Breezy Hill Energy Project

Protected Species Survey Report

Technical Appendix 6.2

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1 INTRODUCTION

MacArthur Green (now SLR Consulting limited[1]) was commissioned by Brockwell Energy Limited (the Applicant) to carry out protected species surveys at Breezy Hill Energy Project (hereafter referred to as the 'Site').

These surveys primarily focussed on otter (*Lutra lutra*), water vole (*Arvicola amphibius*), badger (*Meles meles*), red squirrel (*Sciurus vulgaris*) and pine marten (*Martes martes*).

A watching brief was also kept throughout these surveys, and during all ecological surveys at the Site, and signs recorded for other protected species potentially inhabiting the Site and respective survey areas such as adder (*Vipera berus*), common or viviparous lizard (*Zootoca vivipara*), and slow worm (*Anguis fragilis*).

Surveys for bats and fish were carried out and are reported separately in **Technical Appendix 6.3** (EIAR Volume 3) and **Technical Appendix 6.4** (EIAR Volume 3) respectively.

These protected species surveys were undertaken to aid and inform the design and ecological assessment for Breezy Hill Energy Project Environmental Impact Assessment Report (EIA Report).

2 THE SITE & SURVEY AREA

The Proposed Development is located approximately 13 km south-east of Ayr, 8.5 km south-west of Cumnock and 4.5 km north of Dalmellington, within the North Kyle Forest Estate (NKF) managed by Forestry and Land Scotland (FLS). The Proposed Development is located adjacent to the North Kyle Wind Farm. The Site falls within the East Ayrshire Council (EAC) administrative area, Site centre at British National Grid (BNG) coordinates 248092 612583. Figure 1.1 indicates the location of the Site.

The Site comprises an area of approximately 1,012 ha, and is situated within the NKF, which spans around 4,000 hectares. The NKF primarily features Sitka spruce and has experienced extensive opencast coal mining in recent decades. Many of the coal mines within the NKF have been abandoned, with the result that the land is scarred, derelict and unsafe in some locations.

Most of the Site is currently under forestry, some of which has been recently felled (2024). The Site is underlain by historical underground coal mine workings; consequently, there is residual mining infrastructure on the surface including a mine water reservoir or void which has become somewhat naturalised over time, referred to as the Coyle Water, and there are several mining access tracks that are used to access the Site.

The elevation of the Site varies from 245 m Above Ordnance Datum (AOD) in the north-west of the Site to 410 m AOD in the south of the Site.

The 'Survey Area' in which protected species surveys were undertaken for the Site incorporated the Site boundary and access tracks, with buffers in some areas as appropriate for the specific

[1] Following acquisition, MacArthur Green became part of SLR Consulting Limited on 1 September 2025.

species surveyed for (Section 4.2). The protected species survey areas are shown in **Figure 6.5** (EIA Report Volume 2a).

3 LEGAL PROTECTION

Details of the legal protection of the protected species surveyed for are given in **Annex A** of this report.

4 METHODS

4.1 Desk Study

A desk-based study was undertaken to inform the field surveys and assessment with regards the presence of designated sites and species of interest within the Site.

The desk-based study consisted of the consultation of various online resources such as the National Biodiversity Network (NBN) Atlas (NBN Atlas, 2025), NatureScot Sitelink (NatureScot 2025), Saving Scotland's Red Squirrels (SSRS, 2025), Red Squirrel Stronghold Areas (RSSA, 2025), the British Deer Society (BDS) and the Deer Distribution Survey (BDS, 2025). The desk-study also reviewed the EIA and associated documents for North Kyle Wind Farm (North Kyle Wind Farm).

4.2 Field Surveys

Surveys to record the presence or likely absence of otter, water vole, badger, red squirrel and pine marten have been undertaken, with all habitats suitable for protected species surveyed within the Site. The respective survey areas included the Site boundary and survey buffers as required, in line with NatureScot guidance (NatureScot 2025a): 50 m (water vole and red squirrel), 100 m (badger), 200 m (otter), 250 m (pine marten); see **Figure 6.5** (EIA Report Volume 2a).

A watching brief for any protected species signs was also undertaken during other survey visits (e.g., ornithology/vegetation/other ecology surveys) throughout 2024 and early 2025.

The signs found indicate type and intensity of activity and consequently help in the assessment of the importance of a particular area for the protected species. The survey methods used are described below.

The survey methods used are described below and are in line with NatureScot guidance[Error! Bookmark not defined.].

4.2.1 Badger

Land with the potential to support badger within the Survey Area was searched for field signs with particular attention given to areas around woodland and areas underlain by mineral soils. Field signs of badger are described in Scottish Badgers (Scottish Badgers 2018). Field evidence searched for included:

- **Setts:** single and/or groups of holes;
- **Prints:** badgers have characteristic footprints that can be found in soft ground and muddy areas;

- **Latrines and dung pits:** these are small, excavated pits in which droppings are deposited. Latrines are a collection of dung pits used as territorial markers;
- **Hairs:** tufts of hair can often be found on fences, or in the entrances to setts;
- **Feeding signs:** small scrapes, also known as snuffle holes, where badgers have searched for insects and plant tubers. Feeding signs can also include dug up wasp or bee nests and ripped up dung of other species including cattle;
- **Scratching posts:** marks on trees (including fallen trees) where badgers have scratched leaving claw marks or ripped at areas of rotten bark to search for food; and
- **Paths:** these are routes that badgers take when moving between setts and foraging areas.

Where setts were recorded their sett type and sett entrance classification were noted, in line with the definitions outlined in Scottish Badgers guidance[Error! Bookmark not defined.], which are reproduced below in

Table 4-2 and

Table 4-2 Sett entrance classifications and associated descriptions.

Table 4-1 Categories of sett and associated descriptions

Category	Description
Main	Main setts usually have several holes with large spoil heaps, and the sett generally looks well used. There are obvious paths to and from the sett and between sett entrances. In the British National Badger Survey the average number of holes for a main sett was twelve, although main setts may be much smaller, even a single hole in exceptional circumstances. Although normally the breeding sett and in continuous use, it is possible to find a main sett that has some disused or dormant entrances.
Annexe	These are often close to a main sett, normally less than 150m away, and are connected to the main sett by one or more well-worn paths. Usually there are several holes but the sett may not be in use all the time, even if the main sett is very active. The average number of holes per annexe sett in the British survey was eight.
Subsidiary	These are usually at least 50m from a main sett, and do not have an obvious path connecting with another sett. They are not continuously active. The average number of holes per subsidiary sett in the British survey was four.
Outlier	These often have little spoil outside the holes, have no obvious path connecting them with another sett, and are only used sporadically. When not in use by badgers, they are often taken over by foxes or even rabbits. However, they can still be recognised as badger setts by the shape of the tunnel (not the actual entrance hole), which is at least 25cm in diameter, and rounded or a flattened oval shape (i.e. broader than high). Fox and rabbit tunnels are smaller and often taller than they are broad. The average number of holes per outlying sett in the British survey was two.
Other	In some cases, it can be difficult to assess the status of a sett, and it is open to interpretation. It is therefore recommended that if there is uncertainty as to the type of sett present, setts should be referred to as 'Other'.

Table 4-2 Sett entrance classifications and associated descriptions

Classification	Description
Well Used	Are clear of debris and vegetation, sides worn smooth but not necessarily excavated recently.
Partially Used	Are not in regular use and have debris e.g. twigs and leaves in the entrance. They could be used after only a minimal amount of clearance.
Disused	Not in use for some time, are partially blocked and could not be used without considerable effort. Rabbits and foxes may take over part of a sett and keep disused entrances open.
Collapses	Where a tunnel has collapsed.
Air Holes	Where badgers have made a small hole in a tunnel roof from below.

4.2.2 Otter

All accessible watercourses within the Survey Area were surveyed for otter field signs. Otter field signs and survey methods are described in Bang & Dahlstrøm (2001), Sargent & Morris (2003) and Chanin (2003), and include:

- **Holts:** underground features where otters live. They can be tunnels within bank sides, underneath root-plates or boulder piles, and even man-made structures such as disused drains. Holts are used by otters to rest up during the day and are the usual location of natal or breeding sites. Otters may use holts permanently or temporarily;
- **Couches:** these are above ground resting-up sites. They may be partially sheltered, or fully exposed. Couches may be regularly used, especially in reed beds and on in-stream islands. They have been known to be used as natal and breeding sites. Couches can be very difficult to identify and may consist of an area of flattened grass or earth. Where rocks or rock armour are used as couches, these can be almost impossible to identify without observing the otter *in situ*;
- **Prints:** otters have characteristic footprints that can be found in soft ground and muddy areas;
- **Spraints:** otter faeces may be used to mark territories, often on in-stream boulders. They can be present within or outside the entrances of holts and couches. Spraints have a characteristic smell and often contain fish remains;
- **Feeding signs:** the remains of prey items may be found at preferred feeding stations. Remains of fish, crabs or skinned amphibians can indicate the presence of otter;
- **Paths:** these are terrestrial routes that otters take when moving between resting-up sites and watercourses, or at high flow conditions when they will travel along bank sides in preference to swimming; and
- **Slides and play areas:** slides are typically worn areas on steep slopes where otters slide on their bellies, often found between holts or couches and watercourses. Play areas are used by juvenile otters in play and are often evident by trampled vegetation and the presence of slides. These are often positioned in sheltered areas adjacent to the natal holt.

Any of the above signs (apart from paths) are diagnostic of the presence of otter. However, it is often not possible to identify couches with confidence, unless other field signs are also present. Spraints are the most reliably identifiable evidence of the presence of this species.

4.2.3 Pine Marten

Signs of pine marten were searched for within the Survey Area following guidance from O'Mahony *et al.* (2006) and Bright and Smithson (1997). Survey methods included:

- **Scats**: searches for pine marten scats were made along linear features such as fence lines, stone walls or forestry tracks/rides. Also searches for scats on prominent features such as tree stumps, dead logs or stones, and around rock piles and dense scrub where the species could establish a den; and
- **Dens**: identification of features which could be used as a den. Dens can include the utilisation of upturned trees, tree cavities, rocks or manmade structures such as log piles or large bird boxes.

4.2.4 Red squirrel

Areas of woodland that have the potential to support red squirrel were surveyed for squirrels, following guidance from Gurnell *et al.* (2009). Survey methods included:

- **Sightings**: visual sightings of red squirrels;
- **Dreys**: dreys are usually built close to the main stem of a tree, over 3m from ground level and over 50x30cm in size; and
- **Feeding signs**: predated cone (cone cores) searches in areas of woodland.

4.2.5 Reptiles

Targeted reptile surveys were not undertaken, however, incidental records of reptile sightings, or signs such as shed skins, and features of particular importance (i.e. potential hibernacula) were recorded, using relevant guidance (Edgar *et al.* (2010) and Catherine (2018).

4.2.6 Water Vole

All watercourses within the Survey Area were surveyed for water vole field signs following the methodology prescribed in Dean *et al.* (2016). This involved assessing the relative habitat suitability of the habitat for water vole and searching for the following field signs:

- **Faeces:** recognisable by their size, shape, and content. If not too dried-out these are also distinguishable from rat droppings by their smell;
- **Latrines:** faeces, often deposited at discrete locations;
- **Feeding stations:** food items are often brought to feeding stations along pathways and hauled onto platforms. Recognisable as neat piles of chewed vegetation up to 10cm long;
- **Burrows:** appear as a series of holes along the water's edge distinguishable from rat burrows by size and position;
- **Lawns:** may appear as grazed areas around land holes;

- **Nests:** where the water table is high above ground woven nests may be found;
- **Footprints:** tracks may occur at the water's edge and lead into bank side vegetation. May be distinguishable from rat footprints by size; and
- **Runways in vegetation:** low tunnels pushed through vegetation near the water's edge; these are less obvious than rat runs.

Dean *et al*. (2016) states that water vole droppings are the only field sign that can be used to determine water vole presence reliably on their own. Experience is required to distinguish feeding signs, burrows and footprints of water voles from those of other species. A collection of these field signs found in close proximity can indicate water vole presence.

4.2.7 Other Species

A watching brief was maintained for all other protected, notable, and/or invasive species during surveys and presence or field signs recorded as appropriate (e.g., mountain and brown hares (*Lepus* spp.) and American mink (*Neovison vison*)).

4.2.8 Species Scoped Out

Surveys for beaver (*Castor fiber*), wildcat (*Felis silvestris*), great crested newt; GCN (*Triturus cristatus*) were scoped out of field surveys due to the absence of suitable habitat (beaver) or the Survey Area being located outwith the known range or distribution (beaver, wildcat and GCN).

5 SURVEY DETAILS & LIMITATIONS/CONSTRAINTS

Surveys for protected species were undertaken on the 22, 23, 24 and 25 July 2024 inclusive, 16 and 17 September 2024 and additional surveys on the 21 March 2025. The weather conditions during surveys were dry and overcast. Watercourse levels remained normal throughout the survey period. The only limitation identified was windblow in the south-west of the Site, along the access track, which obstructed access into the forestry.

As noted above, a watching brief for protected species signs was maintained throughout all other ecology, ornithology, and peat surveys undertaken at and around the Site throughout 2024 and January 2025.

There is uncertainty associated with identifying scats produced by pine marten due to their variability in composition and their similarity with those produced by other species such as fox. DNA analysis is often used as a method to increase reliability of identification, although it is often not possible to determine to species level with this method due to possible degradation of samples or the collection of scat samples from species that cannot be sequenced (Croose *et al.*, 2014). The scats recorded within survey area that were undeterminable between pine marten and fox were therefore considered as 'potential pine marten' and a precautionary approach is applied when discussing their presence and utilisation of the Site and the habitats within the wider area.

Due to protected species mobile nature, it is possible that new features may be created in the period between surveys and the commencement of construction. It is therefore recommended

that re-fresh surveys are undertaken in advance of construction activities progressing across the Site.

6 RESULTS

6.1 Desk Study Results

6.1.1 Designated Sites

There are no designated sites within the site boundary or within 5 km of the Site boundary that are designated for non-avian protected species.

There are 10 Local Nature Conservation Sites (LNCS) within 5 km of the Site, that are designated (partially) for protected species interests. The available summary details[2,3] of these LNCS are presented in Error! Reference source not found., see also **Figure 6.1** (EIA Report Volume 2a).

Table 6-1 LNCS designated for non-avian protected species within 5 km of the Site

LNCS	Distance from Site	Description
Benquhat Hill	0.002 km	Botanically rich grassland with rare plants, birds and butterflies. Data provided by South West Scotland Environmental Information Centre (SWSEIC) identified the small heath, dingy skipper and grayling butterflies are on the Scottish Biodiversity List and considered High Priority by Butterfly Conservation. This is an unusual non-coastal location for the grayling. Scotch argus butterfly is of local interest.
Ashentree Glen Wood	2.7 km	Ashentree Glen, a small wych elm dominated woodland with good structure and dense thorn and hazel at its lower end. Data provided by SWSEIC identified a total of 63 records of butterflies listed on the Scottish Biodiversity List (SBL) were provided and include small pearl-bordered fritillary, grayling and small heath, and 16 records of dingy skipper.
Dunaskin Ironworks	3.1 km	This site is predominantly a broadleaf semi-natural woodland comprised of mature and semi-mature silver birch, hawthorn, ash, sycamore, willow and beech trees. Scattered through the south-east of the site are areas of bare ground, scrub and ephemeral / short perennial which are remnants of the ironworks activities within the site. Species gradually colonising these areas include birds-foot trefoil, clover, willow, wild strawberry, wood rush, dandelion, red campion, daisy, rosebay willowherb, all of which are moving in from the surrounding woodland. Structures present within the site, as well as the woodland likely offer suitable roosting habitat for bats, while the site generally offers foraging and commuting potential for bats. Other species which many utilise the woodland habitat include badger, nesting birds and reptiles however no evidence of any protected species was identified. The waterbody in the centre of the site is not considered suitable for any protected species.

[2] https://www.east-ayrshire.gov.uk/Resources/PDF/P/planning-nspg-local-nature-conservation-sites.pdf
[3] https://www.data.gov.uk/dataset/c3460656-74ab-435a-8f77-9a528e24beb1/local-nature-conservation-sites-scotland

LNCS	Distance from Site	Description
Craigs of Kyle	3.2 km	No information available (located in South Ayrshire).
Cumnock Burn / Pennyvenie Burn	3.4 km	The grasslands in the west of the site, south of the B741 are a mosaic of improved, poor semi-improved and marshy grasslands, some of which contain scattered scrub or broadleaf trees. Much of the land in this area is grazed by sheep therefore species indicative of improvement are widespread. Tree species present in these grasslands include beech, oak, silver birch and horse chestnut, however large areas of rhododendron are also present. The watercourse provides suitable habitat for commuting and foraging otter, as well as other species such as bats, fish, invertebrates. The watercourse is also considered suitable habitat for a range of bird species, though poaching by livestock may reduce utilisation by a number of species.
Doon Valley Wetlands	3.5 km	A range of mire and fen communities covering a sizeable area along the River Doon between Waterside and Bellsbank. Includes Bogton Loch SSSI (standing water, fen carr and flush habitats) and Dalmellington Moss SSSI (raised mire, swamp and tall herb fen). Protected species likely occurring either within or in close proximity to the Site.
River Doon Woodland	4.4 km	The southern section is predominantly wooded, with an access track running along the eastern boundary and small encroachment from a tarmac area in the south. This section is immediately bordered by Patna cemetery to the south, and the River Doon forms the eastern boundary of the site. The northern section of the site is predominantly wooded and follows the River Doon and is generally surrounded by agricultural land and small areas of woodland. Data provided by SWSEIC identified 55 records of terrestrial mammals, including 32 records of bats, of which all but one were recorded within the last 20 years, three records of otter, all from 1991, 17 records of red squirrel dated between 1997 and 2012, and two records of a brown hare, both from 2007.
Water of Coyle (Bridgend to Mill of Shield)	4.6 km	No information available (located in South Ayrshire).
Wallace Moor / Keirs Hill	4.6 km	A small area of relatively unmodified blanket bog, plus wet modified bog and wet heath/acid grassland habitats surrounded by *Molinia*-dominated marshy grassland. Bog myrtle (*Mycria gale*) is abundant. The Site itself offers no roosting potential for bats; however, an Ash tree *Fraxnius excelsior* located immediately east of the Site out-with the red line boundary offers low potential for roosting bats in the form of loose bark. Wallace Moor/Kiers Hill may offer limited potential habitat for commuting and foraging otter. Numerous drainage channels intersected the site at various points and otter prints were identified within the blanket bog habitat. A drystone wall located at the far north of the Site offers limited potential as a hibernacula for reptiles. Habitats on Site are potentially suitable to support commuting, foraging and sheltering amphibians and small mammals.

LNCS	Distance from Site	Description
Dalmellington Town Common	4.7 km	This site comprises grasslands and two small sections of scrub woodland in the north-west and south-east. There is a small watercourse within the south-east, and a minor road through the centre. The Site is considered to provide limited suitable habitat for protected species (with the exception of Muck Water) due to the open grassland nature of the Site and presence of livestock (sheep) throughout. The larger watercourse, Muck Water, may provide some suitable habitat for commuting and foraging otter and freshwater pearl mussel.

6.1.2 Online Resources/Data Searches

6.1.2.1 *NBN Atlas Scotland*

A search of the NBN Atlas Scotland (2025) covering a 5 km buffer from the Site in the past 15 years (i.e., from 2010 onwards) returned records of the following protected or notable species:

- common lizard;
- otter;
- red squirrel;
- palmate newt (*Lissotriton helveticus*); and
- adder.

The NBN Atlas Scotland search also returned records of the invasive non-native species grey squirrel (*Sciurus carolinensis*).

Details regarding licences and data providers for these records are included in **Annex B**.

6.1.2.2 *Saving Scotland's Red Squirrels (SSRS)*

Sightings of red squirrel have been recorded by Saving Scotland's Red Squirrels (SSRS, 2025) within 5 km of the Site in 2013, 2015, 2016, 2017, 2018, 2020 and 2021. The same organisation recorded grey squirrels within 5 km of the Site in 2015, 2018, 2020, 2021 and 2024.

6.1.2.3 *Deer Distribution Survey*

The Deer Distribution Survey (DDS, 2025) results suggested the presence of the following deer species in the general area of the Site:

- roe deer (*Capreolus capreolus*); and
- red deer (*Cervus elaphus*).

6.1.2.4 *Adjacent Developments*

Surveys undertaken to inform the EIA Report for North Kyle Wind Farm (2019) which is immediately adjacent to the Proposed Development, recorded evidence of:

- otter;
- badger;
- pine marten;
- water vole;
- brown hare (*Lepus europaeus*); and
- common lizard.

6.2 Field Survey Results

The 2024 survey results are summarised in **Table 6-2** below and the survey results from 2020 and 2021[4] (are summarised in **Table 6-3** below. The full detailed results are provided within **Annex C**. The additional surveyed areas in 2025 returned no results. The 2024 survey results are displayed on **Figure 6.5** (EIAR Volume 2a).

Table 6-2 Protected species survey 2024 results summary

Species	2024 Survey Results Summary	General Habitat Suitability
Badger	Evidence of badger was recorded within the Site. Specific data relating to badger is discussed in **Confidential ANNEX D**.	Large areas of plantation around the Site provide potentially suitable setting and foraging grounds. Existing tracks with embankments and shallow peat also provide potential for badger. Specific data relating to badger is discussed in **Confidential ANNEX D**.
Otter	Signs of otter were record within the Site. A total of nine spraints along the Water of Coyle and one spraint along Shield Burn.	Several watercourses are present on Site which could provide some limited suitability for otter (likely commuting and foraging only). Water of Coyle and Shield Burn are of a more suitable size for use by otter, with large sections of riparian woodland to provide shelter and potential holting opportunities.
Pine marten	Six signs of pine marten (potential scat) were recorded within the Site.	There is very limited suitable habitat for pine marten within the Site due to the extent of clear-fell. Small pockets of broadleaf woodland remain, amongst plantation coupes of varying ages.
Red squirrel	Two signs of squirrel were recorded within the plantation during the surveys; two locations with stripped cones and a potential drey. These	Areas of broadleaf woodland within the Site are small and scattered, offering limited suitability for red squirrel. The mature Sitka spruce offer limited suitable habitat and food availability.

[4] The data collected in 2020 and 2021 was collected to inform a previous iteration of the North Kyle Wind Farm. The area of the Proposed Development was not developed as North Kyle Wind Farm so although older and not directly linked to the Proposed Development, the data collected provides additional context to the desk study.

Species	2024 Survey Results Summary	General Habitat Suitability
	signs could not be confirmed as being of red squirrel.	
Reptiles	One reptile sighting was recorded. Furthermore, one feature with the potential for use by hibernating reptiles was identified in the course of the surveys; a pile of stones on a forestry ride.	The isolated wet modified bog and marshy grassland sections of the Site provide suitable foraging habitat for reptiles.
Water vole	Two burrows and feeding signs of potential water vole were recorded during the surveys.	Several watercourses are present on Site which could provide some suitability for water vole. Rush vegetation was noted as present along some watercourses, which could provide foraging opportunities for water vole.
General	One mammal hole was recorded on the Site. This was of a size suitable for badger, but no definitive signs of use by badger were found. Others were likely to be in use by rabbits or foxes.	n/a
Other Species	No signs of other notable species were recorded during the surveys.	n/a

Table 6-3 Protected species survey 2020 and 2021[4] results summary

Species	2020 and 2021 Survey Results Summary
Badger	Evidence of badger was recorded within the Site. Specific data relating to badger is discussed in **Confidential ANNEX D**.
Otter	Signs of otter were recorded within the Site. A total of thirty spraints, predominantly along the Water of Coyle were noted.
Pine marten	A pine marten was sighted in 2020; this was an incidental recording during an ornithology survey.
Red squirrel	An incidental record of red squirrel (sighting of an individual) was recorded in 2020. Eighteen instances of feeding signs of squirrel were recorded within the plantation during the surveys. These were not confirmed as being from red squirrel.
Reptiles	Fifteen reptile sightings were recorded. Furthermore, seven features with the potential for use by hibernating reptiles were identified during the surveys, with these attributed to existing stone walls, vegetated wood pile and old stacked wood.
Water vole	Three potential feeding signs of water vole were recorded during the surveys.
General	Six mammal holes were recorded on the Site. These varied in size however, only four were of a suitable size for badger. Other than a path, no definitive signs of use by badger were found. Others were likely to be in use by rabbits or foxes.
Other Species	A single brown hare sighting was recorded.

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ANNEX A. LEGAL PROTECTION

A full list of protected species and the associated legislation can be found on the NatureScot website[5]. The following provides a summary of legal protection; the actual legislation should be consulted for the definitive list of offences.

Bats, Beaver, Great Crested Newt (GCN), Otter and Wildcat

All bat species, beaver, GCN, otter and wildcat receive protection in Scotland under the Conservation (Natural Habitats, &c.) Regulations (1994) (as amended) (the "Habitats Regulations"), being classified as European protected species of animals[6].

For European protected species, NatureScot guidance[7] sets out that it is an offence to deliberately or recklessly:

- capture, injure or kill an animal;
- harass an animal or group of animals;
- disturb an animal while it is occupying a structure or place used for shelter or protection;
- disturb an animal while it is rearing or otherwise caring for its young;
- obstruct access to a breeding site or resting place, or otherwise deny an animal use of a breeding site or resting place;
- disturb an animal in a manner or in circumstances likely to significantly affect the local distribution or abundance of the species;
- disturb an animal in a manner or in circumstances likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young;
- disturb an animal while it is migrating or hibernating;
- take or destroy an animal's eggs (GCN); or
- damage or destroy a breeding site or resting place of such an animal (these sites and places are protected even when the animal is not present)[8].

Regulation 44(2)(e) of the Habitats Regulations allows a licence to be granted for activities ordinarily prohibited, where that purpose is:

> "Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment."

[5] NatureScot (2022). Table of all of Scotland's Protected Species. Online: https://www.nature.scot/doc/table-all-scotlands-protected-species [Accessed September 2023].
[6] Schedule 2.
[7] NatureScot. (2023). European protected species. Online: https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species/legal-framework/habitats-directive-and-habitats-regulations/european-protected [Accessed September 2023].
[8] Note that this is a summary of offences. Refer to Regulations 39 and 40 of the Habitats Regulations for legislative context.

Mountain Hare, Pine Marten and Red Squirrel

Mountain hare, pine marten and **red squirrel** and are protected in Scotland under the Wildlife and Countryside Act 1981[9].

Under Sections 9(1) and 9(2) of the 1981 Act, it is an offence to intentionally or recklessly kill, injure or take such an animal, or be in possession or control of such an animal (whether live or dead).[10]

Under Section 9(4)(a) and (b), it is an offence to intentionally or recklessly:

- damage or destroy, or obstruct access to, any structure or place which any wild animal included in Schedule 5[11] uses for shelter or protection; or
- disturb any such animal while it is occupying a structure or place which it uses for that purpose.

Further, Section 9(5) sets out that it is an offence to:

- sell, offer or expose for sale, or possess or transport for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or
- publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.

[9] Schedule 5.
[10] See exceptions under Section 9(3).
[11] Animals which are protected under Section 9 of the Wildlife and Countryside Act 1981.

Water Vole

Water vole is protected in Scotland under Sections 9(4) and 10 of the Wildlife and Countryside Act 1981[12].

Under Section 9(4)(a) and (b) of the Wildlife and Countryside Act 1981, it is an offence to intentionally or recklessly:

- damage or destroy, or obstruct access to, any structure or place which any wild animal included in Schedule 5[13] uses for shelter or protection; or
- disturb any such animal while it is occupying a structure or place which it uses for that purpose.

Section 10(3)(c) provides for exceptions under Section 9, such that a person shall not be guilty of an offence where that person shows:

- that each of the conditions specified in subsection (3A) was satisfied in relation to the carrying out of the unlawful act; or
- that the unlawful act was carried out in relation to an animal bred and, at the time the act was carried out, lawfully held in captivity.

Subsection (3A) states those conditions referred to in Section 10(3)(c) are:

a) That the unlawful act was the incidental result of a lawful operation or other activity;

b) That the person who carried out the lawful operation or other activity:

   i. took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or

   ii. did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and

c) That the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent to the person, such steps as were reasonably practicable in the circumstances to minimise the damage or disturbance to the wild animal, or the damage or obstruction to the structure or place, in relation to which the unlawful act was carried out.

[12] as amended by the Nature Conservation (Scotland) Act 2004.
[13] Animals which are protected under Section 9 of the Wildlife and Countryside Act 1981.

Badger

Badger is protected in Scotland under the Protection of Badgers Act 1992 (the "Badgers Act")[14].

Under Section 1(1) of the Badgers Act, "a person is guilty of an offence if, except as permitted by or under this Act, he wilfully kills, injures or takes, or attempts to kill, injure or take, a badger."

Where it can reasonably be concluded that a person had been attempting to kill, injure or take a badger, then it will be presumed that that person had been attempting to do so, unless it can be proven otherwise[15].

Under Section 1(3), unless authorised under the Badgers Act, a person is guilty of an offence where "he has in his possession or under his control any dead badger or any part of, or anything derived from, a dead badger."

Under Section 3(1), unless authorised under the Badgers Act, it is an offence to interfere with a badger set*. The following actions are described as interference:

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

intending to do any of those things or being reckless as to whether his actions would have any of those consequences.

It is also an offence if a person knowingly causes or permits any of the above actions to be carried out[16].

*Note: A badger sett is defined under the Badgers Act as any structure or place which displays signs of current use by a badger.[17]

[14] as amended by the Nature Conservation (Scotland) Act 2004 (as amended).
[15] Section 1(2) of the Badgers Act.
[16] Section 3(2).
[17] Section 14.

Reptiles

The three native species of **reptile** to Scotland, **adder**, **slow worm** and **viviparous lizard**, are protected under Section 9(1) (insofar as the action relates to killing or injuring the animal), and Section 9(5) of the Wildlife and Countryside Act 1981.

Under Section 9(5), it is an offence to:

- sell, offer or expose for sale, or possess or transport for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal.
- publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.

Section 10(3)(c) provides for exceptions under Section 9, such that a person shall not be guilty of an offence where that person shows:

- that each of the conditions specified in subsection (3A) was satisfied in relation to the carrying out of the unlawful act; or
- that the unlawful act was carried out in relation to an animal bred and, at the time the act was carried out, lawfully held in captivity.

Subsection (3A) states those conditions referred to in Section 10(3)(c) are:

a) That the unlawful act was the incidental result of a lawful operation or other activity;

b) That the person who carried out the lawful operation or other activity:

   i. took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or;

   ii. did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and

c) That the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent to the person, such steps as were reasonably practicable in the circumstances to minimise the damage or disturbance to the wild animal, or the damage or obstruction to the structure or place, in relation to which the unlawful act was carried out.

Other Protected Species

Freshwater pearl mussel is protected by the Wildlife and Countryside Act 1981 (as amended) and by the Nature Conservation Act 2004. They are also listed as endangered on the IUCN/WCMC Red Data List. Offences relevant to development works include to intentionally or recklessly:

- kill, injure, take or disturb a freshwater pearl mussel;
- damage, destroy or obstruct access to a riverbed supporting freshwater pearl mussels.

Some freshwater pearl mussel populations are qualifying features of Special Areas of Conservation (SACs) and therefore receive further legal protection under the Habitats Regulations.

ANNEX B. NBN ATLAS SCOTLAND DATA PROVIDERS AND LICENCES

Table B-1 Data Providers and Licence Details for NBN Atlas Scotland Records Used

Species	Reason for Inclusion	Data Provider (Recorder)	Licence
Common lizard	Protected species (Wildlife and Countryside Act 1981)	Amphibian and Reptile Conservation, and Biological Records Centre (S. Shanks, G. Smart, D. Reid) Scottish Wildlife Trust (A. Anderson)	CC-BY[18]
Otter	Protected species (Conservation (Natural Habitats, &c.) Regulations 1994 (as amended))	Wild Surveys Ltd (Wild Surveys) Scottish Natural Heritage	CC-BY OGL[19]
Red squirrel	Protected species (Wildlife and Countryside Act 1981, Nature Conservation (Scotland) Act 2004)	Scottish Wildlife Trust	CC-BY
Palmate newt	Protected species (Wildlife and Countryside Act 1981)	Amphibian and Reptile Conservation, and Biological Records Centre (M. Haddow)	CC-BY
Adder	Protected species (Wildlife and Countryside Act 1981)	Amphibian and Reptile Conservation, and Biological Records Centre (G. Smart, E. Hay, CEI, D. Whytock, Z. Clelland)	CC-BY
Grey squirrel	Invasive species	Scottish Wildlife Trust	CC-BY

[18] Open Government Licence (OGL) https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ [Accessed January 2025].
[19] Creative Commons with Attribution 4.0 (CC-BY) https://creativecommons.org/licenses/by/4.0/ [Accessed January 2025].

ANNEX C. SURVEY RESULTS

Table C- 1 below details the relevant data collected for protected species during surveys for the Site in 2024 and 2025, sorted by species, then survey date (see also **Figure 6.5** (EIA Report Volume 2a)). Confidential information relating to badger setts is contained within **Confidential Annex D** and shown on **Figure 6.5C** (EIA Report Volume, 2a).

Table C- 1 Protected species survey results 2024

Species	Sign	Easting	Northing	Survey date	Notes
General	Squirrel Feeding Sign	253190	615644	22/07/2024	Pair of stripped cones at the base of a conifer in the plantation.
General	Squirrel Feeding Signs	254619	614882	23/07/2024	Two messily stripped cones at the base of conifer trees.
General	Squirrel Feeding Sign	246257	611394	05/08/2024	Stripped cone found below tree in forestry.
General	Squirrel Drey	253431	614595	23/07/2024	Potential drey; near the top of a conifer in the centre of the plantation. Roughly football-sized bundle of sticks where the branch meets the trunk. No feeding remains found nearby.
General	Squirrel Drey	249385	614049	24/07/2024	Potential drey; roughly football-sized bundle of sticks at the fork of the branch and trunk around 10 m up a conifer within the plantation. No other field signs found around it.
General	Red Squirrel	253000	615500	13/06/2024	Seen running across the access track.
General	Mammal Hole	246561	611124	25/07/2024	Single entrance with no specific field signs. Of a size and shape for badger. Some vegetation in the entrance; partly used.
Otter	Spraint	251688	615283	22/07/2024	Relatively old spraint on a rock within the watercourse.
Otter	Spraint	247926	612466	25/07/2024	Old spraint on a rock in the centre of Water of Coyle.
Otter	Spraint	248043	612354	25/07/2024	Old spraint on a rock in Water of Coyle.
Otter	Spraint	248202	612307	25/07/2024	Old spraint on a rock in Water of Coyle.
Otter	Spraint	247318	612315	25/07/2024	Remains of a potential old spraint on a rock within the watercourse.
Otter	Spraint	247205	612702	25/07/2024	Large, relatively fresh spraint on a rock at the edge of a watercourse.
Otter	Spraint	246419	613417	17/09/2024	Potential otter spraint. The age and colour gave uncertainty, but bones are definitely present. On a rock within the watercourse.

Species	Sign	Easting	Northing	Survey date	Notes
Otter	Spraint	246565	613306	17/09/2024	Recent spraint on a rock within the watercourse.
Otter	Spraint	246724	613205	17/09/2024	Spraint on a rock within the watercourse.
Otter	Spraint	246754	613139	17/09/2024	Spraint on a rock within the watercourse.
Pine marten	Potential Scat	252559	615090	22/07/2024	Potential scat on a trackway through conifers and willows.
Pine marten	Potential Scat	253529	614563	23/07/2024	Fresh, thin, dark, coiled scat along a grassy pathway through a clearing in plantation.
Pine marten	Potential Scat	253572	614601	23/07/2024	Two old potential scats on top of a drystone sheepfold.
Pine marten	Potential Scat	254840	615095	23/07/2024	Fresh potential scat along a well-used mammal track through the plantation.
Pine marten	Potential Scat	249892	613304	24/07/2024	Potential old dry, colourless scat on a track.
Pine marten	Potential Scat	246231	611399	05/08/2024	Scat with berries and bones on a grassy hummock in the plantation.
Reptile	Common Lizard Sighting	253054	615937	22/07/2024	An individual running through the long grass.
Reptile	Potential Hibernaculum	247671	611316	05/08/2024	Pile of rocks in a forestry ride.
Water vole	Burrow and feeding signs.	248226	613316	24/07/2024	Small hole with vole feeding signs, multiple chewed reeds
Water vole	Feeding Station/Clippings	246687	614099	17/09/2024	Significant amount of cut vegetation at 45-degree angle. Within 30 cm of watercourse.
Water vole	Feeding Station/Clippings	246345	613423	17/09/2024	Potential feeding station around 2 m from watercourse. Not recently active. Vegetation cut at 45-degree angle.
Water vole	Burrow	246757	613146	17/09/2024	Several entrances, approximately 2 m from watercourse.

Table C- 2 below details the relevant data collected for protected species during surveys for the Site in 2020 and 2021[4], sorted by species, then survey date. Confidential information relating to badger setts is contained within **Confidential Annex D.**

Table C- 2 Protected species survey results 2020 and 2021[4]

Species	Sign	Easting	Northing	Survey date	Notes
General	Mammal Hole	247670	613811	16/06/2020	Incomplete mammal hole. Near badger path on ride. Could be used by badger.
General	Squirrel Feeding Sign	248551	613341	16/06/2020	Cone scales and messy stripped cones.
General	Squirrel Feeding Sign	248182	613544	16/06/2020	Cone scales and messy stripped cones.
General	Squirrel Feeding Sign	247608	611757	30/06/2021	Stripped cone.
General	Squirrel Feeding Sign	247782	611825	30/06/2021	Stripped cone.
General	Squirrel Feeding Sign	247880	612009	30/06/2021	Stripped cone.
General	Squirrel Feeding Sign	247527	611933	30/06/2021	Stripped cone.
General	Squirrel Feeding Sign	247587	612021	30/06/2021	Stripped cone.
General	Squirrel Feeding Sign	246693	611928	30/06/2021	Stripped cone.
General	Mammal Hole	246538	611194	01/07/2021	No protected species features noted. Hole extends beyond sight, with roots narrowing hole slightly. Mice feeding cones noted in hole entrance. Approximately 13 cm wide.
General	Squirrel Feeding Sign	246363	611331	01/07/2021	Stripped cone.
General	Squirrel Feeding Sign	246589	611207	01/07/2021	Stripped cone.
General	Squirrel Feeding Sign	246682	611207	01/07/2021	Stripped cone.
General	Squirrel Feeding Sign	246723	611193	01/07/2021	Stripped cone.
General	Squirrel Feeding Sign	246821	611119	01/07/2021	Stripped cone.
General	Squirrel Feeding Sign	246697	611132	01/07/2021	Stripped cone.
General	Squirrel Feeding Sign	246531	611189	01/07/2021	Stripped cone.

Species	Sign	Easting	Northing	Survey date	Notes
General	Squirrel Feeding Sign	246731	611359	01/07/2021	Stripped cone.
General	Mammal Hole	247412	609925	02/07/2021	Restored area. Borders terrain and habitat suited to badgers. Path leading to holes. Approximately 14 cm wide hole. Hole narrows too low for badger but is linked to the adjacent hole entrance. No protected species signs noted.
General	Mammal Hole	247412	609926	02/07/2021	Restored area, borders terrain and habitat suited to badgers. Path leading to holes. Approximately 20 cm wide hole. Wide and clear entrance. Hole mainly vertical to the surface, before leading to a D shaped hole. No protected species signs noted.
General	Mammal Hole	247410	609929	02/07/2021	Restored area, borders terrain and habitat suited to badgers. Path leading to holes. Approximately 20cm wide hole. Wide hole leading vertically down. Hole likely linked directly to other holes. No protected species signs.
General	Mammal Hole	249715	613500	02/07/2021	Mammal hole. Only the start of a hole and enters by 30cm. D-shaped tunnel beyond the initial entrance. No further protected species signs noted.
General	Squirrel Feeding Sign	248907	613684	02/07/2021	Stripped cone.
General	Squirrel Feeding Sign	248695	613434	02/07/2021	Stripped cone.
Hare	Brown Hare Sighting	247500	611563	30/06/2021	Seen running on the road.
Otter	Feeding Signs	248652	613379	16/06/2020	Peeled-away toad skin. Most likely otter foraging sign. Adjacent to a slow-moving drain linked to a bigger drain flowing out of survey area.
Otter	Spraint	248576	611993	13/07/2020	Old otter spraint on in-stream rock.
Otter	Spraint	248043	612346	30/06/2021	Single spraint on boulder in middle of the Water of Coyle.
Otter	Spraint	247961	612419	30/06/2021	Single spraint on a boulder at the bank of the Water of Coyle. Old spraint.
Otter	Spraint	247934	612434	30/06/2021	Single spraint on a boulder at the bank of the Water of Coyle.
Otter	Spraint	247882	612541	30/06/2021	Two spraints on a boulder at the bank of the Water of Coyle (one old and one new).
Otter	Spraint	247630	612651	30/06/2021	Single spraint on a boulder at the bank of the Water of Coyle.

Species	Sign	Easting	Northing	Survey date	Notes
Otter	Spraint	247309	612378	30/06/2021	Single very old spraint on a boulder at the bank of the Water of Coyle tributary.
Otter	Spraint	247340	612248	30/06/2021	Single spraint on a boulder at the bank of the Water of Coyle tributary.
Otter	Spraint	247350	612215	30/06/2021	Single spraint on a boulder at the bank of the Water of Coyle tributary.
Otter	Spraint	247358	612200	30/06/2021	Single spraint on a boulder at the bank of the Water of Coyle tributary.
Otter	Spraint	247362	612183	30/06/2021	Single spraint on a boulder at the bank of the Water of Coyle tributary.
Otter	Spraint	247139	612824	30/06/2021	One new and one old spraint on boulder.
Otter	Spraint	247009	612815	30/06/2021	One old spraint.
Otter	Couch	246992	612906	30/06/2021	Multiple spraints and staining of different ages on rock. Used often.
Otter	Spraint	246922	613053	30/06/2021	Old spraint.
Otter	Spraint	246810	613161	30/06/2021	Single spraint.
Otter	Spraint	246698	613238	30/06/2021	Old spraint.
Otter	Spraint	246629	613241	30/06/2021	Single spraint.
Otter	Spraint	246587	612667	30/06/2021	Very old single spraint on Hawford Burn.
Otter	Spraint	246578	612619	30/06/2021	Very old single spraint on Hawford Burn.
Otter	Spraint	246519	612298	30/06/2021	None taken.
Otter	Couch	246469	612182	30/06/2021	Multiple spraints of different ages. One spraint recent. Bare section on rock free from moss.
Otter	Spraint	246451	612181	30/06/2021	Single old spraint.
Otter	Spraint	246791	611908	30/06/2021	Within forestry block along a mammal path.
Otter	Spraint	248619	609028	02/07/2021	Located at waterbody bank.
Otter	Spraint	248907	613684	02/07/2021	None taken.
Otter	Spraint	248747	613757	02/07/2021	None taken.

Species	Sign	Easting	Northing	Survey date	Notes
Otter	Spraint	248732	613764	02/07/2021	None taken.
Otter	Spraint	248702	613774	02/07/2021	None taken.
Otter	Spraint	248625	613841	02/07/2021	None taken.
Otter	Spraint	248417	614045	02/07/2021	None taken.
Otter	Footprints/Tracks	248483	613985	02/07/2021	None taken.
Otter	Spraint	248500	613956	02/07/2021	Old spraint.
Pine Marten	Sighting	249169	610281	16/12/2020	Seen at 0720 during ornithology survey.
Red Squirrel	Sighting			03/09/2020	Four individuals seen during ornithology survey.
Red Squirrel	Sighting			04/09/2020	Two individuals seen during ornithology survey.
Reptile	Common Lizard Sighting	246690	612461	01/06/2020	Common lizard seen during peat survey.
Reptile	Common Lizard Sighting	246584	613118	01/06/2020	Common lizard seen during peat survey.
Reptile	Common Lizard Sighting	246546	612383	01/06/2020	Common lizard seen during peat survey.
Reptile	Potential Hibernaculum	248179	613561	16/06/2020	Heavily vegetated branch and wood pile with water metal. Would give refuge to reptiles and amphibians. Approx. 3.5 x 2 m.
Reptile	Potential Hibernaculum	248641	613394	16/06/2020	Low, old, stacked piles of wood. Vegetated but could provide some means of refuge. Likely found in many places within the site.
Reptile	Common Lizard Sighting	248490	613529	16/06/2020	Common lizard sighting.
Reptile	Potential Hibernaculum	248163	613438	16/06/2020	Log pile.
Reptile	Potential Hibernaculum	247549	613598	16/06/2020	Feature in a cleared area. Moss-covered piles of wood.
Reptile	Common Lizard Sighting	247894	614000	16/06/2020	None taken.
Reptile	Common Lizard Sighting	248014	613533	16/06/2020	None taken.
Reptile	Common Lizard Sighting	248094	613057	17/06/2020	None taken.
Reptile	Common Lizard Sighting	248132	612223	30/06/2021	None taken.

Species	Sign	Easting	Northing	Survey date	Notes
Reptile	Potential Hibernaculum	246836	612639	30/06/2021	Length of stone wall remains.
Reptile	Common Lizard Sighting	247106	612820	30/06/2021	None taken.
Reptile	Common Lizard Sighting	246572	612689	30/06/2021	None taken.
Reptile	Potential Hibernaculum	245959	611588	30/06/2021	Existing stone wall at the survey area boundary.
Reptile	Potential Hibernaculum	246108	611480	01/07/2021	Existing stone wall at survey area boundary.
Reptile	Common Lizard Sighting	246864	610881	01/07/2021	None taken.
Reptile	Common Lizard Sighting	247928	610550	01/07/2021	None taken.
Reptile	Common Lizard Sighting	247615	610286	02/07/2021	None taken.
Reptile	Common Lizard Sighting	249025	609111	02/07/2021	Two common lizards seen.
Reptile	Common Lizard Sighting	248945	609138	02/07/2021	None taken.
Water Vole	Feeding Station/Clippings	248669	613404	16/06/2020	Potential water vole. Mixed size but 45 degree angle. Range of lengths from 3 to 9 cm. No droppings other than field vole. Adjacent to slow moving drain. Low but heavily vegetated with mainly Juncus spp. Hard to see full bank because of flattened vegetation.
Water Vole	Feeding Station/Clippings	247778	613027	17/06/2020	Potential water vole feeding signs. 40 cm to 4 cm in length. No latrines to check species. Located next to the beginning of the tributary. Field vole droppings 5 m away but quite a bit 45 degree cut.
Water Vole	Feeding Station/Clippings	248954	613412	02/07/2021	Potential water vole. Grass clippings (10 cm long). No other field signs and could be associated to field vole. Located in suitable water vole habitat. No diagnostic water vole field signs found.