

APPENDICES
Appendix 1
Preliminary Ecological Appraisal Report

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ENVIRONMENT AND SUSTAINABILITY
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BARR ENVIRONMENTAL LTD

ENERGY RECOVERY FACILITY

PRELIMINARY ECOLOGICAL APPRAISAL UPDATE

SEPTEMBER 2020

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ENERGY RECOVERY FACILITY

PRELIMINARY ECOLOGICAL APPRAISAL UPDATE

SEPTEMBER 2020

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GM11372-001 Extended Phase 1 Habitat Plan

1:2,500@A3

GM11372-002 Pond Locations

1:10,000@A3

1 INTRODUCTION

1.1 Terms of Reference

1.1.1 Wardell Armstrong LLP (WA) was commissioned by Barr Environmental Ltd to undertake a Preliminary Ecological Appraisal to inform a planning application for a proposed energy recovery facility at grid reference NS 47994 20384. The original survey was undertaken in 2015 with an update survey being undertaken in 2020, the findings of which are presented in this report.

1.1.2 This report has been produced with reference to current guidelines for Preliminary Ecological Appraisal (Chartered Institute of Ecology and Environmental Management (CIEEM 2012)), Guidelines for Ecological Report Writing (CIEEM 2015) and British Standard BS 42020:2013 (BSI 2013) which involves the evaluation of potential ecological constraints based on Extended Phase I (Joint Nature Conservation Committee (JNCC 2010)) survey data and background desk study.

1.1.3 The purpose of the appraisal is to identify the likely presence of ecological features within or near the application site that could potentially pose a constraint to the proposed development. The following ecological features have been considered:

- Statutory and non-statutory designated conservation areas;
- UK and local Biodiversity Action Plan (BAP) habitats;
- Areas of Ancient Woodland;
- Legally protected species; and
- Invasive species.

1.1.4 This report also seeks to identify any requirement for further specialist survey where the initial assessment cannot be relied upon to adequately determine presence or reliably infer absence of protected species/taxa. Mitigation and enhancement opportunities are also discussed.

1.2 Site Context

1.2.1 The area of detailed ecological study referred to as the site comprises industrial land covering approximately 8.1 hectares. The site is located within a rural setting approximately 2.5km west from the village of Ochiltree in East Ayrshire. The site is adjacent to an industrial site to the north and west which is owned by Hargreaves for the processing and storage of coal. To the south the site is bound by the A70 with agricultural land beyond. Agricultural land is adjacent to the east of the site.

1.3 Proposed Development

1.3.1 The proposed development is for an energy recovery facility. The development will comprise a waste reception hall, fuel bunker and boiler house, together with a stack and associated infrastructure.

2 METHODOLOGY

2.1 Desk Study

2.1.1 The desk study primarily involves contacting the local records centre to provide the following ecological data within 2km of the site (extended to 15km for European sites):

- Statutory designated sites;
- Locally designated sites;
- Ancient woodland;
- Protected and priority species; and
- Local BAP priority species.

2.1.2 South West Scotland Environmental Information Centre (SWSEIC) now covers this area. Ordnance Survey (OS) and satellite mapping was used to gain contextual habitat information. Scottish Natural Heritage (SNH) Interactive Mapping was used to identify statutory designated sites within 2km of the site, a 15km radius was used for Special Protected Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar sites.

2.2 Extended Phase 1 Habitat Survey

2.2.1 WA carried out the original Extended Phase 1 Habitat Survey of the site on the 17th December 2014, the update was carried out on the 14th August 2020.

2.2.2 The survey broadly followed the 'Extended Phase 1' methodology (Institute of Environmental Assessment (IEA), 1995 and JNCC 2010), each of the main habitats were classified according to the relevant criteria. In addition to the mapping and description of habitats, incidental observations of protected and/or BAP priority species and the potential for such species to occur on site (and in the surrounding landscape where relevant) were also noted.

2.2.3 Specific habitat features are mapped on drawing GM11372-001.

2.3 Nomenclature

2.3.1 Vascular plant names follow '*New Flora of the British Isles*' (Stace 1997) with vernacular names as provided in the Botanical Society of the British Isles website (BSBI, 2013). All other flora and fauna names following the National Biodiversity Network (NBN) Gateway (NBN, 2013). The common and scientific name of species/taxa is provided (if available) when first mentioned in the text, with only the vernacular name referred to thereafter.

2.4 Assessment Limitations

- 2.4.1 Ecological surveys are limited by factors that affect the presence of plants and animals such as time of year, weather, migration patterns and behaviour. The survey was undertaken in August and therefore the survey data may not be representative of other times of year.
- 2.4.2 The absence of desk study records cannot be relied upon to reliably infer absence of a species/habitat. Often, the absence of records is a result of under-recording within the given search area.
- 2.4.3 Access permission was not provided for land outside the site boundary. Therefore, where potential habitats or habitat features were noted at distance from accessible land further ecological surveys may be required.
- 2.4.4 The above limitations are not considered likely to significantly affect the conclusions drawn within this report.

2.5 Quality Assurance & Environmental Management

- 2.5.1 All Ecologists employed by WA are members of CIEEM and are bound by its code of professional conduct. All surveys and assessments have been undertaken with reference to the recommendations given in 'BS 42020:2013 Biodiversity. Code of practice for planning and development.'

3 RESULTS AND EVALUATION

3.1 Statutory and Non- Statutory Designated Sites

3.1.1 Desk study results for statutory and non-statutory designated sites within the 2km search radius (15km for SPAs, SACs and Ramsar sites) are evaluated in Table 1, below.

3.1.2 Sites which are considered potentially sensitive to the development proposals by virtue of the sensitivity of supported species or habitat assemblages, the distance/ecological connectivity to the application site and the nature of the perceived impacts are highlighted in bold text and are discussed in detail in the final sections of the report.

3.1.3 Sites for which potential adverse effects are not anticipated are excluded from further assessment.

Table 1: Designated Sites Evaluation.

Site Name and Status ¹	Reason for Designation/identification	Proximity, Distance and connectivity from site
Airds Moss SAC	This site is composed of Bogs, Marshes, Water fringed vegetation, Fens (73%) Humid grassland, Mesophile grassland (7%) Coniferous woodland (19%) and other land (including Towns, Villages, Roads, Waste places, Mines, Industrial sites) (1%). The qualifying feature of the site is the presence of Blanket Bog.	c.10km from the development area. No direct adverse effects and unlikely significant adverse indirect effects given the separation distance and lack of hydrological or habitat connectivity. Significant air quality impacts are unlikely, based on previous deposition assessments, although this is without prejudice to any forthcoming Habitat Regulations Assessment (HRA).

¹ Ramsar- Ramsar convention on Wetlands, SPA- Special Protected areas, SSSI- Site of Special Scientific Interest, LBS – Local Biodiversity Site, SWT- Scottish Wildlife Trust Site.

Site Name and Status ¹	Reason for Designation/identification	Proximity, Distance and connectivity from site
Muirkirk and North Lowther Uplands SPA	Muirkirk and North Lowther Uplands SPA comprises three adjacent upland areas (situated to the north and south of the town of Muirkirk, and the northern Lowther Hills), together with Airds Moss, a low-lying blanket bog situated between the two upland areas of north and south Muirkirk. The predominant habitats include semi-natural areas of blanket bog, acid grassland and heath. Qualifying features are breeding hen harrier, short eared owl, peregrine, merlin and golden plover.	c.10km from the development area. No direct adverse effects and unlikely significant adverse indirect effects given the separation distance and lack of suitable habitats within the site for qualifying species. Significant air quality impacts are unlikely, based on previous deposition assessments, although this is without prejudice to any forthcoming Habitat Regulations Assessment (HRA).
Barlosh Moss Site of Special Scientific Interest (SSSI) (LWS)	The site is divided into two, hydrologically linked sections. The western section comprises a hydromorphological mire range, a complex of wetland habitats which includes reedswamp, poor fen, marshy grassland and birch/willow carr. The eastern section comprises raised bog, typified by the presence of <i>Sphagnum</i> mosses and higher plants such as cranberry and bog rosemary. In some areas of the bog the hummock and hollow topography is evident.	Lies approximately 1.7km to the south of site. There is no connectivity to the site. Works are considered unlikely to have a significant effect either directly or indirectly on qualifying features of this site.
Burnock Water LWS	Semi-natural gorge woodland plus areas of gorse/broom scrub, old coppiced hazel woodland and small areas of semi-improved grassland.	Lies Approximately 1.7km to the east of site. There is no connectivity to the site. Works are considered unlikely to have a significant effect either directly or indirectly on qualifying features of this site.

3.2 Habitats

- 3.2.1 All habitats within the survey area are described in Table 2, below, together with an indication of their BAP status, according to the definitions given in *UK BAP Priority Habitat Descriptions* (Anon 2008 updated 2010) and within the Ayrshire Local BAP². The table also provides an evaluation of their potential to constrain development, indicated with bold text. Table 3 describes the buildings on site along with their bat roost potential and the requirement for any further survey work.
- 3.2.2 Habitats for which potential adverse effects are not anticipated are excluded from further assessment.
- 3.2.3 The location and extent of habitats is shown on drawing GM11372-001, Extended Phase 1 Habitat Plan.

² http://www.ayrshire-jsu.gov.uk/albap_reports.html

Table 2: Habitat Description and Evaluation

Phase 1 Habitats		UK BAP	LBAP	Potential Constraint?
2015 Survey	2020 Survey			
<p>Buildings and infrastructure (B1-B4) There were four main buildings as well as smaller vacant buildings and infrastructure relating to past and present industrial activities. The buildings were assessed for their bat roost potential (See Table 3).</p>	<p>No Change</p>		<p>X</p>	<p>X</p> <p>No – All buildings are expected to be retained as part of the proposed development. All the buildings were considered to be negligible bat roost potential based on the lack of features suitable to support a bat roost (see Table 3). In addition, the on-site and surrounding habitats are of sub-optimal quality for foraging.</p>
<p>Hardstanding The majority of the site consisted of hardstanding used for access and parking, as well as a 'lay down' area to store equipment, materials and machinery.</p>	<p>The area to the west of site which had previously been used for lay down has now been cleared with the materials moved either offsite or behind B4.</p>		<p>X</p>	<p>X</p> <p>No – no intrinsic conservation value</p>

Phase 1 Habitats			UK BAP	LBAP	Potential Constraint?
<p>Improved Grassland</p> <p>A small strip of improved grassland was present adjacent to the site entrance bordering the A70. The dominant species was perennial rye grass <i>Lolium perenne</i> with other species present being clover species <i>Trifolium sp.</i> and creeping buttercup <i>Ranunculus repens.</i></p>	No Change	No photo available	X	X	No – floral species recorded are common and widespread throughout lowland habitats in UK. Works within such habitats can be undertaken without the risk of significantly affecting the conservation status of this habitat type.
<p>Poor semi-improved neutral grasslands</p> <p>There was a small area of poor semi-improved grassland and upon a bund running along the site boundary within the eastern extent of the site. The species present included predominantly soft rush <i>Juncus effuses</i>, also present was broom <i>Cytisus scoparius</i>, cocks-foot grass <i>Dactylis glomerata</i> and willowherb sp. <i>Epilobium sp.</i></p>	No Change		X	X	No – floral species recorded are common and widespread throughout lowland habitats in UK. This habitat is expected to be retained as part of the development.
<p>Intact hedgerow - Species poor</p> <p>A single species poor, unmaintained, intact hedgerow dominated by hawthorn <i>Crataegus monogyna</i> used for screening present adjacent</p>	No Change	No photo available	✓	X	No – The hedgerow on site is species poor and short in length. The hedgerow is expected to be removed as part of the proposed development It is not considered to be an important corridor

Phase 1 Habitats			UK BAP	LBAP	Potential Constraint?
to the car park. The hedge was on a bund of species poor grassland, species included perennial rye grass, ribwort plantain, creeping buttercup and moss species.					for wildlife as it is within hardstanding and not connecting habitats of ecological value.
<p>Scattered trees</p> <p>Scattered trees were present on the boundaries of the site to aid in screening. The trees were predominantly immature. Species included willow species <i>Salix sp.</i>, silver birch, beech, cheery species and goat willow.</p>	Some new immature trees have encroached on the western area of hardstanding		X	X	No – tree species recorded are common and widespread throughout lowland habitats in UK. Although they are expected to be retained, works within such habitats can be undertaken without the risk of significantly affecting the conservation status of this habitat type.

Phase 1 Habitats			UK BAP	LBAP	Potential Constraint?
<p>Ephemeral vegetation</p> <p>Ephemeral vegetation was found throughout the site around machinery with the main area being located upon a large bund in the east of the site. Species present included creeping buttercup, sedge species, willowherb species, cocks-foot grass, tufted hair grass, bramble broadleaved dock, creeping thistle, common ragwort and common hogweed. Occasional soft rush was present in small tufts in damper areas.</p>	No Change		X	X	No – floral species recorded are common and widespread throughout lowland habitats in UK. Works within such habitats can be undertaken without the risk of significantly affecting the conservation status of this habitat type.

Phase 1 Habitats		UK BAP	LBAP	Potential Constraint?
<p>Standing Open Water</p> <p>A single drainage ditch present on site containing low water levels, at the time of the survey there was no flow. The ditch had steep banks and heavily shaded by scattered trees.</p>	<p>Attempts have been made to improve the flow of water leading to a limited flow.</p>	X	X	<p>Yes – The, bank vegetation consists of floral species which are common and widespread throughout lowland habitats in the UK. The ditch is not considered suitable to support any European protected species however it is suitable for amphibians as discussed in Section 4.</p>
				

Table 3: Bat Roost Potential of Buildings/Infrastructure

Building	Description	Bat roost potential	Further surveys required?
B1	Industrial infrastructure including an old hopper/tank, conveyor belts and vessels. Some of the infrastructure was still in operation at the time of the survey. There were no bat roosting features identified, the infrastructure was primarily constructed of corrugated metal.	Negligible	No further surveys required.

B2	<p>A two storey building used for the storage of industrial equipment, archives and offices. A number of the rooms within the building were not being utilised. The building had a flat roof constructed of concrete and a rubber sheet with no insulation. The walls were primarily rendered in pebble dash with only the frontal side having exposed brickwork. The building exterior was in good condition with only a few gaps which did not appear to egress into the building far enough to be considered suitable for bats. Internal inspections identified some gaps and holes in the walls and windows which had provided access to pigeons. The interior of the building was in relatively good condition with numerous rooms all being relatively well sealed with the ceilings being constructed of concrete and bison slabs. There was some deterioration to the walls in places where gaps, cracks and holes were present however they were not considered suitable to support bat roosts.</p>	Negligible	No further surveys required.
B3	<p>A large corrugated iron storage warehouse used for mechanical works</p>	Negligible	No further surveys required.
B4	<p>A two story building similar in construction to B2. The building had a flat concrete roof, pebble dashed walls with some sections of corrugated iron.</p>	Negligible	No further surveys required.

3.3 Ecological Evaluation

- 3.3.1 The presence/potential presence of protected species recorded during the site survey or within the desk based study are displayed within Table 4 along with an assessment of potential constraints such species could have to the proposed development.
- 3.3.2 Species/taxa for which potential adverse effects are not anticipated are excluded from further assessment.

Table 4: Protected Species Evaluation

Table 4: Species Evaluation				
Receptor(species/taxa)	Description of Desk Study records	Status ³	Supporting Habitat(s)Present	Evaluation
Bats <i>Chiroptera</i>	X	EPS, WCA, NC s.2(4)	Low quality foraging habitat only on site (hedgerows). No buildings with bat roost potential on site. Limited foraging and potential roosting habitat for bats within the surrounding area	Poor quality foraging habitat restricted to site boundaries which are to be retained.
Badger <i>Meles meles</i>	X	BA	The site has limited suitability for badgers, with poor opportunities for foraging and no suitable habitat for sett creation.	No badger evidence was recorded during the Extended Phase I Habitat Survey. Species unlikely to be impacted by development.
Brown Hare <i>Lepus europaeus</i>	✓	NC s.2(4)	This species favours open expanses of pastoral farmland and therefore are very unlikely to utilise the habitats on site.	Considered likely to be absent from the site.
European Hedgehog <i>Erinaceus europaeus</i>	X	NC s.2(4)	The site has limited foraging suitability but is relatively unsuitable as hibernation or sustained use.	Species likely to be present in the wider area but unlikely to be present on site
Pine Marten	X	WCA, NC s.2(4)	No suitable habitat is found on Site.	Species likely to be absent

³ EPS – European Protected Species, WCA – Wildlife and Countryside Act, A1 – Annex 1 (Birds Directive), BA – Protection of Badgers Act, s.41- species listed under section 41 of the NERC Act as species of principal importance

Table 4: Species Evaluation				
Receptor(species/taxa)	Description of Desk Study records	Status ³	Supporting Habitat(s)Present	Evaluation
Red Squirrel	X	WCA ,NC s.2(4)	No suitable habitat is found on Site.	Species likely to be absent.
Otter <i>Lutra lutra</i>	✓	EPS, WCA, NC s.2(4)	No suitable habitat is found on Site.	Given the lack of suitable habitat on, or in proximity to the site, species is likely absent.
Water Vole <i>Arvicola amphibia</i>	X	WCA, s.41	No suitable habitat is found on Site.	Given the lack of suitable habitat on, or in proximity to the site, species is likely absent.
Reptiles	✓	WCA, NC s.2(4)	Low value habitat.	Species are likely to be absent
Great Crested Newt <i>Triturus cristatus</i>	X	EPS, WCA, NC s.2(4)	Poor semi-grassland habitat within the survey boundary provides suitable foraging habitat for amphibians. There were ten ponds within 500m of the site, nine were assessed as poor (<0.5) and one as below average (0.59) habitat suitability to support great crested newts (See Appendix 2). It is considered very unlikely that great crested newts are within the area based on the poor terrestrial habitat on site and in the surrounding area; and only a single pond having below average suitability.	The onsite drain and ponds surrounding the site are not considered suitable to support great crested newts. The majority of suitable habitat is restricted to the site boundaries or in areas which are to be retained as part of the development.

Table 4: Species Evaluation				
Receptor(species/taxa)	Description of Desk Study records	Status ³	Supporting Habitat(s)Present	Evaluation
Common Toad <i>Bufo bufo</i>	X	NC s.2(4)	The drainage ditch on site and the ponds surrounding the site have the potential to support breeding toads and other amphibians.	The majority of suitable habitat is restricted to the site boundaries or in areas which are to be retained as part of the development.
Birds	Kingfisher <i>Alcedo atthis</i> Meadow Pipit <i>Anthus pratensis</i> Pink-footed Goose <i>Anser brachyrhynchus</i> Skylark <i>Alauda arvensis</i> Swift <i>Apus apus</i>	NC s.2(4), WCA BoCC	Site has limited suitable foraging and nesting habitat.	Potential foraging and breeding habitat may be lost/disturbed during the construction phase.

4 DISCUSSION AND RECOMMENDATIONS

4.1 Potential Constraints

4.1.1 The 2020 update confirms no change from the earlier evaluation, with only breeding birds and standing open water being considered potential site constraints (in the absence of mitigation). In addition, a screening HRA considering Airds Moss and Muirkirk and North Lowther Uplands SPA may be required. In this event it is considered that the only potential impact pathway of relevance would be acidification and Nitrogen deposition as a result of particulate emissions from the stack.

Breeding Birds

4.1.2 The habitats recorded within the survey area provide limited potential nesting habitat for common bird species. In order to avoid committing an offence under the relevant wildlife legislation it is recommended that all vegetation clearance works aim to avoid the breeding bird season (March – September).

4.1.3 Should it prove necessary to carry out vegetation clearance works within the breeding bird season, mitigation will include:

- A thorough check by a suitably qualified ecologist, for the presence of nesting birds within 24 hours of works commencing.
- In the event that nesting birds are recorded within the works area the active nest(s) will be retained undisturbed and protected by a buffer of at least 5m of uncut vegetation.
- Habitat clearance works will re-commence when the nesting attempt is complete, and the nest is confirmed by a suitably qualified ecologist to be inactive/disused.

Standing open water/Amphibians

4.1.4 The drainage ditch and bank vegetation on site is to be lost to the proposed development. The ditch is suitable habitat for common frog and common toad and there is suitable terrestrial habitat within the site boundaries. In addition, the ponds and terrestrial habitat to the west of the site are suitable for these species.

4.1.5 To avoid incidental harm, the vegetation clearance and infilling of the drainage ditch will be completed in accordance with a Precautionary Working Methods Statement (PWMS), attached as Appendix 3.

4.2 Conclusion

- 4.2.1 The 2020 PEA update confirms the site/habitats have remained relatively unchanged since the previous surveys. The site is generally of low ecological value and no designated conservation areas will be adversely impacted by the proposals. It will be necessary to mitigate against incidental harm to amphibians and nesting birds during habitat clearance, for which protocols are provided in this report and Appendix 3. Such measures will involve the attendance of a suitably qualified ecologist and restrictions relating to the timing of the works.
- 4.2.2 Assuming such mitigation is adhered to in full, there are no residual constraints to the development. It may be necessary to review the findings of this report prior to construction or in the event that works are delayed beyond summer 2022.

REFERENCES

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APPENDIX 1 – LEGISLATION AND POLICY SUMMARY

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Legislation for Habitats/Sites

Designated Site/Habitat	Status
Ramsar Sites	Ramsar Sites are wetlands of international importance designated following The Ramsar Convention. RAMSAR sites have the same level of protection as SSSIs under the Wildlife and Countryside Act 1981 (as amended).
SPA (Special Protection Areas)	SPAs are classified in accordance with Article 4 of the EC Directive on the Conservation of Wild Birds (79/409/EEC), the Birds Directive. They are they seek to protect the habitats of rare and vulnerable birds, listed in Annex I of the Birds Directive, and for regularly occurring migratory species. The Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 implement the Birds Directive in the UK.
SAC (Special Areas for Conservation)	SACs are strictly protected areas which represent typical European Union of habitats and (non-bird) species listed in Annexes I and II of the EC Habitats Directive. The Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 implement the Habitats Directive in the UK.
SSSI (Sites of Special Scientific Interest)	SSSIs protect the best examples of the UK's flora, fauna, or geological or physiographical features. Originally notified under the National Parks and Access to the Countryside Act 1949, SSSIs were renotified under the Wildlife and Countryside Act 1981 (as amended). Modified provisions for the protection and management of SSSIs were introduced by the Countryside and Rights of Way Act 2000.
NNR (National Nature Reserves)	NNRs are examples of some of the most important natural and semi-natural terrestrial and coastal ecosystems in Great Britain. NNRs are declared by the statutory country conservation agencies under the National Parks and Access to the Countryside Act 1949 and the Wildlife and Countryside Act 1981 (as amended). Legal protection of NNRs is provided under The Wildlife and Countryside Act 1981 (as amended).
Hedgerows	All hedgerows are protected by the Hedgerows Regulations 1997, under which it is an offence to remove or destroy certain hedgerows without planning consent or permission from the Local Planning Authority. These regulations do not apply to any hedgerow within the curtilage of, or marking the boundary of the curtilage of, a dwelling house.
LNR (Local Nature Reserves)	Designated by the National Parks and Access to the Countryside Act 1949, LNRs may be declared for nature conservation by local authorities after consultation with the relevant statutory nature conservation agency. Legal protection of LNRs is provided under The Wildlife and Countryside Act 1981 (as amended).

Legislation for Species

Species	Legal Status
<i>European Legislation</i>	
Creeping Marshwort, Early Gentian, Fen Orchid, Floating-leaved Water Plantain, Killarney Fern, Lady's Slipper, Shore Dock, Slender Naiad, Yellow Marsh Saxifrage	Under the Conservation of Habitats and Species Regulations 2010 (and as amended), it is illegal to deliberately pick, collect, uproot or destroy any such species.
Bats, Dormouse, Otter, Wild Cat, Great Crested Newt, Natterjack Toad, Sand Lizard, Smooth Snake, Large Blue Butterfly	<p>These animals and their breeding sites or resting places are protected under Regulation 41 of the Conservation of Habitats and Species Regulations 2010 (and as amended), which makes it illegal to:</p> <ul style="list-style-type: none"> • Deliberately capture, injure or kill any such animal or to deliberately take or destroy their eggs; • Deliberately disturb⁴ such an animal; and • Damage or destroy a breeding site or resting place of such an animal. <p>European Protected Species (EPS) licenses can be granted by Natural England in respect of development to permit activities that would otherwise be unlawful under the Conservation Regulations, providing that the following 3 tests (set out in the EC Habitats Directive) are passed, namely:</p> <ul style="list-style-type: none"> • The development is for reasons of overriding public interest; • There is no satisfactory alternative; and • The favourable conservation status of the species concerned will be maintained and/or enhanced. <p>Under Regulation 9(5) of the Conservation Regulations, Planning Authorities have a duty to 'have regard to the requirements of the EC Habitats Directive' i.e. LPA's must consider the above 3 'tests' when determining whether Planning Permission should be granted for developments likely to cause an offence under the Conservation Regulations.</p>
<i>Domestic (UK) Legislations</i>	
Bats, Dormouse, Great Crested Newt, Heath Fritillary, High Brown Fritillary, Large Blue, Marsh Fritillary, Natterjack Toad, Pine Martin, Otter, Red Squirrel, Sand Lizard, Smooth Snake, Swallowtail, Water Vole, Wildcat	<p>These animals receive full protection under the Wildlife and Countryside Act 1981 (and as amended), which makes it illegal (subject to certain exceptions) to:</p> <ul style="list-style-type: none"> • Intentionally kill, injure or take any such animal; • Intentionally or recklessly damage, destroy or obstruct any place used for shelter or protection by any such animal; and • Intentionally or recklessly disturb such animals while they occupy a place used for shelter or protection.

⁴ Under the Conservation Regulations, disturbance of protected animals includes in particular any disturbance which is likely to: (i) impair their ability to survive, breed or reproduce, or to rear or nurture their young or to hibernate or migrate; (ii) significantly affect the local distribution or abundance of the species in question.

Species	Legal Status
Adder, Common Lizard, Grass Snake, Slow Worm, White-clawed Crayfish	These animals receive partial protection under The Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000), which provide protection against intentional killing or injury of any such animal.
Nesting Birds	All wild birds (as defined by the act) are protected under the Wildlife and Countryside Act 1981 (and as amended), which makes it illegal (subject to exceptions) to: <ul style="list-style-type: none"> • Intentionally kill, injure or take any wild bird; • Take, damage or destroy the nest (whilst being built or in use) or eggs of any wild bird.
WCA Schedule 1 listed Birds	Additional protection is provided to birds listed on Schedule 1 of the Wildlife and Countryside Act 1981 (and as amended). In addition to the offences detailed above relating to all wild birds, it is illegal to: <ul style="list-style-type: none"> • Intentionally or recklessly disturb any bird listed on Schedule 1, or their dependent young while nesting.
Badgers	The Protection of Badgers Act 1992 makes it illegal to wilfully kill or injure a Badger or attempt to do so and to intentionally or recklessly interfere with a Badger sett. This includes: <ul style="list-style-type: none"> • damaging or destroying an active sett; • obstructing access to a sett; and • disturbing a Badger while it is occupying a sett. <p>Licences can be granted to permit sett closure and/or disturbance between July and November inclusive (i.e. outside the sow pregnancy/birth period).</p>
Wild Mammals	The Wild Mammals (Protection) Act 1996 provides legal protection to all wild mammals (as defined by the act) against the following actions: mutilate, kick, beat, nail, or otherwise impale, stab, burn, stone, drown, crush, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.
<i>Invasive Species</i>	
WCA Schedule 9 listed animals (Part 1) and plants (part 2)	Certain species of plants and animals that do not naturally occur in Great Britain have become established in the wild and represent a threat to the natural fauna and flora. Section 14 of the Wildlife & Countryside Act prohibits the release of any animal species that are: <p style="text-align: center;"><i>“not ordinarily resident in and is not a regular visitor to Great Britain in a wild state”</i></p>

Scottish Planning Policy 2014

The following has been taken from the ‘A Natural, Resilient Place’ section of the Scottish Planning Policy 2014, and is relevant to the development:

Policy Principles

The planning system should:

- *facilitate positive change while maintaining and enhancing distinctive landscape character;*
- *conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities;*
- *promote protection and improvement of the water environment, including rivers, lochs, estuaries, wetlands, coastal waters and groundwater, in a sustainable and co-ordinated way;*
- *seek to protect soils from damage such as erosion or compaction;*
- *protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value;*
- *seek benefits for biodiversity from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats; and*
- *support opportunities for enjoying and learning about the natural environment.*

Delivery

Planning authorities, and all public bodies, have a duty under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity. This duty must be reflected in development plans and development management decisions. They also have a duty under the Water Environment and Water Services (Scotland) Act 2003 to protect and improve Scotland's water environment. The Scottish Government expects public bodies to apply the Principles for Sustainable Land Use, as set out in the Land Use Strategy, when taking significant decisions affecting the use of land.

Development Plans

International, national and locally designated areas and sites should be identified and afforded the appropriate level of protection in development plans. Reasons for local designation should be clearly explained and their function and continuing relevance considered when preparing plans. Buffer zones should not be established around areas designated for their natural heritage importance. Plans should set out the factors which will be taken into account in development management. The level of protection given to local designations should not be as high as that given to international or national designations.

Protected Species

The presence (or potential presence) of a legally protected species is an important consideration in decisions on planning applications. If there is evidence to suggest that a protected species is present on site or may be affected by a proposed development, steps must be taken to establish their presence. The level of protection afforded by legislation must be factored into the planning and design of the development and any impacts must be fully considered prior to the determination of the application. Certain activities – for example those involving European Protected Species as specified in the Conservation (Natural Habitats, &c.) Regulations 1994 and wild birds, protected animals and plants under the Wildlife and Countryside Act 1981 – may only be undertaken under licence. Following the introduction of the Wildlife and Natural Environment (Scotland) Act 2011, Scottish Natural Heritage is now responsible for the majority of wildlife licensing in Scotland.

Woodland

Ancient semi-natural woodland is an irreplaceable resource and, along with other woodlands, hedgerows and individual trees, especially veteran trees of high nature conservation and landscape value, should be protected from adverse impacts resulting from development.

Tree Preservation Orders⁵ can be used to protect individual trees and groups of trees considered important for amenity or their cultural or historic interest.

Where appropriate, planning authorities should seek opportunities to create new woodland and plant native trees in association with development. If a development would result in the severing or impairment of connectivity between important woodland habitats, workable mitigation measures should be identified and implemented, preferably linked to a wider green network (see also the section on green infrastructure).

The Scottish Government's Control of Woodland Removal Policy⁶ includes a presumption in favour of protecting woodland. Removal should only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The criteria for determining the acceptability of woodland removal and further information on the implementation of the policy is explained in the Control of Woodland

⁵ www.scotland.gov.uk/Publications/2011/01/28152314/0

⁶ www.forestry.gov.uk/pdf/fcfc125.pdf/%24FILE/fcfc125.pdf

Removal Policy, and this should be taken into account when preparing development plans and determining planning applications.

APPENDIX 2 – HABITAT SUITABILITY INDEX AND POND DESCRIPTION

Habitat Suitability Index		Pond 1		Pond 2		Pond 3		Pond 4	
			SI value		SI value		SI value		SI value
SI1. Map location	A/B/C	B	0.50	B	0.50	B	0.50	B	0.50
SI2. Surface area	rectangle/ellipse/irregular	rectangle		rectangle		rectangle		irregular	
	length (m)								
	width (m)								
	OR estimate (m ²) if irregular								
	<i>area (m²) =</i>	800	0.98	800	0.98	800	0.98	800	0.98
SI3. Dessication rate	never/rarely/sometimes/frequently	never	0.90	never	0.90	never	0.90	never	0.90
SI4. Water quality	good/moderate/poor/bad	bad	0.01	bad	0.01	bad	0.01	bad	0.01
SI5. Shade	% of margin shaded 1m from bank	5	1.00	5	1.00	0	1.00	5	1.00
SI6. Waterfowl	absent/major/minor	absent	1.00	absent	1.00	absent	1.00	absent	1.00
SI7. Fish population	absent/possible/minor/major	absent	1.00	absent	1.00	absent	1.00	absent	1.00
SI8. Pond density	number of ponds within 1km	15	1.00	15	1.00	15	1.00	15	1.00
SI9. Terrestrial habitat	good/moderate/poor/isolated	poor	0.33	poor	0.33	poor	0.33	poor	0.33
SI10. Macrophyte cover	%	0	0.31	0	0.31	0	0.31	5	0.36
		HSI =	0.46	HSI =	0.46	HSI =	0.46	HSI =	0.47