

**DAVID CLEMENTS ECOLOGY LTD**

**BRO TATHAN UTILITIES**

**WILDLIFE PROTECTION PLAN**

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**David Clements Ecology Ltd**  
**Carlton House, 5 Herbert Terrace, Penarth, Glamorgan, CF64 2AH**  
**Tel: 029 20 350120 Fax: 029 20 711997**  
**[info@dce.org.uk](mailto:info@dce.org.uk)**

<b>Author:</b>	Jonathon Lee MSc BSc (Hons) MCIEEM	26/07/2023
<b>Checked by:</b>	Zoe Beynon MRes BSc (Hons)	26/07/2023
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## 1.0 INTRODUCTION

- 1.1 David Clements Ecology (DCE) have been commissioned by Welsh Government to carry out an assessment of the likely ecological impact of a proposed new Utilities Ring Main and all additional connections from this primary route, to provide utility services for the Bro Tathan Business Park, located in St Athan, The Vale of Glamorgan. The location of the proposed utilities route is shown on Plan 1.
- 1.2 The Bro Tathan site is divided into five areas. Bro Tathan North is partially developed as a business park and surrounded by agricultural fields. Both Bro Tathan West and Bro Tathan East comprise a complex of former Ministry of Defence buildings, together with associated roads, hardstandings and infrastructure, within a context of landscaped grassland and planted trees. Bro Tathan South contains a number of former MOD buildings in a semi-rural context with farmland and a small area of woodland. There is also an airside section which forms part of the St Athan Airfield.
- 1.3 The installation of the utilities services route will involve the excavation of trenches. These will be approximately three metres deep and two metres wide for foul & surface water drainage, and one metre deep and up to three and a half metres wide for the electric cabling and other services. The working area either side of the trenches will be up to five metres. The topsoil will be put to one side while water pipes, electricity cables and spare ducting are installed. This will cause a temporary disturbance, until the service connections have been completed and the trenches backfilled.
- 1.4 It is understood that a small number of young trees and shrubs will need to be removed to facilitate the trenches. There is potential for various protected species to be impacted by the works. This report sets out a Wildlife Protection Plan for the works required.
- 1.5 The site was subject to an ecological assessment which evaluated the potential of the site to support protected habitats and species (DCE 2023). This report referenced numerous additional surveys carried out across the wider Bro Tathan site between 2019 and 2023.

## 2.0 ECOLOGICAL PRIORITIES FOR CONSERVATION MANAGEMENT

### 2.1 Habitats

- 2.1.1 The site does not lie within or adjacent to any statutory or non-statutory designated wildlife sites. No such sites in the neighbouring area are at risk of being affected by the proposed works.
- 2.1.2 The following habitat features of interest have been identified:
- **Hedgerows:** There is a small section of hedgerow on the edge of the airfield which will be affected by the works. Hedgerows are listed as being of biodiversity conservation importance under Section 7 of the Environment

(Wales) Act 2016<sup>1</sup>. They are therefore considered to be of at least High Local value for wildlife.

2.1.3 The remaining habitats within the site of the proposed works comprise semi-improved neutral grassland with scattered trees, bramble and blackthorn scrub, tall ruderal vegetation and tarmacked hardstanding. These other habitats of the site are considered to be of no greater than Local value for wildlife.

2.1.4 The development will result in the temporary loss of narrow bands of vegetation; these areas will be allowed to revegetate once the works are completed. A small number of trees and small section of hedgerow will be removed; these will be replaced through additional planting (DCE 2023).

## 2.2 **Species**

### *Protected Species*

2.2.1 The wider site supports the following species which are afforded full statutory protection (See DCE 2023 for more details and Appendix 1 for details of the statutory protection of species as applied in the UK):

- Great-crested newt
- Hazel dormouse
- Otter
- Bats
- Badger
- Nesting birds
- Common reptiles

### *'Section 7' Species*

2.2.2 The following 'Section 7' species listed as being of 'principal importance' in Wales are either known or are considered likely to be present on the site:

- Brown hare
- Hedgehog
- Polecat
- Common toad
- European eel
- Cinnabar moth

2.2.3 In addition, a number of bird species that are Section 7 listed / of conservation concern have been recorded on the wider site including skylark, whitethroat, yellowhammer, mistle thrush, linnets and barn owl.

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<sup>1</sup> In Wales the s.7 list of the EWA 2016 supersedes the s.42 list of the Natural Environment & Rural Communities Act 2006, which in turn replaced the 'Priority Species' lists of the UK Biodiversity Action Plan and its Welsh equivalent.

### **3.0 WILDLIFE PROTECTION PLAN**

#### **3.1 Whole site**

##### *Nesting Birds*

- 3.1.1 Any works affecting potential bird nesting habitats, including trimming and clearance of scrub and hedges etc, should avoid the main bird nesting season which runs approximately from March to August inclusive. If works must be carried out during this period, they must be preceded by a nesting bird survey. As small areas of potential bird nesting habitat will need to be removed from several areas of the site, any scrub, small trees or bramble should ideally be cleared to approximately 200mm height during the winter period and then maintained in this condition by regular re-cutting until the start of the ground works.
- 3.1.2 Skylark, a ground nesting bird, is known to nest on areas of the airfield and also in the fields adjacent to the site at Bro Tathan North. Ideally works on the airfield will take place between September and February, to avoid the possibility of disturbing nesting skylark. Otherwise, pre-works nesting bird checks will need to be carried out and works may need to be delayed or the utilities route diverted, if skylark is found to be nesting.

##### *Reptiles and Other Hibernating Animals*

- 3.1.3 Small numbers of slow worm could potentially move on to any grassland areas of the site, particularly areas that are left unmanaged. Therefore regular grass cutting should continue along the utilities route, to reduce the attraction of the site for slow worm. Any areas of grassland that are left unmanaged are likely to require a reptile method statement to be adhered to, while carrying out for the works.
- 3.1.4 Reptiles, amphibians and mammals such as hedgehogs are particularly vulnerable during the hibernation period (usually November – February/ March inclusive). Any works across the site affecting potential hibernation habitat such as rubble or wood piles, loose hard standings, tree stumps and roots, etc should take place between April and October to avoid harm to any protected species.

##### *Bats*

- 3.1.5 The utilities route through Bro Tathan East passes fairly close to two existing bat houses, known to be used for roosting throughout the year. The planned route will not encroach within five metres of the bat houses. If any changes are needed, works within five metres of the bat houses will take place outside of the bat maternity period (between May and August inclusive), to reduce the risk of disturbance. Heras fencing will be installed around a five metre buffer zone around the bat houses for the duration of the works. None of the trees in the vicinity of the bat house will need to be removed to facilitate the utilities route.
- 3.1.6 A number of trees close to the utilities route have potential for use by bats, although to date there is no evidence that any of these trees are being used for roosting. Any trees

that require removal or pruning must be checked beforehand by a bat ecologist and any further advice followed.

***Otter, Badger, Hedgehog and other Mammals***

- 3.1.7 The development will take a precautionary approach in respect of otter and badger, although it is unlikely that either of these species are present within the site of the proposed works. Any Heras fencing will be installed with gaps underneath at least 250mm high to allow passage by otter, badger and other fauna. See also under ‘Lighting’, below.
- 3.1.8 Further mitigation during the clearance and construction phases will include:
- Night-time working will be kept to a minimum, although there may be a need to carry out connections and disconnections of services outside of normal office hours;
  - There will be no lighting of the site at night, other than by short-duration PIR motion-activated security lighting;
  - Any trenches >0.5m in depth will either be covered at night or will be left with a gently sloped plank (or similar) running from the bottom to the surface to act as an escape ramp for any fauna which may fall in, including other species such as hedgehog etc;
  - Any open pipework with an outside diameter of greater than 120mm must be covered at the end of each work day to prevent hedgehogs and other small mammals entering/becoming trapped. Any exposed pipes and trenches must be checked for trapped otters (and other wildlife) each morning before starting construction activities.

***Habitats***

- 3.1.9 Hedges, trees and areas of scrub or woodland to be retained will be treated in accordance with British Standard BS5837 (2012) Trees in Relation to Design, Demolition & Construction: Recommendations.
- 3.1.10 Materials storage, mixing areas, refuelling areas, haul routes and site compounds etc should not be sited near areas of retained habitat, and should be suitably fenced and bunded where they stand adjacent to such habitats. All such areas will be drained and bunded in accordance with current requirements and best practice so as to prevent any incidental or accidental spillages of potential contaminants (e.g. mixing slurry, wash down, oil and diesel etc) affecting retained habitat or nearby water courses.

***General Precautionary Approach for Protected Species***

- 3.1.11 All contractors carrying out works on the site will be warned of the *possible* presence of nesting birds, dormouse, badger, great-crested newt, common reptiles, etc and of their protected status etc, through the undertaking of a ‘Toolbox Talk’ immediately prior to the commencement of works. Contractors will be issued with a written method statement setting out the general principles and things to look out for etc that will be circulated to all

site personnel including any new workers. Contractors will be required to sign a copy of the method statement to indicate that they have seen it.

- 3.1.13 For most areas of the site where works will take place, there is a minimal risk of encountering any protected species. However, in the event that evidence of nesting birds, common reptiles, dormouse or badger, etc are unexpectedly discovered or suspected anywhere on the site following the commencement of works, all work in the immediate find area will cease immediately and the advice of the Supervising Ecologist will be sought as a matter of urgency.
- 3.1.13 The ‘immediate area’ in this context will include any occupied tree/shrub in its entirety and any other habitats for an area of at least 5m radius around the find-site, or greater if deemed advisable. The affected area will be clearly demarcated on the ground by means of striped bunting or similar and made off-limits to all site personnel. Appropriate measures to rectify the situation in accordance with statutory obligations and responsibilities will be determined at the time by the Supervising Ecologist, and may include consultations with the statutory agencies and the seeking of derogation licences etc.
- 3.1.14 An appropriately qualified and licensed Supervising Ecologist will be available on an ‘on-call’ basis throughout the development, in order to deal promptly with any ecological matters which may arise during clearance and construction works. They will visit the site at appropriate intervals to monitor progress and check for compliance with the terms of this document.

## 3.2 **Areas that Require Ecological Supervision**

- 3.2.1 Certain areas of the site are more sensitive in terms of having a higher risk of protected species being present. Works within these areas must be carried out during specific seasons and follow a protected species method statement, under ecological supervision. These sensitive areas are shown in Plan 2.

### *The Rotary Zone and West Orchard (GCN)*

- 3.2.2 Plans 2a and 2b show areas with a risk of encountering great-crested newt (GCN). Both areas have ponds used by GCN for breeding; the pond within the Rotary zone is close to the proposed route of the utilities trench (within 10m), while the four ponds within West Orchard are at least 30m from the route.
- 3.2.3 It is likely that an NRW European Protected Species (EPS) licence will need to be in place to carry out works in these two areas. A detailed method statement will need to be included in the licence application.
- 3.2.4 The works will need to take place between April and June when GCN are likely to be in the ponds, rather than the terrestrial habitat. Due to the temporary nature of the works, no installation of barrier fencing is likely to be necessary. However, all works in these areas will be carried out under the supervision of a suitably qualified ecologist. The method statement followed will be similar to the Reptile Method Statement in Appendix 2; however, immediately prior to works in a particular area there will be a need for extensive finger-tip searching by the ecologist.

***Bro Tathan North***

- 3.2.5 Plan 2c shows an area within Bro Tathan North with an increased risk of common reptiles (slow worm) being present. Work in this area will need to be carried out during the active reptile season, between April and October inclusive, following the method statement in Appendix 2. The works will be supervised by a suitably qualified ecologist.

***Bro Tathan West/ MOD West Camp***

- 3.2.6 Plan 2d shows an area adjacent to MOD West Camp with potential for dormouse as well as nesting birds and badger. Work in this area will ideally take place in September-October, outside of the nesting bird season and outside of the dormouse hibernation period. As the habitat is poorly connected to other dormouse habitat and the risk of encountering this species is assessed as being minimal, works in this area will follow the non-licenced Dormouse Method Statement in Appendix 3.
- 3.2.7 The blackthorn and bramble scrub habitats within the section of Bro Tathan West/ MOD West Camp has potential to provide enough cover for a badger sett. Although there is no current evidence of badger activity on the site, a pre-works badger survey by a suitably experienced ecologist will be carried out on these scrub habitats.

**4.0 REFERENCES**

**Bat Conservation Trust (BCT 2018)** *Guidance Note: Bats & Artificial Lighting in the UK.* Bats & the Built Environment Series, Guidance Note No. 08/18: 25pp.)

**Bright, P, Morris, P & Mitchell-Jones, A (2006)** *The Dormouse Conservation Handbook (2nd Edition).* English Nature, Peterborough.

**David Clements Ecology Ltd (DCE 2023)** *Bro Tathan Utilities, St Athan, Vale of Glamorgan: Ecological Assessment, July 2023.* Unpublished report

**English Nature (EN 2001)** *Great Crested Newt Mitigation Guidelines.* EN, Peterborough.



## APPENDIX 1: STATUTORY & POLICY FRAMEWORK FOR BIODIVERSITY

The following sets out a brief review of the key legal and key policy elements affecting wildlife species in Wales. It is not intended to be comprehensive and only the most recent and relevant articles are mentioned.

The review sets out our interpretation and understanding of key elements of the legislation and policy insofar as they apply to typical planning and development operations, based on our experience. The interpretations given below are for guidance only, however, and do not constitute legal advice. In all cases the reader is advised to consult the original legal and policy documents for the definitive wordings, and where necessary to obtain qualified legal advice.

### **The Conservation of Habitats & Species Regulations 2017 ('Habitats Regulations')**

The Habitats Regulations were originally enacted to implement the obligations of *EU Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora & Fauna* (the 'EU Habitats Directive') into British law, and in so doing created the highest tier of legal protection for wildlife species in UK, the so-called 'European Protected Species' (EPS). These species include, *inter alia*:

- All species of bats
- Hazel dormouse ('dormouse')
- Eurasian Otter ('otter')
- Great crested newt
- Natterjack toad
- Sand lizard
- Smooth snake

The Regulations also cover a small number of very rare plant species such as lady's-slipper orchid.

The requirements of the Habitats Regulations were given continuance following the UK's withdrawal from the EU ('Brexit') in 2019 by the *Conservation of Habitats & Species (Amendment) (EU Exit) Regulations 2019*, and therefore continue to apply unchanged at the time of writing. EPSs are hereafter referred to as 'Habitats Regulations Species' (HRS) to reflect this change in the legislative framework.

In summary, and *inter alia*, all HRS animal species are protected as individuals against deliberate killing, injury, capture or disturbance, at all stages of their lives, and in addition, the places used for breeding or resting by these species may not be damaged or destroyed. Breeding and resting places are also afforded protection against deliberate disturbance, or the blocking of access, under the amended *Wildlife & Countryside Act 1981* (see below). HRS plant species may not be picked (in any part), collected, uprooted or destroyed at any point in their life cycle.

The main exceptions to these provisions are either that the activities were authorised by the relevant statutory body (in this case, Natural Resources Wales – NRW) and, where required, were carried out under a licence ('derogation') obtained in advance. Offences which occur as an incidental result of some other otherwise lawful activity (ie 'accidental' or 'unintentional' offences) are not exempt under the Regulations but may be viewed more leniently where (a) they could not reasonably have been foreseen, (b) the activity causing the offence ceased as soon as the presence of HRS, or their habitats, became apparent, and (c) NRW were informed immediately and appropriate expert advice sought to evaluate and remediate the situation.

### **Bats**

The legal protection covers any place or feature which is used for resting during the day ('day roosts') and also any places which are used for hibernation in winter. Places which are used for short periods of resting at night ('night roosts'), or as customary stations for the handling and processing of food ('feeding perches'), are not usually accorded the same level of importance as day roosts and hibernation sites, although they are in fact still subject to the Regulations and in some cases may be deemed important enough to be accorded full protection.

### **Dormouse**

Protection is usually considered to extend to any habitat, such as woodland, scrub, hedgerows and bramble stands etc, where dormouse occurs and where nests may therefore be present. The continuity of the habitats occupied by dormouse with other areas of similar connecting habitat may also be a matter for statutory consideration under the Regulations.

### **Otter**

Protection is usually considered to extend to any watercourse or waterbody which is used by otter, and which may therefore contain nests or resting places ('holts'). It also extends to any areas of terrestrial habitat away from watercourses and waterbodies where these also contain holts, and the connectivity of such places with the occupied aquatic habitats may also be a matter for statutory consideration under the Regulations.

### ***Great crested newt***

Protection is usually considered to extend to any watercourse or waterbody which is occupied by great crested newt (GCN), and which may therefore be used for breeding. It also extends to any terrestrial habitats used by GCN during its non-aquatic phases, especially those places which are used for hibernation in winter or sheltering during adverse weather conditions. Typically the latter will be physically connected to a breeding pond (or ponds) but may lie anything up to 2km away. At minimum, a terrestrial hinterland of 10m width around the edges of a breeding pond will be considered to be protected where this contains habitats which are suitable for terrestrial use by GCN.

### ***Protected Sites***

The Habitats Regulations also set out to protect certain rare and valuable habitat types, such as ancient semi-natural woodland, heathland, bogs and species-rich grasslands etc. This is done through the identification and designation of specifically protected sites known as Special Areas of Conservation (SACs). SACs are subject to the highest level of legal protection against damage, destruction, degradation or harmful uses or activities which is available in the UK. All such sites are also designated as Sites of Special Scientific Interest (SSSIs) under the Wildlife & Countryside Act 1981 (see below).

### **The Wildlife & Countryside Act 1981 (WCA)**

This much amended and complex piece of legislation is the means by which protection is afforded at the next tier of species below the HRSs and is the primary source of protection in respect of birds. Species afforded protection under the WCA include, *inter alia*:

- All species of birds
- Water vole
- Red squirrel
- Common reptiles (ie slow-worm, common lizard, grass snake, adder)
- Marsh fritillary butterfly
- Pearl mussel
- Various plants, ferns, mosses, liverworts, lichens & fungi

### ***Birds***

In summary, all wild birds are protected against deliberate killing, injury or capture, and this protection extends to their eggs and young. It is also illegal to destroy, damage or remove the nest of any bird either while it is in use or being built. For certain rare species which are listed on Schedule 1 of the Act the protections go even further: it is illegal to disturb any Schedule 1 bird species, either deliberately or unintentionally ('recklessly'), while it is building a nest or actually nesting, or to disturb the dependant young of any such bird. Exceptions to these general principles affect some specific game, food or pest species, but only under certain specified and defined conditions and usually in accordance with a licence issued in advance by NRW.

Actions which cause an adverse impact to birds or their nests which arise as an incidental result of some otherwise lawful activity, such as the trimming or removal of hedges, trees or scrub for example, would not constitute an offence provided that the activity could not have reasonably been avoided. As a general result of the provisions of the WCA therefore, the deliberate destruction, removal or clearance of habitats containing nesting birds would almost invariably constitute an offence because the impacts to birds could reasonably have been foreseen and avoided, for example by carrying out the clearance activities at a time when birds are not nesting.

Except under certain specified conditions, the clearance or removal of nests or nesting habitats is generally not illegal if it is carried out at a time of year when no birds are nesting or if it can otherwise be shown that no nesting birds are present at the time (eg by means of advance survey).

Activities which might adversely affect Schedule 1 birds such as barn owl, kingfisher or birds of prey can be undertaken provided a licence has been obtained in advance from NRW and appropriate mitigation measures are put in place.

### ***Animals Other than Birds***

Animals other than birds, such as water vole, red squirrel, marsh fritillary and pearl mussel for example, are listed on Schedule 5 of the Act, and are afforded protection which is generally similar to that of HRSs. The individual animals may not be deliberately killed, injured or captured, in any of their life stages, and it is also illegal to destroy or damage any places which these animals use for shelter or protection, or to disturb an animal using such a place or obstruct access to it, whether deliberately or unintentionally.

As with birds, impacts to Schedule 5 animals which arise as an incidental result of an otherwise lawful activity do not constitute an offence provided those impacts could not have reasonably been foreseen and avoided.

### ***Water Vole & Red Squirrel***

In the case of nest-making animals such as water vole and red squirrel, protection will normally be taken to extend to the entirety of any suitable, or potentially suitable, nesting or sheltering habitats which are occupied by a residential population of the species concerned. The connectivity of these habitats with other similar habitats in the wider vicinity may also be a matter for statutory consideration.

### ***Marsh Fritillary Butterfly & Pearl Mussel***

For species which do not make nests, protection will normally be taken to extend to the entirety of any habitats which are suitable, or potentially suitable, for breeding or sheltering and which are occupied by a residential population of the species concerned. The connectivity of these habitats with other similar habitats in the wider vicinity may also be a matter for statutory consideration.

### ***Common Reptiles***

Slow-worm, common lizard, grass snake and adder are afforded so-called 'partial protection' under the WCA. The animals themselves may not be deliberately killed or injured, but they may be captured and the habitats which support them are not afforded any direct protection in themselves.

As with other Schedule 5 animals, adverse impacts which arise as an incidental result of an otherwise lawful activity do not necessarily constitute an offence provided those impacts could not reasonably have been foreseen and avoided. Under current interpretation this is taken to mean that the destruction or clearance of habitats which are known to support common reptiles, or where such reptiles could reasonably be expected to occur, without the implementation of measures to minimise or avoid causing incidental death or injury to reptiles, would be likely to constitute an offence.

### ***Protected Plants***

About 180 species of plants, ferns, mosses, liverworts, lichens and fungi are afforded protection under Schedule 8 the WCA. These may not be intentionally picked (in any part), uprooted or destroyed, unless authorised under licence. As with Schedule 5 animals, adverse impacts which arise as an incidental result of an otherwise lawful activity do not necessarily constitute an offence provided those impacts could not reasonably have been foreseen and avoided.

### ***Protected Sites***

The WCA also sets out mechanisms for the protection and conservation of habitats and features of high biodiversity value through the identification and designation of specifically protected sites. These include Sites of Special Scientific Interest (SSSIs), National and Local Nature Reserves (NNRs/LNRs) and National Parks etc. Such sites are subject to wide-ranging legal protection against damage, destruction, degradation, exploitation or other harmful activities or uses.

### **The Protection of Badgers Act 1992 (PBA)**

Badger is protected primarily in relation to animal welfare and cruelty, as a result of illegal persecution. Badgers are protected against intentional killing, injury, 'cruel ill-treatment' or capture in all of their life stages. Their nesting burrows ('setts') may not be destroyed, damaged, dug into or obstructed and it is illegal to disturb a badger while occupying a sett, either deliberately or 'recklessly' (ie unintentionally as a result of failure to take due care). The PBA is also taken to confer a degree of protection to foraging areas which are critical to the support of a badger family-group ('clan') where the loss of this would otherwise result in their starvation. As with other protected species, adverse actions which arise as a result of an otherwise lawful activity do not constitute an offence provided those impacts could not reasonably have been foreseen and avoided. A number of specified exemptions are provided in connection with certain legal farming and fox-hunting activities which may impact badgers.

The protection of setts only applies to those which are in 'current use' and not to those which are abandoned. However, many badger setts are occupied only intermittently throughout the year and therefore 'current use' should not be taken to imply *continuous* use.

Actions to remove badger setts on development sites may be undertaken under a licence issued by NRW and in accordance with agreed mitigation measures, and licences may also be issued to allow the removal or exclusion of badgers from sites. Such operations may not occur during the breeding ('close') season, however, which is usually taken to be between December to June inclusive, due to the risk of trapping lactating females and young below ground.

### **Environment (Wales) Act 2016 (EWA)**

Section 7 of the EWA contains the most recent lists of species and habitats which are considered to be of 'principal importance for the conservation of biodiversity in Wales'. These lists replaced those which were previously given under s.42 of the *Natural Environment & Rural Communities Act 2006*, which in turn replaced the 'Priority Species' listed under the UK Biodiversity Action Plan of 1995 and its Welsh equivalent. Species listed under s.7 of the EWA

include many of those afforded protection under the articles described above, including otter, dormouse, water vole, nesting birds, common reptiles and great crested newt, for example, as well as additional species such as:

- W. European hedgehog ('hedgehog')
- Brown hare
- Harvest mouse
- Polecat
- European eel ('eel')
- Atlantic salmon ('salmon')
- Brown & sea trout
- Garden tiger moth
- Cinnabar moth
- Small heath butterfly
- Hornet robberfly
- Shriill carder bee
- Flat sedge
- Wild chamomile
- Common toad

and many other plant and animal species which are not otherwise specifically afforded statutory protection for wildlife conservation reasons (although they may in some cases be afforded some element of protection for other reasons, such as animal welfare or cruelty).

Section 7 of the EWA also identifies a number of habitat-types which are of 'principal value for conservation in Wales'. These include:

- Lowland mixed deciduous woodland
- Hedgerows
- Lowland meadows
- Upland flushes, fens & swamps
- Purple moor-grass & rush-pastures (in Wales, often referred to as 'rhos pastures')
- Reedbeds
- Blanket bog
- Sand dunes
- Rivers & ponds

Although not protected as such, the EWA requires statutory authorities to take such 'Section 7' species and habitats into account when considering the management and development of sites in Wales, and to take "*all reasonable steps*" to maintain and enhance their populations. The presence of such species and habitats is a 'material consideration' on sites where planning permission is sought for development. *Planning Policy Wales (2021)* (PPW, 11th Edition) requires Local Planning Authorities (LPAs) to have regard to the presence of 'Section 7' species and habitats and to avoid adverse impacts as a result of development wherever possible. Developments which are considered essential in the public interest must seek to minimise adverse impacts and incorporate appropriate mitigation/compensation measures where adverse impacts cannot be avoided.

#### **Sites of Importance for Nature Conservation (SINCs)**

SINCs comprise so-called 'third-tier' sites which have been identified as having biodiversity conservation value at the sub-national (ie regional, county, county-borough or local) level. They are usually identified by the LPA, often in collaboration with other local conservation bodies such as the county Wildlife Trust, and may appear under range of different names (eg 'Wildlife Site', 'County Wildlife Site' etc). Such sites are not specifically protected in law (ie they are 'non-statutory') but they are recognised as a 'material consideration' on sites where planning permission is sought for development. As with 'Section 7' habitats, PPW (2021) requires LPAs to avoid adverse impacts as a result of development wherever possible, and developments which are considered essential in the public interest must incorporate appropriate mitigation/compensation measures where adverse impacts cannot be avoided.

#### **Invasive Non-native Species**

Schedule 9 of the *Wildlife & Countryside Act (1981)* sets out lists of plant and fauna species which are subject to statutory regulation in Britain. These currently include plants such as Japanese knotweed (*Fallopia japonica*), Himalayan balsam (*Impatiens glandulifera*) and wall cotoneaster (*Cotoneaster horizontalis*), and animals such as signal crayfish, aquarium terrapin, Asian hornet and copyu. The lists are updated regularly.

The import, sale, transport, cultivation and keeping of these species is generally forbidden except under a specially issued licence, and it is illegal to allow these species to escape or spread into the wild, either deliberately or by accident. This includes any part and all life-stages of the species concerned. Earthworks which might accidentally result in the transfer of Schedule 9 plant material to another location or which encourages it to spread either within or off the site, for example, is forbidden. Any works on a site which might involve contamination by, and potential spread of, any of the listed species must be carried out under an approved method statement designed to prevent them being accidentally dispersed off of or within the site, and which preferably results in their complete elimination wherever this is possible.

## **APPENDIX 2: REPTILE METHOD STATEMENT**

### **1.0 Introduction**

- 1.1 Due to the low numbers of reptiles on site it is not seen as feasible or necessary to carry out a Fence, Trap and Clear (FTC) operation. Any reptiles found on site during clearance will need to be translocated to a receptor site.
- 1.2 Site clearance must take place during the period when reptiles and amphibians are active (between April and September/ October inclusive), before they go into hibernation over the winter period.

### **2.0 Receptor Site**

- 2.1 Prior to site clearance a suitable receptor site will need to be confirmed, this is likely to be the ecological mitigation area within the West Orchard Field, Bro Tathan South. Any reptiles encountered during clearance on the site, will need to be taken directly to this receptor site.

### **3.0 Clearance of the Wider Site**

- 3.1 Mitigation measures for reptiles during this stage will comprise:
1. Stage vegetation clearance (SVC/ 'species deterrence') in all grassland and other semi-natural habitats to be cleared on the site.
  2. Supervised lifting and removal of any affected refugia ('destructive searching'), as identified by the Supervising Ecologist (SE). This may include the removal of topsoils in any areas of substrate deemed suitable for the occurrence of slow worm by the SE.
  3. Supervised lifting of the roots of any affected trees.

### **4.0 Vegetation Clearance ('Species Deterrence')**

- 4.1 The operation would comprise the sequential removal of vegetation in the grassland areas to make the site superficially unattractive to reptiles and amphibians. This would be achieved by means of the staged cutting of the vegetation, starting from the one side of the site and moving towards the opposite side.
- 4.2 Two cuts will need to be carried out, 48 hours apart. The '1st cut' would be carried out using a lightweight agricultural cut and collect silage/bailing system, comprising a tractor with low-pressure tyres towing a 2.8m offset disc-mower set at 200mm, with the cut material being raked into rows for collection by a bailer or harvester, also set to 200mm above ground level. At this setting there may be some variation between about 150-250mm where the ground is uneven, but there should otherwise be adequate ground clearance throughout. The 2.8m off-set would mean that the tractor would be driving only over previously cleared ground.
- 4.3 The '2nd cut' would then be undertaken 48 hours later using a combination of hand-trimmers and 2-wheeled pedestrian-operated BCS tractor-mowers. The vegetation

would need to be cut to approximately 'ground level', i.e. a height of about 50mm, and any significant arisings collected and removed from the site.

4.4 All arisings would need to be collected and removed from the site immediately (i.e. no long-term storage piles will be created, as these may attract sheltering reptiles).

4.5 Any reptiles encountered will need to be physically removed from the site, by being carefully picked up using gloved hands, placed into a suitable container, and then transported to the designated receptor site. The reptile species considered most likely to occur given the results of the reptile surveys above, is slow worm, which does not pose a hazard to humans. In the event that any snakes are encountered, however, the contractors will not attempt to handle these as they could potentially include the venomous adder. Instead, an appropriately qualified person should be contacted immediately and will attend the site with appropriate snake-handling equipment. The capture and handling of reptiles are dealt with further below.

## **5.0 Clearance of Refugia ('Destructive Searching')**

5.1 Following the vegetation clearance, any naturally occurring or pre-existing refugia within the affected areas will need to be carefully lifted and cleared away by hand under the supervision of the SE, with any reptiles which are present being removed to the receptor site. The refugia would then immediately be removed from the site.

5.2 The 'pre-existing refugia' to be treated in this manner will be identified by the SE and will include any affected loose paving, cracked masonry or hardstandings, rubble piles and subsurface infrastructure etc. Any reptiles encountered will be rescued and released at the receptor site.

5.3 Any areas where the substrate is deemed by the SE to be potentially suitable to support slow worm would be subject to destructive searching by turning over of the topsoil. The top 250mm of soil will be carefully turned over, using a wide-tined toothed bucket attached to a suitable excavator, such as a 3CX or mini-digger under the close supervision of the SE who will stop works, and rescue and remove any reptiles which are found during the operation.

5.4 Uncleared areas of the site are not to be tracked over by the excavator and spoil is not to be stored on such areas. The clearance operation would probably involve the use of a small vehicle (e.g. pick-up or Land Rover with trailer). Vehicle movements within the site will be kept to the minimum necessary, and be confined to any existing trackways, bare ground or other areas which have previously been inspected by the SE to ensure that the probability of reptile presence is minimal.

## **6.0 Post-clearance Stage**

6.1 Once the reptile clearance stage has been completed, site clearance and construction operations may start immediately and should commence within five days. If there is a delay of any greater than five days between the cessation of clearance work and the start of construction works, then the site must be maintained in a reptile-free condition during the intervening period.

- 6.2 This may be achieved by the continued removal of all of the vegetation from the site and maintaining it in a bare condition. Soil compaction after stripping is advised, with subsequent vegetation suppression by means of regular cutting or treatment with a suitable herbicide (e.g. Glyphosate Biactive). Herbicide should be applied in accordance with manufacturer's advice in order to maintain bare ground with negligible weed cover.
- 6.3 In the event that the topsoil is removed entirely and stored temporarily elsewhere, this must not be on top of any other habitats which may also be occupied by common reptiles.

## **7.0 Holding & Transfer of Reptiles**

- 7.1 Any collected reptiles will need to be removed to suitable containers (e.g. steep-sided buckets with lids) with the different species being kept separate. Any adders will need to be initially collected to a snake-bin using tongs, snake-stick and/or gloved hands, and both adder and grass snake will be transferred to large hessian holding sacks with a drawstring rope at the top. If any amphibians are collected, including great-crested newt (GCN), they would need to be separately held in lidded containers along with damp vegetation such as moss.
- 7.2 All reptiles will need to be transferred to the receptor site immediately (or at least within no more than one hour after collection) where they will be released under suitable cover in an undisturbed area. Any reptiles held temporarily in containers will need to be placed in a safe location under shade and need to be monitored to ensure that they do not become either too hot or too cold.

## **8.0 Constraints to Clearance Programming**

- 8.1 Mitigation operations for reptiles (or GCN) cannot be carried out during the hibernation period, which runs approximately from (October) November to February (March), when there would be a significant risk of encountering hibernating or torpid individuals in the soil which would be unable to rouse themselves and escape from the area of the works. The works are therefore to be carried out outside of the hibernating period, i.e. between (March) April to September (October) inclusive.
- 8.2 The exact dates of the hibernation period depend on individual weather and seasonal conditions and can vary from year to year, with the beginning and end dates extending variably into October and March respectively. The viable period for clearance in each individual case should be determined at the time by an appropriately qualified person. Generally, this will be determined by the occurrence of overnight frosts and/or daytime temperatures of <5°C: where these occur for periods of longer than about three consecutive days the conditions are generally considered to be unsuitable for reptile clearance operations, and should accordingly be suspended until the conditions ameliorate.
- 8.3 Clearance of any standing trees and scrub, including any dense clumps of bramble and tall herb vegetation, should avoid the bird-nesting season which runs approximately from March to August inclusive, depending upon local seasonal variation. The vegetation clearance programme set out above is designed to circumvent this risk by clearing the above-ground vegetation outside the nesting bird season. If it is necessary for vegetation clearance works to occur during the bird-nesting season, the clearance works must be preceded by a check for any bird-nesting activity. Where any such activity is found, works

must be suspended until the current nesting cycle has been completed. This is a statutory requirement.

## **9.0 On-call Ecologist**

9.1 The services of an appropriately qualified person should be available to assist as required throughout the clearance operations, and will be available to attend the site at short notice on an 'on-call' basis as required.

## **10.0 Record Keeping**

10.1 A record of any reptiles (or other fauna, including GCN) which are found during the clearance operations will be maintained by the SE and will be tendered to the LPA Ecologist at the end of the clearance operation. This record will include the species of the animals encountered, their numbers, age and sex, details of any injuries, and confirmation of their release site etc.

## **11.0 Great Crested Newt**

11.1 The occurrence of GCN in the clearance area is normally subject to licensing, but due to the low probability of its presence on site, it is acceptable to apply a precautionary approach in the form of a non-licensed method statement. In the event that GCN is encountered, however, the SE will consult and liaise with NRW. If large numbers (i.e. >5 individuals) of this species are encountered it may be necessary to seek a derogation licence, which may require a temporary delay in operations in those areas where the species occurs.



## **APPENDIX 3: DORMOUSE METHOD STATEMENT**

### **1.0 Introduction**

- 1.1 Although there is currently no evidence to suggest that dormouse is present, there is a theoretical risk that harm could occur to any dormice that may be present on the site during both site clearance and construction of the proposed development. This risk is assessed as being very low but should nevertheless be subject to appropriate mitigation measures, as outlined below.
- 1.2 It is considered that it will not be necessary to apply for a derogation licence under the Habitats Regulations in order for these works to take place, and that instead the works may proceed under a ‘non-licensed method statement’ (NLMS). However, if evidence of the presence of dormouse is found at any time (e.g. a live dormouse or dormouse nest), then all works affecting potential dormouse habitat must stop until a European Protected Species (EPS) dormouse licence has been obtained from NRW.
- 1.3 The physical risk to dormouse during the clearance of the development area is considered likely to be highest during the winter months (i.e. the period between November and February/ March) when this species is hibernating, and individuals would be unable to rouse themselves and escape from or avoid the clearance operations.
- 1.4 Ideally, all the work in this part of the site (see Plan 2d), will be completed between September and October inclusive; ie outside of the main bird nesting season and before dormice go into hibernation. In this case Method Statement A, outlined in Section 2, below will be followed.
- 1.5 If it is not possible to complete the works between September and October, then the alternative Method Statement B, described in Section 3 will be followed.

### **2.0 Method Statement A (Works completed between September and October)**

- 2.1 Works will be preceded by a toolbox talk by a suitably qualified ecologist, who will be on site during the works, carrying out finger-tip search of vegetation before clearance.
- 2.2 The boundaries of the areas to be cleared will be clearly marked-out on the ground. Before works start, adjacent areas of unaffected habitat will be demarcated as Wildlife Protection Zones (WPZs), enclosed by secure temporary fencing (eg Heras fencing,) to prevent any incidental damage or incursion by site personnel and vehicles. This protective fencing will be retained in-situ until works in this part of the site have been completed.
- 2.3 Hand tools will be used wherever possible to cut bramble, blackthorn and other vegetation, with cut material being collected-up in-situ, lifted and walked out of the clearance zone rather than being dragged-out.

### 3.0 Method Statement B

- 3.1 Works will be preceded by a toolbox talk by a suitably qualified ecologist, who will be on site during the works, carrying out finger-tip search of vegetation before clearance.
- 3.2 The boundaries of the areas to be cleared will be clearly marked-out on the ground. Before works start, adjacent areas of unaffected habitat will be demarcated as Wildlife Protection Zones (WPZs), enclosed by secure temporary fencing (eg Heras fencing,) to prevent any incidental damage or incursion by site personnel and vehicles. This protective fencing will be retained in-situ until works in this part of the site have been completed.
- 3.3 Any trees, shrubs, bramble scrub and other vegetation which requires clearance for the development will initially be cut to a height of 50cm during the winter (January – March), prior to the start of works.
- 3.4 Hand tools will be used wherever possible to cut bramble and other low vegetation, with cut material being collected-up *in-situ*, lifted and walked out of the clearance zone rather than being dragged-out. This would minimise disturbance at ground-level, where any nests of hibernating dormouse are most likely to be located. Cutting to this height over winter is also likely make the affected areas less attractive to nesting birds in the spring.
- 3.5 The disturbance or removal of ground-level vegetation and litter etc will be kept to a minimum. Any routes to be used by a vehicle will be thoroughly checked by the Supervising Ecologist prior to the clearance of any vegetation to ground level and use by a vehicle. If there is any risk of hibernating dormice being found in these areas, an alternative route will be found.
- 3.6 All arisings would either be removed from the site immediately, composted in designated composting areas within the site, or stacked in permanent ‘ecopile’ sites to decay *in-situ* and provide habitats for a range of saproxylic fungi and invertebrates etc.
- 3.7 The subsequent grubbing-out of stumps etc will be undertaken in late April/early May, at a time when any dormice which may be present will have emerged from hibernation and be able to disperse into neighbouring areas of suitable habitat. Grubbing-out will be preceded by a pre-clearance survey to check for dormouse nests and to ensure that these are not occupied.

Bro Tathan Utilities, Wildlife Protection Plan  
Plan 1 - Site Location & Context  
DCE 847 NTS July 2023

Key  
— Proposed Bro Tathan Utilities Route








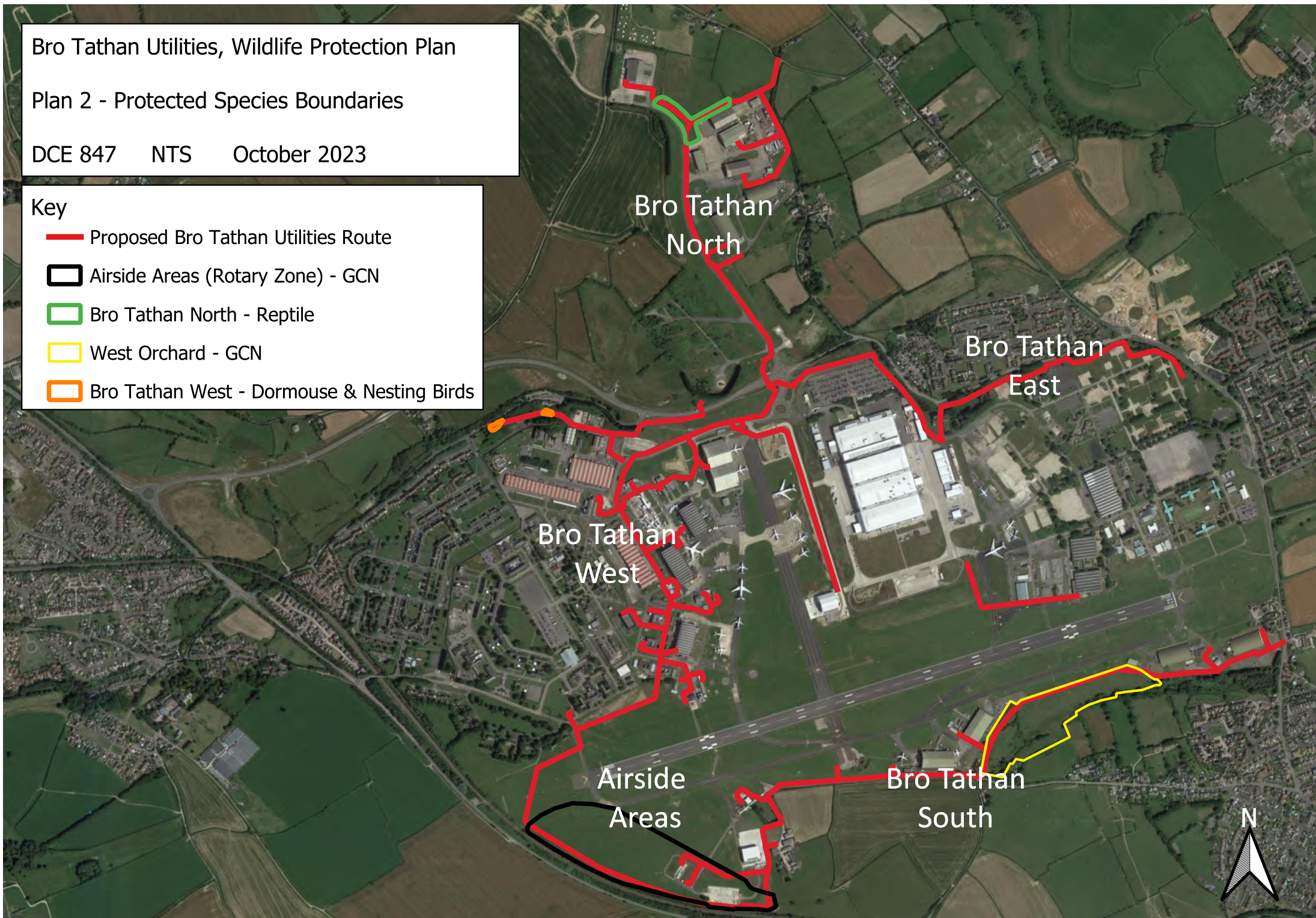
# Bro Tathan Utilities, Wildlife Protection Plan

## Plan 2 - Protected Species Boundaries

DCE 847 NTS October 2023

### Key

-  Proposed Bro Tathan Utilities Route
-  Airside Areas (Rotary Zone) - GCN
-  Bro Tathan North - Reptile
-  West Orchard - GCN
-  Bro Tathan West - Dormouse & Nesting Birds




Bro Tathan Utilities, Wildlife Protection Plan

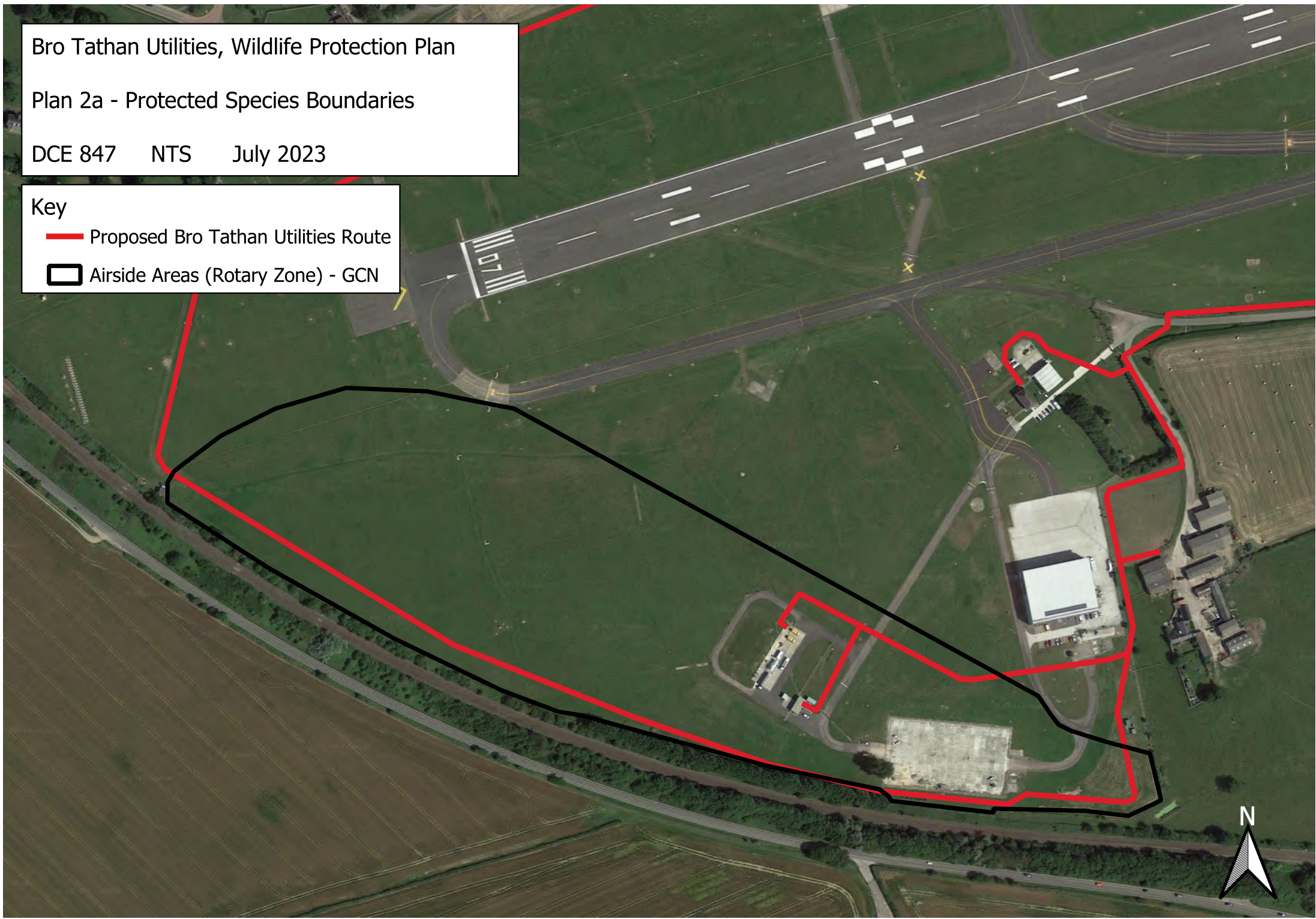
Plan 2a - Protected Species Boundaries

DCE 847 NTS July 2023

Key

 Proposed Bro Tathan Utilities Route

 Airside Areas (Rotary Zone) - GCN



Bro Tathan Utilities, Wildlife Protection Plan

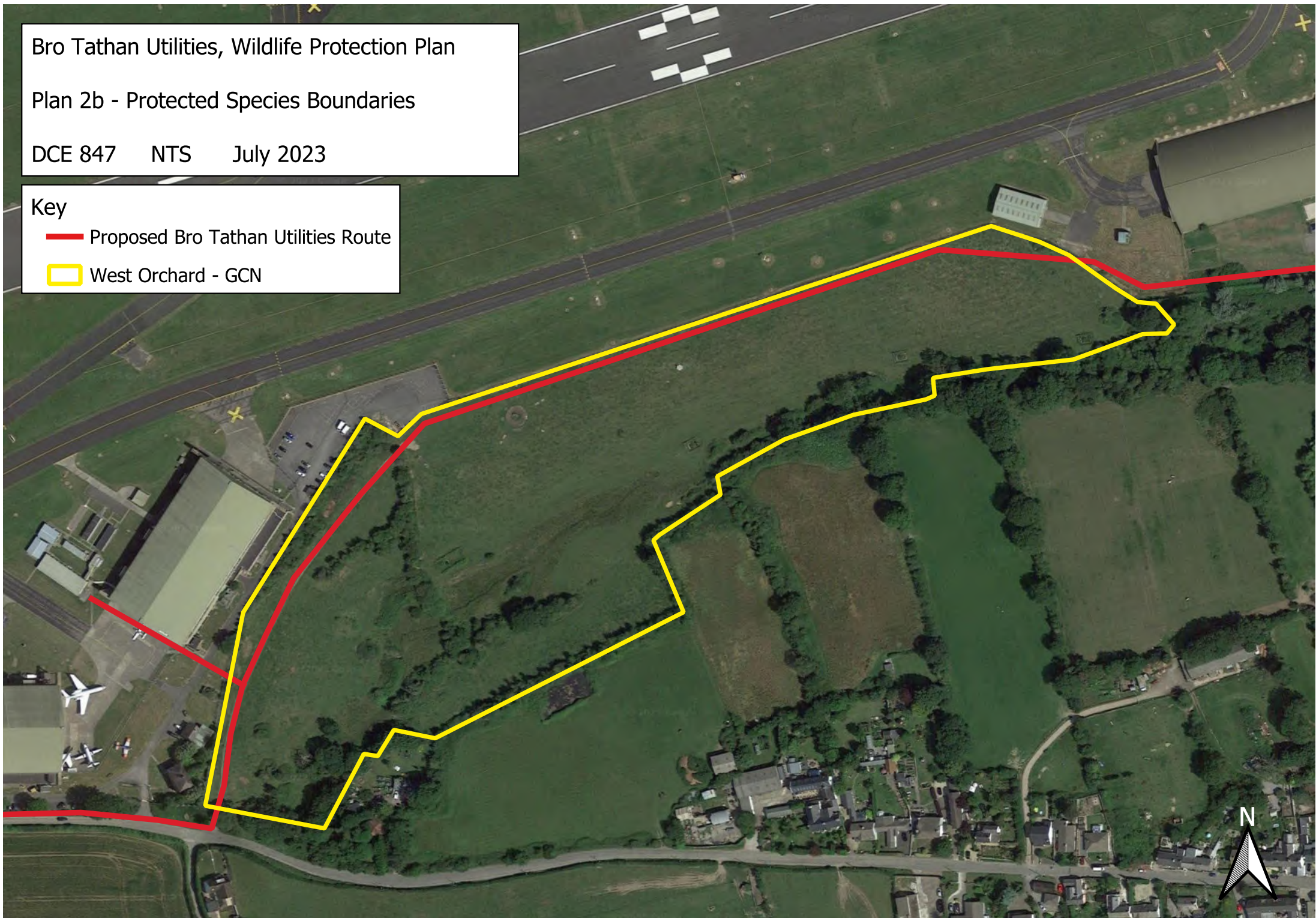
Plan 2b - Protected Species Boundaries

DCE 847 NTS July 2023

Key

— Proposed Bro Tathan Utilities Route

— West Orchard - GCN



Bro Tathan Utilities, Wildlife Protection Plan

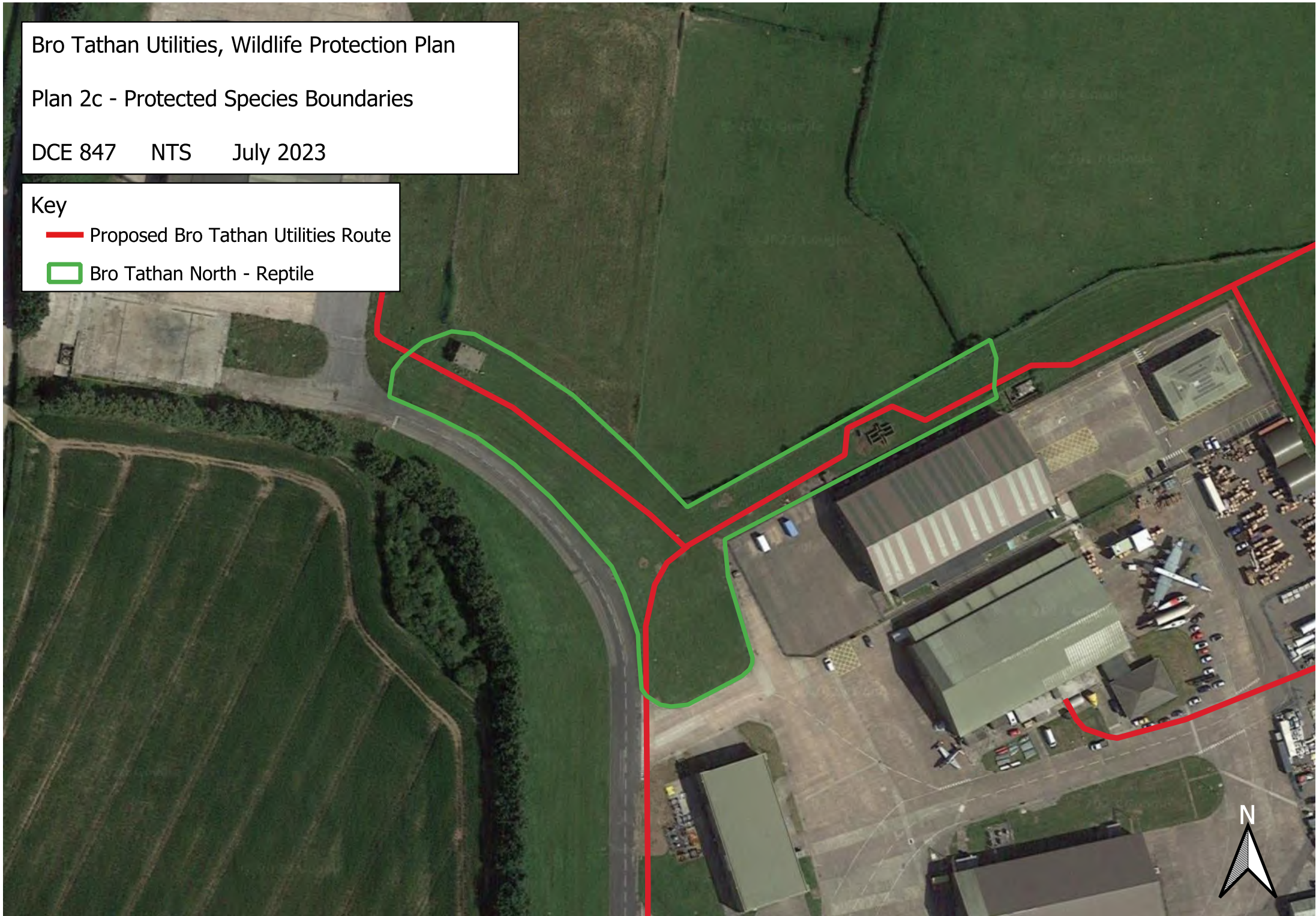
Plan 2c - Protected Species Boundaries

DCE 847 NTS July 2023

Key

— Proposed Bro Tathan Utilities Route

▭ Bro Tathan North - Reptile



Bro Tathan Utilities, Wildlife Protection Plan  
Plan 2d - Protected Species Boundaries  
DCE 847 NTS October 2023

Key  
— Proposed Bro Tathan Utilities Route  
□ Bro Tathan West - Dormouse & Nesting Birds

