

**SITE AT GREENWAY FARM,
LLANHAMLACH, BRECON, POWYS**

EXTENDED PHASE 1 HABITAT SURVEY

(AUGUST 2014)



ces ecology
consultant ecologists

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1.0 INTRODUCTION

- 1.1 Cheshire Ecological Services Ltd. (CES), the consultancy arm of Cheshire Wildlife Trust, to which all profits are covenanted, was commissioned to conduct an Extended Phase 1 Habitat Survey of a site at Greenway Farm, Llanhamlach, where the development of three poultry units and associated infrastructure is proposed.
- 1.2 The purpose of the survey was to gain baseline ecological information of the site in order to assess its current status, and to identify any ecological constraints to development that may currently be associated with the development area and/or the surrounding land.
- 1.3 The survey was conducted by Matthew Lawton BSc (Hons) ACIEEM on 7th August 2014.
- 1.4 Weather conditions at the time of survey were mild and bright, with intermittent showers.

2.0 SITE DESCRIPTION

- 2.1 The survey was centred on OS grid reference SO 0880 2708.
- 2.2 The proposed development site was a grassland field at Greenway Farm, which totalled approximately 1.75Ha. Greenway Farm lies approximately 4.5km to the west of Brecon, and is situated within the Brecon Beacons National Park. The River Usk runs within approximately 330m to the south-west of the site (refer to Appendix A).
- 2.3 At the time of survey the site comprised species-poor grassland, bounded by hedgerows, a stream and agricultural buildings.
- 2.4 Land use in the wider area comprised roads, buildings, woodland, rivers, streams and mixed-use farmland (refer to Appendix A).
- 2.5 The current proposals involve the development of three poultry units and associated infrastructure, including areas of hard standing and feed silos, and the creation of a pond into which the buildings' surface water will be held, prior to drainage into an adjacent watercourse.

3.0 SURVEY METHODS

Desk-based study

- 3.1 The desk-based study comprised consultation with the following consultees:
 - Natural England – Magic Map
 - Natural Resources Wales – Protected Sites and Landscape Map

- Biodiversity Information Service – the biodiversity information service for Powys and Brecon Beacons National Park
- 3.2 The desk-based study comprised consultation with Natural England's and Natural Resources Wales' online maps to search for statutory designated sites within the local and wider area. Although the survey site is located in Wales, information regarding nearby protected sites is provided on the Natural England website.
- 3.3 Biodiversity Information Service (BIS) was asked to provide information on statutory and non-statutory sites and protected/Biodiversity Action Plan (BAP) Priority species and habitats within, and surrounding, the proposed development site (within around a 1km radius).

Extended Phase 1 Habitat Survey

- 3.4 This survey involved the mapping of various habitat types on the site in addition to any habitat features and botanical species of conservation importance. A thorough walk-over survey was undertaken of the site. The methodology for this survey followed that described by the Joint Nature Conservation Committee (JNCC, 2010).
- 3.5 Preliminary searches were also carried out for protected/BAP species such as badgers, bats, reptiles and great crested newts (GCN) that may potentially use the site. Scientific names and the national status of vegetative species recorded follow Stace (1997). Scientific and common names stated in the text are also presented in Appendix C.
- 3.6 The observations made during this survey have been used to assess the presence, or potential presence, of protected and/or BAP species within the proposed area of works and to recommend further actions where required. It should however, be noted that this survey serves as a single visit representing a 'snap-shot in time' whereby only the species present at the time of survey were recorded.
- 3.7 Positive evidence of species that use this site periodically or are in growth at different times of year may not have been recorded. It is important to consider that the absence of a species from a particular survey does not necessarily indicate the absence (or continued absence) of that species from the area.
- 3.8 All trees with features such as holes, cracks and crevices were assessed for their suitability to support roosting bats, and were categorised in accordance with the Bat Conservation Trust's (BCT) Bat Survey: Good Practice Guidelines, (2012). The guidelines outline the initial survey requirements of all trees, and where necessary, detail the required further actions and likely mitigation.

4.0 RESULTS

Desk-based Study

- 4.1 Natural England's and Natural Resources Wales' online maps indicate that the closest statutory designated site is the River Usk Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC), which at its nearest point is located approximately 330m to the south-east of the proposed development site. The Usk and its tributaries are designated for their resident and migratory fish species, their beds of water crowfoot and population/s of European otter.
- 4.2 BIS highlighted the presence of two stands of ancient semi-natural woodland occurring within 1km of the proposed site, the closest of which lies approximately 330m to the east of the site. BIS did not highlight the presence of any local wildlife sites or other non-statutory designated sites within 1km of the proposed development site.
- 4.3 BIS highlighted the presence of the following protected species occurring within around 1km of the proposed development site since 1994:

Scientific name	Common name	Designations
<i>Meles meles</i>	Eurasian badger	BA, Bern, LBAP (POW)
<i>Lutra lutra</i>	European otter	EPS, HDir, WCA5, S42, UKBAP, Bern, CITES, RD1 (UK), RD2 (UK), LBAP (BBNP, POW, TRA)
<i>Erinaceus europaeus</i>	European hedgehog	S42, UKBAP, Bern, LBAP (POW)
<i>Lepus europaeus</i>	Brown hare	S42, UKBAP, Bern, LBAP (BBNP, POW)
<i>Mustela putorius</i>	Polecat	HDir, S42, UKBAP, Bern, RD2 (UK), LBAP (POW)
<i>Pipistrellus pipistrellus</i>	Common pipistrelle	EPS, HDir, WCA5, S42, Bonn, Bern, RD2 (UK), LBAP (BBNP, POW, TRA)
<i>Rhinolophus hipposideros</i>	Lesser horseshoe bat	EPS, HDir, WCA5, S42, UKBAP, Bonn, Bern, RD2 (UK), LBAP (BBNP, POW, TRA)
<i>Plecotus auritus</i>	Brown long-eared bat	EPS, HDir, WCA5, S42, UKBAP, Bonn, Bern, RD2 (UK), LBAP (POW, TRA)
<i>Myotis mystacinus</i>	Whiskered bat	EPS, HDir, WCA5, Bonn, Bern, RD2 (UK), LBAP (POW, TRA)
<i>Nyctalus noctula</i>	Noctule bat	EPS, HDir, WCA5, S42, UKBAP, Bonn, Bern, RD2 (UK), LBAP (POW, TRA)
<i>Myotis daubentonii</i>	Daubenton's bat	EPS, HDir, WCA5, Bonn, Bern, RD2 (UK), LBAP (POW, TRA)
<i>Tyto alba</i>	Barn owl	WCA1.1, WCA9, Bern, CITES, RD2 (UK), WBAm(RSPB), UKBAm(RSPB), LBAP (POW, TRA)

<i>Muscicapa striata</i>	Spotted flycatcher	S42, UKBAP, Bonn, Bern, WBR(RSPB), UKBR(RSPB), LBAP (BBNP, POW)
<i>Passer domesticus</i>	House sparrow	S42, UKBAP, WBA(m)(RSPB), UKBR(RSPB)
<i>Alauda arvensis</i>	Skylark	BDir22, S42, WBA(m)(RSPB), UKBR(RSPB), LBAP (BBNP, POW)
<i>Falco subbueto</i>	Hobby	WCA1.1, Bonn, Bern, CITES, WBA(m)(RSPB), LBAP (POW)
<i>Milvus milvus</i>	Red kite	BDir1, WCA1.1, WCA9, Bonn, CITES, RD1 (UK), WBA(m)(RSPB), UKBA(m)(RSPB), LBAP (POW)
<i>Passer montanus</i>	Tree sparrow	S42, UKBAP, WBR(RSPB), UKBR(RSPB), LBAP (BBNP, POW)
<i>Perdix perdix</i>	Grey partridge	BDir21, S42, UKBAP, WBR(RSPB), UKBR(RSPB), LBAP (BBNP, POW)
<i>Alcedo atthis</i>	Kingfisher	BDir1, WCA1.1, Bern, WBA(m)(RSPB), UKBA(m)(RSPB), LBAP (POW, TRA)
<i>Emberiza citrinella</i>	Yellowhammer	S42, UKBAP, Bern, WBR(RSPB), UKBR(RSPB), LBAP (BBNP, POW)
<i>Vanellus vanellus</i>	Lapwing	BDir22, S42, UKBAP, Bonn, WBR(RSPB), UKBR(RSPB), UKBA(m)(RSPB), LBAP (BBNP, POW)
<i>Anguis fragilis</i>	Slow-worm	WCA5, S42, UKBAP, Bern, LBAP (POW, TRA)
<i>Natrix natrix</i>	Grass snake	WCA5, S42, UKBAP, Bern, LBAP (POW, TRA)
<i>Rana temporaria</i>	Common frog	HDir, WCA5, Bern, LBAP (POW, TRA)
<i>Bufo bufo</i>	Common toad	WCA5, S42, UKBAP, Bern, LBAP (POW, TRA)
<i>Austropotamobius pallipes</i>	White-clawed crayfish	EPS, HDir, WCA5, S42, UKBAP, Bern, RD1 (UK), LBAP (BBNP, POW, TRA)

Note: All species names and designations provided by BIS.

Designations key:

EPS – European Protected Species

UKBAP – UK Biodiversity Action Plan Priority species

S42 National Environment and Rural Communities Act, 2006, Section 42

BA – Protection of Badgers Act

WCA1.1 - Wildlife & Countryside Act, 1981, Schedule 1 Part 1
WCA5 - Wildlife & Countryside Act, 1981, Schedule 5
WCA8 - Wildlife & Countryside Act, 1981, Schedule 8
WCA9 - Wildlife & Countryside Act, 1981, Schedule 9
Bern – The Bern Convention of Migratory Species of Wild Animals
Bonn – Bonn Convention on Convention of Migratory Species of Wild Animals
Bdir – EC Birds Directive Annex 1
Hdir – EC Habitats and Species Directive
RD1 – Red Data Book listing based on IUCN guidelines
WBR (RSPB) – RSPB Welsh Red listed birds (not based on IUN criteria)
WBA (RSPB) - RSPB Welsh Amber listed birds (not based on IUN criteria)
UKBR (RSPB) - RSPB UK Red listed birds (not based on IUN criteria)
UKBA (RSPB) - RSPB UK Amber listed birds (not based on IUN criteria)
LBAP (POW) – Powys Local Biodiversity Action Plan
LBAP (BBNP) - Brecon Beacons National Park Local Biodiversity Action Plan
LBAP (TRA) – Trunk Road Agency Biodiversity Action Plan

- 4.4 A number of other species records were provided but have not been included in this report as it is considered highly unlikely that they would be associated with the proposed development site.

Fieldwork

- 4.5 Features of interest recorded on/adjacent to the site during this survey are described in the Target Notes (TN) below. All numbered Target Notes correspond with the Phase 1 Habitat Map (Appendix B). Species lists for each area and photographic plates are presented within appendices C and D respectively.

Target Notes

TN1 – Flowing stream – a tributary of the River Usk SSSI & SAC

TN2 – Species-rich hedgerow with mature trees

5.0 DISCUSSION

Designated Sites

- 5.1 The closest statutory site is River Usk SSSI and SAC, which at its nearest point is located approximately 330m to the south-west of the proposed development site. A tributary of this river runs westwards along the site's northern boundary and drains into the River Usk. Mixed-use farmland, woodland, hedgerows and the A40 separate the River Usk from the proposed development site, however, the proposed development site has direct connectivity with the River Usk via the tributary.
- 5.2 SACs are strictly protected sites, designated under Regulation 61 of *The Conservation of Habitats and Species Regulations*, 2010. The *Regulations* require that a competent authority makes an appropriate assessment of the implications of a plan or project in view of the protected site's conservation objectives. When undertaking such an assessment, all features of European Importance must be considered. The features of

European importance for the River Usk (both primary and non-primary) are its populations of sea lamprey, brook lamprey, river lamprey, twaite shad, Atlantic salmon, bullhead and otter, and its watercourses of plane to montane levels with Rannunculon fluitans and Callitriche-Batrachion vegetation (water crowfoots).

- 5.3 Drainage of the buildings' surface water into the tributary of the River Usk has potential to impact upon this important site. It is not the place of this survey to assess the potential hydrological impacts of the proposed development on the stream and ultimately the potential impacts on the River Usk, in to which it drains. It is therefore recommended that Natural Resources Wales be consulted regarding this matter. The recommended consultation with Natural Resources Wales should determine whether further surveys (e.g. protected species and/or water quality assessments) are required in respect of the proposal to discharge surface water into the stream.
- 5.4 It is considered highly unlikely that the proposed development would adversely affect the status of the ancient woodland sites located within (and beyond) 1km of the proposed development site on the grounds of distance and the nature of the proposed development; the development of three poultry units will occur at distances in excess of 300m from ancient woodland sites.

Habitats

5.5 Improved grassland (Plates 1 – 4)

The site consisted of species-poor grassland which at the time of survey had recently been grazed by cattle and sheep. The homogenous sward was dominated by perennial rye-grass, with frequent white clover and annual meadow grass. Other species recorded include curled-leaved dock, creeping thistle, fat hen and redshank. The sward was close-cropped and areas of bare ground were present. The current proposals will result in the loss of grassland habitat at the site.

5.6 Hedgerows (Plates 5 – 7)

Hedgerows which meet certain criteria are protected by *The Hedgerow Regulations*, 1997. Under the *Regulations* it is against the law to remove or destroy certain hedgerows without permission from the Local Planning Authority (see Appendix E). All hedgerows on/adjacent the site were evaluated for their wildlife value, and were assessed for their potential to meet the ecological criteria of the *The Hedgerow Regulations*, 1997. Hedgerows that are 'ecologically important' in accordance with the *Regulations* are protected, however, any hedgerows over thirty years old can be protected by the *Regulations* for a number of other factors such as historical and landscape interest. It is not the place of this ecological report to assess such other factors.

The site was bounded to the north, south and west by hedgerows. The hedgerow on the northern boundary was situated on the banks of a stream. It contained an abundance of mature trees and was species-rich. The hedgerow was intact, bushy and dense, resulting in a heavily shaded ground layer. It totalled approximately 230m in length and was considered to be in excess of thirty years old. This hedgerow was considered to be of high wildlife value due to its species diversity, its abundance of mature trees and its associated stream. It is thought that this hedgerow is highly likely

to be considered 'ecologically important' in accordance with the *Hedgerow Regulations*, 1997. The current proposals will not result in the loss of this hedgerow.

The hedgerows located on the site's southern and western boundaries were intact, managed, and were dominated by hazel. They were considered to be over thirty years old and both measured approximately 110m in length. Hawthorn, blackthorn and field rose were frequent. Although not particularly tall, they were wide and bushy, and they too were considered to be of 'high wildlife value' due to their density and connectivity with the wider area (i.e. providing wildlife corridors). It was thought likely that these hedgerows would be considered 'ecologically important' in accordance with the *Hedgerow Regulations*, 1997. The current proposals will not result in the loss of these hedgerows.

Although the current proposals will not result in the loss of any hedgerows on site, development of the poultry units would occur within close proximity of 'high wildlife value' hedgerows. It is therefore recommended that no potentially damaging works occur within a distance equal to that of hedgerow height, and where trees are present, at a distance equal to that of branch spread, to ensure protection of the root systems. No excavations or the tracking of heavy machinery should occur within these 'buffer zone' areas.

The installation of a drain from the proposed surface water attenuation pond to the stream would inevitably occur within this buffer zone, therefore it is recommended that if practicable, excavations be dug by hand in order to minimise the risk of inadvertent damage to tree roots.

5.7 Stream (Plate 8)

A stream was present on the northern boundary of the site, within/beneath a hedgerow (the northern hedgerow). OS mapping indicates that this stream flows westwards into the River Usk SSSI and SAC. At the time of survey it was a shallow watercourse with a stone/pebbly substrate. The landowner informed the surveyor that the stream may dry during periods of low rainfall/drought. It was not possible to inspect the entire length of this stream due to the dense vegetation of the associated hedgerow. No aquatic vegetation was observed during the survey. The current proposals will involve discharging the proposed buildings' surface water into the stream via an attenuation pond. It is anticipated that the pond will help slow the flow of surface water into the stream during periods of heavy/prolonged rain, which can have an adverse impact on watercourses. It is recommended that Natural Resources Wales be consulted regarding this matter (refer to paragraph 5.3).

Features of Ecological Interest

5.8 The following features of ecological interest were identified during the survey:

- All boundary hedgerows
- Stream

5.9 Although not necessarily afforded legal protection, it is recommended that where practicable, the above features of ecological interest should be sufficiently protected during development works.

5.10 The habitat composition of the site has potential to support legally protected/BAP wildlife species. It was not within the scope of this survey to carry out detailed searches for protected species, although the potential for the study site to support the following species is discussed below:

- Badger
- Barn owl
- Bats
- Brown hare
- Birds (nesting/breeding birds)
- Great crested newt/amphibians
- Hedgehog
- Otter
- Polecat
- Reptiles (including slow-worm and grass snake)
- White-clawed crayfish

Legislation relating to each species discussed in this report is presented in Appendix E – Legislation. No other legally protected species are considered likely to be associated with the proposed development site due to a lack of suitable habitat on, and surrounding the site.

5.11 Badgers

Badgers and their setts are protected under British law, therefore surveys are required to check for the presence of badgers or their setts if they are likely to be disturbed for any reason. A development licence may be required if potentially disturbing works are to take place within 30m of a badger sett.

BIS provided details of badgers occurring within around 1km of the proposed development site. No field signs that could be definitively attributed to badgers were recorded during the survey, however, observations of the stream embankments were limited due to the dense, impenetrable vegetation, which may have obscured possible field signs.

The site was considered to offer this species with suitable commuting and foraging habitat as badgers tend to favour short vegetation for foraging for earthworms and other invertebrates. It is therefore reasonable to conclude that badgers could be associated with the site. Given that the proposed construction works will involve the digging of foundations, it is recommended that open excavations be filled to ground level or suitably covered overnight in order to prevent badgers and other wildlife from becoming entrapped or injured.

Badgers are a mobile species and can quickly establish new territories and setts. If evidence of badger setts is found on or surrounding the site before or during

construction works, work should stop and CES be contacted immediately. No further survey effort in respect of this species is currently considered necessary.

5.12 Barn Owl

Barn owls receive special protection under Schedule 1 of the *Wildlife & Countryside Act*, 1981 (as amended). In addition to the protection afforded to all wild birds under Section 1 of the Act, species listed on Schedule 1 receive special legal protection when breeding, making it an offence to intentionally or recklessly disturb any wild barn owl whilst it is at a nest containing eggs or young, or disturb the dependent young of such a bird. Barn owls nest and roost in buildings and within deep cavities in trees, and will readily utilise nest boxes where available. BIS provided details of barn owl occurring on-site, and within 1km of the proposed development site.

No potential barn owl roost/nest sites were recorded on or immediately adjacent to the site during the survey. The site was considered to offer this species with predominantly Type 2 (i.e. intermediate) foraging habitat (Shawyer, 2011) due to its homogenous sward with no tussock structure or litter layer (which can support higher numbers of small mammals on which barn owls prey). The current proposals will result in the loss of 'intermediate' barn owl foraging habitat, however, given the availability of suitable foraging habitat in the wider area (which was observed to include field margins, rough grassland and rush pasture), the loss is considered to be low/negligible.

External lighting can have a negative impact on barn owls; however, disturbance depends on lighting levels and duration, and can vary between individual birds. The current proposals will not involve external lighting of the poultry units, however, floodlights will be provided for occasional/short-duration use. Given the existing levels of lighting and noise disturbance associated with the operational agricultural buildings at Greenway Farm, the impacts of an additional three poultry units are considered to have a low/negligible negative effect on foraging barn owls which may be associated with the site/local area. If barn owls are found to be nesting and/or roosting within close proximity of the proposed development site prior to, and/or during construction works, CES should be contacted immediately for advice.

5.13 Bats

All British species of bat are protected under both European and British law. Therefore surveys are required to check for their presence in areas where bats or their roosts are likely to be disturbed for any reason.

Bats are known to roost in mature trees, where they may rest, give birth and raise young. Some bat species rely exclusively on trees for roost sites, whilst others use them for only part of the year. The importance of trees to bats depends on species, season and foraging behaviour. Even in winter, deep cavities can provide protection against bad weather and fluctuations in temperature. Furthermore, trees and hedgerows, especially native ones, can host many species of insects, which are food for bats and can also aid bat navigation.

BIS provided details of common pipistrelle, lesser horseshoe, brown long-eared, whiskered, Daubenton's and noctule bats occurring within around 1km of the proposed development site.

Several of the mature trees within the northern hedgerow were observed to contain features such as cracks, crevices and holes, which may support roosting bats (TN2). The current proposals will not result in the felling or de-limbing of any of these trees. It is considered that the establishment of the 'buffer zone' (as per the recommendations in paragraph 5.6) would, if adhered to, provide sufficient protection of these trees and any bat roosts potentially within them.

The new poultry units would stand-alone and would not be attached to any of the existing agricultural buildings at Greenway Farm. As a result, the proposed development will not directly impact any existing buildings.

Lighting of the new poultry units post-construction has potential to impact upon bat foraging activity at the site level. Many nocturnal insects are attracted to artificial light, particularly lamps that emit an ultra-violet element in an otherwise dark area. Noctule, Leisler's, serotine and pipistrelle bats will swarm around streetlights, feeding on the insects attracted to the lights. However, slower flying species and some of Britain's rarest and most vulnerable bats are light avoiding.

Lighting is considered to be particularly harmful if used near woodland edges, ponds and along river corridors and hedgerows used by bats. Artificial lighting disrupts the normal light patterns of night and day and may, as a result, affect the natural behaviour of bats. Bats may move away from lit areas and some areas of continuous lighting may create a barrier that some species will not cross. This may affect social interaction. The effect of lighting on bats depends upon the level of light spillage onto roosting, commuting and foraging areas, and the duration of that light pollution.

The current proposals will not involve external lighting of the poultry units, however, floodlights will be provided for occasional/short-duration use. The duration of such lighting should be minimised wherever possible, and every effort should be made to reduce light spillage onto the adjacent hedgerows and stream.

5.14 Birds

All species of wild bird, their nest and eggs are protected under Section 1 of the *Wildlife and Countryside Act, 1981* (as amended), therefore surveys are required to check for their presence where they are likely to be disturbed for any reason. In addition to the protection afforded to all wild birds under Section 1 of the Act, species listed on Schedule 1 receive special legal protection when breeding, making it an offence to intentionally or recklessly disturb any wild bird listed on Schedule 1 whilst it is at or near a nest containing eggs or young, or disturb the dependent young of such a bird.

BIS provided details of spotted flycatcher, house sparrow, tree sparrow, skylark, hobby, red kite, grey partridge, kingfisher, yellowhammer and lapwing occurring within approximately 1km of the proposed development site. Hobby, red kite and kingfisher

are listed on Schedule 1 of the *Wildlife and Countryside Act*, 1981 and are therefore protected from disturbance whilst breeding.

Skylark, grey partridge and lapwing are ground nesting farmland birds. Skylarks typically nest within tall, grassy vegetation. Grey partridge nest within tall vegetation and within hedge bottoms and lapwing typically favour areas of short vegetation with patches of bare ground. The current proposals will result in the loss of grassland potentially used by lapwing and other ground nesting wader birds, however, given the availability of other, more suitable nesting habitat in the wider area, the current proposals are considered to have a low/negligible impact on these species. If ground nesting birds are recorded on site prior to and during development, CES should be contacted for advice.

Spotted flycatcher, house sparrow, tree sparrow, yellowhammer, red kite and hobby readily nest within trees and other woody vegetation. The current proposals will not result in the loss of any woody vegetation, and are therefore considered highly unlikely to result in the loss nesting habitat of these species. It should be noted that red kite and hobby are listed on Schedule 1 of the *Wildlife & Countryside Act*, therefore, as with barn owl, if these species are found to be nesting within close proximity of the proposed development site prior to, and/or during construction work, CES should be contacted immediately for advice.

Kingfishers nest in burrows within the banks of rivers and streams, and are listed on Schedule 1 of the *Wildlife and Countryside Act*. The banks of the stream were considered to offer this species with sub-optimal nesting habitat due to their relatively shallow banks and dense vegetation; kingfishers favour steep earth banks with a clear flight path for nesting. In the unlikely event that kingfisher are found to be nesting within the banks of the stream, it is considered that the implementation of the recommended 'buffer zone' along the northern hedgerow would provide sufficient protection for any nests, however, as with all Schedule 1 listed species, ecological consultancy should be sought.

The current proposals will not result in the loss of any woody vegetation. In the unlikely event that removal of woody vegetation is required, CES should be contacted for advice to ensure works do not impact upon nesting birds and/or roosting bats.

5.15 Brown Hare

Brown hare is a Local and UK BAP Priority species, and is listed on Section 42 of the *Natural Environment & Rural Communities Act, 2006*. BIS provided details of brown hare occurring within approximately 1km of the proposed development site.

Brown hare are typically associated with farmland habitats, where they feed on grass shoots and utilise areas of tall vegetation for cover. The site was considered to offer brown hares with suitable habitat. It is therefore recommended that prior to development, vegetation in the working areas be mown/cut or close-grazed in order to deter brown hares and their leverets from seeking shelter on the site. No further survey effort in respect of this species is currently considered necessary.

5.16 Great crested newt/amphibians

GCN are protected under both European and British law. Adult GCN predominantly live terrestrially, but utilise ponds for breeding purposes during the spring and summer months. The English Nature Great Crested Newt Mitigation Guidelines (2001) (which are also used in Wales) indicate that a survey may be necessary to check for the presence of GCN if background information on distribution suggests that they may be present. Detailed indicators include:

- Any historical records for GCN on the site, or in the general area
- A pond on or near the site (within around 500m), even if it holds water only seasonally. Note that muddy, cattle-poached, heavily vegetated or shady ponds, ditches and temporary flooded hollows can be used by GCN
- Sites with refuges (such as piles of logs or rubble), grassland, scrub, woodland, or hedgerows within 500m of a pond

BIS did not provide details of great crested newt occurring within approximately 1km of the site. It did however provide records of common frog and common toad.

A review of OS mapping and aerial imaging indicates the presence of one pond located within approximately 250m of the proposed development site. As part of the survey, inspection of this location found the pond to be extinct; the area was dominated by wheat (see Plate 10).

The landowner informed the surveyor of a pond to the north-east of the site, which was located within an area of woodland. Inspection of this pond (Appendix A - Pond 1, Plate 11) found it to be extant. OS mapping indicates that this pond is located in excess of 900m from the proposed development site. Given the terrestrial range of individual GCN, (generally <250m, occasionally >500m, rarely >1km from their breeding site), it is reasonable to conclude that any GCN potentially associated with this pond are highly unlikely to be associated with the proposed development on the grounds of distance and the availability of suitable terrestrial habitat within 500m of this pond (refer to the detailed indicators above).

The stream on the site's northern boundary was considered highly unlikely to support GCN breeding as running water is not generally used by UK amphibians for breeding. This is also the case for all other streams in the local area and the River Usk, which also occurs within 500m of the proposed development site. No further survey effort in respect of GCN and other amphibians is currently considered necessary.

GCN and other amphibians are not currently considered to pose a constraint to the proposed development. In the unlikely event that GCN are found during construction works, work should stop and CES be contacted immediately for advice.

5.17 Hedgehog

Hedgehog is a National and Local Biodiversity Action Plan Species, and is listed on Section 42 of the *Natural Environment and Rural Communities Act*, 2006. Hedgehogs shelter and hibernate in areas of dense, usually dead vegetation, such as log piles and beneath man-made structures.

The site's grassland field offers hedgehogs with suitable foraging habitat, and the hedgerows were considered to offer this species with suitable shelter habitat. Construction of the poultry units will not result in loss of the any hedgerows; however, some disturbance to the northern hedgerow is anticipated in connection with the proposed surface water drainage into the stream. Therefore the current proposals have potential to result in the loss/disturbance to potential hedgehog shelter/hibernation sites. It is considered that the recommendations made in respect of hedgerows would be sufficient in the protection of sheltering hedgehogs, should they be present. No further survey effort in respect of hedgehogs is currently considered necessary.

5.18 Otter

Otters are protected under both European and British Law, therefore surveys are required to check for their presence in areas where they or their habitat are likely to be disturbed for any reason. Otters inhabit a wide range of aquatic habitats including ditches, lakes, ponds, rivers and the coast. They shelter in areas of deep vegetation, beneath buildings and under exposed tree roots that are close to/adjacent to aquatic habitats. Otter field signs include footprints, spraints and 'slides' on embankments where they enter water. BIS provided details of otter occurring on, and within close proximity of, the River Usk, which at its nearest point is located approximately 330m from the proposed development site.

The on-site stream was considered to offer this species with sub-optimal foraging habitat due to its shallow depth of water with limited capacity to support fish and other aquatic species on which it preys. However, given its close proximity to, and connectivity with, the River Usk, it is possible that otters may frequent the stream as they readily use streams and other small watercourses as dispersal habitat, and take shelter in areas of deep vegetation and under exposed tree roots. The heavily vegetated banks of the stream (i.e. the northern hedgerow with trees) may provide otters with suitable shelter opportunities. Given this, it is reasonable to conclude that otters may be associated with the on-site stream and its banks.

Otters are a primary feature of European importance for the River Usk, therefore the *Habitats and Species Regulations* requires that the implications of the proposed development on otters be considered. Natural Resources Wales should be consulted regarding the potential impacts on otters and other species that may be associated with discharging water into a tributary of the River Usk (refer to paragraph 5.3).

Construction of the poultry units would not affect the stream or its banks; however, drainage of the new buildings' surface water into the stream (via land drain/s) has potential to result in loss/disturbance of otter shelter sites, which are legally protected. It is therefore recommended that once the area of the stream's banks to be affected is known, it be inspected by a suitably experienced ecologist prior to any potentially disturbing works taking place. This survey effort should highlight any potential otter laying up/shelter sites, assess the potential impacts of the drainage works and recommend appropriate mitigation and compensation measures (if deemed necessary). No potentially disturbing works should take place until the results of this survey effort are known.

5.19 Polecat

Polecats are a Local and UK BAP Priority species, and are listed on Section 42 of the *Natural Environment & Rural Communities Act, 2006*. BIS provided details of polecat occurring within approximately 1km of the proposed development site.

Polecats breed between March and April, making nests in stone piles and tree hollows. The northern hedgerow and the banks of the associated stream may offer this species with suitable shelter habitat. Given this, it is considered that the recommendations made in respect of hedgerows and otters (i.e. hand dig on the stream banks and inspection by an ecologist) would provide sufficient protection for any polecats that may be present. No further survey effort in respect of this species is currently considered necessary.

5.20 Reptiles

Grass snakes, slow worms, common lizard and adders are listed on Schedule 5 of the *Wildlife and Countryside Act, 1981* (as amended) and are protected by provisions 1 and 5 of Section 9 of the Act. Reptiles shelter and hibernate within voids underground, such as old mammal burrows or gaps beneath concrete bases, etc.

BIS provided records of grass snakes and slow worms occurring within 1km of the proposed development site. The site and surrounding habitat was considered suitable for reptiles; the hedgerows in particular providing suitable habitat corridors. It is therefore recommended that a reptile appraisal be conducted prior to any potentially disturbing works taking place. This appraisal should establish:

- The extent, status and relevance of terrestrial and aquatic habitats located at the proposed development site;
- The predicted reptile presence/likely absence at the site level and within the local area;
- The predicted development effect and scale of impact on reptiles;
- The likely impact of development on the favourable conservation status of any reptile population/s associated with the site and/or the local area;
- The potential implications in respect of current wildlife legislation and guidance relating to reptiles;
- Appropriate mitigation and habitat compensation measures to address the predicted development effect and level of impact on reptiles.

5.21 Water voles

Water voles are protected under British law. They inhabit the banks of lowland ditches, rivers, streams and canals. Populations can also be found around ponds and lakes. Favoured sites tend to be slow-flowing watercourses that do not show extreme fluctuations in water levels. These sites are generally less than three metres wide, approximately one metre in depth, with well vegetated, steep banks with a good cover of marginal and emergent vegetation (Woodroffe, 2000; Strachan et al 2011).

The stream was considered to offer water voles with predominantly poor habitat due to its shallow depth of water and its likelihood to dry during periods of drought, and its

heavily shaded banks which were dominated by woody vegetation and lacking a good cover of emergent/marginal vegetation. The landowner informed the surveyor that construction works associated with the development of the poultry units will not occur within 8m from the edge of the stream's banks, however, the installation of the proposed drain would inevitably affect a small area of the banks. Therefore the recommended survey effort made in respect of otters should also take into consideration the potential presence of water voles. If, in the unlikely event that evidence of water voles (such as burrows or latrines) is found in/around the proposed working area, an alternative location should be identified and used, providing that other protected species, such as otters, do not pose a constraint. In the unlikely event that this is not possible, a suitable mitigation strategy will have to be devised and implemented.

5.22 White-clawed crayfish

White-clawed crayfish are protected under British and European legislation. They inhabit a variety of aquatic habitats, including canals, streams, rivers and lakes, but are typically found in watercourse of 0.75m to 1.25m deep with an abundance of shelter sites, such as stones, tree roots or aquatic vegetation. BIS provided details of white-clawed crayfish occurring within around 1km of the proposed development site.

The area of stream adjacent to the site was considered to offer white-clawed crayfish with predominantly poor habitat due to its shallow depth of water and its likelihood to dry during periods of drought. However, white-clawed crayfish may be associated with the stream (either adjacent to and/or beyond the site). The proposed drainage of surface water into the stream has potential to impact (either positively or negatively) on any white-clawed crayfish and freshwater fish potentially present downstream from the drainage point.

It is considered that the instillation of the proposed attenuation pond would help slow the flow of surface water into the stream during periods of heavy/prolonged rain, which would help reduce or avoid rapid fluctuations in water levels caused by the new drainage. Rapid discharge of water into streams and rivers can damage riverbeds and erode river banks; causing increased levels of silting which can have an adverse effect on white-clawed crayfish and freshwater fish.

It is not the place of this survey to assess the potential hydrological impacts of the proposed development on the stream and ultimately the potential impacts on the River Usk, in to which it drains. It is recommended that Natural Resources Wales be consulted regarding this matter (refer to paragraph 5.3).

6.0 SUMMARY RECOMMENDATIONS TABLE

	Species potentially associated with the site/s?	Further survey effort required?	Survey timing	Recommendations
Badger	Yes	No	-	If evidence of badger setts is found on or surrounding the site before or during construction works, work should stop and CES be contacted immediately. Open excavations should be covered overnight.
Barn owl	Yes	No	-	If barn owls are found to be nesting and/or roosting within close proximity of the proposed development site prior to, and/or during construction works, CES should be contacted immediately for advice
Bats	Yes	No – Unless it becomes necessary to affect any mature trees within the northern hedgerow.	-	Post-development lighting should be kept to a minimum to reduce its potential impact on roosting, commuting and foraging bats (and barn owls)
Birds	Yes	Unlikely	-	Vegetation clearance work is not currently required. If proposals change and it becomes necessary to remove/disturb any woody vegetation during the bird nesting season (March – September), nesting bird surveys may be required. CES should be contacted for advice if ground nesting birds (such as lapwing) are found to be using the site during the nesting season
Brown hare	Yes	No	-	It is recommended that prior to development, vegetation in the working areas be mown/cut/grazed in order to deter brown hares and their leverets from seeking shelter on the construction site

Great crested newt	Yes	No	-	In the unlikely event that GCN are found during construction works, work should stop and CES be contacted immediately for advice.
Hedgehog	Yes	No	-	The recommended measures in respect of the protection of hedgerows would provide sufficient protection for hedgehogs
Otter	Yes	Yes: Additional survey effort is required. Once the area of the stream's banks to be affected by the drainage of water into the stream is known, it should be inspected by a suitably experienced ecologist to check for the potential presence of otter shelter sites.	-	No potentially damaging or disturbing works should occur on the stream's banks until the results of the survey effort are known. Natural Resources Wales should be consulted to determine whether further surveys are required in respect of the proposal to discharge surface water into the stream and the potential impacts on this species
Polecat	Yes	No	-	The recommendations made in respect of protecting hedgerows and brown hares (i.e. the establishment of a 'buffer zone' and scheduled vegetation cutting/grazing) would provide sufficient protection for polecats
Reptiles	Yes	Yes: A reptile appraisal should be conducted prior to any potentially disturbing works taking place	-	No potentially disturbing works should take place until the results of appraisal are known.
Water vole	Unlikely	Yes: the recommended survey effort made in respect of otters would also address the potential (but unlikely) presence of water voles		No potentially damaging or disturbing works should occur on the stream's banks until the results of this survey effort are known. Natural Resources Wales should be consulted to determine whether further surveys are required in respect of the proposal to discharge surface water into the stream and the potential impacts on this species

White-clawed crayfish	Yes	Possibly	-	It is recommended that Natural Resources Wales be consulted regarding the proposed drainage into the stream and the potential effects on white-clawed crayfish.
Hedgerows	On-site	No	-	It is recommended that no potentially damaging works occur within a distance equal to that of hedgerow height, and where trees are present, at a distance equal to that of branch spread, to ensure protection of the root systems

7.0 REFERENCES

JNCC (2010). Handbook for Phase 1 Habitat Survey: A Technique for Environmental Audit. Joint Nature Conservation Council.

Stace, C. (1997). New Flora of the British Isles. Second Edition. Cambridge.

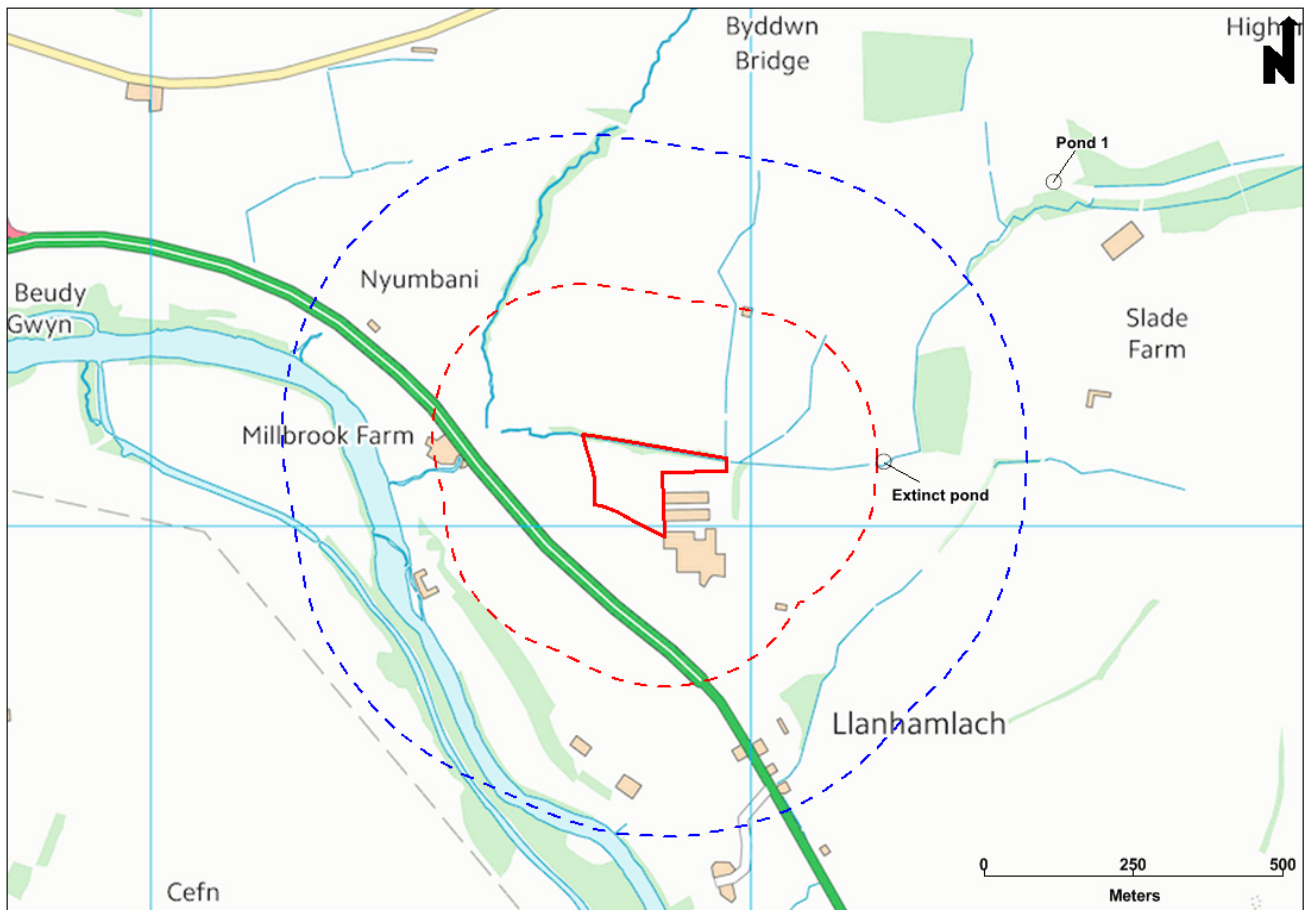
Oldham et al. (2000). Evaluating the suitability of habitat for the Great Crested Newt (*Triturus cristatus*). Herpetological Journal 10 (4), 143-155.

Shawyer, C. R. (2011) *Barn Owl Tyto alba Survey Methodology and Techniques for use in Ecological Assessment: Developing Best Practice in Survey and Reporting*. IEEM, Winchester

English Nature (2001), Great Crested Newt Mitigation Guidelines. Peterborough, English Nature.

Appendices

Appendix A: Site Location Map



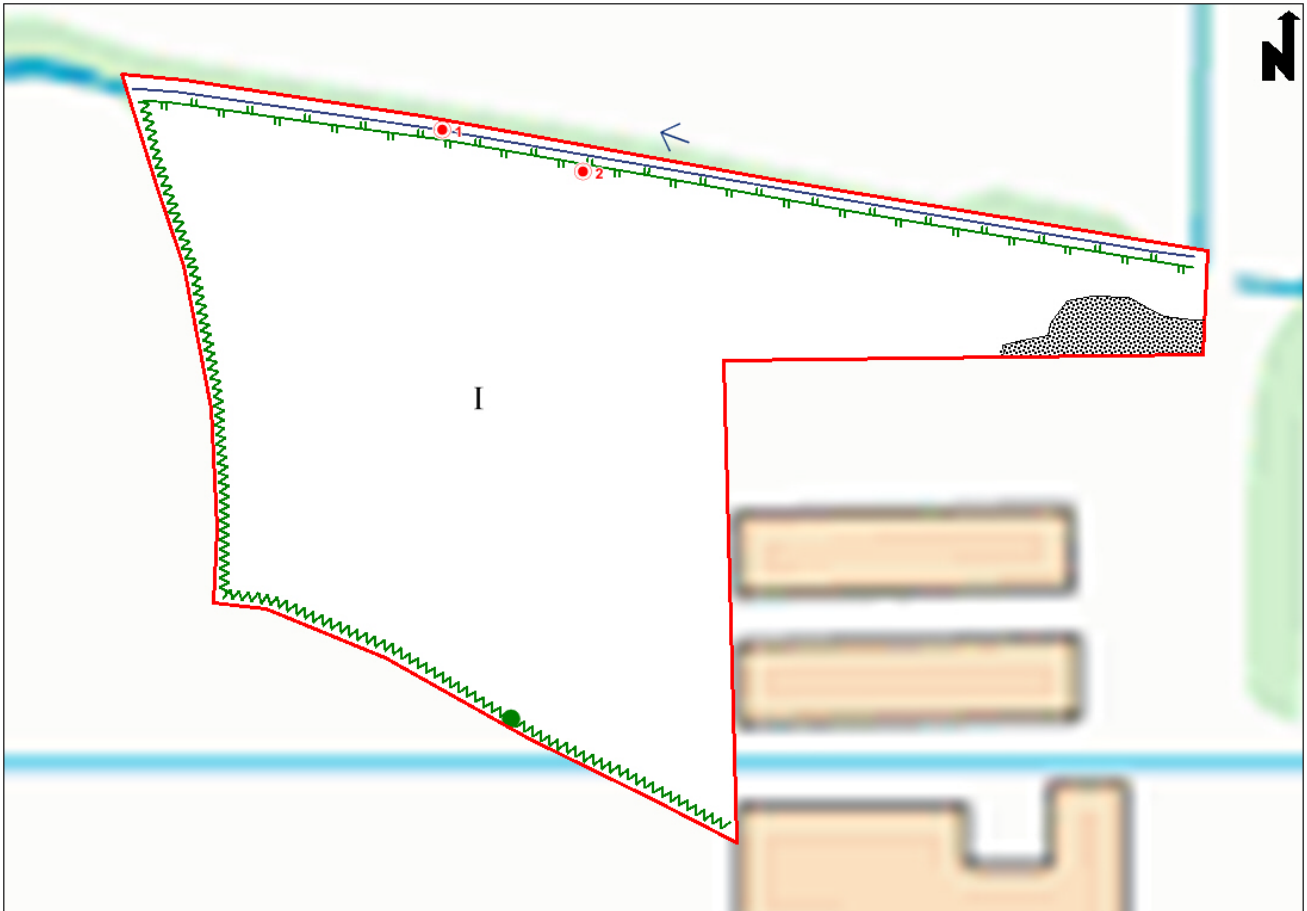
Bickley Hall Farm
Bickley
Malpas
Cheshire
SY14 8EF
01948 820229
info@ces-ecology.co.uk
www.ces-ecology.co.uk

Client:	Ian Pick Associates Ltd.
Project:	Greenway Farm, Brecon
Map:	Site Location Map
Revision:	-
Date:	August 2014
CES Reference:	CES/1137/08-14/NF
Scale:	NOT TO SCALE
	Contains Ordnance Survey data © Crown copyright and database right 2014.

Key

Site Boundary	—
250m radius	- - -
500m radius	- - - -

Appendix B: Extended Phase 1 Habitat Survey Map & Key



Bickley Hall Farm
Bickley
Malpas
Cheshire
SY14 8EF

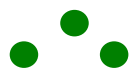
01948 820229
info@ces-ecology.co.uk
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Client:	Ian Pick Associates Ltd.
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Map:	Extended Phase 1 Habitat Map
Revision:	-
Date:	August 2014
CES Reference:	CES/1137/08-14/NF
Scale:	NOT TO SCALE
	Contains Ordnance Survey data © Crown copyright and database right 2014.

Key
See overleaf.

Extended Phase 1 Habitat Map Key

Habitats

 A33 - Scattered broadleaved trees

 B4 - Improved grassland

 G2 - Running water/wet ditch

 J4 - Bare ground

Boundaries

 J211 - Intact species-rich hedge

 J231 - Native species-rich hedge and trees

Others

 Proposed development site boundary

 Target Note

Appendix C: Species Lists

Species present in the improved grassland field

Scientific name	Common name
<i>Chenopodium album</i>	Fat hen
<i>Cirsium arvense</i>	Creeping thistle
<i>Lolium perenne</i>	Perennial rye-grass
<i>Persicaria maculosa</i>	Redshank
<i>Poa annua</i>	Annual meadow-grass
<i>Polygonum viculare</i>	Knotgrass
<i>Ranunculus repens</i>	Creeping buttercup
<i>Rumex crispus</i>	Curled dock
<i>Taraxacum agg.</i>	Dandelion
<i>Trifolium repens</i>	White clover
<i>Urtica dioica</i>	Common nettle

Species present in the northern hedgerow

Scientific name	Common name
<i>Alnus glutinosa</i>	Common alder
<i>Corylus avellana</i>	Common hazel
<i>Crataegus monogyna</i>	Common hawthorn
<i>Fraxinus excelsior</i>	Ash
<i>Ilex aquifolium</i>	Holly
<i>Lonicera periclymenum</i>	Honeysuckle
<i>Prunus spinosa</i>	Blackthorn
<i>Quercus sp.</i>	Oak sp.
<i>Rosa arvensis</i>	Field rose
<i>Rubus fruticosus</i>	Bramble
<i>Salix fragilis</i>	Crack willow
<i>Urtica dioica</i>	Common nettle

Species present in the western hedgerow

Scientific name	Common name
<i>Corylus avellana</i>	Common hazel
<i>Crataegus monogyna</i>	Common hawthorn
<i>Ilex aquifolium</i>	Holly
<i>Lonicera periclymenum</i>	Honeysuckle
<i>Prunus spinosa</i>	Blackthorn
<i>Rosa arvensis</i>	Field rose
<i>Rubus fruticosus</i>	Bramble
<i>Urtica dioica</i>	Common nettle

Species present in the southern hedgerow

Scientific name	Common name
<i>Urtica dioica</i>	Common nettle
<i>Rubus fruticosus</i>	Bramble
<i>Prunus spinosa</i>	Blackthorn
<i>Corylus avellana</i>	Common hazel

<i>Quercus sp.</i>	Oak sp.
<i>Crataegus monogyna</i>	Common hawthorn

N.B. These species lists represent those species identified during the survey. Those species which were not in growth or could not be identified due to the growth stage are not included. Exotic species (such as garden escapes) may also have been omitted from the above lists. However, it is considered that the information gathered during the survey was sufficient to provide an accurate assessment of the site.

Appendix D: Photographic Plates



Plate 1: View looking westwards of the proposed development site – improved grassland bounded by buildings and a hedgerow with mature trees



Plate 2: View looking eastwards of the proposed development site



Plate 3: View looking westwards of improved grassland habitat at the proposed development site



Plate 4: View looking westwards of the entrance of the proposed development site – note the existing poultry sheds, hard standing and silos



Plate 5: View of the species-rich hedgerow with trees situated on the site's northern boundary



Plate 6: View of a mature tree with bat roost potential in the species-rich hedgerow located on the site's northern boundary



Plate 7: View of the hedgerows located on the site's southern and western boundaries: note they are managed/cut



Plate 8: View of the stream located (within a hedgerow) located on the site's northern boundary



Plate 9: View of the stream located (within a hedgerow) located on the site's northern boundary. Note the shading and shallow water level at the time of survey



Plate 10: View of the area where OS mapping indicates the presence of a pond. No pond or standing water was present at the time of survey



Plate 11: View of the off-site pond located approximately 900m from the proposed development site

Appendix E: Legislation

Species/Habitat	Protected by:	UK BAP
Badger	<i>Protection of Badgers Act, 1992</i>	No
Barn owl	Schedule 1, Part 1 of the <i>Wildlife and Countryside Act, 1981</i>	No
Bats	Regulation 41 of <i>The Conservation of Habitats and Species Regulations, 2010</i> Section 9 of the <i>Wildlife and Countryside Act, 1981</i> (as amended) Section 42 of the <i>Natural Environment and Rural Communities (NERC) Act, 2006</i>	Dependent on species
Brown hare	Section 42 of the <i>Natural Environment and Rural Communities (NERC) Act, 2006</i>	Yes
Great crested newt	Regulation 41 of <i>The Conservation of Habitats and Species (Amendment) Regulations, 2012</i> Section 9 of the <i>Wildlife and Countryside Act, 1981</i> (as amended) Section 42 of the <i>Natural Environment and Rural Communities (NERC) Act, 2006</i>	Yes
Hedgehog	Section 42 of the <i>Natural Environment and Rural Communities (NERC) Act, 2006</i>	No
Nesting birds	Section 1 of the <i>Wildlife and Countryside Act, 1981</i>	Dependent on species
Otters	Regulation 41 of <i>The Conservation of Habitats and Species Regulations, 2010</i> Section 5 of the <i>Wildlife and Countryside Act, 1981</i>	Yes
Polecat	Section 42 of the <i>Natural Environment and Rural Communities (NERC) Act, 2006</i> Section 6 of the <i>Wildlife and Countryside Act, 1981</i> (as amended)	Yes
Reptiles – Grass snake Slow worm & Common lizard	Section 5 of the <i>Wildlife and Countryside Act, 1981</i> Section 42 of the <i>Natural Environment and Rural Communities (NERC) Act, 2006</i>	Yes
White-clawed crayfish	Regulation 41 of <i>The Conservation of Habitats and Species Regulations, 2010</i> Schedule 5 of the <i>Wildlife and Countryside Act, 1981</i>	Yes

The Conservation of Habitats and Species Regulations, 2010

European protected species are listed on Schedule 2 of the *Conservation of Habitats and Species Regulations 2010*. Those species listed on Schedule 2 are protected under Regulation 41, which refers to the protection of wild animals of a European Protected Species. The following is a summary of the offences listed under Regulation 41, however, the *Conservation Regulations* should always be referred to for the exact and current wording:

Under Regulation 41 of the *Conservation of Habitats and Species Regulations, 2010* it is an offence to –

- deliberately capture or kill a wild animal of a European protected species;
- deliberately disturb wild animals, in particular any disturbance which is likely:
 - to impair their ability to survive, to breed or reproduce, or to rear or nurture their young; or
 - to impair their ability, in the case of animals of a hibernating or migratory species, to hibernate or migrate;
 - to affect significantly the local distribution or abundance of the species to which they belong
- deliberately take or destroy the eggs of such an animal; or
- damage or destroy a breeding site or resting place of such an animal.
- keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal of a European protected species, or any part of, or anything derived from, such an animal.

Wildlife and Countryside Act, 1981 (as amended)

British protected species of animal are listed on Schedule 5 of the *Wildlife and Countryside Act, 1981* (as amended). Those species listed on Schedule 5 are protected under Part 1, Section 9, which refers to the protection of certain wild animals. The following is a summary of the offences listed under Section 9; however the Act should always be referred to for the exact and current wording:

Under Section 9 of the *Wildlife and Countryside Act, 1981* (as amended) if any person –

- intentionally kills, injures or takes any wild animal included in Schedule 5;
- has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from such an animal;
- intentionally or recklessly damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection;
- disturbs any such animal included in Schedule 5 while it is occupying a structure or place which it uses for that purpose;
- sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or,
- publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.

This legislation applies to all life stages of GCN. Heavy fines (up to £5,000 per incident) can be imposed for **each** offence, and a prison sentence of up to 6 months for each offence can be given to any person found guilty of an offence. In certain circumstances, any machine, tool or implement involved in an illegal act can also be seized.

Natural England (NE) issue licences for the disturbance of European Protected Species including GCN, certain criteria must be met before a licence can be issued to enable otherwise prohibited works to proceed. Such criteria may be subject to change without notice. For further information please visit www.naturalengland.org.uk

Wildlife and Countryside Act, 1981 (as amended) - Birds

All species of wild bird, their nests and eggs are protected under Section 1 of the *Wildlife and Countryside Act, 1981* (as amended); therefore surveys are required to check for their presence where they are likely to be disturbed for any reason.

The following is a summary of the offences listed under Section 1; however the Act should always be referred to for the exact and current wording:

Under Section 1 of the *Wildlife and Countryside Act, 1981* (as amended), if any person:

- Intentionally kills, injures or takes any wild bird;
- Intentionally takes, damages or destroys the nest of any wild bird while that nest is in use or being built;
- Intentionally takes or destroys an egg or any wild bird, he shall be guilty of an offence;
- Has in his possession or control any live or dead wild bird or any part of, or anything derived from, such a bird; or
- Has in his possession or control an egg of any wild bird or any part of such an egg, he shall be guilty of an offence.

Schedule 1 (Part 1 and Part 2) of the *Wildlife and Countryside Act, 1981* (as amended) lists bird species that receive special attention under Section 1. Any person convicted of an offence listed above, in respect of a bird included in Schedule 1 or any part of, or anything derived from, such a bird; the nest of such a bird; or an egg of such a bird or any part of such an egg, shall be liable to a special penalty.

Also, if any person intentionally or recklessly disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird, he shall be guilty of an offence and liable to a special penalty.

Schedules 1, 2, 3 and 4 of the *Wildlife and Countryside Act, 1981* (as amended) list different species of bird and different Parts of Section 1 of the Act refer to different offences which may be committed in relation to the varying Schedules. The following is a summary of the type of protection offered to species of wild bird listed on each of the Schedules, however the Act itself should always be referred to for the exact and current wording and full species lists:

Schedule 1: Birds which are protected by special penalties:

Part 1: At all times.

Part 2: During the close season.

Schedule 2: Birds which may be killed or taken:

Part 1: Outside the close season.

Part 2: By authorised persons at all times.

Schedule 3: Birds which may be sold:

- Part 1: Alive at all times if ringed and bred in captivity.
- Part 2: Dead at all times.
- Part 3: Dead from 1st September to 28th February.
- Schedule 4: Birds which must be registered and ringed if kept in captivity.

The Natural Environment and Rural Communities (NERC) Act, 2006 (as amended)

The following is a summary of the *Natural Environment and Rural Communities (NERC) Act, 2006 (as amended)*, the *NERC Act* itself should be referred to for the exact and current wording:

- Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity;
- In complying with the above, a Minister of the Crown, government department or the National Assembly for Wales must in particular have regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992;
- Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.

The Hedgerow Regulations, 1997

Hedgerows are distinctive features in the countryside and are the traditional type of field boundary in many areas of England and Wales. Many of these date back to the original enclosure of the land and so are of historic interest and importance.

Hedgerows (particularly older hedgerows) can contain a diverse mix of species and provide important links between other areas of habitat thus allowing wildlife to disperse. This role that hedgerows play in conserving and enhancing biodiversity is recognised by the UK BAP for this habitat type.

Hedgerows which meet certain criteria are protected by *The Hedgerows Regulations, 1997*. The aim of the Regulations is to protect important hedgerows in the countryside by controlling their removal through a system of notification. Under the Regulations it is against the law to remove or destroy certain hedgerows without permission from the Local Planning Authority (LPA). The criteria used to assess hedgerows relate to the value of a hedgerow from an archaeological, historical, landscape or wildlife perspective. They exclude hedgerows that are less than 30 years old. If a hedgerow is at least 30 years old and qualifies under any one of the criteria, then it is important and LPA approval is required before it can be lawfully removed or destroyed.

Removal of a hedgerow in contravention of the Regulations is a criminal offence, punishable in some cases in the Magistrates Court, by a fine of up to £5,000. For anyone convicted on indictment in the Crown Court, the fine is unlimited.

If a hedgerow is over 30 years old and meets the criteria in the Regulations it is classified as 'important'. A summary of the criteria is set out below, however, *The Hedgerow Regulations, 1997* should be referred to for the exact and current wording:

- Marks a pre-1850 parish or township boundary; or
- Incorporates an archaeological; or
- Is part of, or associated with, an archaeological site; or
- Marks the boundary of, or is associated with, a pre-1600 estate or manor; or
- Forms an integral part of a pre-Parliamentary enclosure field system; or
- Contains certain categories of species of birds, animals or plants listed in the Wildlife and Countryside Act or Joint Nature Conservation Committee (JNCC) publications.
- Includes:
 - At least 7 woody species, on average, in a 30 metre length; or
 - At least 6 woody species, on average, in a 30 metre length and has at least 3 associated features; or
 - At least 6 woody species, on average, in a 30 metre length, including a black-poplar tree, or large-leaved lime, or a small-leaved lime, or wild service-tree; or
 - At least 5 woody species, on average, in a 30 metre length and has at least 4 associated features.
- Runs alongside a bridleway, footpath, road used as a public path, or byway open to all traffic and includes at least 4 woody species, on average, in a 30 metre length and has at least 2 of the associated features listed at (i) to (v) below.

(Note: The number of woody species is reduced by one in the North of England (which does not include Cheshire). The list of 56 woody species comprises mainly shrubs and trees. It generally excludes climbers (such as clematis, honeysuckle and bramble) but includes wild roses)

Associated features:

- (i) A bank or wall supporting the hedgerow;
- (ii) Less than 10% gaps;
- (iii) On average, at least one tree per 50 metres;
- (iv) At least 3 species from a list of 57 woodland plants;
- (v) A ditch;
- (vi) A number of connections with other hedgerows, ponds or woodland; and
- (vii) A parallel hedge within 15 metres.

The Protection of Badgers Act, 1992

The following is a summary of the offences contained in the Act; however the *Protection of Badgers Act*, 1992 itself should always be referred to for the exact and current wording.

Under the *Protection of Badgers Act*, 1992 a person is guilty of an offence if, except as permitted by or under this Act he:

- wilfully kills, injures or takes, or attempts to kill, injure or take, a badger;
- has in his possession or under his control any dead badger or any part of, or anything derived from, a dead badger;
- cruelly ill-treats a badger;
- uses badger tongs in the course of killing or taking, or attempting to kill or take, a badger;
- digs for a badger; or,
- sells a live badger or offers one for sale or has a live badger in his possession or control.

A person is also guilty of committing an offence under the *Protection of Badgers Act*, 1992 if he intentionally or recklessly interferes with a badger sett by doing any of the following things:

- damaging a badger sett or any part of it;
- destroying a badger sett;
- obstructing access to, or any entrance of, a badger sett;
- causing a dog to enter a badger sett; or,
- disturbing a badger when it is occupying a badger sett,

The definition of a badger sett within the meaning of the 1992 Act is given as “any structure or place, which displays signs indicating current use by a badger”. ‘Current’ is not defined in the Act, and may be open to interpretation. Natural England indicates that a sett is in ‘current’ use if it has been occupied at all over the previous 12 months. Whatever the interpretation of ‘current use’ however, it is important to note that a sett is protected whether or not there is a badger actually in residence at the time of inspection.

Natural England Guidelines state that work that disturbs badgers or their setts is illegal if not carried out under licence. Badgers could be disturbed by work near their sett even if there is no direct interference or damage to the sett itself, for example, using very heavy machinery within 30 metres of an active sett. Lighter machinery (particularly for any digging operation) within 20 metres, or light work such as hand digging or scrub clearance within 10 metres of an active sett, all require a licence. There are some activities which can cause disturbance at a far greater distance (such as using explosives or pile driving) and should therefore be given individual consideration. Certain criteria must be met before a licence can be issued to enable otherwise prohibited works to proceed. Such criteria may be subject to change without notice.

Timing of operations should also be considered. If required, site-specific badger disturbance licences are normally only issued between the months of July and October so as to avoid the badger’s breeding season. This aspect should be borne in mind when assessing any possible constraints upon the development timetable.



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