



**DALCOUR
MACLAREN**

Barn Owl Conservation Strategy

Client: Ove Arup & Partners Ltd

Project: GCRE Planning Conditions

Date: April 2023



Project Details

Project Name	GCRE Planning Conditions
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Prepared by	
Name	Lexi Lloyd (Ecologist, Dalcour Maclaren) / Claire Pooley (Associate Ecologist, Dalcour Maclaren) / Martyn Owen (Biome)
Date	April 2023

Approved by	
Name	Caroline Morris (Director, Dalcour Maclaren)
Date	April 2023

Client Approved by	
Name	Neil Humphries (On behalf of GCRE Ltd)
Date	April 2023

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1 Background

1.1 Commission

- 1.1.1 Dalcour Maclaren (DM) have been commissioned by Ove Arup & Partners Ltd (Arup) on behalf of their client Global Centre of Rail Excellence (GCRE) Ltd, to produce a Barn Owl Conservation Strategy for the GCRE project, which is located within the Counties of Neath Port Talbot and Powys.

1.2 Background

- 1.2.1 The Environmental statement¹ in relation to the construction of the Global Centre for Rail Excellence (GCRE) (the ‘site’) concluded that the development may result in the potential loss of one breeding barn owl *Tyto alba* pair as a result of train collision and recommended that at least one barn owl nest box was installed in suitable habitat in excess of 3km from the development site.
- 1.2.2 An outline planning application submitted by Ove Arup & Partners Ltd (Arup) (on behalf of the Welsh Ministers (Department for the Economy and Transport)) to Neath Port Talbot Council (planning reference P2021/0327) and Powys County Council (21/0559/OUT) was granted conditional approval in July 2021 for the following:

“Development of a Global Centre of Rail Excellence, comprising of two test tracks of loop configuration including an electrified high speed rolling stock test track of 6.9 km in length and an electrified low speed infrastructure test track of 4.5 km, with overhead line equipment (OLE) and dual platform station test environment; together with operations and control offices (including staff accommodation and welfare), shunter cabins (2 no.), research and development, education and training, rolling stock storage sidings and maintenance/cleaning/decommissioning facilities; associated drainage, internal vehicular accesses, branch line rail connection, staff and visitor car parking, lighting, electrical infrastructure, (including substations and lineside shore supplies and transformers), fencing (perimeter security, acoustic and stock proof), land reformation and hard and soft landscaping, together with demolition of existing building/structures.”

- 1.2.3 The permission is subject to planning conditions. Condition 17 states:

‘No development shall take place (including demolition, groundworks, site or vegetation clearance) until a Barn Owl Compensation Scheme that includes the provision of a minimum of 2 Barn Owl boxes, 1 in NPT

¹ Arup (2021) GCRE: Environmental Statement. Welsh Government.

and 1 in Powys has been submitted to and approved in writing by the LPA. The scheme will include but is not limited to:

- *Details of locations and details of landownership.*
- *Box design/specification.*
- *Demonstration of agreements with relevant landowners.*
- *Details of monitoring use.*
- *Provisions for replacement where damage or deterioration prevents intended use.'*

1.3 Legislation and Policy Context

- 1.3.1 The project's ES^{Error! Bookmark not defined.} and requirement for the production of the Barn Owl Conservation Strategy, are underpinned by a framework of wildlife legislation and policy which aim to protect specific sites, habitats and species. Full details of relevant legislation and policy is provided in Appendix 1.

1.4 Site Description and Development

- 1.4.1 The Project site (hereafter referred to as the 'Site'), as defined by the planning application red line boundary is shown in Appendix 2. The Site comprises approximately 475ha, located in the Dulais Valley, between the counties of Neath Port Talbot and Powys.
- 1.4.2 A full description of the development is provided in Chapter 3 of the ES^{Error! Bookmark not defined.}; however, in summary: GCRE will be developed to include a rail testing, maintenance, research, development and storage facility.

1.5 Purpose of report

- 1.5.1 The purpose of this document is to provide the information necessary to allow the discharge of Condition 17 of the planning permission for the development (P2021/0381 and 21/0559/OUT).
- 1.5.2 The Barn Owl Conservation Strategy describes the mitigation to be implemented for barn owls, including location of new barn owl boxes, barn owl box specification, monitoring arrangements, landowner details and remedial measures.
- 1.5.3 This document will be submitted to and approved by NPTC and PCC. Once NPTC and PCC have reviewed the Barn Owl Conservation Strategy and provided written response in support of the document, condition 17 of the outline planning consents (P2021/0381 and 21/0559/OUT) can be formally discharged.

2 Method

2.1 Desk Study

- 2.1.1 To assess barn owl distribution in the vicinity of the site, the following organisations were contacted and records of barn owls along with details of the locations of barn owl boxes requested:
- Davies, Richards and Baker Barn Owl Group.
 - Powys Species Habitat Protection Group.
 - Montgomeryshire Barn Owl Group.
- 2.1.2 In addition, once potential locations had been identified discussions with Rhodri Irranca-Davies and Stephanie Coates (The Wildlife Trust of South and West Wales) were undertaken to further consider suitability within wildlife trust owned land.
- 2.1.3 Prior to the completion of the field survey (see below) aerial imagery and OS maps were reviewed to identify areas of potentially suitable barn owl foraging habitat.

2.2 Field Survey

- 2.2.1 Following the desk study, a field survey was completed on 3rd February 2022 and 13th May 2022 during daylight to identify areas of potential value to barn owls, which could be suitable box locations (as per Table 1 below). This survey targeted areas in the proximity of known barn owl populations based on the results of consultation with relevant organisations (Section 2.1).
- 2.2.2 An additional field survey was completed on the 28th March 2023 to widen the scope of suitable trees to support barn owl nest boxes.
- 2.2.3 Locations were considered in proximity to existing records. Barn owl almost always use multiple boxes for roosting and when they breed twice in a single year a second clutch is often laid in a different nesting place²; the provision of boxes to supplement existing nest box schemes is therefore most likely to result in usage.
- 2.2.4 This assessment also considered potential issues associated with proximity to roads, which could result in barn owl mortality.
- 2.2.5 Habitats within the area of potentially suitable box locations were assessed to determine suitability, on the basis of their appearance and structure³. Barn owls can utilise a variety of different habitat types, but the majority of prime foraging habitat in mainland Britain is provided by

² The Barn Owl Trust (2012). *Barn Owl Conservation. Handbook*, Pelagic Publishing. Exeter

³ Shawyer, C.,R. (2011). *Barn Owl Tyto alba Survey Methodology and Techniques for sues in Ecological Assessment*

fields of rough-grassland and young plantations, and in particular by rough-grassland corridors along watercourses, roadsides, arable field margins, woodland edge and occasionally along woodland rides (Table 1).

Table 1 Barn owl foraging habitat suitability.

Habitat Quality	Description
Optimal	Optimum habitat for field voles <i>Microtus agrestis</i> (for breeding, foraging and shelter) and are of the highest value to barn owls. Usually permanent, unimproved or semi-improved grassland, rank and heterogeneous in appearance, often of mixed height, with fully or partly collapsed dead grass stems (straw) often dominating the leaf sward. The grassland possesses a high abundance of raised tussocks per unit area (typically 4-40 m ⁻²) coupled with a compacted basal litter layer or 'thatch' of straw, at least 30 mm deep. Usually receive no real management or anything other than periodic light grazing by farm animals. Long-term set-aside grassland and unmanaged fields, wasteland, ditches, riverbanks, field margins and road verges are the most common examples of this habitat type. When viewed in the wider landscape, these can usually be recognised, particularly in the autumn, winter and early spring, by their golden or green/brown appearance.
Sub-optimal	Of intermediate and often transient value to barn owls. This type of improved or semi-improved grassland is characterised by having a homogeneous, more even-height sward, sometimes displaying some lush and emerging tussock structure but little sign of a litter layer or 'thatch'. It can sometimes constitute a mature clover/grass ley and usually receives some level of farm management such as occasional fertilization, annual topping or light grazing. When seen in the wider landscape Type 2 Habitats normally have a more uniform, dark green appearance, than Type 1 Habitats.
Poor	Type 3 Habitats offer very poor habitat for field voles and most other small mammals and as such are of low value to barn owls. These improved grasslands are characterised by having a homogeneous sward, which is often kept short throughout much of the year, no tussock structure and are devoid of any litter layer at their base. They are usually mown closely for hay or silage, heavily grazed by sheep, horses or cattle or used for public amenity. They normally display a uniform bright green appearance when viewed in the wider landscape. Acid grasslands and those overgrown with scrub which can restrict barn owls from hunting, also fall into this habitat category.
Little or no value	Non-grassland habitats, such as arable fields and mature woodland are generally of little or no value as a permanent foraging resource to barn owls. Arable fields containing cereals, rapeseed, or other food crops do not provide suitable habitat for field voles, although at certain times of the year, such as during harvest, they can, for short periods, expose wood

Habitat Quality	Description
	mice <i>Apodemus sylvaticus</i> and temporarily attract barn owls. Prior to harvest, however, arable crops are largely impenetrable to foraging barn owls because of the stiff nature of the crop and high density of planting. For the purpose of the survey, arable fields without grass margins and woodlands (except those possessing wide grass rides or young plantations) are, therefore, considered unsuitable.

2.3 Tree Selection

- 2.3.1 Once a preferred location was identified based on the criteria discussed in section 2.2, individual trees were selected for the installation of barn owl boxes.
- 2.3.2 The success of the nest boxes to a large extent depends upon the tree selected for installation. The following specific tree selection criteria has therefore been applied:
- The tree is reasonably big and strong.
 - Isolated trees are selected preferentially.
 - The box is located at least 3m above ground level.
 - The box entrance hole is clearly visible to a bird flying past at some distance.
 - A tree with rough bark is selected if possible (to assist owlets in climbing back to the nest box should they fall out).
 - The box is sited in the fork of a tree, if possible.

2.4 Confirmation of landownership

- 2.4.1 Further to the identification of sites which supported suitable habitats for barn owl breeding, in both Neath Port Talbot (NPT) and Powys, DM surveyors investigated land ownership details for these sites and made contact with agents and or landowners to discuss the suitability of barn owl boxes installation and long-term monitoring.
- 2.4.2 The agreed locations within each county (as detailed in Section 3.3) were determined based on landowner amenability to support the project and installation and monitoring of barn owl boxes.

2.5 Consultation regarding Monitoring

- 2.5.1 The Davies, Richards and Baker Barn Owl Group were also consulted in relation to their support with the long-term monitoring of barn boxes at the agreed locations.

3 Results

3.1 Desk Study

3.1.1 The results of consultation are summarised within Table 2 below.

Table 2 Consultation results

Organisation	Response
Davies, Richards and Baker Barn Owl Group	Details of barn owl box scheme provided, including the locations of boxes installed and monitored ⁴ .
Powys Species Habitat Protection Group	No response.
Montgomeryshire Barn Owl Group	Only cover the old county of Montgomeryshire (VC47). No available information relevant to project.

3.1.2 The desk study identified a large number of areas within both Neath Port Talbot and Powys which appeared to support broadly suitable foraging habitat for barn owl (based on aerial imagery).

3.2 Field Survey

3.2.1 Initial field surveys were completed by Martyn Owen BSc (Hons) MCIEEM (Biome Consulting Ltd). Martyn is a licenced barn owl surveyor (Licence Number: SO90929-1) and has completed many barn owl surveys and habitat assessment projects over the last 20 years.

3.2.2 Additional surveys carried out in March 2023 were undertaken by David Price MCIEEM and assisted where appropriate by Robin Razzell MSc and Katherine Wickens BSc (all ecologists at Sylvan Ecology). Mr Price has 19 years professional consultancy experience and has worked on a large variety of Barn Owl projects throughout the UK.

3.2.3 During the survey visits the locations identified during the desk study were appraised to determine the suitability of foraging habitat and the availability for features which could support a barn owl nest box. This assessment resulted in the identification of suitable locations, as detailed below. Details of locations identified during the desk study although ultimately excluded, are summarised within Appendix 3.

⁴ Results are confidential due to the sensitive nature of the locations and are therefore not detailed within the report. These records can be shared with the planning authority if required, but should not be made public or shared further unless appropriate.

3.3 Confirmed Location

Neath Port Talbot (GCRE Land)

- 3.3.1 The tree was selected following assessment of the trees suitability to support a nest box, the quality of the surrounding foraging habitat, the protection the site offers from upland weather conditions and the distance of the tree from main roads. All trees on site were subject to a ground based, inspection, all observations were made from the ground; using short focal range binoculars or a DJI Phantom where appropriate.
- 3.3.2 A group of oak trees to the south of Nant Pen y Cae were selected for Barn Owl boxes. The trees are large enough to support the boxes, the habitat to the south is grassland and offers excellent barn owl foraging potential; the trees would offer some protection from the wind; the trees are over 700 m from the nearest road and are away from any footpaths so there's less footfall in the area and thusly less potential for vandalism.
- 3.3.3 Trees are dynamic organisms that are impacted upon by their environment and suitability can change rapidly. It is recommended that the final decision on the barn owl box location is made by the ecologist installing the box. Currently, the largest tree, most suitable to support the box is located at NGR SN 87976 04171 (What 3 words: [///poet.mooring.chariots](http://poet.mooring.chariots))



Plate 2 GCRE Land barn owl box location

Powys

- 3.3.4 A tree mounted box will be located within the landholding of Glynmercher Uchaf Farm (owner: Huw Richards), at NGR SN 91150 10009 on an oak tree. A number of occupied existing barn owl boxes are present in the wider area (pers. comm. Cedwyn Davies; Davies, Richards and Baker Barn Owl Group), providing a source population for this box.
- 3.3.5 There is much optimal foraging habitat within the area including much unimproved/semi-improved grassland along the Nedd Fechan river valley, sparse woodland/scattered trees and unmanaged fields. In addition, much marshy grassland is present associated with Comin y Rhos (to the east). The landholding of Glynmercher Uchaf Farm is used predominantly low intensity cattle grazing.
- 3.3.6 This area is relatively remote, with no major roads nearby. The barn owl box will be sited over 100m from the closest minor road.



Plate 3 Aerial image of barn owl box location in Powys



Plate 4 Typical habitat within Glynmercher Uchaf Farm ownership

4 Barn Owl Box Design and Specification

- 4.1.1 The barn owl box design and specific location have been selected in line with the recommendations of the Barn Owl Conservation Handbook^{Error!}
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4.2 Box Design/Specification and Installation

- 4.2.1 The barn owl box design/specification will be as detailed within plate 5.

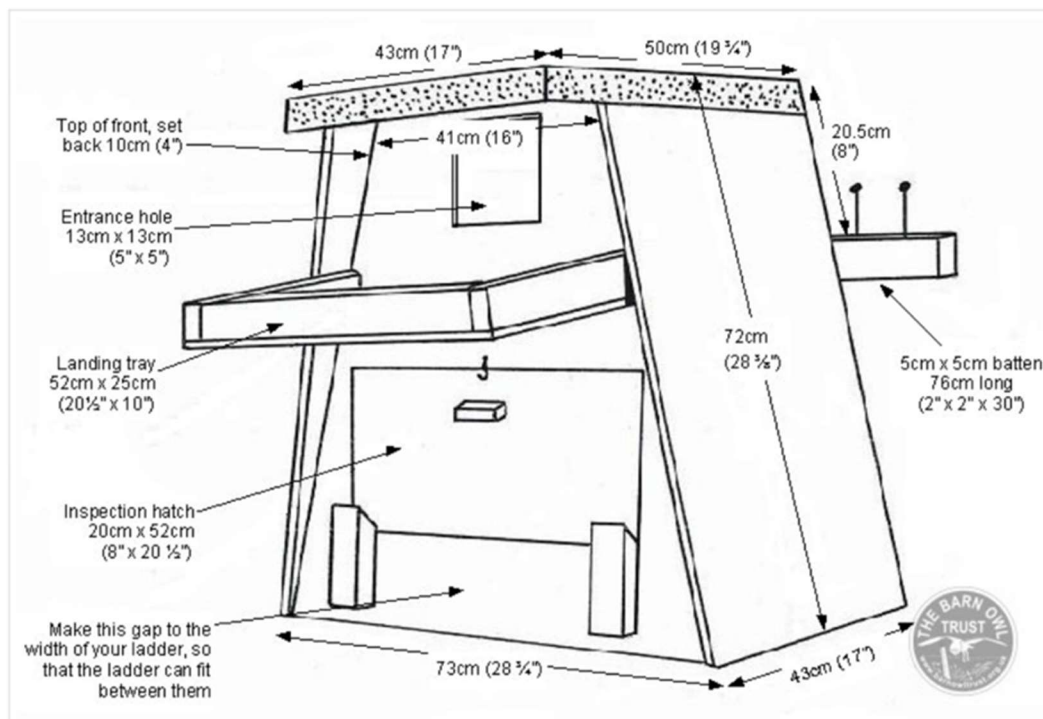


Plate 1 Barn owl box design (from: <https://www.barnowltrust.org.uk/barn-owl-nestbox/owl-boxes-for-trees/>)

- 4.2.2 The boxes will be installed in such a way to maximise nest box hole visibility, on trees with a high canopy and few or no low branches. The nest box access hole will face towards open ground but avoid the prevailing weather, if possible.
- 4.2.3 The boxes will be placed at least 3 metres above ground level.

4.3 Installation Programme

- 4.3.1 Nest boxes will be erected between August and October 2023, following programme approval by the LPA.

5 Provisions for Replacement where Damage or Deterioration Prevents Intended Use

- 5.1.1 Monitoring of both boxes and associated trees they are mounted upon will be completed annually for a period of 25 years. If after three years, the box(es) have not been used by barn owl/s for nesting or roosting relocation of the boxes will be undertaken.
- 5.1.2 Annual monitoring of the box within the Glynmercher Uchaf Farm, Powys, will be by completed Davies, Richards and Baker Barn Owl Group. During this monitoring use of the boxes by barn owl will be assessed to determine if breeding/roosting has occurred and the condition of the boxes determined. If box condition has deteriorated repairs will be undertaken or boxes replaced.
- 5.1.3 The front of the owl box will have an access panel to enable nest debris to be cleared out periodically. If monitoring identifies that *jackdaw* *Corvus monedula* use the box it will be cleaned out every year. If the box/es are used only by breeding barn owl they will be cleaned out every two years. Nest boxes will only be cleaned out between November and January in dry, calm weather, so that any roosting owl is not flushed out into the rain or wind.
- 5.1.4 Maintenance work that will be completed by appropriately licensed ornithologists, if a breach of relevant wildlife legislation is possible.
- 5.1.5 In the event that the box is in disrepair and no longer suitable for use by barn owls, it will be replaced with a new box.

5.2 Responsibilities

- 5.2.1 GCRE Ltd will be responsible for overseeing and financing the installation of boxes, monitoring and any remedial actions required.
- 5.2.2 The results of the monitoring will be recorded by GCRE Ltd and shared with the Local Planning Authority. GCRE will liaise with the Local Planning Authority to discuss any further actions required.
- 5.2.3 The results of annual monitoring will also be submitted to the local biodiversity records center.

Appendices

Appendix 1

Relevant Wildlife Legislation

Legislation

A framework of international, European, national and local legislation and planning policy guidance exists to protect and conserve wildlife and habitats. This is described in the following sections.

Conservation of Habitats and Regulations 2017 (as amended)

The Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations') transpose the requirements of Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive) into law within England and Wales. These regulations provide for the designation and protection of sites of European importance known as European Sites or the National Site Network.

European Sites comprise:

- Special Areas of Conservation (SACs), including candidate sites, designated under the Conservation of Habitats and Species Regulations 2017 (as amended); and
- Special Protection Areas (SPAs) including candidate sites, designated under the Wildlife and Countryside Act 1981 (as amended)
- Ramsar Sites designated under the Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971 are also considered as European Sites as a matter of UK Government policy along with proposed SACs and SPAs.

The Habitats Regulations require that consideration is given to the implications of plans and projects (developments) on European Sites. Specifically, Regulation 63(1) states:

"A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:

(a) is likely to have a significant effect on a European site or European marine site (either alone or in combination with other plans or projects), and;

(b) is not directly connected with or necessary to the management of that site. must make an appropriate assessment of the implications for that site in view of that site's conservation objectives".

The formal consideration of effects on European Sites is therefore undertaken by the determining authority such as the Local Planning Authority under the Town and Country Planning Act 1990. The determining authority is known as the Competent Authority with the Regulations.

The Habitats Regulations also convey special protection to a number of species, which are listed in Schedule 2 of the Regulations and are referred to as European Protected Species (EPS). Those relevant to the Scheme include:

- All UK resident bat species;
- Common dormouse (*Muscardinus avellanarius*);
- Great crested newt (*Triturus cristatus*);
- Otter (*Lutra lutra*);
- Marsh fritillary butterfly (*Euphydryas aurinia*).

Regulation 43 makes it an offence to:

- Deliberately capture, injure or kill any wild animal of a EPS;
- Deliberately disturb wild animals of such a species;
- Deliberately take or destroy the eggs of such a species;
- Damage or destroy a breeding site or resting place of such an animal.

Disturbance in the context of the offences above is disturbance, which is likely to impair the ability of the animals to survive, to breed or reproduce, to nurture their young, to hibernate, to migrate; or to affect significantly the local distribution of the species.

Licences can be granted by the relevant Statutory Nature Conservation Organisation (SNCO) for developments (sometime referred to as EPS Licences or Derogation Licences) providing the purposes of the licence is for "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".

Ramsar Convention 1971

Wetlands of International Importance (Ramsar Sites) declared under the Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971 are considered European Sites as a matter of UK and Local Government Policy.

Wildlife and Countryside Act 1981 (as amended)

A network of nationally designated sites has been established through the designation of Sites of Special Scientific Interest (SSSIs) under the Wildlife and Countryside Act 1981. The protection afforded by the Act means it is an offence to carry out or permit to be carried out any operation listed within the notification without the consent of the Statutory Nature Conservation Organisation (Natural Resources Wales). The protection afforded to SSSIs is used to underpin the designation of areas at a European Level.

The Wildlife and Countryside Act also places obligations on Welsh Ministers and other public bodies with regard to the conserving and enhancing of the features of SSSIs in the exercise of their functions.

The Wildlife and Countryside Act 1981 provides protection to both EPSs and other species including wild birds, water voles and reptiles.

All wild birds, their nests and eggs are protected, with some rare species afforded extra protection from disturbance during the breeding season (these species are listed in Schedule 1 of the Act). It is illegal to take any wild bird or damage or destroy the nests and eggs of breeding birds. There are certain exceptions to this in respect of wildfowl, game birds and certain species that may cause damage.

In England and Wales water voles are listed on Schedule 5 of the Wildlife and Countryside Act 1981, receiving full protection since 2008. The Wildlife and Countryside Act 1981 together with amending legislation, lists the following offences:

- Intentionally killing, injuring or taking a water vole by any method.
- Intentionally or recklessly damaging or destroying a water vole place of shelter or protection.
- Intentionally or recklessly damaging disturbing a water vole whilst it is occupying such a structure or place it uses for shelter or protection.
- Intentionally or recklessly obstructing access to a water vole's place of shelter or protection.
- Selling, offering for sale, or possessing or transporting for the purposes of sale, any live or dead water vole, or any part or derivative, or advertising any of these for buying or selling.

All native reptile species in the UK are subject to partial protection from intentional or reckless killing or injury only.

The Act also includes provisions for the control of invasive non-native species (INNS). Under these provisions it is an offence to:

- Release or allow to escape into the wild any animal which is not ordinarily resident or a regular visitor to Great Britain, or is included in Schedule 9 of the Act.
- Plant or otherwise cause to grow in the wild any plant which is included in Schedule 9 of the Act.

People undertaking works in proximity to invasive non-native plant species should take all reasonable steps and exercise all due diligence to avoid committing an offence.

The Invasive Alien Species (Enforcement and Permitting) Order 2019

The order came into effect on the 1st December 2019 to allow for enforcement of EU Regulations (Regulation (EU) No. 1143/2014 on the prevention and management of the introduction and spread of invasive alien species in England and Wales) also known as the IAS Regulations.

It lists 66 species which are of European Union concern. There are currently 19 species listed in the Order (16 of these species are found in Wales). Species include:

- Chinese mitten crab (*Eriocheir sinensis*)
- Red Swamp crayfish (*Procambarus clarkii*)
- Crayfish signal (*Pacifastacus leniusculus*)
- Spiny cheek crayfish (*Orconectes limosus*)
- Muntjac deer (*Muntiacus reevesi*)
- Ruddy duck (*Oxyura jamaicensis*)
- Egyptian goose (*Alopochen aegyptiacus*)
- Grey squirrel (*Sciurus carolinensis*)
- Himalayan balsam (*Impatiens glandulifera*)
- Fanwort (otherwise known as Carolina water shield) (*Cabomba caroliniana*)
- Giant hogweed (*Heracleum mantegazzianum*)
- Water hyacinth (*Eichhornia crassipes*)
- Parrots Feather (*Myriophyllum aquaticum*)
- Floating pennywort (*Hydrocotyle ranunculoides*)
- Floating water primrose (*Ludwigia peploides*)
- Water Primrose (*Ludwigia grandiflora*)
- Giant rhubarb (*Gunnera tinctoria*)
- Curly waterweed (*Lagarosiphon major*)
- Nuttall's waterweed (*Elodea nuttallii*)

This Order allows for the enforcement of, including the relevant licences, permits and rules for keeping invasive alien species.

The amendments remove these Invasive Alien Species (IAS) of Union concern from the ambit of the provisions relating to invasive non-native species in sections 14 and 14ZA of the Wildlife and Countryside Act 1981. This is to make the legislation more transparent and easier to use by bringing all the offences relating to species of Union concern into one place.

Criminal offences are introduced for breaches of the main restrictions of The IAS Regulation, as well as offences relating to:

- False statements;
- Altering, or not meeting, the conditions of permits and licences;
- Attempts to commit offences;
- Obstruction; and
- Offences for companies and partnerships.

It is also an offence to:

- Allow the escape or release into the wild an animal that is not normally a resident or regular visitor to Great Britain, or an animal listed in Part 1 of Schedule 2, including species of crabs, ducks and squirrel.
- Plant, or allow to grow in the wild, plants listed in Part 2 of Schedule 2.

Sell, or be involved in the sale of, any plant listed in Part 3 of Schedule 2, including Water Primrose and Floating Pennywort.

If found guilty of an offence a person may be liable to imprisonment of up to two years, or a fine. Permits and licences may be made void where an offence is committed and a person may be banned from being granted a permit or licences again for up to 5 years.

The legislation in relation to the remaining species listed in Schedule 9 of the Wildlife and Countryside Act 1981 remains unchanged.

National Park and Access to the Countryside Act 1949 (as amended)

Local Nature Reserves (LNRs) can be given protection against damaging operations through powers within the National Parks and Access to the Countryside Act 1949. However, this protection is usually conveyed through inclusion of protection within local planning policy relating to these sites and other non-statutory sites such as Sites of Importance for Nature Conservation.

The Protection of Badgers Act 1992

Badger and their setts are protected under the Protection of Badgers Act 1992 which makes it an offence to kill, injure or take a badger, or interfere with a sett. Interference with a sett includes damaging or destroying it, obstructing access to it, causing a dog to enter it, or disturbing the badgers which are occupying it.

Hedgerow Regulations 1997

The Hedgerow Regulations 1997 set out a framework for the protection of hedgerows against removal where they are deemed to be important either due to their age, ecological or archaeological features. Approval is required from the local authority prior to the removal of hedgerows. Local authorities can enforce the retention of Important Hedgerows through the issuing of Retention Notices.

Salmon and Freshwater Fisheries Act 1975 (as amended)

The Salmon and Freshwater Fisheries Act (SAFFA) is legislation that aims to protect freshwater fish, with a particularly strong focus on salmon and trout. The legislation covers a broad range of topics, but of particular relevance to development are those sections covering water pollution, habitat disturbance and fish migration routes.

Under Section 2 (4) it is an offence to wilfully disturb spawn, spawning fish or spawning areas and under Section 4 (1) it is an offence to knowingly permit the flow of poisonous matter and polluting effluents into river courses that are poisonous or injurious to fish or the spawning grounds, spawn or food of fish. Sections 9 to 15 are concerned with fish passage and migration routes. It is the duty of the waterway owner that when constructing dams, screens or sluices to provide and maintain a facilitating fish pass for migrating salmon or trout. Section 9 allows the regulator to serve notice on the owner or occupier of a dam or obstruction, to install a fish pass where necessary. This section applies to dams which are either new or have been altered to create an increased obstacle to the passage of migratory salmonids. It is also applicable where dams in a state of disrepair have been rebuilt over at least one half of their length.

Eels (England and Wales) Regulations 2009

This implements Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel. The regulations are focussed on the management of commercial eel fisheries (licences, catch returns and restocking) and the passage/migration of eels. The regulations afford powers to the regulators (Environment Agency and Natural Resources Wales) to implement eel recovery measures in all freshwater and estuarine waters in England and Wales.

Part 4 of the regulations is concerned with the passage of eels and makes it a legal requirement to notify the regulator of the construction, alteration or maintenance of any structure likely to affect the passage of eels. This includes water intakes and outfalls, dams and weirs, sluices or any other in-river obstruction. Where any such structure exists, the owner, occupier or person in charge of the land on which the dam, structure or obstruction lies may be required to construct and operate an eel pass to allow the free passage of eels.

Wild Mammals (Protection) Act 1996

This Act operates in parallel with the legislation listed above conferring specific protection on rare or threatened mammal species by protecting all wild mammals from any action intended to cause unnecessary suffering.

Natural Environment and Rural Communities (NERC) Act 2006

The Act is primarily intended to implement key aspects of the Government's Rural Strategy published in July 2004; it also addresses a wider range of issues relating broadly to the natural environment. The Act also makes provision in respect of biodiversity, pesticides harmful to wildlife and the protection of birds, and in respect of invasive non-native species. It alters enforcement powers in connection with wildlife protection and extends time limits for prosecuting certain wildlife offences. It addresses a small number of gaps and uncertainties

which have been identified in relation to the law on sites of special scientific interest. It also amends the functions and constitution of National Park authorities, the functions of the Broads Authority and the law on rights of way (DEFRA website September 2016).

The Environment (Wales) Act 2016

The Environment (Wales) Act 2016 replaces the duties on public bodies in Wales to conserve and enhance biodiversity in the exercise of their functions. This duty includes consideration of the resilience of ecosystems in terms of their diversity, connectivity, adaptability, scale and condition. The Act also reinforces the duties in relation to the lists of species and habitats of importance and duties to conserve and enhance those species and habitats. Within this Chapter these are referred to as Section 7 Habitats and Species, although revised lists have not been published to date.

The Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations Act requires public bodies in Wales to consider the long-term impacts of decisions on the social, cultural, environmental and economic well-being of both current and future generations.

In particular the Act includes a number of goals including to maintain and enhance a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change.

EIA Directive 2014/52/EU

The Directive 2014/52/EU states that EIAs shall identify, describe and assess the direct and indirect significant effects of climate change relevant to the project. The regulations implementing this directive were transposed into UK legislation in May 2017; The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations, 2107.

Policy Context

The Neath Port Talbot County Borough Council (NPTCBC) Adopted Local Development Plan (LDP) 2011-2026 includes a number of policies relating to nature conservation, in particular:

Policy EN 6 Important Biodiversity and Geodiversity Sites Development proposals that would affect Regionally Important Geodiversity Sites (RIGS), Local Nature Reserves (LNRs), Sites of Interest for Nature Conservation (SINCs), sites meeting SINC criteria or sites supporting Local Biodiversity Action Plan (LBAP) or S42 habitats or species (now referred to as Section 7 habitats and

species, in response to the requirement of the Environment (Wales) Act 2016) will only be permitted where:

- They conserve and where possible enhance the natural heritage importance of the site; or
- The development could not reasonably be located elsewhere, and the benefits of the development outweigh the natural heritage importance of the site.

Mitigation and / or compensation measures will need to be agreed where adverse effects are unavoidable.

5.3.34. “Where harm to biodiversity sites is unavoidable, effective mitigation measures will be required to ensure that there is no reduction in the overall value of the area or feature. Where mitigation is not possible, compensation measures will normally be required to offset harm as far as practicable. However, compensation measures are considered to be a last resort option”.

5.3.35. “The Biodiversity Supplementary Planning Guidance (SPG) will indicate how biodiversity should be taken into account in the planning process and will also give details of the procedure for providing off-site compensation if necessary.”

Policy EN 7 Important Natural Features: “Development proposals that would adversely affect ecologically or visually important natural features such as trees, woodlands, hedgerows / field boundaries, watercourses or ponds will only be permitted where:

- Full account has been taken of the relevant features in the design of the development, with measures put in place to ensure that they are retained and protected wherever possible; or
- The biodiversity value and role of the relevant feature has been taken into account and where removal is unavoidable, mitigation measures are agreed.”

The Powys County Council (PCC) LDP includes a number of policies relating to nature conservation, in particular:

Policy DM2 – The Natural Environment: “Development proposals shall demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests including improving the resilience of biodiversity through the enhanced connectivity of habitats within, and beyond the site”.

“Development proposals which would impact on the following natural environment assets will only be permitted where they do not unacceptably adversely affect:

The important site designations, habitats and species afforded the highest levels of protection through European legislation including:

European Sites (SAC, SPA and Ramsar).

Development proposals likely to have a significant effect on a European site, when considered alone or in combination with other proposals or plans, will only be permitted where it can be demonstrated that:

- a) The proposal is directly connected with or necessary for the protection, enhancement and positive management of the site for conservation purposes; or
- b) The proposal will not adversely affect the integrity of the site.

Where it cannot be demonstrated that development proposals would not adversely affect the integrity of the site and there is no satisfactory alternative solution, permission will be refused unless:

- a) There are imperative reasons of over-riding public interest; and
- b) Appropriate compensatory measures are secured.

European Protected Species afforded strict protection by the Conservation of Habitats and Species (Amendment) (Eu Exit) Regulations 2019 (Habitats Directive Annex IV Species)."

"Development proposals likely to have an adverse effect on a European Protected Species will only be permitted where it can be demonstrated that:

- The proposal is for the purposes of preserving public health or public safety or there are imperative reasons of over-riding public interest; and
- There is no satisfactory alternative; and
- The action authorised will not be detrimental to the maintenance of the habitat or population of the species concerned at a favourable conservation status in their natural range.

The important site designations, habitats and species afforded levels of protection in line with national policy and legislation including:

- National Nature Reserves and Sites of Special Scientific Interest;
- Protected Species including those listed in Wildlife and Countryside Act 1981 (as amended) and the Protection of Badgers Act 1992;
- Habitats and Species of principal importance for the purpose of maintaining and enhancing biodiversity conservation in Wales as listed in Section 7 of the Environment (Wales) Act 2016; and
- National Biodiversity Action Plan Habitats and Species."

“Development proposals likely to have an adverse effect on the conservation value of nationally protected sites, habitats or species, either directly, indirectly or in combination, will only be permitted where it can be demonstrated that:

- The proposal contributes to the protection, enhancement or positive management of the site, habitat or species; or
- There is no suitable alternative to the proposed development; and

a) It can be demonstrated that the benefits from the development clearly outweigh the special interest of the site, habitat or species; and

b) Appropriate compensatory measures are secured; and

c) The population or range and distribution of the habitat or species will not be adversely impacted.

The locally important site designations, habitats and species including:

- Local Nature Reserves;
- Local Biodiversity Action Plan Habitats and Species; and
- Regionally Important Geodiversity Sites and Geological Conservation Review Sites.”

“Development proposals likely to have an adverse impact upon these sites, habitats or species will only be permitted where it can be demonstrated that:

- They conserve and where possible enhance the natural heritage importance of the site, habitat or species; or
- The development could not reasonably be located elsewhere; and
- The benefits of the development outweigh the natural heritage importance of the site, habitat or species; and
- Mitigation and/or compensation measures are provided where adverse effects are unavoidable.

Policy DM7 – Dark skies and External lighting: “Development proposals involving external lighting will only be permitted when a lighting scheme has been provided that demonstrates that the lighting will not individually or cumulatively cause:

- Unacceptable levels of light pollution especially in the countryside.
- An unacceptable adverse effect on the visibility of the night sky.
- A nuisance or hazard to highway users including pedestrians, and local residents.

- An unacceptable disturbance to protected species.”

4.2.48 “Thought needs to be given on how external lighting schemes can avoid potential impacts to nocturnal wildlife, particularly protected species, such as bats, otters and badgers. Dark wildlife movement corridors should be left, e.g. no external lighting of boundary habitat features, wildlife corridors, and watercourses.”

4.2.49 “Protected species are a material planning consideration. The way in which protected species are considered in the planning process is detailed in TAN 518. The LDP does not repeat this guidance on how to deal with protected species and in this instance relies upon national guidance.”

Planning Policy Wales (PPW) (Edition 11)

Planning Policy Wales⁵ (WG, 2021) sets the national policies in relation to development control through the Town and Country Planning Act 1990. This is supported by a series of Technical Advice Notes (TAN), of particular relevance is Technical Advice Note 5 (WG, 2009) which sets out the consideration of nature conservation in the determination of planning applications.

PPW 11 sets out that “planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity” (para 6.4.5). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016.

A recent letter from WG to Local Planning Authorities (LPAs) clarified that in light of the PPW 11, and the Environment (Wales) Act 2016, where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission.

Future Wales

Future Wales – the National Plan 2040 provides the National Development Framework for Wales, setting out the direction for development in Wales until 2040. It addresses national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate resilience, developing strong ecosystems and improving the health and well-being of communities in Wales. It is a spatial plan and therefore sets out a

⁵ https://gov.wales/sites/default/files/publications/2021-02/planning-policy-wales-edition-11_0.pdf

direction of where development and infrastructure should be located for the good of the communities in Wales.

The principles of the Well-being of Future Generations Act are embedded within the plan, to facilitate sustainable development. Importantly, it sets out how biodiversity needs to be safeguarded, and how actions should secure the maintenance and enhancement (net gain) of biodiversity, ecosystem resilience and green infrastructure, and part of development proposals.

United Kingdom Biodiversity Action Plan (UK BAP)

In 1992 the UK signed the Convention on Biological Diversity at the Rio Convention pledging the UK to develop national strategies for the conservation and sustainable use of biological diversity. The UK Government subsequently produced Biodiversity: The UK Action Plan in 1994, which described the biological resources of the UK as a whole and in turn led to the production of Biodiversity Action Plans for individual habitats and species.

Biodiversity policy within the UK has been revised through the publication of the UK Post-2010 Biodiversity Framework (JNCC, 2012) which covers the period from 2011 to 2020. A total of 65 Priority Habitats and 1150 Priority Species have been identified as the most in need of protection. Such species and habitats present in Wales have been listed as species and habitats of principal importance for conservation in response to the requirements of the Environment (Wales) Act 2016. They are hereafter referred to as Section 7 (S7) species.

Powys Local Biodiversity Action Plan

The Powys Local Biodiversity Action Plan⁶ was published by the Carmarthenshire Biodiversity Partnership. It includes 17 Habitat and 28 Species Action Plans with a number of actions relating to the protection of biodiversity within the county.

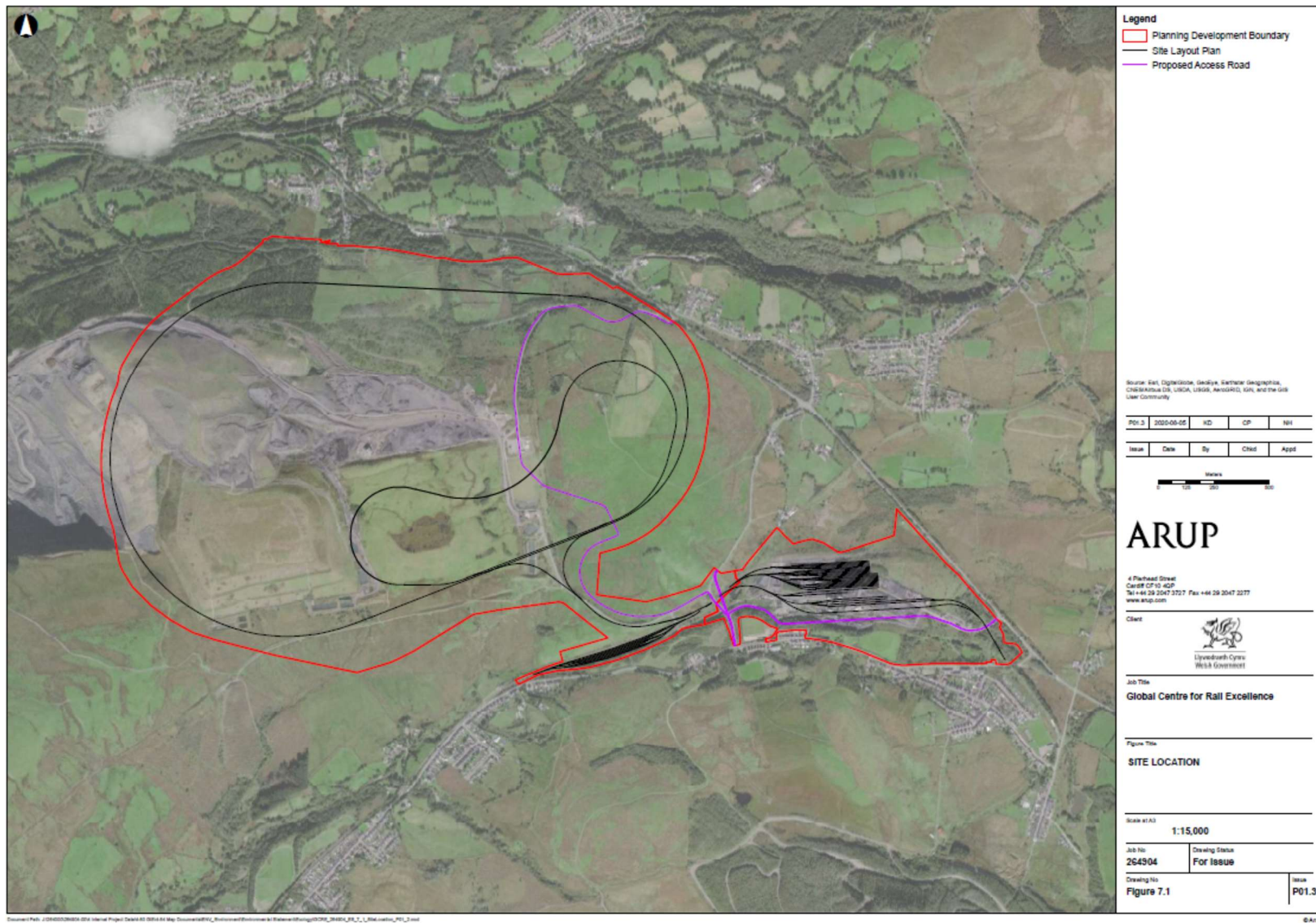
Neath Port Talbot Biodiversity Action Plan

No information is currently available on the Neath Port Talbot LBAP. The report is unpublished, due to containing confidential information on partners, and currently being revised to tie in with WG's new Nature Recovery Plan. As such the NPTCBC ecologist has recommended using the published list of habitats and species of principal importance for the purpose of maintaining and enhancing biodiversity conservation in Wales, in response to Section 7 requirements of the Environment (Wales) Act 2016 (i.e. Section 7 habitats and species).

⁶ <https://en.powys.gov.uk/article/2553/Local-biodiversity-action-plan>. Accessed online 12/11/2019.

Appendix 2

Project Boundary



Appendix 3

Ruled out potential barn owl box locations

Location Details	Image
Powys	
NGR: SN8571215672 Beneath bridge in disused section of quarry. Surrounding habitat comprises optimal rough grassland. Ruled out as exiting box present.	
NGR: SN8566715752 Within Ally Rhongyr a Chraig y Rhiwarth Nature Reserve Calcareous grassland with rough grassland at woodland edges. Ruled out as mature trees predominately ash <i>Fraxinus excelsior</i> are due for removal.	
NGR: SN8473618449 Blaencar / Llwyn yr ynn Valley containing low intensity pasture with wet grassland. Abundant oak tree and nearby foraging habitat along adjacent hill slopes and l'm valley. Ruled out as other areas more suitable.	

Location Details	Image
NGR: SN9103809120 On oak in hedgerow. Much foraging in area, box overlooking rush pasture. Ruled out as other areas more suitable.	
Neath Port Talbot	
NGR: SN 88912 09116 A number of isolated oak <i>Quercus</i> sp. trees are present within an expanse of rush-pasture/marshy grassland subject to light grazing by cattle representing optimal foraging habitat This area is located in the vicinity of an existing barn owl box scheme (<i>pers. comm.</i> Cedwyn Davies; Davies, Richards and Baker Barn Owl Group), and will expand the coverage of this existing scheme to the east. Ruled out to agent asking for high fee	
NGR: SN9017507403 Area of low intensity grazing/rough grassland. Ruled out due to landowner concerns and proximity to main road.	

Location Details	Image
SN 75564 04988 Neath Port Talbot A mature tree located in outgrown hedgerow on field boundary. The area comprises rough grassland. This area is relatively remote, with no major roads nearby. Option A was ultimately discounted after discission with the landowner due to being unable to commit to the agreement long term.	



**DALCOUR
MACLAREN**

Midlands

4 Bredon Court
Brockridge Park
Twynning
Gloucestershire GL20 6FF

T: 01684 217 703

E: info@dalcourmaclaren.com

E: EPTeam@dalcourmaclaren.com

dalcourmaclaren.com

