PRELIMINARY ROOST ASSESSMENT REPORT

FORMER RAOB CLUB, PENCOED

HIGHLAND SERVICES (HIGHLAND ELECTRIX LTD)

DOCUMENT REF: WWE18188 PRA.A  |  05/09/2018
<table>
<thead>
<tr>
<th>Client:</th>
<th>Highland Services (Highland Electrix Ltd)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site/Job:</td>
<td>Former RAOB Club, Pencoed</td>
</tr>
<tr>
<td>Report title:</td>
<td>Preliminary Roost Assessment Report</td>
</tr>
<tr>
<td>Report reference:</td>
<td>WWE18188 PRA.A</td>
</tr>
<tr>
<td>Grid Reference:</td>
<td>SS9609381648</td>
</tr>
<tr>
<td>Survey date(s):</td>
<td>28th August 2018</td>
</tr>
<tr>
<td>Surveyed by:</td>
<td>Dr Alex Pollard MCIEEM</td>
</tr>
<tr>
<td>Architect/Agent:</td>
<td>n/a</td>
</tr>
<tr>
<td>Planning reference:</td>
<td>n/a</td>
</tr>
</tbody>
</table>

**VERSIONING AND QUALITY ASSURANCE**

<table>
<thead>
<tr>
<th>Rev</th>
<th>Status</th>
<th>Date</th>
<th>Author(s)</th>
<th>Reviewed by</th>
<th>Approved by</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Draft</td>
<td>11/09/2018</td>
<td>Alex Pollard MCIEEM</td>
<td>Matt Davies MCIEEM</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Principal Ecologist</td>
<td>Senior Ecologist</td>
<td></td>
</tr>
</tbody>
</table>

**DISCLAIMER**

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The evidence which we have prepared and provided is true, and has been prepared and provided in accordance with the guidance of The Chartered Institute of Ecology and Environmental Management’s Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.
## SUMMARY

**Purpose**
- Wildwood Ecology was commissioned by Highland Services (Highland Electrix Ltd) (the client) to undertake a Preliminary Roost Assessment (PRA) of the Former RAOB Club, Pencoed.
- The site is the subject of a planning application to demolish the existing building, with new residential accommodation construction.

**Work undertaken**
- A PRA was undertaken consisting of a desk study and field survey undertaken in August 2018 following best practice guidelines (Collins 2016).

**Key issues**
- There were no signs of bats or bats themselves within the building.
- There is suitable vegetation for use by nesting birds to the north of the building within the scrub.

**Recommendations**
- No further survey required.
- Works to clear vegetation to be completed prior to the start of the breeding season i.e. works completed prior to March, or after September, following consent.
- Integration of bat roost and bird nesting boxes within the new construction are recommended as enhancement measures.

**Conclusions**
- Providing that the recommendations outlined within this report are successfully implemented, it should be possible for the proposed development to proceed and for there to be no long-term impacts upon the key protected species present at the site.
- This ecological report will remain valid for a period of 2 years from the date of the last survey – i.e. until August 2020.
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1 INTRODUCTION

1.1 Wildwood Ecology was commissioned by Highland Services (Highland Electrix Ltd) (the client) to undertake a Preliminary Roost Assessment (PRA) of Former RAOB Club, Pencoed (the site) centred at grid reference SS9609381648.

Site description

1.2 The aerial image of the site (Figure 1) shows the site to consist of a building surrounded by further buildings, access roads, hardstanding and small pockets of green space (amenity areas and gardens). A railway line is found running to the north-west, with some linear vegetation corridors present.

![Aerial image of the site](image.jpg)

*Figure 1 – Aerial image of the site (red line shows the site boundary). Image used under licence (©2018 Google). Imagery date 16/08/2016.*

Proposed development

1.3 The site is the subject of a planning application for demolition of the existing structure and subsequent construction of residential dwellings.

Purpose of this report

1.4 The purpose of this report is to provide sufficient information for the local planning authority to fully assess the potential ecological impacts of the proposed development, or to identify what further information is required before a full assessment can be made.

1.5 The result of the PRA has been used to inform whether further surveys are required, or to establish the need for, and extent of, any mitigation or compensation measures required as part of the proposed development.
2 METHODOLOGY

Desk study

2.1 A biodiversity desk study was undertaken in relation to the site in August 2018. The sources consulted and the type of information obtained are summarised in Table 1.

Table 1 – Sources of biodiversity and ecological records.

<table>
<thead>
<tr>
<th>Source</th>
<th>Information requested (search buffer from site centre/boundary)</th>
</tr>
</thead>
</table>
| South East Wales Biodiversity Records Centre (SEWBReC) | • Bats and roof-nesting birds only:  
  o Bats  
  o Roof nesting birds (2km) (0.15km) |
| Multi-Agency Geographic Information for the Countryside (MAGIC)¹ | • International statutory designations (5km)  
• National statutory designations (2km) |

2.2 The search buffers are considered to be sufficient to cover the potential zone of influence (ZoI²) of the proposed development.

2.3 The impact of the proposed development on the biological integrity of any nearby designated protected sites has been fully considered.

2.4 Data for bats and birds only was obtained from South East Wales Biodiversity Records Centre (SEWBReC) as the proposals will only impact on the building, hence data for other species would be irrelevant.

2.5 No previous survey information was available for the site itself.

Field survey

2.6 A field survey was undertaken on 28/08/2018.

2.7 An assessment of the building was undertaken in accordance with the latest published best practice guidance (Collins, 2016).

2.8 The building was externally and internally inspected for bats and their signs with the aid of high-powered lamps and close-focussing binoculars.

2.9 The suitability of the building to accommodate bats was assessed, along with a systematic search for signs of bats (e.g. droppings, moth wings, scratch marks, staining, etc.) or actual bats that were present. Particular attention was paid to the roof areas, with searches for any crevices or gaps in walls, gaps between beams and joists, droppings stuck to the walls, floors or other surfaces, or feeding remains below beams, in addition to a number of other factors and signs indicative of a bat roost.

2.10 In addition, the building was classified according to its suitability for bats, based on the presence of features within the structure and / or landscape (see Table 2).

¹ http://magic.defra.gov.uk/MagicMap.aspx
² ZoI definition – ‘the areas/resources that may be affected by the biophysical changes caused by activities associated with a project’ (CIEEM, 2016).
Table 2 – Summary of guidelines for assessing the potential suitability of proposed development sites for bats (from Collins 2016).

<table>
<thead>
<tr>
<th>Suitability</th>
<th>Description of building, tree, or structure</th>
<th>Number of activity survey visits required¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Negligible</td>
<td>Negligible habitat features on site likely to be used by roosting bats.</td>
<td>None</td>
</tr>
<tr>
<td>Low</td>
<td>A structure or tree with one or more potential roost sites that could be used by individual bats opportunistically. However, potential roost sites not suitable for larger numbers or regular use (i.e. maternity or hibernation).</td>
<td>One</td>
</tr>
<tr>
<td>Moderate</td>
<td>A structure or tree with one or more potential roost sites that could be used by bats, but unlikely to support a roost of high conservation status.</td>
<td>Two</td>
</tr>
<tr>
<td>High</td>
<td>A structure or tree with one or more potential roost sites obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time.</td>
<td>Three</td>
</tr>
<tr>
<td>Confirmed roost</td>
<td>Evidence of bats or use by bats found.</td>
<td>Minimum of two – to characterise the roost</td>
</tr>
</tbody>
</table>

Surveyor information

2.11 The PRA was undertaken by Alex Pollard. See Table 3 for further information.

Table 3 – Surveyor information.

<table>
<thead>
<tr>
<th>Surveyor</th>
<th>Licences</th>
<th>Ecological experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alex Pollard</td>
<td>Bat</td>
<td>Holds a Ph.D (Visual constraints in bird behaviour). Experienced in undertaking ornithological surveys, and bat surveys. Is a licensed bat and dormouse ecologist in England and Wales. Supervisor and advisor to undergraduate and postgraduate ecological research projects.</td>
</tr>
<tr>
<td></td>
<td>Dormouse</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Barn owl</td>
<td></td>
</tr>
</tbody>
</table>

Limitations and assumptions

2.12 Many species of bat in the UK are crevice dwelling, and bats or signs of bats can be difficult to find within a building. In addition, there may be areas that are inaccessible to the surveyor.

2.13 No other limitations were encountered or assumptions made during either the desk study or the field survey and it is considered that with the access gained and recording undertaken an accurate assessment of the site’s ecological value has been made.

¹ To provide confidence that bats are absent from the structure
3 RESULTS

Desk study

Designated sites (statutory)

3.1 There was one international statutory designation within 5km of the site and two national statutory designations within 2km (see Table 4). The closest statutory designated site Coed y Mwstwr Woodlands was approximately 0.9km west of the site.

Designated sites (non-statutory)

3.2 There were no non-statutory designations within 1km of the site (see Table 4).

Table 4 – Summary of designated sites in range of the site.

<table>
<thead>
<tr>
<th>Site name</th>
<th>Designation</th>
<th>Description / key reason for designation</th>
<th>Distance &amp; direction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coed Y Mwstwr Woodlands</td>
<td>SSSI</td>
<td>Semi-natural broadleaved woodland occurring in 2 blocks: Coed-y-Pebyll - mixture of ash, elm with oak standards; and Deri Cochion - mixture of oak and birch. Also hibernation site for lesser horseshoe bat at the cave Ogof y Pebyll</td>
<td>0.9km W</td>
</tr>
<tr>
<td>Brynna a Wern Tarw</td>
<td>SSSI</td>
<td>Neutral grassland; marshy grassland</td>
<td>1.1km NE</td>
</tr>
<tr>
<td>Blackmill Woodlands</td>
<td>SAC</td>
<td>Sessile oak woodland</td>
<td>4.7km NW</td>
</tr>
</tbody>
</table>
### Protected species

3.3 Table 5 summarises the priority and protected species records found within the local area within the last 10 years.

**Table 5 – Bat and roof-nesting bird species records found in the vicinity of the site within the last 10 years.**

<table>
<thead>
<tr>
<th>Groups</th>
<th>Species</th>
<th># of records (# species)</th>
<th>Further information</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Protected &amp; priority</td>
<td>Onsite &lt;500m &gt;500m</td>
<td></td>
</tr>
<tr>
<td>Bat</td>
<td>Brown long-eared bat</td>
<td>-</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Common pipistrelle</td>
<td>- 1</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Lesser horseshoe bat</td>
<td>- -</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Natterer’s bat</td>
<td>- -</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Noctule</td>
<td>- -</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Soprano pipistrelle</td>
<td>- -</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Unidentified pipistrelle</td>
<td>- -</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Unidentified long-eared species</td>
<td>- -</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Unidentified Myotis</td>
<td>- -</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Unidentified bat</td>
<td>- -</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td><strong>TOTALS</strong></td>
<td>- 1 (1)</td>
<td>51 (6)</td>
</tr>
<tr>
<td>Bird (non-Schedule 1)</td>
<td></td>
<td>-</td>
<td>1 (1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>4 (3)</td>
</tr>
</tbody>
</table>

Brown long-eared: unidentified roost 1.1km from the site dated 2016
Common pipistrelle: day roost 1.4km from the site dated 2009
Lesser horseshoe bat: night roost 1.4km from the site dated 2010
Natterer’s bat: bat pass 1.4km from the site dated 2010
Noctule: bat pass 1.4km from the site dated 2009
Soprano pipistrelle: bat rescue 0.75km from the site dated 2015
Unidentified pipistrelle: maternity roost 1.4km from the site dated 2009
Unidentified long-eared species: bat pass 0.9km from the site dated 1986
Unidentified *Myotis*: unidentified roost 1.4km from the site dated 2010
Unidentified bat: unidentified roost 0.6km from the house dated 2008
Species: herring gull, house sparrow, jackdaw and lesser black-backed gull

3.4 There are protected areas (SSSIs) designated for their bat populations within 10km of the site; Coed y Mwstwr Woodlands SSSI (0.9km W)

3.5 There are barn owl records within 0-1km of the site.
Field survey

3.6 A description of the building inspected during the PRA can be seen in Table 6.

Table 6 – Onsite building information.

<table>
<thead>
<tr>
<th>Building reference</th>
<th>Description</th>
<th>Development plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Former RAOB Club</td>
<td>The building is comprised of several rooms and corridors, all over a single storey, and with varying ceiling heights accommodating the previous usages of the building (cloak room, main hall etc). The building has been stripped internally with bare walls and floors, and with most windows and doorways boarded over. The ceilings and supporting structures are visible. The building has been subject to severe water ingress in several areas for some time.</td>
<td>Demolition</td>
</tr>
<tr>
<td>External</td>
<td>The structure is brick built with several sections adjoining. The roofs are flat and have concrete slab-top parapets and some wooden fascia boards. There are some sections (northern small extension, western hall) which are partially rendered.</td>
<td>Demolition</td>
</tr>
</tbody>
</table>

3.7 The results of the PRA can be seen in Table 7.

Table 7 – PRA results.

<table>
<thead>
<tr>
<th>Building reference</th>
<th>Use by bats</th>
<th>Use by birds</th>
<th>Bat signs and internal and external Potential Roost Features (PRFs) &amp; access points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal</td>
<td>No</td>
<td>No</td>
<td>No bats or their signs were found. No nesting birds or old nests were found. All windows and doors have been boarded over or are fully glazed preventing bat/bird access. A vent to the main hall had been damaged recently by vandals (externally this is just above the level of the flat roof section).</td>
</tr>
<tr>
<td>External</td>
<td>No</td>
<td>No</td>
<td>No bats or their signs were found. No nesting birds or old nests were found. Most mortar is intact between brickwork, and where it was not, the crevice present was inspected with no bats found. No gaps were found under the eastern fascia boards, though no access was possible to check the northern boards due to dense scrub present to the level of these.</td>
</tr>
</tbody>
</table>
3.8 The site is within an urban location surrounded by buildings, hardstanding and access roads. These are illuminated (at least partially) at night, with moderate-high radiance levels (https://www.lightpollutionmap.info). As such there are limited vegetated and dark corridors for bats to use in the immediate area.
4 INTERPRETATION AND ASSESSMENT

4.1 The following interpretation and assessment is provided to ensure full compliance with both UK and European legislation and both local and national planning policy (see Appendix IV).

Designated sites

4.2 There were statutory designated sites identified within the vicinity of the site (see Table 4). The closest statutory site was Coed Y Mwstwr Woodlands SSSI found 0.9km to the west. This is also designated for its bat population (lesser horseshoe hibernation site).

4.3 Given the scale of the proposed development, and the lack of likely impacts beyond the site boundary, the nearby designated sites are sufficiently well separated so that no impacts on their designated features are anticipated as a result of the works.

Preliminary roost assessment (PRA) for bats and nesting birds

4.4 Based on the results of the PRA, an assessment of the potential suitability of the onsite buildings/trees for bats and nesting birds could be made (see Table 8).

Table 8 – Onsite building(s) / tree(s) suitability for bats and nesting birds.

<table>
<thead>
<tr>
<th>Building reference</th>
<th>Suitability / confirmed use</th>
<th>Bats</th>
<th>Nesting birds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal</td>
<td>Negligible</td>
<td></td>
<td>No confirmed nests present</td>
</tr>
<tr>
<td>External</td>
<td>Negligible</td>
<td></td>
<td>No confirmed nests present</td>
</tr>
</tbody>
</table>

Bats

4.5 As the onsite building has a negligible suitability for bats (despite there being a number of records for bat species in the vicinity of the site) there is unlikely to be a negative impact on bat species as a result of the proposed development.

4.6 Whilst the structure offered negligible suitable features for use by roosting bats, there were areas which cannot be fully examined (northern elevation) due to the bramble and scrub present on the adjoining land. As the scrub is level with and above the height of the fascia board, it is unlikely that these features (if present) would be used by bats as there would be no flight path available.

4.7 As such, there is unlikely to be a negative impact on bat populations as a result of the proposed development.

Nesting birds

4.8 The onsite building had suitability for nesting birds on the flat roof, and within adjacent scrub, though no signs of nesting behaviour / nesting birds were observed (survey completed in late August).

4.9 There may be a negative impact on nesting birds as a result of the proposed development, if the works are undertaken during the breeding season (March to August).
5 CONCLUSIONS AND RECOMMENDATIONS

5.1 Wildwood Ecology was commissioned to undertake a Preliminary Roost Assessment (PRA) of Former RAOB Club, Pencoed.

5.2 The site is the subject of a planning application for the existing building to be demolished and new residential dwellings constructed.

Designated sites

5.3 Designated sites in the vicinity of the site (see Table 4) are sufficiently well separated so that no impacts on their designated features are anticipated as a result of the proposed development.

Protected species

5.4 It is possible for a protected species to use the site opportunistically. If any protected species is found using the site, the animal will be made safe, works will cease and ecological advice will be sought from the project ecologist. This advice will be acted upon.

5.5 Recommendations regarding protected species are shown in Table 9.

Table 9 – Recommendations.

<table>
<thead>
<tr>
<th>Species</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bats</td>
<td>• No further surveys required.</td>
</tr>
<tr>
<td></td>
<td>• Bargeboards/fascias will be removed by hand in small sections prior to any other works being undertaken. If any bats are found, the project ecologist will be contacted for advice, as per 5.4.</td>
</tr>
<tr>
<td></td>
<td>• The new construction will include features for bats. This will be 1 x Schwegler Bat Tube 1FR installed flush with the external render or surface and at eaves height, facing northwards. This feature will not be illuminated by any external lighting.</td>
</tr>
<tr>
<td>Nesting birds</td>
<td>• If the building / scrub habitat suitable for nesting birds are to be removed, then any building works / vegetation clearance will take place outside of the bird nesting season.</td>
</tr>
<tr>
<td></td>
<td>• In the event that clearance work has to be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified person.</td>
</tr>
<tr>
<td></td>
<td>• Any active nests identified should be protected until the young have fledged. Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <a href="http://www.jncc.gov.uk/page-3614">http://www.jncc.gov.uk/page-3614</a> is involved, compensation for impacts, e.g., loss of nesting sites, should be devised and implemented.</td>
</tr>
</tbody>
</table>

Biodiversity enhancement

5.6 Local Authorities have a duty (known as the ‘Biodiversity and resilience of ecosystems duty’) under the Environment (Wales) Act 2016 to seek to maintain and enhance biodiversity in the exercise of their functions.
5.7 Where possible the existing onsite habitat will be retained to ensure that species are not adversely affected by the development. Native species of local provenance will be used for any new planting on the site to support The Action Plan for Pollinators in Wales, 2013 (http://gov.wales/docs/desh/publications/130723pollinator-action-plan-en.pdf).

5.8 Bird nesting boxes will be incorporated within the proposed building/boundary features. A range of types should be used in order to cover a variety of species. Many designs are available and we would initially suggest the following types for this site:


Overall conclusion

5.9 Providing that the recommendations outlined within this report are successfully implemented, it should be possible for the proposed development to proceed and for there to be no long-term impacts upon the key protected species present at the site.

This ecological report will remain valid for a period of 2 years from the date of the last survey - i.e. until August 2020. Further surveys may be required to update the site information if planning is not obtained or works do not commence within this time period.
6 REFERENCES


APPENDIX I: SITE PLAN
APPENDIX II: SURVEY IMAGES

Figure 2 – Southern aspect looking towards east
Figure 3 – Boarded entrance and windows on southern aspect

Figure 4 – Western end of southern aspect, looking north
Figure 5 – Western aspect looking north

Figure 6 – South-eastern corner
Figure 7 – Eastern aspect, looking west
Figure 14 – View of scrub to north of site
APPENDIX III: SPECIES LIST
To be submitted to the appropriate Local Records Centre

Site Name: Former RAOB Club, Pencoed
Grid ref: SS9609381648

Provided by: Wildwood Ecology Ltd
Verified by: Alex Pollard

<table>
<thead>
<tr>
<th>Common name</th>
<th>Scientific Name (if known)</th>
<th>Number</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bramble</td>
<td><em>Rubus fruticos</em></td>
<td></td>
<td>Scrub to north</td>
</tr>
<tr>
<td>Ivy</td>
<td><em>Hedera helix</em></td>
<td></td>
<td>Scrub to north</td>
</tr>
<tr>
<td>Common nettle</td>
<td><em>Urtica dioica</em></td>
<td></td>
<td>Scrub to north</td>
</tr>
</tbody>
</table>
APPENDIX IV: PLANNING POLICY AND LEGISLATION

The following local and national planning policy and both primary and European legislation relating to nature conservation and biodiversity status are considered of relevance to the current proposal.

Planning and biodiversity

Local Authorities have a requirement to consider biodiversity and geological conservation issues when determining planning applications under the following planning policies.

Planning Policy Wales (2016) and Technical Advice Note 5 (2009)

Planning Policy Wales (Edition 9, November 2016) sets out the land use planning policies of the Welsh Government, with Chapter 5 dealing with Conserving and Improving Natural Heritage and the Coast. The advice contained within Planning Policy Wales (PPW) is supplemented for some subjects by Technical Advice Notes (TAN’s).

TAN 5 (Welsh Government, 2009) specifically provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation. The TAN provides advice for local planning authorities on the key principles of positive planning for nature conservation; nature conservation and Local Development Plans; nature conservation in development management procedures; development affecting protected internationally and nationally designated sites and habitats; and development affecting protected and priority habitats and species.

Under Section 2.4 within the TAN 5, ‘when deciding planning applications that may affect nature conservation local planning authorities should’:

- Pay particular attention to the principles of sustainable development, including respect for environmental limits, applying the precautionary principle, using scientific knowledge to aid decision making and taking account of the full range of costs and benefits in a long term perspective;
- Contribute to the protection and improvement of the environment, so as to improve the quality of life and protect local and global ecosystems, seeking to avoid irreversible harmful effects on the natural environment;
- Promote the conservation and enhancement of statutorily designated areas and undeveloped coast;
- Ensure that appropriate weight is attached to designated sites of international, national and local importance;
- Protect wildlife and natural features in the wider environment, with appropriate weight attached to priority habitats and species in Biodiversity Action Plans;
- Ensure that all material considerations are taken into account and decisions are informed by adequate information about the potential effects of development on nature conservation;
- Ensure that the range and population of protected species is sustained;
- Adopt a step-wise approach to avoid harm to nature conservation, minimise unavoidable harm by mitigation measures, offset residual harm by compensation measures and look for new opportunities to enhance nature conservation; where there may be significant harmful effects local planning authorities will need to be satisfied that any reasonable alternative sites that would result in less or no harm have been fully considered;
Legislation and biodiversity

Certain species of animals and plants found in the wild in the UK are legally protected from being harmed or disturbed. These species are listed in the Wildlife and Countryside Act 1981 (as amended) or are named as European Protected Species (EPS) in the Conservation of Habitats and Species Regulations 2017. These two main pieces of legislation have been consulted when writing this report and are therefore described in detail within this section.

Other relevant legislation and policy documents that have been consulted include – The Environment (Wales) Act 2016; The Countryside and Rights of Way Act 2000; The Hedgerow Regulations 1997; Biodiversity Action Plans, both UK-wide (UKBAP) and Local plans (LBAPs), and The National Planning Policy Framework (NPPF).

There is also legislation that legally protects certain animals – for example, the Protection of Badgers Act (1992) protects badgers and their setts, and the Deer Act (1991) places restrictions on actions that can be taken against deer species.

Environment (Wales) Act 2016

Section 6 of the Act places a duty on public authorities to ‘seek to maintain and enhance biodiversity’ so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to ‘promote the resilience of ecosystems’. 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.

Public authorities will be required to report on the actions they are taking to improve biodiversity and promote ecosystem resilience.

Section 7 replaces the duty in section 42 of the NERC Act 2006. The Welsh Ministers will publish, review and revise lists of living organisms and types of habitat in Wales, which they consider are of key significance to sustain and improve biodiversity in relation to Wales.

The Welsh Ministers must also take all reasonable steps to maintain and enhance the living organisms and types of habitat included in any list published under this section, and encourage others to take such steps.

Wildlife & Countryside Act 1981 (as amended)

The Wildlife & Countryside Act 1981 (as amended) [WCA] is the primary legislation for England and Wales for the protection of flora, fauna and the countryside. Part I within the Act deals with the protection of wildlife.

Most European Protected Species offences are now covered under the Conservation of Habitats and Species Regulations (see below), but some ‘intentional’ acts are still covered under the WCA, such as obstructing access to a bat roost.

The WCA prohibits the release to the wild of non-native animal species listed on Schedule 9 (e.g. Signal Crayfish and American Mink). It also prohibits planting in the wild of plants listed in Schedule 9 (e.g. Japanese Knotweed and Rhododendron ponticum) or otherwise deliberately causing them to grow in the wild. This is to prevent the release of invasive non-native species that could threaten our native wildlife.

The provisions relating to animals in the Act only apply to ‘wild animals’; these are defined as those that are living wild or were living wild before being captured or killed. It does not apply to captive bred animals being held in captivity.
There are 'defences' provided by the WCA. These are cases where acts that would otherwise be prohibited by the legislation are permitted, such as the incidental result of a lawful operation which could not be reasonable avoided, or actions within the living areas of a dwelling house.

Licensing: certain prohibited actions under the Wildlife and Countryside Act may be undertaken under licence by the proper authority. For example scientific study that requires capturing or disturbing protected animals can be allowed by obtaining a licence – e.g. bat surveys.

Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 (which are the principal means by which the EC Habitats Directive is transposed in England and Wales) update the legislation and consolidate all the many amendments which have been made to the Regulations since they were first made in 1994.

These regulations provide for the:

- protection of European Protected Species [EPS] (animals and plants listed in Annex IV Habitats Directive which are resident in the wild in Great Britain) including bats, dormice, great crested newts, and otters;
- designation and protection of domestic and European Sites - e.g. Site of Special Scientific Interest [SSSI] and Special Area of Conservation [SAC]; and
- adaptation of planning controls for the protection of such sites and species.

Public bodies (including the Local Planning Authority) have a duty to have regard to the requirements of the Habitats Directive in exercising their function – i.e. when determining a planning application.

There is no defence that an act was the incidental and unavoidable result of a lawful activity.

Licensing: it is possible for actions which would otherwise be an offence under the Regulations to be undertaken under licence issued by the proper authority. For example, where a European Protected Species has been identified and the development risks deliberately affecting an EPS, then a ‘development licence’ may be required.

Species protection

The following protected species information is relevant to this report. Legislation is only discussed in relation to planning and development; other offences may exist.

Bats

All British bats are classed as European Protected Species and therefore receive protection under the Conservation of Habitats and Species Regulations 2017, making it an offence inter alia to:

- Deliberately kill, injure or capture a bat;
- Deliberately disturb bats;
- Damage or destroy a breeding site or resting place of a bat.

In addition, all British bats are also listed under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) which contains further provisions making it an offence to intentionally or recklessly:

- Obstruct access to any structure or place which any bat uses for shelter or protection; or
- Disturb any bat while occupying a structure or place which it uses for that purpose.
If proposed development work is likely to destroy or disturb bats or their roosts, then a licence will need to be obtained from Natural Resources Wales, which would be subject to appropriate measures to safeguard bats.

**Birds**

In the UK, the provisions of the Birds Directive are implemented through the Wildlife & Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017. All wild birds, their nests and eggs are protected it an offence to:

- kill, injure, or take any wild bird;
- take, damage or destroy the nest of any such bird whilst it is in use or being built; or
- take or destroying an egg of any such wild bird.

The law covers all species of wild birds including common, pest or opportunistic species.

Special protection against disturbance during the breeding season is also afforded to those species listed on Schedule 1 of the Act.