Vale of Leven Wind Farm

Protected Species Survey Report

Technical Appendix 6.2

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1 INTRODUCTION

MacArthur Green was commissioned by Vale of Leven Wind Farm Limited (the applicant) to carry out protected species surveys at the proposed Vale of Leven Wind Farm (hereafter the 'Proposed Development').

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 for the Proposed Development, and signs recorded for other protected species potentially inhabiting the Application Boundary (i.e. comprising the Site and Site Access) 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 Appendices 6.3** and **6.4**.

These protected species surveys were undertaken to aid and inform the design and ecological assessment for the Proposed Development's Environmental Impact Assessment Report (EIAR).

2 THE SITE & SURVEY AREA

The Site is located in the Kilpatrick Hills in West Dunbartonshire, approximately 4 km to the east of Alexandria and north-east of Dumbarton. The Site is upland moorland in character, with the Site Access crossing areas of improved farmland, woodland and upland moorland. The Dumbarton Muir Site of Special Scientific Interest (SSSI) and Auchenreoch Glen SSSI lie close to the Application Boundary. The Site Access crosses a stand of designated ancient woodland. Land use around the Site is mainly agricultural, with some areas of forestry to the west, south and east.

The survey area in which protected species surveys were undertaken consisted of the Application Boundary and extensive further areas to the north, south and east of the Site, with specific buffers in some areas as appropriate for the specific species surveyed for. The protected species survey areas are shown in **Figure 6.5**.

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 Application Boundary and respective survey area.

This study consisted of the consultation of various online resources such as the NBN Atlas[1], NatureScot SiteLink[2], the British Deer Society Deer Distribution Survey[3] and Saving Scotland's Red Squirrels[4].

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 survey area. The respective surveys areas included the Application Boundary and extensive further areas to the north, south and east of the Site in addition to survey buffers around the Site Access as follows: 30 m (water vole and red squirrel), 100 m (badger and pine marten), 200 m (otter) (see **Figure 6.5**).

A watching brief for any protected species signs was also undertaken during other survey visits (e.g. ornithology/vegetation/other ecology surveys) throughout the year.

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 detailed for each species in the sections below, and details of the survey results are presented in **Annex C**.

4.2.1 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)[5], Sargent & Morris (2003)[6] and Chanin (2003)[7], 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

[1] NBN Atlas Scotland. (2022). *NBN Atlas*. [Online] Available from - https://scotland.nbnatlas.org/. [Accessed: March 2023]
[2] NatureScot. (2022) *SiteLink*. [Online] Available from - https://sitelink.nature.scot/home. [Accessed: March 2023]
[3] The British Deer Society (2016). Deer Distribution Survey Results. Available online: https://bds.org.uk/science-research/deer-surveys/deer-distribution-survey/ [Accessed March 2023]
[4] Saving Scotland's Red Squirrels (2022) Website. [Online] Available from https://scottishsquirrels.org.uk/squirrel-sightings/ [Accessed: March 2023]
[5] BANG, P., and DAHLSTRØM, P. (2001). Animal Tracks and Signs. Oxford University Press, Oxford.
[6] SARGENT, G., and Morris, P. (2003). How to Find and Identify Mammals. The Mammal Society, London.
[7] CHANIN, P. (2003). Monitoring the Otter (*Lutra lutra*). Conserving Natura 2000 Rivers Monitoring Series No.10 English Nature, Peterborough.

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.

4.2.2 Water Vole

All watercourses within the survey area were surveyed for water vole field signs following the methodology prescribed in Dean *et al*. (2016)[8]. This involved 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

[8] DEAN, M., STRACHAN, R., GOW, D. and ANDREWS, R. (2016). The Water Vole Mitigation Handbook (The Mammal Society Mitigation Guidance Series). Eds. Fiona Mathews and Paul Chanin. The Mammal Society, London.

- **Runways in vegetation:** low tunnels pushed through vegetation near the water's edge; these are less obvious than rat runs.

Dean *et al.* (2016)[8] 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.

4.2.3 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 Neal and Cheeseman (1996)[9], Bang and Dahlstrøm (2001)[5], and Scottish Badgers (2018)[10]. 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 entrance classification and sett type were noted, in line with the definitions outlined in Scottish Badgers (2018)[10], which are reproduced below in **Table 4-1** and

Table 4-2 below.

Table 4-1 Sett entrance classifications and associated descriptions[10]

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.

[9] NEAL, E., and CHEESEMAN, C.L. (1996). Badgers. Poyser Natural History, London.
[10] Scottish Badgers (2018). Surveying for Badgers: Good Practice Guidelines. Version 1.

Classification	Description
Air Holes	Where badgers have made a small hole in a tunnel roof from below.

Table 4-2 Categories of sett and associated descriptions[10]

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'.

4.2.4 Pine Marten

Signs of pine marten were searched for within the survey area following guidance from O'Mahony *et al*. (2006)[11]. 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.
- **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.

[11] O'MAHONY D., O'REILLY, C. & TURNER, P. (2006). National Pine Marten Survey of Ireland 2005. COFORD, Dublin.

4.2.5 Red squirrel

Areas of woodland that have the potential to support red squirrel were surveyed for squirrels, following guidance from Gurnell *et al.* (2009)[12]. Survey methods included:

- **Sightings**: visual sightings of red squirrels;
- **Dreys**: dreys are usually built close to the main stem of a tree, over 3 m from ground level and over 50x30 cm in size; and
- **Feeding signs**: predated cone (cone cores) searches in areas of woodland.

4.2.6 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.

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. smooth newt (*Lissotriton vulgaris*), palmate newt (*Lissotriton helveticus*), hares (*Lepus* spp.), and American mink (*Neovison vison*)).

4.2.8 Species Scoped Out

Surveys for beaver (*Castor fiber*), wildcat (*Felis sylvestris*) and great crested newt (*Triturus cristatus*) were scoped out of field surveys due to the absence of suitable habitat or the survey area being located outwith the known range or distribution of the respective species.

5 SURVEY DETAILS & LIMITATIONS/CONSTRAINTS

Surveys for protected species were undertaken over seven site visits on the 22 July 2020, 28 to 31 July 2020, 22 January 2021, and then 22 March 2022 respectively. The weather conditions during the July 2020 surveys ranged from being overcast to heavy rainfall whilst the weather during the January 2021 survey remained partially cloudy with colder temperatures. Dry and warm temperatures were experienced during the survey in March 2022. Watercourse levels were recorded as being of average volume during the surveys.

There were several areas rendered as inaccessible during the March 2022 survey; the steep-sided valley in Murroch Glen comprising of dense vegetation in sections north of the Site Access and the area around the existing substation south of where the Site Access meets the A813 public road due to high fences and dense vegetation.

Overall, given the number of times the survey area has been surveyed for protected species between July 2020 and March 2022 as detailed above, it is considered the baseline characterisation of protected species is representative of their presence within and around the Site and survey area.

[12] GURNELL, J., LURZ, P. MCDONALD, R. & PEPPER, H. (2009). Practical Techniques for Surveying and Monitoring Squirrels. Forestry Commission Practice Note.

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 pre-construction surveys are undertaken.

6 RESULTS

6.1 Desk Study Results

6.1.1 Designated Sites

There are no designated sites within the Application Boundary, or within 5 km, where a protected species is a qualifying feature.

6.1.2 Online Resources/Data Searches

A search of the NBN Atlas[1] within 5 km of the Application Boundary in the last 15 years (i.e., from 2008 onwards) returned records of the following protected or notable species:

- Adder;
- Beaver;
- Brown hare (*Lepus europaeus*);
- Common lizard;
- Grey squirrel (*Sciurus carolinensis*);
- Palmate newt;
- Pine marten;
- Red squirrel; and
- Roe deer (*Capreolus capreolus*).

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

The Deer Distribution Survey[Error! Bookmark not defined.] results suggested the presence of roe, red and fallow deer (*Dama dama)* locally (all recorded in 2007 and/or 2011 and reconfirmed in 2016).

Sightings of red and grey squirrels have been recorded on Saving Scotland's Red Squirrels[Error! Bookmark not defined.] within 5 km of the Application Boundary in the past 13 years, particularly in Nobleston Wood and in woodland around Balloch.

Consultation with the Loch Lomond Fisheries Trust (LLFT) undertaken as part of the 2011 Merkins Wind Farm Environmental Statement (ES) suggested that although the watercourses in the north of the Site have connectivity to the River Endrick, waterfalls in the Finland Burn and the upper reaches of the Catter Burn are likely to act as a barrier to Atlantic salmon and lamprey. LLFT suggested that only resident brown trout populations are likely to be present. The River Endrick is over 6.8 km from the Proposed Development.

6.2 Field Survey Results

The survey results are summarised in Error! Reference source not found.**1** below, with full detailed results provided within **Annex C**, survey results are displayed on **Figure 6.5**. Confidential protected species records are provided in **Confidential Annex D** and **Figure 6.5C**.

Table 6-1 Protected species survey results summary

Species	Survey Results Summary	General Habitat Suitability
Otter	Seven features with the potential for use as holts by otter were recorded. None of these features fell within 200 m (accepted buffer distance between a breeding holt and any source of disturbance) of the Application Boundary. Details of these features are contained within **Confidential Annex D**. No other otter field signs were recorded.	Several of the burns within the survey area were found to have good suitability for otter, with trees and gullies providing shelter. Catter Burn and one of its tributaries were noted as having good suitability for otter, with the fast flows, deep pools and wooded banks providing foraging resource and shelter. Finland Burn, Gallangad Burn and Murroch Burn were also noted as having good potential shelter and foraging opportunities for otter.
Water vole	No signs of water vole were recorded.	A tributary of Catter Burn was found to be moderately suitable for water vole due to its bank profile and foraging resource. Finland Burn was noted as having low to moderate suitability for water vole, with a bank profile suitable for burrows but restricted foraging opportunities due to the bankside being dominated by heather and bracken.
Badger	Four setts were identified, two outlier setts and two larger ones for which the status could not be determined. None of the badger setts or signs recorded are within 100 m (maximum suggested buffer around a badger sett for any activities involving blasting works) of the Application Boundary. Further details are found in **Confidential Annex D**. Potential feeding signs were recorded within woodland in Gallangad Glen and along Finland Burn. Pathways used by badger were recorded in woodland around Finland Burn and on the edge of Nobleston Wood.	A steep ravine with areas of mineral soil along the north edge of the survey area was noted as offering good suitability for badger. Good foraging is available in the fields at the top of the slope. The woodland, ravines and open areas around Finland Burn also provide good shelter and foraging opportunities. A belt of beech woodland which crosses the Site Access may also provide suitable habitat for badger. The improved grasslands around Murroch Farm provide suitable foraging areas, although no field signs were recorded here.
Pine marten	No signs of pine marten were recorded.	There are some areas of forestry adjacent to the Site (Nobleston Wood to the west, Tombocle Hill to the east and Brown Hill to the south) which may offer some suitable habitat for pine marten. The habitats within the survey area are likely to offer hunting/foraging habitat.

Species	Survey Results Summary	General Habitat Suitability
Red squirrel	No signs of red squirrel were recorded.	The wooded riparian areas, gorges and ravines along Murroch Burn, Gallangad Burn and Finland Burn may offer suitable habitat for red squirrel. The large plantations at Nobleston Wood, and to the north-east of the survey area around Tombocle Hill also likely offer suitable habitat.
Reptiles	Two common lizard sightings were recorded, all in the southern part of the survey area. Twelve potential hibernacula features were recorded. These were mostly attributed to dry stone wall features and rock piles. Several of the potential hibernacula features recorded were within the Application Boundary.	The main body of the survey area has habitat offering suitability for reptiles, with heath and tussocky grassland features and scattered potential hibernacula.
General	Two mammal holes (one within and one outwith the Application Boundary) with no diagnostic protected species signs were identified, as well as two well-used mammal pathways.	-
Other Species	No signs of other notable/protected species were recorded.	-

ANNEX A. LEGAL PROTECTION

Otter and **bats** receive protection under the Conservation Regulations (1994) (as amended) only[13].

Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)

Under Regulation 39 (1) it is an offence to:

a) deliberately or recklessly to capture, injure or kill a wild animal of a European protected species;

b) deliberately or recklessly:

   i. to harass a wild animal or group of wild animals of a European protected species;

   ii. to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;

   iii. to disturb such an animal while it is rearing or otherwise caring for its young;

   iv. to obstruct access to a breeding site or resting place of such an animal, or otherwise to deny the animal use of the breeding site or resting place;

   v. to disturb such an animal in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of the species to which it belongs; or

   vi. to disturb such an animal in a manner that is, or in circumstances which are, likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young;

c) deliberately or recklessly to take or destroy the eggs of such an animal; or

d) to damage or destroy a breeding site or resting place of such an animal.

Regulation 44 (2e) allows a licence to be granted for the activities noted in Regulation 39 such that:

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.

Otter is also listed on Appendix I of CITES, Appendix II of the Bern Convention and Annexes II and IV of the Habitats Directive (1994). It is also listed as globally threatened on the IUCN/WCMC Red Data List.

Wildcat is listed on Annexes II and V of the Habitats Directive (1994).

[13] The Conservation Amendment (Scotland) Regulations (2007) removed EPS from Schedule 5 and 8 of the Wildlife and Countryside Act 1981.

Water vole is not protected by Section 9, subsection 1 of the Wildlife and Countryside Act but is covered by Section 9, subsection 4 and Section 10[14].

Wildlife and Countryside Act (1981), Nature Conservation (Scotland) Act 2004

Under Section 9, Subsection 4, Paragraphs (a) and (b)[4], 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 uses for shelter or protection.
- Intentionally or recklessly disturb any such animal while it is occupying a structure or place which it uses for that purpose.

Under Section 10, Subsection 3, Paragraph (c)[4], any person shall not be guilty of an offence by reason of:

- Any act made unlawful by that section if he shows:
  a) That each of the conditions specified in subsection (3A) was satisfied in relation to the carrying out of the unlawful act; or
  b) 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.
- Section 3A states those conditions referred to in Subsection 3c 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
  3) 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.

[14] as amended by the Nature Conservation (Scotland) Act 2004.

Badgers are protected under the Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004 (as amended)).

The following applies under this legislation:

Part 1. – 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.

1. If, in any proceedings for an offence under subsection (1) above consisting of attempting to kill, injure or take a badger, there is evidence from which it could reasonably be concluded that at the material time the accused was attempting to kill, injure or take a badger, he shall be presumed to have been attempting to kill, injure or take a badger unless the contrary is shown.
2. A person is guilty of an offence if, except as permitted by or under this Act, he has in his possession or under his control any dead badger or any part of, or anything derived from, a dead badger.

Part 3. –

1. A person is guilty of an offence if, except as permitted by or under this Act, he interferes with a badger sett by doing any of the following things–
    a. damaging a badger sett or any part of it;
    b. destroying a badger sett;
    c. obstructing access to, or any entrance of, a badger sett;
    d. causing a dog to enter a badger sett; or
    e. disturbing a badger when it is occupying a badger sett,
    f. intending to do any of those things or being reckless as to whether his actions would have any of those consequences.
2. A person is guilty of an offence if, except as permitted by or under this Act, he knowingly causes or permits to be done an act which is made unlawful by subsection (1) above.

Note: A badger sett is defined in law as any structure or place which displays signs of current use by a badger.

Red squirrel and **pine marten** are protected by the following legislation:

Wildlife and Countryside Act (1981), Nature Conservation (Scotland) Act 2004

Under Section 9, Subsection 1, it is an offence to:

Intentionally or recklessly:

- Kill, injure or take any wild animal listed on Schedule 5;
- Damages or destroys or obstructs access to, any structure or place that any animal listed on Schedule 5 uses for shelter or protection;
- Disturbs any such animal while it is occupying a structure or place which is uses for that purpose
- 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.

Adder, slow worm and **viviparous lizard** are protected by the following legislation:

These three species of reptile are noted within Schedule 5 of the Wildlife and Countryside Act (1981). However, Schedule 5 of the 1981 act notes that these species are protected 'in respect of section 9(5) only'.

Section 9(5) states:

- Subject to the provisions of this part, if any person
  a) Sells, offers or exposes for sale, or has in his possession or transports 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
  b) Publishes or causes 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.
- he shall be guilty of an offence

An amendment was made to Schedule 5 on 18 March 1988 relating to slow worm and viviparous lizard to give them protection under Section 9(1). A further amendment was made to Schedule 5 on 27 March 1991 relating to adders which afford them protection under Section 9(1).

Section 9(1) (as amended by the Nature Conservation (Scotland) Act 2004) states:

'Subject to the provisions of this Part, if any person intentionally or recklessly kills, injures or takes any wild animal included in schedule 5, he shall be guilty of an offence.'

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
Adder	Protected species (Wildlife and Countryside Act 1981)	Amphibian and Reptile Conservation (Man Green)	CC-BY[15]
Beaver	Protected species (Conservation (Natural Habitats, &c.) Regulations 1994 (as amended))	NatureScot (RSPB) Mammal Society (Lorna Backhouse)	OGL[16] CC-BY[16]
Brown hare	Protected species (Wildlife and Countryside Act 1981)	British Trust for Ornithology (BTO) The Mammal Society (Derek Crawley)	OGL[17] CC-BY[16]
Common lizard	Protected species (Wildlife and Countryside Act 1981)	Amphibian and Reptile Conservation (Alan Bradbury, John Hutton)	CC-BY[16]
Grey squirrel	Invasive species	The Mammal Society (Loraine McDonald) Scottish Wildlife Trust (Various)	OGL[17] CC-BY[16]
Palmate newt	Protected species (Wildlife and Countryside Act 1981)	Amphibian and Reptile Conservation (Sam Buckton, Tam Stewart)	CC-BY[16]
Pine marten	Protected species (Wildlife and Countryside Act 1981, Nature Conservation (Scotland) Act 2004)	NatureScot (Lizzie Croose)	OGL[17]
Red squirrel	Protected species (Wildlife and Countryside Act 1981, Nature Conservation (Scotland) Act 2004)	Scottish Wildlife Trust (Various)	CC-BY[16]
Roe deer	Welfare and impacts of deer on habitats and on neighbouring land and interests (inc. public roads)	British Trust for Ornithology (BTO) The Mammal Society (April Newton)	OGL[17] CC-BY[16]

[15] Creative Commons with Attribution 4.0 (CC-BY) https://creativecommons.org/licenses/by/4.0/ (Accessed March 2023)

[16] Open Government Licence (OGL) https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ (Accessed March 2023)

ANNEX C. SURVEY RESULTS

Table C-1 below details the relevant data collected during protected species for the Proposed Development, sorted by species, then survey date (see also **Figure 6.5**). Confidential information relating to badger setts and otter holts is contained within **Confidential Annex D** (and shown on **Figure 6.5C**).

Table C-2 Protected species survey results

Species	Sign	Easting	Northing	Survey date	Notes
Badger	Feeding Signs/Snuffle Holes	244546	682714	22/07/2020	Potential badger snuffle hole within woodland near bracken.
Badger	Path	244855	681664	30/07/2020	Mammal path along burn highly likely to be badger path as it travels under low hanging branches. Due to steep slope and bracken cannot follow extent of path.
Badger	Path	244276	681196	30/07/2020	Mammal path between badger sett and mammal hole which would indicate that mammal hole is a badger sett. Sheep paths also in the area.
Badger	Feeding Signs/Snuffle Holes	244304	681222	30/07/2020	Potential badger feeding signs.
Badger	Path	242031	679263	22/01/2021	Path found at survey boundary edge, leading into conifer plantation. The path goes under a low fence, indicating badger use. Area beyond the fence is beyond the survey area (plantation) but good badger habitat.
General	Mammal Hole	244624	682466	22/07/2020	Mammal hole within root system of dead tree adjacent to burn. Cavity goes through tree with what looks to be a small cavity present. Cannot see the full extent due to angle of cavity. No sign of mammal. Possible for use as otter resting up place.
General	Path	244537	682683	22/07/2020	Mammal paths located along gully of mature oak trees.
General	Path	244839	681651	30/07/2020	Well used mammal track along side of burn on slope within woodland.
General	Mammal Hole	243968	680635	30/07/2020	Mammal hole adjacent to burn in sandy soil. Large excavated hole in substrate. No signs of recent use. Large enough entrance and tunnel for badger. No badger signs located. Sheep hair found in entrance.
General	Feeding Remains	240192	677299	22/03/2022	Fox kill of possible corvid. Black feathers with blunt ends. Pellet amongst (no smell) full of fur and bones, by burn and under pylon.

Species	Sign	Easting	Northing	Survey date	Notes
Reptile	Common Lizard Sighting	245518	680649	21/07/2020	Common lizard basking in bog (recorded during NVC survey).
Reptile	Potential Hibernaculum	242987	682042	22/07/2020	Stone wall which has the potential to act as a refuge for reptiles.
Reptile	Common Lizard Sighting	245459	681294	28/07/2020	Common lizard in bog/heath (recorded during NVC survey).
Reptile	Potential Hibernaculum	242783	679345	28/07/2020	Collection of large boulders with hollows underneath, no other field signs.
Reptile	Potential Hibernaculum	241500	679212	28/07/2020	Collapsed dry stone wall, approximately 100 m, providing possible site for reptiles.
Reptile	Potential Hibernaculum	243000	680500	29/07/2020	Collapsed sections of old drystone dyke with hollows offering potential hibernaculum. No adder or lizard seen.
Reptile	Potential Hibernaculum	243167	680365	30/07/2020	Part of an old wall and stone sheep pens. Cavities above the water shed that could be used by a hibernating reptile.
Reptile	Potential Hibernaculum	243148	680391	30/07/2020	Stone wall boundary that can be seen on OS map extending north-west. Cavities present suitable for hibernating reptile.
Reptile	Potential Hibernaculum	243097	680424	30/07/2020	Stone wall boundary that can be seen on OS map extending south-west towards plantation. Cavities present suitable for hibernating reptile.
Reptile	Potential Hibernaculum	240299	677237	22/03/2022	Linear feature along field edge - old stone wall next to hedge, moss covered stones with gaps.
Reptile	Potential Hibernaculum	240668	677389	22/03/2022	Linear feature along field edge - old stone wall next to hedge, moss covered stones with gaps.
Reptile	Potential Hibernaculum	240752	677432	22/03/2022	Extensive pile of rubble and stones, stacks of paving, concrete tubes at side of track.
Reptile	Potential Hibernaculum	240962	677628	22/03/2022	Linear feature, dry stone wall with gaps, next to gorse.
Reptile	Potential Hibernaculum	240941	677677	22/03/2022	Dry stone wall.