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(Natural Resources Wales)

4th November 2024

Our Ref: DW/E1835/MBC-041124

Dear All

P/23/0065 - Rhydyar West

Further information on impacts, mitigation and compensation for GCN and Bats

1. We write further to the meeting and discussion with NRW and Merthyr BC on the above European Protected Species matters, which took place on 29th August, and our subsequent engagement and correspondence with NRW, including Mr James Davies of NRW's helpful follow up e-mail of 11th September reporting on NRW's further review of the position as regards the submitted bat information, our letter back to NRW of 23rd September providing, in a preliminary form, clarifications and further detail with respect to great crested newts ('GCN') and bats (copy of this letter attached), a subsequent helpful telephone conversation with Sandra Wells of NRW and finally NRW's letter response to us of 21st October (copy attached) setting out their views in light of the latest information.
2. While NRW's letter of 21st October is issued without prejudice to their formal consultation response, we believe the above demonstrates the efforts and positive engagement between ourselves and NRW over the last few months and years. We believe these efforts have now delivered a sensible outcome on these matters, such that there is no outstanding information requirement acting as an impediment to take outline application P/23/0065 to determination.
3. We believe the 29th August meeting established the general principle that there was no dispute that appropriate, proportionate and licensable mitigation was achievable for both GCN and bats. For example, Mr Davies offered the welcome agreement that "*GCN favourable conservation status can be achieved*" and that, as he said, there were "*no showstoppers*" here, but that it was merely felt that some detail was lacking. You will recall that our position on the appropriate time for delivery of such detail, having regard to the extent of knowledge already amassed about how these species use the site, the outline nature of the scheme and the relevant case law and guidance around engagement with the 'three tests' imparted by the Habitats Regulations, was that these matters

were sufficiently addressed for determination, but we nevertheless agreed to provide further detail in good faith and in the interests of progressing matters in a collaborative manner.

4. The outcome from the subsequent correspondence between ourselves and NRW and the particularisation of additional detail is summarised below, and in the attached revised HOT management plan and EPS Conservation Strategy. I deal with GCN first before coming on to talk about bats.

Great crested newts ('GCN')

5. MBC will recall that much of the discussion on GCN on 29th August centred around the quantum of 'new' versus 'restored' pond creation in the wider landholding that would be appropriate and proportionate in order to compensate for the losses of two sub-optimal ponds used by the species within the application site. The common rule of thumb for such compensation is "two for one" – i.e. two new ponds created for every GCN pond lost. We discussed, at some length, the particular situation and opportunities at Cwm Glo/Rhydycar West, including the fact that new pond creation in the SSSI could harm the designated site in a situation where the SSSI was already replete with numerous waterbodies that (mainly due to terrestrialisation processes) were now sub-optimal or unsuitable for GCN and thus present themselves for restoration.
6. My client took the view, after that meeting, that in order to put beyond doubt the point about ample 'headroom' for more than adequate compensation in the wider landholding, and indeed net benefit, they would be prepared to generously offer four new ponds on non-SSSI land at Blaencanaid Farm as well as restoration of up to ten ponds currently suboptimal for the species within the SSSI itself. To particularise this, we identified ten ponds suitable for restoration across the wider landholding, and indicative locations where four new ponds could be accommodated at Blaencanaid (for example by expanding and remodelling jumps and depressions associated with the former scrambling track there) and sent this information to NRW with our letter of 23rd September.
7. We note NRW's favourable response to this additional detail, as set out in their letter of 21st October. They request that amendments to the HOT Management Plan and the EPS Conservation Strategy documents to reflect this provision are made, and we therefore attach revised and updated versions of these documents, including the location and site-specific details of the existing ponds suitable for restoration, and the indicative locations of new pond provision at Blaencanaid.
8. NRW offer comments about the further detail expected at reserved matters stage and/or as part of a S106 agreement, and we invite MBC to review this information when contemplating the wording of conditions.

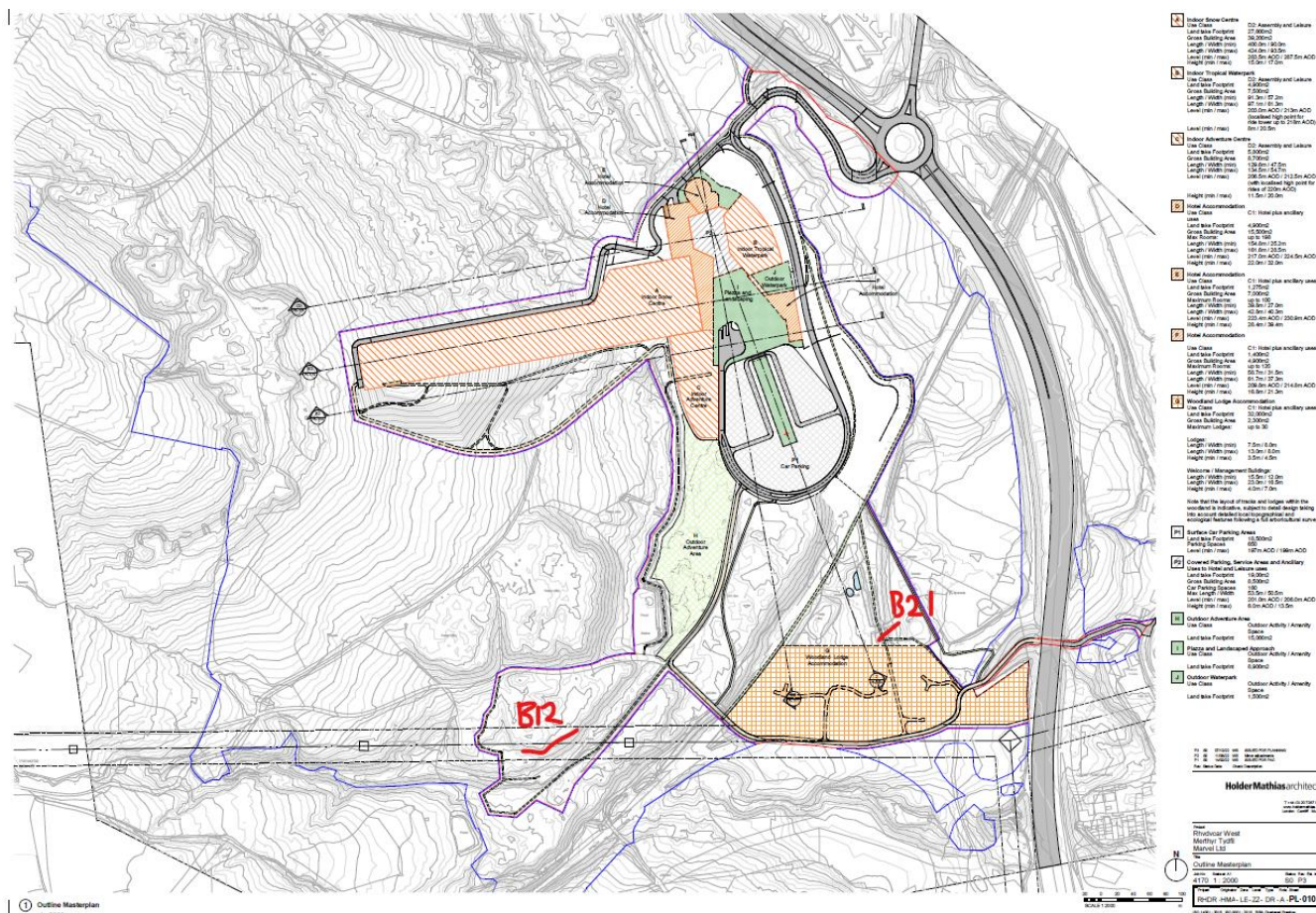
Bats and hibernation potential

9. NRW agreed at the meeting of 29th August to take away and review its position on bats. This resulted in contemplation and further discussion of bats being narrowed to focus upon the question of possible hibernation roosts in two structures – buildings B12 and B21. In Mr Davies' helpful e-mail of 11th September he clarified that *"if the applicant demonstrates works are not required to these structures, there may be no need to undertake further surveys. In this context, the planning authority must be satisfied there will be no direct or indirect impacts on these structures (or it can be suitably controlled through any permission granted). If this is the case, we would withdraw our advice for further survey in this area."*
10. To re-cap, B12 is the long, stone retaining wall with short section of recessed tunnel adjoining the Nant Melin Canaid in the south-west of the application site. It is a relic of the former Cwm Pit, and part of the Scheduled Monument that pertains to that site. B21 is a low, long, brick-lined culvert, beneath an embanked section of former mineral tramway in the south-east of the application site. Photos of these features are provided overleaf, along

with a sketch annotation on a screengrab of the masterplan, showing their location relative to the foci of proposed development within the application site boundary:



Photos of B12 Cwm Pit retaining wall (left) and recessed tunnel in retaining wall (centre). Photo to the right shows B21 culvert



Location of B12 and B21 outside the foci of development activity

11. A flue or chimney type feature within the recessed tunnel in B12 has regularly been used as a roost site by small numbers of lesser horseshoe since 2015 and is therefore treated as a confirmed roost. As evident from the masterplan reproduced above, B12 is in a location remote from the development, and stands alone from the development objective: indeed, it is only included within the application redline as works are proposed to it for heritage reasons. Any such works to this structure will be subject to obtaining formal Scheduled Monument approval from CADW. The types of works are likely to involve (*inter alia*) interventions to address de-stabilisation

by tree growth and to formalise the adjoining section of the Nant Melin Canaid watercourse to prevent further scouring and destabilising of the monument (which it should be noted poses a current threat to its continued ability to serve as a bat roost). Any works to the structure of B12 itself would require Scheduled Monument consent, and any works with the potential to disturb the bat roost in the recessed tunnel would further require EPS consent, an application for which would require to be accompanied by up-date surveys (including, where appropriate, hibernation surveys). CADW have confirmed that they are also obliged to consult with NRW due to the proximity of B12 to the SSSI. These processes can therefore all be considered separate to the matter of determining the acceptability and compliance of the leisure development in planning policy terms, and (in the context that any works requiring Scheduled Monument Consent and/or an EPS licence are likely to be several years into the future) not requiring of further information at this stage. My client is happy to commit to any application for Scheduled Monument Consent being informed by up-to-date bat survey work if MBC wish to enshrine that in conditions in some way.

12. We note NRW's comment in their letter of 21 October that *"the planning authority will need to be satisfied that there is a risk (in the worst-case scenario as you have stated) that the stabilization works may not be deliverable if there is shown to be an unacceptable impact on bats which cannot be mitigated (and therefore licensable). The planning authority will need to weigh up whether this is material to their decision on whether to grant the outline permission which is being sought."* We believe there are a number of salient facts to bear in mind in assessing whether this risk is tangible or purely theoretical, as follows:

- a) For the proposed works to the SAM to become non-licensable would require a very, very dramatic shift in bat use of this structure. The established pattern of roosting is by small numbers of lesser horseshoe bats in one defined part of the expansive SAM, apparently confined to seasonal use. For a question mark to be raised over licensability, this would have to dramatically and comprehensively change. The only scenario likely to impinge on the licensability of the stabilisation works, would be if spectacularly large roosts of a suite of very rare species were to suddenly appear. Given the consistent position recorded in surveys since 2015, this is vanishingly unlikely.
- b) The known roost in B12 is set within flues within the tunnel in one defined and discrete part of the structure. The exterior retaining walls which will be the focus of the stabilisation works have not ever been found to be used by roosting bats and in October 2023 were judged as having low potential for hibernation roosts. Consequently, most of the stabilisation work is likely to be remote from the roost site, meaning the risk of impact to it is predominantly indirect. A significant proportion of the work (e.g. tree removal tens of metres away from the tunnel entrance) may be sufficiently distanced and/or low risk to not even engage with licensing at all.
- c) The structure is not being demolished, nor being changed in any substantive sense – it will therefore be available for future use by bats after completion of the works - indeed the works provide opportunities for enhancement, where compatible with Scheduled Monument Consent. This could include retention of stonework voids, creation of new ones, and/or the installation of a grille within the tunnel, if acceptable to CADW, to prevent human access to the roost site. Such measures could enhance the value of the known roost and/or open up other roost locations within the structure that are currently prevented from being used.
- d) There is no evidence of anything other than seasonal use of the site, and even if hibernation use were to subsequently be confirmed, this would still leave open the opportunity for works to be timed for the summer to avoid such periods. There is no question that this would be licensable.

13. In short, the proposed heritage works to B12 are an ancillary matter to the development and the planning determination process, and one that Merthyr can feel is adequately covered by the secondary consent processes that apply.

14. In respect of B21, this has not at any point been confirmed as a bat roost (and the risks to bats using it from its low height and consequent potential vulnerability to rodents have been remarked upon). It was last assessed in

Autumn 2023 by Geof Billington of Greena as of 'moderate winter potential'. This is not a Scheduled Monument, so the secondary consent failsafe described above does not apply, but it is present in a part of the site that will be subject to minimal or no works (see annotated plan above). My client is happy to confirm that it will be retained *in situ* with no interventions necessary.

Updated documents

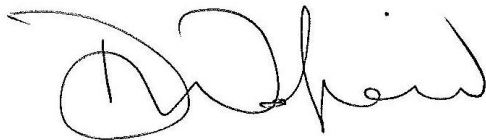
In line with NRW's request in their letter of 21st October, please find attached revised and updated versions of the Heads of Terms Nature Conservation Management Plan and the European Protected Species Conservation Strategy.

Overall conclusions

We believe the above and the attached should provide MBC with sufficient comfort that there are no substantive impediments to EPS licences being granted in due course and as appropriate in respect of GCN and bats in connection with the proposed development. Any further detail that would be required to inform the processing of any such applications, such as surveys to establish the position closer to the time any such works take place, can be adequately secured as a conditioned or reserved matter, noting that it will be captured in the course of detailed licence applications and processing in any event.

Best regards

Dominic Woodfield CEcol CEnv MCIEEM
Director

A handwritten signature in black ink, appearing to read 'D Woodfield', with a large, stylized initial 'D'.

cc Ali Tyebkhan – Rhydycar West

Via email only
dominicwoodfield@bioscanuk.com

Ein cyf/Our ref: CAS-265115-Y2J5
Eich cyf/Your ref: P/23/0065

Dyddiad/Date: 21 October 2024

Annwyl Dominic / Dear Dominic,

BWRIAD / PROPOSAL: OUTLINE APPLICATION FOR ERECTION OF A MIXED LEISURE DEVELOPMENT COMPRISING INDOOR SNOW CENTRE (UP TO 39,200 SQ M), WATER PARK (UP TO 7,500 SQ M), INDOOR ACTIVITY CENTRE (UP TO 9,000 SQ M), OUTDOOR ACTIVITY CENTRE, HOTEL ACCOMMODATION (UP TO 418 BEDROOMS), WOODLAND LODGE ACCOMMODATION (UP TO 30 UNITS), CAR PARKING (UP TO 830 SPACES) AND ASSOCIATED EARTHWORKS, ACCESS, DRAINAGE, SERVICING AND UTILITIES CONNECTIONS/INFRASTRUCTURE

LLEOLIAD / LOCATION: LAND TO THE SOUTH WEST OF THE A470/A4102 ROUNDABOUT AT RHYDYCAR WEST, MERTHYR TYDFIL

Thank you for your letter on 23 September 2024 which follows on from our meeting in August.

The letter provides clarification and new details regarding protected species in relation to the above planning application. You're intending to submit this to the planning authority but would like our views beforehand. Our views follow; however, these are given without prejudice to any future advice we may provide when formally reconsulted on the application details by the planning authority.

Great crested newts (GCN)

We welcome the revised compensatory proposals for great crested newts, which include commitments to provide 4 new ponds on 15ha of non-SSSI land at Blaencanaid Farm and restoration of up to 10 ponds currently suboptimal for the species within the SSSI, as shown in Appendix 1.

Although Blaencanaid Farm is not presently within the applicant's ownership, it is our understanding there is an option to purchase. As we have previously discussed, any works on this land will need to be appropriately secured through the permission, if granted. Furthermore, ownership of the land or appropriate legal agreement to carry out the proposed GCN conservation works on it will need to be in place to support an European Protected Species (EPS) licence application.

We note the feedback in response to points 4-6 that NRW previously raised.

Point 4: Details of initial aftercare and principles of long-term maintenance.

We welcome the commitment to create and restore ponds in accordance with published best practice guidance. We consider that these measures along with additional long-term measures to ensure that the favourable conservation status of GCN is achieved and thereafter maintained, could be controlled through a detailed GCN Conservation Plan secured by a pre-commencement planning condition. The GCN Conservation Plan will need to align with the the broad principles set out in an amended Heads of Terms Nature Conservation Management Plan Document (HoT NCMP) and EPS Conservation Strategy documents (see below).

Similarly, with regards to on-site areas, the reserved matters application(s) will need to be supported by a detailed GCN Conservation Plan which aligns with the same documents.

Point 5: Mechanism for delivery of long-term management and long-term financial considerations.

We agree that a S106 agreement is likely required to secure the delivery of the conservation works for GCN, noting this is ultimately a decision for the planning authority to make. We can advise further on this matter if required by the planning authority (and during the formal consultation period).

Point 6: What details for GCN conservation measures will be required at reserved matters application(s) stage.

We agree that at reserved matters stage the application will need to consider potential impacts on GCN and set out, in a detailed GCN Conservation Plan, all measures that will be put in place to avoid, mitigate or compensate the anticipated impacts of the works covered by that application. The GCN Conservation Plan for reserved matters application(s) should accord with the broad principles set out in the revised HoT NCMP and EPS Conservation Strategy documents (see below).

We welcome that GCN habitat creation and restoration shall accord with published best practice.

Bats

We welcome the additional information in relation to on-site structures B12 (stone wall with recessed tunnel adjoining Nant Melin Canaid) and B21 (low, long, brick lined culvert beneath mineral tramway embankment). We note that both are outside the foci of proposed development activity on the application site.

We also welcome the confirmation that B21 shall be retained in situ with no interventions necessary.

Regarding B12, while we note it is a confirmed roost (at least for lesser horseshoe bats during the main period that bats are active), it remains to be assessed for its potential to support hibernating bats through surveys over the winter period in accordance with published best practice survey guidance. Your letter explains that the structure is included within the application site to facilitate stabilization of the Scheduled Monument as a heritage benefit from the project. We note the suggested approach regarding a failsafe given the works would require Scheduled Monument consent. However, there is no requirement to consult with NRW regarding protected species or provision to secure protected species mitigation measures in this regime.

We can confirm that any works to B12 will require a European Protected Species (bat) licence under Regulation 55 of the Conservation of Habitats and Species Regulations 2017, with appropriate supporting surveys to include the previously advised hibernation surveys.

Given this, the planning authority will need to be satisfied that there is a risk (in the worst-case scenario as you have stated) that the stabilization works may not be deliverable if there is shown to be an unacceptable impact on bats which cannot be mitigated (and therefore licensable). The planning authority will need to weigh up whether this is material to their decision on whether to grant the outline permission which is being sought.

Regardless of this, it would appear advantageous for you to use the forthcoming winter season to carry out the hibernation surveys of B12.

Updated Documents

We advise the Heads of Terms Nature Conservation Management Plan Document (dated April 2024) and the European Protected Species Conservation Strategy (dated April 2024) should be amended to cover the latest proposals for GCN compensation and enhancement as set out in your letter.

If you have any queries on the above, please do not hesitate to contact us.

Yours sincerely

James Davies

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Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi./Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.

CC Merthyr Tydfil County Borough Council, Rhydycar West, Carney Sweeney

James Davies (cc Sandra Wells, Annabelle Evans, Jane
Garner, Scott Hand, Nick Sharp)
Natural Resources Wales

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Nick.sharp@cyfoethnaturiolcymru.gov.uk

23 September 2024

Our Ref: DW/E1835/NRW-230924

Dear All

Rhydycar West

Further information on impacts, mitigation and compensation for GCN and Bats

1. Further to our very useful meeting and discussion on the 29th August, and Jim's helpful follow up e-mail of 11th September reporting on NRW's further review of the position as regards the submitted bat information, we write to provide the requested clarifications and further detail with respect to great crested newts ('GCN') and also to respond to NRW's latest comments on bats.
2. We took from the 29th August meeting the general impression that there was no dispute that the principle of appropriate, proportionate and licensable mitigation was achievable for both GCN and bats. For example, Jim offered the welcome agreement that "*GCN favourable conservation status can be achieved*" and that, as he said, there were "*no showstoppers*" here, but that it was merely felt that some detail was lacking. You know our position on the appropriate time for delivery of such detail, having regard to the extent of knowledge already amassed about how these species use the site, the outline nature of the scheme and the relevant case law and guidance around engagement with the 'three tests' imparted by the Habitats Regulations, and we note the consistency with that position of Jim's statements. Nevertheless, we agreed to provide further detail in good faith and in the interests of progressing matters in a collaborative manner.
3. Below I deal with GCN first before coming on to talk about bats.

Great crested newts ('GCN')

4. Much of the discussion on GCN centred around the quantum of 'new' versus 'restored' pond creation in the wider landholding that is appropriate and proportionate in order to compensate for the losses of two sub-optimal ponds used by the species within the application site. The common rule of thumb for such compensation is "two for one" – i.e. two new ponds created for every GCN pond lost. We discussed, at some length, the particular situation and opportunities at Cwm Glo/Rhydycar West, including the fact that new pond creation in the SSSI could harm the designated site in a situation where the SSSI was already replete with numerous waterbodies that (mainly due to terrestrialisation processes) were now sub-optimal or unsuitable for GCN and thus present themselves for restoration. We remain of the view that restoration of ponds that formerly supported GCN, or would be capable of supporting them once restored, is far preferable to new pond creation in the SSSI, and we noted some support for that view from Scott Hand (who knows the site intimately) during the meeting. NRW staff made the point, fairly, that Blaencanaid is not within the SSSI, but we pointed out that it is remote from known population nuclei.

5. My client takes the view, on reflection, that if ready and rapid agreement on this point cannot be reached, and in order to put beyond doubt the point we have reiterated about 'headroom' for more than adequate compensation in the wider landholding, they are prepared to generously offer four new ponds on non-SSSI land at Blaencanaid Farm as well as restoration of up to ten ponds currently suboptimal for the species within the SSSI itself.
6. To this end, **Appendix 1** attached provides detail on ten ponds suitable for restoration across the wider landholding, and also provides indicative locations where four new ponds could be accommodated at Blaencanaid (for example by expanding and remodelling jumps and depressions associated with the former scrambling track there). The locations of these (provisional in respect of the new ponds at Blaencanaid, as these will need to be subject to detailed locational and technical design) are also shown by means of annotations to the plan attached (which is taken from the ES and shows current pond distribution and current/recent GCN presence/absence across the site). We consider that this commitment puts beyond reasonable doubt that the proposed compensation will deliver net benefit to the local metapopulation of this species.
7. The new pond provision at Blaencanaid is relatively removed from known population nuclei of the species across the SSSI. We take the view that if new ponds are created at Blaencanaid, and animals translocated to them as part of advanced and/or construction phase mitigation, this will have the effect of expanding the species' local population range and also 'opening up' a large volume of terrestrial habitat that currently sits outside the known range of the local metapopulation. Consequently, the act of new pond creation at Blaencanaid, in conjunction with a strategic approach to the selection of ponds for restoration (see references to 'stepping stone' ponds at Appendix 1), will bring into play a significant volume of suitable terrestrial habitat at that site, helping to offset the losses of terrestrial habitat on the application site itself – we expand on this below.
8. In any development situation, the precise quantum of terrestrial habitat loss for an affected GCN population is of course a function of how much is actually used by that population. You will be aware that there is no reliable way of defining that precisely (short of radio tracking every newt in a pond – something that's never been done) and therefore certain sensible assumptions have to be made and autecological principles applied. This is standard practice.
9. GCN are generally known to be capable of ranging a significant distance from natal ponds – NRW will know that various figures up to (and even beyond) 1km are cited in literature. More typically, a figure of 500m radius from a breeding pond is taken as a reasonable maximum for impact assessment purposes and a figure of 250m as one within which use in some capacity can be assumed as likely, all other things being equal and in the absence of clear evidence otherwise. In reality, of course, the use of land around a breeding pond will be heavily influenced by other factors – habitat quality, features, prey availability and physical barriers. In other words, all other things generally are not equal. For example, GCN breeding in a pond surrounded by a narrow band of woodland, and then surrounded by urban development are not likely to make it to 250m (or even try). GCN breeding in a pond surrounded by relatively inhospitable cultivated land, but linked to a single hedgerow, are much more likely to be found in the hedge than in the arable land – indeed they may habitually range further along that hedge than they would otherwise do if the pond were surrounded by woodland. Perfectly circular terrestrial habitat zones around a pond cannot be assumed. NRW know all of this of course.
10. In this case, an important further source of evidence is the survey work that we have presided over since 2015, an 'at a glance' appreciation of which is also provided by the ES plan attached in annotated form to this letter. This plan defines a 250m zone around the ponds on (and proximal to) the application site where GCN have been detected. It will be noted that there are a large number of other waterbodies within this zone where no evidence of the species has been found over those multiple surveys.
11. This is significant: in complex, pond-rich landscapes, our experience is that GCN eDNA should generally be found in non-breeding ponds that lie within used terrestrial habitat, as GCN temporarily use such features on their

migration to and from ponds, even if they don't breed in them. Indeed, this is the likely explanation for GCN presence having been detected in the two ponds (P26 and P17) that fall within the application redline, as these are otherwise highly suboptimal or even wholly unsuitable for breeding as evident in the photos below.



The two GCN ephemeral “ponds” within the application site (P26 left and P17 right) showing the highly suboptimal nature of both for the species

12. Another way of explaining this is that drawing a 250m radius around ponds where GCN have been found means that the entirety of the application site, except for a very few areas of bare ground, is classed as terrestrial GCN habitat. The fact that so many ponds capable of supporting the species occur within the application site but have never been found via survey to support the species, even temporarily, strongly indicates that this is not representative of the reality. The use of 250m to define the volume of terrestrial habitat affected is therefore likely to substantially overplay the area of the application site used by the species, than to underplay it.
13. If we nevertheless disregard these strong indicators from the survey returns, and work on the premise of 250m, the entirety of the application site falls within theoretical dispersal range. We do not believe this to be reflective of the position for the reasons given above, but even if it was, the first thing to note is that only around 11ha or c.50% of this will be lost to hard development (i.e. rendered permanently unsuitable for GCN use) as a consequence of the development, with the rest either unaffected or only temporarily affected (e.g. by earthworks, lodge construction and related path and service installation). Compare this with the fact that with four new ponds being created at Blaencanaid Farm, a total of 15ha plus of land within the applicant's control will become available for terrestrial phase GCN where it currently isn't. Added to that will be the enhancement of habitat and expansion of terrestrial habitat within the SSSI, including via the creation of log and brash--piles as a consequence of scrub control works (see outline HMP Figure 4), but also via restoration of ponds opening up currently unused areas of suitable terrestrial habitat. Taking these figures and factors into account it is clear that there will be no net detriment of terrestrial habitat availability for GCN, a significant improvement in breeding habitat availability, due to pond restoration and new pond creation, and by extension an opening up of areas of terrestrial habitat that are currently too remote from breeding ponds to be likely to be used. We are supremely confident that the combination of these factors, and in particular the action of pond restoration, will address current limiting factors for the species, significantly enhance habitat conditions for GCN and improve the species' FCS locally. We note that this does not really appear to be in any substantive residual dispute.
14. Your letter of 12th July sets out six items related to GCN which you have advised that MBC require further information on before determination. I trust that the information above deals with items 1-3 in that list.
15. In respect of items 4-6, I offer the following:

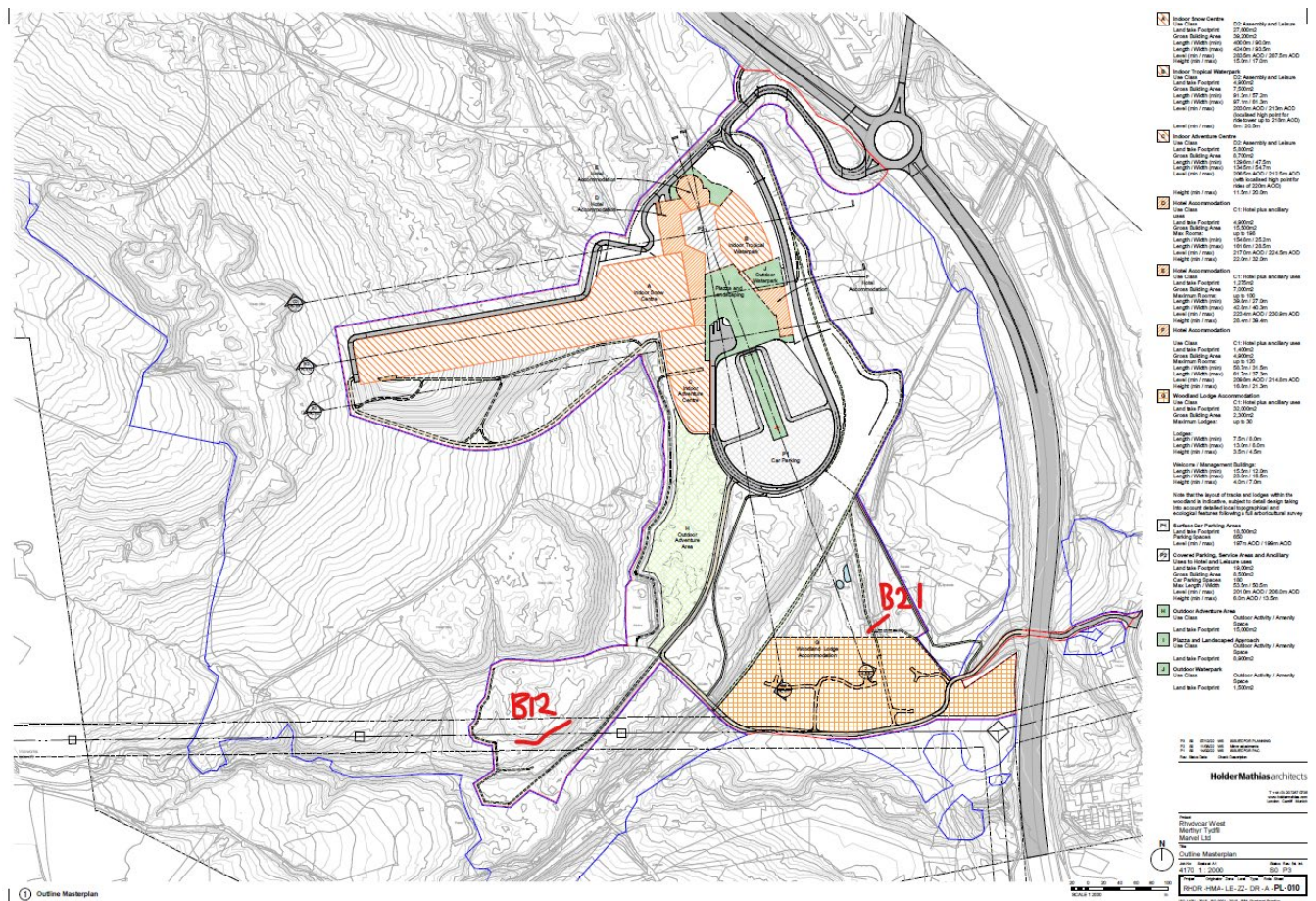
- a) In respect of item 4, (details of initial aftercare and principles of long-term maintenance), we maintain that to a large extent this is information contained within the Heads of Terms Habitat Management Plan. For the avoidance of doubt, the restoration and/or creation of ponds and their subsequent aftercare will follow in all cases the advice set out in the Great Crested Newt Conservation Handbook and the GCN Mitigation Guidelines. If that is not a satisfactory approach, we would be grateful if you could please confirm and explain why.
- b) In respect of item 5, the delivery of long-term management (and the financial security of that delivery) will be secured by the development. Specifically, the s106 Agreement will provide the mechanism to ensure the delivery and financing of the long-term management of the GCN measures, as part of the wider site management plan. A Heads of Terms document has been submitted to the LPA in February 2024 which includes for this matter, and we remain open to discuss the detail of these Heads of Terms at any time.
- c) As respects item 6, we would expect the reserved matters stage to address matters such as the timing and fine detail of pond restoration and creation, noting that the principles are as set out in the established guidance (GCN Conservation Handbook etc) referred to above, and (perhaps via submission of a draft licence method statement) the details of how harm to GCN on the application site will be avoided, mitigated and compensated in accordance with regulation, statute and best practice. Self-evidently such matters are contingent on completion of design details and matters such as the eventual construction timescale, and therefore it is entirely appropriate to deal with them as a reserved matter, if the in-principle acceptability (and licensability) of the proposals has been accepted, which by all accounts it has.

Bats and hibernation potential

16. Thank you for your e-mail of 11th September, setting out NRW's conclusions after revisiting the question of the adequacy of the bat survey effort, with particular reference to the question of hibernation roosts. We note your opinion that the cumulative survey effort over several campaigns spanning several years remains short of best practice for surveying for hibernation potential, but the question here of course (and regardless of whether we agree or disagree on that point) is whether it is sufficient for determination purposes. On this, your clarification that NRW's "*main concern therefore lies with [buildings] B12 and B21*" is helpful. You have suggested that "*if the applicant demonstrates works are not required to these structures, there may be no need to undertake further surveys. In this context, the planning authority must be satisfied there will be no direct or indirect impacts on these structures (or it can be suitably controlled through any permission granted). If this is the case, we would withdraw our advice for further survey in this area.*"
17. To re-cap, B12 is the long, stone retaining wall with short section of recessed tunnel adjoining the Nant Melin Canaid in the south-west of the application site. It is a relic of the former Cwm Pit, and part of the Scheduled Monument that pertains to that site. B21 is a low, long, brick-lined culvert, beneath an embanked section of former mineral tramway in the south-east of the application site. Photos of these features are provided overleaf, along with a sketch annotation on a screengrab of the masterplan, showing their location relative to the foci of proposed development within the application site boundary:



Photos of B12 Cwm Pit retaining wall (left) and recessed tunnel in retaining wall (centre). Photo to the right shows B21 culvert



Location of B12 and B21 outside the foci of development activity

18. The recessed tunnel in B12 has regularly been used as a roost site by small numbers of lesser horseshoe since 2015 and is treated as a confirmed roost. As evident from the masterplan above, it is remote from the focus of development and is only included within the application site as works are proposed to it for heritage reasons (further to discussions with CADW) – i.e. to stabilise the Scheduled Monument as a benefit of the development. Related to this objective will also be works to formalise the adjoining section of the Nant Melin Canada watercourse to prevent further scouring and destabilising of the monument (a factor which it should be noted also poses a threat to its continued ability to serve as a bat roost) and the creation of a heritage trail which would take in this location and others on the wider site. Management interventions proposed in CADW’s Monument Management Plan include:

- Tree management – assess and deal with problematic trees growing on the masonry remains;
- Regularly cut back invasive under-storey vegetation such as bramble/bracken/scrub growing on earthworks/masonry and treat with herbicide to prevent re-growth.
- Monitor the erosion being caused by the watercourse running along the former railway trackbed. In very dry conditions – undertake a photographic record of this area so that the degree of erosion can be monitored.
- When masonry remains are cleared of invasive vegetation, employ a suitably qualified & experienced conservation architect to assess the monument and produce a conservation plan.
- Secure access points into the monument to prevent scrambler motorbike activity.
- Undertake regular litter picks to prevent the build-up of rubbish.

19. Any works to the structure of B12 itself would require Scheduled Monument consent, and my client would welcome an informative on the management plan for this feature which requires that an application for such consent should be informed by up-to-date bat survey work and that NRW should be pro-actively consulted by CADW before issuing any such consent. This would ensure that the position as regards bat use is established in a manner much more relevant to the timeframe of any future works than additional hibernation surveys now, and would have the advantage of the secondary consent process providing an appropriate failsafe, such that if the position is found to have changed such that (in an absolute worst case) the proposed stabilisation works are likely to cause impacts on bat roosts that are for some reason not licensable, those works would have to be amended to become licensable, or Scheduled Monument consent could not be forthcoming. We contend that this provides adequate procedural protection to this roost. It is worth noting, in any event, that only the tunnel/alcove in this feature has been yet confirmed as in use by bats for roosting and the most recent (Autumn 2023) assessment by Geoff Billington of Greena classified the other parts of this structure (i.e. the retaining wall) as ‘low potential’, indicating a lack of suitability for hibernation. We would also remark that works to this structure for heritage purposes would provide an opportunity (subject to Scheduled Monument Consent) to improve the security of the known roost site in the recessed alcove/tunnel via the installation of a lockable steel grille or similar – representing a benefit over the present situation where human access is unhindered, and where it generates H&S concerns.

20. In respect of B21, this has not at any point been confirmed as a bat roost (and the risks to bats using it from its low height and consequent potential vulnerability to rodents have been remarked upon). It was last assessed in Autumn 2023 by Geof Billington of Greena as of ‘moderate winter potential’. This is not a Scheduled Monument, so the secondary consent failsafe described above does not apply, but it is present in a part of the site that will be subject to minimal or no works (see annotated plan above). My client is happy to confirm that it will be retained *in situ* with no interventions necessary.

Overall conclusions

We trust the above information provides NRW with sufficient comfort to be able to advise Merthyr Council that there are no substantive impediments to licences being granted in due course and as appropriate in respect of GCN and bats in respect of the proposed development, and/or that such further detail that would be required to inform the processing of any such applications can be adequately secured as a conditioned or reserved matter, noting that it will be captured in the course of detailed licence application and processing in any event.

Best regards

Dominic Woodfield CEcol CEnv MCIEEM

Director

Cc Ali Tyebkhan – Rhydyar West / Peter Waldren – Carney Sweeney

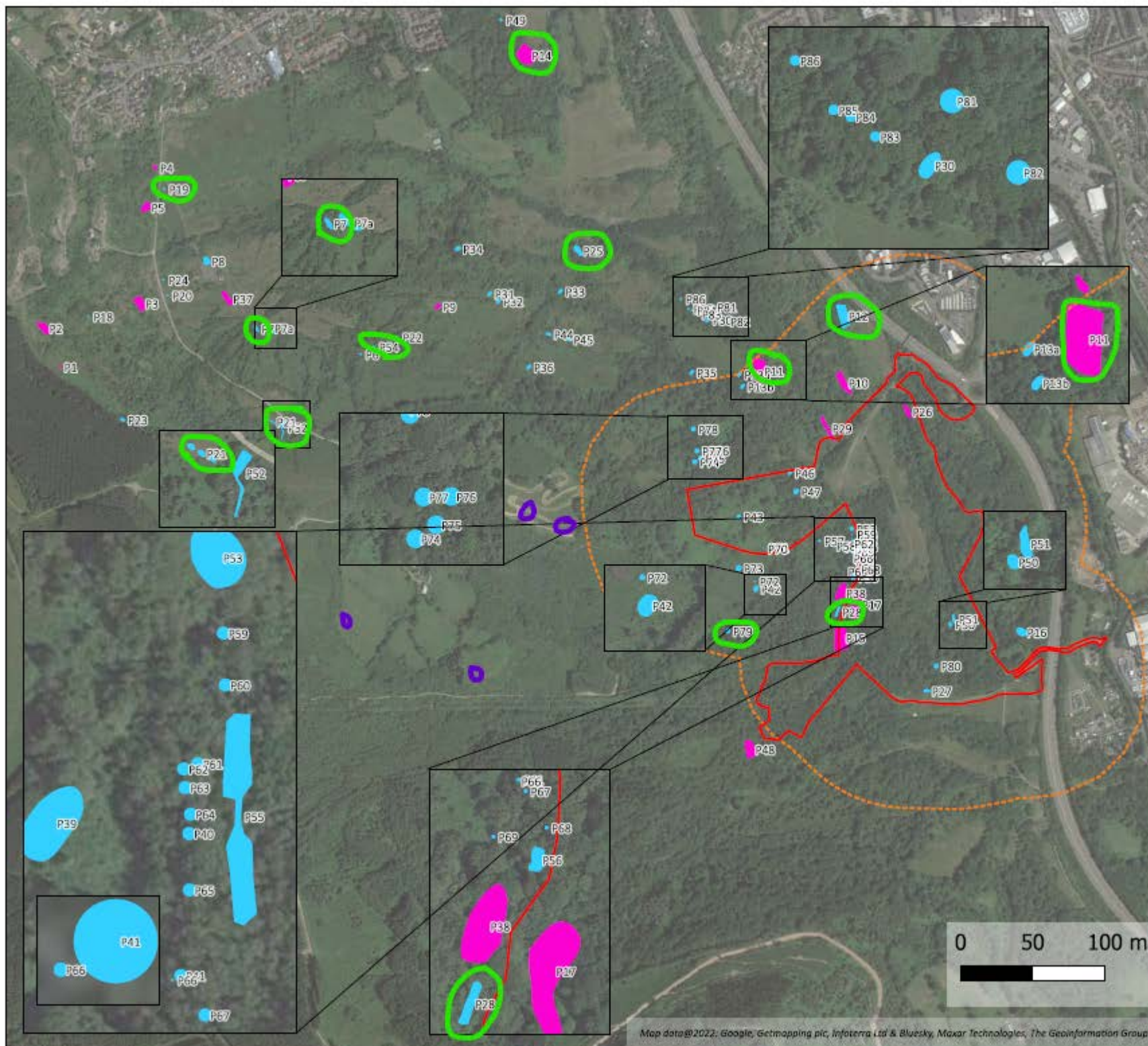
Appendix 1: Ponds suitable for restoration/enhancement (see plan for locations)

Pond Ref:	P7	
Approx size:	7x3m	
Description & enhancement potential:	Heavily shaded pond proximal to westernmost population locus on site. Could help create stepping stone connection to Blaencanaid. Easily accessible for works.	
Pond Ref:	P19	
Approx size:	2x2m	
Description & enhancement potential:	Small seasonally wet depression in open grassland close to known GCN ponds. Easily accessible and could be enlarged without impacting on high value habitats.	
Pond Ref:	P11	
Approx size:	c.600m2	
Description & enhancement potential:	A silted-up former reservoir seemingly holding standing water for only limited periods after rain. Heavily overshadowed by dense sallow. Reducing shade and dredging will enhance for GCN (relict population present).	

Pond Ref:	P12	
Approx size:	c.750m2	
Description & enhancement potential:	A former reservoir associated with mining works which has become heavily silted, shallow and overgrown with vegetation. It is heavily shaded by surrounding trees and poached along western edge. Aquatic vegetation is limited to floating sweetgrass, water plantain and willowherb <i>Epilobium</i> sp. Reducing shade and dredging will enhance for GCN.	
Pond Ref:	P14	
Approx size:	c600-700m2	
Description & enhancement potential:	Former reservoir now heavily silted, shallow and increasingly shaded, albeit with good surviving macrophyte vegetation and relict population of GCN. Some cutting back of overshadowing vegetation and some dredging to deepen the water column, in line with GCN Conservation Handbook, would enhance conditions for GCN.	

Pond Ref:	P21	
Approx size:	30x2m	
Description & enhancement potential:	Heavily shaded narrow pond proximal to westernmost population locus. Could help create stepping stone connection to Blaencanaid. Easily accessible for works which would include deepening, widening and removal of overshadowing willow.	
Pond Ref:	P25	
Approx size:	c100-200m2	
Description & enhancement potential:	Heavily (90%) overshadowed pond in central part of wider site. Enhancement (via reducing overshadowing and dredging) would provide a stepping stone between western and eastern GCN population nuclei.	
Pond Ref:	P28	
Approx size:	c.10m2	
Description & enhancement potential:	Long shallow ditch that is potentially an overflow from P15. No aquatic vegetation noted. Works to reduce shading, expand size and increase permanence would assist in providing refuge and compensation whilst	

	restoration of adjoining P15 underway.	
Pond Ref:	P54	
Approx size:	c.10m2	
Description & enhancement potential:	Small and shallow bell-pit type pond in stepping stone location. Dredging, expansion and clearance of overshading vegetation would enhance GCN potential.	
Pond Ref:	P79	
Approx size:	c.30m2	
Description & enhancement potential:	Shallow ditch/woodland depression formed around the base of several trees. Heavily shaded by surrounding woodland, no aquatic vegetation noted only leaf litter. Likely highly ephemeral and would benefit from de-shading and deepening. Stepping stone location.	



Key

- Application site
- 250m buffer
- Ponds with GCN present (identified via eDNA, torching, egg search or bottle trapping surveys between 2015 and 2021)
- Ponds where no GCN have been identified despite having either been targeted by appropriate surveys or scoped out as deemed appropriate for each individual waterbody

Title
Great crested newt survey results (2015-2021)

Project	Client
Cwm Glo	Marvel Ltd

Drawing No.	Revision	Project No.
Figure 2	-	E1835

Drawn	Checked	Date
CD	DW	November 2023

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