



**JAMES HOUSTON**  
Architect

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**Staunton-1246-035**

Steven Gove  
Planning Department  
Argyll & Bute Council  
Milton Avenue  
Dunoon  
PA23 7DU

23<sup>rd</sup> June 2011

Dear Mr Gove,

**House at Colintraive.**  
**Ref: 10/02077/PP**

I refer to our recent correspondence regarding the proposed new house at Colintraive and now hasten to comment on the issues raised as follows.

1. Please find enclosed copy of the Ecological report prepared by Helen Lundie of Wild Surveys Ltd. The report indicates that, should the development proceed, there would still be adequate habitat left for the mammals as described.
2. I enclose copy of Architect's response to the objections raised.
3. Note of comments from the applicant Mr Nicholas Staunton.

The content of the foregoing responses would indicate that refusal to grant Planning Permission for a house on this site would not be justifiable on the basis of concerns currently expressed.

I would be grateful if you would consider these responses and that the application may now meet with your approval.

Yours sincerely

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James B.G. Houston

c.c. to Elaine Hamilton  
Mr Staunton

ARCHITECT'S RESPONSE TO OBJECTIONS

Comments on Objection by Ian & Ruth Warnock

1. The site is designated as "Countryside Around Settlement" and Policy LP HOU 1 presumes in favour of residential development and meets the conditions of that policy in so far as it is Small (only one unit) and is an infill site.
2. Reference to Building Insurance will not be relevant and "decimating the woodland area, habitats, species and biodiversity" is something of an exaggeration.
3. Building Line: The house is positioned to minimize the loss of trees rather than attempt to form an imaginary Building Line.
4. The new house is intended to complement the style of Ardare but not to be a replica of it. The size and number of windows compared to Ardare is not relevant.
5. Access Road: Construction vehicles can be limited to a size appropriate to the conditions.
6. Turning / Garage: No building is proposed or intended within the 12.0m distance from the boundary of Ardare.

Comments on Objection by G Greg Morris

1. The area of the site which would be occupied by the footprint of the proposed new house is relatively small and will not necessarily prevent wild life access from the Northerly woodland to the Seashore. The watercourse through the site would remain unobstructed.
  2. The entire area of the site is very small compared to the vast area of woodland to the North. The effect on Wildlife would therefore be minimal.
  3. The statement regarding removal of "most of the trees" is not correct. On the contrary, it is the applicant's intention to preserve as many trees as possible.
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4. Vehicles servicing the construction will be no larger than the bin lorries etc already servicing the other houses along the road. Parking and turning would have to be provided during the construction period.

**James Houston Architect.**

**22<sup>ND</sup> June 2011.**

## Houston Architects

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**From:** Nicholas Staunton [ns@stockford-staunton.co.uk]  
**Sent:** 28 March 2011 16:47  
**To:** mail@houstonarchitects.co.uk  
**Subject:** Proposed house at Colintraive.

Dear James,

Thank you for your letter of 23<sup>rd</sup> March 2011 in connection with the above.

As discussed on the telephone I am surprised to learn of the objections that have been lodged and would respond to each of these as follows:-

### COMMENTS FROM THE LOCAL BIODIVERSITY OFFICER

1. With regard to the view of the Local Biodiversity Officer, please could you assure her that we are seeking to build this house to enjoy just the type of environmental amenity that she has highlighted. As you know my mother lived in the adjoining house for some 12 years and we will make every effort to retain the beauty and character of this woodland, and as you are aware we have minimised the proposed loss of trees. I believe that just 7 of a total of 37 mature trees will be lost.
2. I can assure you that we will not be removing any further trees upon the request of any insurance company, and I am happy to give a formal and binding undertaking upon this point.
3. As the plans show, there will still be many trees between the subject property and the adjoining house to the south, Ardare. As such, I do not believe that there will be any material loss of privacy due to the side windows of the proposed house.
4. To the best of my knowledge there is still a builders warehouse/yard across the bridge that is mentioned and so lorries must use this bridge. I cannot see that we would need to use any larger lorries than those for the warehouse/yard.
5. As mentioned there is a legal agreement preventing any building within 12 metres of the boundary with Ardare to the south. However, we have no wish to build any "Garage type or other building" and again I would be happy to give a formal undertaking that we will not do so.

### COMMENTS FROM IAN AND RUTH WARNOCK

1. As you are aware, when we sold Ardare to Mr and Mrs Warnock they were well aware that we hoped to build a house on the adjoining land that has been retained. It was for this reason that we agreed not to build within 12 metres of their boundary. I am thus surprised that they are now objecting to our intentions which they were aware of when they purchased their house 5 years ago?

### COMMENTS FROM GREG MORRIS

1. Mr Morris tried to acquire the subject site from my mother on a number of occasions and I believe that he is a property developer himself. Indeed he has tried to claim part of our site as his own! I can only assume that he considers it well suited for residential development. However, unlike him I have absolutely no intention of "...a new application for several houses or flats on the site."
2. I believe that the "valuable corridor between the ancient forestry of the hillside lying to the north of the road and the seashore" has been fenced off by Mr Morris!
3. I am not certain whether there are any bats as there is only one small boathouse on the site at present. However, in any event this boathouse will be left untouched. Clearly we will comply with the relevant guidelines if any bats are found to be present.

4. If Mr Morris cares to inspect the plans he will realise that the development will certainly not lead to the "destruction and removal of most of the trees" as suggested. Indeed I we will lose 7 of some 37 mature trees, less than 19%.
5. Mr Morris himself demolished the old house immediately to the north of the subject site and replaced it with a modern alternative. As such his comments regarding vehicular traffic/off road parking/turning seem somewhat strange. He was presumably able to address these issues and we will be able to do likewise.

I look forward to discussing this with you further in due course.

With best wishes, Nick.

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**Protected Species Survey**

**Colintraive Retreat, Colintraive**

For

**James Houston Architects**

**21 June 2011**

**[www.wildsurveys.co.uk](http://www.wildsurveys.co.uk)**

**Room 125 St James Business Centre Linwood Road Paisley PA3 3AT  
Telephone 0141 887 2770 Mobile 07788 826 480 Fax 0871 5030923**

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Project No      WS456/11

Prepared by    Helen Lundie      20/6/11      Signed by

*Helen Lundie*

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Reviewed by    Morna McBean    21/06/11      Signed by

*Morna McBean*

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## Executive Summary

Wild Surveys Ltd was commissioned by James Houston Architects to undertake a bat (*Chiroptera sp*), badger (*Meles meles*), otter (*Lutra lutra*) and water vole (*Arvicola terrestris*) and red squirrel (*Sciurus vulgaris*) survey at the proposed Colintraive Retreat, Colintraive, Argyll and Bute, national grid reference NS036742, to identify any field signs of the above protected species or the potential for protected species to be on the site.

The site was historically the garden of the adjacent Ardare House which is to the east of the site. The proposed site has the road on its northern boundary, Ardare House and Milton Wood to the east and west respectively and the seashore to the south. The site is comprised of individual mature and self seeded broadleaved trees with an under storey mainly of grass and bramble with rhododendron lining the north, west and east boundary. There are two small, wet areas to the south west and south east corners of the site. A narrow water course runs north to south on the western boundary. A small area of Japanese knotweed (approx 1 x1m) was observed on the southern edge of the site at the shore line.

Although suitable habitat exists for otter, badger and bats, no field signs were found to suggest that any are currently using the site. Should the development proceed, there would still be suitable foraging and commuting habitat left for mammals such as badger, otter and bats to move through the area as well as the suitable habitat that currently exists within the gardens on either side of the site and along the road side.

## 1 Introduction

Wild Surveys Ltd was commissioned by James Houston Architects to undertake a bat (*Chiroptera sp*), badger (*Meles meles*), otter (*Lutra lutra*) and water vole (*Arvicola terrestris*) and red squirrel (*Sciurus vulgaris*) survey at the proposed Colintraive Retreat, Colintraive, Argyll and Bute, national grid reference NS036742, to identify any field signs of the above protected species or the potential for protected species to be on the site. This report presents the results of the survey carried out.

### 1.1 Legal and Environmental Context - bats

1.1.1 Bats are European protected species under the Habitats Directive 92/43/EEC, and are the subject of a UK wide Biodiversity Action Plan (BAP).

1.1.2 The Habitats Directive has been transposed into national laws by means of the *Conservation (Natural Habitats, &c.) Regulations 1994* (as amended). This is commonly known as the 'Habitats Regulations'.

1.1.3 The Habitats Regulations transpose the Habitats Directive to give bats, their breeding sites and resting places a high level of strict protection. In summary, it is a criminal offence (subject to certain specific exceptions) to deliberately or recklessly:

- capture or kill a bat;
- disturb a bat whilst in a place of shelter or rest; or
- damage or destroy a bat's breeding site or resting place.

1.1.4 For the purposes of development where a roost would be affected, a section 44 (Habitats Regulations) licence may be granted by the Scottish Government, if the following three tests are met:

- 1 that the licence application must demonstrably relate to one of the purposes specified in Regulation 44(2):
  - Preserving public health or public safety;
  - imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
  - preventing the spread of disease; or
  - preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property, or to fisheries.
- 2 that there is no satisfactory alternative; and
- 3 that the development will not be detrimental to maintaining the populations of the species at a favourable conservation status

1.1.5 The Scottish Biodiversity List includes bats amongst the species considered of principal importance for biodiversity in Scotland.

### 1.2 Legal and Environmental Context - badgers

1.2.1 Badgers are protected by the Protection of Badgers Act 1992 and further amended by the Nature Conservation (Scotland) Act 2004 (NC(S) A 2004).

1.2.2 The purpose of the Act is to protect the animals from deliberate cruelty and from the incidental effect of lawful activities which could cause them harm. Under this legislation it is an offence to deliberately or recklessly:

- kill, injure, take, possess or cruelly ill-treat a badger or attempt to do so;



- **Interfere with a sett by damaging or destroying it;**
- **Obstruct access to, or any entrance of, a badger sett; or**
- **Disturb a badger when it is occupying a sett.**

### 1.3 Legal and Environmental Context - otters

1.3.1 Otters are protected under European law, in annexes II and IV of the EC Directive (92/43) The Conservation of Natural Habitats and of Wild Fauna and Flora (The Habitats Directive 1994). Under these regulations it is an offence to deliberately or recklessly:

- **To capture, injure or kill a wild animal of a European protected species;**
- **To harass a wild animal or group of wild animals of a European protected species;**
- **To disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;**
- **To disturb such an animal while it is rearing or otherwise caring for its young;**
- **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;**
- **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;**
- **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; or**
- **To damage or destroy a breeding site or resting place of such an animal**

### 1.4 Legal and Environmental Context – water vole

1.4.1 The water vole is in sharp decline in the UK and is listed on Schedule 5 of the Wildlife and Countryside Act (1981) (as amended) in respect of section 9(4) only. This legislation makes it an offence to deliberately or recklessly:

- **Damage;**
- **Destroy;**
- **Obstruct access to any structure or place used for shelter; or**
- **Disturb water voles while they are using such a place**

### 1.5 Legal and Environmental Context – birds

1.5.1 All species of wild bird (with the exceptions of certain provisions outlined in Part 1 of the Wildlife and Countryside Act 1981, as amended ) and their nests are protected under the Wildlife and Countryside Act 1981, as amended (WCA 1981). This makes it illegal to:

- **Deliberately or recklessly kill, injure or take any wild bird;**
- **Deliberately or recklessly take, damage or destroy the nest of any wild bird while that nest is in use or being built; and**
- **Deliberately or recklessly take or destroy an egg of any wild bird.**

### 1.6 Legal and Environmental Context – Red Squirrel

1.6.1 The red squirrel is protected by its inclusion on Schedules 5 and 6 of the Wildlife and Countryside Act 1981 as amended by the Nature Conservation Scotland Act 2004. The following provides a brief summary of the provision of this legislation, under which it is an offence to intentionally or recklessly

- **kill, injure or take any red squirrel;**
- **Have possession or control of any red squirrel, or any part of, or anything derived from a red squirrel unless it can be proven that it was obtained lawfully;**
- **Damage, destroy, or obstruct access to any structure or place used by a red squirrel for shelter or protection;**
- **Disturb a red squirrel while it is occupying a structure or place used for shelter or protection;**
- **Sell, offer or expose for sale, or have for the purpose of sale any red squirrel;**
- **Publish or cause to be published any advertisement likely to infer that squirrels can, or are intended to be bought or sold;and**
- **Use certain indiscriminate methods of taking red squirrels, such as snaring or poisoning.**

Red squirrels are also protected under the Wild Mammals (Protection) Act 1996 which makes it illegal to subject them to any wilful act of cruelty or abuse.

There is provision within the Act for some activities, that would be illegal, to be carried out under licence.

## 2 Methodology

### 2.1 Desk Study

- 2.1.1 A data search was undertaken by Wild Surveys to review information available within the public domain. The site location is shown in **Appendix 1**.
- 2.1.2 Information was gathered to identify the status of a number of protected species within 5km of the site for bats and within 2km of the site for badger, otter and water vole. The results can be found in **Appendix 7**.
- 2.1.3 The Local Biodiversity Action Plan, Local Bat Group, Scottish badgers and NBN Gateway Site were consulted with the results shown in section 3.
- 2.1.4 In addition a search using MAGIC, SNHi sitelink and the relevant Local Authority nature conservation sites was carried out to discover any statutory or non-statutory designated sites within 2km. These include:
- **Local Nature Reserve (LNR)**
  - **Local Authority designated site e.g. Site of Importance for Nature conservation (SINC)**
  - **Wildlife Nature Reserve (SWT, RSPB etc)**
  - **Site of Special Scientific Interest (SSSI)**
  - **Special Area for Conservation (SAC)**
  - **Special Protection Area (SPA)**
- 2.1.5 The results of the designated site search can also be seen in **Appendix 7**.

### 2.2 Tree Inspection for bats

- 2.2.1 The tree inspection carried out aimed to identify the following;
- **Roosts on the site**
  - **Potential for roosts**
  - **features that could potentially support bats**
  - **Any requirement for further survey work or for section 44 licensing**
- 2.2.2 Photographs of the trees inspected are shown in **Appendix 2**.
- 2.2.3 Trees were surveyed in accordance with the Bat Survey Guidelines (Bat Conservation Trust 2007).
- 2.2.4 The trees were inspected externally from the ground to identify: Signs of current bat use; signs of historical bat use; and the potential for use by bats. Torches, binoculars and an endoscope were used where necessary. The following field signs were searched for:
- **Bat droppings, for example, on bark or accumulated in a cavity**
  - **Rot holes, woodpecker holes, cracks, splits and loose bark**
  - **Polishing, scratching or staining resulting from bats entering or exiting a cavity**
  - **Live or dead bats**
  - **Any insect remains which may indicate feeding**

### 2.3 Habitat Assessment

- 2.3.1 The habitat assessment was carried out to establish the sites potential for supporting bats. Any suitable tree roosts, foraging areas and commuting habitat was recorded during the survey.

- 2.3.2 The habitat assessment was carried out in accordance with the Bat Survey Guidelines (Bat Conservation Trust 2007).

## 2.4 Field Survey for badgers

- 2.4.1 The field survey was carried out to establish the sites potential for supporting badgers. Any suitable foraging areas and commuting habitat were recorded during the survey.

- 2.4.2 The following field signs were searched for:

- Presence of holes with evidence of badgers such as footprints, discarded hairs etc
- Presence of dung pits or latrines
- Presence of well used runs with subsidiary evidence of badger activity; and
- Presence of other indications of badger activity such as signs of foraging, snuffle marks and footprints

- 2.4.3 Setts Classification is described as:

- **Main** – Several Holes with large spoil heaps and obvious paths emanating from and between sett entrances;
- **Annexe** – Normally less than 150m from main sett, comprising several holes. May not be in use all the time, even if main sett is very active;
- **Subsidiary** – Usually at least 50m from main sett with no obvious paths connecting to other setts; and
- **Outlier** – Little spoil outside holes. No obvious paths connecting to other sets and only used sporadically. May be used by foxes and rabbits.

## 2.5 Field Survey for otter

- 2.5.1 The field survey of all watercourses was carried out to establish the sites potential for supporting otters.

- 2.5.2 The following field signs were searched for:

- **Holts** – below ground resting places
- **Couches** – above ground resting places
- **Prints**; and
- **Sprints** – faeces used as territorial markers

## 2.6 Field Survey for water vole

- 2.6.1 The field survey of all watercourses was carried out to establish the sites potential for supporting water voles.

- 2.6.2 The following field signs were searched for:

- **Faeces** – recognisable by their size, shape and content, and (if not too dried out) also distinguishable from rat droppings by their smell;
- **Latrines** – Faeces are often deposited at discrete locations know as latrines;
- **Feeding stations** – food items are often brought to feeding stations along pathways and haul out platforms, recognizable by neat piles of chewed vegetation up to 10cm long;
- **Burrows** – appear as a series of holes along the waters 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 waters edge and lead into vegetation cover, may be distinguishable from rat by size; and

- **Runways in vegetation – Low tunnels pushed through vegetation near the waters edge, less obvious than rat runs**

## 2.7 Red Squirrel

2.7.1 A non-invasive survey method will be used consisting of a visual survey of the trees within the proposed development site. The site will be walked during which a visual inspection of the trees will be carried out, looking for field signs such as:

- **dreys (commonly found in the forks of trees);and**
- **feeding activity.**

## 2.8 Birds and other notable species including invasive species of plant

2.8.1 Whilst this survey is only for bats and badger, evidence of other notable species including birds and plants will be recorded. This will include recording:

- **Nesting birds observed**
- **Field signs/sightings of notable birds species such as barn owl**
- **Notable plants (rare, threatened or locally significant)**
- **Invasive plant species i.e. giant hogweed, Japanese knotweed and Himalayan balsam**

## 2.9 Seasonal and Physical Limitations

### 2.9.1 Seasonal limitations for bat surveying

2.9.2 This survey was carried out during the active period for bats. No emergence or re-entry surveys were carried out due to there being no buildings on site and a low number of trees that are being removed. The trees were inspected from the ground for features that could support bats. If any features were present then the trees would be climbed and the features checked.

2.9.3 Bats use buildings and trees throughout the year and most importantly in spring and summer they set up maternity roosts. This is when the females come together to have their young and wean them before dispersing to other roost sites. Maternity roosts are difficult to detect out with this time however these maternity roosts are vital in maintaining populations.

### 2.9.4 Seasonal limitations for badger surveying

Badger surveys can be carried out at any time of the year. However during November to March when the vegetation has died back is the optimum time as signs can be more easily seen. However the site was able to be surveyed fully as the vegetation did not prevent a thorough search being carried out.

### 2.9.5 Seasonal limitations for otter surveying

Otters can be surveyed for at any time of year. Good practice would be to leave at least two dry days before surveying a water course as heavy rain can wash away evidence of spraint. The water course running through the site is small and narrow. Prominent features and the banks of the water course observed.

### 2.9.6 Seasonal limitations for water vole surveying

Although water voles do not hibernate they are not very active above ground during the winter, therefore surveys are best carried out between March and October. However an assessment of bank suitability can be made out with the active season

**2.9.7 Physical**

There were no limitations to carrying out the survey within the site boundary. Due to the adjacent properties being privately owned, the survey did not extend to within their boundaries. The shoreline was surveyed beyond the site boundary for 50m east and west.

## 3 Results

### 3.1 Desk Study

From the desk study it is clear that the species known to occur in Colintraive and the region are as follows:

- **Common pipistrelle (*Pipistrellus pipistrellus*) - common, widespread**

From the desk study the following has been established:

<b>Badger</b>	<b>Present within the 10km grid square</b>
<b>Otter</b>	<b>Present within the 10km grid square</b>
<b>Water vole</b>	<b>Present within the 10km grid square</b>
<b>Red Squirrel</b>	<b>Present within the 10km grid square</b>

- 3.1.1 The Local Biodiversity Action Plan has Species Action Plans (SAP's) for bats, otter, red squirrel, wild cat and water vole.
- 3.1.2 Local Bat Group (still to receive information)
- 3.1.3 Scottish badgers have no records for the area. Full results can be seen within **Appendix 7**.
- 3.1.4 A search of the NBN provided records of badger, otter, red squirrel and water vole. No records were returned for the site itself. The closest record received was for red squirrel approximately 200m from the site.
- 3.1.5 A search for designated sites has revealed that the nearest statutory designated site is the North End of Bute SSSI. The results of the designated site search can be seen in **Appendix 7**.

### 3.2 Tree Inspection for bats

- 3.2.1 There are approximately 12 mature trees proposed to be removed for the development. The species included are beech (*Fagus sylvatica*), ash (*Fraxinus excelsior*), alder (*Alnus glutinosa*), oak (*Quercus* sp) and rowan (*Sorbus aucuparia*). There is also self seeded oak and rowan over the site.
- 3.2.2 All of the trees identified for removal were inspected for features that could support roosting bats. Only one of the mature beech trees and a mature ash tree had cavities present, which were inspected. No field signs of bats were found during the inspection. The remaining trees had no suitable features for roosting.

### 3.3 Habitat Assessment

- 3.3.1 The initial walkover assessment identified much of the habitat on site as being suitable for foraging bat, badger, otter and nesting birds.

### 3.4 Field Survey for badgers

- 3.4.1 The initial walkover assessment of the site identified the site as having potential for badger.
- 3.4.2 No field signs to indicate that badger are using the site were found.

### 3.5 Field Survey for otters

- 3.5.1 The initial walkover assessment of the site identified the site as having potential for otter.
- 3.5.2 No field signs were found to indicate that otter are currently using the site, however it is highly likely that otter will use the burn and the shoreline for foraging and commuting.

### 3.6 Field Survey for water vole

- 3.6.1 The initial walkover assessment of the site identified the burn as being unsuitable within the site due to the stony bottom, fast flowing water and steep sided banks with limited vegetation.

### 3.7 Field Survey for red squirrel

- 3.7.1 The walkover assessment of the site did not observe any signs of squirrel dreys within the trees. No current signs of feeding were found on the site. The habitat and tree species on site are not the preferred habitat for red squirrels, however they may come onto the site to forage or commute through the site.
- 3.7.2 There are several records for red squirrel in the area and in addition to this, the author observed a red squirrel on the road less than 100m from the site.

### 3.8 Birds and other notable species including invasive species of plant

- 3.8.1 Although a nesting bird survey was not carried out, any nests that were observed during the survey would have been recorded. During the survey no nesting birds were observed within the trees. There is potential for nesting birds to use the vegetation on site for nesting.
- 3.8.2 The walkover assessment of the site identified a small area of Japanese knotweed (*Japonica sp*) approximately 1x1m on the southern edge of the site at the shoreline (NS0360 7425). As it was early on in the growing season, the plant was not fully grown, therefore the area may be larger than recorded. A full invasive plant survey was not undertaken.



## 4 Conclusions and Recommendations

### 4.1 Conclusions

- 4.1.1 There are no roost records for the site and the trees on site currently have no potential for roosting bats. There is potential for bats to use the site to commute and forage. The removal of the selected trees within the site would not prevent bats from foraging or commuting within or along the boundaries of the site.
- 4.1.2 No field signs of badger activity were found within the site.
- 4.1.3 No field signs of otter were found on the survey site. There is the potential for otter to use the burn and shoreline for foraging and commuting and as this will not be altered as a result of the proposed development, the opportunity to use the burn and shoreline will still continue.
- 4.1.4 The water course had a very low potential for water vole due to the fast flowing water, stoney river bed and lack of suitable bankside vegetation. No field signs were found.
- 4.1.5 No field signs indicating red squirrel are using the site were found during the survey. Red squirrel may commute through or forage within the site as they are known to be present in the locality.
- 4.1.6 Although a nesting bird survey was not carried out, no nests were observed during the survey.
- 4.1.7 A small area, approximately 1x1sqm was recorded along the southern boundary at the shore line. The plant was only beginning to grow, therefore may spread to a larger area once fully grown. A full invasive plant survey was not carried out.

### 4.2 Recommendations

- 4.2.1 As bats are highly mobile it is recommended that a re-inspection of the trees is carried out if the tree removal on site has not taken place within six months of the date of this survey.
- 4.2.2 All contractors should be made aware of the potential for bats and the legal protection that surrounds them prior to work beginning. Advice is given in **Appendix 3**.
- 4.2.3 **Protection of otter and badger during construction**
- 4.2.4 Although no field signs of otter or badger were found on site, there is still the potential for them to forage within or commute through the site, therefore best practice guidance during construction is listed below:
- 4.2.5
- A temporary ramp is placed in trenches over 0.5 metres deep in order to allow a potentially trapped otter to exit the trench
  - Site construction fencing should not interfere with the passage of otters through the riparian corridor
  - Lighting is directed away from the water course and that any lighting on the bridges or within 20 – 30 metres of the burn is low intensity lighting
  - Existing vegetation along the water courses should be retained wherever possible and following construction works, bare ground within the stand off should be planted with tree species of native and local provenance
- 4.2.6 All contractors should be made aware of the potential for otter and badger and the legal protection that surrounds them prior to work beginning. Advice is given in **Appendix 4 and 5**.
- 4.2.7 This survey is a baseline record of the site. As mammals, birds and plants are transient in nature, it

is recommended that if no work has taken place within 12 months of the date of this survey then the site should be reassessed prior to any work taking place to re-establish the baseline ecology.

**4.2.8 Enhancement**

Any amenity planting within the new site could have plants that are native, attractive to insects and would provide a potential food source for foraging bats and birds.

## 5 Contacts and References

### 5.1 Contacts

Scottish Natural Heritage  
17 John Street  
Dunoon  
PA43 7JJ

Telephone 01369 705377  
Web link [www.snh.org.uk](http://www.snh.org.uk)

### 5.2 References

UK-wide Biodiversity Action Plan  
Web link [www.ukbap.org.uk](http://www.ukbap.org.uk)

The Scottish Biodiversity List  
Web link [www.biodiversityscotland.gov.uk](http://www.biodiversityscotland.gov.uk)

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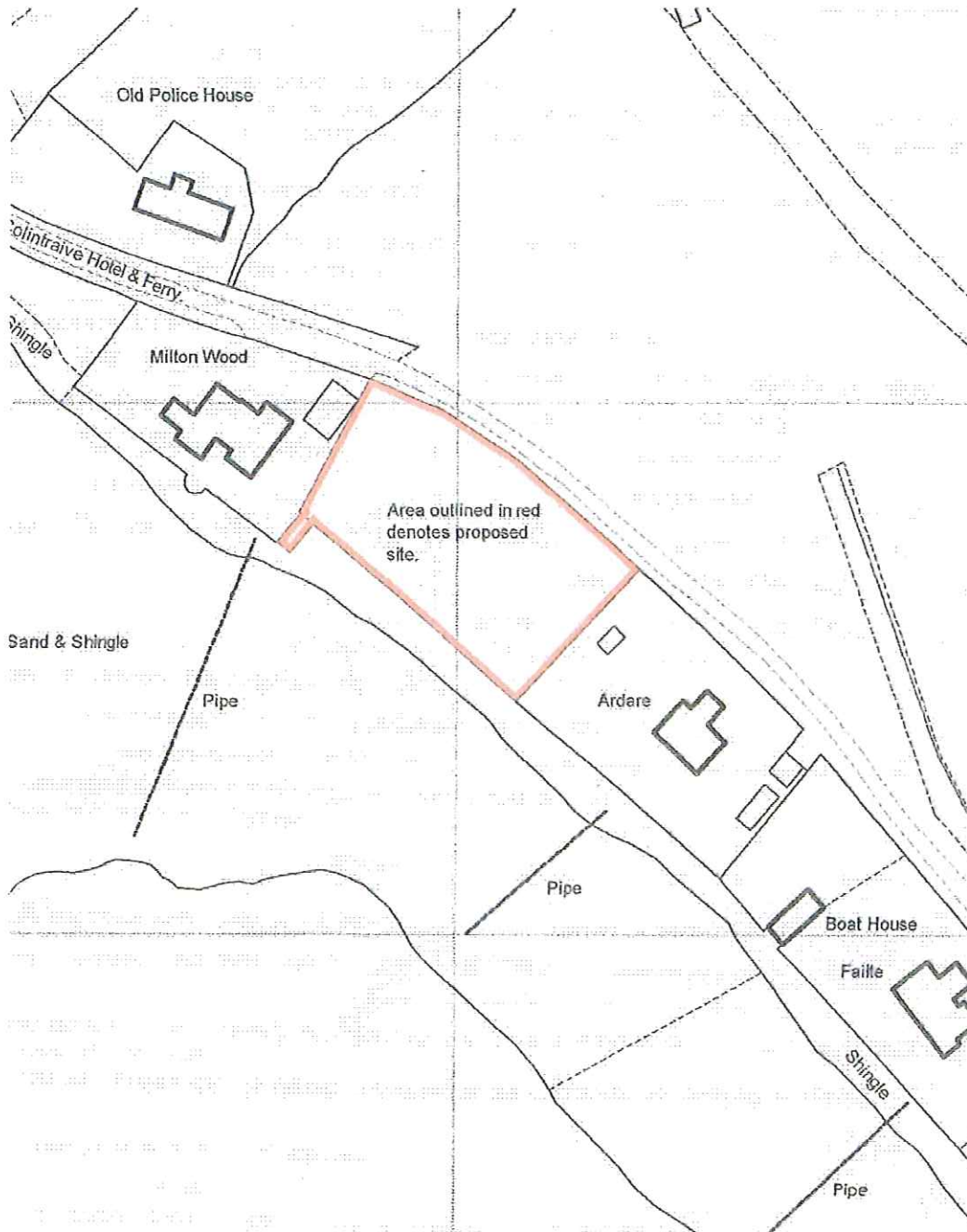
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**Appendix 1 – Site Location**



**Appendix 2 – Photographs**



View of the site from the north west corner



View of the water course

### Appendix 3 – Bats and the Law

Bats are European protected species under Annex II and IV of the *Council Directive 92/43/EEC 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora* (EC Habitats Directive), and are the subject of a UK wide Biodiversity Action Plan (BAP).

They are fully protected under the *Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)* in Scotland, these are commonly known as the 'Habitats Regulations'.

Bats are included in Schedule 2 of the *Conservation (Natural Habitats, &c.) Regulations 1994* as amended in Scotland, sections 39-41 and 44-46A. This explanation is a guide, for further details please refer to the relevant sections.

The Regulations include provisions making it an offence to:

- **deliberately or recklessly kill, injure or capture a bat**
- **deliberately or recklessly disturb roosting or hibernating bats**
- **deliberately or recklessly obstruct access to a bat roost**
- **damage or destroy a bat roost**
- **possess, control or transport a bat or any part of a bat**
- **sell or exchange a bat, or any part of a bat**

Some activities affecting bats or their roosts may need to be done under and in accordance with the terms of a licence. Licences allow certain illegal actions to be undertaken legitimately. Such activities might include:

- **blocking, filling or installing grilles over old mines or tunnels**
- **building, alteration or maintenance work**
- **getting rid of unwanted bat colonies**
- **removing hollow trees**
- **re-roofing**
- **remedial timber treatment**
- **rewiring or plumbing in roofs; and**
- **treatment of wasps, bees or cluster flies**
- **demolition**

Bats can potentially return to the same roost every year, therefore bat roosts are protected even if there are no bats there all year round.

These laws are not designed to prevent work but to minimize its impact on the long-term survival of bats.

#### **If bats are found:**

All work must cease immediately and SNH contacted for advice.

Before any further work can commence a Section 44 Licence from the Scottish Government may be required.

## **Appendix 4 – Badger and the Law**

Badgers are protected by the Protection of Badgers Act 1992 and further amended by the Nature Conservation (Scotland) Act 2004 (NC(S) A 2004).

The purpose of the Act is to protect the animals from deliberate cruelty and from the incidental effect of lawful activities which could cause them harm. Under this legislation it is an offence to deliberately or recklessly:

- **kill, injure, take, possess or cruelly ill-treat a badger or attempt to do so;**
- **Interfere with a sett by damaging or destroying it;**
- **Obstruct access to, or any entrance of, a badger sett; or**
- **Disturb a badger when it is occupying a sett.**

### **Protection of foraging badger during construction**

The following methods must be undertaken to protect foraging badger as badger will continue to use established badger paths even when construction has started:

- **Trenches or other excavations over 0.5 m in depth should be covered at the end of the working day or an escape ramp provided;**
- **Any open pipes should be capped to prevent badgers gaining access;**
- **Badger gates should be installed in perimeter fencing or the fence raised approximately 20cm from the ground to allow passage of badger; and**
- **All excavations and pipe systems should be checked at the start of the working day to confirm absence of badger.**

**If a badger is found during the period of development:**

Contact SNH immediately for advice.

## Appendix 5 – Otter and the Law

Otters are protected under European law, in annexes II and IV of the EC Directive (92/43)

The Conservation of Natural Habitats and of Wild Fauna and Flora (The Habitats Directive 1994). Under these regulations it is an offence to deliberately or recklessly:

- To capture, injure or kill a wild animal of a European protected species;
- To harass a wild animal or group of wild animals of a European protected species;
- To disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- To disturb such an animal while it is rearing or otherwise caring for its young;
- 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;
- 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;
- 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; or
- To damage or destroy a breeding site or resting place of such an animal

### Protection of otter during construction

The following methods must be undertaken to protect otters as they will continue to use the water course even when construction has started:

- A temporary ramp is placed in trenches over 0.5 meters deep in order to allow a potentially trapped otter to exit the trench
- Site construction fencing should not interfere with the passage of otters through the riparian corridor
- Lighting is directed away from the water course and that any lighting on the bridges or within 20 – 30 meters of the burn is low intensity lighting
- Existing vegetation along the water courses should be retained wherever possible and following construction works, bare ground within the stand off should be planted with tree species of native and local provenance

If an otter is found during the period of development:

Contact SNH immediately for advice.



## **Appendix 6 – Birds and the Law**

All species of wild bird and their nests are protected under the Wildlife and Countryside Act 1981.

This makes it illegal to:

- **Deliberately or recklessly kill, injure or take any wild bird;**
- **Deliberately or recklessly take, damage or destroy the nest of any wild bird while that nest is in use or being built;**  
**and**
- **Deliberately or recklessly take or destroy an egg of any wild bird**

There are also further penalties for birds listed on Schedule 1 of the Act.

### **If live nests are found:**

All work must cease immediately and SNH contacted for advice.

## Appendix 7 – Data Searches

<b>Location</b>	Northwest of Ardare Colintraive	<b>Grid</b>	NS035743	<b>Date of Search</b>	16/05/11
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<b>NBN</b>				
Protected species	No of Records within 2km	Approx distance in KM	Site name/Grid Ref	Date
Badger	Present in 10km Square		NS07	1960-1994
Otter	6x100m squares Present in 10km	1.84 1.3	Allt Gleckavoil Balnakailly NS022744	1978/84/91 1978/84/91
Water vole	Present		Bute/ Site name not Available	1736/1959
Red squirrel	20x100m square	1.04 1.71 1.2 0.2 0.2 0.2 0.2 0.2 0.64 0.2 1.98 0.57 0.14 0.14 0.22 1.44 0.71 1.91 0.14 0.14	Colintraive NS032756 NS052745 Close to Dundarrach NS027752 Milton Wood Colintraive NS035745 Milton Wood Colintraive NS035745 Milton Wood Colintraive NS035745 Milton Wood Colintraive NS035745 Failte Colintraive NS039738 Colintraive NS037741 Colintraive NS048728 Colintraive NS039739 Colintraive NS036742 Colintraive NS036744 Colintraive NS037742 Colintraive NS047735 Colintraive NS040738 Colintraive NS048729 Colintraive NS036744 Colintraive NS036744	1998 1905 2006 2006 2007 2007 2007 2007 2007 2007 2007 2007 2007 2007 2007 2007 2007 2007 2007 2007 2007
Great crested newt	None			

Bat Species	No of Records within 5km	Approx distance in KM	Site name/Grid Ref	Date
Chiroptera sp	None			
Myotis sp	None			
Daubenton's	None			
Plecotus sp	None			
Brown long eared	None			
Natterer's	None			
Noctule	None			
Pipistrelle sp	None			
Common pipistrelle	Present in 10km square		NS07	1960-1994
Soprano pipistrelle	None			
Nathusius pipistrelle	None			
Cowal Bat Group	No of Records within 5km	Approx distance in KM	Site name/Grid Ref	Date
Scottish Badgers				
Site Name	Record description	Approx distance in KM	Grid Ref	Date

Designated Site Search- Statutory, Non Statutory and Local Nature Reserves within 2km		
Site Name/Grid Ref	Status	Approx distance in KM
NorthEnd of Bute	Sites of Special Scientific Interest	1.2
Kyles of Bute	National Scenic Area	0
Ruel Estuary	Sites of Special Scientific Interest	4.7

Argyll and Bute Biodiversity Action Plan

Species Action Plans are in place for the following: Bats (*Chiroptera*), Brown Hare (*Lepus europaeus*), Otter (*Lutra lutra*), Red Squirrel (*Sciurus vulgaris*), Water Vole (*Arvicola amphibious*) and Wild Cat (*Felis silvestris*)

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Paisley  
PA3 3AT

22<sup>nd</sup> June. 2011

**Badger Data – Colintraive**

Dear Morna

Thank you for contacting Scottish Badgers regarding the above study. I have carried out a data search centred on National Grid Square NS 03 74.

0176	0276	0376	0476	0576
0175	0275	0375	0475	0575
0174	0274	0374	0474	0574
0173	0273	0373	0473	0573
0172	0272	0372	0472	0572

On this occasion I found no records relating to either road kills or badger setts. In fact I do not appear to have any records for badgers on the Cowal Peninsula at all apart from one RTA on the A815 near Clachan Strachur some 18.5 miles north of your target area. I suspect that the lack of records is more about under recording rather than a complete lack of badgers the habitat being suitable and similar to other areas where badgers are present.

I would therefore recommend that a survey be carried out to confirm the presence or absence of badgers from the proposed site.

Yours truly,  
*By Email*  
Ian Hutchison

