

Technical Report

Amphibian Reasonable Avoidance Measures

Ysgol y Hafod Infant Site, Melyd Road,
Johnstown

Wynne Construction Ltd

November 2021



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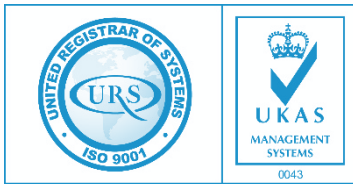
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1 Introduction

1.1 Terms of Reference

In November 2021 Atmos Consulting Ltd (Atmos) were commissioned by Wynne Construction to prepare Reasonable Avoidance Measures (RAMS) for amphibians for the installation of temporary portacabins at Ysgol y Hafod, Melyd Road, Johnstown in Wrexham County Borough Council (WCBC), hereafter referred to as the 'Site'. The portacabins have been consented (P/2021/0871) as temporary accommodation for Junior School pupils whilst refurbishment and extension works are undergoing at a nearby school.

Planning permission (Ref: P/2021/0871) was granted by WCBC with attached planning condition.

13. 'No part of the development shall commence until an Amphibian Reasonable Avoidance Measures scheme (RAMs) has been submitted to, and approved in writing by, the Local Planning Authority. The Reasonable Avoidance Measures (RAMs) shall include, but not necessarily be limited to, details and associated plans concerning amphibian avoidance and mitigation measures including, one-way amphibian fence design and locations. The Reasonable Avoidance Measures scheme shall be carried out in accordance with the approved details'

The mitigation measures in this report are intended to provide sufficient assurance to WCBC that the potential effects on amphibians are capable of being mitigated via Reasonable Avoidance Measures (RAMs).

1.2 Site Location and Description

The Site is located on Melyd Road, Johnstown, Wrexham, LL14 2TB to the west of the A483 road and a railway line. The Site primarily exists of improved grassland playing fields bordered by species rich hedgerows, hardstanding, school buildings and smaller structures such as small wooden storage sheds.

The surrounding area consists mainly of housing estate and residential gardens.

1.3 Objectives

The objectives of this report are:

- To describe the baseline ecological status of the Site in respect of habitats for great crested newts *Triturus cristatus* and other amphibians;
- To consider the potential for effects on the terrestrial habitat for amphibians in the context of the development of the Site; and
- To set out mitigation and enhancement measures to minimise these effects to an acceptable level.

2 Legislative Context

Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, (the Habitats Regulations) consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites ('Natura 2000 Sites termed Special Areas of Conservation SACs or Special Protection Areas (SPAs). The Regulations designate these sites as being important for either habitats or species (listed in Annexes I and II of the Habitats Directive respectively).

Wildlife and Countryside Act 1981

National legislation for the special protection of selected species is provided in the Wildlife and Countryside Act 1981, as amended (WCA) and the Habitats Regulations.

Under Section 1(1) and 1(2) of the WCA, all British bird species, their nests and eggs (excluding some pest and game species) are protected from intentional killing, injury or damage. Under Sections 1(4) and 1(5), special penalties are applied to bird species included in Schedule 1 of the WCA and protection is extended for these species to disturbance to birds whilst building, in or near a nest and disturbance to dependant young. Schedule 5 provides special protection to selected animal species other than birds, through Section 9(4) of the WCA, against damage to "any structure or place which any [wild animal included in the schedule] uses for shelter and protection" and against disturbance whilst in such places.

Non-native invasive plants are listed in Schedule 9 of the WCA which makes it an offence to spread or enable them to be spread in the wild. The list includes species such as Japanese knotweed *Fallopia japonica* and Himalayan balsam *Impatiens glandulifera*.

A number of animals, known as European protected species (EPS), are provided full protection through inclusion in Schedule 2 of The Habitats Regulations. The Habitats Regulations provide protection against deliberate disturbance to those animals wherever they are present and provides tests against which the permission for a development (that may have an effect on a Schedule 2 protected species) must be assessed before permission can be given.

In addition to species protection, the WCA and Habitats Regulations also set out requirements/procedures for the notification, designation and protection of a range of statutory site designations in order to preserve important nature conservation resources.

All public authorities in Wales have a requirement to pay due regard to the conservation and enhancement of habitats and species through The Environment (Wales) Act 2016. Section 7 of the Act provides for the establishment of a list of habitat and species that are considered to be of "principal importance for the conservation of biological diversity in Wales".

Great Crested Newt

Great crested newt *Triturus cristatus* are afforded full statutory protection as a European protected species listed on Schedule 2 of The Conservation (Natural Habitats, &c.) Regulations 2017 (1994, as amended), which transpose into British law the European Community's Habitats Directive (92/43/EEC).

Under the terms of Regulation 39(1), with certain exceptions, a person commits an offence if he/she:

"(a) deliberately captures, injures or kills any [a great crested newt];

(b) deliberately disturbs wild [great crested newts].

(1A) For the purposes of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely —

(a) to impair their ability —

(i) to survive, to breed or reproduce, or rear or nurture their young; or

(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or

(b) to affect significantly the local distribution or abundance of [great crested newts];

(c) deliberately takes or destroys the eggs of [a great crested newt]; or

(d) damages or destroys a breeding site or resting place of [a great crested newt]."

It is also an offence under Regulation 39 to keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild Great crested newt, or any part of, or anything derived from one.

All of the above protections apply regardless of the stage of the life of the animal in question.

Protection of great crested newts' is also provided for in the Wildlife and Countryside Act 1981, as amended. The great crested newt is listed on Schedule 5 of the Act, and is afforded partial protection under the terms of section 9(4)(b) and (c) and (5). This makes it an offence if any person:

9(4) "... intentionally or recklessly ... (b) ... disturbs any [great crested newt] while it is occupying a structure or place which it uses for shelter or protection; or (c) ... obstructs access to any structure or place which any [great crested newt] uses for shelter or protection."

9(5) "... (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead [great crested newt], or any part of, or anything derived from, such an animal; or (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things".

There are provisions in the above legislation for the licensing of activities to facilitate development that would otherwise constitute an offence. However, the statutory agency Natural Resources Wales (NRW) advises that the requirement for licensing should be carefully considered by developers, on a site/activity-specific basis, and recommends consideration of non-licensed mitigation such as reasonable avoidance measures relating to timing of works and sensitive site clearance to minimise potential for adverse impacts to this species where this can be achieved.

3 Ecological Baseline

3.1 Designated Sites

Two statutory designated sites are present within 2 km of the Site.

Johnstown Newt Sites SAC

Johnstown Newt Sites SAC is located 300m to the east and west of the Site, separated by residential development. The Annex II species that are a primary reason for selection of this site are great crested newt.

Stryt Las A'r Hafod SSSI

Stryt Las A'r Hafod SSSI is a 69.4ha site approximately 300m to the east and west of the Site and is contiguous with the Johnstown Newt Sites. Stryt Las A'r Hafod SSSI is of special interest for its amphibians, particularly its population of the great crested newt. The majority of water bodies at the site originated following the cessation of coal mining and quarrying for clay at the site, however others, particularly at Hafod, were specifically created for amphibian conservation purposes.

There are four non-statutory designated sites within 2 km of the Site, the closest being 800m south-west. None are designated for their amphibian populations.

3.2 Habitats

This report was informed by an extended phase 1 habitat survey undertaken in August 2021 (Atmos report ref. 26613 R3 Rev1) and protected and priority species and sites data obtained from Cofnod.

3.2.1 On Site

The habitats recorded on Site are described below.

Semi-improved Grassland with Amenity Use

The grass fields where the portacabins will be located consists of semi-improved neutral grassland, which is mainly composed of perennial ryegrass *Lolium perenne*. The area appears to be in active use as a playing field for the school and therefore the sward is kept short.

Hedgerows

The semi-improved grassland is bordered by species rich hedgerows containing hazel *Corylus avellana*, holly *Ilex aquifolium*, elder *Sambucus nigra*, dog rose *Rosa canina*, blackthorn *Prunus spinosa*, hawthorn *Crataegus monogyna*, clematis *Clematis vitalba*, ivy *Hedera helix* and buddleia *Buddleja davidii*.

3.2.2 Off-site

Habitats recorded in the wider survey area are detailed below.

Hardstanding

Over half of the wider survey area is hardstanding that the main school buildings stand on, as well as areas of hardstanding that appear to be used for parking and as a recreational play area for the school.

Buildings

There is a large school building in the middle of the Site. There is also a small wooden shed that appears to be used for storage immediately south of the proposed portacabin location on the playing fields.

Standing Water

There is a small pond at the southern end of the wider School site on the opposite side of the school buildings to the playing fields. It appears to have been created for pond dipping. The pond could not be fully surveyed as it was fenced off. However, it was observed from a distance and the pond appeared to be heavily vegetated with tall aquatic vegetation growing within the waterbody, including and no standing water visible.

Scattered Trees

There are a number of scattered trees over semi-improved grassland. Some of these appear to be ornamental (ornamental birches *Betula* spp), however there were also several sizeable hawthorn trees *Crataegus monogyna* and willow *Salix* scrub within the fenced area around the pond.

3.3 Protected Amphibians

The closest record of great crested newt provided by Cofnod was 300m east within the SAC/SSSI. Numerous records of other amphibians including smooth newt *Lissotriton vulgaris*, common toad *Bufo bufo* and common frog *Rana temporaria* were also provided. NRW have indicated that it is known locally that GCN can cross the railway line, therefore it is not a complete barrier to the species.

There is no suitable aquatic habitat for great crested newt within the Site itself. The grassland of the playing field is closely cut and offers sub-optimal terrestrial habitat. There is also no suitable hibernation habitat within the Site itself with the exception of possible gaps at the base of the hedgerow.

There is one small pond on Site approximately 50m south at its closest point. The pond is located within managed grassland, separated from the Site by an area of hardstanding playground. At the time of survey, it was densely vegetated with thick reeds and no open water was visible.

4 Description of Works

The works involve the siting of temporary portacabins on the playing fields to the rear of the existing school building. There will be no ground-breaking for the installation and all vegetation will remain. The western boundary hedgerow will require pruning to allow the units to fit on the field, but will be able to regrow once the units are removed.

The playing fields are accessible from the existing hardstanding car park and access roads to the school, and no additional access is required.

The portacabins will be located on Site in February 2022 during the winter.

4.1 Potential Effects

The habitats on Site will not be permanently affected by the portacabins. There will be some localised shading and compaction beneath the portacabins and walkways, but it is anticipated that once they are removed, the grass will be able to re-grow from the seedbank.

The hedgerow adjacent to the portacabin will require pruning to create space, but no works to remove any shrubs will occur and roots will remain intact and in the ground.

There is a risk that the pond in the wider survey area could potentially support breeding great crested newt and other amphibians, which are in the wider area due to the internationally and nationally designated sites. However, the pond itself is relatively isolated, man-made and separated from the proposed Site by sub-optimal habitat.

There is also a risk that amphibians could range from the SAC/SSSI 300m east into the vicinity of the Site, as there are records of them crossing the railway line which does not act as a complete barrier.

The timing of the works in February 2022 means amphibians will be hibernating. There is no suitable hibernation habitat in the vicinity of the portacabin location. The adjacent hedgerow may provide features at its' base, but the hedgerow will be retained and the base and roots undisturbed.

Movement of amphibians in February 2022 is unlikely due to temperatures typically being below 5 degrees at this time.

It has been agreed with Natural Resources Wales (NRW)¹ that some precautionary Reasonable Avoidance Measures (RAMS) will be in place during the Site preparation works as specified in Condition 13. However, the RAMS will not include one-way fencing due to the timing of the works in the winter meaning the Site will not need clearing of amphibians because there is no hibernation habitat present.

¹ Telephone call between Catherine Hibbert (Atmos) and Matthew Ellis, Senior Species Officer, NRW on 16th November and subsequent emails on 16th November.

5 Reasonable Avoidance Measures

5.1 Method Statement

5.1.1 Site Preparation

There is no need for works to be undertaken to the ground-based habitats on Site prior to the installation of the portacabins.

The portacabins are located on managed grassland in use as a playing field, which will be kept short and regularly managed up to the point the portacabins are installed.

Access for the delivery of the portacabins will be from the adjacent school car park and via existing gates.

The hedgerow will be pruned using hand tools. Branches to be removed will not be any closer than 100mm above ground.

Prior to the installation of the portacabins, an ecologist will conduct a check of the works areas for amphibians.

5.1.2 Portacabin Removal

The same principles above will apply when the portacabins are due for removal, as there is a possibility the portacabins could create suitable habitat for sheltering amphibians that does not currently exist on Site.

Prior to any materials being removed from the Site, an ecologist will conduct a check. An ecologist will be present for the lifting of any temporary walkways to search for amphibians, as well as beneath the portacabins as they are removed.

The portacabins are to be removed onto the hardstanding car park before being taken off-site.

Should great crested newt be found at any point, the works will stop, an ecologist called and NRW contacted for further advice.

5.2 Construction Measures

5.2.1 Toolbox Talk

All staff will be inducted onto the Site by an ecologist and a formal record will be maintained. The induction of staff onto the Site will include an ecological toolbox talk on the potential presence of great crested newt and other amphibians prior to starting work. This would include information on the legal status of great crested newt, the precautionary methods of working, how to identify the species, and the procedures that should be followed should the species be discovered during construction works. A copy of this Method Statement, the project ecologist's details, and information on the identification of great crested newt should be present on the Site at all times.

5.2.2 Ecological Supervision

At key points in the work, an ecologist will be present to supervise works in areas where amphibians may potentially be present. As set out in Section 5.3 below, timing, the works to install the portacabins are planned in the winter of 2022.

An Ecologist will be present as follows:

- To deliver a toolbox talk to Site staff prior to commencement on Site
- To hand-search areas of vegetation where great crested newt may be present prior to installation of the portacabins
- To hand-search around the portacabins prior to their removal from Site
- Any other times as directed by the ecologist when on Site

5.2.3 Precautionary Working Methods

Storage of Materials and Equipment

All materials will be stored on pallets on hardstanding, to prevent the creation of refuge habitat for amphibians.

There will be no storage of materials on the playing field.

Tarpaulins, plastic sheeting and wooden boarding should not be left flat on the ground and pallets could be utilised to raise other equipment off the ground.

All used and non-essential items should be removed from the working area at the end of each day.

Equipment

There will be no vehicles on the playing field, all machinery will be stored on the hardstanding car park.

Procedure if a Great Crested Newt is Found

In the unlikely event that a great crested newt was to be found, all works in the area would cease and the project ecologist will visit the Site to confirm identification and assess the situation, prior to contacting NRW (if identification is confirmed) to agree a way forward.

5.3 Timing

The timing of the portacabin installation is planned for February 2022. The portacabins will be in place for the duration of the refurbishment and extension works to a nearby school. These are planned for approximately one year i.e. complete by Spring 2023, but the timing is not confirmed.

Should these timings change, an ecologist will be consulted to advise if there is increased risk of encountering great crested newt or other amphibians and if the methods need to be changed accordingly.

5.4 Triggers to Initiate a Review of the RAMS

Should circumstances change such that the works present an increased risk to great crested newt, the RAMS will be reviewed.

This may include the need to install one-way fencing to clear the Site of great crested newt and/or prevent ranging great crested newt from entering the Site.

Such circumstances could occur if:

- There is an un-seasonally mild February
- Works are delayed into the active season (late March onwards)
- Works change to require sections of hedgerow including roots to be removed
- The location of the portacabins changes such that there will be a greater amount of vehicle movements crossing the playing field and causing disturbance
- If materials are required to be stored on the playing field
- If other species of amphibians are found on Site (not great crested newt)
- Other circumstances the ecologist encounters on Site based on amphibian ecology and professional judgement

