



Ecological Appraisal Report:

**Land on Is-Y-Bryniau,
Lewis Avenue,
Cwmlllynfell,
Neath Port Talbot,
SA9 2GS.**

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Summary

I & G Ecological Consulting were commissioned to undertake a preliminary ecological appraisal of an area of land approximately 0.28 hectares, located on Is-Y-Bryniau, Lewis Avenue, Cwmllynfell, Neath Port Talbot (Fig.1) to assist with an ongoing planning application.

The land within the site boundary consists of marshy grassland with stands of willowherb and dense bramble scrub, with a number of scattered trees lining the southern boundary.

No signs of European protected species or INNS were observed on site or immediately adjacent to the site boundary.

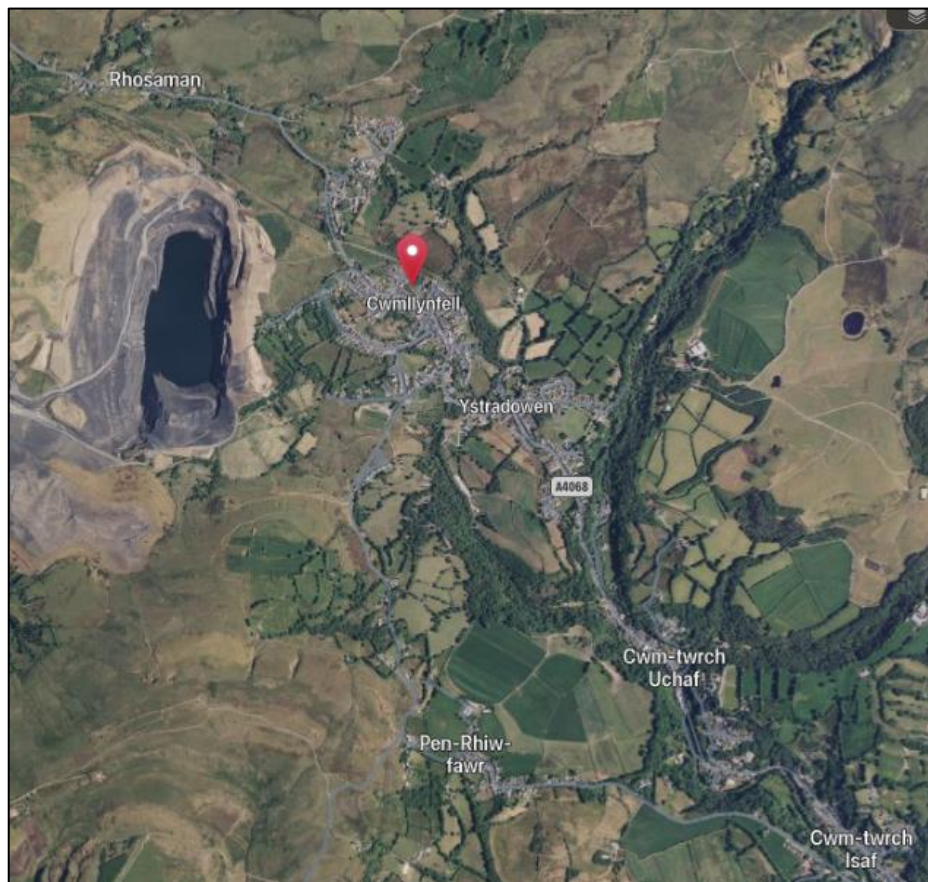


Figure 1: Location of site, Grid Ref SN 74567 13012

1. INTRODUCTION

I & G Ecological Consulting were commissioned to undertake a preliminary ecological appraisal of an area of land approximately 0.28 hectares, located on Is-Y-Bryniau, Lewis Avenue, Cwmllynfell, Neath Port Talbot, to assist with an ongoing planning application.

1.1.1 This report presents the findings of both a desk study and a site appraisal undertaken in June of 2023. The report outlines the ecological constraints/ opportunities associated with the site.

- 1.1.2 The survey was conducted during optimal conditions.

2. METHODOLOGY

- 2.1.1 Both a desk-based survey and an ecological site survey were undertaken to establish the ecological conditions on site.
- 2.1.2 A field botanical survey was carried out using survey methods that were based on standard Phase 1 Habitat survey techniques. The CIEEM Guidelines for Preliminary Ecological Appraisal were also followed and adhered to.

2.2 *Badgers*

- 2.2.1 The surrounding habitat was assessed for its suitability for badgers which includes the presence of setts, well-worn paths and runs, snagged hair, latrines, footprints and foraging. Any such incidental signs of badgers were recorded if they were encountered.

2.3 *Otters*

- 2.3.1 The surrounding habitat was assessed for its suitability to support otters. The area was searched for otter field signs such as spraint marking, slides, hovers or footprints.

2.4 *Dormouse*

- 2.4.1 The habitats on site, particularly the hedgerows were assessed for their suitability to support dormice.

2.5 *Birds*

- 2.5.1 The habitats on site were assessed for their suitability for breeding birds, including trees, scrub and grassland.

2.6 *Bats*

- 2.6.1 Habitats on site were assessed for their suitability to support bats, particularly any trees on site that could have bat roosting potential or opportunities.

2.7 *Reptiles*

- 2.7.1 The habitats on site were assessed for their suitability to support reptiles.

2.8 *Amphibians*

- 2.8.1 The habitats on site were assessed for their suitability to support amphibians.

2.9 *Water Voles*

- 2.9.1 The surrounding habitats on site were assessed for their suitability to support water voles.

2.10 *Marsh Fritillary*

The surrounding habitats on site were assessed for their suitability to support marsh fritillary butterfly and their food plant Devil's bit scabious *Succisa pratensis*.

2.11 Non-Native Invasive Species

- 2.11.1 Any pernicious weeds under Schedule 9, Section 14 of the Wildlife and Countryside Act 1981 (as amended) were also noted and mapped during the site survey. These species include Japanese Knotweed (*Fallopia japonica*) and Himalayan Balsam (*Impatiens glandulifera*).

3. RESULTS

3.1 Desk study

- 3.1.1 A data search was requested from the South East Wales Biodiversity Records Centre (SEWBReC) for the planning application site and surrounding area of up to 2km. The species information was returned to I&G Ecology on the 28th of June 2023. A number of protected and notable species records were returned within 2km of the site centre. The records will not be listed here, but the most significant, those which are considered to potentially be affected by development of the site, will be briefly summarised. However, the full data are available upon request to those nominated on the request form, as some data may be classified as sensitive.

- 3.1.2 The significant findings from the data search are summarised below: -

3.1.3 Birds

The data search returned 121 entries of birds which are categorised as priority species within 2km of the site, entries within 500m include house sparrow, fieldfare, lesser redpoll, starling, dunnock, redwing, red kite, song thrush, skylark, bullfinch, herring gull, peregrine, and cuckoo.

Other entries within 2km include goshawk, kingfisher, tree pipit, hen harrier, reed bunting, kestrel, pied flycatcher, linnet, grasshopper warbler, crossbill, spotted flycatcher, curlew, wood warbler, golden plover, willow tit, marsh tit, barn owl, and lapwing.

3.1.4 Mammals

The data search returned 57 entries of terrestrial mammals which are categorised as priority species within 2km of the site, the closest being common Hedgehog (*Erinaceus europaeus*) recorded at 128m from the site. Other entries included: -

- 32 entries for Bats including 12 common pipistrelle, 7 soprano pipistrelle, 4 Brown long-eared, and 9 unidentified.
- 4 entries for Hedgehog (*Erinaceus europaeus*), closest being 517m from site.
- 17 entries for Otter (*Lutra lutra*), closest being 1064m from site.
- 3 entries for Badger (*Meles meles*), closest being 935m from site.
- 1 entry for Weasel (*Mustela nivalis*), closest being 1702m from site.
- 1 entry for Polecat (*Mustela putorius*), closest being 1702m from site.

3.1.5 Invertebrates

The data search returned 8 entries of invertebrates which are categorised as priority species within 2km of the site. Entries included: -

- 1 entry for moth including Cinnabar.
- 7 entries for butterfly including small heath, marsh fritillary, grayling, and white-letter hairstreak.

3.1.6 Plants

The data search returned 9 entries of flowering plants which are categorised as priority species within 2km of the site including bluebell, large-flowered sticky eyebright, and globeflower.

3.1.7 Reptiles

The data search returned 1 entry of reptiles which are categorised as priority species within 2km of the site, being Common Lizard (*Zootoca vivipara*), recorded at 959m from the site.

3.1.8 Amphibians

The data search returned no entries of amphibians which are categorised as priority species within 2km of the site.

3.1.9 Bony Fish

The data search returned 9 entries for bony fish which are categorised as priority species within 2km of the site, including European Eel, Atlantic salmon and Brown trout.

3.1.10 Invasive Non-native species

The data search returned 92 entries for INNS within 2km of the site, including 68 entries for flowering plants. The closest being Montbretia recorded 222m from site, other flowering plants include buddleia, hybrid bluebell, wall cotoneaster, entire-leaved cotoneaster, New Zealand willowherb, Japanese knotweed, wilson's honeysuckle, hybrid monkeyflower, cherry laurel, R.ponticum, Japanese rose, white stonecrop, and snowberry.

Other entries include: -

- 3 entries for Canada Goose, closest being 491m from site.
- 20 entries for Heath Star Moss, closest being 479m from site.
- 1 entry for Grey Squirrel, being 1702m from site.

3.1.11 Statutory Designated Sites

The data search showed that there is one Nationally or Internationally important site (e.g., SSSIs, SACs or SPAs) which lie within the search buffer.

SSSI:

- Cwm Twrch, 1053m from site.

3.1.12 Non-statutory Designated Sites

The data search showed the site lies within a B-line and the NPT Watercourses SINC, there are also a number of Locally important sites which lie within the search buffer, These include: -

SINC:

- NPT Ancient Semi-Natural Woodland, 963m from site.
- Tiroedd Comin Cwm Amman Uchaf, 448m from site.
- Fields behind Heol y Coedcau, 108m from site.
- Pant-y-Brwyn, 693m from site.
- Land behind Pen y Bryn, 337m from site.

Regionally Important Geodiversity Sites:

- Henllys Vale, 995m from site.

3.1.13 NRW Priority Areas

There are a number of Priority Areas of habitat within the search buffer but none within or immediately adjacent to the site boundary (Fig. 9).

3.2 Site Appraisal

On site survey

- 3.2.1 The site survey was undertaken on the 22nd of June 2023 by a suitably qualified ecologist. Some photos from this visit are included where appropriate. Where possible, the habitats were cross referenced to any important UK priority habitats or local habitats adopted by the Local Biodiversity Action Plan.
- 3.2.2 The land within the site boundary (Fig.2) consists of marshy grassland with stands of willowherb and dense bramble scrub, with a number of scattered trees lining the southern boundary.



Figure 2. Aerial image of the site surveyed (outlined in red), approximately 0.28 hectare in size.

Habitats recorded within red line boundary were as follows:

3.3 Marshy Grassland

- 3.3.1 The grassland on site is nonuniform forming a mixture of dense tussocks and short grasses with species including abundant common bent and purple moor grass with frequent false oat grass, Yorkshire fog, and sweet vernal. Cock's foot occurs occasionally along the edges of the scrub and site boundaries with areas dominant in soft rush and occasional compact rush amongst the sward. Forbs include abundant field horsetail and sorrel with occasional rosebay willowherb, bramble, nettles, goose grey, orange hawkweed, juniper haircap, white clover, and creeping buttercup. (TN1; Fig.3)



Figure 3. Grassland

3.4 Scrub

- 3.4.1 Areas of dense bramble scrub dominate much of the boundaries of the site. Frequent species found with the bramble include field horsetail, rosebay willowherb, nettles and coarse grasses, with occasional soft rush and bracken fern. (TN2: Fig.4)



Figure 4. Scrub

3.5 Tall Ruderal

- 3.5.1 Areas of the site are dominated by large stands of willowherb, bramble is abundant throughout the tall ruderal species with occasional bracken fern and grasses such as cock's foot and purple moor. (TN3; Fig.5)



Figure 5. Tall Ruderal

3.6 Scattered Trees

- 3.6.1 A number of scattered trees lie to the south of the site species include frequent grey willow, occasional hawthorn and goat willow with horse chestnut and European mountain ash occurring rarely. (TN4; Fig.6).



Figure 6. Scattered Trees

3.7 Protected Species

3.7.1 Badgers

The grassland and tall ruderal habitats present within the wider survey area may provide sub-optimum foraging opportunities for badger, with no suitable habitat for the creation of setts available on site. No evidence of badger was found within the wider survey area. The nearest record of badger returned during the desk study is located 0.94km from the site.

3.7.2 Bats

The habitats on site offer plenty of foraging opportunities with a number of trees holding moderate Bat Roost Potential (BRP).

3.7.3 Otters

No habitat considered suitable for the creation of otter holts / rest areas was observed on site. The land on site provides no suitable habitat for otter. The closest record belonging to Otter (*Lutra lutra*) is located 1.06km from site.

3.7.4 Reptiles

The habitats on site offer some structural complexity, which is favoured by reptiles, as well as good habitat for invertebrates on which reptiles may forage. The site offers numerous areas in which reptiles may thermoregulate, and the dense scrub and tall ruderal habitats offers suitable areas of refuge. The closest record of reptile returned in the desk study belonged to slow worm, located 0.96km from the site.

3.7.5 Amphibians

There is no standing water within the wider survey area, as such breeding amphibians are considered absent. However, the tall ruderal and scrub on site may offer suitable foraging habitat and refugia for terrestrial phase amphibians. No evidence of amphibian was found within the site. There are no records belonging to Amphibians within 2km of the site.

3.7.6 Hazel Dormouse

The scattered trees on site offer limited areas of arboreal connectivity, providing sub-optimal habitat for dormouse. There are no records belonging to Dormouse (*Muscardinus avellanarius*) within 2km of the site.

3.7.7 Water Voles

There is no habitat considered suitable for water vole within the wider survey area. There are no records of Water Vole (*Arvicola amphibius*) within 2km of the site.

3.7.8 Birds

The habitats on site offer optimal nesting opportunities for birds with the marshy grassland and scrub on site offering optimal foraging opportunities for a range of species. There are copious records of birds within 2km of the proposed development site.

3.7.9 **Marsh Fritillary**

The marshy grassland on site would provide sub-optimal habitat for marsh fritillary butterfly. The sward is abundant with purple moor grass, however, the marsh fritillary's food plant, devil's-bit scabious (*Succisa pratensis*) is absent. The closest record of marsh fritillary returned during the desk study is 1.06km from the site.

3.8 **Invasive Non-native species (INNS)**

No invasive non-native species were identified on the day of the survey. There are copious records of INNS within 2km of the site, with the nearest belonging to Montbretia, located 0.22km from the site.

ECOLOGICAL ASSESSMENTS

The following values have been provided to assess the importance of an ecological feature value within a geographical context, as recommended within the CIEEM Guidelines for Ecological Impact Assessment (2016) and the CIEEM Guidelines for Ecological Report Writing (Dec.2015). See Table 1 below:

4.1.1 Table 1: Ecological Value Assessments

Importance	Examples of features
International & European	European designated or proposed sites such as Ramsar Sites, Special Protection Areas, Special Areas of Conservation, World Heritage sites or Biosphere Reserves; or otherwise meeting criteria for European or International designation. Sites supporting populations of European important species. Species listed within the Annex's of The Conservation of Habitats & Species Regulations 2010
National	Nationally designated sites such as Sites of Special Scientific Interest (SSSIs), National Nature Reserves (NNRs), areas of key habitats and species within the UK Biodiversity Action Plan. Sites supporting viable breeding populations of Red Data Book (RDB) species (excluding scarce species), or supplying critical elements of their habitat requirements. Species listed within the schedules of the Wildlife & Countryside Act 1981.
Regional	Sites containing viable areas of threatened habitats and species listed in a regional Biodiversity Action Plan, sites exceeding Site of Importance for Nature Conservation (SINC) criteria. Sites supporting viable populations of Nationally Scarce species or those included in the Regional Biodiversity Action Plan on account of their rarity, or supplying critical elements of their habitat requirements.
High Local	Sites meeting the criteria for a county, vice county or metropolitan area designation (such as SINC), which may include amenity and educational criteria in urban areas. Ancient semi-natural woodland. Designated Local Nature Reserves. Sites containing viable areas of any key habitat type or species identified in the Local Biodiversity Action Plan (LBAP). Sites supporting viable breeding populations of species known to be county/metropolitan rarities e.g., featuring in county 'red data book' or LBAP, or supplying critical elements of their habitat requirements.
Moderate Local	Undesignated sites or features considered appreciably to enrich the habitat resource within the context of the Borough or District, or included in the Borough or District LBAP. Amenity and educational functions will be recognised in urban areas. Sites with viable breeding populations of species listed as rare in the District or Borough LBAP or supplying critical elements of their habitat requirements.
Low Local	Undesignated sites or features considered appreciably enriching the habitat resource within the context of the Parish or neighbourhood.
Negligible	Low-grade and widespread habitats.

4.1.2 Table 2: Impact level Criteria

Severe	Permanent impacts
Major	Loss of feature and/or quality and integrity of feature; severe damage to key characteristics, features or elements.
Moderate	Loss of feature, but not adversely affecting the integrity; partial loss of/damage to key characteristics, features or elements.
Minor	Some measurable change in attributes, quality or vulnerability; minor loss of, or alteration to, one (maybe more) key characteristics, features or elements
Negligible	Very minor loss or detrimental alteration to one or more characteristics, features or elements
Neutral	No impacts

4.2 Priority Habitats and Species

- 4.2.1 UK BAP priority habitats and species were those that were identified as being the most threatened and requiring conservation action under the UK Biodiversity Action Plan (UK BAP). As a result of devolution, conservation action is now focused at a country-level rather than a UK-level, and the UK BAP was succeeded by the UK Post-2010 Biodiversity Framework in July 2012. The UK list of priority species, however, remains an important reference source and has been used to help draw up statutory lists of priority species and habitats in the four countries of the UK.
- 4.2.2 The Environment Wales Act (2016) (EWA) Section 6 places a duty on public authorities to 'seek to maintain and enhance biodiversity' and seek to 'promote the resilience of ecosystems'. The duty replaces the section 40 duty in the Natural Environment and Rural Communities Act 2006 (NERC Act 2006), in relation to Wales, and applies to those authorities that fell within the previous duty. Section 7 lists both Priority Species and Habitats of Principle Importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.
- 4.2.3 The Neath Port Talbot Council Local Biodiversity Action Plan (LBAP) aims to maintain and enhance biodiversity which covers a range of selected habitats and species which reflect both national and local priorities; develop effective local partnerships; monitor progress in achieving local biodiversity targets.

4.3 Assessments on the Habitats & Species Identified During the Survey

Habitats

4.3.1 Marshy Grassland

The sward holds abundant purple moor grass and provides critical elements required for Marsh Fritillary, although the main food plant of the caterpillars is missing. The habitat value has been assessed as: **Moderate Local**. Loss of this habitat, without mitigation, is considered to be **Moderate**.

4.3.2 Scrub

The areas of scrub on site will provide foraging and nesting habitats for a range of bird species, invertebrates, and small mammals. The habitat value has been assessed as: **Low Local**. Loss of this habitat, without mitigation, is considered to be **Minor**.

4.3.3 Tall Ruderal

The areas of tall ruderal species hold foraging and refugia opportunities for a range of invertebrate, bird, small mammal and reptile species. The habitat value has been assessed as **Low Local**. Loss of this habitat, without mitigation, is considered to be **Minor**.

4.3.4 Scattered Trees

The trees present on site have the potential to provide nesting habitat for birds, while holding moderate roosting potential for bats. The habitat value has been assessed as: **Moderate Local**. Loss of this habitat, without mitigation, is considered to be **Moderate**.

4.4 Species

4.4.1 The field survey identified the on-site habitats as having the potential to support the following species which are also listed under UK BAP: Reptiles, Invertebrates, Breeding Birds and Bats.

4.4.2 During the field survey no bird species, which are listed under the UK BAP as being associated with the on-site habitats, were recorded. The survey concluded that the site consisted of suitable habitat which could support a number of priority species.

4.5 Ecosystem Resilience

Area loss can cause populations of organisms to decline due to a decrease in habitat size. The area consists of four distinct habitat types: Marshy Grassland, Tall Ruderal, Scrub and Scattered Trees. If the site is cleared without any mitigation for development the impact is expected to be **Major**.

5.1 CONCLUSIONS AND RECOMMENDATIONS FOR FURTHER SURVEY

The combination of desk and field surveys undertaken at the proposed development site identified that the majority of the area within the planning site boundary has **Moderate Local** ecological value. With the marshy grassland on site holding potential habitat for Marsh Fritillary. The site is an “island” surrounded by residential properties and is therefore cut off from other habitats.

5.2 Marshy Grassland

5.2.1 With abundant purple moor grass this habitat provides elements required for the marsh fritillary, although the main food plant of the caterpillars is missing. Controlling scrub invasion along with a rotational grazing or cutting regime may help achieve good structural diversity and result in an increase of invertebrate foodplants.

5.3 Scrub

- 5.3.1 The pockets of bramble scrub will provide useful bird nesting habitat. Vegetation clearance should be planned outside the nesting bird season. Loss of scrub habitat will be mitigated for by suitable new planting within the site.

5.4 Scattered Trees

- 5.4.1 Retention and protection of the on-site trees and associated features to be managed as a landscape feature is advised. Any loss of habitat should be mitigated against with new planting of trees of local provenance and the inclusion of artificial habitats into new structures as detailed below.

5.5 Bats

- 5.5.1 The scattered trees on site hold moderate roosting potential and as such a bat survey should be undertaken before any clearance work is to take place.
- 5.5.2 The inclusion of artificial habitats such as bat bricks/boxes any new structures will provide increased roosting opportunities for a range of species.
- 5.5.3 An appropriate lighting plan would be beneficial, reducing disturbance of bat roosts, access points and foraging pathways.

5.5 Birds

- 5.6.1 All nesting birds are protected under Section 1 of the Wildlife and Countryside Act of 1981. Therefore, vegetation clearance should be planned outside the nesting bird season.
- 5.6.2 Loss of bird habitat must be mitigated for by way of suitable provision on site. This may partly be encompassed in the Landscaping Plan, with the inclusion of new hedging, trees, fruit/seed bearing planting.
- 5.6.3 Management of habitats should be sympathetic towards the local environment taking place outside of the bird nesting season.

5.7 Reptiles and Amphibians

- 5.7.1 The habitat within the site presents common species of reptile (slow-worm and common lizard) with suitable habitat and foraging opportunities. A Reptile and Amphibian Mitigation Method Statement will be required prior to any development in order to protect animals during site clearance and construction, which will likely detail a phased approach to vegetation clearance, as well as the careful removal of any refugia within the site by hand. Following such guidelines will also help safeguard small mammals that may be present on site.

5.8 Invertebrates

- 5.8.1 The grassland on site provides numerous habitats for a range of invertebrates, mitigation will need to be provided on site to provide options for invertebrates. Bug hotels, planting of wildflower areas etc will help with the loss of the grassland areas.

5.9 Invasive Non-native species

- 5.9.1 Materials brought into the site should be clean and free from INNS.

5.10 Biodiversity and Resilience of Ecosystems Duty (Section 6 Duty)

- 5.10.1 The Environment (Wales) Act 2016 introduced an enhanced biodiversity and resilience of ecosystems duty (Section 6 Duty) applicable to Local Authorities. This duty filters through to all those participating in the Planning process.
- 5.10.2 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity.
- 5.10.3 It is therefore recommended, that in order to provide a net enhancement for the development new native planting should be incorporated into the development using species of local provenance.
- 5.10.4 In order to provide a net benefit for biodiversity it is recommended new dwellings should include artificial habitats such as bat bricks/boxes, bird boxes/bricks or Swift/Swallow cups; the details of which should be agreed with the LA ecologist.

6. LEGISLATION

6.1 Otters and the Law.

- 6.1.1 The otter is a European Protected Species (EPS). It is against the law to damage or destroy an otter breeding site or resting place, or deliberately to capture, kill, injure or disturb an otter.
- 6.1.2 Otters are fully protected by the following pieces of legislation:
- The Conservation of Habitats and Species Regulations 2017 (regulation 42) fully protects otters, making it **an offence to:** -
 - *Intentionally or deliberately capture, injure or kill an Otter.*
 - *Damage or destroy a breeding or resting place of an Otter, or intentionally or recklessly damage or destroy any structure or place used for shelter or protection*
 - *Intentionally or recklessly disturb an Otter in a place used for shelter or protection, or deliberately disturb Otters in such a way as to be likely significantly to affect (i) the ability of any significant group of Otters to survive, breed, rear or nurture their young, or (ii) the local distribution or abundance.*
 - *Intentionally or recklessly obstruct access to a place used for shelter or protection.*
 - *Possess an Otter (alive or dead), or any part of an Otter*
 - Schedule 5 of the Wildlife and Countryside Act 1981 (as amended by the CROW [Countryside Rights of Way] Act 2000) fully protects otters, making it **an offence to:** -
 - *Intentionally or recklessly disturb any otter while it is occupying a structure or place which it uses for shelter or protection*
 - *Intentionally or recklessly obstructs access to any structure or place used by an otter for shelter or protection*
 - *Sell, offer or expose for sale any otter*
- 6.1.3 For any disturbance to occur a derogation or **EPS licence** must be gained from Natural Resources Wales. To gain an EPS Licence from Natural Resources Wales (NRW), NRW must be satisfied that;
- i. granting the licence would not be detrimental to the Favourable Conservation Status (fcs) of the populations of species concerned within its natural range.
 - ii. the derogation (licence) is in the public interest of Health and Safety or for other reasons of over-riding public interest, including those of a socio-economic nature or will have a benefit of primary importance to the environment.
 - iii. there is no satisfactory alternative to the derogation which would allow the described development to proceed but which would avoid or reduce the need for any adverse impact to the species.
- 6.1.4 Otters are also protected by;
- Natural Environment and Rural Communities Act 2006 and now the Environment (Wales) Act 2016.

- Annex II Habitats Directive (protection through Special Areas of Conservation)
- UK Biodiversity Action Plan Priority Species and Species of Principal Importance in Wales

6.2 **Bats and the Law**

6.2.1 Bats are protected by the following pieces of legislation:

- Schedule 5 and 6 of the Wildlife and Countryside Act 1981 (as amended by the CROW [Countrywide Rights of Way] Act 2000)
- The Environmental Damage (Prevention & Remediation) Regulations 2009 – A protected species and its habitat is protected under this legislation as well as others.
- The Conservation of Habitats and Species Regulations 2017 (regulation 42) fully protects all bats and their roosts, making it **an offence to deliberately kill, injure or capture** (take) bats; *to deliberately disturb bats; damage or destroy bat roosts* or resting places (this is considered an “Absolute Offence” as damage and destruction may detrimentally effect the Continuous Ecological Functionality of that roost / resting place); possess or transport a bat or any part of a bat; sell (or offer for sale) or exchange bats or parts of bats.
- For any disturbance to occur a derogation or **EPS licence** must be gained from Natural Resources Wales. To gain an EPS Licence from Natural Resources Wales (NRW), NRW must be satisfied that;
 - i. the licence would not be detrimental to the Favourable Conservation Status (fcs) of the populations of species concerned within its natural range.
 - ii. the derogation (licence) is in the public interest of Health and Safety or for other reasons of over-riding public interest, including those of a socio-economic nature or will have a benefit of primary importance to the environment.
 - iii. there is no satisfactory alternative to the derogation which would allow the described development to proceed but which would avoid or reduce the need for any adverse impact to the species.

6.2.2 Bats are also protected by;

- Appendix III of the Bern Convention
- Appendix II of the Bonn Convention (including the Convention's Agreement on the conservation of Bats in Europe)
- Natural Environment and Rural Communities Act 2006 and now the Environment (Wales) Act 2016.
- All bats are listed in Annex IV of the EC Habitats Directive and the British species listed in Schedule 2 of the Habitats Regulations 1994 (as amended) and are therefore designated as *European Protected Species*. These *protected* species are afforded enhanced protection and more stringent licensing provisions than those protected by the Wildlife and Countryside Act (WACA) alone.

6.3 The Hazel Dormouse and the Law

6.3.1 The hazel dormouse is a European Protected Species (EPS). It is against the law to damage or destroy a dormouse breeding site or resting place (summer or hibernation nest), or deliberately to capture, kill, injure or disturb a dormouse.

6.3.2 Dormice are fully protected by the following pieces of legislation:

- The Conservation of Habitats and Species Regulations 2017 (regulation 42) fully protects dormice, making it **an offence to**:-
 - *Intentionally or deliberately capture, injure or kill a dormouse.*
 - *Damage or destroy a breeding or resting place of a dormouse, or intentionally or recklessly damage or destroy any structure or place used for shelter or protection*
 - *Intentionally or recklessly disturb a dormouse in a place used for shelter or protection, or deliberately disturb dormouse in such a way as to be likely significantly to affect (i) the ability to survive, breed, rear or nurture their young, and includes in the case of animals of a hibernating or migratory species, to hibernate or migrate or (ii) the local distribution or abundance.*
 - *Intentionally or recklessly obstruct access to a place used for shelter or protection.*
 - *Possess a dormouse (alive or dead), or any part of a dormouse*
- Schedule 5 of the Wildlife and Countryside Act 1981 (as amended by the CROW [Countryside Rights of Way] Act 2000) fully protects dormice, making it **an offence to**:-
 - *Intentionally or recklessly disturb any dormouse while it is occupying a structure or place which it uses for shelter or protection*
 - *Intentionally or recklessly obstructs access to any structure or place used by a dormouse for shelter or protection*
 - *Sell, offer or expose for sale any dormouse*

6.3.3 For any disturbance to occur a derogation or **EPS licence** must be gained from Natural Resources Wales. To gain an EPS Licence from Natural Resources Wales (NRW), NRW must be satisfied that;

- i. granting the licence would not be detrimental to the Favourable Conservation Status (fcs) of the populations of species concerned within its natural range.
- ii. the derogation (licence) is in the public interest of Health and Safety or for other reasons of over-riding public interest, including those of a socio-economic nature or will have a benefit of primary importance to the environment.
- iii. there is no satisfactory alternative to the derogation which would allow the described development to proceed but which would avoid or reduce the need for any adverse impact to the species.

6.3.4 Dormice are also protected by;

- Natural Environment and Rural Communities Act 2006 (England) and the Environment (Wales) Act 2016.
- Annex II Habitats Directive (protection through Special Areas of Conservation)
- UK Biodiversity Action Plan Priority Species and Species of Principal Importance in Wales

6.4 Reptiles and the Law

- 6.4.1 All of the UK native reptiles are protected by law. The common species of reptiles found in this locality are common lizard, slow-worm, adder and grass snake. It is illegal to intentionally kill or injure these species under Section 9 (1) of the Wildlife and Countryside Act 1981 (as amended).
- 6.4.2 All native UK reptiles are considered of 'principle importance' under Section 7 of the Environment (Wales) Act 2016. This places a duty on every public authority, in exercising its functions, to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.
- 6.4.3 Under the National Planning Policy Framework (NPPF April 2012), the presence of any Protected Species (which includes all reptiles species) are a material planning consideration. The ODPM 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact within the Planning System, provide additional advice and support the NPPF.

6.5 Amphibians and the Law

- 6.5.1 All of the UK native amphibians are protected by law. The common species of amphibians in this locality are common frog, common toad, smooth newt and palmate newt. It is illegal to intentionally kill or injure these species under Section 9 (1) of the Wildlife and Countryside Act 1981 (as amended).
- 6.5.2 The common toad is considered of 'principle importance' under Section 7 of the Environment (Wales) Act 2016. This places a duty on every public authority, in exercising its functions, to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.
- 6.5.3 Under the National Planning Policy Framework (NPPF April 2012), the presence of any Protected Species (which includes the Common Toad) are a material planning consideration. The ODPM 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact within the Planning System, provide additional advice and support the NPPF.

6.6 Birds and the Law

- 6.6.1 All species of bird are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended). Protection was extended by the Countryside and Rights of Way (CROW) Act 2000. Under the above legislation it is an offence to intentionally:
- kill, injure or take any wild bird;
 - take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
 - take or destroy an egg of any wild bird.

6.6.2 Certain species are listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and receive protection under Sections 1(4) and 1(5). The protection was extended by the Countryside and Rights of Way (CROW) Act 2000. There are special penalties where the offences listed above are committed for any Schedule 1 species and it is also an offence to intentionally or recklessly:

- disturb any such bird when it is building its nest or while it is in or near a nest containing dependant young; or
- disturb the dependant young of any such bird.

6.7 Badgers and the Law

6.7.1 The protection of Badgers Act 1992 makes it illegal to kill, injure or take a badger, or interfere with a sett. In addition, they are listed on Schedule 6 of the Wildlife & Countryside Act 1981, which prohibits certain methods of killing and capture.

6.8 Water Voles and the Law

6.8.1 Water voles are listed under Schedule 5 of the Wildlife & Countryside Act 1981, receiving full protection since 2008. The Wildlife & Countryside Act 1981 (as amended), lists the following offences: -

- Intentionally kill, injure or take water voles (Section 9 (1)).
- Possess or control live or dead water voles or derivatives (Section 9 (2)).
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection (Section 9 (4) (a & c)).
- Intentionally or recklessly disturb water voles whilst occupying a structure or place used for that purpose (Section 9 (4) (b)).
- Sell water voles or offer or expose for sale or transport for sale (Section 9 (5)).
- Publish or cause to be published any advertisement which conveys the buying or selling of water voles (Section 9 (5)).

6.9 Environment Act (Wales) 2016

6.9.1 This act has replaced the section 40 duty in the Natural Environment and Rural Communities Act 2006 (NERC Act 2006), in relation to Wales, and applies to those authorities that fell within the previous duty. It came into force in May 2016.

6.9.2 Section 6 of the Act places a duty on public authorities to 'seek to maintain and enhance biodiversity' so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to 'promote the resilience of ecosystems'. Under Section 6 public authorities will be required to report on the actions they are taking to improve biodiversity and promote ecosystem resilience.

6.9.3 Section 7 of the Act places a duty on public authorities to take steps to maintain and enhance biodiversity. This section replaces the duty in section 42 of the NERC Act 2006. The Section 7 Priority Species under this act is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. The Section 7 Priority Habitats is a list of the habitats of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.

7. REFERENCES

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9. Representative Species List

	Target note						
	TN1	TN2	TN3	TN4			
False oat grass	F						
Common Bent	A						
Yorkshire Fog	F						
Sweet vernal grass	F						
Purple moor grass	A		F				
Field Horsetail	A	F					
Rosebay willowherb	O	F	A				
Sorrel	A						
Bramble	O	A	A				
Nettles	O	F					
Soft rush	F	O					
Bird's-foot trefoil	O						
Cock's foot	O	F	O				
Goose grey	O						
Orange hawkweed	O						
Juniper haircap	O						
White clover	O						
Compact rush	O						
Creeping buttercup	O						
Ragwort	R		O				
Bracken fern		O	O				
Hawthorn				O			
Horse chestnut				R			
European mountain ash				R			
Grey willow				F			
Goat willow				O			

10. SEWBReC Data Search

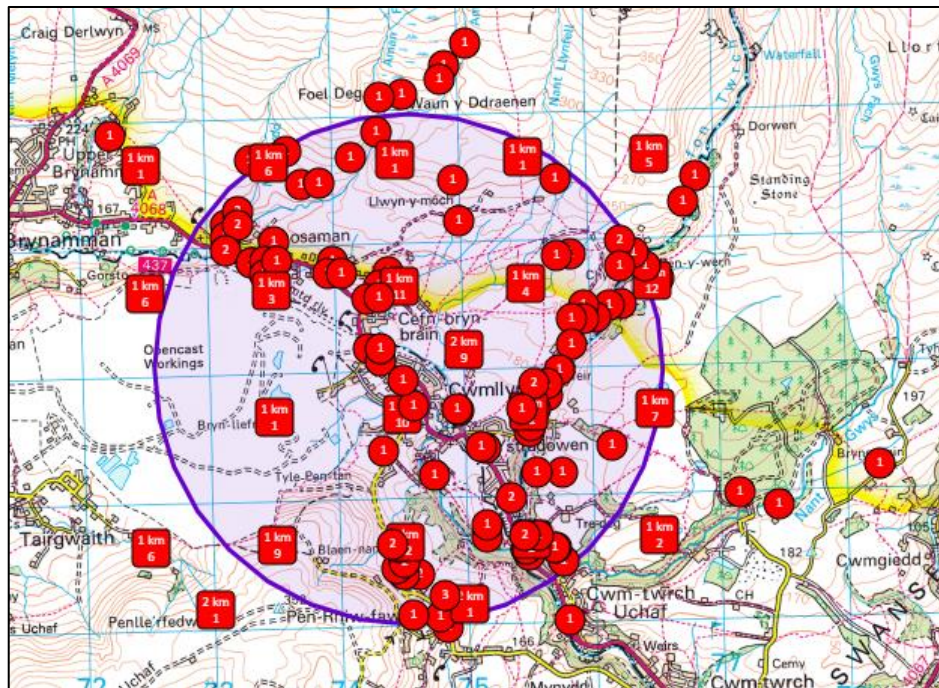


Figure 7. SEWBReC Protected Species Data Search

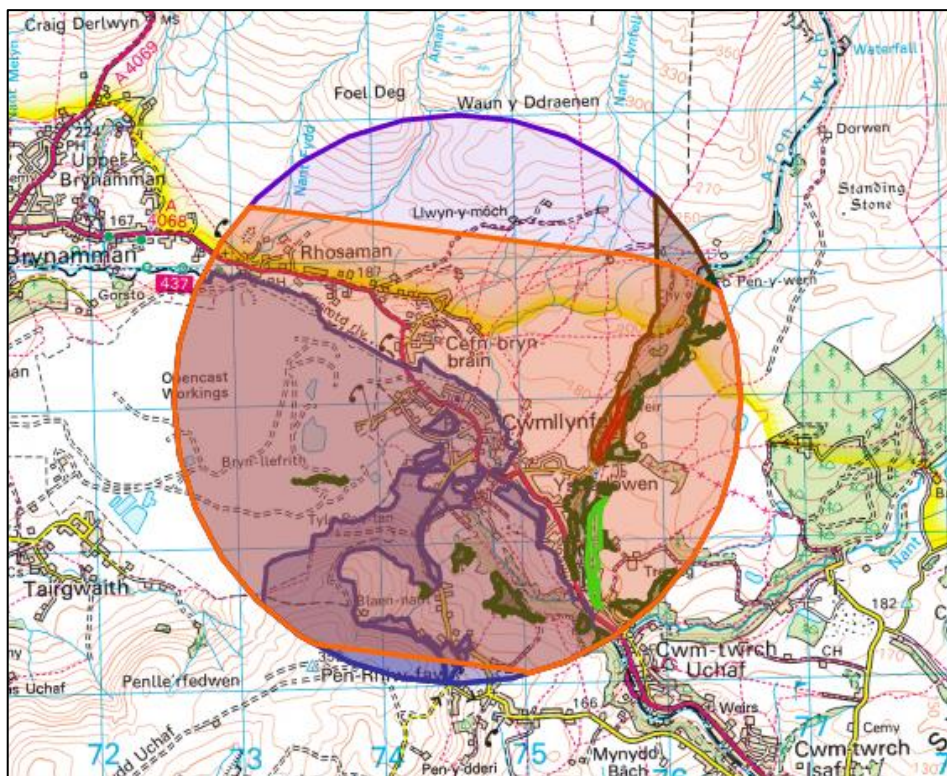


Figure 8. SEWBReC Protected Sites Data Search

Site Type	Key	Number of sites	Category	Intersection Area	Percentage of search area
Site of Special Scientific Interest		1	National - Statutory	23,641 m ²	0.19%
Wildlife Site / SINC (Adopted)		6	Local - Non-statutory	6,515,440 m ²	52.15%
Regionally Important Geodiversity Site		1	Local - Non-statutory	450,862 m ²	3.61%
Ancient Semi Natural Woodland		29	Priority Area	253,916 m ²	2.03%
Restored Ancient Woodland Site		2	Priority Area	45,061 m ²	0.36%
B-Lines		1	Local - Non-statutory	10,409,279 m ²	83.32%

Figure 9. SEWBRc Protected Sites Key

11. Phase 1 Habitat Plan

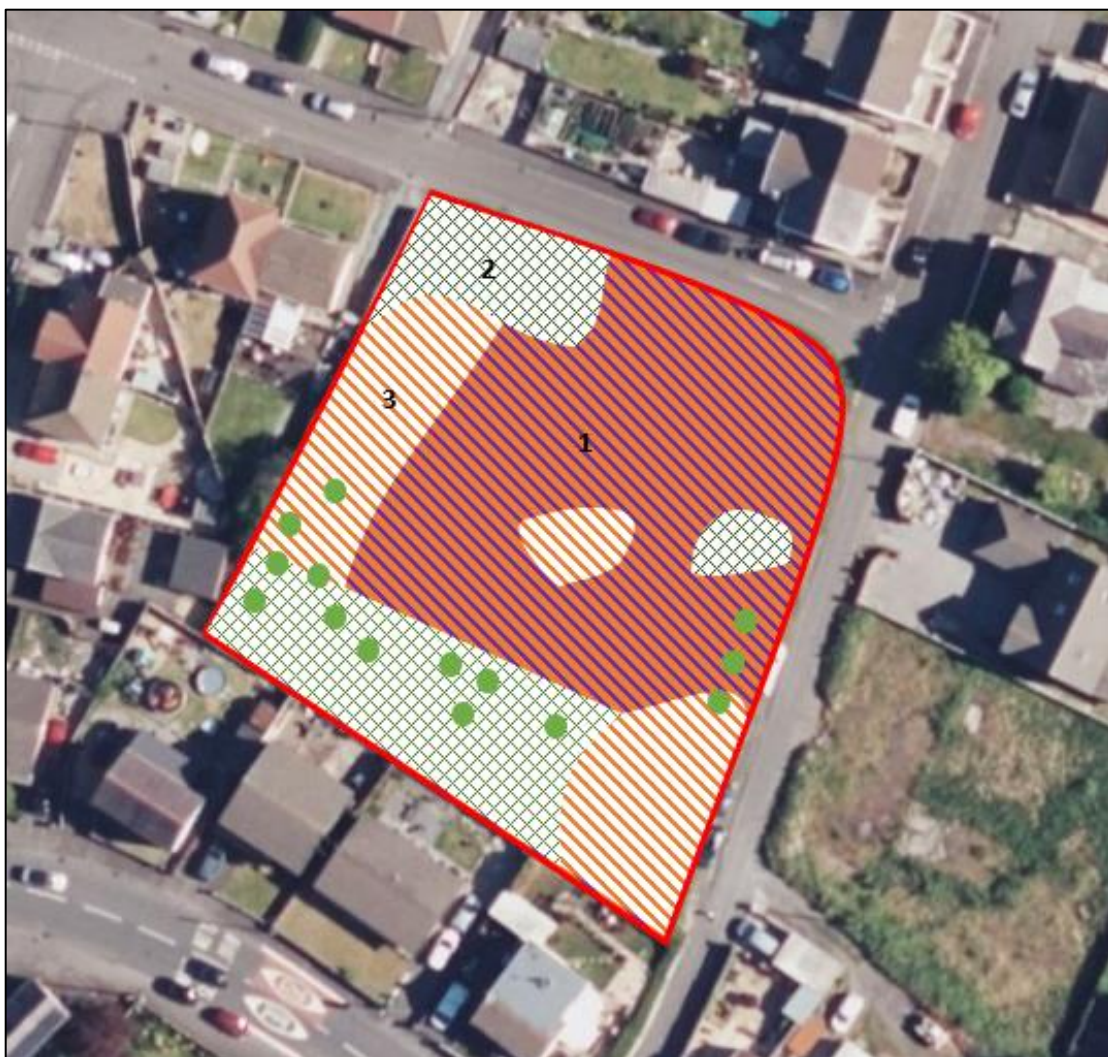


Figure 9. Phase 1 Habitat Plan

Phase 1 Habitat Code Key

Colour	Code	Description
	B5	Marshy Grassland
	A2.1	Dense Scrub
	C3.1	Ruderal
	A3.1	Scattered Broad-leaved Trees