 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.

All trees were assessed from ground level (BTHK, 2018). All trees examined were categorised on their potential roost features (PRF). These features include cracks, splits in limbs, cavities, loose bark and thick stemmed ivy. Where appropriate and accessible these features were assessed using binoculars and/or endoscopes.

Table B.3. Categorisation of trees for bats

Value for Bats	Example Features
Negligible	A tree that lacks the requisite features to support roosting bats
Low	A tree that contains a feature or features that clearly offer little roosting habitat for bats
Moderate/High	A tree that provides one or more potentially suitable roosting features for bats
Confirmed roost	Bat presence has been confirmed

Daytime surveys were conducted with the aid of a strong torch. Bat species may leave little evidence of their presence.

Evidence for the presence of bats includes:

- Holes, cracks and rot holes used as roosts, marked by streaks of urine and faeces.
- Smoothed, darkened edges where bats have rubbed and left natural body oils when entering and exiting a space.
- Faeces under a well-used feeding point or a resting spot.
- Feeding signs such as discarded insect wings under a feeding point.
- Presence of droppings in a cobweb.
- Presence of roosting or dead bats in or behind any object.

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.



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

The Protection of Badgers Act (1992)

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”*.



To allow a development that might result in an offence, a derogation licence can be sought via the implementation of a European Protected Species Licence. This is provided by Natural Resources Wales.

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.

Barn Owls

Barn owls are listed on Schedule 1 which gives them special protection.

It is an offence to:

- Intentionally kill, injure or handle any wild barn owl.
- Intentionally take, damage or destroy any wild barn owl nest whilst in use or being 'built'.
- Intentionally take or destroy a wild barn owl egg.
- Have in one's possession or control a wild barn owl (dead or alive) or egg (unless one can show it was obtained legally).
- Intentionally or recklessly disturb any wild barn owl whilst 'building' a nest or whilst in, on, or near a nest containing young.
- Intentionally or recklessly disturb any dependent young of wild barn owls.

It is not an offence to:



- Take a disabled wild barn owl solely for the purpose of tending it until fully recovered and then returning it to the wild.
- Kill, injure, take or disturb barn owls if these were incidental results of a lawful operation and could not reasonably have been avoided.

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

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:



Appendix D - Bibliography

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