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Land South of Dismantled Railway, Main Road, Old Rhosrobin, Wrexham

Great Crested Newt Strategy

Prepared for:

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Date of Issue: 30 September 2015

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1.1 DS Holmes have submitted an Outline Planning Application (P/2015/0260) to develop 1.92 hectares at the land south of the dismantled railway line Main Road, Wrexham, (National Grid Reference SJ3255052750) hereon after referred to the application site, which includes the provision of 50 residential dwellings and open amenity space. The application boundary is shown in the Red Line boundary with land in the same ownership shown in blue; (Figure 1) the proposed application site plan is shown in Figure 2.

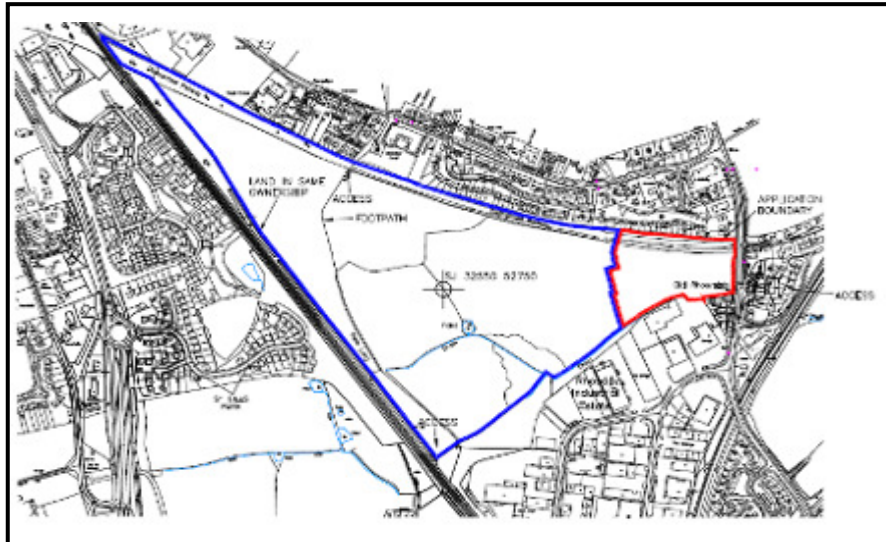


Figure 1: Application boundary



Figure 2: Proposed site plan

- 1.2 As part of a non-related development application to the north east; the application site and adjacent land has been subjected to detailed presence/absence Great crested newts (GCN) surveys during 2014 (Cheshire Ecology Ltd). The surveys resulted in confirmed presence of GCN at two ponds i.e. 1 & 2 (Figure 3) that lie outside of the application boundaries but within the land that is under the same ownership of the applicant. Survey results indicated Low and Medium sized GCN populations.

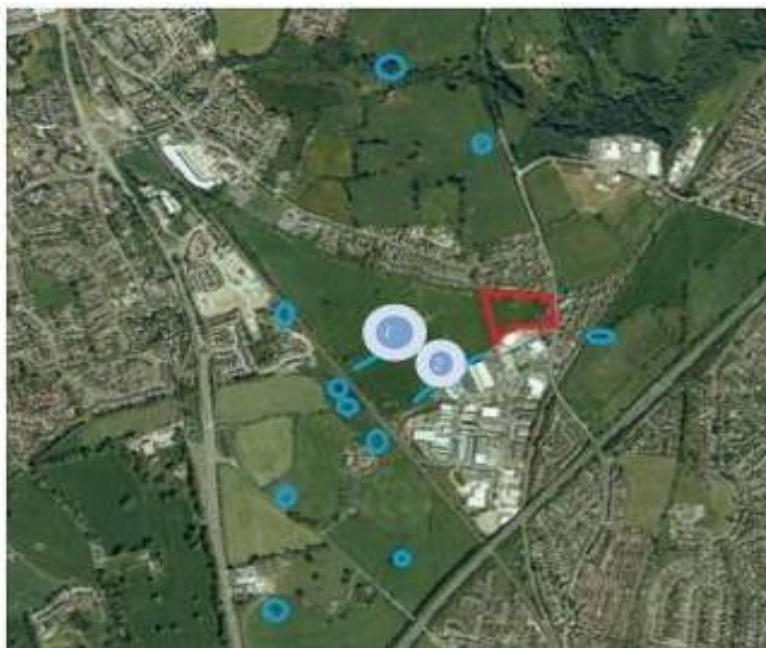


Figure 3

- 1.3 A previous Outline Planning Application for a 1ha development (reference P/2014/0515) was refused by Wrexham Borough Council for a number of reasons one of which related to GCN see below.

5. Insufficient information has been submitted to demonstrate that the development will not have a detrimental impact upon the favourable conservation status of Great Crested Newts. Accordingly the development does not accord with policy EC6 of the Wrexham Unitary Development Plan.

In addition Natural Resources Wales (NRW) also made comments (letter dated 27th August 2014) relative to the same species which mentioned:-

Great crested newts are considered likely to be present, therefore we advise development proceeds, under a licence issued by the NRW, who is the appropriate authority responsible for issuing licences under Regulation 53 (2) (e) of the above Regulations. This licence can only be issued for the purposes of: "preserving public health or public safety or other imperative reasons of:-

Overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment."

*Furthermore, the licence can only be issued by NRW on condition that there is:
“no satisfactory alternative” and that*

“the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.”

The proposal has the potential to cause disturbance to individuals and/or cause damage or destruction to their breeding sites or resting place. Additional ecological information is known from the area. This includes surveillance carried out by other parties and modelling work carried out for NRW and Wrexham County Borough Council. Great crested newts are considered likely to be present, therefore we advise development proceeds, under a licence issued by the NRW, who is the appropriate authority responsible for issuing licences under Regulation 53 (2) (e) of the above Regulations.

We advise consideration being given to modelling work commissioned by the local planning authority. Modelling can be used to inform the location of the compensation to ensure connectivity and overall functionality of the landscape for the species.

2.0 GCN Mitigation/Strategy

- 2.1 Following the NRW and LPA comments a mitigation scheme was submitted with the current Outline Planning application. (Tyrer Partnership March 2014) Whilst the principle and detail of the mitigation appears to be acceptable to NRW the long term conservation of GCN within the locality requires addressing in as much as developments will need to take into consideration the GCN modelling work carried out for NRW and Wrexham County Borough Council. To achieve these aims a strategy will be required, which can demonstrate that current and future developments will not have a cumulative impact by way of habitat loss or fragmentation, which will lead to a demise of the favourable conservation status of GCN in the County of Wrexham.

3.0 Background to Amphibian & Reptile Conservation (ARC) Predictive Modelling

- 3.1 In 2011 ARC undertook a study relative to the *Predictive Modelling of Key Herpetofauna Species in North Wales*, (Appendix I) which aimed at predicting the potential distribution of four species in North Wales including the great crested newt (*Triturus cristatus*) The model was built with a large number of records as well as predicting suitable habitat for a large proportion of Flintshire, Denbighshire and Wrexham (cf. Arnell and Wilkinson) when applied to Gwynedd and Conwy it also highlighted the north of Conwy as being suitable and contiguous with the North East metapopulation.
- 3.2 The combination of two great crested newt models shows a North Wales distribution pattern that concurs with previous modelling work. It was concluded that modelling work provides an objective and useful tool from which to target further survey work, highlight potential reintroduction sites or focus habitat creation efforts.
- 3.3 The relevance of the modelling work and the proposed application site and its immediate environs is that the Local Planning Authority are better informed in relation to the possible presence of a European Protected Species (EPS) when determining planning applications that will or may have an adverse impact on such species.

- 3.4 In having this information they find themselves in a more favourable position when deciding whether or not detailed surveys are required to support an application and if an application has the potential to directly or indirectly impact upon the species concerned. Direct impact typically is loss of terrestrial habitat, hibernacula or breeding ponds, indirect impact can occur by way of habitat fragmentation and or isolation from breeding sites, foraging habitat or hibernacula.
- 3.5 Whilst impact by development at any specific site may vary and in some cases be classed as low the cumulative effect of impact on several sites in close proximity to each other is likely to have an overall adverse impact on the localised population and possibly extend to wider populations, particularly when fragmentation or isolation occurs, which could prevent any displaced individuals from re-colonising or interacting with populations at other sites.
- 3.6 In addition The Important Areas for Ponds (IAPs) project was set up to identify, and so help protect, networks of the most important ponds for their biodiversity. In Wales, the identification of IAPs is an essential precursor to effective practical pond conservation initiatives, including development of a national pond monitoring programme, protection of high quality ponds and a programme of high quality pond creation. The IAPs project in Wales has also provided the first test of this new approach to pond conservation in the UK; Figures 4 & 5 shows the results of the project relative to North East Wales.
- 3.7 The North-east Wales IAP covers the three counties of Flintshire, Denbighshire and Wrexham. This area supports large numbers of natural and man-made ponds with a very high pond density exceeding 30 ponds per square kilometre (18 times the national average) in parts of Wrexham County. The North-east Wales IAP has three SACs and a number of SSSIs designated for their Great Crested Newt (*Triturus cristatus*) populations. The presence of a high density of populations of the Habitats Directive Annex II species Great Crested Newt (*T. cristatus*) is justification for making the whole of North-east Wales an IAP of European importance.

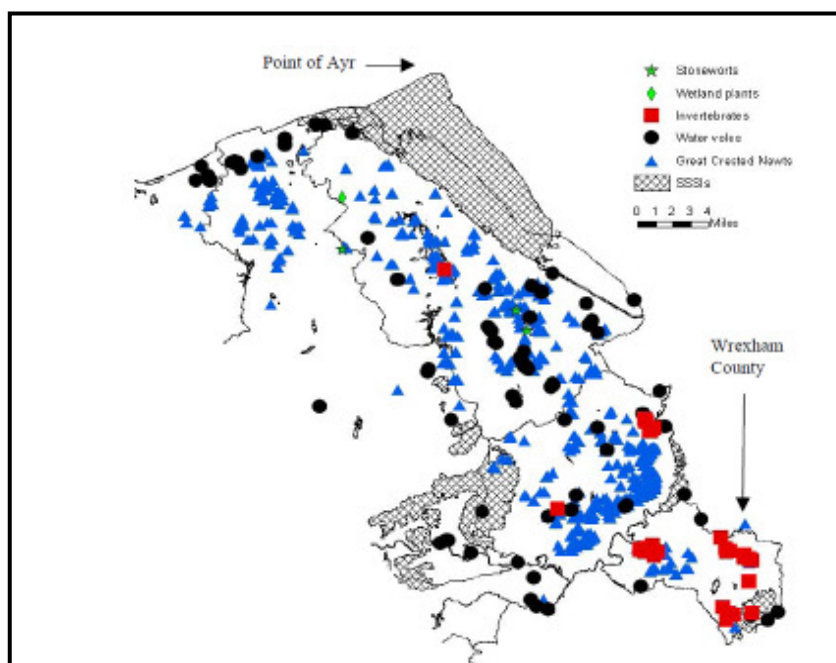


Figure 4

Summary of site features and qualifying criteria

Site name	North-east Wales Ponds
SSSI and SAC designation	IAP ponds occur within SSSIs and three SACs: • Halkyn Mountain/Mynydd Helygain. • Deeside and Buckley Newt Sites. • Johnstown Newt Sites.
IAP qualifying criteria	<i>Criterion 2:</i> Annex II, RDB, NS and BAP species. <i>Criterion 5:</i> Marl pits, kettle holes.
Ordnance survey grid reference: SJ1872	

Figure 5

4.0 Current and favourable conservation status

- 4.1 The great crested newt is still quite widespread in Britain; the species has suffered a decline in recent years with studies in the 1980s indicating a national rate of colony loss of approximately 2% over five years. The great crested newt is listed on Annexes II and IV of the EC Habitats Directive and Appendix II of the Bern Convention. It is protected under Schedule 2 of the Conservation (Natural Habitats, etc.) Regulations, 1994, (Regulation 38) and Schedule 5 of the WCA 1981.

The number of ponds known to have great crested newts in Wales is estimated to be in over 1000. Of these over 800 are known to occur in North East Wales. Within North East Wales, 400+ have been recorded Wrexham; 250+ in Flintshire; 100+ in Denbighshire and 15+ in Conwy. Pond distribution data suggest that many additional sites suitable for the great crested newt exist within Wrexham and Flintshire.

Clearly from the above figures/references it can be seen that Wrexham is an important County relative to the distribution of GCN in North East Wales. It is for this reason why the pondscape of NE Wales is considered to be of European importance (Ponds Conservation Trust) **

CCW; now Natural Resources Wales (NRW) has compiled an inventory of known sites in North East Wales; North East Wales Amphibian and Reptile Network (NEWARN) co-ordinates survey, surveillance and monitoring in Flintshire, Denbighshire and Wrexham as well as disseminating the latest research and up-to-date advice. CCW commissioned field studies on the distribution and status of the species in North East Wales between 1991 and 1993. Annual surveillance and monitoring have been carried out on selected key sites since 1993.

**Nicolet, P, Weatherby, A, Biggs, J Williams, P and Hatton-Ellis, T .(2007). A Preliminary assessment of Important Areas for Ponds (IAPs) in Wales. Ponds Conservation Trust/Countryside Council for Wales

4.2 **Current factors causing loss or decline**

Loss of suitable breeding ponds caused by water table reduction, in-filling for development, farming, waste disposal, neglect or fish stocking, invasive species, the degradation, loss/fragmentation of terrestrial habitats; pollution and toxic effects of agrochemicals.

4.3 **Favourable conservation**

Within Wrexham's Biodiversity Action Plan the following objectives and targets aim to maintain the favourable conservation status of the species concerned:-

- To maintain existing populations of great crested newt in Wrexham. Ensure that the current range does not decline from its extent.
- Maintain and establish extensive networks of suitable habitat within pond clusters and associated pond landscapes (pondscapes) in Wrexham.
- Increase populations in areas where numbers are not viable in the long term.
- Establish the true status of the species within Wrexham.
- Promote greater awareness, understanding and support for great crested newt conservation.

Links to Other Action Plans

- Pond Action Plan - Wrexham BAP 2002
- Woodland Action Plan - Wrexham BAP 2002
- Derelict & Industrial
- Land Action Plan - Wrexham BAP 2003
- Hedgerow Action Plan - Wrexham BAP 2004

5.0 **Objectives of the Strategy**

- To create a framework to inform any future development to ensure no detriment to the maintenance of the favourable conservation status of the GCN population(s) at this site
- Ensure the long term provision of amphibian habitat along the western half of the study area
- Ensure long term functionality of amphibian populations
- To evidence the maintenance of and/or restoration to, the favourable conservation status of great crested newt populations at this locality
- To evidence the implementation of Article 10 of the Habitats Directive

- 5.1 The aims and objectives of the strategy will support Wrexham's Biodiversity Action Plan relative to GCN and in doing so will contribute to the maintenance of existing populations and ensure that the current range does not decline from its extent. The 2014 Extended Phase 1 Survey Report and subsequent GCN mitigation compiled by the Tyrer Partnership make recommendations for these species, which will be supplemented by planning conditions. The creation and management of a dedicated GCN conservation area on the site will ensure that habitat for these species is maintained in the long term.

- 5.2 In implementing the strategy at this site it should enable the LPA to move forward with the current or any future Planning Applications in the locality with the confidence that measures are in place to protect and enhance GCN populations and in doing will meet their obligations under the Habitats & Species Regulations 2010 (as amended). In addition from a localised perspective the presence of protected species, i.e. GCN is a material consideration which must be addressed by local planning authorities when considering a development proposal which would be likely to result in harm to a species or its habitat.
- 5.3 Various Articles contained within the Habitats Directive are relevant when producing the GCN strategy. A summary of the relevant legislation considered to be material to the public decision making process in respect of application number 01/2014/1330 is shown below.

Article 1: Conservation as a part of the Directive means a series of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable status (FCS)

Article 2.2: Measures taken to achieve the FCS within the Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest

Article 10: Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora. Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.

Article 12: Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:-

- All forms of deliberate capture or killing of specimens of these species in the wild
- Deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration
- Deterioration, destruction or deterioration of breeding sites or resting places

Article 15: In respect of the capture or killing of species of wild fauna listed in Annex V (a) and in cases where, in accordance with Article 16, derogations are applied to the taking, capture or killing of species listed in Annex IV (a), Member States shall prohibit the use of all indiscriminate means capable of causing local disappearance of, or serious disturbance to, populations of such species.

Article 16: Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Member States may derogate from the provisions of Articles 12, 13, 14 and 15 (a) and (b):

It should be noted that “a do nothing” approach can be considered; however at the proposed development site this is not an option as it would not allow development to be undertaken at land which is included in Wrexham Council land allocation plans; therefore derogation from Article 12 is required.

In context with the Strategy the two main points of Article 12 &16 and derogation are that the derogation is:-

- In the interest of protecting wild fauna and flora and conserving natural habitats
- In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment

6.0 Spatial zones

- 6.1 Within Wrexham spatial zones have been produced that aim to identify areas that may be set aside for development but also identify locations, based on the ARC modelling, that will provide mitigation or long term habitat retention/creation for GCN. (See Appendix II: Great crested newt Master Plan (Wrexham Council) The zones will provide the LPA with a coherent approach to development and the protection of GCN which can reduce time spent on decision making which will benefit the LPA planning department and planning applicants alike.

7.0 Compensation & Development

- 7.1 A mitigation plan relative to the current proposed development which aims to ensure GCN conservation and connectivity at the site is shown in Appendix III. Appendix IV shows the overall strategy plan; the rationale of this plan is based on the current knowledge of GCN populations at and in close proximity to the site and that it represents the most productive way of ensuring that fragmentation or isolation of GCN populations will not occur as a result of any future development.
- 7.2 As part of any future development at the site a minimum 1:1 ratio for replacement loss of terrestrial habitat, hibernacula or/and ponds would be implemented. The compensation would ensure that the mitigation proposed compliments existing mitigation and that connectivity to the immediate and extending landscape and other mitigation sites is created. The implementation of such compensation broadly concurs with the principle of the GCN “Master Plan” that has been produced by Wrexham Borough Council.

8.0 Long Term Site Security, Surveillance, Management & Wardening

- 8.1 Land that will be identified within a compensation scheme will be transferred to an appropriate organisation that have the necessary expertise and personnel to undertake the long term security of the site e.g. to a third sector body such Amphibian & Reptile Conservation (ARC) or a local wildlife trust; the transfer would be legally secured by a Section 106 agreement or similar covenant and would be itemised as a Condition within any future planning Consent at the site.

Long term management, surveillance and wardening would be the responsibility of the chosen organisation as they are best placed to undertake the work and are involved in similar projects within the locality.

A Biosecurity scheme is an important factor when considering land disturbance and import of aggregates and other constructional materials; equally so it is important to ensure that there are no invasive species at or near to a development site that can be exported off site. To this effect a method statement will be produced to outline what measures will be taken prior to any work commencing at the site and during the construction phase, which would include surveys to establish the presence/absence of invasive species at a proposed development site. Biosecurity measures will also include consideration of diseases, such as Chytrid.

9.0 Funding Resource Provision

- 9.1 Land that will form part of compensation, relative to GCN, in context with any future will, in perpetuity, be transferred to an organisation, such as (ARC) who has previously indicated that they would be willing to accept the transfer of compensatory land. In order to fund the compensation, management and monitoring it is anticipated, subject to legal agreement that an initial commuted sum will be provided to create mitigation. Following the incorporation of mitigation a proportion of ground rent or similar from any future development will be allocated to the chosen organisation in order that they can carry out their functions relative to management and monitoring; the ongoing funding would be indexed linked to prevent the devaluation of the funds relative to any annual rising costs. Funding will be secured by a Section 106 Agreement or similar covenant and would be itemised as a Condition within any future planning Consent at the site.

10.0 Consistency/Compliance with legislation and policy

- 10.1 The proposed Strategy will ensure that Wrexham Council, as a “Competent” Authority under the terms of the Habitat Directive will meet their obligations placed upon them and in doing so will comply with all UK, European legislation/policies and their own Environmental Policies. In addition the Strategy will ensure that any consent will be compliant with the provisions of the Natural Environment and Rural Communities Act 2006; Wrexham Council has a duty to have regard to biodiversity conservation through the determination of planning applications.
- 10.2 Planning Policy Wales Technical Advice Note 5: Nature Conservation and Planning provides informative guidance relevant to protected species and the Planning System. (See Table below) Paragraph 6.3.7 states *“It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either would not impact adversely on any European protected species on the site or that, in its opinion, all three tests for the eventual grant of a regulation 53 (2) of the Habitats & Species Regulations 2010 (as amended) can be satisfied.*

Summary of Planning Policy

Planning Policy	Key points
Planning Policy Wales Technical Advice Note 5: Nature Conservation and Planning	
<u>Section 6.2 Protected species as a material planning consideration</u> - Presence of a protected species is a material consideration when a local planning authority is considering a development proposal that, if carried out, would be likely to result in disturbance or harm to the species or its habitat. - The presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted. - It is considered best practice that such a survey is carried out before a planning application is submitted. <u>Section 6.3 Protection of European protected species</u> - Developments that would result in a breach of the strict protection afforded to species under the Habitats Directive are required to be covered by derogation under Article 16. - NRW (the licensing authority) must be satisfied when issuing a licence that there is “no satisfactory alternative” and “not detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”. - The planning authority must not grant planning permission without having satisfied itself that the development would either not impact adversely on any European protected species or that all three tests for the grant of a licence are likely to be satisfied.	TAN 5 highlights the need for adequate information relating to protected species when this has been identified as a material planning consideration. This means that survey information should be submitted as part of the planning application. TAN also highlights the need for compliance with Habitats Directive, in particular Article 16. In terms of survey data, it is not felt that updated field surveys at the site would materially add to the assessment under Article 16 of the Habitats Directive.

- 10.3 Based on the information gathered by historic and recent surveys at the site it is concluded that a sufficient level of information has been submitted to inform the public decision making process. Any approval will need to consider derogation under Article 16 of the Habitats Directive and hat derogation licences, (now issued under Regulation 53(2) of the Conservation of Habitats and Species Regulations will be required. It is also concluded that any approval would therefore be in accordance with the provisions of TAN 5 and in accordance with British Standard on Biodiversity (See Table below)

British Standard on Biodiversity ¹	
<u>6.2 Adequacy of ecological information</u> - Provides standards for ecological information to ensure it is fit to inform the decision-making process. <u>8.1 Making decisions based on adequate information</u> - States that the decision-maker should undertake a thorough analysis of the ecological report as part of its wider determination of the application. - Describes what factors should be taken into account. <u>9.2.4 Conditioning additional ecological investigations, surveys and assessments</u> - Makes it clear that use of planning conditions to secure ecological surveys should only be applied in exceptional circumstances. - Examples include where original survey work needs to be repeated as it may be out of date before the development commences, to inform detailed ecological requirements of phased schemes, where adequate information is available to determine the planning permission (i.e. additional surveys would not make a material difference) but where further survey is required to satisfy other consent regimes (e.g. EPS licence), to confirm continued absence of a species or status of mobile species and to provide detailed baseline survey information to inform post-development monitoring.	It emphasises the need for planning decisions to be based on adequate information. Like TAN 5 it highlights that survey information should be provided up front in order for the LPA to have all the required information on EPS to determine the application. It does, however, list exceptional circumstances where conditioning surveys is acceptable, but do not apply in this instance and detailed design of mitigation has been submitted to the LPA

11.0 Long Term Monitoring/Surveillance

- 11.1 Long term monitoring methodology as described in 8.0, 9.0 will be in accordance with current/future local and national long term monitoring programmes; such monitoring will identify if mitigation/compensation is/are successful; if successful the monitoring can provide a modelling regime for other sites; if unsuccessful future mitigation/compensation schemes will benefit from the information so gained.

Land south of dismantled Railway, Main Road, Old Rhosrobin, Wrexham, LL114RL
Great crested newt Strategy

References:

Predictive Modelling of Key Herpetofauna Species in North Wales (ARC)
GCN surveys 2014 (Cheshire Ecology Ltd)
Wrexham Council Biodiversity Action Plan
Wrexham Council Great crested newt Master Plan
Ponds Conservation Trust
Habitats & Species Regulations 2010 (as amended)
Planning Policy Wales Technical Advice Note 5
British Standard on Biodiversity
Natural Environment and Rural Communities Act 2006
North East Wales Amphibian and Reptile Network (NEWARN) (NRW)
Bern Convention
Wildlife & Countryside Act 1981 (as amended)

APPENDIX I

Great crested newt study map

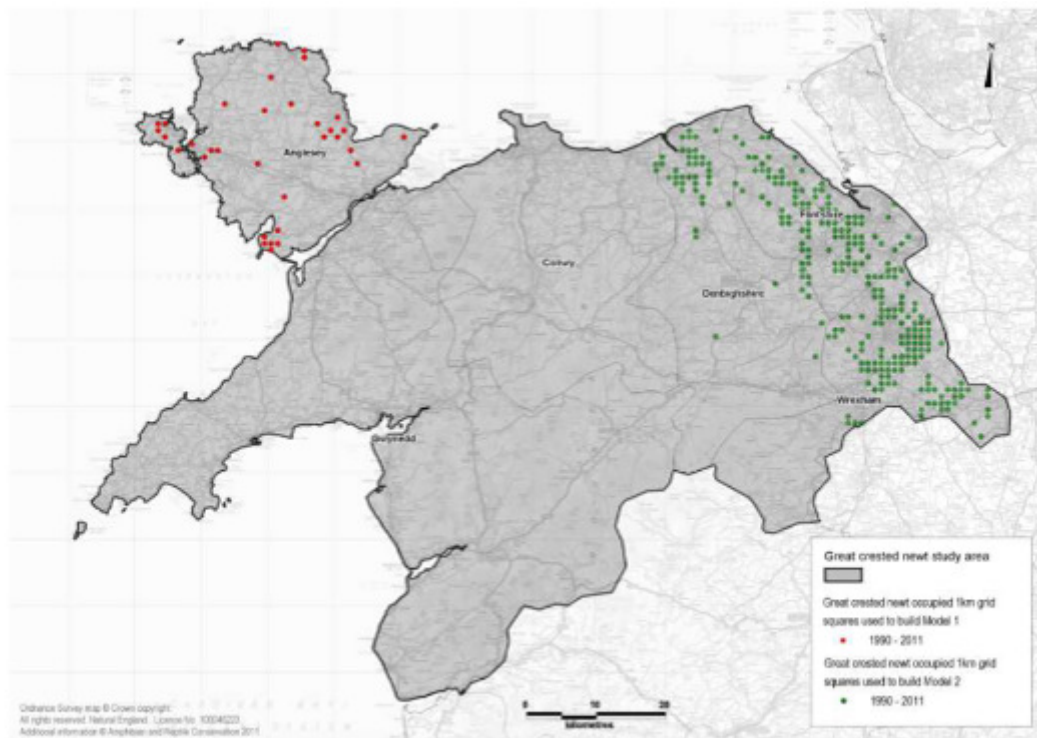
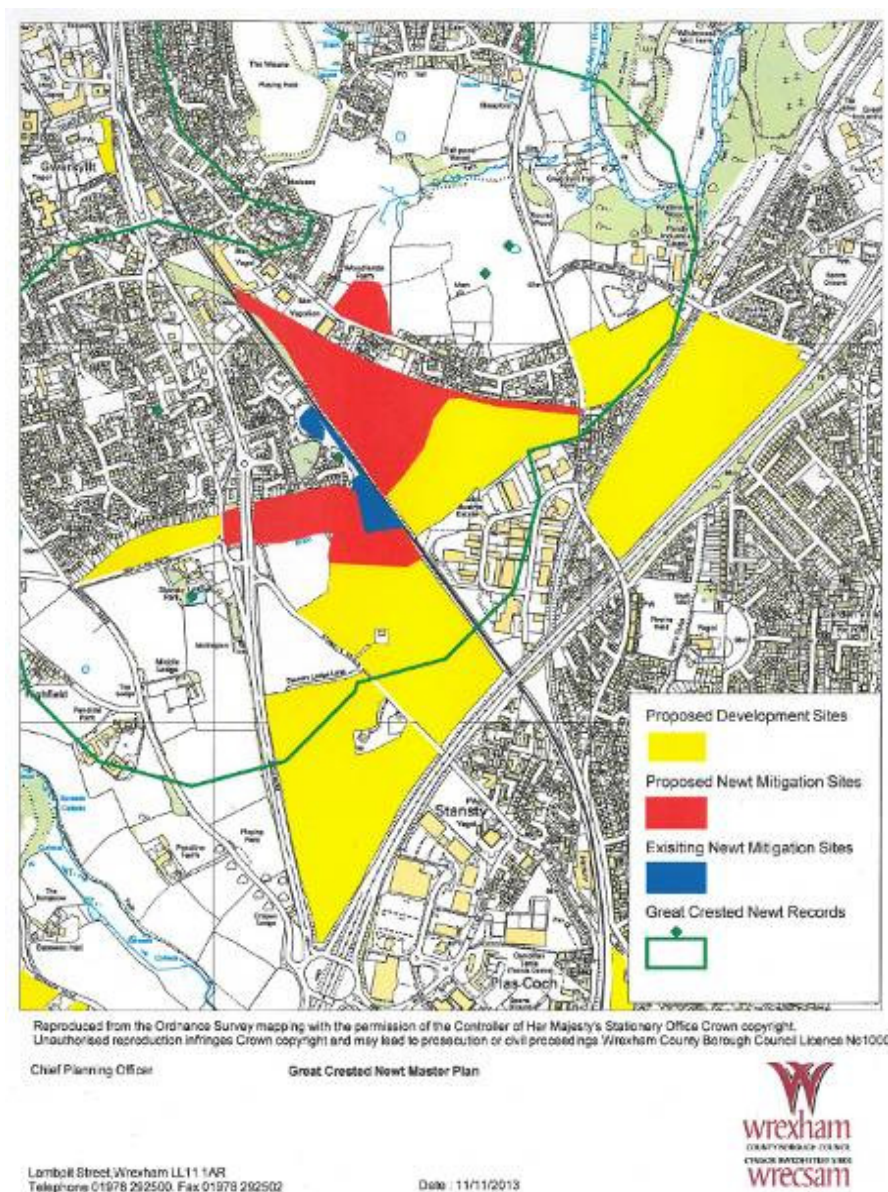


Figure 1. Great crested newt study area in North Wales with occupied 1km grid squares used to build the great crested newt models 1 and 2.

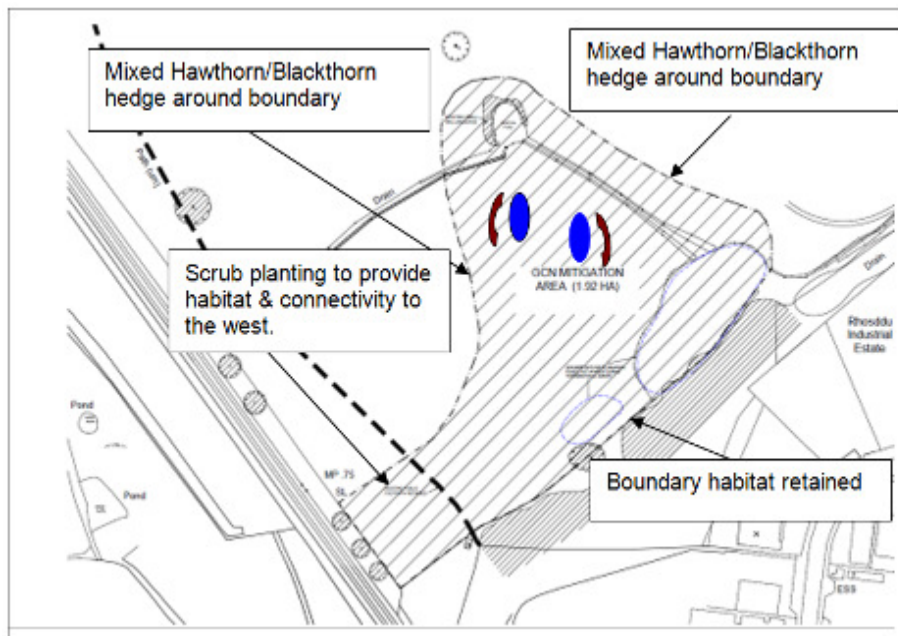
APPENDIX II

Great crested newt Master Plan (Wrexham Council)



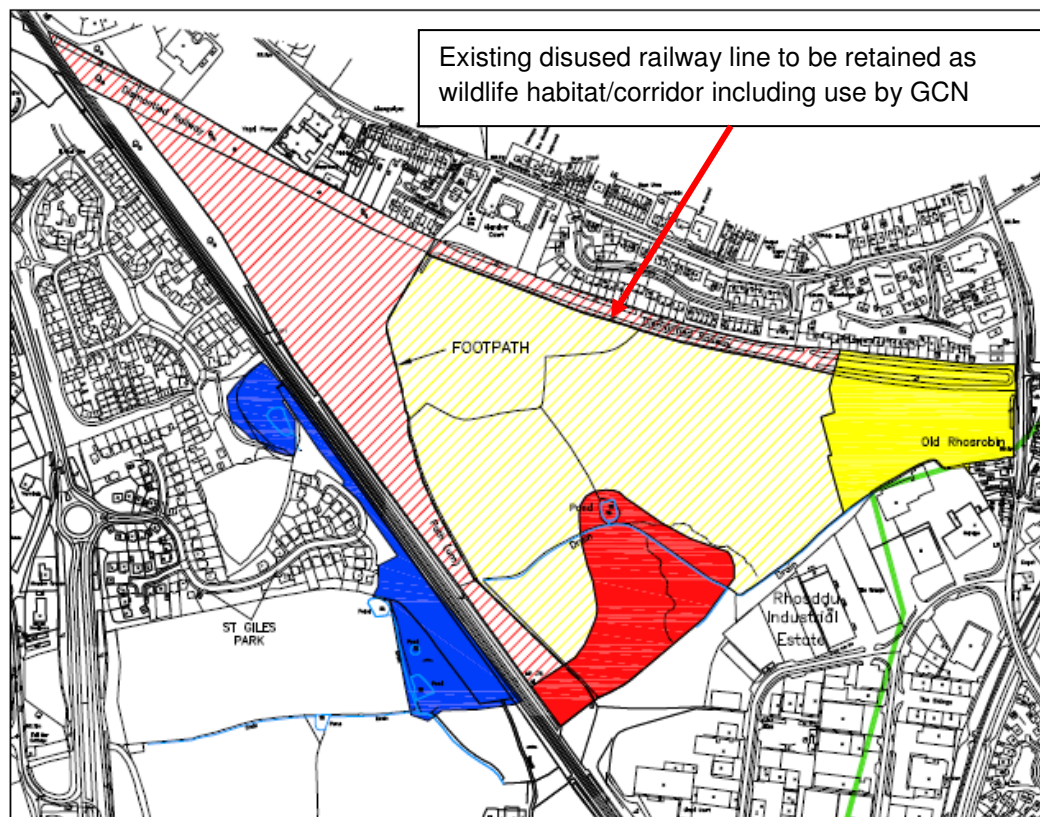
APPENDIX III

Proposed GCN mitigation & connectivity at site level



APPENDIX IV

Overall Great crested newt mitigation strategy



KEY

-  SITE OUTLINE PLANNING APPLICATION AREA
-  PROPOSED GCN MITIGATION IN RELATION TO PLANNING APPLICATION AREA (ABOVE)
-  AREA OF POSSIBLE FUTURE DEVELOPMENT*
-  AREA PROPOSED FOR GCN MITIGATION AS PART OF ANY FUTURE DEVELOPMENT*
-  EXISTING GCN MITIGATION AREA AS INDICATED ON WREXHAM CBC GREAT CRESTED NEWT MASTER PLAN DATED 11 NOVEMBER 2013

* SUBJECT TO PLANNING PERMISSION