

**LAND AT ROYAL BRITISH LEGION, LLAY,
WREXHAM**

PRELIMINARY ECOLOGICAL APPRAISAL

APRIL 2021

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Author	KM
QA	ML
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EXECUTIVE SUMMARY

- Cheshire Ecological Services (CES), the commercial division of Cheshire Wildlife Trust, was commissioned to conduct a Preliminary Ecological Appraisal of a parcel of land at the Llay Royal British Legion, Watts Dyke, Llay, Wrexham where a residential development is proposed.
- The survey was conducted on 11th February 2021. The purpose was to gain baseline ecological information of the site in order to assess its current status, to identify any ecological constraints to development, and to recommend further survey if necessary.
- The proposed development site totals approximately 1.4 hectares and is located to the south of Watts Dyke (road), within the village of Llay to the North of Wrexham. It forms part of a hybrid mixed-use development including residential, retail and leisure. The Royal British Legion Building is proposed to be retained.
- At the time of survey, the site comprised predominantly of a hard standing car park and amenity grassland, with hedgerows on the site boundaries, a line of cypress trees, temporary buildings and a row of mature cherry trees to the north of site.
- Cofnod, the Biodiversity Recording Centre for North Wales, provided records of protected and Priority Species occurring within 1km of the proposed development site within the past twenty years.
- Features of ecological interest identified during the survey consisted of the hedgerows. As some hedgerows are due to be removed, and because the site borders a Wildlife Site to the south, it is recommended that retained hedgerows be subject to additional planting; both to buffer the adjacent Wildlife Site and to compensate for hedgerows to be lost. The retained hedgerows should be sufficiently protected during both development works and when the site is operational, via the implementation of an appropriate Construction and Environmental Management Plan (CEMP) and lighting strategy. Hedgerow maintenance should thereafter should be on a rotational cutting basis to maximise their value for wildlife.
- New owner packs should contain the brochure from the adjacent Alyn Waters Country Park, which contains details on the importance of designated Wildlife Sites within it, to help avoid impacts to these sites as a result of the development.
- The habitat composition of the site was considered to have potential to support legally protected and Priority wildlife species, including roosting bats and nesting birds. The invasive species variegated yellow-archangel was also found within the hedgerow on the site's western boundary.
- It is considered appropriate and proportionate to recommend further survey effort in respect of roosting bats (of trees and temporary buildings) before any potentially disturbing works take place, and the appointment of a specialised contractor to prevent the spread of variegated yellow archangel. For the avoidance of doubt, a pre-start check for badgers is also recommended to be conducted prior to site commencement.
- A number of recommendations are made in respect of the protection of nesting birds, hedgehog and bats, which may utilise habitats within the site.

1.0 INTRODUCTION

- 1.1 Cheshire Ecological Services (CES), the commercial arm of Cheshire Wildlife Trust, was commissioned to conduct a Preliminary Ecological Appraisal of a parcel of land at Llay Royal British Legion, Watts Dyke, Llay, Wrexham where a residential development is proposed. The residential development forms part of a hybrid mixed-use development including residential, retail and leisure, outline planning permission for which was granted 15/10/2019 (Ref. P/2018/0933).
- 1.2 The purpose of the survey was to gain up to date baseline ecological information of the site in order to assess its current status, to identify any ecological constraints to development that may currently be associated with the development area and/or the surrounding land, and to recommend further survey if necessary.
- 1.3 The survey was conducted by CES Consultant Ecologist Kyle Mellish on 11th February 2021.
- 1.4 Weather conditions at the time of survey were overcast with patchy sun, with a light breeze and a temperature of -1°C.

2.0 SITE DESCRIPTION

- 2.1 The survey was centred on the following OS grid reference SJ33129 55284.
- 2.2 The area of land requested to be surveyed totals approximately 1.4 hectares, and is hereafter referred to as the 'site'. The site is located to the south of Watts Dyke (Road), within Llay; a village 5km north of Wrexham town centre
- 2.3 At the time of survey, the site comprised predominantly of amenity grassland and hard-standing, with hedgerows on the northern, western and southern boundaries, a line of 6 cherry trees in the north of site and a line of conifers in the east.
- 2.4 Land-use in the wider area comprised the village of Llay, the surrounding area of which is dominated by agriculture. The urban area of Wrexham is approximately 2.2km south-east at its closest point (see Appendix A - Site Location Plan).
- 2.5 The site was bounded by residential housing estates to the north and east comprising the village of Llay, Alyn Waters Country Park to the south, and agricultural fields to the west beyond an area of residential housing.

3.0 SURVEY METHODS

Desk-based study

- 3.1 The desk-based study comprised consultation with the following consultees:
 - Defra's online mapping facility 'MAGIC'
 - Cofnod - the local biological records centre for North Wales

- Ordnance Survey - OS mapping of the local and wider area
- 3.2 The desk-based study comprised consultation with Defra's online mapping facility 'MAGIC' to search for statutorily designated nature conservation sites within the local and wider area, within a 5km radius of the site.
- 3.3 Cofnod was asked to provide information on statutory and non-statutory nature conservation sites within 1km of the site, and to provide records of protected and Priority species within a 1km radius from the site boundary, within the past 20 years.
- 3.4 Ordnance Survey mapping of the local area was reviewed to search for the presence of habitats and features of potential ecological relevance to this survey, such as ponds.

Preliminary Ecological Appraisal

- 3.5 This survey involved the mapping of various habitat types on the site in addition to any habitat features and botanical species of conservation importance. A thorough walk-over survey was undertaken of the site. The methodology for this survey followed that described by the Joint Nature Conservation Committee (JNCC, 2010).
- 3.6 Priority habitats and species, for which there is a national or local Biodiversity Action Plan (BAP) and those listed under Section 42 of the Natural Environment and Rural Communities Act, 2006 (for Wales), were recorded as such where present. The Section 42 list of Priority habitats and species has now been superseded by the Section 7 list of the Environment (Wales) Act 2016, however, the lists are currently exactly the same and the two should therefore be considered interchangeable.
- 3.7 Preliminary searches were also carried out for protected and Priority species such as badgers, bats and great crested newts (GCN) that may potentially use the site. Scientific names and the national status of vegetative species recorded follow Stace (2019). Scientific and common names stated in the text are also presented in Appendix C.
- 3.8 All trees with features such as holes, cracks and crevices were assessed for their suitability to support roosting bats, and were categorised in accordance with the Bat Conservation Trust's (BCT) Bat Survey: Good Practice Guidelines, (2016). The guidelines outline the initial survey requirements of all trees, and where necessary, detail the required further actions and likely mitigation. Trees were allocated the following categories (based on an assessment of potential roost features when viewed from the ground), as contained in Table 1 below.

Table 1: Bat Roost Classification Guidelines

Suitability	Description – Roosting habitats	Commuting and foraging habitats
Negligible	Trees with negligible habitat features to be used by roosting bats.	Negligible habitat features on site likely to be used by commuting or foraging bats,
Low	Trees with one of more potential	Habitat that could be used by small

	roost sites that could be used by individual bats opportunistically, although they are unlikely to be suitable for maternity or hibernation roosting. This category also includes buildings/trees of sufficient size and age that elevated inspection may reveal features not previously identified, or features seen that have very limited roosting potential.	numbers of commuting bats such as gappy hedgerows or unvegetated stream, but isolated, i.e. not very well connected to the surrounding landscape by other habitat. Suitable, but isolated habitat that could be used by small numbers of foraging bats such as a lone tree (not in a parkland situation) or a patch of scrub.
Moderate	Trees with one or more potential roost sites to support roosting bats but unlikely to support a roost of high conservation status (with respect to roost type only).	Continuous habitat connected to the wider landscape that could be used by bats for commuting such as lines of trees and scrub or linked back gardens. Habitat that is connected to the wider landscape that could be used by bats for foraging such as trees, scrub, grassland or water.
High	Trees with one of more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods.	Continuous, high-quality habitat that is well connected to the wider landscape that is likely to be used regularly by commuting bats such as river valleys, streams, hedgerows, lines of trees and woodland edge. High-quality habitat that is well connected to the wider landscape that is likely to be used regularly by foraging bats such as broadleaved woodland, tree-lined watercourses and grazed parkland. Site is close to and connected to known roosts.

Survey Limitations

- 3.9 The observations made during this survey have been used to assess the presence, or potential presence, of protected and/or Priority species within the proposed area of works and to recommend further actions where required. It should however, be noted that this survey serves as a single visit representing a 'snap-shot in time' whereby only the species present at the time of survey were recorded.
- 3.10 Positive evidence of species that use this site periodically or are in growth at different times of the year may not have been recorded. It is important to consider that the

absence of a species from a particular survey does not necessarily indicate the absence (or continued absence) of that species from the area.

- 3.11 The survey was conducted outside of the optimal survey season for undertaking botanical assessment. However, given the habitats present on site, this is not thought to have affected their classification.

4.0 RESULTS

Desk-based Study

- 4.1 Defra's online mapping facility 'MAGIC' indicates that there are eight statutorily designated nature conservation sites present within 5km of the site:
- Midland Meres and Mosses Phase 2 Ramsar (comprising Vicarage Moss), located 2.69km to the south-east of site. Ramsar sites are wetlands of international importance, with this site designated for its diverse range of wetland habitats, rare wetland flora and invertebrate assemblage.
 - Alyn Waters LNR (Local Nature Reserve), located 125m west of site at its closest point. The site is designated primarily for its grassland habitats, but also encompasses woodland dominated by willow, birch and cherry and an area of scrubland within Alyn Waters Country Park. The area supports a population of skylarks, and an abundance of orchids including bee orchids, early purple, twayblade, broadleaved helleborine and pyramidal orchids as well as common broomrape.
 - Llay Bog SSSI (Site of Special Scientific Importance), located 740m west of site. A small area of bog, with associated plant assemblage and accompanying alder – birch carr.
 - Chwarel Singret SSSI, located 1.47km north-east of the site, a former quarry designated for its unusual rock exposures.
 - Marford Quarry SSSI, located 2.26km north-east of site. The site is formed of a disused sand and gravel workings and designated for its entomological interest; both for its diversity of species and possession of rare butterfly and moth species.
 - Vicarage Moss SSSI, located 2.69km to the south-east of site (the designation of which overlaps with the Midland Meres and Mosses Phase 2 Ramsar). The site is designated for its geomorphology and mire, wetland and carr habitats.
 - Gatewen Marsh SSSI (Site of Special Scientific Interest), located 3.81km south-west of site. The SSSI is a mesotrophic mire, with a floral assemblage typical of this habitat.
 - Coedwig Ffosil Brymbo Fossil Forest SSSI, located 3.89km south-west of site, designated for its large amount of well-preserved plant fossils.
- 4.2 The site also falls within an SSSI impact risk zone, likely to be for the River Dee SSSI 6.5km to the east. The residential nature of site development proposals does not however fall within the development types for which Natural England (for River Dee SSSI England) must be consulted.

4.3 Cofnod indicated that there are five non-statutorily designated nature conservation sites present within 1km of the site:

- Alyn Waters WS (Wildlife Site) located immediately adjacent to the site's south-western boundary at its closest point. The site comprises a series of woods along the river Alyn, these of alder/oak with wetter areas dominated by alder. It also contains unimproved neutral grasslands with notable diversity, particularly orchids. The Alyn Waters Local Nature Reserve is entirely contained within the Wildlife Site, both of which are present within the wider Alyn Waters Country Park
- Nant-y-Gaer and Llay Valley WS located approximately 430m north-east of the site. The site is situated at the convergence of two valleys and contains oak woodlands with a varied ground flora and semi-improved neutral grasslands.
- Bryn Alyn and Wormswood WS located approximately 570m south-east of the site. The wildlife site comprises semi-natural woodlands and semi-improved grasslands situated around a meander of the River Alyn, with significant botanical diversity within both habitats.
- Ballswood Quarry and Cockpit Wood WS, located approximately 980m east of the site. An active quarry site, with primary grassland and scrub developing on old workings. The grassland is diverse and contains of several calcareous grassland specialists. Woodland fragments dominated by ash and sycamore are present around the quarry, with a diverse understorey extending along the river.

4.4 Multiple records of ancient and restored ancient BAP Priority woodland were returned by Cofnod within 1km of the site. All were present within the river corridors of the River Alyn or the brook which runs through the Nant-y-Gaer and Llay Valley WS, and the vast majority were present within existing conservation site designations. The closest area of ancient woodland to the site was 430m to the east, associated with the Nant-y-Gaer and Llay Valley WS.

4.5 Cofnod highlighted the presence of the following protected and Priority species occurring within approximately 1km of the proposed development site since 2000:

Table 2: Protected & Priority Species Records within 1km of the site since 2000.

Scientific Name	Common Name	Designations
Birds		
<i>Acanthis cabaret</i>	Lesser Redpoll	S7, UKBR, WBR
<i>Aegithalos caudatus</i>	Long-tailed Tit	WBA
<i>Alauda arvensis</i>	Skylark	BDir2.2, S7, UKBR, WBA
<i>Anthus pratensis</i>	Meadow Pipit	Bern, UKBA, WBA
<i>Apus apus</i>	Swift	UKBA, WBA
<i>Cuculus canorus</i>	Cuckoo	S7, UKBR, WBR
<i>Delichon urbicum</i>	House Martin	Bern, UKBA, WBA

<i>Falco tinnunculus</i>	Kestrel	Bern, CITES, S7, UKBA, WBR
<i>Hirundo rustica</i>	Swallow	Bern, WBA
<i>Linaria cannabina</i>	Linnet	Bern, S7, UKBR, WBR
<i>Muscicapa striata</i>	Spotted Flycatcher	Bern, S7, UKBR, WBR
<i>Oenanthe oenanthe</i>	Wheatear	Bern, WBA
<i>Passer domesticus</i>	House Sparrow	S7, UKBR, WBA
<i>Passer montanus</i>	Tree Sparrow	S7, UKBR, WBR
<i>Periparus ater</i>	Coal Tit	Bern, WBA
<i>Phylloscopus trochilus</i>	Willow Warbler	UKBA, WBR
<i>Picus viridis</i>	Green Woodpecker	Bern, WBA
<i>Poecile palustris</i>	Marsh Tit	Bern, S7, UKBR, WBR
<i>Prunella modularis</i>	Dunnock	Bern, S7, UKBA
<i>Pyrrhula pyrrhula</i>	Bullfinch	S7, UKBA, WBR
<i>Regulus regulus</i>	Goldcrest	Bern, WBA
<i>Sturnus vulgaris</i>	Starling	BDir2.2, Bern, S7, UKBR, WBR
<i>Sylvia borin</i>	Garden Warbler	WBA
<i>Sylvia communis</i>	Whitethroat	WBA
<i>Turdus philomelos</i>	Song Thrush	BDir2.2, Bern, S7, UKBR, WBA, LBAP
<i>Tyto alba</i>	Barn Owl	Bern, CITES, WBA, WCA1.1, WCA9, LBAP
Herpetofauna		
<i>Natrix helvetica</i>	Grass Snake	Bern, S7, WCA5
<i>Bufo bufo</i>	Common Toad	Bern, S7, WCA5
<i>Triturus cristatus</i>	Great Crested Newt	Bern, EPS, HDir, RD1(UK), S7, WCA5, LBAP
Insects		
<i>Coenonympha pamphilus</i>	Small Heath	RD1(UK), S7
<i>Lasiommata megera</i>	Wall	RD1(UK), S7
<i>Diarsia rubi</i>	Small Square-spot	S7
<i>Leucania comma</i>	Shoulder-striped Wainscot	S7
<i>Tyria jacobaeae</i>	Cinnabar	S7
Mammals		
<i>Chiroptera</i>	Unknown Bat	EPS, WCA5
<i>Erinaceus europaeus</i>	Hedgehog	Bern, S7
<i>Meles meles</i>	Badger	Bern, PBA, LBAP
<i>Myotis</i>	Myotis Bat Species	Bern, EPS, HDir, WCA5
<i>Nyctalus noctula</i>	Noctule Bat	Bern, EPS, HDir, RD1(UK), S7, WCA5
<i>Pipistrellus</i>	Pipistrellus Bat Species	EPS, WCA5, LBAP

<i>Pipistrellus pipistrellus</i>	Common Pipistrelle	Bern, EPS, HDir, RD1(UK), S7, WCA5
<i>Pipistrellus pygmaeus</i>	Soprano Pipistrelle	Bern, EPS, HDir, RD1(UK), S7, WCA5, LBAP
<i>Plecotus auritus</i>	Brown Long-eared Bat	Bern, EPS, HDir, RD1(UK), S7, WCA5
Plants		
<i>Hyacinthoides non-scripta</i>	Bluebell	WCA8

Note: All species names and designations provided by Cofnod.

Designations key:

UKBR - RSPB UK Birds Red List (not based on IUCN criteria)
WBR - RSPB Welsh Birds Red List (not based on IUCN criteria)
LBAP - Local Biodiversity Action Plan species for Flintshire
WBA - RSPB Welsh Birds Amber List (not based on IUCN criteria)
RD1(UK) - Red Data Book listing for the UK not based on IUCN guidelines
INNS - Invasive Non-native Species
WCA1.1 - Wildlife & Countryside Act 1981 Schedule 1.1 (Birds which are protected at all times)
WCA5 - Wildlife & Countryside Act 1981 Schedule 5
WCA8 - Wildlife & Countryside Act 1981 Schedule 8
Bern - Bern Convention on the Conservation of European Wildlife and Natural Habitats
UKBA - RSPB UK Birds Amber List (not based on IUCN criteria)
CITES - Convention on International Trade in Endangered Species of Wild Fauna and Flora
Bern - Bern Convention on the Conservation of European Wildlife and Natural Habitats
PBA - Protection of Badgers Act 1992

- 4.6 A number of other species records were provided but have not been included in this report as it is considered highly unlikely that they would be associated with the proposed development site. For example, numerous records of wading birds and species associated with aquatic habitats were provided. Given the habitat composition of the site and the nature of the proposed works, it is considered highly unlikely that the proposed development would impact upon such species.

Fieldwork

- 4.7 Features of interest recorded on the site during this survey are described in the Target Notes (TN) below. All numbered Target Notes correspond with the Phase 1 Habitat Map (Appendix B). Species lists for each area and photographic plates are presented within Appendices C & D respectively.

Target Notes

TN1 – Cherry tree with Low bat roost potential (Plates 15 - 16)

TN2 – Silver birch with Low bat roost Potential (Plate 17)

TN3 – Group of temporary buildings with possible bat roost potential (Plates 3 – 6)

TN4 – Variegated yellow archangel within hedgerow H4 (Plates 18 - 19)

5.0 DISCUSSION

Designated Sites

Statutory Sites

- 5.1 Alyn Waters LNR is located 125m west of site at its closest point, and is contained within Alyn Waters Country Park. The LNR is primarily designated for its species-rich unimproved neutral grasslands, with woodland and scrub also present. The proposed development site does not contain any of these habitats, and given the distance to the site and the recommended implementation of an appropriate Construction and Environmental Management Plan to good construction standards, direct impacts on the LNR such as noise and dust are thought to be negligible.
- 5.2 Given the site is to be developed for residential dwellings and the connectivity of the site to the LNR via public footpaths, increased footfall within the LNR is likely. The LNR and the wider Alyn Waters Country park are however managed for public use; possessing well-maintained public footpaths as well as a café, picnic area and visitor centre where bikes can be hired. In addition, the Country Park provides numerous waste (including dog waste) disposal sites, well signposted trails and an information brochure (available at http://www.wrexham.gov.uk/assets/pdfs/countryside/alyn_waters_walks.pdf). Recreational impacts on the LNR are therefore thought to be negligible as a result of the development. It is recommended however that the new residents be made aware of the importance of this local site considering its proximity. This can be achieved by including the above brochure within new resident welcome packs.
- 5.3 Llay bog SSSI is located 740m west of site. Given the distance to the SSSI and the fact it is not publicly accessible; no impacts are expected to this site.
- 5.4 Of the six remaining statutorily designated sites within 5km of site, all are over 1km from the site, and the site shares none of the habitats for which they are designated. Furthermore, Coedwig Ffosil Brymbo Fossil Forest SSSI & Chwarel Singret SSSI are designated their paleontological and geological interest, rather than for nature conservation. As such, no impacts are expected on these sites as a result of development proposals.

Non-Statutory Sites

- 5.5 The Alyn Waters Wildlife Site encompasses the entirety of the Alyn Waters LNR, with additional areas to the east, and borders the site's south-western boundary. The site comprises woodlands and unimproved neutral grasslands of notable diversity. The development site does not contain unimproved grassland or woodland habitats, and the trees on site constitute isolated lines and individuals within hedgerows only. The hedgerow on the site's south border (H3) is also due to be retained, and should serve as a buffer between the site and the adjacent Wildlife Site. It is recommended that the hedgerow be brought back under positive conservation management, to further reinforce this buffer, as detailed within the Hedgerows Section of this report.
- 5.6 As the Alyn Waters Wildlife Site is within the same country park as the Alyn Waters LNR, possible indirect impacts to the site are considered to have already been discussed within Section 5.2 above.

Habitats

Amenity Grassland (Plates 1 & 2)

- 5.7 A large proportion of the site is comprised of amenity grassland, which borders the areas of hardstanding on site. The sward was short, and is regularly cut by mechanical means. Botanical species diversity was poor; the sward dominated by perennial ryegrass, with abundant lawn daisy and mosses and occasional other low-growing forbs tolerant of a wide range of conditions. All amenity grassland on site is to be lost as part of the development, the impact of which is thought to be low.

Temporary Buildings (Plates 3 – 6)

- 5.8 Several small temporary buildings and shipping containers were present within a hardstanding area in the centre of site (TN3), though some are partially off-site. These comprised predominantly of concrete constructions, with a mixture of flat and corrugated iron roofs below which were wooden fascias. The buildings are in moderate structural condition, with signs of decay around the fascias. Internal access to the buildings was not possible during the survey.
- 5.9 One of the temporary portable buildings (currently in use as a boxing club) is to be retained but moved elsewhere on site as part of the development. The rest are to be lost, the impact of which is likely to be negligible (the suitability for bats is discussed separately).

Hardstanding (Plate 7)

- 5.10 Hardstanding in the form of an asphalt car park and associated internal access roads also occupied a large proportion of the site. The area was almost entirely clear of vegetation, barring minor encroachment of mosses and amenity grassland species on the edges of the car park. All hardstanding within the site boundary is to be lost. The impact will be negligible.

Hedgerows (Plates 8 - 11)

- 5.11 Hedgerows comprising 80% or more of locally native woody species qualify as Priority habitat and those which meet certain criteria are protected under the Hedgerow Regulations 1997.
- 5.12 Four hedgerows are present on site (H1 - H4), all of which comprise native woody species (with the possible exception of H1) and therefore qualify as Priority habitat. The Hedgerows comprised:
- H1 – An ornamental hedgerow surrounding a memorial plinth, formed exclusively of beech. It is extensively managed and shaped and is an average of 1.5m high and 0.75m wide.
 - H2 – Intact hedgerow present on the northern and eastern site boundaries, continuing outside of the redline boundary for the development site but encircling the wider Royal British Legion site boundary. The hedgerow is species-poor and under close regular management, and is dominated by hawthorn, with ash, elder and blackthorn very occasionally present. The ground flora for the hedgerow is varied across the site, but ivy, cleavers, nettle and

wood avens are present throughout, as well occasional bush vetch, common fumitory and coarse grasses. It averages 2m high and 1m wide.

- H3 – Partially defunct species-poor hedgerow occupying the site's southern boundary, adjacent to Alyn Waters LRN & WS. It showed signs of recent lapsed management and historic coppicing. The hedgerow is dominated by hazel, which demonstrated signs of historic coppicing, with frequent hawthorn and goat willow, elder, blackthorn and ash occasionally present. Ground flora consisted of bramble, ivy, lords and ladies, cleavers and lesser celandine. Though variable, it averages 4m high and 5m wide.
- H4 – Defunct species-poor hedgerow on the site's western boundary with occasional mature trees. This hedgerow also showed signs of recent lapsed management, having become 'bushy' in structure. Semi-mature trees included several silver birch and an individual Scots pine. Woody species included hazel, juvenile silver birch, hawthorn, elder, goat willow and cherry laurel, with an understorey dominated by ivy with cleavers and bramble also present. Variegated yellow archangel was also present as part of the ground flora within the north-west corner of this habitat. Discounting trees, it averages 3.5m high and 5m wide.

5.13 Due to the low diversity of woody species, all hedgerows on site are unlikely to qualify as Important under the Wildlife and Landscape criteria of the Hedgerow Regulations, 1997. It should however be noted that hedgerows over thirty years old can be protected by the Regulations for a number of other factors such as archaeological and historical interest. It is not the place of this ecological report to assess such other factors.

5.14 Proposed losses of hedgerows on site, as set out in the Arboricultural Impact Assessment (Godwins Arboricultural Limited, 2017) include the loss of the entirety of hedgerows H1, H2, and partial loss of H4 in order to allow facilitate the development proposals. Hedgerows H3 and H4 both contain large gaps at present, are species-poor and appear to have been largely unmanaged in recent years.

5.15 Given the loss of these hedgerows and the proximity of the adjacent Wildlife Site as discussed in Section 5.5, it is recommended that retained hedgerows H3 and H4 be brought back under positive conservation management, with gaps infilled by native species, and the existing hazel within the hedgerow to continue to be maintained by regular coppicing. Cutting of the hedgerow should occur rotationally, with no more than 1/3 of the entire hedgerow cut back per year, to maximise fruit production. The management would serve to reinforce the hedgerow as a boundary to the Wildlife site and increase the value of the hedgerow as a habitat. Protection of the hedgerow during construction should also be insured, including the avoidance of dust, noise and lighting pollution, through a Construction & Environmental Management Plan. Through these measures, direct negative impacts on the Wildlife Site should be avoided.

5.16 Species to be used within 'gapping up' of these hedgerows should contain a minimum of five of the following species: Common hawthorn (*Crataegus monogyna*), field maple (*Acer campestre*), alder (*Alnus glutinosa*), hazel (*Corylus avellana*), crab apple (*Malus sylvestris*), field rose (*Rosa arvensis*) wild cherry (*Prunus avium*), holly (*Ilex aquifolium*) and guelder rose (*Viburnum opulus*).

Trees (Plates 12 – 14)

- 5.17 As well as trees present within the hedgerows described above, two distinct treelines were present on site.
- 5.18 A line of mature cherry trees was present along the site's northern boundary. The trees were well-spaced with the amenity grassland habitat. Due to the timing of the survey, it was not possible to ascertain whether the trees were a native species or a horticultural variety, which is likely given the site context.
- 5.19 The other group of trees, forming a rough line, was present just to the south of the Royal British Legion Building. It was predominantly formed of semi-mature Leyland Cypress, with occasional elder and ash present within a scattered shrub layer. As typifies Leyland Cypress areas, ground flora was limited to ivy with areas of bare ground.
- 5.20 All trees on site, with the exception of those contained within hedgerows, are proposed to be lost as part of the development. The provision of new trees within landscaping designs will provide similar replacement habitats to those lost.

Features of Ecological Interest

- 5.21 The following features were considered to be of ecological importance at the site level or higher:
- Hedgerows
- 5.22 As hedgerows H1, H2 and part of H4 are due to be removed, and because the site borders a Wildlife Site to the south, it is recommended that retained hedgerows be subject to additional planting; as recommended within Sections 5.5 & 5.15 of this report.
- 5.23 The habitat composition of the site has potential to support legally protected and Priority wildlife species. It was not within the scope of this survey to carry out detailed searches for protected species, although the potential for the study site to support the following species is discussed below:
- Badger
 - Barn Owl
 - Bats
 - Birds
 - Hedgehog
 - Great Crested Newt and other amphibians
 - Invasive Species
 - Invertebrates
 - Reptiles

Legislation relating to each species discussed in this report is presented in Appendix E – Legislation. No other legally protected species are considered likely to be associated with the proposed development site due to a lack of suitable habitat on, and surrounding the site.

Badgers

- 5.24 Badgers and their setts are protected under British law. Surveys are required to check for the presence of badgers or their setts if they are likely to be disturbed for any reason. Statutory guidance indicates that a licence may be required if potentially disturbing works are to take place within 30m of a badger sett.
- 5.25 Cofnod provided details of badgers occurring within around 1km of the proposed development site since 2000, though no records were present within 500m of site. Additionally, no signs of badger were found during the survey and due to surrounding roads and residential dwellings, they are likely to use the site for occasional foraging at most. The bank immediately to the south of the site does however present suitable habitat for sett excavation. **It is therefore recommended that an updated badger survey be conducted prior to the commencement of works on site.**

Barn owl

- 5.26 Barn owls receive special protection under Schedule 1 of the Wildlife & Countryside Act, 1981 (as amended). In addition to the protection afforded to all wild birds under Section 1 of the Act, species listed on Schedule 1 also receive special legal protection when breeding; making it an offence to intentionally or recklessly disturb any wild barn owl whilst it is at or near a nest containing eggs or young, or disturb the dependent young of such a bird. Barn owls nest and roost in buildings and within deep cavities in trees, and will readily utilise nest boxes where available.
- 5.27 Cofnod provided details of Barn Owl occurring within around 1km of the site since 2000. Habitats on site are unsuitable as both roosting habitat and foraging habitat for barn owl, due to a lack of suitably mature trees or open buildings, and rough grassland which their small mammal prey prefer. As such, no further survey or mitigation is required for this species.

Bats

- 5.28 All British species of bat are protected under both European and British law. Surveys are required to check for their presence in areas where bats or their roosts are likely to be disturbed for any reason.
- 5.29 Bats roost in buildings and mature trees, where they rest, give birth, raise young and hibernate. Buildings provide a choice of safe, dry places and can present a whole range of potential roost sites such as within wall cavities, eaves or roofs.
- 5.30 Some bat species rely exclusively on trees for roost sites; others use them for only part of the year. The importance of trees to bats depends on species, season and foraging behaviour. Even in winter, deep cavities can provide protection against bad weather

and fluctuations in temperature. Furthermore, trees and hedgerows, especially native ones, can host many species of insects, which are food for bats, and can also aid bat navigation.

- 5.31 Cofnod provided details of unknown bat species, myotis species, noctule, pipistrelle species, common and soprano pipistrelle and brown long-eared bats occurring within 1km of site since 2000.
- 5.32 The wider Royal British Legion site contains a single permanent structure in the form of the British Legion, which as it lies outside the development site boundary (and is to be retained), has not been included within this assessment.
- 5.33 Several temporary buildings were present on site to the south of the main Royal British Legion Building (TN3). It was noted that gaps exist within the facade of the buildings that could allow bats to enter into the buildings, these comprising gaps under facades and around where services enter the buildings. Internal access to the buildings was not possible during the survey. Whilst it is considered unlikely these temporary buildings contain roof voids, they may offer suitable roosting opportunities for crevice-dwelling bats. **It is therefore recommended that the temporary buildings be subject to a daytime Preliminary Roost Appraisal survey for bats, to include the inspection of the interior of the buildings. Should internal access not be possible, the buildings are to be classed as of Low Bat Roost Potential, and a further detailed bat emergence survey must be conducted on the buildings within the active season for bats (mid-May to August inclusive).**
- 5.34 Two trees on site were found to be of Low bat roost potential. A single cherry tree (TN1) was found to possess a cavity composed of lifted bark, which due to its height could not be observed further during the survey. The entrance was large and largely open to the elements but the cavity was seen to narrow rapidly as it progressed upwards into the tree. A single silver birch tree (TN2) on the site's western boundary, within hedgerow H4 was also found to possess a potential roost feature through the gaps formed by a partially snapped branch. The feature was predominantly upward facing, hence its classification as of low bat roost potential. **As the cherry tree (TN1) is to be lost to development, a further survey of the identified feature using an endoscope should be performed, in order to ascertain any use of the tree by bats and assess whether the bat potential of the tree can be reclassified. Should a further survey not be completed, the tree must be taken down under Reasonable Avoidance Measures (RAMs) by a bat-licensed ecologist. As the silver birch tree (TN2) is to be retained, no further surveys are currently necessary. If it is to be decided that the tree requires to be removed at any point, this should proceed under soft-fell methodology under the watching brief of a bat licensed ecologist.**
- 5.35 It is also recommended that roosting features for bats (such as bat bricks and bat tubes) be incorporated into the structure of the new buildings on site, in line with national and local planning policy guidance.
- 5.36 Hedgerows on site present suitable commuting and foraging habitat for bats, with the exception of H1 which presents negligible opportunities for bats. While hedgerows H3

and the majority of H4 are to be retained, H1 & and the majority of H2 are to be lost to accommodate the development. H1 is a small isolated ornamental hedgerow and the effect of its loss to bats is expected to be negligible. While H2 is of low height and is present along site boundaries that border roads, it does still afford limited opportunities for commuting and foraging bats on site. It is therefore recommended that the retained hedgerows be subject to 'gapping up' and rotational management, to provide additional resources for bats and compensate for the loss of hedgerows on site, as per the recommendations in Sections 5.5 & 5.15 of this report. Furthermore, impacts on retained hedgerows as a result of both construction activities and later site operation should be managed by the implementation of a Construction & Environmental Management Plan and an appropriate lighting strategy respectively.

Birds

- 5.37 All species of wild bird, their nest and eggs are protected under Section 1 of the Wildlife and Countryside Act, 1981 (as amended). Surveys are required to check for their presence where they are likely to be disturbed during the breeding season.
- 5.38 Cofnod provided numerous records of priority and protected bird species occurring within the search area since 2000.
- 5.39 Habitats on site such as the hedgerows and trees do provide suitable nesting and foraging opportunities for birds on site. Their loss is likely to have a negligible/low-level impact on bird populations in the local area, especially given the greater opportunities offered by habitats within the adjacent Alyn Waters Country Park (and associated LNR and WS). Earlier recommendations for the improvement in condition of hedgerows on site in order to buffer the Wildlife Site, in association with sectional management, will however result in additional nesting and foraging opportunities for birds on site.
- 5.40 **All woody vegetation on site has potential to support nesting birds. As the two tree-lines and hedgerows H1, the majority of H2 and part of H3 are to be removed, it recommended that all site preparation works, including vegetation removal, be conducted between September and February (i.e. outside of the nesting bird season, which generally encompasses March to August). If this is not possible and works are required to be conducted during the bird nesting season, CES should be contacted and a nesting bird survey be conducted prior to any potentially disturbing works taking place. In the event that nesting birds are found to be present, an appropriate mitigation strategy should be formulated and implemented.**
- 5.41 It is also recommended that the provision of a range of bird boxes should be incorporated within the structure of buildings on site and within retained trees and hedgerows, in line with national and local planning policy guidance.

Great crested newt and other amphibians

- 5.42 GCN are protected under both European and British law. Adult GCN predominantly live terrestrially, but utilise ponds for breeding purposes during the spring and summer

months. Statutory guidance indicates that a survey may be necessary to check for the presence of GCN if background information on distribution suggests that they may be present. Detailed indicators include:

- Any historical records for GCN on the site, or in the general area
- A pond on or near the site (within around 500m), even if it holds water only seasonally. Note that muddy, cattle-poached, heavily vegetated or shady ponds, ditches and temporary flooded hollows can be used by GCN
- Sites with refuges (such as piles of logs or rubble), grassland, scrub, woodland, or hedgerows within 500m of a pond

5.43 Cofnod provided details of great crested newt and common toad occurring within 1km of the proposed development site. The closest records to site were 400m to the north in the case of GCN, and 900m to the east in the case of toad. A review of OS mapping showed no ponds present within 500m of site, the only watercourse being a flowing stream that issue from Butt's Hill (see Appendix A). Flowing watercourses are not considered suitable habitat for GCN.

5.44 Given that the site possesses no waterbodies; that no ponds are identified to be present within 500m of the site, and; that the closest GCN record is 400m beyond a housing estate, GCN are considered highly unlikely to be present on site. Similarly, given there are no suitable waterbodies within 500m and the closest record was over 900m away, common toad are considered highly unlikely to be present on site either. No further surveys are recommended for amphibians on site.

Hedgehog

5.45 Hedgehog are a UK BAP Priority species and is listed on Section 42 of the Natural Environment & Rural Communities (NERC) Act, 2006. Cofnod provided details of hedgehog occurring within approximately 1km of the proposed development site since 2000.

5.46 The site was considered to offer hedgehog with suitable foraging and shelter habitat within hedgerows, and to a lesser extent within amenity grassland. As these habitats are due to be lost, development at the site has potential to impact upon hedgehogs. It is therefore recommended that all woody and scrub vegetation (standing or fallen) and refugia to be affected by the works be removed by hand prior to any potentially disturbing works taking place. These measures should be sufficient in discouraging and/or displacing hedgehogs from the working areas. Upon completion of the development, it is also recommended that hedgehogs be able to gain access to the gardens through a series of holes/gaps if close-panel fencing or walls are to be used; although ideally boundaries would comprise hedgerows. Gaps should be at ground level, approximately 13cm by 13cm, and incorporated in to each garden.

Invasive species

5.47 Cofnod returned no records of invasive species on site or within 100m of the site boundary. The phase 1 habitat survey did however find variegated yellow archangel (*Lamium galeobdolon subsp. argentatum*) to be present on site within H4 (see

TN4). This species is listed under Schedule 9, Part II of the Wildlife and Countryside Act 1981. As such, it is an offence under section 14(2) of the Act to plant this species or to cause it to grow in the wild.

- 5.48 It is therefore recommended that an appropriately qualified specialist contractor be instructed to treat and/or remove this invasive species from site, the plant to be treated as controlled waste and disposed of accordingly. The local planning authority and/or Natural Resources Wales may require these control measures to follow an approved site-specific Biosecurity Risk Assessment & Method Statement for Invasive Non-Native Species (INNS).
- 5.49 It is recommended in the meantime that the area on site where this species is present be fenced off with barrier tape or Heras fencing, to prevent any access to the area. No development works, including vegetation clearance, should proceed in this area until the species has been treated/removed in line with the recommendations of the specialist contractor (to be appointed).

Invertebrates

- 5.50 Cofnod provided details of several insects including Small Heath, Wall, Small Square-spot, Shoulder-striped wainscot and Cinnabar occurring within 1km of the site since 2000, for which the amenity grassland provides suitable food plants.
- 5.51 Though the amenity grassland on site does provide food plants for caterpillars of the above species within its sward, it is regularly short-cut and more extensive areas of caterpillar food plant exist within the Alyn Waters Country Park to the south. The loss of the amenity grassland habitat on site is likely to have negligible effects on local butterfly and moth populations. As no other habitats on site present suitable caterpillar food plants for the above species, the site is therefore of negligible importance to invertebrates.

Reptiles

- 5.52 All six species of British reptile are protected against intentional killing, injury or sale under Schedule 5 of the Wildlife and Countryside Act, 1981. The sand lizard and smooth snake are afforded a higher degree of protection under European law, which, amongst other things, makes it an offence to damage, destroy or obstruct their places of shelter or disturb these species in such a place. However, the distribution of these species is limited, and is largely restricted to a few southern counties in England, with the exception of some coastal sites in Merseyside and North Wales which support populations of sand lizard. The distribution of the remaining 'common' species (i.e. adder, grass snake, slow worm and common lizard) are widespread. With some variation between species, reptiles prefer undisturbed habitats with open areas for basking and warmth, and more vegetated areas for shelter and feeding. They shelter and hibernate in crevices underground, such as within old mammal burrows, cracks within concrete bases and within spoil/rubble mounds.

- 5.53 Cofnod provided a single record of grass snake occurring within 1km of the proposed development site since 2000, this being 680m to the west of site, with the Alyn Waters LNR.
- 5.54 The grass snake is the UK's only widespread egg-laying reptile; typically, they lay their eggs within mounds of decaying vegetation which provides both protection and warmth for the developing eggs. They also differ from the other species of native reptile as they are semi-aquatic, utilising water bodies for dispersal and feeding. The home range of an individual grass snake can be large, however, they show a high fidelity to aquatic habitats such as ponds and slow-flowing water courses, and their home range is usually centred on such features.
- 5.55 The proposed development site contains no waterbodies and no waterbodies are present within 500m of the site. Furthermore, the site contains no suitable terrestrial habitats for grass snake and as the site of a social club, is subject to regular disturbance. Given the lack of suitability of habitats on site, absence of ponds both on site and within 500m and the distance of the record from site, this species is considered unlikely to be present on site. No survey effort or mitigation is therefore proposed in regards of reptiles on site.

6.0 SUMMARY RECOMMENDATIONS TABLE

	Species potentially associated with the site/s?	Further survey effort required?	Survey timing	Recommendations
Badger	No	No	N/A	N/A
Barn owl	Yes	Yes: Updated badger survey to be conducted prior to the commencement of works on site.	Any time of year Ideally when the trees are not in leaf.	No potentially disturbing work should take place until the results of the survey are known.
Bats	Yes	Yes: Temporary buildings should be subject to a daytime inspection for bat roosts. The cherry tree (TN1) should be subject to an inspection for bats aided by an endoscope. Both surveys should proceed prior to the commencement of any works on site (ideally pre-determination of planning). Should surveys not be completed, the temporary buildings and cherry tree are to be classed as 'low' bat roost potential – the building to be subject to a further detailed survey before demolition and the tree to be felled under RAMS by a bat licensed ecologist. Any further trees on site that are to be affected/lost as part of the development are to be subject to	Bat Inspection at any time of year Ideally when the trees are not in leaf. Emergence/re-entry survey for building between mid-May and August inclusive. Tree removal under RAMs to be conducted at any time of year.	No potentially disturbing work should take place until the results of the inspections are known.

		a bat roost potential assessment prior to the commencement of works.		
Birds	Yes	Potentially: Nesting bird surveys will be required <u>if</u> vegetation removal works are to take place between March & September.	March - August	Vegetation removal works should take place outside of the bird breeding season (i.e. September – February). A survey will not be required if potentially disturbing works are undertaken during this period.
Hedgehog	Yes	No	N/A	Where possible, all woody/scrub vegetation to be affected should be removed by hand prior to potentially disturbing works taking place. Provide holes in garden fencing 13x13cm for hedgehogs.
Great crested newt	No	No	N/A	N/A
Invasive species – Variegated yellow archangel	Yes	No	March – September (within growing season when readily identified)	To be treated/removed by a specialist contractor (potentially following a INNS Risk Assessment & Method Statement). Heras fencing/barrier tape to be erected around the area where found to prevent public/site worker ingress and prevent further spread.
Invertebrates	No	No	N/A	N/A
Reptiles	No	No	N/A	N/A

7.0 REFERENCES

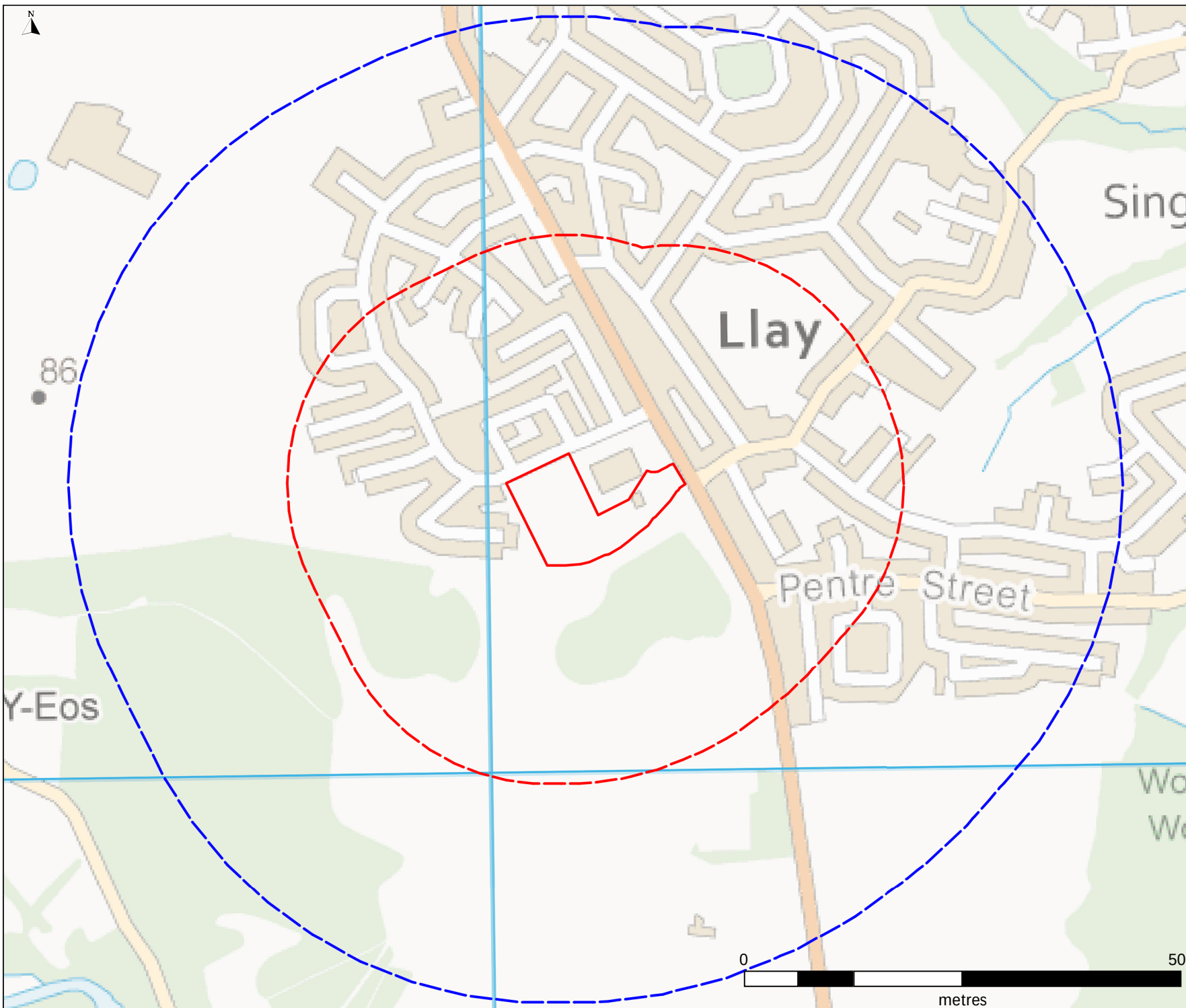
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Appendices

Appendix A: Site Location Plan



Legend (Indicative)

- Development Site Boundary
- 250m Radius
- 500m Radius

Project:	Land at Royal British Legion, Llay, Wrexham
Map:	Site Location Map
CES Ref:	CES/052/04-2021/KM
Scale:	Not to scale / indicative
Date	April 2021

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 **Cheshire**
Ecological Services

Bickley Hall Farm
Bickley
Malpas
Cheshire
SY14 8EF

Appendix B: Extended Phase 1 Habitat Survey Map & Key



Legend - Indicative

- Site Boundary
- Amenity Grassland
- Hedgerows- Species-poor
- Temporary_Buildings
- Trees - Individuals
- Trees - Group

Target Notes

- TN1 - Cherry Tree with Low Bat Potential
- TN2 - Silver Birch with Low Bat Potential
- TN3 - Temporary Buildings with Possible Bat Potential
- TN4 - Variegated Yellow Archangel

Project:	Land at Royal British Legion, Ulay, Wrexham
Map:	Extended Phase 1 Map
CES Ref:	CES/052/04-2021/KM
Scale:	Not to scale / indicative
Date	April 2021

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Bickley Hall Farm
Bickley
Malpas
Cheshire
SY14 8EF



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Appendix C: Species Lists

<i>Achillea millefolium</i>	Yarrow
<i>Alnus glutinosa</i>	Common alder
<i>Arum maculatum</i>	Lords & ladies
<i>Bellis perennis</i>	Daisy
<i>Betula pendula</i>	Silver birch
<i>Bryophyte sp.</i>	Mosses
<i>Cornus sanguine</i>	Dogwood
<i>Corylus avellana</i>	Common hazel
<i>Crataegus monogyna</i>	Common hawthorn
<i>Dactylis glomerata</i>	Cock's-foot
<i>Fagus sylvatica</i>	Beech
<i>Festuca rubra</i>	Red fescue
<i>Fraxinus excelsior</i>	Ash
<i>Fumaria officinalis</i>	Common fumitory
<i>Galium aparine</i>	Cleavers
<i>Geum urbanum</i>	Wood avens
<i>Hedera helix</i>	Ivy
<i>Holcus lanatus</i>	Yorkshire-fog
<i>Lamium galeobdolon subs.argentatum</i>	Variegated yellow archangel
<i>Lolium perenne</i>	Perennial rye-grass
<i>Mosses sp.</i>	Mosses sp.
<i>Pinus sylvestris</i>	Scots pine
<i>Plantago lanceolata</i>	Ribwort plantain
<i>Plantago major</i>	Greater plantain
<i>Poa annua</i>	Annual meadow-grass
<i>Prunella vulgaris</i>	Self-heal
<i>Prunus sp.</i>	Cherry sp.
<i>Prunus spinosa</i>	Blackthorn
<i>Quercus robur</i>	Pedunculate Oak
<i>Ranunculus ficaria</i>	Lesser celandine
<i>Rubus fruticosus</i>	Bramble
<i>Rumex acetosa</i>	Common sorrel
<i>Salix caprea</i>	Goat willow
<i>Salix sp.</i>	Willow sp.
<i>Sambucus nigra</i>	Elder
<i>Stachys sylvatica</i>	Hedge woundwort
<i>Taraxacum agg.</i>	Dandelion
<i>Torilis japonica</i>	Upright hedge-parsley
<i>Trifolium repens</i>	White clover
<i>Urtica dioica</i>	Common nettle
<i>Veronica persica</i>	Common field speedwell
<i>Vicia sepium</i>	Bush vetch

Appendix D: Photographic Plates



Plate 1 & Plate 2: Amenity grassland on site.



Plate 3 & Plate 4: Temporary buildings on site.



Plate 5 & Plate 6: Possible entry points for bats within the temporary buildings.



Plate 7: Example of hardstanding on site.



Plate 8 & Plate 9: Hedgerow H1(above left) and Hedgerow H2 (above right).



Plate 10 & Plate 11: Hedgerow H3 (above left) and hedgerow H4 (above right).



Plate 12 & Plate 13: Line of cherry trees (above left) & group of Leylandii trees, formed in a rough line (above right).



Plate 14: Mature trees within hedgerow H4.



Plate 15 & Plate 16: Low bat roost potential feature within cherry tree on site.



Plate 17: Low bat roost potential feature within silver birch.



Plate 18 & Plate 19: Variegated yellow archangel with Hedgerow H4.

Appendix E: Legislation

Species/Habitat	Protected by:	UK BAP	Local BAP
Badger	<i>Protection of Badgers Act, 1992</i>	No	Yes
Barn owl	Schedule 1, Part 1 of the <i>Wildlife and Countryside Act, 1981</i>	No	Yes
Bats	Regulation 42 of <i>The Conservation of Habitats and Species Regulations, 2017</i> Section 9 of the <i>Wildlife and Countryside Act, 1981</i> (as amended) Section 7 of the <i>Environment (Wales) Act 2016</i>	Dependent on species	Dependent on species
Bluebell	Schedule 8 of the <i>Wildlife and Countryside Act, 1981</i> (as amended)	No	Yes
Brown hare	Section 7 of the <i>Environment (Wales) Act 2016</i>	Yes	Yes
Butterflies & Moths	Section 7 of the <i>Environment (Wales) Act 2016</i>	Dependent on species	Dependent on species
Common frog	Provision 5 of Section 9 of the <i>Wildlife and Countryside Act, 1981</i> (as amended)	No	
Common toad	Provision 5 of Section 9 of the <i>Wildlife and Countryside Act, 1981</i> (as amended) Section 7 of the <i>Environment (Wales) Act 2016</i>	Yes	
Cotoneaster	Section 14 of the <i>Wildlife and Countryside Act, 1981</i> (as amended)	No	No
Great crested newt	Regulation 42 of <i>The Conservation of Habitats and Species (Amendment) Regulations, 2017</i> Section 9 of the <i>Wildlife and Countryside Act, 1981</i> (as amended) Section 7 of the <i>Environment (Wales) Act 2016</i>	Yes	Yes
Hedgehogs	Section 7 of the <i>Environment (Wales) Act 2016</i>	Yes	No
Hedgerows	<i>The Hedgerows Regulations, 1997</i>	Yes	Yes
Invasive species	Section 9 of the <i>Wildlife and Countryside Act, 1981</i> (as amended)		
Nesting birds	Section 1 of the <i>Wildlife and Countryside Act, 1981</i>	Dependent on species	Dependent on species
Otters	Regulation 41 of <i>The Conservation of Habitats and Species Regulations, 2017</i> Section 5 of the <i>Wildlife and Countryside Act, 1981</i>	Yes	Yes
Polecat	Section 6 of the <i>Wildlife and Countryside Act, 1981</i> (as amended) Section 7 of the <i>Environment (Wales) Act 2016</i>	Yes	Yes
Water vole	Section 9 of the <i>Wildlife and Countryside Act, 1981</i> (as amended) Section 7 of the <i>Environment (Wales) Act 2016</i>	Yes	Yes
'Widespread'	Provisions 1 and 5 of Section 9 of the <i>Wildlife and</i>	Yes	Dependent

reptiles	<i>Countryside Act, 1981 (as amended)</i>		on species
	Section 7 of the <i>Environment (Wales) Act 2016</i>		

The Conservation of Habitats and Species Regulations, 2017

European protected species are listed on Schedule 2 of the *Conservation of Habitats and Species Regulations 2010*. Those species listed on Schedule 2 are protected under Regulation 41, which refers to the protection of wild animals of a European Protected Species. The following is a summary of the offences listed under Regulation 41, however, the *Conservation Regulations* should always be referred to for the exact and current wording:

Under Regulation 41 of the *Conservation of Habitats and Species Regulations, 2010* it is an offence to –

- deliberately capture or kill a wild animal of a European protected species;
- deliberately disturb wild animals, in particular any disturbance which is likely:
 - to impair their ability to survive, to breed or reproduce, or to rear or nurture their young; or
 - to impair their ability, in the case of animals of a hibernating or migratory species, to hibernate or migrate;
 - to affect significantly the local distribution or abundance of the species to which they belong
- deliberately take or destroy the eggs of such an animal; or
- damage or destroy a breeding site or resting place of such an animal.
- keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal of a European protected species, or any part of, or anything derived from, such an animal.

Wildlife and Countryside Act, 1981 (as amended)

British protected species of animal are listed on Schedule 5 of the *Wildlife and Countryside Act, 1981 (as amended)*. Those species listed on Schedule 5 are protected under Part 1, Section 9, which refers to the protection of certain wild animals. The following is a summary of the offences listed under Section 9; however the Act should always be referred to for the exact and current wording:

Under Section 9 of the *Wildlife and Countryside Act, 1981 (as amended)* if any person –

- intentionally kills, injures or takes any wild animal included in Schedule 5;
- has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from such an animal;
- intentionally or recklessly damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection;
- disturbs any such animal included in Schedule 5 while it is occupying a structure or place which it uses for that purpose;
- sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or,

- 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, he shall be guilty of an offence.

Wildlife and Countryside Act, 1981 (as amended) - Birds

All species of wild bird, their nests and eggs are protected under Section 1 of the *Wildlife and Countryside Act, 1981* (as amended); therefore surveys are required to check for their presence where they are likely to be disturbed for any reason.

The following is a summary of the offences listed under Section 1; however the Act should always be referred to for the exact and current wording:

Under Section 1 of the *Wildlife and Countryside Act, 1981* (as amended), if any person:

- Intentionally kills, injures or takes any wild bird;
- Intentionally takes, damages or destroys the nest of any wild bird while that nest is in use or being built;
- Intentionally takes or destroys an egg or any wild bird, he shall be guilty of an offence;
- Has in his possession or control any live or dead wild bird or any part of, or anything derived from, such a bird; or
- Has in his possession or control an egg of any wild bird or any part of such an egg, he shall be guilty of an offence.

Schedule 1 (Part 1 and Part 2) of the *Wildlife and Countryside Act, 1981* (as amended) lists bird species that receive special attention under Section 1. Any person convicted of an offence listed above, in respect of a bird included in Schedule 1 or any part of, or anything derived from, such a bird; the nest of such a bird; or an egg of such a bird or any part of such an egg, shall be liable to a special penalty.

Also, if any person intentionally or recklessly disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird, he shall be guilty of an offence and liable to a special penalty.

Schedules 1, 2, 3 and 4 of the *Wildlife and Countryside Act, 1981* (as amended) list different species of bird and different Parts of Section 1 of the Act refer to different offences which may be committed in relation to the varying Schedules. The following is a summary of the type of protection offered to species of wild bird listed on each of the Schedules, however the Act itself should always be referred to for the exact and current wording and full species lists:

Schedule 1: Birds which are protected by special penalties:

Part 1: At all times.

Part 2: During the close season.

Schedule 2: Birds which may be killed or taken:

Part 1: Outside the close season.

Part 2: By authorised persons at all times.

Schedule 3: Birds which may be sold:

Part 1: Alive at all times if ringed and bred in captivity.

Part 2: Dead at all times.

Part 3: Dead from 1st September to 28th February.

Schedule 4: Birds which must be registered and ringed if kept in captivity.

The Environment (Wales) Act, 2016

Section 7 of the *Environment (Wales) Act, 2016* replaces the duty in Section 42 of the *Natural Environment and Rural Communities (NERC) Act, 2006* (as amended). Section 7 comprises a list of species and habitats of principle importance which is the same as the list under the superseded Section 42 of the *NERC Act, 2006*. The *Environment (Wales) Act* itself should be referred to for the exact and current wording however a summary is detailed below:

- The Welsh Ministers will publish, review and revise lists of living organisms and types of habitat in Wales, which they consider are of key significance to sustain and improve biodiversity in relation to Wales;
- They must therefore consider any appropriate evidence, for example as provided in the State of Natural Resources Report, and also engage with any relevant stakeholders;
- The Welsh Ministers must also take all reasonable steps to maintain and enhance the living organisms and types of habitat included in any list published under this section, and encourage others to take such steps.

The Hedgerow Regulations, 1997

Hedgerows are distinctive features in the countryside and are the traditional type of field boundary in many areas of England and Wales. Many of these date back to the original enclosure of the land and so are of historic interest and importance.

Hedgerows (particularly older hedgerows) can contain a diverse mix of species and provide important links between other areas of habitat thus allowing wildlife to disperse. This role that hedgerows play in conserving and enhancing biodiversity is recognised by the UK BAP for this habitat type.

Hedgerows which meet certain criteria are protected by *The Hedgerows Regulations, 1997*. The aim of the Regulations is to protect important hedgerows in the countryside by controlling their removal through a system of notification. Under the Regulations it is against the law to remove or destroy certain hedgerows without permission from the Local Planning Authority (LPA). The criteria used to assess hedgerows relate to the value of a hedgerow from an archaeological, historical, landscape or wildlife perspective. They exclude hedgerows that are less than 30 years old. If a hedgerow is at least 30 years old and qualifies under any one of the criteria, then it is important and LPA approval is required before it can be lawfully removed or destroyed.

Removal of a hedgerow in contravention of the Regulations is a criminal offence, punishable in some cases in the Magistrates Court, by a fine of up to £5,000. For anyone convicted on indictment in the Crown Court, the fine is unlimited.

If a hedgerow is over 30 years old and meets the criteria in the Regulations it is classified as 'important'. A summary of the criteria is set out below, however, *The Hedgerow Regulations, 1997* should be referred to for the exact and current wording:

- Marks a pre-1850 parish or township boundary; or
- Incorporates an archaeological; or
- Is part of, or associated with, an archaeological site; or
- Marks the boundary of, or is associated with, a pre-1600 estate or manor; or
- Forms an integral part of a pre-Parliamentary enclosure field system; or
- Contains certain categories of species of birds, animals or plants listed in the Wildlife and Countryside Act or Joint Nature Conservation Committee (JNCC) publications.

- Includes:
 - At least 7 woody species, on average, in a 30 metre length; or
 - At least 6 woody species, on average, in a 30 metre length and has at least 3 associated features; or
 - At least 6 woody species, on average, in a 30 metre length, including a black-poplar tree, or large-leaved lime, or a small-leaved lime, or wild service-tree; or
 - At least 5 woody species, on average, in a 30 metre length and has at least 4 associated features.
- Runs alongside a bridleway, footpath, road used as a public path, or byway open to all traffic and includes at least 4 woody species, on average, in a 30 metre length and has at least 2 of the associated features listed at (i) to (v) below.

(Note: The number of woody species is reduced by one in the North of England (which does not include Cheshire). The list of 56 woody species comprises mainly shrubs and trees. It generally excludes climbers (such as clematis, honeysuckle and bramble) but includes wild roses)

Associated features:

- (i) A bank or wall supporting the hedgerow;
- (ii) Less than 10% gaps;
- (iii) On average, at least one tree per 50 metres;
- (iv) At least 3 species from a list of 57 woodland plants;
- (v) A ditch;
- (vi) A number of connections with other hedgerows, ponds or woodland; and
- (vii) A parallel hedge within 15 metres.

The Protection of Badgers Act, 1992

The following is a summary of the offences contained in the Act; however the *Protection of Badgers Act, 1992* itself should always be referred to for the exact and current wording.

Under the *Protection of Badgers Act, 1992* a person is guilty of an offence if, except as permitted by or under this Act he:

- wilfully kills, injures or takes, or attempts to kill, injure or take, a badger;
- has in his possession or under his control any dead badger or any part of, or anything derived from, a dead badger;
- cruelly ill-treats a badger;
- uses badger tongs in the course of killing or taking, or attempting to kill or take, a badger;
- digs for a badger; or,
- sells a live badger or offers one for sale or has a live badger in his possession or control.

A person is also guilty of committing an offence under the *Protection of Badgers Act, 1992* if he intentionally or recklessly interferes with a badger sett by doing any of the following things:

- damaging a badger sett or any part of it;
- destroying a badger sett;
- obstructing access to, or any entrance of, a badger sett;
- causing a dog to enter a badger sett; or,

- disturbing a badger when it is occupying a badger sett,

The definition of a badger sett within the meaning of the 1992 Act is given as “any structure or place, which displays signs indicating current use by a badger”. ‘Current’ is not defined in the Act, and may be open to interpretation. Natural England indicates that a sett is in ‘current’ use if it has been occupied at all over the previous 12 months. Whatever the interpretation of ‘current use’ however, it is important to note that a sett is protected whether or not there is a badger actually in residence at the time of inspection.

Natural England Guidelines (which is also referred to in Wales) state that work that disturbs badgers or their setts is illegal if not carried out under licence. Badgers could be disturbed by work near their sett even if there is no direct interference or damage to the sett itself, for example, using very heavy machinery within 30 metres of an active sett. Lighter machinery (particularly for any digging operation) within 20 metres, or light work such as hand digging or scrub clearance within 10 metres of an active sett, all require a licence. There are some activities which can cause disturbance at a far greater distance (such as using explosives or pile driving) and should therefore be given individual consideration. Certain criteria must be met before a licence can be issued to enable otherwise prohibited works to proceed. Such criteria may be subject to change without notice.

Timing of operations should also be considered. If required, site-specific badger disturbance licences are normally only issued between the months of July and October so as to avoid the badger’s breeding season. This aspect should be borne in mind when assessing any possible constraints upon the development timetable.



Bickley Hall Farm
Bickley
Malpas
Cheshire
SY14 8EF

Tel: 01948 820229