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ECOLOGICAL IMPACT ASSESSMENT REPORT (BATS & NESTING BIRDS)

MERTHYR TYDFIL BUS STATION

MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

DOCUMENT REF: WWE20178 ECIA BATS REV A | 26/02/2021

Client:	Merthyr Tydfil County Borough Council
Site/Job:	Merthyr Tydfil Bus Station
Report title:	Ecological Impact Assessment Report (Bats & Nesting Birds)
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Grid Reference:	SO 04866 06179
Survey date(s):	9/6/2020
Surveyed by:	Dr Alex Wilson MCIEEM

VERSIONING AND QUALITY ASSURANCE

Rev	Status	Date	Author(s)	Reviewed by	Approved by
A	Draft	26/02/2021	Becky Gibbs Assistant Ecologist	Alex Wilson MCIEEM Principal Ecologist	Alex Wilson MCIEEM Principal Ecologist

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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 Merthyr Tydfil County Borough Council (the client) to undertake an Ecological Impact Assessment (EcIA) for bats and nesting birds of Merthyr Tydfil Bus Station. - The site is the subject of a planning application to demolish the existing building.
Methodology	A PRA was undertaken consisting of a desk study and field survey undertaken in June 2020 following best practice in line with the Bat Surveys for Professional Ecologists: Good Practice Guidelines, 3rd edn (Collins 2016).
Key issues	- The site may be used by nesting gulls and pigeons. - There is some Japanese knotweed onsite. - There may be holes in a door which may allow access for small passerines and (albeit for incidental use only) bats.
Recommendations	- A precautionary check for nesting birds and bats is to be carried out prior to demolition, by a suitably qualified ecologist. - Any future redevelopment to provide nesting provision and roosting provision as integrated features, with landscaping schemes in place to support wildlife.
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 18 months from the date of the last survey – i.e. until December 2021.

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1 INTRODUCTION

- 1.1 Wildwood Ecology was commissioned by Merthyr Tydfil County Borough Council (the client) to undertake an Ecological Impact Assessment (EcIA) for bats and nesting birds at Merthyr Tydfil Bus Station (the site) centred at grid reference SO 04866 06179.
- 1.2 A Preliminary Roost Assessment (PRA) for bats and nesting birds was undertaken at the site on the 09/06/2020.

Site description

- 1.3 The aerial image of the site (Figure 1) shows the site to consist of buildings within a hardstanding area, and with further built structures around. There are some areas of amenity grassland and street trees, with also the Afon Taff corridor 130m to the west. This section of the river is modified however with little vegetation present along the banks compared with further up- and down-stream.
- 1.4 The site is located within the centre of Merthyr Tydfil with some vegetated tree lines and corridors (along the Afon Taff for example) present, though the local area is highly urban in nature. Further to the east and west are parks and fields also.

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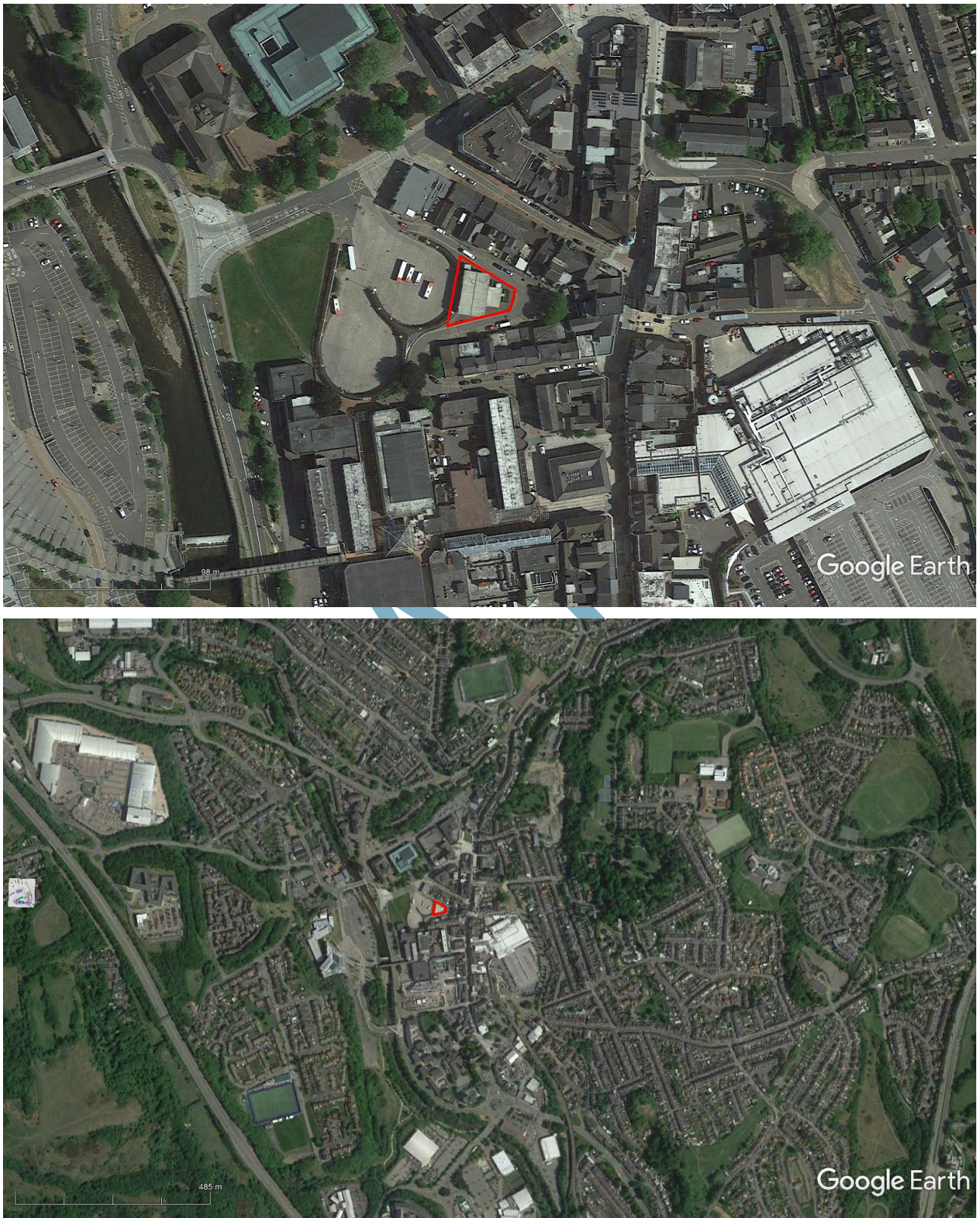


Figure 1 – Aerial image of the site (red line shows the site boundary). Image used under licence (©2020 Google). Imagery date 28/05/2020.

Proposed development

- 1.5 The site is the subject of a planning application to demolish the existing building.

Purpose of this report

- 1.6 This report aims where possible to provide sufficient information for the local planning authority to fully assess the potential ecological impacts of the proposed development, or alternatively, to identify what further information is required to fully inform the scheme.
- 1.7 The results of the EcIA have been used to establish the need for, and extent of, any mitigation or compensation measures required as part of the proposed development.

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2 METHODOLOGY

Desk study

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

Table 1 – Sources of biodiversity and ecological records.

Source	Information requested (search buffer from site centre/boundary)
MTCBC Ecologist (Aderyn)	• Bats and roof-nesting birds only: ○ Bats (2km) ○ Roof nesting birds (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 surveys

Preliminary roost assessment (PRA) for bats and nesting birds

- 2.6 A field survey was undertaken on the 9th June 2020.
- 2.7 An assessment of the onsite building was undertaken in accordance with the latest published best practice guidance (Collins, 2016).
- 2.8 The building was externally 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, 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).

Suitability	Description of building, tree, or structure	Number of activity survey visits required ³
Negligible	Negligible habitat features on site likely to be used by roosting bats.	None
Low	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).	One
Moderate	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.	Two
High	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.	Three
Confirmed roost	Evidence of bats or use by bats found.	Minimum of two – to characterise the roost

Surveyor information

2.11 The survey was carried out by Alex Wilson. See Table 3 for further information.

Table 3 – Surveyor information

Surveyor	Licences	Ecological experience
Alex Wilson Ph.D., B.Sc. (Hons) MCIEEM Principal Ecologist	Bat Dormouse Barn owl	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.

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 internal survey was carried out in line with Covid-19 guidance.
- 2.14 No limitations were encountered, or assumptions made, and it is considered that, with the access gained and recording undertaken, an accurate assessment of the site's ecological value was made.

³ To provide confidence that bats are absent from the structure

3 RESULTS

Desk study

Designated sites (statutory)

- 3.1 There were no international statutory designations within 5km of the site and two national statutory designations within 2km (see Table 4).
- 3.2 There are no protected areas (SSSIs or SACs) designated for their bat populations within 10km of the site.

Designated sites (non-statutory)

- 3.3 There were three non-statutory designations within 1km of the site (see Table 4).

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

Site name	Designation	Description / key reason for designation	Distance & direction
SINC 58 – Afon Taf	SINC	The major river in the County Borough. Includes areas of bankside habitats, particularly towards the south where the river corridor is less industrialised than further north. Associated habitats are chiefly semi-natural woodland, including areas of ancient semi-natural woodland and linear wet woodlands. There are also numerous neutral grasslands, scrub patches and bracken stands, as well as small areas of marshy grassland and tall herb vegetation. Notable features of the river course include cobble banks which support localised plants. Otter occurs throughout the length of the river which is known to be of value to a wide variety of birds, fish, bats and reptiles	130m W
SINC 12 – Cwm Glo	SINC	The SINC contains the Cwm-Glo a Glyndyrus SSSI which is of international significance for grassland fungi. Extensive areas of marshy grassland, species rich neutral grassland and acid grassland alongside woodland and heath supporting an impressive variety of protected, rare and uncommon species including marsh fritillary butterfly (<i>Euphydryas aurinia</i>), Great Crested Newt (<i>Triturus cristatus</i>), big blue pinkgill (<i>Entoloma bloxamii</i>) and olive earthtongue (<i>Microglossum olivaceum</i>).	790m SW
SINC 36 - Rhydyar West	SINC	Very extensive mosaic of ffridd enclosures supporting complex of semi-upland and lowland habitats, partly contained within conifer plantation. Main components are ancient semi-natural woodland fragments, other semi-natural woodlands, wet heathland, dry heathland, marshy grassland and semi-improved neutral grasslands. Also there are some bracken slopes, scrub, small ponds, streams and sections of dismantled railway. There are areas of semi-improved acid grasslands to the south especially. The habitats intergrade to form a complex mosaic, and may therefore also include some small areas of improved or low diversity semi-improved grassland, but any such areas are a very minor component. Great crested	910m SW

		newt occurs in small pools; noctule and pipistrelle bats have both been recorded. Nationally rare and scarce invertebrates are varied and common throughout the area.	
Cwm Glo a Glyndyrys	SSSI	Cwm Glo a Glyndyrys is of special interest for its extensive areas of marshy grassland, species-rich neutral grassland and acid grassland, and for the association of these habitats with others including woodland and heath. It is also of special interest for its outstandingly diverse assemblage of grassland fungi, including 32 species of waxcap <i>Hygrocybe</i> spp, making it one of the best sites in Britain.	808m SW
Cwm Taf Fechan Woodlands	SSSI	Where the partially wooded valley of the Taf Fechan crosses the north crop Carboniferous Limestone. Mixed deciduous woodlands cover steep slopes and spoil from quarries with one of the few Glamorgan stations for <i>Gymnocarpium robertianum</i> . There are interesting plant communities in flushes around tufa springs and luxuriant growths of bryophytes in the splash zone of the river.	1842m NW

Protected species

- 3.4 Table 5 summarises the priority and protected species records found within the local area within the last 10 years.
- 3.5 There are local roost records for bats within 500m of the site not within the LRC dataset – these are for lesser horseshoe bat (small numbers day/night), common pipistrelle (small numbers day/night) and brown long-eared (small numbers night).

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

Protected & priority		# of records (# species)			Further information
Groups	Species	Onsite	<500m	>500m	
Bats	Brown long-eared bat	-	1	3	Closest record for field sighting, closest roost at 2km.
	Common pipistrelle	-	8	39	Closest record for field recording at 218m away; closest roost at 435m away (small numbers)
	Daubenton's bat	-	-	11	Closest record at 1.5km away (field record). Roost present within 1.8km.
	Lesser horseshoe bat	-	-	15	All records within the LRC over 2km away (including roosts)
	Unspecified long-eared bat	-	1	-	Droppings within 332m away (now demolished site)
	Unspecified <i>Myotis</i> sp	-	-	19	Roost and field records within 1.8km away.
	Natterer's bat	-	-	7	Field records within 1.8km
	Noctule bat	-	2	-	Field records within 435m
	Unspecified <i>Pipistrellus</i> sp	-	2	45	Roost within 332m
	Serotine	-	-	1	Field record within 1.7km
	Soprano pipistrelle	-	4	23	Closest records for field observations, with closest roost at 640m away
	Unspecified bat	-	4	15	Closest record for a roost 230m away.
Birds (Schedule 1)	Kingfisher	-	1	-	On the river; 119m away
	Hobby	-	1	-	Observed at 486m away
	Red kite	-	3	-	Observed at 486m away
	Redwing	-	1	-	Observed at 486m away
	Barn owl	-	-	2	Records at 2100m away
Birds (non-Schedule 1)	Black-headed gull	-	1	1	Closest record at 486m away
	Herring gull	-	2	1	Closest record at 486m away
	House sparrow	-	2	-	Records at 486m away

Field surveys

Timing and conditions

3.6 The survey timings and prevailing weather conditions during the PRA can be seen in Table 6.

Table 6 – Summary of survey timing and conditions during surveys.

Date	Type	Conditions			
		Temp [°C]	Cloud cover [Oktas]	Wind speed [Beaufort]	Rain
09/06/2020	Preliminary Roost Assessment	16	8	3	Nil

Preliminary roost assessment (PRA) for bats and nesting birds

3.7 A description of the building inspected during the PRA can be seen in Table 7. Please refer to the overhead plan in Appendix I for references.

Table 7 – Onsite building information.

Building reference	Building Section	Description	Development plans
1	Main bus station structure	Double height structure with flat roof. Deep cladding fascias, and cladded upper storey level. Brick exposed on ground floor level with painted concrete beams also noted. Upper storey level partially overhangs an illuminated walkway and shelter on west, south and north elevations. Curved roofed (polycarbonate or similar transparent) bus stands link to the structure along the western elevation. uPVC windows noted, with those on ground floor grilled/meshed. Shuttered/rollered entry to ground level shop present also on western elevation, behind bus shelters, and on northern elevation. Corrugated metal clad double height stairwell on northern elevation present. Grilled and bricked-up entrance on southern elevation.	Demolition
2	Annex	Located over a single storey position, adjoining the eastern elevation of A. Brick built with cladded fascias in the same style as A. Entry door with timber inserts and vents found on northern elevation, with security light directly above this. A series of planters are found around the northern elevation of this section, with a	Demolition

Building reference	Building Section	Description	Development plans
		variety of ornamentals within. A small amount of Japanese knotweed was noted.	

3.8 The results of the PRA can be seen in Table 8.

Table 8 – PRA results.

Building reference	Use by bats	Use by birds	Bat signs and internal and external Potential Roost Features (PRFs) & access points
1	No	Yes	No bat signs or bats themselves were noted on or around the structure's exterior. The brickwork was well pointed and the cladding and fascias were attached without crevices or missing sections. The roof of the structure appeared to be in use by gulls, which may use the flat roof to nest upon. No other nest features were noted.
2	No	No	The doorway to the structure has some venting holes which (if unmeshed on the interior) may provide access for small birds such as house sparrow or blue tits to enter. No evidence of this was noted however. No other features are present within this structure.

Links to surrounding habitat

- 3.9 The site is located within the urban centre of Merthyr Tydfil and is brightly lit by street lighting around the bus station, on all aspects.
- 3.10 There is some vegetation directly associated with the site, though this is limited to the plants within the planters. There are no vegetated or dark linkages from the site to the river corridor.

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.

Designated sites

- 4.2 There were both statutory and non-statutory designated sites identified within the vicinity of the site. There are no protected areas (SSSIs or SACs) designated for their bat populations within 10km of the site.
- 4.3 The Afon Taf SINC is located close by (within 130m) and so there may be impacts through additional dust entering the watercourse and potential for pollution, during demolition works.
- 4.4 Given the scale of the proposed development, and the lack of likely impacts beyond the site boundary, the other 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

- 4.5 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 9).

Table 9 – Onsite building suitability for bats and nesting birds.

Building reference	Suitability / confirmed use	
	Bats	Nesting birds
A	All species of bat – maternity roost- negligible All species of bat – hibernation roost- negligible All species of bat – night roost- negligible All species of bat – incidental roost- negligible	Gulls are using the roof of the structure to at least roost upon. It is likely that they may nest there also, along with domestic pigeons if there are more sheltered spots present.
B	All species of bat – maternity roost- negligible All species of bat – hibernation roost- negligible All species of bat – night roost- negligible Light-tolerant species – incidental roost- low	Potential for use (if un-grilled/unmeshed holes) by small passerines, though this is a low likelihood as there is limited foraging resources within the immediate vicinity to support chicks.

Bats

Preliminary Roost Assessment

- 4.6 The local records search returned a number of records for bat species in the vicinity of the site.
- 4.7 There is no ability for roosting bats to be supported within the main part of the structure, with only incidental use possible (i.e. sheltering in inclement weather) with access by the holes in the door of the smaller annex. If these are meshed over in the interior, then this potential use is removed.
- 4.8 The high light levels noted around the site mean that the use of the local area is restricted to more light tolerant species of bat, such as pipistrelles. Whilst light intolerant species (including lesser horseshoe) are known within 500m, these are within a darker area and with more vegetation present than onsite.

- 4.9 There are also many structures immediately around the building which offer features more suitable for bat use (i.e. slipped slates, broken windows).
- 4.10 As the onsite structure has 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.

Nesting birds

- 4.11 The local records search returned a number of records for nesting bird species in the vicinity of the site.
- 4.12 The presence of gulls and pigeons around the site and seemingly associating with the roof indicates that the flat roof of the more elevated section could be used by nesting birds (especially if there are sheltered sections unsighted from the ground). There are other (and larger) structures nearby which offer the same features for gulls and pigeons to use, and so should there be nests on the structure, there are local opportunities for them elsewhere.
- 4.13 The small amount of vegetation within the planters to the east of the site is unlikely to be used by nesting birds as there is significant daily disturbance by passers-by, and the vegetation is not particularly dense.
- 4.14 Bird species observed during the bat activity surveys included: gull sp (herring/lesser black-backed gull) and domestic pigeon.
- 4.15 There may be a negative impact on nesting bird species as a result of the proposed development.

5 CONCLUSIONS AND RECOMMENDATIONS

5.1 Wildwood Ecology was commissioned by Merthyr Tydfil County Borough Council (the client) to undertake an ecological impact assessment (EcIA) for bats and nesting birds at Merthyr Tydfil Bus Station.

5.2 The site is the subject of plans to demolish the onsite structure.

Designated sites

5.3 Pollution control measures are advised to be in place to prevent dust and any fuel/material run-off entering the Afon Taf – this may be through installation of hoarding, dampening material as it is being demolished and providing bunding (or other appropriate measure) to prevent run-off flowing to the river.

5.4 Other designated sites in the vicinity of the site are sufficiently well separated so that no impacts on their designated features are anticipated as a result of the proposed development.

Protected species

5.5 Recommendations regarding protected species are shown in Table 10.

Table 10 – Recommendations.

Species	Recommendations
Bats	If the holes within the annex door are meshed over, then no further survey or checks are necessary. If they are not, a precautionary check of this area is advised, prior to demolition. In the unlikely event that any bats are found onsite during works, works will cease and the project ecologist contacted for advice. This advice will be acted upon. Enhancement – any future redevelopment of the site should seek to include two integrated bat features at double storey (or above) height. These should be located on the northern elevation and the western elevation to allow for a range of temperatures.
Nesting birds	A check of the roof area (and as above, the room behind the door with holes in it) is advised to be carried out prior to demolition to see if there are any nesting birds present. If there are, regardless of species, the nests will be required to be retained until the nest is fledged, or becomes inactive. The loss of flat-roof nesting opportunities may be compensated within the design of any new development onsite, with consideration for roof-nesting birds to be made. Enhancement – provision of new plantings in combination with nest box provision will allow for nests to be supported. Integrated next boxes are recommended, and for this site in proximity to the river with the associated invertebrates, inclusion of swift boxes at 5m+ (at the eaves) or martin bowls will be beneficial.
Japanese knotweed	This small amount requires careful removal and disposal by an appropriately trained and licenced carrier.

Overall conclusion

- 5.6 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.

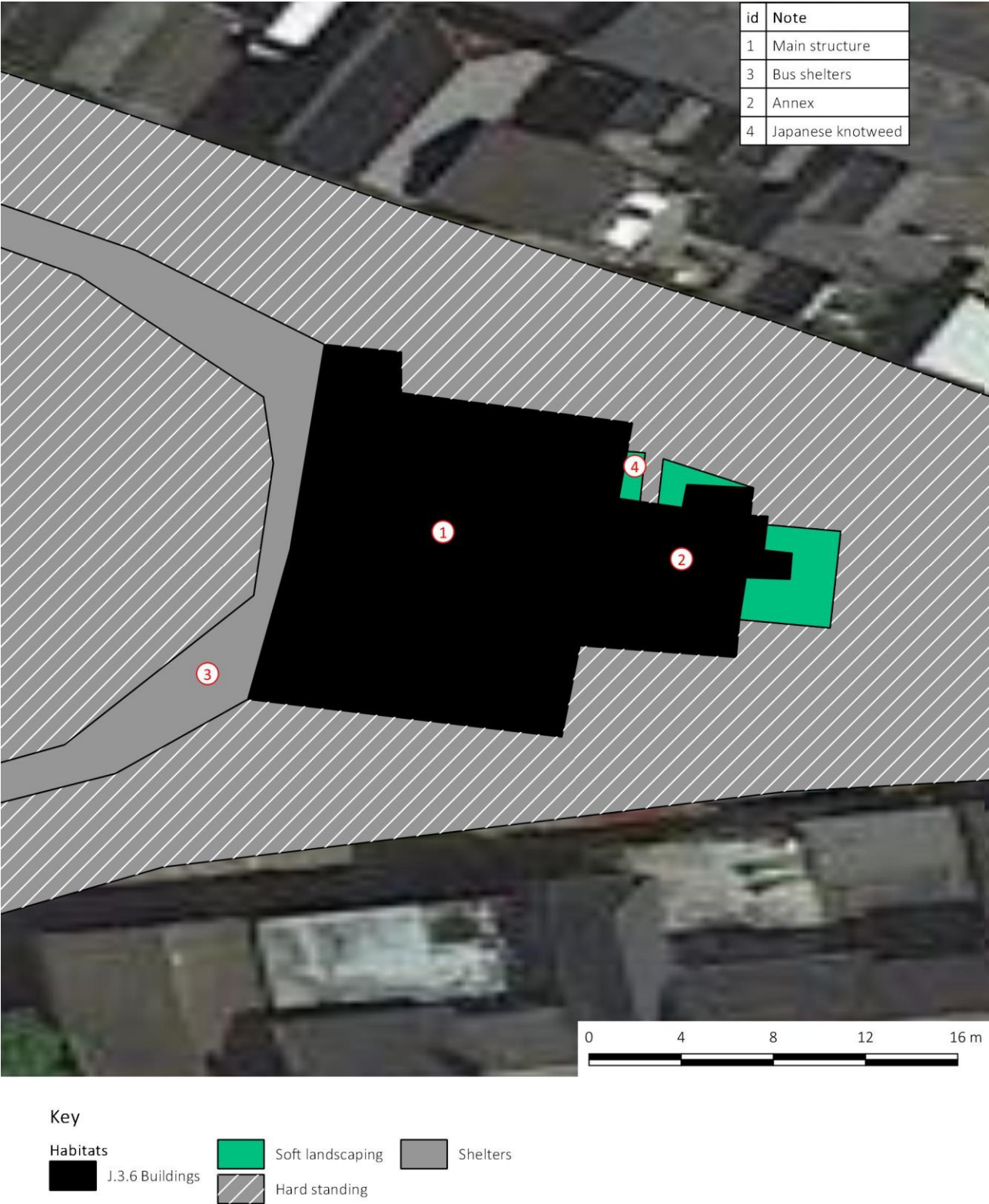
This ecological report will remain valid for a period of 18 months from the date of the last survey – i.e. until December 2021. Further surveys may be required to update the site information if planning is not obtained or works do not commence within that time period.

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6 REFERENCES

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APPENDIX I: PLAN OF THE SITE



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APPENDIX II: SPECIES LIST

To be submitted to the appropriate Local Records Centre

Site Name: Merthyr Tydfil Bus Station
Grid ref: SO 04866 06179

Provided by: Wildwood Ecology
Verified by: Alex Wilson

Common name	Scientific Name (if known)	Number	Comment	Survey Date
Japanese knotweed	<i>Fallopia japonica</i>		Small amount present in bed	9/06/2020
Domestic pigeon	<i>Columba livia domestica</i>	10+	Around and on building	9/06/2020
Gull	<i>Larus sp</i>	5+	Around and on building	9/06/2020

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APPENDIX III: IMAGES



Figure 2 – View along northern elevation, view to east



Figure 3 – Typical overhang tightly sealed from below



Figure 4 – Cladding of main section



Figure 5 – Joining of the two sections with door with potential holes in (vents)



Figure 6 - Japanese knotweed in raised bed



Figure 7 - Eastern elevation, view to south-west



Figure 8 – View of western elevation



Figure 9 - Buildings nearby (to north) with PRFs

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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 (2021) and Technical Advice Note 5 (2009)

Planning Policy Wales (Edition 11, February 2021) sets out the land use planning policies of the Welsh Government, integrating fully with the Environment (Wales) Act 2016. 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 (as amended). 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 reasonably 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 (as amended)

The Conservation of Habitats and Species Regulations 2017 (as amended) (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 (as amended), 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 (as amended). 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.

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