



Ecological Appraisal Report:

**Land off Samuels Road,
Cwmllynfell,
Neath Port Talbot,
SA9 2GT**

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Contact:

Glyn Lloyd-Jones

Iestyn Evans

Office

glyn.igecol@gmail.com

lestyn.igecol@gmail.com

office.igecol@gmail.com

07973 685423

07733 21482

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Summary

I & G Ecological Consulting Ltd were commissioned to undertake a preliminary ecological appraisal of an area of land, approx. 0.1 hectares in size, hereafter referred to as 'the site'. The site is located off Samuel's Road, Cwmllynfell. The preliminary ecological appraisal was undertaken in order to determine the ecological baseline of the site, as well as to identify any ecological constraints necessary for informing the design of an ongoing planning application. The proposed development is for the construction of a single dwelling with separate garage / workshop.

A desk study was undertaken in December 2023, with the purpose of determining any existing ecological information pertaining to the proposed development, as well as surrounding habitats. A Phase 1 Habitat Survey was undertaken in December 2023, with the aim of identifying the habitats present on site and relating them to any relevant legislation.

The site consists predominantly of poor semi-improved grassland with areas of marshy grassland.

This report presents the findings of the aforementioned desk study, and site appraisal undertaken in December 2023. The report aims to identify any ecological constraints present in relation to the proposed development, such as the presence of protected species and habitats, whilst providing recommendations for further surveys and mitigation measures where required.

1. INTRODUCTION

1.1 Background

I & G Ecological Consulting Ltd were commissioned to undertake a preliminary ecological appraisal of an area of land, approximately 0.1 hectares in size, hereafter referred to as 'the site'. The site is located off Samuels Road, Cwmllynfell. The preliminary ecological appraisal was undertaken in order to determine the ecological baseline of the site, as well as to identify any ecological constraints, necessary for informing the design of an ongoing planning application. The proposed development is for the construction of a single dwelling with separate garage / workshop.

This report presents the findings of both a desk study, and a site appraisal undertaken in December 2023. The report aims to identify any ecological constraints present in relation to the proposed development, such as the presence of protected species and habitats, whilst providing recommendations for further surveys and mitigation measures where required.

1.2 Site Details

The site is located off Samuels Road, Cwmllynfell.

The site is located centrally at SN 74348 12910, and comprises of poor semi-improved grassland, marshy grassland, hedge-bank and ditch.



Figure 1. Site Location.

1.3 Proposed Development

The proposed development comprises the construction of a single dwelling with separate garage / workshop.

1.4 Relevant Planning Policy and Legislation

1.4.1 The Environment Wales Act (EWA) Section 6 (Welsh Government, 2016) 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.

1.4.2 Furthermore, Edition 11 of Planning Policy Wales (PPW) (Welsh Government, 2011) establishes the land use planning policy for Wales, as set forth by the Welsh Government. It provides a structure for the effective formulation of Local Planning Authorities' development plans, supported by twenty-one Technical Advice Notes (TANs) organized around different topics. Specifically, TAN 5 - Nature Conservation and Planning gives guidance on how the land use planning system should support the safeguarding and enhancement of biodiversity and geological conservation.

PPW 11 aims to maintain and establish areas where:

- The role of landscapes, historic environments, habitats, biodiversity, and the unique characteristics of coastal, rural, or urban environments in contributing to natural and distinctive places are recognised, appreciated, protected, and improved.
- Further fragmentation of habitats is avoided wherever possible, and green networks, corridors, and habitat connections within developed areas are protected and improved.
- The features and characteristics of sites designated for their landscape or nature conservation significance are fully evaluated and safeguarded, while the network of sites is acknowledged as the foundation for improving the resilience of ecosystems.
- The opportunity to enhance the resilience of ecosystems is seized in all areas by addressing issues such as building on floodplains, diffuse pollution, soil compaction and sealing, ensuring the protection of peat resources, and improving coastal flood defense strategies in urban areas and coastal margins.

Paragraph 3.36 of PPW outlines the utilization of the Sustainable Management of Natural Resources (SMNR) methodology by the planning system, with the following identified as its primary components:

- Improving the resilience of ecosystems and ecological networks
- Halting and reserving the loss of biodiversity

- Maintaining and enhancing green infrastructure based on seeking multiple ecosystem benefits.

The LDP is the development plan for Neath Port Talbot, superseding the Unitary Development Plan, and provides the basis for decisions on land use planning in the County Borough up to 2026. The LDP guides the future development of an area, providing a clear vision for the County Borough setting out where, when and how much new development can take place over the next 15 years (2011-2026). The aim is to provide developers and the public with certainty about the planning framework for Neath Port Talbot.

Under the Future Wales: The National Plan 2040 (Welsh Government, 2021), development should 'Safeguard areas for the purposes of improving the resilience of ecological network and ecosystems services, to identify areas for the provision of green infrastructure and to secure biodiversity enhancement (net benefit)'.

Relevant environmental policies for this development are outlined below:

Strategic Policy SP15 Biodiversity and Geodiversity

LDP Objective: OB 15

Important habitats, species and sites of geological interest will be protected, conserved, enhanced and managed through the following measures:

1. The identification of the following Internationally and Nationally designated sites within the County Borough to enable their protection: (a) Special Areas of Conservation (SACs) and Ramsar Sites; (b) Sites of Special Scientific Interest (SSSIs); (c) National Nature Reserves (NNRs).
2. The identification and protection of sites of regional and local importance;
3. The protection of important natural heritage features.

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 will only be permitted where:

1. They conserve and where possible enhance the natural heritage importance of the site;
or
2. 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

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:

1. 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
2. The biodiversity value and role of the relevant feature has been taken into account and where removal is unavoidable, mitigation measures are agreed.

Policy SP 16 Environmental Protection

LDP Objectives: OB 2, OB 16 and OB 17

Air, water and ground quality and the environment generally will be protected and where feasible improved through the following measures:

1. Ensuring that proposals have no significant adverse effects on water, ground or air quality and do not significantly increase pollution levels;
2. Giving preference to the development of brownfield sites over greenfield sites where appropriate and deliverable;
3. Ensuring that developments do not increase the number of people exposed to significant levels of pollution.

2. METHODOLOGY

2.1 Desk Study

A desk study was conducted with the purpose of determining any existing ecological information pertaining to the proposed development site, as well as surrounding habitats. A biological data request was sent to Local Environmental Records Centre (LERC) Wales via Aderyn (available at: <https://aderyn.lercwales.org.uk/>) and returned on the 20th December 2023, in order to obtain records of protected species within a 2km radius of the site, as well as designated sites for nature conservation. Additional species record data were obtained via the National Biodiversity Network (NBN) Atlas (available at: <https://nbnatlas.org/>) where possible. The Multi-Agency Geographical Information for the Countryside (MAGIC) website was also used to pull data on waterbodies within 0.25km of the site, following the guidance listed in the Great Crested Newt Conservation Handbook (Langton *et al.*, 2001).

2.2 Field Survey

2.2.1 Phase One Habitat Survey

A Phase One Habitat Survey was conducted by a suitably qualified ecologist on 13/12/2023, using the methodology outlined in the Handbook for Phase 1 habitat survey (JNCC, 2010). Additionally, the habitats present on site were assessed for their potential to support protected species, with visual surveys used to search for physical sightings, or incidental records of such species e.g.

- Evidence of badger – setts, well-worn paths and runs, snagged hair, latrines, sites and foraging.
- Evidence of otter - spraint marking, slides, hovers or sites.
- Evidence of dormouse – nests or foraged hazel nuts with characteristic round gnawing holes.
- Evidence of birds – nests.
- Evidence of bats – bat droppings or urine staining adjacent to a Potential Roost Feature (PRF).
- Evidence of reptile – sloughs.
- Evidence of amphibians – spawn.
- Evidence of water vole – droppings, latrines, foraging signs and footprints.
- Suitable habitat for marsh fritillary butterfly – the presence of Devil's bit scabious (*Succisa pratensis*), the marsh fritillary's food plant.

Any invasive non-native plant species listed under Schedule 9, Section 14 of the Wildlife and Countryside Act 1981 (as amended) were also noted and mapped during the site survey.

The site boundary is included in Figure 2 below.



Figure 2. Approximate Site Boundary

2.3 Limitations

It should be noted that the lack of a record for a particular species within the LRC search buffer does not indicate its absence in or adjacent to the site.

The survey was conducted outside the optimum survey period, but it is not considered to have impacted on the assessment.

The findings presented within this report are valid for an 18-month period following the survey, in line with CIEEM (2019) guidance. Should the scope of the proposed development change in any way, then an updated Preliminary Ecological Appraisal will be required.

3. DESK STUDY

A number of protected species under Section 7 of Principal Importance under the Environment (Wales) Act 2016 and notable species records were returned within 2km of the centre of the proposed development site. All records will not be listed here, however the most significant, those which are considered to potentially be affected by the development of the site, will be briefly summarised. The full data set is available upon request to those nominated on the request form, as some data may be classified as sensitive. The significant findings from the data search are summarised below and in Appendices A and B.

Protected species

3.1 Birds

The data search returned 107 entries of birds within 2 km. Those within 500m of the site ordered nearest to furthest below:

Lesser redpoll, house sparrow, starling, fieldfare, reed bunting, kestrel, dunnock, herring gull, red kite, song thrush.

The nearest records of lesser redpoll and house sparrow were 36m from the site.

3.2 Mammals

The data search returned 56 entries of protected & priority mammals within 2km of the site. ordered nearest to furthest below:

Common pipistrelle, hedgehog, Myotis, Nyctalus, soprano pipistrelle, brown long-eared, badger, otter, weasel and polecat.

The nearest report, for common pipistrelle, was 403m from the site. All 31 bat species records were recorded within 1km of the site.

There are 15 records for otter, all beyond 1km, and 3 badger records the nearest 906m.

3.3 Invertebrates

The data search returned 7 entries of priority & protected invertebrates (moths, butterflies and beetles) within 2km of the site, ordered from nearest to furthest below:

2 moths – Cinnabar @ 36m & dark-barred twin-spot carpet.

5 butterflies - marsh fritillary @ 1.2km, grayling, white-letter hairstreak and small heath

3.4 Plants

The data search returned 5 entries of priority plant species within 2km of the site: all blue bell. The nearest record of bluebell returned was 440m from the site.

3.5 Reptiles

The data search returned 0 entries of reptiles within 2km of the site.

3.6 Amphibians

The data search returned 2 entries of amphibians which are categorised as priority species within 2km of the site, comprising of smooth newt and common frog. The nearest record, for smooth newt, was shown to be 763m from the site.

3.7 Invasive Non-native species

The data search returned 89 records of invasive non-native species within 2 km of the site, listed under Schedule 9 of the Wildlife and Countryside Act, 1981. These are listed nearest to furthest:

Crocasmia, buddleja, heath star moss, snowberry, Japanese knotweed, Spanish bluebell, white stonecrop, Canada goose, Wilson's honeysuckle, New Zealand willowherb, entire-leaved cotoneaster, wall cotoneaster, cherry laurel, grey squirrel, rhododendron, Himalayan balsam, monkeyflower and Japanese rose

The nearest record, for crocasmia, was 206m away, with 5 records within 2km. The closest Himalayan balsam was reported 1.8km away. Japanese knotweed was 440m from the site, with 17 reports within 2km from the site.

3.8 Statutory Designated Sites

Cwm Twrch Site of Special Scientific Interest (SSSI) lies 1.2km to the east.

Henllys Vale Regionally Important Geological Site (RIGS) lies 1.2km to the east.

3.9 Non-Statutory Designated Sites

The site lies within a B-line.

There are a number of SINC's within the search buffer, the site lies within the NPT Watercourses polygon, and Fields Behind Heol y Coedcau are 76m to the South East.

3.10 NRW Priority Areas

The desk study returned 28 NRW Priority Areas for Woodland.

3.11 Ancient Woodland Inventory

Records of 26 Ancient Semi-Natural Woodlands (ASNW) and 2 Restored Ancient Woodland sites were returned during the desk study. None of the sites are within close proximity to the proposed development

3.12 Waterbodies

Refer to Table 2 for a list of waterbodies / watercourses within 0.25km of the site.

Table 1. Waterbodies within 0.25km of the site

Waterbody / Watercourse ID	OS Grid Reference	Description
Issues	SN 74336 12900	Along sites western boundary to ditch at base of slope alongside bank.
Un-named trib of afon Llynfell	SN 74498 12727	0.23km to the south. Receiving catchment for site drainage
Afon Llynfell	SN 74808 12939	0.48 km to east as crow flies. C. 0.7km downstream

4. SITE APPRAISAL

The site consists of poor semi-improved grassland, marshy grassland toward the ditch and spring and a bank and ditch.

Refer to Appendix B for the completed Phase One Habitat Map and Appendix C for Photographs.

4.1 B5 Marshy grassland & B6 Poor semi-improved grassland

The field is mainly species poor semi-improved grassland dominated by Yorkshire fog, with red fescue, bents and soft rush. Creeping buttercup is abundant with frequent dock. The sward is grazed tightly by horses (Photo 1&2).

A spring issues in the field above the site and flows indistinctly down the western boundary of the proposed site (Photo 3&4). To either side of the flow path is poor quality marshy grassland dominated by soft rush and Yorkshire fog. This broadens out to the bottom of the field and along the ditch line and bank at the southern boundary. Creeping buttercup and spearwort are frequent with occasional willowherb, marsh ragwort and forget-me-not. Patches of ground are bare, with peat showing. Water levels were at or above ground level at the time of survey after a period of sustained wet weather.

4.2 G2 Ditch & J2.2 Defunct Hedge bank

Along the southern boundary is a stone and earth bank. A number of trees have been felled, and saplings of alder, holly and hazel remain. Bramble is frequent with coarse grasses including wavy hairgrass, cocksfoot and Yorkshire fog. The bank supports willowherb, nettle, wild strawberry and lanceolate plantain. At the base of the bank is a narrow, shallow ditch. Vegetation along the ditch edge composes of brooklime, floating sweet grass, bitter vetch and willowherb, with water starwort and floating sweet grass in channel (Photo 5).

4.3 Protected Species Assessments

4.3.1 Incidental Records

None

4.3.2 Bats

There are no features suitable for bat roosts within or adjacent to the site.

4.3.3 Otter

An un-named tributary of the afon Llynfell is hydrologically connected to the site and flows some 230m to the south. There is no suitable habitat for otter on site and the ditch network appears to be culverted in sections.

4.3.4 Marsh fritillary

The marshy grassland is small in area, has no linkage to larger areas of appropriate habitat, and does not support devil's bit scabious, or have a suitable structure for marsh fritillary. The nearest record for marsh fritillary is 1.2km away.

4.3.5 Amphibians & Reptiles

The spring lines and ditch may provide suitable breeding sites for amphibians.
The bank provides low quality habitat for common reptiles such as slow-worm.

4.3.6 Invasive Non-Native Species

None observed within or adjacent to the site

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5. ECOLOGICAL ASSESSMENTS

5.1 Designated Sites, Habitats, Flora and Fauna

Guidelines 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). Please refer to Table 3 and 4 below. Refer to current proposed design.

Table 2. 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.

Table 3. 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



5.2 Designated Sites

5.2.1 Statutory Designated Sites

Cwm Twrch SSSI and Henllys Vale RIGS lies 1.2km to the east.

The site is designated for its geological interest, with no potential for impact from the proposed development.

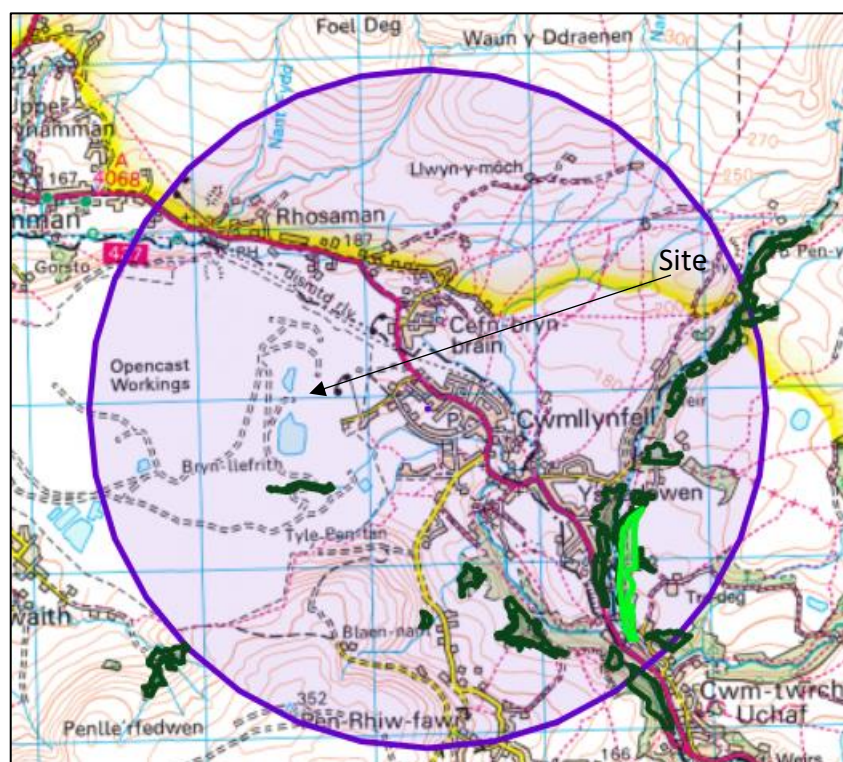
5.2.2 Non-Statutory Designated Sites

There are a number of SINC's within the search buffer, the site lies within the NPT Watercourses polygon, and Fields Behind Heol y Coedcau are 76m to the SE. The site is hydrologically linked to a number of watercourses, therefore there is potential for impact on these features through polluting impacts.

There is a B-Line running through the site.

There are a number of woodland habitat Priority Areas within the search buffer, but none in near proximity to the site.

5.2.3 Ancient Woodland Inventory



The site is remote from the network of ancient woodland and restored ancient woodland sites, with no potential for impact from the proposed development.

5.3 Habitats

5.3.1 Grassland

The main body of the site is heavily grazed species poor semi-improved grassland. The small areas of marshy grassland along the ditch and spring line are also species poor. The habitats are unlikely to support priority and protected species.

The habitat value in its current state has been assessed as **negligible**. Under the current proposed design, loss or damage to this habitat would be **negligible** without mitigation. Further recommendations are provided in Section 6.

5.3.2 Bank

The bank will provide habitat for small mammals and birds, and possibly common reptiles such as slow worm. Currently it supports a species poor floral assemblage, but through either the establishment of a native hedgerow, or via cut and removal of vegetation to encourage a less rank habitat, it has potential to provide a high-quality habitat.

The habitat value has been assessed as **low local**. Under the current proposed design, loss or damage to this habitat would be **minor** without mitigation. Further recommendations are provided in Section 6.

5.3.3 Watercourse

The ditch will provide habitat for a range of common aquatic invertebrates and breeding potential for amphibians. It drains to an un-named watercourse to the south, a tributary of the afon Llynfell. The hydrological linkage to SINC habitat provides a route for polluting substances.

The habitat value has been assessed as **moderate local**. Under the current proposed design, loss or damage to this habitat would be **moderate** without mitigation. Further recommendations are provided in Section 6.

5.4 UK BAP Priority Habitats and Species

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.

The field survey identified the on-site habitats as having the potential to support the following groups in varying capacities, which are also listed under UK BAP: birds, small mammals, reptiles and amphibians.

5.5 Ecosystem Resilience

Area loss can cause populations of organisms to decline due to a decrease in habitat size. Although the site is small and the main habitat type has low conservation interest in its current condition, the habitats present on site are declining in the wider area. Therefore, if the proposed development site is cleared without any mitigation for development, the impact on ecosystem resilience is expected to be **moderate**.

6. CONCLUSIONS AND RECOMMENDATIONS

The combination of desk and field surveys undertaken at the proposed development site identified that the site has moderate local ecological value in relation to CIEEM guidelines because of its connectivity to SINC habitat.

Recommendations necessary for informing the design process are provided below, as well as recommendations for biodiversity enhancement in order to fulfil the Biodiversity and Resilience of the Ecosystems Duty (Section 6 Duty). Where a species has been omitted, they are not considered a constraint to the proposed development.

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

- 6.1.1 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.
- 6.1.2 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.
- 6.1.3 It is therefore recommended, that in order to provide a net enhancement for the development bat and bird boxes should be integrated within the new build. Integrated boxes should be specified to support a range of species including swift and house sparrow.

6.2 Grassland

- 6.2.1 The permanent loss of grassland within the site boundary cannot be fully offset by on-site mitigation, compensation and enhancement measures. It is recommended that off-site options should be explored.

6.3 Watercourse

- 6.3.1 The watercourses on site should be retained in an open manner, with culverting of a short length for access purposes only. A band of habitat should be retained and managed alongside the watercourses. Disposal of surface water should be via a suitably scaled SUDS which should be created in a natural manner i.e. a pond/wetland to off-set habitat loss.

- 6.3.2 A Pollution Prevention Plan should be developed to ensure that the watercourses are protected from polluting matter and sediment run-off during the construction phase.

6.4 Bank

- 6.4.1 The bank should be retained except for a short length for access purposes. The bank should be either planted with a range of native species to form a dense hedgerow, or managed through periodic cut and removal of vegetation to encourage the development of a species rich habitat. The planting should include flower & berry bearing species to benefit invertebrates/pollinators, birds and small mammals. Species should include alder buckthorn, wayfaring tree, guelder rose in addition to hazel and thorn.
- 6.4.2 A hedge-bank and ditch should be created along the sites northern and western boundaries. The banks planted to form a hedgerow as above, or managed as a more open habitat with occasional small native trees such as birch and rowan.

6.5 Birds

- 6.5.1 All nesting birds are protected under Section 1 of the Wildlife and Countryside Act of 1981. Therefore, all vegetation clearance should be planned outside the nesting bird season.

6.6 Reptiles & Amphibians

- 6.6.1 The creation of a suitable pond/wetland habitat to provide a SUDS system for the site in conjunction with boundary ditches and banks will provide an enhanced habitat for amphibians and reptiles.

6.7 Invasive Non-Native Species

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



7. LEGISLATION

7.1 Otters and the Law

7.1.1 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.

7.1.2 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*

7.1.3 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.

7.1.4 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

7.2 Bats and the Law

7.2.1 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 [Countryside 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.

7.2.2 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.

7.3 The Hazel Dormouse and the Law

7.3.1 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.

7.3.2 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*

7.3.3 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.

7.3.4 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

7.4 Reptiles and the Law

- 7.4.1 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).
 - 7.4.2 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.
 - 7.4.3 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.
- ### 7.5 Amphibians and the Law
- 7.5.1 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).
 - 7.5.2 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.

- 7.5.3 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.

7.6 Birds and the Law

- 7.6.1 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.
- 7.6.2 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.

7.7 Badgers and the Law

- 7.7.1 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.

7.8 Water Voles and the Law

- 7.8.1 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)).

7.9 Environment Act (Wales) 2016

- 7.9.1 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.
- 7.9.2 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 doing so, 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.
- 7.9.3 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.



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We confirm that in preparing this Report we have exercised reasonable skill and care, taking into account the project objectives, the agreed scope of the work and prevailing site conditions.

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Appendix A. LERC Data Search

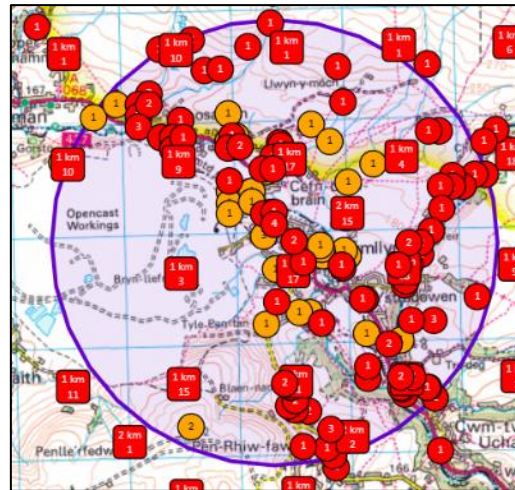
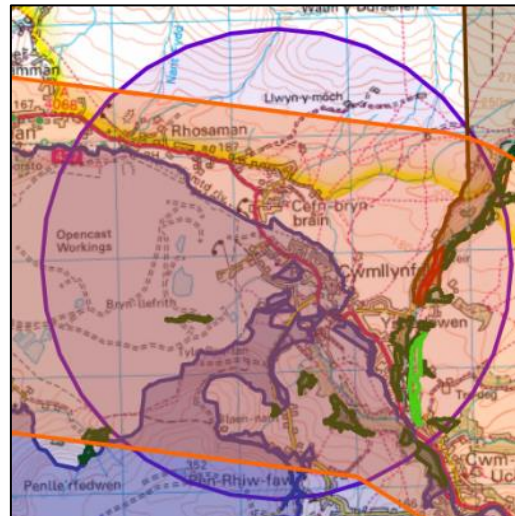


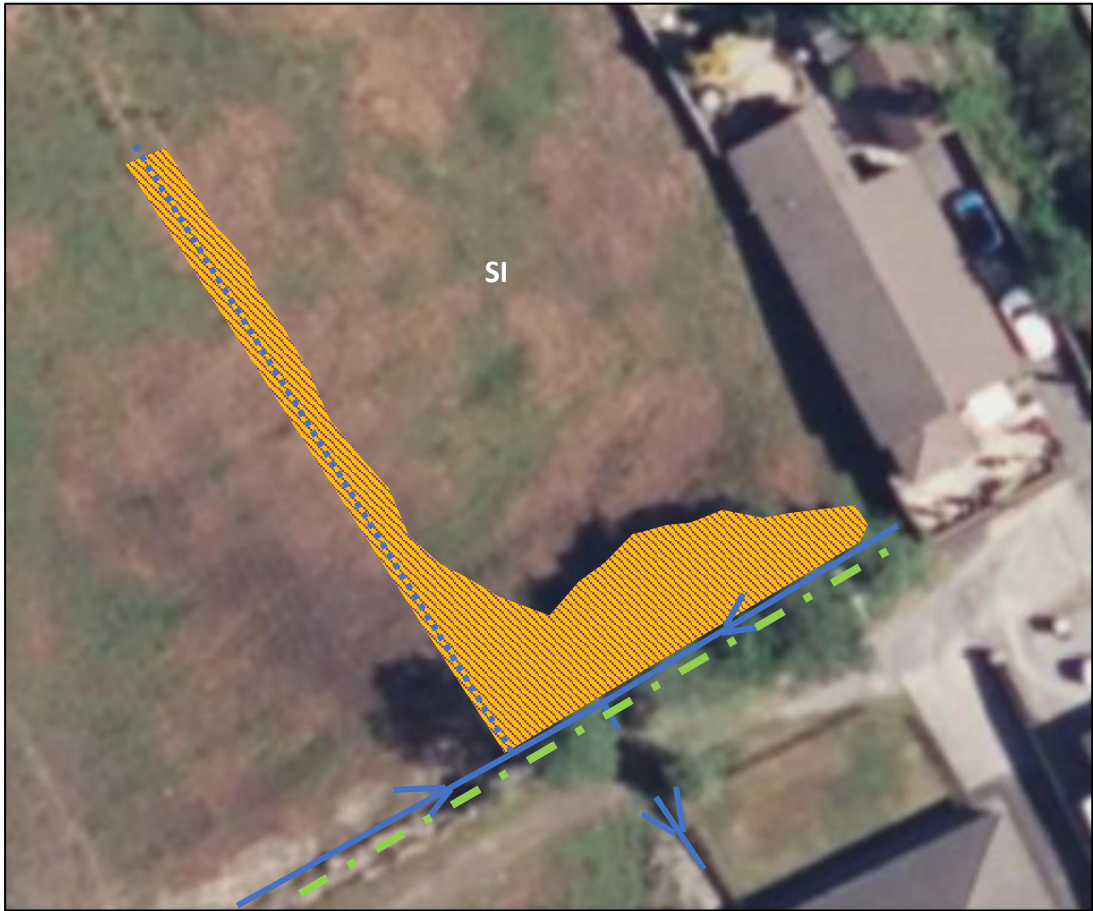
Figure 3. LERC Protected & Priority Species Data Search Records

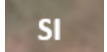


Site Type	Key	Number of sites	Category	Intersection Area	Percentage of search area	Display clipped	Display full
Site of Special Scientific Interest		1	National - Statutory	23,641 m ²	0.19%		
Wildlife Site / SINC (Adopted)		6	Local - Non-statutory	7,628,629 m ²	61.05%		
Regionally Important Geodiversity Site		1	Local - Non-statutory	290,161 m ²	2.32%		
Ancient Semi Natural Woodland		26	Priority Area	193,141 m ²	1.55%		
Restored Ancient Woodland Site		2	Priority Area	45,061 m ²	0.36%		
B-Lines		1	Local - Non-statutory	10,613,975 m ²	84.94%		

Figure 4. LERC Protected Sites Data Search

Appendix B. Phase One Habitat Plan



Colour	Code	Description
	B5	Marshy grassland
	B6	Species poor semi-improved grassland
	G2	Ditch
	J2.2	Bank

Phase 1 Habitat Code Key:

Appendix C. Photographs



Photograph 1. Field from upper slope



Photograph 2. Field and seepage line



Photograph 3. Marshy grassland, ditch-line and bank



Photograph 4. Marshy grassland with poor semi-improved up-slope



Photograph 5. Bank from trackway