



Preliminary Ecological Appraisal Survey

Land adjacent to Grange Road, Cwmbran, Gwent, Wales, NP44 3XX

Cedar Cwmbran Ltd

Status	Issue	Name	Date
Survey Date(s)	0	Chris Formaggia BSc (Joint Hons) CBIol CEnv MCIEEM MRBS VR – Company Principal	03/04/2020
Draft	1	Chris Formaggia BSc (Joint Hons) CBIol CEnv MCIEEM MRBS VR – Company Principal	03/04/2020
Reviewed	1.1	Client Review	15/04/2020
Draft – awaiting BRD	1.2	[Name, Qualifications, Professional Membership, Job Title]	
Final	2	Chris Formaggia BSc (Joint Hons) CBIol CEnv MCIEEM MRBS VR – Company Principal	15/04/2020

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Guidelines

This assessment has been designed to meet:

- Chartered Institute of Ecology and Environmental Management 'Guidelines for Preliminary Ecological Appraisal Second Edition, December 2017';
- Chartered Institute of Ecology and Environmental Management 'Guidelines for Ecological Impact Assessment in the UK and Ireland. Terrestrial, Freshwater, Coastal and Marine, September 2018'; and
- British Standard 42020 (2013) 'Biodiversity – Code of Practice for Planning and Development'.

Proportionality

The work involved in preparing and implementing all ecological surveys, impact assessments and measures for avoidance, mitigation, compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development. Consequently, the decision-maker should only request supporting information and conservation measures that are relevant, necessary and material to the application in question. Similarly, the decision-maker and their consultees should ensure that any comments and advice made over an application are also proportionate.

This approach is enshrined in Government planning guidance, for example, paragraph 193 of the National Planning Policy Framework for England.

The desk studies and field surveys undertaken to provide a preliminary ecological appraisal (PEA) might in some cases be all that is necessary.

(BS 42020, 2013)

In consequence of the scale and intensity of the proposed development, the low impact on ecological receptors identified through both the site survey and search of local biological records, and the passive interface with the mitigation hierarchy, this plan-led report is considered adequate and proportionate. It communicates all relevant information necessary to determine a planning application or support the recommendations for further surveys.

Landscape

NLCA35 – Cardiff, Barry and Newport

Two cities and associated suburbs and satellite towns dominate this part of south-east Wales. They include Wales' capital and largest settlement, Cardiff, as well as Newport, Cwmbran, Pontypool, Penarth and Barry. The area forms a busy transport and development corridor. It occupies the coastal lowlands between the Severn estuary with its levels, and the edge of the South Wales Valleys with their uplands. The area includes major ports at Cardiff, Barry and Newport, and associated industrial infrastructure. There are also extensive residential, suburban areas and major retail, business and recreational facilities. There is an intensive network of busy roads and railways, including part of the M4 corridor. These urban landscapes have expanded across formerly open countryside over the last century. Their economic drivers have changed dramatically from the industrial to post-industrial eras, with much physical restructuring in the change. In places, some of Wales' newest and most innovative urban landscapes are emerging, with iconic new architectural forms and public spaces. Perhaps most notable of all has been the change in Cardiff's docks. In the C19th they were the largest in the world and famous for the export of coal.

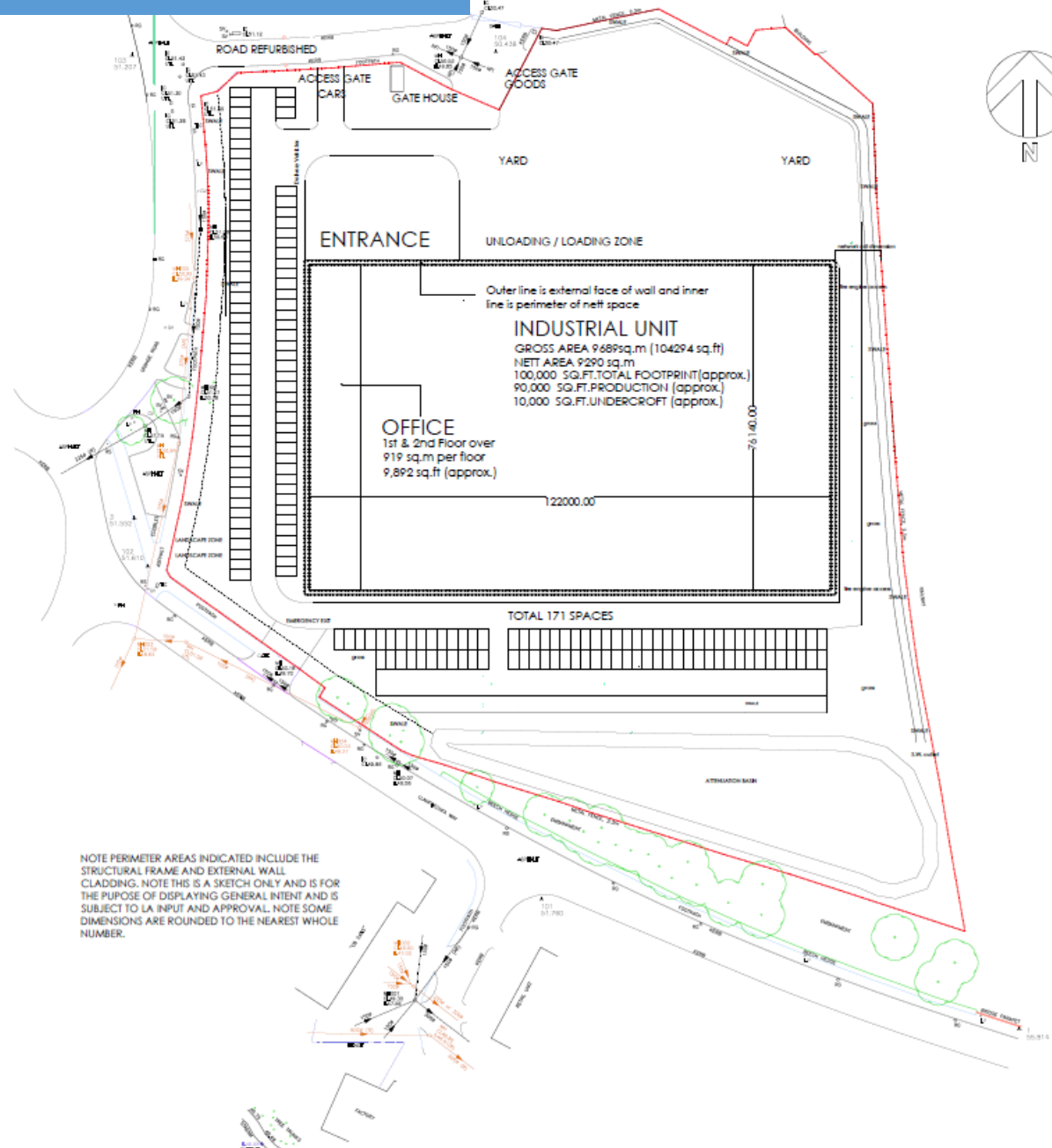
Today coal export is gone and the bay has a barrage. The new landscape is of administration, business, leisure and recreation. The Wales Millennium Centre and the Welsh Assembly Senedd buildings illustrate the extreme nature of functional, physical and perceptual change that has taken place within living memory. Cardiff is now the most popular tourist destination in Wales, it has a number of leading sporting and arts venues, city shopping and a greater cultural and ethnic diversity than in other parts of Wales.

Newport is expanding and evolving quickly too and was granted city status in 2002. The landmark metal transporter bridge (one of only 2 remaining in the UK) symbolises an industrial engineering past. C20th housing estates and new industries symbolise the rapid expansion of the greater city, together with the busy M4 motorway, whilst its riverside redevelopment has resulted in many new buildings and public realm.

Yet despite all this development, the area also includes Wales' only Green belt (around Cardiff) and appealing areas of sylvan woodland, pastures and hedgerows in open countryside. This is particularly notable in the section between greater Cardiff and Newport. Green wedges and corridors also penetrate urban areas, for example along river corridors such as the River Taff through Cardiff, and greenspace in the planned the new town of Cwmbran.

Figure 1: Aerial photo of site, showing landscape structure



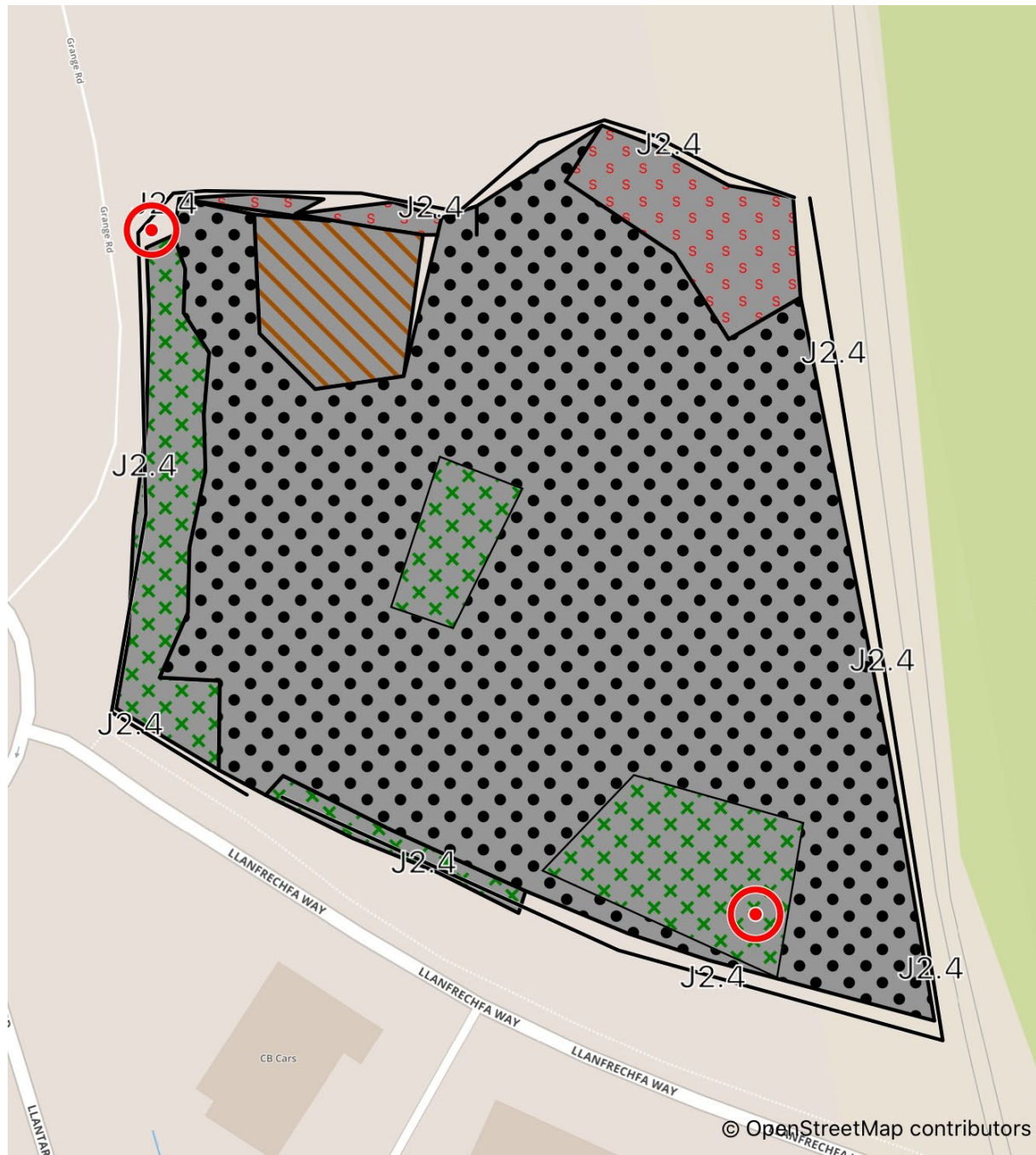







NOTE PERIMETER AREAS INDICATED INCLUDE THE STRUCTURAL FRAME AND EXTERNAL WALL CLADDING. NOTE THIS IS A SKETCH ONLY AND IS FOR THE PURPOSE OF DISPLAYING GENERAL INTENT AND IS SUBJECT TO LA INPUT AND APPROVAL. NOTE SOME DIMENSIONS ARE ROUNDED TO THE NEAREST WHOLE NUMBER.

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CONSTRUCTION RISK	MAINTENANCE CLADDING RISK	DEVELOPMENT ADAPTATION RISK

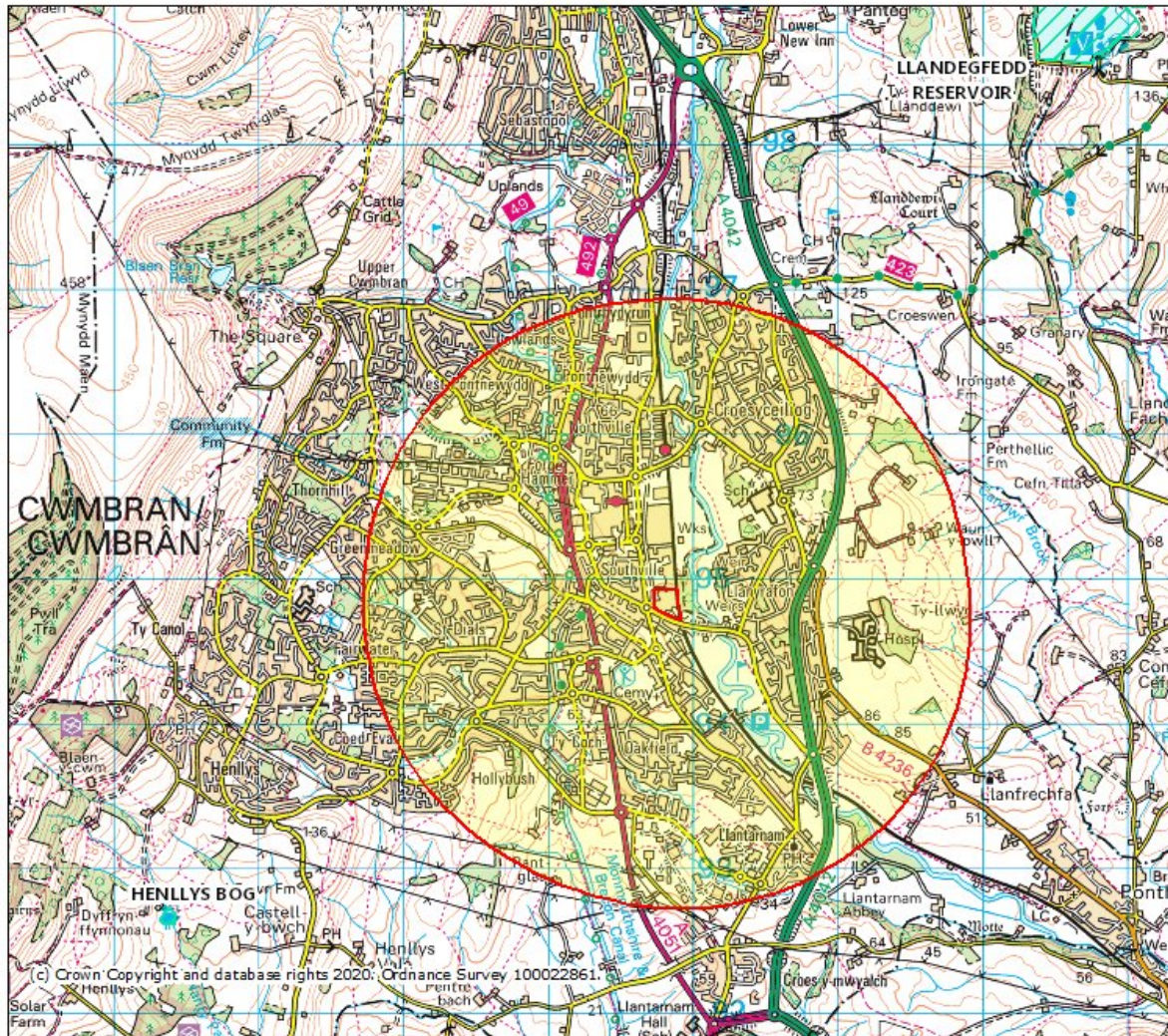
ARCTECH PARTNERSHIP LLP	
NEW FACTORY, GRANGE ROAD, CWMBRAN, NP44 3XX	
NEW FACTORY, GRANGE ROAD, CWMBRAN	
FINAL SKETCH SITE LAYOUT	
CLIENT: CEDAR CWMBRAN LTD	
SCALE: 1:500	DATE: 2014
DATE: 30	APPROVAL:
PROJECT NO: 8514-XX-XX-DR-A-103	



Polygons		
	A2.2	Scrub - scattered
	C3.1	Other tall herb and fern - ruderal
	I2.2	Spoil
	J4	Bare ground
Lines		
	J2.4	Fence



Grange Road Designated Sites



Legend

- National Nature Reserves (Wales)
- Ramsar Sites (Wales)
- Sites of Special Scientific Interest (Wales)
- Special Areas of Conservation (Wales)
- Special Protection Areas (Wales)
- Biosphere Reserves (Wales)
- RSPB Reserves (GB)

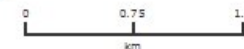
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ymax = 200200



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There are no designated sites within 2km of the site perimeter.

Date: 03/04/2020	
Temperature	14.5°C
Relative Humidity	37%
Cloud Cover	5%
Wind (average 15m)	0.2 mph
Rain	None

Site off Grange Road

Client
Cedar Cwmbran Ltd

Client Ref.
RG1

Surveyor
Chris Formaggia

Surveyor Ref.
CF1

Location
Site off Grange Road, Cwmbran, NP44 3XX

County
Torfaen, Wales

Notes
-

Target Note (#002T) Japanese Knotweed Skeleton

Coordinates

51.648645, -3.017010

Habitat

Unassigned

Notes

Knotweed winter skeleton

Keywords

Miscellaneous: Construction, Industry

Plant Species

-

Priority and Invasive Species

Reynoutria (Fallopia) japonica (Japanese Knotweed)

Polygon (#003P) Western Boundary Scrub

Area/Perimeter

0.15 Ha / 275 m

Habitat

A2.2 - Scrub - scattered

Notes

Dunnoch displaying

Keywords

General: Photograph taken

Management (general): Derelict, Disused, Enclosed, Fenced, Neglected, Scrub control

Damage (general): Dumping, Scrub invasion

Woodland and Scrub: Even age, Recent, Scrubby

Plant Species

Ribes fruticosus agg (Brambe) - DAFOR: Abundant
Carex paniculata (Greater Tussock-Sedge) - DAFOR: Frequent
Hedera helix (Ivy) - DAFOR: Frequent
Rumex spp. (Docks and Sorrels) - DAFOR: Frequent
Salix spp. (Willow) - DAFOR: Frequent
Senecio jacobaea (Common Ragwort) - DAFOR: Frequent
Acer pseudoplatanus (Sycamore) - DAFOR: Occasional
Alnus glutinosa (Alder) - DAFOR: Occasional
Cirsium arvense (Creeping Thistle) - DAFOR: Occasional
Juncus effusus (Soft Rush) - DAFOR: Occasional
Sambucus nigra (Elder) - DAFOR: Occasional
Cytisus scoparius (Sarthamnus scoparius) (Broom) - DAFOR: Rare
Epilobium spp. (Willowherbs) - DAFOR: Rare
Primula vulgaris (Primrose) - DAFOR: Rare

Priority and Invasive Species

Buddleja davidii (Butterfly-bush)
Equisetum arvense (Common Horsetail)
Reynoutria (Fallopia) japonica (Japanese Knotweed)

Polygon (#004P) Scrub line Southern Boundary

Area/Perimeter

0.03 Ha / 135 m

Habitat

A2.2 - Scrub - scattered

Notes

-

Keywords

General: Photograph taken

Management (general): Derelict, Disused, Enclosed, Fenced, Neglected

Damage (general): Disturbance, Dumping, Scrub invasion

Plant Species

Rubus fruticosus agg. (Brambles) - DAFOR: Dominant
Carex paniculata (Greater Tussock-Sedge) - DAFOR: Frequent
Hedera helix (Ivy) - DAFOR: Frequent
Juncus spp. (Rushes) - DAFOR: Frequent
Rumex spp. (Docks and Sorrels) - DAFOR: Frequent
Salix spp. (Willow) - DAFOR: Frequent
Acer pseudoplatanus (Sycamore) - DAFOR: Occasional
Betula spp. (Birch) - DAFOR: Occasional
Epilobium spp. (Willowherbs) - DAFOR: Occasional
Fraxinus excelsior (Ash) - DAFOR: Occasional

Priority and Invasive Species

Buddleja davidii (Butterfly-bush)

Polygon (#005P) Scrub Parch

Area/Perimeter

0.16 Ha / 165 m

Habitat

A2.2 - Scrub - scattered

Notes

-

Keywords

-

Plant Species

Salix spp. (Willow) - DAFOR: Dominant
Juncus spp. (Rushes) - DAFOR: Frequent

Priority and Invasive Species
(Butterfly-bush)

Line (#006L) Perimeter Fence

Length
351 m

Habitat
J2.4 - Fence

Notes
-

Keywords
-

Plant Species
-

Priority and Invasive Species
-

Polygon (#007P) Stockpiles

Area/Perimeter
0.12 Ha / 155 m

Habitat
I2.2 - Spoil

Notes
-

Keywords

-

Plant Species

-

Priority and Invasive Species

-

Polygon (#008P) Scrub Patch

Area/Perimeter

0.06 Ha / 107 m

Habitat

A2.2 - Scrub - scattered

Notes

-

Keywords

General: Photograph taken

Management (general): Derelict, Disused, Neglected

Damage (general): Disturbance, Scrub invasion

Plant Species

Salix spp. (Willow) - DAFOR: Dominant

Betula spp. (Birch) - DAFOR: Occasional

Priority and Invasive Species

Buddleja davidii (Butterfly-bush)

Line (#009L) Boundary Fence

Length

307 m

Habitat

J2.4 - Fence

Notes

-

Keywords

-

Plant Species

-

Priority and Invasive Species

-

Polygon (#011P) Stockpile

Area/Perimeter

0.03 Ha / 156 m

Habitat

I2.2 - Spoil

Notes

-

Keywords

-

Plant Species

-

Priority and Invasive Species

-

Polygon (#012P)

Area/Perimeter

0.12 Ha / 151 m

Habitat

C3.1 - Other tall herb and fern - ruderal

Notes

-

Keywords

-

Plant Species

Rubus fruticosus agg. (Brambles) - DAFOR: Dominant

Juncus spp. (Rushes) - DAFOR: Frequent

Rumex spp. (Docks and Sorrels) - DAFOR: Occasional

Salix spp. (Willow) - DAFOR: Occasional

Priority and Invasive Species

-

Polygon (#013P) Main Site

Area/Perimeter

2.11 Ha / 746 m

Habitat

J4 - Bare ground

Notes

Majority of site is cleared industrial land

5 magpie on ground

Keywords

General: Photograph taken

Geology/Topography: Gravel
Management (general): Derelict, Disused, Neglected
Damage (general): Deer/rabbit damage, Dumping, Scrub invasion
Miscellaneous: Construction, Industry

Plant Species

Betula spp. (Birch) - DAFOR: Occasional
Dipsacus fullonum (Wild Teasel) - DAFOR: Occasional
Epilobium spp. (Willowherbs) - DAFOR: Occasional
Hedera helix (Ivy) - DAFOR: Occasional
Juncus spp. (Rushes) - DAFOR: Occasional
Plantago lanceolata (Ribwort Plantain) - DAFOR: Occasional
Rubus fruticosus agg. (Brambles) - DAFOR: Occasional
Rumex spp. (Docks and Sorrels) - DAFOR: Occasional
Salix spp. (Willow) - DAFOR: Occasional
Sambucus nigra (Elder) - DAFOR: Occasional
Senecio jacobaea (Common Ragwort) - DAFOR: Occasional
Teucrium scorodonia (Wood Sage) - DAFOR: Occasional
Urtica dioica (Common Nettle) - DAFOR: Occasional

Priority and Invasive Species

Buddleja davidii (Butterfly-bush)

Target Note (#014T) Low Nesting Dunnock

Coordinates

51.647257, -3.015036

Habitat

Unassigned

Notes

Active nest

Keywords

-

Plant Species

-

Priority and Invasive Species

-

3.4 Site descriptions and photos

Target Note

A small amount of winter skeleton of Japanese knotweed *Fallopia japonica* close to the north west entrance gate and the boundary with Grange Road.

It appears to be an isolated clump that may be associated with fly-tipping.



Scrub along western boundary

Early age scrub – primarily willows, with some birch and butterfly-bush



Western boundary

Looking south.

Dominant bramble giving way to young scrub.



Scrub- line along southern boundary

Early successional scrub.



Scrub patch on main site

Salix sp. dominated – an active dunnock nest was observed close to ground in a sedge mound



Security fence along western boundary

Adjacent to operational rail -line



Stockpile of aggregate on north east end of site



Scrub patch on main site.



Stockpile bund along northern perimeter



Main Site



3.5 Protected species evidence

There was some evidence of nesting and bird foraging by common woodland/farmland bird species

EVALUATION

Biological Records Search (2km)	Not obtained	
Ecological Receptors	On-site	None. The habitats on site are of negligible nature conservation value. Nesting birds on site. Recommend vegetation clearance outside of nesting bird season or failing that under ecological supervision to ensure active nests are completed before removal.
	Zone of Influence	The site is rather ecologically isolated. There is industrial land to the north, an active road to the west and south and the railway to the east. There are mature trees beyond the site on the southern boundary which should be protected (if necessary) during construction to British Standard.
Mitigation/Compensation Recommended Measures	Avoid	n/a
	Mitigate	The site needs to be re-checked for invasive species later in the growing season. Only a small area of knotweed has been recorded but it would be wise to re-check further into the growing season.
	Compensate	n/a
Ecological Gain	The site has an amount of invasive butterfly-bush that will be cleared and will be a loss to invertebrate foraging. It is recommended that structural planting along the site boundaries with appropriate nectar rich native species could enhance the overall pollination value of the site to invertebrates.	
Limitations	The survey was undertaken early in the survey window and some plant species will not yet be visible.	

FURTHER INVESTIGATION

Survey/Evaluation Type	Specification (No of surveys, survey timings and no of surveyors).	Requirement [v]
Great Crested Newt (GCN) Habitat Suitability Index	No ponds within 500m	
Preliminary Roost Assessment (Bats)	No suitable roost habitat	
Badger Survey	No evidence	

Reptile presence/likely-absence survey	Habitat too poor to support viable populations	
Breeding Bird Survey	Nesting common species present – recommend standard protective planning conditions	
Botanical Survey	No flora of nature conservation value	
GCN eDNA Survey	No ponds within 500m	
Dormouse presence/likely-absence survey	No suitable habitat	
Otter presence/likely-absence survey	Otter are present on the Afon Lwyd to the east but the site is isolated by the rail track and has no suitable habitat.	
Water Vole presence/likely-absence survey	No suitable habitat	
Invasive/Problematic Species Management Plan	Carry out re-check mid-growing season (June/July)	✓
Other (Specify)		

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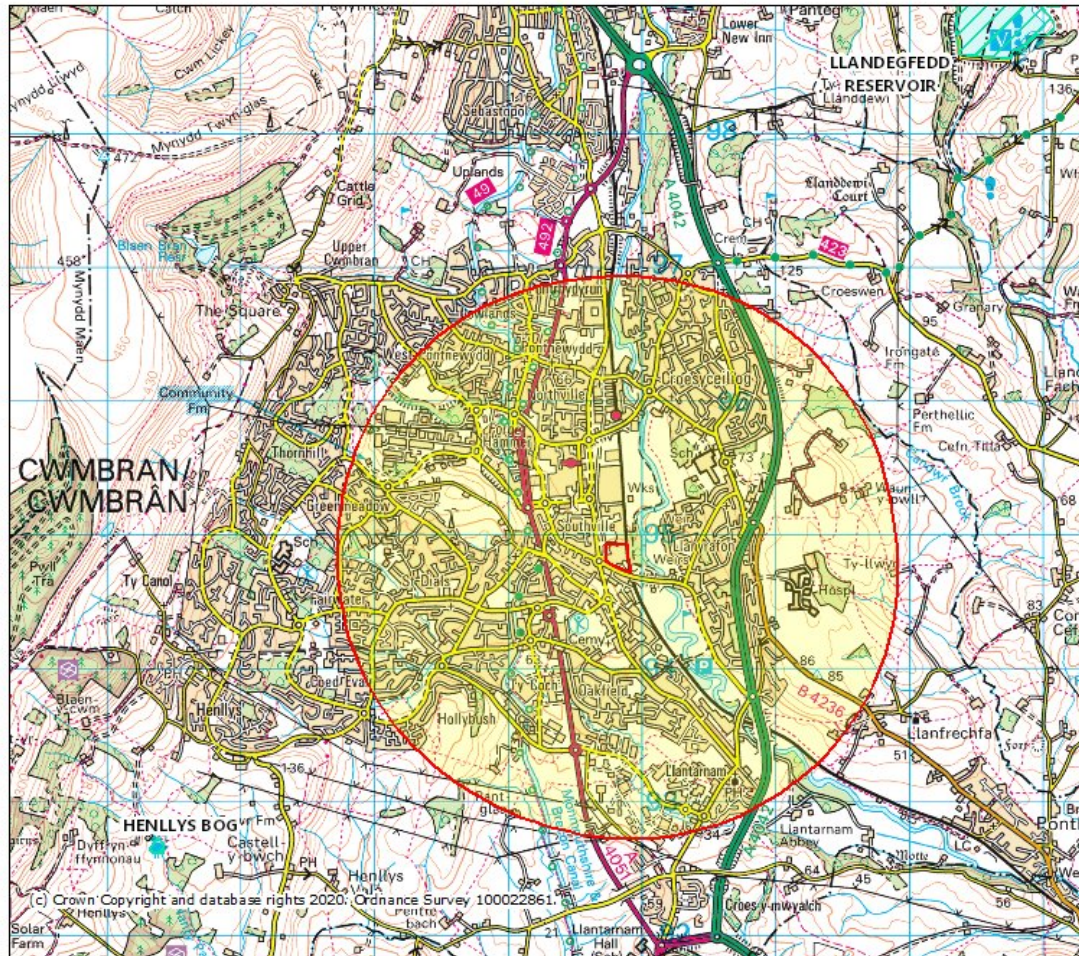
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Appendix 1: Public Database Searches

Full historical records can be provided on request.

MAGIC

Grange Road Designated Sites



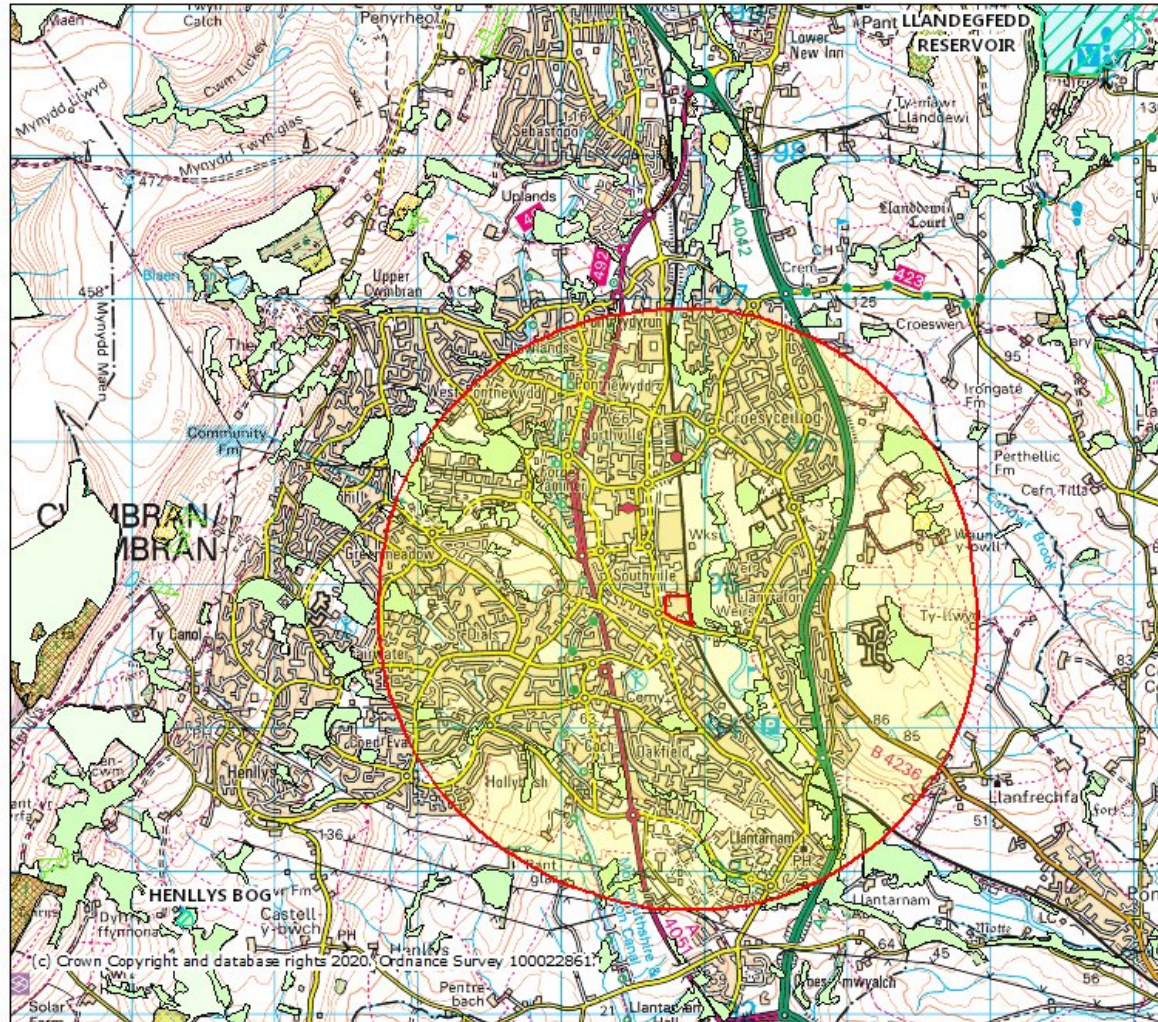
Legend

- National Nature Reserves (Wales)
- Ramsar Sites (Wales)
- Sites of Special Scientific Interest (Wales)
- Special Areas of Conservation (Wales)
- Special Protection Areas (Wales)
- Biosphere Reserves (Wales)
- RSPB Reserves (GB)

Projection = OSGB36
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Grange Road Priority Habitat



Legend

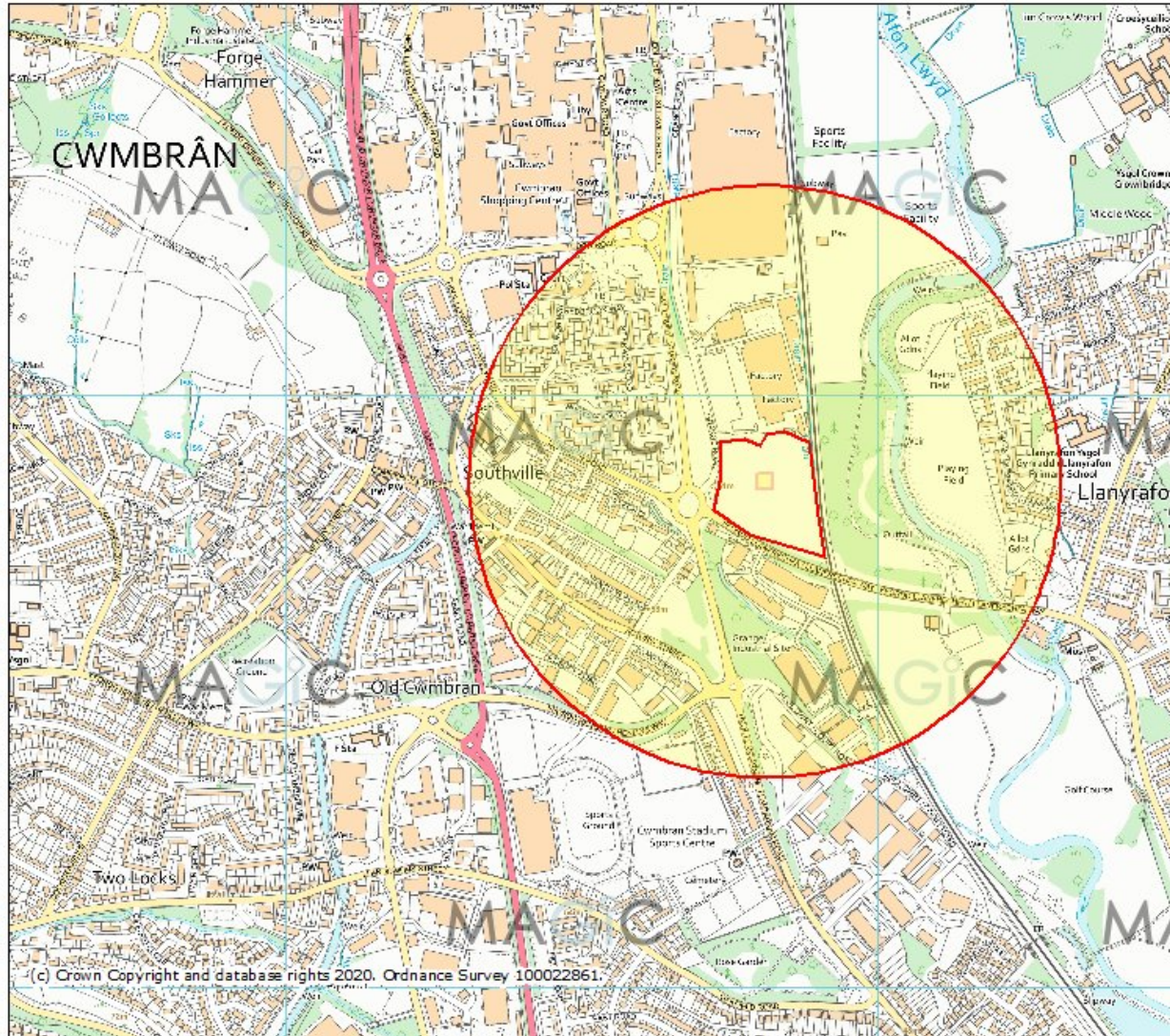
National Nature Reserves (Wales)	Coppice
Ramsar Sites (Wales)	Coppice with standards
Sites of Special Scientific Interest (Wales)	Failed
Special Areas of Conservation (Wales)	Felled
Special Protection Areas (Wales)	Ground prep
Biosphere Reserves (Wales)	Low density
National Forest Inventory (GB)	Mixed mainly broadleaved
Assumed woodland	Mixed mainly conifer
Broadleaved	Shrub
Cloud \ shadow	Uncertain
Conifer	Windthrow
	Young trees

Projection = OSGB36
 xmin = 318900
 ymin = 190700
 xmax = 339600
 ymax = 200300

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MAGiC

Grange Road Pond Check



Projection = OSGB36
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 xmax = 332000
 ymax = 196000

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Appendix 4: Legislation and Planning Policy

LEGAL PROTECTION

National and European Legislation Afforded to Habitats

International Statutory Designations

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are sites of European importance and are designated under the EC Habitats Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (the Habitats Directive) and the EC Birds Directive 2009/147/EC on the conservation of wild birds respectively. Both form part of the wider Natura 2000 network across Europe.

Under the Habitats Directive Article 3 requires the establishment of a network of important conservation sites (SACs) across Europe. Over 1,000 animal and plant species, as well as 200 habitat types, listed in the directive's annexes are protected in various ways:

Annex II species (about 900): core areas of their habitat are designated as sites of Community importance (SCIs) and included in the Natura 2000 network. These sites must be managed in accordance with the ecological needs of the species.

Annex IV species (over 400, including many annex II species): a strict protection regime must be applied across their entire natural range within the EU, both within and outside Natura 2000 sites.

Annex V species (over 90): Member States must ensure that their exploitation and taking in the wild is compatible with maintaining them in a favourable conservation status.

SPAs are classified under Article 2 of the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds both for rare bird species (as listed on Annex I) and for important migratory species.

SACs and SPAs up to 12 nautical miles from the coast (i.e. 'territorial waters') are afforded protection in the UK under the Conservation of Habitats and Species Regulations 2017 which consolidate all amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994.

The Conservation of Offshore Marine Habitats and Species Regulations 2017 consolidate and update the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007. The 2017 Regulations introduce amendments which transfer responsibility for European nature conservation in the Welsh offshore region to Welsh Ministers. This gives Welsh Ministers similar powers in Welsh offshore waters to those currently exercised by Scottish Ministers in Scottish offshore waters. These regulations transpose into national law Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive), and elements of Council Directive 2009/147/EC on the conservation of wild birds (Wild Birds Directive) in the UK offshore area. They came into force on 30th November 2017. These regulations apply to the UK's offshore marine area which covers waters beyond 12 nautical miles, within British Fishery Limits and the seabed within the UK Continental Shelf Designated Area. The Conservation of Habitats and Species Regulations 2017 form the legal basis for the implementation of the Habitats and Birds Directives in terrestrial areas and territorial waters out to 12nm in England and Wales (including the inshore marine area) and to a limited extent in Scotland and Northern Ireland.

Ramsar sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention covers all aspects of wetland conservation and recognises the importance of wetland ecosystems in relation to global biodiversity conservation. The Convention refers to wetlands as "*areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres*".

However, they may also include riparian and coastal zones. Ramsar sites are statutorily protected under the Wildlife & Countryside Act 1981 (as amended 01.04.1996) with further protection provided by the Countryside and Rights of Way (CROW) Act 2000. Policy statements have been issued by the Government in England and Wales highlighting the special status of Ramsar sites. The Government in England and Wales has issued policy statements which ensure that Ramsar sites are afforded the same protection as areas designated under the EC Birds and Habitats Directives as part of the Natura 2000 network (e.g. SACs & SPAs). Further provisions for the protection and management of SSSIs have been introduced by the Nature Conservation (Scotland) Act 2004.

National Statutory Designations

Sites of Special Scientific Interest (SSSI) are designated by nature conservation agencies in order to conserve key flora, fauna, geological or physio-geographical features within the UK. The original designations were under the National Parks and Access to the Countryside Act 1949 but SSSIs were then re-designated under the Wildlife & Countryside Act 1981 (as amended). As well as reinforcing other national designations (including National Nature Reserves), the system also provides statutory protection for terrestrial and coastal sites which are important within the European Natura 2000 network and globally.

Local Statutory Designations

Local authorities in consultation with the relevant nature conservation agency can declare Local Nature Reserves (LNRs) under the National Parks and Access to the Countryside Act 1949. LNRs are designated for flora, fauna or geological interest and are managed locally to retain these features and provide research, education and recreational opportunities.

Non- Statutory Designations

All non-statutorily designated sites are referred to as Local Wildlife Sites (LWS) and can be designated by the local authority for supporting local conservation interest. Combined with statutory designation, these sites are considered within Local Development Frameworks under the Town and Country Planning system and are a material consideration during the determination of planning applications. The protection afforded to these sites varies depending on the local authority involved.

Regionally Important Geological Sites (RIGs) are the most important geological and geomorphological areas outside of statutory designations. These sites are also a material consideration during the determination of planning applications.

The Hedgerow Regulations 1997

The Hedgerow Regulations 1997 are designed to protect 'important' countryside hedgerows. Importance is defined by whether the hedgerow (a) has existed for 30 years or more; or (b) satisfies at least one of the criteria listed in Part II of Schedule 1 of the Regulations.

Under the Regulations, it is against the law to remove or destroy hedgerows on or adjacent to common land, village greens, SSSIs (including all terrestrial SACs, NNRs and SPAs), LNRs, land used for agriculture or forestry and land used for the keeping or breeding of horses, ponies or donkeys without the permission of the local authority. Hedgerows 'within or marking the boundary of the curtilage of a dwelling-house' are excluded.

National and European Legislation Afforded to Species

The Habitats Directive

The EC Habitats Directive aims to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore wild species listed on the Annexes to the Directive at a favourable conservation status, introducing robust protection for those species of European importance. The Directive is transposed into UK law by The Conservation of Habitats and Species Regulations 2017 (the Conservation Regulations) and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended). The following notes are relevant for all species protected under the EC Habitats Directive:

In the Directive, the term 'deliberate' is interpreted as being somewhat wider than intentional and may be thought of as including an element of recklessness.

The Habitats Regulations do not define the act of 'migration' and, therefore, as a precaution, it is recommended that short distance movement of animals for e.g. foraging, breeding or dispersal purposes are also considered.

In order to obtain a European Protected Species Mitigation (EPSM) licence, the application must demonstrate that it meets all of the following three 'tests':

- The action(s) are necessary for the purpose of preserving public health or safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequence of primary importance for the environment;
- There is no satisfactory alternative; and
- The action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

The Wildlife and Countryside Act (WCA) 1981 (as amended)

The Wildlife and Countryside Act (WCA) 1981 (as amended) implements the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention 1979, implemented 1982) and implements the species protection requirements of EC Birds Directive 2009/147/EC on the conservation of wild birds in Great Britain (the birds Directive). The WCA 1981 has been subject to a number of amendments, the most important of which are through the Countryside and Rights of Way (CROW) Act (2000) and Nature Conservation (Scotland) Act 2004.

Other legislative Acts affording protection to wildlife and their habitats include:

- Deer Act 1991
- Natural Environment & Rural Communities (NERC) Act 2006
- Protection of Badgers Act 1992
- Wild Mammals (Protection) Act 1996

Badgers

Badgers *Meles meles* are protected under The Protection of Badgers Act 1992 which makes it an offence to:

- Wilfully kill, injure, take, or attempt to kill, injure or take a badger
- Cruelly ill-treat a badger, including use of tongs and digging
- Possess or control a dead badger or any part thereof
- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when it is occupying a badger sett

- Intentionally or recklessly cause a dog to enter a badger sett
- Sell or offers for sale, possesses or has under his control, a live badger

Effects on development works:

A development licence will be required from the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for any development works likely to affect an active badger sett, or to disturb badgers whilst they occupy a sett. Guidance has been issued by the countryside agencies to define what would constitute a licensable activity. It is no possible to obtain a licence to translocate badgers.

Birds

With certain exceptions, all birds, their nests and eggs are protected under Sections 1-8 of the WCA. Among other things, this makes it an offence to:

- Intentionally (or recklessly in Scotland) kill, injure or take any wild bird
- Intentionally (or recklessly in Scotland) take, damage or destroy (or, in Scotland, otherwise interfere with) the nest of any wild bird while it is in use or being built
- Intentionally take or destroy an egg of any wild bird
- Sell, offer or expose for sale, have in his possession or transport for the purpose of sale any wild bird (dead or alive) or bird egg or part thereof.
- Intentionally or recklessly obstruct or prevent any wild bird from using its nest (Scotland only)

Certain species of bird, for example the barn owl, bittern and kingfisher receive additional protection under Schedule 1 of the WCA and Annex 1 of the European Community Directive on the Conservation of Wild Birds (2009/147/EC) and are commonly referred to as “Schedule 1” birds.

This affords them protection against:

- Intentional or reckless disturbance while it is building a nest or is in, on or near a nest containing eggs or young
- Intentional or reckless disturbance of dependent young of such a bird
- In Scotland only, intentional or reckless disturbance whilst lekking
- In Scotland only, intentional or reckless harassment

Effects on development works:

Works should be planned to avoid the possibility of killing or injuring any wild bird or damaging or destroying their nests. The most effective way to reduce the likelihood of nest destruction in particular is to undertake work outside the main bird nesting season which typically runs from March to August. Where this is not feasible, it will be necessary to have any areas of suitable habitat thoroughly checked for nests prior to vegetation clearance.

Schedule 1 birds are additionally protected against disturbance during the nesting season. Thus, it will be necessary to ensure that no potentially disturbing works are undertaken in the vicinity of the nest. The most effective way to avoid disturbance is to postpone works until the young have fledged. If this is not feasible, it may be possible to maintain an appropriate buffer zone or standoff around the nest.

Reptiles (Amphibians and reptiles)

The sand lizard *Lacerta agilis*, smooth snake *Coronella austriaca*, natterjack toad *Epidalea calamita*, pool frog *Pelophylax lessonae* and great crested newt *Triturus cristatus* receive full protection under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
- To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
- To impair their ability to hibernate or migrate
- To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

With the exception of the pool frog, these species are also listed on Schedule 5 of the WCA and they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection
- Selling, offering or exposing for sale, possession or transporting for purpose of sale.

Other native species of reptiles are protected solely under Schedule 5, Section 9(1) & (5) of the WCA, i.e. the adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis*. It is prohibited to:

- Intentionally or recklessly kill or injure these species.

Effects on development works:

A European Protected Species Mitigation (EPSM) Licence issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely to affect the breeding sites or resting places amphibian and reptile species protected under Habitats Regulations. A licence will also be required for operations liable to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, rear young and hibernate). The licences are to allow derogation from the relevant legislation, but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored.

Although not licensable, appropriate mitigation measures may also be required to prevent the intentional killing or injury of adder, grass snake, common lizard and slow worm, thus avoiding contravention of the WCA.

Water voles

The water vole *Arvicola terrestris* is fully protected under Schedule 5 of the WCA. This makes it an offence to:

- Intentionally kill, injure or take (capture) water voles
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection
- Intentionally or recklessly disturb water voles while they are occupying a structure or place used for shelter or protection

Effects on development works:

If development works are likely to affect habitats known to support water voles, the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) must be consulted. It must be shown that means by which the proposal can be re-designed to avoid contravening the legislation have been fully explored e.g. the use of alternative sites, appropriate timing of works to avoid times of the year in which water voles are most vulnerable, and measures to ensure minimal habitat loss. Conservation licences for the capture and translocation of water voles may be issued by the relevant countryside agency for the purpose of development activities if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will then only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of works.

Otters

Otters *Lutra lutra* are fully protected under the Conservation Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Otters are also currently protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

An EPSM Licence issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works likely to affect otter breeding or resting places (often referred to as holts, couches or dens) or for operations likely to result in a level of disturbance which might impair their ability to undertake those activities mentioned above (e.g. survive, breed, and rear young). The licence is to allow derogation from the relevant legislation but also to enable appropriate mitigation measures to be put in place and their efficacy to be monitored

Bats

All species are fully protected by Habitats Regulations 2010 as they are listed on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species (e.g. All bats)
- Deliberate disturbance of bat species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species

- Damage or destruction of a breeding site or resting place

Bats are afforded the following additional protection through the WCA as they are included on Schedule 5:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

An EPSM Licence issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will be required for works are likely to affect a bat roost or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Dormice

Hazel Dormice *Muscardinus avellanarius* are fully protected under Habitats Regulations through their inclusion on Schedule 2. Regulation 41 prohibits:

- Deliberate killing, injuring or capturing of Schedule 2 species
- Deliberate disturbance of species in such a way as:
 - To impair their ability to survive, breed, or reproduce, or to rear or nurture young;
 - To impair their ability to hibernate or migrate
 - To affect significantly the local distribution or abundance of the species
- Damage or destruction of a breeding site or resting place

Dormice are also protected under the WCA through their inclusion on Schedule 5. Under this Act, they are additionally protected from:

- Intentional or reckless disturbance (at any level)
- Intentional or reckless obstruction of access to any place of shelter or protection

Effects on development works:

Works which are liable to affect a dormice habitat or an operation which are likely to result in an illegal level of disturbance to the species will require an EPSM licence issued by the relevant countryside agency (i.e. Natural England, Natural Resources Wales (NB: Hazel Dormouse are entirely absent from Scotland)). The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

White clawed crayfish

There is a considerable amount of legislation in place in an attempt to protect the White-clawed crayfish *Austropotamobius pallipes*. This species is listed under the European Union's (EU) Habitat and Species Directive and is listed under Schedule 5 of the Wildlife and Countryside Act (1981). This makes it an offence to:

- Protected against intentional or reckless taking
- Protected against selling, offering or advertising for sale, possessing or transporting for the purpose of sale

It is also classified as Endangered in the IUCN Red List of Endangered Species. As a result of this and other relevant crayfish legislation such as the Prohibition of Keeping of Live Fish (Crayfish) Order 1996, a series of licences are needed for working with White-clawed and non-native crayfish. These are:

- A licence to handle crayfish (therefore survey work) in England
- A licence for the keeping of crayfish in England and Wales with an exemption for Signal crayfish (England).
- People in the post-code areas listed with crayfish present prior to 1996 do not need to apply for consent for crayfish already established. It does not, however, allow any new stocking of non-native crayfish into waterbodies. Consent for trapping of non-native crayfish for control or consumption is most likely to be granted in Thames and Anglian regions in the areas with "go area" postcodes.
- Harvesting of crayfish is prohibited in much of England and in any part of Scotland and Wales.

Effects on development works:

The relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) will need to be consulted about development which could impact on a watercourse or wetland known to support white clawed crayfish. Conservation licences for the capture and translocation of crayfish can be issued if it can be shown that the activity has been properly planned and executed and thereby contributes to the conservation of the population. The licence will only be granted to a suitably experienced person if it can be shown that adequate surveys have been undertaken to inform appropriate mitigation measures. Identification and preparation of a suitable receptor site will be necessary prior to the commencement of the works.

Wild Mammals (Protection Act) 1996

All wild mammals are protected against intentional acts of cruelty under the above legislation. This makes it an offence to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

To avoid possible contravention, due care and attention should be taken when carrying out works (for example operations near burrows or nests) with the potential to affect any wild mammal in this way, regardless of whether they are legally protected through other conservation legislation or not.

Legislation afforded to Plants

With certain exceptions, all wild plants are protected under the WCA. This makes it an offence for an 'unauthorised' person to intentionally (or recklessly in Scotland) uproot wild plants. An authorised person can be the owner of the land on which the action is taken, or anybody authorised by them.

Certain rare species of plant, for example some species of orchid, are also fully protected under Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). This prohibits any person from:

- Intentionally (or recklessly in Scotland) picking, uprooting or destruction of any wild Schedule 8 species (or seed or spore attached to any such wild plant in Scotland only)
- Selling, offering or exposing for sale, or possessing or transporting for the purpose of sale, any wild live or dead Schedule 8 plant species or part thereof
- In addition to the UK legislation outlined above, several plant species are fully protected under Schedule 5 of The Conservation of Habitats and Species Regulations 2010. These are species of European importance. Regulation 45 makes it an offence to:
 - Deliberately pick, collect, cut, uproot or destroy a wild Schedule 5 species
 - Be in possession of, or control, transport, sell or exchange, or offer for sale or exchange any wild live or dead Schedule 5 species or anything derived from such a plant.

Effects on development works:

An EPSM licence will be required from the relevant countryside agency (i.e. Natural England, Natural Resources Wales, Scottish Natural Heritage) for works which are likely to affect species of plants listed on Schedule 5 of the Conservation of Habitats and Species Regulations 2010. The licence is to allow derogation from the legislation through the application of appropriate mitigation measures and monitoring.

Invasive Species

Part II of Schedule 9 of the WCA lists non-native invasive plant species for which it is a criminal offence in England and Wales to plant or cause to grow in the wild due to their impact on native wildlife. Species included (but not limited to):

- Japanese knotweed *Fallopia japonica*
- Giant hogweed *Heracleum mantegazzianum*
- Himalayan balsam *Impatiens glandulifera*

Effects on development works:

It is not an offence for plants listed in Part II of Schedule 9 of the WCA 1981 to be present on the development site, however, it is an offence to cause them to spread. Therefore, if any of the species are present on site and construction activities may result in further spread (e.g. earthworks, vehicle movements) then it will be necessary to design and implement appropriate mitigation prior to construction commencing.

Injurious weeds

Under the Weeds Act 1959 any land-owner or occupier may be required prevent the spread of certain 'injurious weeds' including (but not limited to):

- Spear thistle *Cirsium vulgare*
- Creeping thistle *Cirsium arvense*
- Curled dock *Rumex crispus*
- Broad-leaved dock *Rumex obtusifolius*
- Common ragwort *Senecio jacobaea*

It is a criminal offence to fail to comply with a notice requiring such action to be taken. The Ragwort Control Act 2003 establishes a ragwort control code of practice as common ragwort is poisonous to horses and other livestock. This code provides best practice guidelines and is not legally binding.

National Planning Policy Framework (ENGLAND)

The National Planning Policy Framework promotes sustainable development. The Framework specifies the need for protection of designated sites and priority habitats and species. An emphasis is also made on the need for ecological infrastructure through protection, restoration and re-creation. The protection and recovery of priority species (considered likely to be those listed as UK Biodiversity Action Plan priority species) is also listed as a requirement of planning policy.

In determining a planning application, planning authorities should aim to conserve and enhance biodiversity by ensuring that: designated sites are protected from harm; there is appropriate mitigation or compensation where significant harm cannot be avoided; opportunities to incorporate biodiversity in and around developments are encouraged; and planning permission is refused for development resulting in the loss or deterioration of irreplaceable habitats including aged or veteran trees and also ancient woodland.

The Natural Environment and Rural Communities Act 2006 and the Biodiversity Duty

Section 40 of the Natural Environment and Rural Communities (NERC) Act, 2006, requires all public bodies to have regard to biodiversity conservation when carrying out their functions. This is commonly referred to as the 'biodiversity duty'.

Section 41 of the Act (Section 42 in Wales) requires the Secretary of State to publish a list of habitats and species which are of 'principal importance for the conservation of biodiversity.' This list is intended to assist decision makers such as public bodies in implementing their duty under Section 40 of the Act. Under the Act these habitats and species are regarded as a material consideration in determining planning applications. A developer must show that their protection has been adequately addressed within a development proposal.

Scottish Planning Policy (Published: 23 Jun 2014)

The SPP sits alongside the Scottish Government planning policy documents. The National Planning Framework (NPF) provides a statutory framework for Scotland's long-term spatial development. The NPF sets out the Scottish Government's spatial development priorities for the next 20 to 30 years.

A Natural, Resilient Place - Valuing the Natural Environment (National Planning Framework Context) Paragraph 193. The natural environment forms the foundation of the spatial strategy set out in NPF3. The environment is a valued national asset offering a wide range of opportunities for enjoyment, recreation and sustainable economic activity. Planning plays an important role in protecting, enhancing and promoting access to our key environmental resources, whilst supporting their sustainable use.

Policy Principles: Paragraph 194. The planning system should:

- Facilitate positive change while maintaining and enhancing distinctive landscape character;
- **Conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities;**
- Promote protection and improvement of the water environment, including rivers, lochs, estuaries, wetlands, coastal waters and groundwater, in a sustainable and co-ordinated way;
- Seek to protect soils from damage such as erosion or compaction;
- Protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value;
- Seek benefits for biodiversity from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats; and
- Support opportunities for enjoying and learning about the natural environment.

Planning Policy Wales (November 2018)

Section 6 of the document refers to Biodiversity and Ecological Networks and states:

The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. Addressing the consequences of climate change should be a central part of any measures to conserve biodiversity and the resilience of ecosystems. Information contained in The State of Natural Resources Report (SoNaRR) (published by Natural Resources Wales and Area Statements should be taken into account. Development plan strategies, policies and individual development proposals must take into account the need to:

- Promote the conservation of biodiversity, in particular the conservation of wildlife and habitats;
- Ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats;
- Ensure statutorily designated sites are properly protected and managed;
- Safeguard protected species; and existing biodiversity assets from impacts which directly affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water and soil; and
- Seek enhancement of and improvements to ecosystem resilience by improving diversity, condition, extent and connectivity of ecological networks.

Environment (Wales) Act 2016 and the Biodiversity Duty

The Environment (Wales) Act introduces a new biodiversity duty, which highlights biodiversity as an essential component of ecosystem resilience. This new duty replaces the biodiversity duty in the Natural Environment and Rural Communities Act 2006 (referred to as the NERC Act). Part 1 of the Act deals with Sustainable management of natural resources including Biodiversity and Resilience of Ecosystems Duty. The Environment Act enhances the current NERC Act duty to require all public authorities, when carrying out their functions in Wales, to seek to “maintain and enhance biodiversity” where it is within the proper exercise of their functions. In doing so, public authorities must also seek to “promote the resilience of ecosystems”. As under the NERC Act the new duty will apply to a range of public authorities such as the Welsh Ministers, local authorities, public bodies and statutory undertakers. This ensures that biodiversity is an integral part of the decisions that public authorities take in relation to Wales. It also links biodiversity with the long-term health and functioning of our ecosystems, therefore helping to align the biodiversity duty with the framework for sustainable natural resource management provided in the Act.

Biodiversity and Resilience of Ecosystems Duty (Section 6 Duty)

Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. Planning authorities must also take account of and promote the resilience of ecosystems, in particular the following aspects:

- a) Diversity between and within ecosystems;
- b) The connections between and within ecosystems;
- c) The scale of ecosystems;

- d) The condition of ecosystems (including their structure and functioning); and
- e) The adaptability of ecosystems.

In fulfilling this duty, planning authorities must have regard to:

- a) The list of habitats of principal importance for Wales, published under Section 7 of the Environment (Wales) Act 2016;
- b) The State of Natural Resources Report (SoNaRR), published by NRW; and
- c) Any Area Statement that covers all or part of the area in which the authority exercises its functions.

A proactive approach towards facilitating the delivery of biodiversity and resilience outcomes should be taken by all those participating in the planning process. In particular, planning authorities should demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions. The broad framework for implementing the duty and building resilience through the planning system includes addressing:

- Diversity: to ensure mechanisms are in place to minimise further loss and that circumstances allow for species' populations to expand and recolonise their natural range (former range) or adapt to future change. This means development should provide a net benefit for biodiversity, and at the very least, with no significant loss of habitats or populations of species, locally or nationally.
- Extent: to ensure mechanisms allow for the maintenance of existing assets and networks and promote the restoration of damaged, modified or potential habitat and the creation of new habitat. This means that planning choices should incorporate measures which seek the creation and restoration of green networks and linkages between habitats and maintaining and
- enhancing other green infrastructure features and networks;
- Condition: this is more complex to address, not least because of the interactions of various factors which underpin habitats. At the very least planning approaches should not compromise the condition of ecosystems. By taking an integrated approach to development, for example, which considers both direct and wider impacts and benefits it should be possible to make a positive contribution through the planning system; and
- Connectivity: to take opportunities to develop functional habitat and ecological networks across landscapes, building on existing connectivity and quality and encouraging habitat creation and restoration. The opportunities could include enlarging habitat areas, developing buffers around designated sites or other biodiversity assets or corridors (including transport and river corridors) and the creation of 'stepping-stones' which will strengthen the ability of habitats and ecological networks to adapt to change, including climate change.