

APPENDIX 6

AVONTOUN, LINLITHGOW

PRELIMINARY ECOLOGICAL ASSESSMENT

NOVEMBER 2015

For

AWG PROPERTY LTD

CONTENTS

	Page
1.0 Introduction	1
2.0 Site Location and Description	1
3.0 Survey Method	2
4.0 Statutory and Non-statutory Designations	2
5.0 Survey Results	2
5.1 Habitat	2
5.2 European Protected Species	8
5.2.1 Otter	8
5.2.2 Bats	8
5.2.3 Great Crested Newts	9
5.3 Badger	9
5.4 Water Vole	9
5.5 Birds	9
5.6 Amphibians	10
5.7 Invertebrates	10
6.0 Conclusions	10
6.1 Habitats	10
6.2 European Protected Species	11
6.2.1 Otter	11
6.2.2 Bats	11
6.2.3 Great Crested Newts	11
6.3 Badger	11
6.4 Water Vole	11
6.5 Birds	11
6.6 Amphibians	11
6.7 Invertebrates	11
7.0 Recommendations	12
<i>Table 1</i> <i>Phase 1 Habitat Target Notes</i>	5
<i>Table 2</i> <i>Badger Evidence</i>	9
<i>Table 3</i> <i>Recorded Birds</i>	11
<i>Figure 1</i> <i>Site Location</i>	1
<i>Figure 2</i> <i>Phase 1 Habitat Map</i>	4
<i>Appendix 1</i> <i>Summary of Legislation</i>	
<i>Appendix 2</i> <i>Plant Species List</i>	

1.0 INTRODUCTION

This report was commissioned by AWG Property Ltd and concerns a preliminary ecological assessment of land at Avontoun, Linlithgow, originally undertaken in May 2014, with an additional area of land (Brookfields metal recycling yard) included in November 2015.

The survey was requested in order to provide AWG Property Ltd (and their partner Cemex UK Properties Ltd) with an overview of the area as regards the main habitat types and the presence or likely presence of protected or notable species. Particular attention was given to the potential for otter, water vole, badger, bat, amphibian, breeding bird and invertebrate activity within the survey area, which included the park area and a 50m boundary zone (where practicable).

2.0 SITE LOCATION AND DESCRIPTION

The survey area (Avontoun, Linlithgow) is located at Grid Reference NS 981 764 (central to the site).

Figure 1. Site Location

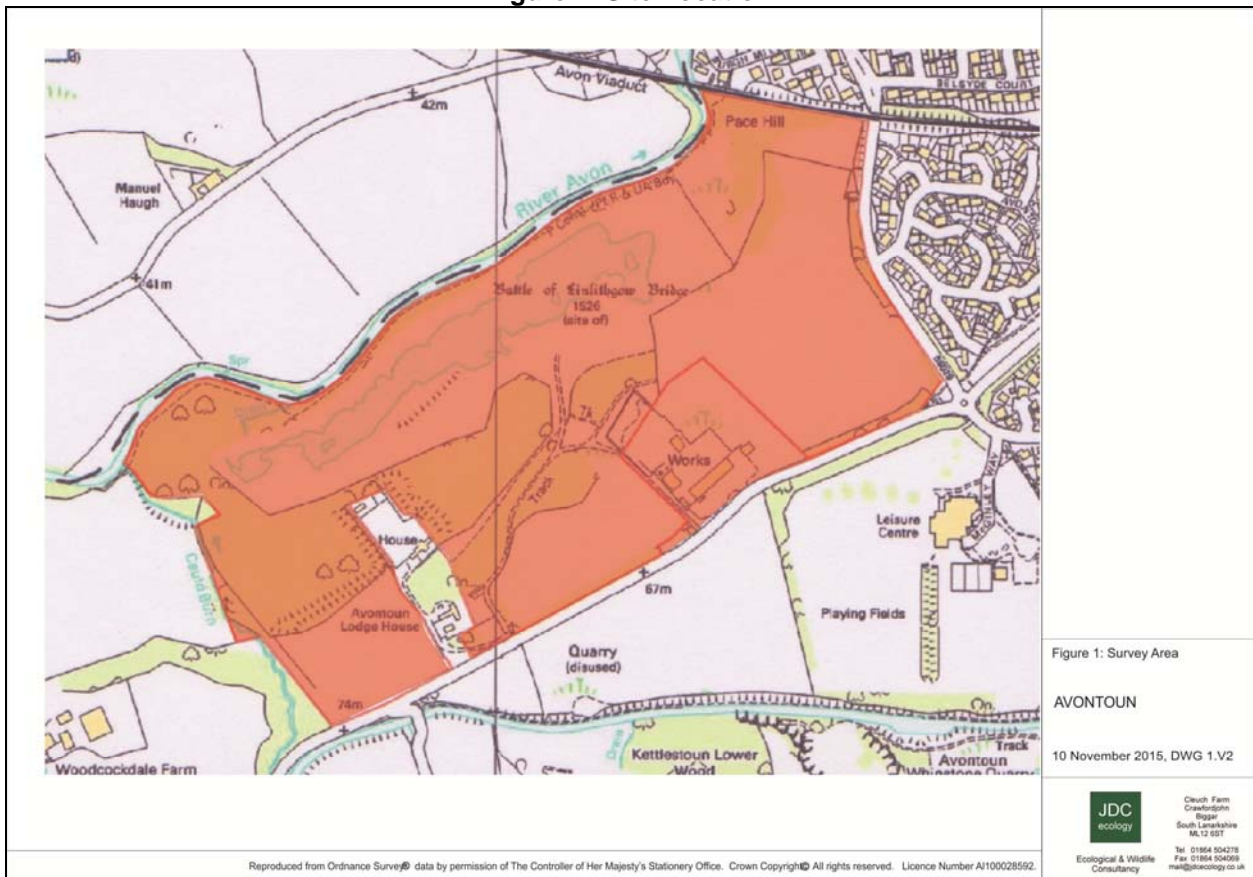


Photo 1. West to east, 'Works' behind trees



Photo 2. East to west – lochan in view.



Photo 3. Lochan – north towards the Avon Viaduct



Photo 4. Edge of site to River Avon

The site is mainly a former sand and gravel quarry which has been restored to a mixed landscape. It also includes a metal recycling yard at its centre. The yard and buildings also have scrubby birch/willow woodland and open grassland to the east and north.

Land to the west comprises agricultural land – the Cauld Burn lies between the site (partly in) and the fields to the west; land to the east consists of an active railway line and housing; land to the north consists of agricultural fields and housing – the River Avon forms the northern boundary to the site. Land to the south consists primarily of agricultural land and playing fields – the Union Canal lies close to the south-west corner of the site.

3.0 SURVEY METHOD

Survey was carried out on 8 May 2014, with the recycling yard included on 6 November 2015. Weather conditions were good during both periods of survey – dry and bright.

Phase 1 Habitat Survey was undertaken using standard Phase 1 methodology as outlined in the *JNCC Handbook for Phase 1 Habitat Survey* (JNCC, 1990). All accessible parts of the site were walked and mapped, and target notes were taken where areas of habitat were too small to map, or to provide further information on features of note. The survey was extended out by 50m around the area boundary where access was available.

During Phase 1 Habitat Survey note was taken of the actual or likely presence of faunal species such as otter, water vole, badger, bats, amphibians, birds and invertebrates.

4.0 STATUTORY AND NON-STATUTORY DESIGNATIONS

There are no statutory or non-statutory designations for the immediate site area or the surrounding area.

The nearest designated sites to Avontoun are two Sites of Special Scientific Interest (SSSI's). They are Linlithgow Loch, approximately 1.5km to the north-east and Carriber Glen, approximately 3km to the south-east.

5.0 SURVEY RESULTS

5.1 Habitat

The site consists of twelve main Phase 1 Habitat categories:

- A1.1.1 Broadleaved semi-natural woodland
- A1.1.2 Broadleaved plantation woodland
- A2.1 Dense/continuous scrub
- A2.2 Scattered scrub
- A3.1 Scattered broadleaved trees
- B2.1 Unimproved neutral grassland
- B5 Marshy grassland
- C3.1 Tall ruderal
- J1.2 Amenity grasslands
- J3.6 Buildings

- J4 Bare ground
- G1 Standing water

Approximately 60% of the main site is under woodland, mainly young broadleaved plantation woodland, with sizeable patches of semi-natural broadleaved woodland to the west and east, at the metal yard, and along an embankment central to the site. Circa 25% of the site is unimproved, neutral and amenity grassland, with the remainder comprised of a large lochan, tall ruderal and scattered scrub, and a small area of marshy grassland off the east end of the lochan. The quality of the grasslands around the metal yard are affected by the previous management to the site's surface – mounded soils and waste materials – and the ground and field layers in particular are not of high quality.

The lochan is currently developing vegetationally and has a range of marginal, emergent and floating vegetation, which is perhaps particularly more evident to the west (where it is most likely shallower). The area surrounding the lochan has a mixture of dense to scattered scrub (trees/shrubs) patches, interspersed or broken up with more open areas, dominated by grasses and tall herbs. There are a few small islands in the lochan that have a cover of young trees, which potentially offer some nesting/breeding opportunities for birds. However, they are also fairly close to the land edge, allowing relatively easy access to predators.

The mature woodland habitats across the site provide rich, or more diverse conditions, in particular, the more structurally developed woodland to the northwest and the tree-lined (largely planted) strip along the River Avon. The combination of these established woodland habitats (with their seed-banks of plants and (likely) invertebrates) and the younger, developing, plantation woodlands provide a mixed range of conditions for a wide range of species and potential for expansion over time.

The mix of wet meadow and marshy grassland, through to the drier grasslands, tall ruderals and tall herbs also provide a variety of conditions suitable to a range of invertebrates and small (and large) mammals.

The site supports a range of plant species (Appendix 2). The non-native invasive species Japanese Knotweed is present (Target Note 4 on Figure 2 and page 4), as is Indian Balsam (Target note 21) and rhododendron (Target Note 17), all non-native invasive species. The three species should be eradicated from the site as non-native invasives (Appendix 1 – Summary of Legislation).

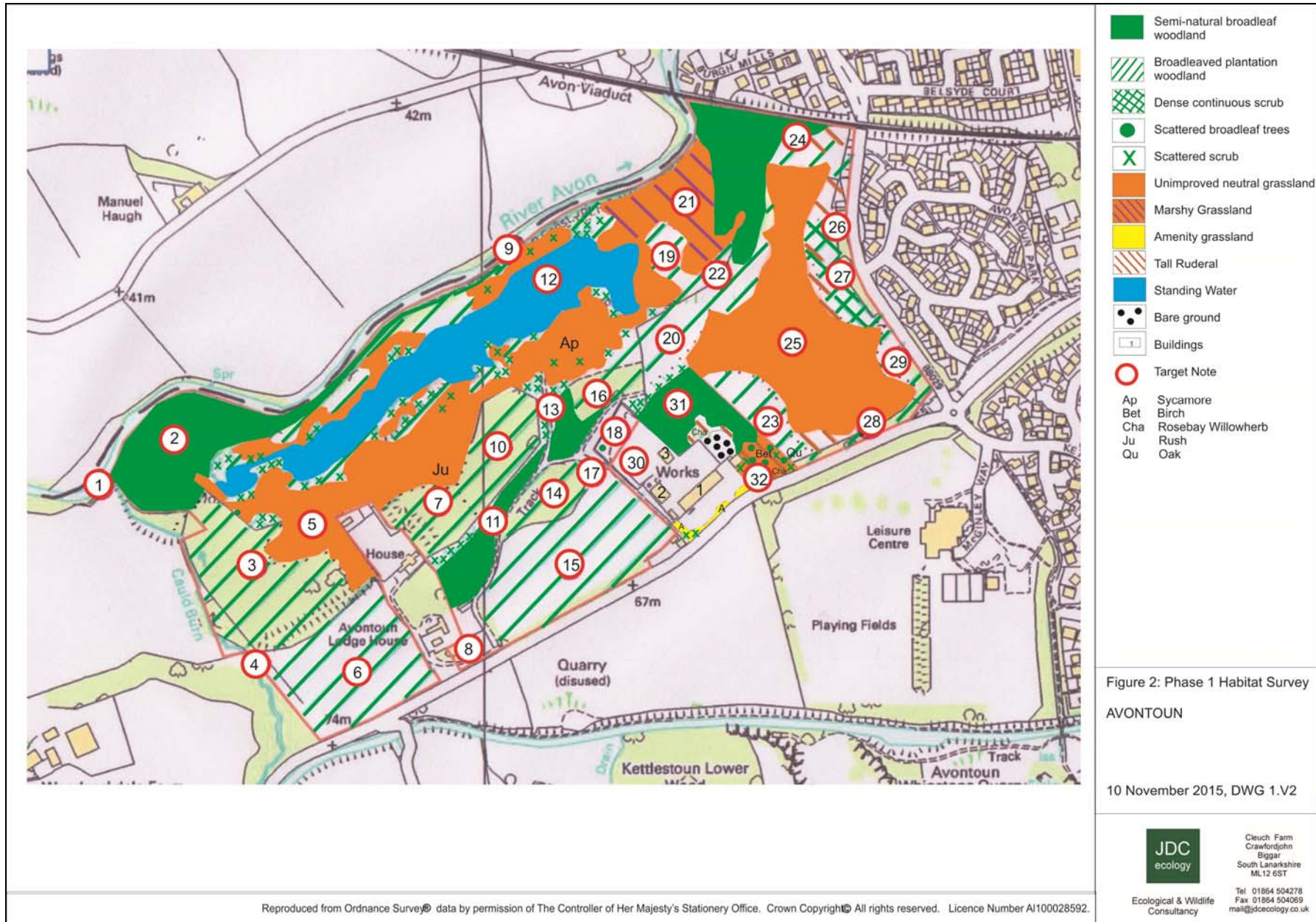







Table 1: Phase 1 Habitat Target Notes

Number	Grid Ref NS	Description
1	97504 76408	Otter spraints (3/4 – old) on a boulder in the River Avon, where the Cauld Burn enters.
2	975 764	Mature woodland with a mix of ash (<i>Fraxinus excelsior</i>), sycamore (<i>Acer pseudoplatanus</i>), oak (<i>Quercus</i> sp(p)), wych elm (<i>Ulmus glabra</i>), birch (<i>Betula</i> sp(p)) and lime (<i>Tilia x europaea</i>) – particularly closer to the river edge. The ground/field layer was carpeted with ramsons (<i>Allium ursinum</i>), wood anemone (<i>Anemone nemorosa</i>), bluebells (<i>Hyacinthoides non-scripta</i>), dog's mercury (<i>Mercurialis perennis</i>), leopard's-bane (<i>Doronicum pardalianches</i>), pignut (<i>Conopodium majus</i>), great wood-rush (<i>Luzula sylvatica</i>), lesser celandine (<i>Ranunculus ficaria</i>), comfrey (<i>Symphytum</i> sp(p)) and male fern (<i>Dryopteris filix-mas</i>). 
3	976 763	Younger mixed broadleaved plantation woodland (20 years+). Block of conifers (pine (<i>Pinus</i> sp(p)) and larch (<i>Larix</i> sp(p))) close to the deer fence that surrounds the former field to the south. Hedge woundwort (<i>Stachys sylvatica</i>) recorded.
4	97696 76171	Stand of Japanese knotweed (<i>Fallopia japonica</i>) at the boundary of the site. The knotweed is largely outside the boundary. However, a few plants push inside the boundary of the survey area.
5	977 763	Open grassland. The grassland along the western edge of the house and gardens and to the north and east is wet. It would appear to be from issues that feed through from the former field area to the south (at least in part). Common figwort (<i>Scrophularia nodosa</i>) and bittersweet (<i>Solanum dulcamara</i>) were both recorded in the wet area. The water eventually feeds through in to the lochan. Other parts of the grassland (to the northwest) are drier overall.
6	978 761	Grassland, now planted throughout with broadleaved and coniferous trees and shrubs. Deer fencing surrounds the perimeter
7	979 763	Younger plantation (no tree tubes) than that described at TN 3. Some planting of blackthorn (<i>Prunus spinosa</i>) in tree-tubes. Common spotted orchid (<i>Dactylorhiza fuchsii</i>) scattered through the wet grassland. Rushes (<i>Juncus</i> sp(p)) dominant over large parts.
8	979 762	Mown grassland with a group of mature trees (oak, sycamore, ash) to the west side of the open grassland. Directly north of this point is a house and garden, surrounded by an established hedge and fence. The boundary line appears to run through the garden of the property. No attempt was made to enter this area. A line of planted willows (<i>Salix</i> sp(p)) follow the edge of the track leading in to the site.
9	980 767	The river edge is lined with mature trees (oak, lime, sycamore) and a hawthorn (<i>Crataegus monogyna</i>) hedge. A well established path cuts through the trees along the riverbank.
10	980 765	Woodland planting – longer established than that at TN 7.
11	980 763	Mature woodland (dominated by sycamore and wych elm) on steeply banked ground. Several badger (<i>Meles meles</i>) setts within the woodland.
12	981 767	Lochan. The loch has a fringe of marginal vegetation with rushes, branched bur-reed (<i>Sparganium erectum</i>), reed canary grass (<i>Phalaris arundinacea</i>) and bulrush (<i>Typha latifolia</i>) – very little overall. The loch is shallower to the west, where it is more vegetated with beds of sedge (<i>Carex</i> sp(p)) and submerged plants. The banks have a surrounded of trees and shrubs (willows, alder, blackthorn, hawthorn) broken up by open ground with grasses and tall herbs. The small islands on the lochan are wooded with trees/shrubs – birch and alder, in particular. Mute swans (<i>Cygnus olor</i>), mallard (<i>Anas platyrhynchos</i>), little grebe (<i>Tachybaptus ruficollis</i>), common coot (<i>Fulica atra</i>) and common moorhen (<i>Gallinula chloropus</i>) were all seen on the lochan and are all highly likely to breed there.

Number	Grid Ref NS	Description
13	980 765	Well established path/track down to the lochan from the higher ground to the south. Mixed broadleaved woodland either side of the path, with mature, semi-mature, and more recently planted trees and shrubs. Some parts very scrubby. A patch of snowberry (<i>Synphoricarpos albus</i>) is established along the edge of the path, close to the signpost, at the top of the sloping ground.
14	980 764	Recently planted with broadleaved trees/shrubs – still in tree-tubes. 
15	981 763	Grassland, now planted throughout with broadleaved (rowan, birch, alder, +) and coniferous (pine, +?) trees and shrubs. Deer fencing surrounds the perimeter. Rabbit (<i>Oryctolagus cuniculus</i>) burrows clearly evident in many areas.
16	981 765	Established broadleaved woodland – a mix of mature and semi-mature broadleaved trees and shrubs – principally dominated by sycamore.
17	981 764	Levelled out ground with two raised banks around the western and southern edges. The tops of the banks are lined with sycamore, birch and willow. A few rhododendron (<i>Rhododendron ponticum</i>) shrubs are established on the western bank. The brick wall of the area marked 'Works' on the map forms the eastern boundary edge. The area appears to have been used for dumping materials in the past and the central area is overgrown with ruderals, principally common nettles (<i>Urtica dioica</i>), indicating some enrichment.
18	981 764	This area is part of the metal recycling yard and in most part lies within the walls of the premises. The ground has been used for scrap metal storage and the deposition of mounds of soil, etc. and is therefore raised/mounded and overgrown with tall ruderals (rosebay willowherb (<i>Chamerion angustifolium</i>) and thistles (<i>Cirsium</i> sp(p)) and scattered (largely birch) scrub.
19	982 767	Recently planted with broadleaved trees/shrubs (alder, cherry, rowan) – still in tree-tubes.
20	982 766	More recent planting (15/20 years) of trees and shrubs (birch, cherry, hawthorn, alder, poplar (<i>Populus</i> sp(p)) along the ridged ground, compared to the more established (mature) woodland to the west and north. Red campion (<i>Silene dioica</i>), bramble (<i>Rubus fruticosus</i>), primroses (<i>Primula vulgaris</i>) and buttercups (<i>Ranunculus</i> sp(p)) established in the ground/field layer.
21	982 768	Wet meadow with marsh marigold (<i>Caltha palustris</i>). Meadowsweet (<i>Filipendula ulmaria</i>), reed canary grass, water mint (<i>Mentha aquatica</i>), great willowherb (<i>Epilbium hirsutum</i>), branched bur-reed, horsetails (<i>Equisetum</i> sp(p)), rushes (<i>Juncus</i> sp(p)), sedges (<i>Carex</i> sp(p)), wild angelica (<i>Angelica sylvestris</i>) and cuckooflower (<i>Cardamine pratensis</i>). Indian balsam (<i>Impatiens glandulifera</i>), greater stitchwort (<i>Stellaria holostea</i>), leopard's-bane, hedge bindweed (<i>Calystegia sepium</i>), common vetch (<i>Vicia sativa</i>), ramsons, butterbur (<i>Petasites hybridus</i>) were all recorded closer to the tree-lined bank to the river but pushing in to the wet meadow.
22	983 766	More open scrubby area between the two more established wooded blocks. Scrub (hawthorn, oak, elder (<i>Sambucus nigra</i>), birch, bramble) and ruderals (rosebay willowherb (<i>Chamerion angustifolium</i>), common nettles (<i>Urtica dioica</i>)).
23	983 764	Recently planted trees (broadleaf and conifers - in tubes) over rosebay willowherb, common nettle, foxglove (<i>Digitalis purpurea</i>), field forget-me-not (<i>Myosotis arvensis</i>), wood avens (<i>Geum urbanum</i>), burdock (<i>Arctium</i> sp.) and cresses (<i>Cardamine</i> sp(p)). Well used rabbit warren over this area. Long-tailed tits (<i>Aegithalos caudatus</i>), song thrush (<i>Turdus philomelos</i>) and blackcap (<i>Sylvia atricapilla</i>) were all seen or heard in this area.

Number	Grid Ref NS	Description
24	983 768	Well established scrubby woodland cover along the edge of the railway line and down the very steep bank by the viaduct, to the River Avon. Alders, willows, lime, sycamore, elder, hawthorn and ivy (<i>Hedera helix</i>) form the dense canopy cover. Lesser periwinkle (<i>Vinca minor</i>) forms an extensive cover over the steep bank and ferns (male fern (<i>Dryopteris filix-mas</i>), scaly male fern (<i>D. affinis</i>) and broad buckler fern (<i>D. dilatata</i>) are abundant. Indian balsam is well established in parts. Lesser celandine and willowherbs (<i>Epilobium</i> spp.) were frequent throughout. Signs of roe deer (<i>Capreolus capreolus</i>) lying up. Blue tit (<i>Cyanistes caeruleus</i>) and singing common chiffchaff (<i>Phylloscopus collybita</i>) recorded.
25	985 765	Main area of open, relatively level, grassland. Species recorded include tufted hair grass (<i>Deschampsia cespitosa</i>), Yorkshire fog (<i>Holcus lanatus</i>), fescues (<i>Festuca</i> spp.), cock's-foot grass (<i>Dactylis glomerata</i>), field wood-rush (<i>Luzula campestris</i>), rushes (<i>Juncus</i> sp(p)), buttercups – although largely 'creeping' (<i>Ranunculus</i> spp.), ribwort plantain (<i>Plantago lanceolata</i>), broadleaved dock (<i>Rumex obtusifolius</i>), common nettles, creeping thistle (<i>Cirsium arvense</i>), vetches (<i>Vicia</i> sp(p)), germander speedwell (<i>Veronica chamaedrys</i>), cresses (<i>Cardamine</i> spp.), patches of rosebay willowherb and spring turf-moss (<i>Rhytidiadelphus squarrosus</i>). The grassland itself changes from a dense thick sward in parts to relatively light patchy, and open sandy soil conditions. Digging of the soil by rabbits, dogs, and European moles (<i>Talpa europaea</i>) occurs.
26	984 767	Some mature/semi-mature trees (sycamore) and scrub along side the road. Hogweed (<i>Heracleum sphondylium</i>) and crosswort (<i>Cruciata laevipes</i>) recorded at the edges to the scrub.
27	984 766	Steeply banked land rising up to a plantation woodland (sycamore, ash, rowan) screening belt above. The bank itself is scrubbed over with broom (<i>Cytisus scoparius</i>), gorse (<i>Ulex europaea</i>), hawthorn and elder. Dog violets (<i>Viola riviniana</i>) and sheep's sorrel (<i>Rumex acetosella</i>) were both recorded.
28	985 764	Recently planted trees (rowan, cherry, birch – in tubes), over rosebay willowherb, common nettle, ground elder (<i>Aegopodium podagraria</i>), cleavers (<i>Galium aparine</i>), cow parsley (<i>Anthriscus sylvestris</i>) and white dead nettle (<i>Lamium album</i>).
29	985 765	Established broadleaved (sycamore, ash) plantation screening strip alongside the wall and main road. The edge of the trees to site is lined with tall herbs and ruderals including rosebay willowherb, common nettles, ground elder and cow parsley. Orange-tip and small tortoiseshell (<i>Aglais urticae</i>) butterflies flying along the margin. Common whitethroat (<i>Sylvia communis</i>) singing. Great tit (<i>Parus major</i>) and chaffinch (<i>Fringilla ceolebs</i>) also recorded.
30	9820 7643	The main yard area with piles of metal spread throughout the area. The wider area is largely devoid of vegetation apart from the margins where trees/shrubs are established.
		
31	9824 7652	The main of broadleaved woodland dominated by birch (<i>Betula</i> sp(p)) and willow (<i>Salix</i> sp(p)). Sycamore (<i>Acer pseudoplatanus</i>) was also recorded, along with hawthorn (<i>Crataegus monogyna</i>), rose (<i>Rosa</i> sp(p)), bramble (<i>Rubus fruticosus</i>), common nettles (<i>Urtica dioica</i>), male fern (<i>Dryopteris filix-mas</i>) and rosebay willowherb (<i>Chamerion angustifolium</i>). The wider area shows signs of previous management. Former fence lines and a deep ditch run through the woodland to the north. It is clear from the vegetation growth (trees/shrubs) that the area has been used (and then left) over a considerable period of time.

			
32	9835 7642	<p>More open ground with a mix of grassland tall ruderal, trees and shrubs. Rabbits are well established over the area and the influence of their grazing is evident.</p> <p>Species recorded include Yorkshire fog (<i>Holcus lanatus</i>), fescues (<i>Festuca</i> spp.), cock's-foot grass (<i>Dactylis glomerata</i>), rough meadow grass (<i>Poa trivialis</i>), false oat grass (<i>Arrhenatherum elatius</i>), creeping buttercup (<i>Ranunculus repens</i>), ribwort plantain (<i>Plantago lanceolata</i>), broadleaved dock (<i>Rumex obtusifolius</i>), common nettles, creeping thistle (<i>Cirsium arvense</i>), vetches (<i>Vicia</i> sp(p)), germander speedwell (<i>Veronica chamaedrys</i>), cresses (<i>Cardamine</i> spp.), rosebay willowherb and spring turf-moss (<i>Rhytidiadelphus squarrosus</i>).</p> 	

5.2 European Protected Species

European Protected Species are covered by the Conservation Regulations 1994 (Appendix 1)

5.2.1 Otter

Two watercourses flow along the northern and western boundaries to the site – the River Avon (northern) and the Cauld Burn (western). The Union Canal lies just south of the southwest corner of the site creating a potential link for otter between the two major water channels via the Cauld Burn.

Field signs of otter were recorded at the point where the Cauld Burn enters the River Avon (see TN 1). The Lochan could also present opportunities for a foraging otter. The potential for common frog (*Rana temporaria*) should be good and there may be fish within the lochan as a further food resource.

5.2.2 Bats

No surveys or detailed assessments were undertaken for bats at this point. Bats would be expected to be foraging at the site and commuting around and across. There are mature trees with features suitable for exploitation by roosting bats.

The metal recycling yard contains four main brick-built buildings (not including annexe structures). Buildings 1, 2 and 4 have corrugated roofs with some wooden fascia boards and soffits and have the best potential for roosting bats. Building 3 is roofless and, although it lacks good roost points may still have some opportunities within the brick work.



5.2.3 Great Crested Newts (GCN)

The lochan is a rather large body of water. GCN prefer medium size ponds and mixed conditions, where a range of ponds come and go (are ephemeral). It is not known whether there are fish within the pond but this has an impact on use of water bodies by GCN's. The wildfowl that make use of the pond will also predate any amphibians.

No surveys for amphibians were undertaken at this point. The nearest known GCN sites are over 3km northwest and southeast of the site (NBN Gateway).

5.3 Badger

Badgers and their setts are protected by the Protection of Badgers Act 1994 (as amended).

Badgers are present on site. A main sett and other setts (old main sett + annex/subsidiary setts) are located between Avontoun Lodge House and the metal yard. They are positioned above the track and would remain undisturbed by the proposed development.

Table 2: Badger Evidence

Grid Ref	Sett Type	Descriptions
NS 98030 76379	Former main sett	10 entrances – not in use
NS 98015 76362	New Main sett	9 entrances – 7 active.
NS 97997 76339	Annexe sett	5 entrances - all active.
NS 97979 76301	Annexe sett	2 entrances – active.

5.4 Water Vole

The conditions along the Cauld Burn are not ideal habitat for water voles. The banksides are tree-lined/wooded. The burn was followed from the River Avon to the point where it left the site boundary.

No evidence was found, although further detailed survey would be needed to be certain. However the watercourses are not affected by proposals.

The River Avon is likely to be inhabited by mink, therefore, the likelihood of water voles being recorded along this stretch could be considered low.

5.5 Birds

The site is extensive and would support a number of species throughout the year for breeding, roosting and foraging, including on the lochan where Mute swans, mallard, little grebe, common coot, and common moorhen, were all seen and are all highly likely to breed there. Species recorded within or around the site during the period of survey included:

Table 3: Bird Species

Common Name	Scientific Name	Conservation Status
Blackbird	<i>Turdus merula</i>	Green
Blackcap	<i>Sylvia atricapilla</i>	Green
Blue tit	<i>Cyanistes caeruleus</i>	Green
Carrion crow	<i>Corvus corone corone</i>	Green
Chaffinch	<i>Fringilla coelebs</i>	Green
Chiffchaff	<i>Phylloscopus collybita</i>	Green
Coot	<i>Fulica atra</i>	Green
Dipper	<i>Cinclus cinclus</i>	Green
Duncock	<i>Prunella modularis</i>	Amber
Great spotted woodpecker	<i>Dendrocopus major</i>	Green
Great tit	<i>Parus major</i>	Green
Jackdaw	<i>Corvus monedula</i>	Green
Little grebe	<i>Tachybaptus ruficollis</i>	Amber
Long-tailed tit	<i>Aegithalos caudatus</i>	Green
Mallard	<i>Anas platyrhynchos</i>	Amber
Moorhen	<i>Gallinula chloropus</i>	Green
Mute Swan	<i>Cygnus olor</i>	Green
Robin	<i>Erithacus rubecula</i>	Green
Song thrush	<i>Turdus philomelos</i>	Red
Starling	<i>Sturnus vulgaris</i>	Red
Whitethroat	<i>Sylvia communis</i>	Amber
Wood pigeon	<i>Columba palumbus</i>	Green

Key: **Red** list criteria - Globally threatened; Historical population decline in UK during 1800–1995; Severe (at least 50%) decline in UK breeding population over last 25 years, or longer-term period (the entire period used for assessments since the first BoCC review, starting in 1969); Severe (at least 50%) contraction of UK breeding range over last 25 years, or the longer-term period. **Amber** - Species with unfavourable conservation status in Europe (SPEC = Species of European Conservation Concern); Historical population decline during 1800–1995, but recovering; population size has more than doubled over last 25 years; Moderate (25-49%) decline in UK breeding population over last 25 years, or the longer-term period; Moderate (25-49%) contraction of UK breeding range over last 25 years, or the longer-term period; Moderate (25-49%) decline in UK non-breeding population over last 25 years, or the longer-term period; Rare breeder; 1–300 breeding pairs in UK; Rare non-breeders; less than 900 individuals; Localised; at least 50% of UK breeding or non-breeding population in 10 or fewer sites, but not applied to rare breeders or non-breeders; Internationally important; at least 20% of European breeding or non-breeding population in UK (NW European and East Atlantic Flyway populations used for non-breeding wildfowl and waders respectively). **Green** - Species that occur regularly in the UK but do not qualify under any or the above criteria

5.6 Amphibians

The Lochan is the main opportunity for amphibians and is likely to support at least common frog and common toad (*Bufo bufo*).

5.7 Invertebrates

Orange-tip, green-veined white (*Pieris napi*) and small tortoiseshell butterflies were recorded during the course of the survey, along with three bumblebee species – *Bombus pascuorum*, *B. lucorum* and *B. terrestris*.

6.0 CONCLUSIONS

6.1 Habitats

There is a good mixture of habitats across the survey area, from the open grasslands – wet and dry, through the range of wooded habitats – some long established, others recently planted out, to the lochan and out to the River Avon.

The main areas of interest lie between the ridge that crosses the area from the northeast to the south and west (north of the ridge) and the boundary edge along the River Avon, where the range of habitats and the more 'natural' conditions present both good quality habitats and strong visual aspects.

The established broadleaved woodlands (some of which may have been enhanced in the past by planting) present a more 'natural' quality in their composition and structure, whilst the younger, scrubby, and more recently planted and self-seeded blocks present good opportunities for a range of breeding birds – in particular the summer migrants. The dry grasslands and the wet meadows create a variety of conditions for a range of species – particularly for invertebrates. The lochan and the two watercourses (the River Avon is a significant corridor for the movement of fish and mammals at the edge of the survey area) provide a wider set of conditions from standing water to fast flowing conditions.

Land to the south of the ridge is currently less interesting in terms of the range of ecological conditions. The large area of open grassland to the east of the survey area is well used by local residents and is less diverse overall. The edges have been planted up and over time this will form good woodland components. The two areas of open grassland to the west (one between the 'Works' area and Avontoun Lodge House, the other to the west of Avontoun Lodge House) have been planted up with a mix of broadleaf trees and conifers. They have been fenced-off, using deer fencing and will take some time to develop.

6.2 European Protected Species

6.2.1 Otters

It is clear that otters move along the River Avon. This is a major watercourse suitable for both potential breeding sites and for foraging resources. It is also highly likely that otters will make use of the Cauld Burn for movement, potentially from the Union Canal to the River Avon and/or in the opposite direction.

6.2.2 Bats

There is clearly potential within the mature trees/woodland for roosts and in buildings in the metal yard.

Bat survey should be undertaken to determine what species are present, in what numbers, and how they use the site including the proposed development zones.

6.2.3 Great Crested Newts

The nearest currently known GCN sites are over 3km away and the lochan is sub-optimal for amphibian species. There will be no impact on the lochan as a result of the proposals.

6.3 Badgers

From this preliminary survey it appears that the setts on site would likely not be directly impacted by development due to their location. However they may lie within licensable distance of some development activity, and as such would need licence and consideration of the closed season (December to June inclusive). Additionally, a badger survey to a 500m buffer should be undertaken to determine if this is the only social group in that area. This is needed for calculation of the potential impact of forage loss to the development zone. However, the site itself is quite large and provided the density of badgers in the area is not at high levels, it is probable that the development areas could be designed to accommodate the presence of badgers without detriment to the social group.

6.4 Water Vole

There does not appear to be water vole activity in the area, although this was not a detailed survey. However, the proposals do not affect the river, burn or lochan so further survey is not necessary.

6.5 Breeding Birds

Only casual records of birds were recorded during the Phase 1 Habitat Survey. There is potential for a wider range of species to breed at the site and there is scope for winter roosting and foraging. It would be useful to undertake a formal Breeding Bird Survey (May and June) to estimate the density of population, particularly over the development zones, although nesting is less likely over the development zones given their new planting status. Nonetheless breeding birds may be present.

Any eventual development would need to consider the nesting season when all wild birds, their nests and eggs are protected. As nesting is likely in and immediately adjacent to the development zones, it would be prudent to plan site works to avoid the nesting season. If not possible then nest checks would be needed and actively nesting birds and their nests would need to be avoided. This can interrupt site works considerably.

6.6 Amphibians

The lochan may present some opportunity for breeding amphibians, although sub-optimal. As for great crested newt, the lochan will not be impacted.

6.7 Invertebrates

Invertebrate survey is more relevant to the area north of the ridge, where good, long-established woodlands, mature trees, wet and dry grasslands and the lochan present the widest set of conditions. The proposed development zones are less likely to support an invertebrate assemblage of any particular note or rarity.

7.0 RECOMMENDATIONS

The following surveys are recommended:

- Bat
- Badger to 500m around the site
- Breeding Bird Survey

Additionally the following would be recommended as arising from this preliminary survey:

- Treat the Japanese Knotweed or otherwise remove it by approved methods as soon as possible. This should include the whole stand including the majority which lies outside of the boundary.
- Design in robust shrub and woodland corridors around each development zone to maintain links with the rest of the site and adjacent habitats. This should also consider leaving longer grassland margins.
- Use of native species for all seeding and planting is recommended as a first principle. Species-rich grassland mixes should also be used around the development zones wherever possible.

APPENDIX 1 SUMMARY OF LEGISLATION

The following is a brief summary of relevant legislation. Reference should be made to the full texts - <http://www.legislation.gov.uk/>

EC Habitats Directive (Council Directive 92/43/EEC)

The Directive aims to maintain biodiversity by requiring signatories to the directive to maintain or restore certain natural habitats and species at a favourable status within the European Community. Annex 1 lists habitats that require the designation of special areas of conservation. Annex II lists animal and plant species whose conservation requires the designation of special areas of conservation. Annex IV consists of animal and plant species of community interest, in need of strict protection.

EC Birds Directive (Council Directive 79/409/EEC)

The Directive aims to deliver protection, management and control of all species of wild birds where they occur naturally. Member states are required to take steps to maintain populations at levels at which they are sustainable both ecologically and scientifically. For particular species a member state must designate Special Protection Areas (SPAs) of suitable habitat. An Annex 1 species is listed for reason of danger of extinction, vulnerability to specific habitat changes, rarity either by population size or restricted local distribution, or other specific habitat requirements.

The Conservation Regulations 1994

The Regulations make provision for implementing Council Directive 92/43/EEC, and provides for the conservation of natural habitats and habitats of species, provision for notification of "European Sites", and provides for the protection of certain wild animals and plants. It is an offence, except as permitted under the Regulations, to deliberately or recklessly:

- capture, injure or kill a European Protected Species;
- harass an animal or group of animals;
- disturb an animal in any structure or place it uses for shelter or protection;
- disturb an animal while it is rearing or otherwise caring for its young;
- obstruct access to a structure or place used for shelter or protection or to otherwise deny the animal use of that place;
- disturb an animal in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of the species;
- disturb 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.

It is also an offence to:

- damage or destroy a breeding site or resting place of such an animal (note that this does not need to be deliberate or reckless to constitute an offence);
- keep, transport, sell or exchange or offer for sale or exchange any wild animal or any part or derivative of one (if obtained after 10 June 1994).

Licences for disturbance are at the discretion of Scottish Natural Heritage. The following tests apply with regard to European Protected Species:

1. A detailed summary of why the works are justifiable as a derogation of the 1994 Regulations Section 44 (2). In the case of development, (e), may be the most likely option. This states:

"preserving public health of 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"

In simple terms, the reason why the works are necessary must be clearly stated. If Test 1 (or any test) cannot be met, the licence application will fail. Holding planning consent for a site does not meet the conditions of this test.

2. That there is no other satisfactory solution both in terms of why this site was chosen instead of others considered, and that there is no other option other than to disturb etc the animals.

3. Reasons why the proposed work would not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status at their natural range. This would include detailed information on the mitigation measures to be employed. A mitigation programme should therefore be developed in consultation with a recognised expert for the species concerned and SNH (Scottish Natural Heritage) prior to making the application and the methodology of this clearly stated. This is important information which is considered as part of the application.

Nature Conservation (Scotland) Act 2004

"The Act sets out a series of measures which are designed to conserve biodiversity and to protect and enhance the biological and geological natural heritage of Scotland. In doing so, the Act provides the principal legislative components of a new, integrated, system for nature conservation within Scotland....In relation to biodiversity in particular, it requires public bodies and office-holders to consider the effect of their actions at a local, regional, national and international level. Measures relating to the protection of species and habitats also recognise the importance of the wider international context."

"It introduces, in Part 1, a new general duty on all public bodies and office holders (referred to in these notes as "public bodies") to further the conservation of biodiversity; It makes significant changes, in Part 2, to the existing arrangements for the establishment and protection of sites of special scientific interest. In doing so, it replaces most of Part II of the existing Wildlife and Countryside Act 1981 (c.69) ("the 1981 Act"); It extends in Part 3 the law in relation to the protection of birds, animals and plants by making significant amendments to the current provisions of Part I of the 1981 Act and by requiring production of a new code of guidance covering whale and dolphin watching and similar activities; It updates, also in Part 3, the provisions of the existing Protection of Badgers Act 1992 (c.51), in order to increase penalties for offences such as badger baiting and aims to ensure greater consistency between that Act and the 1981 Act; It requires, in Part 4, the creation by Scottish Natural Heritage ("SNH") of a code of guidance setting out recommendations, advice and information relating to fossils; It provides, in Part 5, for various supplemental matters including the publication of statutory guidance about the duty to further the conservation of biodiversity and SNH's functions under Part 2 and for minor and consequential amendments and repeals to a variety of other statutes

Wildlife & Countryside Act 1981 (as amended)

The Act protects plants and animals, with general and particular provisions regarding wild plants, birds, and animals on the various schedules.

Schedule 1 birds are priority species for which special penalties apply to infringement of the Act either against the bird, its nest, or eggs. Additionally under the Act, all wild birds, their nests and eggs are protected. It is an offence, except as permitted by the Act to intentionally or recklessly,

- kill, injure, or take any wild bird
- take, damage, destroy, or otherwise interfere with the nest of any wild bird while that nest is in use or being built
- at any other time take, damage, destroy or otherwise interfere with any nest habitually used by any wild bird included in Schedule 1
- obstruct or prevent any wild bird from using its nest
- take or destroy the eggs of any wild bird

Schedule 5 lists animals which have particular protection under the Act due to their conservation status. Offences again relate to intentional or reckless behaviour as regards:

- kills, injures, or takes any wild animal
- damages, destroys, or obstructs access to any structure or place which any wild animal included in Schedule 5 uses for shelter or protection
- disturbs any such animal while it is occupying a structure or place which it uses for that purpose

Schedule 8 protects certain plant species due to their conservation status. Offences relate to intentional or reckless behaviour as regards:

- picking, uprooting, or destroying any wild plant on that schedule
- or, not being an authorised person, intentionally uprooting any wild plant not included on that schedule

Other offences relate to sale of wild plants.

Schedule 9 lists plants that it is an offence to plant or cause to grow in the wild outside of their native range (see following page).

Wild mammals (Protection) Act 1996

The Act makes provision for the protection of wild mammals from certain cruel acts; and for connected purposes.

It is an offence except as permitted by the Act to: mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering.

Protection of Badgers Act 1992 (as amended)

Badgers and their setts are fully protected by the Act. Except as permitted by the Act it is an offence to deliberately or recklessly:

- kill, injure, take or attempt to take a badger from the wild;
- possess the body or any remains of a dead badger;
- possess, sell or offer for sale a living badger;
- cruelly ill treat a badger;
- use badger 'tongs' in any attempt to kill or take a badger from the wild;
- dig for a badger;
- use a firearm to kill a badger;
- interfere with a badger sett by obstructing the entrance;
- destroying the sett;
- encouraging a dog to enter the sett;
- in any way disturbing a badger while it is occupying a sett;
- or to knowingly cause or permit these actions.

Legislation with regard to non-native species

The Wildlife and Countryside Act 1981 (as amended) is the principal domestic legislation concerning non-native species. It was amended by the Wildlife and Natural Environment (Scotland) Act 2011. It is envisaged that these amendments will enable Scotland to adopt the internationally recognised 3-stage approach to dealing with non-native species and aim to:

- prevent the release and spread of non-native animal and plant species into areas where they can cause damage to native species and habitats and to economic interests;
- ensure a rapid response to new populations can be undertaken;
- ensure effective control and eradication measures can be carried out when problem situations arise.

It is an offence to:

- release or allow to escape from captivity any animal to a place outwith its native range;
- otherwise cause an animal outwith the control of any person to be at a place outwith its native range;
- plant or otherwise cause to grow any plant in the wild at a place outwith its native range.

Native range is defined in section 14P(2) as "... the locality to which the animal or plant of that type is indigenous, and does not refer to any locality to which that type of animal or plant has been imported (whether intentionally or otherwise) by any person."

The Scottish Ministers have issued a Code of Practice with regard to non-native species. <http://www.scotland.gov.uk/Publications/2012/08/7367/0>

APPENDIX 2 Plant Species List

Common Name	Scientific Name	Common Name	Scientific Name
Pine	<i>Pinus sp(p)</i>	Larch	<i>Larix sp(p)</i>
Ash	<i>Fraxinus excelsior</i>	Oak	<i>Quercus sp(p)</i>
Poplar	<i>Populus sp(p)</i>	Hazel	<i>Corylus avellana</i>
Sycamore	<i>Acer pseudoplatanus</i>	Maple	<i>Acer sp(p)</i>
Hawthorn	<i>Crataegus monogyna</i>	Willow	<i>Salix sp(p)</i>
Birch	<i>Betula sp(p)</i>	Gorse	<i>Ulex europaeus</i>
Cherry	<i>Prunus sp(p)</i>	Alder	<i>Alnus sp(p)</i>
Rowan	<i>Sorbus aucuparia</i>	Elder	<i>Sambucus nigra</i>
Broom	<i>Cytisus scoparius</i>	Wych elm	<i>Ulmus glabra</i>
Lime	<i>Tilia europaea</i>	Holly	<i>Ilex aquifolium</i>
Cock's-foot	<i>Dactylis glomerata</i>	Tufted hair grass	<i>Deschampsia cespitosa</i>
Bent grass	<i>Agrostis sp(p)</i>	Yorkshire fog	<i>Holcus lanatus</i>
Fescue	<i>Festuca sp(p)</i>	Sweet vernal grass	<i>Anthoxanthum odoratum</i>
Perennial rye grass	<i>Lolium perenne</i>	Reed canary grass	<i>Phalaris arundinacea</i>
Sweet grass	<i>Glyceria sp(p)</i>	Sedges	<i>Carex spp</i>
Ivy	<i>Hedera helix</i>	Rose	<i>Rosa sp(p)</i>
Rhododendron	<i>Rhododendron sp(p)</i>	Snowberry	<i>Symphoricarpos albus</i>
Lesser periwinkle	<i>Vinca minor</i>	Bramble	<i>Rubus fruticosus</i>
Wood avens	<i>Geum urbanum</i>	Rosebay willowherb	<i>Chamerion angustifolium</i>
Common nettle	<i>Urtica dioica</i>	Ground elder	<i>Aegopodium podagraria</i>
Hedge bindweed	<i>Calystegia sepium</i>	Common knapweed	<i>Centaurea nigra</i>
Leopard's-bane	<i>Doronicum pardalianches</i>	Ramsons	<i>Allium ursinum</i>
Bluebells	<i>Hyacinthoides non-scripta</i>	Wood anemone	<i>Anemone nemorosa</i>
Dog's mercury	<i>Mercurialis perennis</i>	Greater burdock	<i>Arctium lappa</i>
Primrose	<i>Primula vulgaris</i>	Ragwort	<i>Senecio jacobaea</i>
Red campion	<i>Silene dioica</i>	Common comfrey	<i>Symphytum officinale</i>
Japanese knotweed	<i>Fallopia japonica</i>	Pignut	<i>Conopodium majus</i>
Hogweed	<i>Heracleum sphondylium</i>	Willowherb species	<i>Epilobium spp</i>
Herb Robert	<i>Geranium robertianum</i>	Crosswort	<i>Cruciata laevipes</i>
Hedge woundwort	<i>Stachys sylvatica</i>	Greater stitchwort	<i>Stellaria holostea</i>
Opposite-leaved golden saxifrage	<i>Chrysosplenium oppositifolium</i>	Foxglove	<i>Digitalis purpurea</i>
Cleavers	<i>Galium aparine</i>	Broadleaved dock	<i>Rumex obtusifolius</i>
Common sorrel	<i>Rumex acetosa</i>	Sheep's sorrel	<i>Rumex acetosella</i>
Field forget-me-not	<i>Myosotis arvensis</i>	Ribwort plantain	<i>Plantago lanceolata</i>
Creeping thistle	<i>Cirsium arvense</i>	Cow parsley	<i>Anthriscus sylvestris</i>
White dead nettle	<i>Lamium album</i>	Wild angelica	<i>Angelica sylvestris</i>
Meadowsweet	<i>Filipendula ulmaria</i>	Vetches	<i>Vicia spp</i>
Meadow vetchling	<i>Lathyrus pratensis</i>	Wavy bittercress	<i>Cardamine flexuosa</i>
Cuckooflower	<i>Cardamine pratensis</i>	Common mouse-ear	<i>Cerastium fontanum</i>
Germander speedwell	<i>Veronica chamaedrys</i>	Daisy	<i>Bellis perennis</i>
Common figwort	<i>Scrophularia nodosa</i>	Bittersweet	<i>Solanum dulcamara</i>
Common spotted orchid	<i>Dactylorhiza fuchsia</i>	Creeping buttercup	<i>Ranunculus repens</i>
Meadow buttercup	<i>Ranunculus acris</i>	Lesser celandine	<i>Ranunculus ficaria</i>
Indian balsam	<i>Impatiens glandulifera</i>	Colt's foot	<i>Tussilago farfara</i>
Butterbur	<i>Petasites hybridus</i>	Rushes	<i>Juncus Sp(p)</i>
Branched bur-reed	<i>Sparganium erectum</i>	Common water starwort	<i>Callitriche stagnalis</i>
Bulrush	<i>Typha latifolia</i>	Marsh marigold	<i>Caltha palustris</i>
Water mint	<i>Mentha aquatica</i>	Common dog-violet	<i>Viola riviniana</i>
Common duckweed	<i>Lemna minor</i>	Lesser spearwort	<i>Ranunculus flammula</i>

Common Name	Scientific Name	Common Name	Scientific Name
Water forget-me-not	<i>Myosotis scorpioides</i>	Great willowherb	<i>Epilobium hirsutum</i>
Scaly male fern	<i>Dryopteris affinis</i>	Male fern	<i>Dryopteris filix-mas</i>
Broad buckler fern	<i>Dryopteris dilatata</i>		
Great wood rush	<i>Luzula sylvatica</i>	Heath wood rush	<i>Luzula multiflora</i>
Field wood rush	<i>Luzula campestris</i>		
Field horsetail	<i>Equisetum arvense</i>	Marsh horsetail	<i>Equisetum palustre</i>
Water horsetail	<i>Equisetum fluviatile</i>	Wood horsetail	<i>Equisetum sylvaticum</i>

APPENDIX 7

Report By Phil Brown, Education Consultant

1. I have been asked by AWG Property Ltd and CEMEX UK Properties Ltd to prepare a report on the educational implications of their submission to promote through the West Lothian Local Development Plan a development area for up to 210 no. houses at Avontoun, Linlithgow.
2. West Lothian Council issued the "West Lothian Local Development Plan *Proposed Plan*" in October 2015 for consultation. This contains details of the sites it supports including their capacity and the catchment areas of schools serving each.

3. Preliminary Issue

- 3.1. For a number of years, West Lothian Council have included a strong statement whenever it was suggested that a change of catchment area would be a necessary part of an educational package to deliver a development. For instance, the recent paper by Ross Burton "education consultation on App No. 0518/P/13 at Burghmuir, Linlithgow for planning permission in principle for a 12.6 ha residential development including green space, SUDS, access roads and associated infrastructure (grid ref. 302222 677896)" contained the following statement on page 8:-

It should also be noted that the new secondary school in Winchburgh would require a school consultation in terms of the Schools (Consultation) (Scotland) Act 2010 to determine its catchment area and also its location. **Note that the outcome of a school consultation under the terms of the Schools (Consultation) (Scotland) Act 2010 cannot be pre-empted.** (*Ross Burton emphasised this statement by the use of bold type.*)

The Reporter at the appeal, in picking up this point, wrote in para 5.20:

However, the changing of catchment boundaries and opening or closing schools relies on statutory consultation, with uncertain outcomes and timescale.

- 3.2. Another example comes from Ranald Dods in a paper on the educational implications of App No 0698/P/13 at Clarendon, Linlithgow for planning permission in principle for a 6.5 ha residential development with associated engineering works and landscaping (grid ref 300690 676535) which states on page 6:

This planning assumption does need to be tested within a formal school consultation in terms of the Schools (Consultation) (Scotland) Act 2010. **Note that the outcome of a school consultation cannot be pre-empted but if a school consultation resulted in altered non-denominational primary school catchment areas, there could be some scope to support new residential development across adjusted catchment areas.**

The Reporter reflected this in his findings as follows:

4.39 Even if a developer is willing to pay for contributions towards a new secondary at Winchburgh, this would not guarantee delivery as it requires contributions from other developments to bring enough money together to build the whole school. There would also be a requirement for a major schools consultation exercise to determine catchment arrangements for the new school, the outcome of which cannot be pre-determined.

and

4.77 The feasibility of extending the school is uncertain, and there are no plans for this at present. At the hearing, the council indicated that a catchment review was the most likely solution, although I have no evidence on what specific boundary changes might be proposed. The result of the statutory consultation process is uncertain, as is the nature of the impacts such changes could bring. This is a significant constraint on the appeal proposal.

4. Non-Denominational Primary Education

- 4.1. The catchment area for the Avontoun site is Linlithgow Bridge Primary School. The current stated capacity of the school is 198 pupils, although the roll was 233 pupils in 2006. The current stated site curtilage is 19060m². The school might well therefore have space for an extension.
- 4.2. The Proposed Plan allocates 33 houses which are currently in the catchment area of Linlithgow Bridge Primary School, and a further 388 houses which are not currently in the catchment area, but would be subject to a catchment area review. The Council stated in the Clarendon Farm Appeal that if the site were to be granted planning consent, then the most likely solution would be a catchment review. However, the Council persisted in its view that there is no certainty in the delivery of a catchment area review.
- 4.3. The Council have not indicated the new draft catchments, but the Proposed Plan places Clarendon House, 30 Manse Road, Clarendon Farm, Wilcoxholm Farm/Pilgrims Hill and Preston Farm all in the catchment area of Linlithgow Bridge Primary School. Moreover, Preston Farm is to the south of Linlithgow, whereas Springfield Farm is to the north, indicating that the revised catchment area of the school could be huge.
- 4.4. More importantly, the Council, by allocating all these sites to Linlithgow Bridge Primary School, have indicated their willingness to extent the school as the capacity of the school would be exceeded if all these houses were allocated without an extension. By increasing the size of the extension, this would allow space for the children from the proposed site to have access to the school.
- 4.5. Having agreed implicitly to the concept of an extension to the school, the children from the proposed site could attend the school without any of the uncertainties arising from a catchment area review. It is noted that 24 primary schools in West Lothian have smaller sites but higher pupil capacities.
- 4.6. West Lothian Council issues school roll forecasts every 2 years. The last issue was as at 18/12/2013 and was presented to Committee the following spring. There were 2 published tables, which were dependent on whether sites included in the Local Plan without consents were included. In the primary sector in Linlithgow, they only differ by 2 pupils - which is many times smaller than the likely difference between projections made now and the actual rolls occurring in the future.

School	2014 Actual	2015	2016	2018	2020	2023	Current Capacity
Linlithgow Bridge	199	202	186	165	146	136	198
Total of Linlithgow Primary Schools	1123	1131	1108	1043	975	971	1226

Source WLC 2012 Base Forecasts, Report to Education Executive, 18 March 2014. The intervening years are given in the Report.

- 4.7. After allowing 10% for class organisation and compositing, there is a projected total of 133 spare places in the 4 schools. The location of the schools with spaces are dependent on the catchment area review. It is likely that a modest extension at one school will be required to meet the needs in the Proposed Plan. Linlithgow Bridge Primary School would be able to be extended beyond that required to meet the needs so far identified and house the pupils from the proposed development at Avontoun.
- 4.8. It should be noted that the proposed site at Avontoun is already located in the catchment area with the most opportunity for development. Whatever catchment area reviews take place, the proposed site will still be within Linlithgow Bridge Primary School catchment area, and thus, if all of the spare accommodation is taken up, the school is capable of extension.

5. R C Primary Education

- 5.1. St Joseph's RC Primary School featured in both appeals which have been referred to in the previous section. The Reporter at the Clarendon Farm Appeal summarised the position as :

-

4.33 The council has yet to conclude feasibility studies on the capacity of St Joseph's. The 2014 Base School Forecast will include a capacity reduction, this being required for pupil placement decisions as well as development planning decisions. There is potential for building works to 'restore' the existing capacity, but there is no firm plan for this and no funding in place. The school is on the same campus as Linlithgow Academy, the site is constrained and extending the school could be problematic.

- 5.2. In his conclusions he states:

St Joseph's Primary

4.78 Both appendices 1 and 2 of the 2012 Base School Forecast show the roll at St Joseph's declining from 131 pupils at 2013 to 98 pupils in 2023. Using the council's standard pupil generation rates, the appeal proposal could be expected to generate around 11 denominational primary school pupils and the Burghmuir A proposal a further 19 pupils. The council's nominal capacity for St Joseph's is 198 pupils. On the face of it, St Joseph's should comfortably be able to accommodate all the pupils from the appeal proposal and from Burghmuir A, and impacts on St Joseph's did not feature amongst the council's reasons for refusing this planning application.

4.79 I recognise that the facilities at St Joseph's may not meet the standards the council wishes to see, and I have no reason to doubt that improvements are required. The council has stated that the school should be assumed to be currently operating at capacity, but the fact remains that its nominal capacity is 198. Given that the roll is presently considerably below that, and expected to fall significantly further in the years ahead, I do not consider that there is sufficiently strong evidence to conclude that the proposed development would have a significant impact on the quality of education provided at the school.

- 5.3. I take this to mean that the position at St Joseph's RC Primary School is not critical, and that a reasonable adjustment to accommodation can be made.

6. Linlithgow Academy

6.1. For any major development in Linlithgow, the catchment area of Linlithgow Academy has to be addressed. This is assumed to be by the opening of the new Winchburgh Academy. The situation was summarised in the Clarendon Farm Appeal: -

4.34 The intended solution to the capacity constraints at Linlithgow Academy is a new non-denominational secondary school at Winchburgh. This is provided for in the masterplan for the Winchburgh CDA. That planning permission is conditioned to the effect that no more than 550 houses may be built before the council is satisfied that there is (or will be) sufficient non-denominational secondary school facilities to accommodate further development. In all likelihood this means the first phase of the new school. There is no binding contract in place for this school and funding has yet to be secured. The total cost has not yet been established.

4.35 Winchburgh Developments Ltd funded, up-front, the extension of Linlithgow Academy to create initial capacity to allow that development to proceed up to 550 houses. This is a temporary solution for Winchburgh until the new non-denominational secondary school is built there. The planning obligation provides for this money to be refunded as other development contributions towards the cost of the new school are paid.

4.36 The relevant condition provides for the limit of 550 houses to be increased should the council consider that there is sufficient school capacity to accommodate a greater number of houses initially. If capacity is found to exist, that is what should happen rather than allowing a proposal which does not comply with the development plan strategy.

4.37 Supporting the Winchburgh CDA is a key policy for the council. Additional units at Winchburgh would make the scale of infrastructure costs more affordable. Whilst securing an appropriate contribution from the appeal proposal would assist, it is the Winchburgh developers who need to secure funding in advance of any further units in that CDA, beyond the 550 units agreed. Allowing the appeal would make the prospect of being able to raise the initial 550 house limit at Winchburgh less likely.

4.38 The council hopes a new Winchburgh non-denominational secondary school will be in place within 4 years. Once the funding for the school is in place, the council would be looking to facilitate other housing development. The opening of the school would potentially open up capacity at Linlithgow Academy.

4.39 Even if a developer is willing to pay for contributions towards a new secondary at Winchburgh, this would not guarantee delivery as that requires contributions from other developments to bring enough money together to build the whole school. There would also be a requirement for a major schools consultation exercise to determine catchment arrangements for the new school, the outcome of which cannot be pre-determined.

4.40 There is also a new denominational secondary school proposed for the Winchburgh CDA. This would potentially release capacity across West Lothian, dependant on the scale of the proposed new school and the extent of the catchment change. There is no contract in place for this school, which would also require statutory consultations on its catchment arrangements.

4.41 The lack of capacity at the catchment secondary schools should be treated as determinative of the appeal, a view supported by the Court of Session judgement on the Seafield Road appeal.

6.2. It is noted from the Springfield Appeal that

5.4 There is a housing development at Westfield, Linlithgow, which has planning permission dating from 2010, but has not yet begun. This site was confirmed as non-effective in the 2013 Housing Land Audit. Non-denominational secondary pupils that might live at Westfield, if developed, would attend Linlithgow Academy.

6.3. Linlithgow Academy at present serves the Winchburgh area. If a new Academy were opened there, it is assumed that the local children from Winchburgh Primary School would transfer to the new Academy. This would create about 70 additional spare places at Linlithgow Academy. These 70 places would allow for in the region of 400 additional houses to be allocated to Linlithgow, in addition to the 550 from those no longer required from the Winchburgh CDA. Taken together, this is enough to cover the needs of both the Proposed Plan's sites in Linlithgow (421 homes) and Bridgend (180 homes) together with up to 210 homes from the proposed site at Avontoun. The projected roll for Linlithgow Academy includes 238 homes to be completed between 2014 and 2023. Many of these are from the 550 homes in Winchburgh, and are therefore already counted, giving a further allowance of spare capacity. Of course, in addition, the Bridgend area might also transfer to the new Academy.

6.4. Therefore space for at least 850 homes is taken from Linlithgow Academy, whilst there is a requirement of only 800 homes, leaving aside the possible transfer of Bridgend to Winchburgh. If Winchburgh Academy does not open, then all of the sites in Linlithgow are non-effective.

7. Denominational Secondary Education

7.1. The Reporter at the Clarendon Farm appeal summarised the Council's position as: -

4.40 There is also a new denominational secondary school proposed for the Winchburgh CDA. This would potentially release capacity across West Lothian, dependant on the scale of the proposed new school and the extent of the catchment change. There is no contract in place for this school, which would also require statutory consultations on its catchment arrangements.

7.2. In his conclusions on educational capacity he writes:

St Kentigern's Academy

4.69 Appendix 1 of the 2012 Forecast does not anticipate St Kentigern's Academy reaching its capacity of 1,430 pupils at any time in the period to 2023. Appendix 2 anticipates that the school will exceed its capacity from 2022. On the basis of the average pupil generation rates the council uses, a total of around 7 denominational secondary pupils could be expected from the development, and a further 12 pupils from the Burghmuir A proposal.

4.70 Whilst noting the same caveats as apply to the forecasting for Linlithgow Academy, the council can therefore reasonably plan on the basis that St Kentigern's Academy may reach capacity in the foreseeable future, and take steps to secure the necessary further investment which would be required as a result of this.

4.71 In this context I am satisfied that, should it be allowed, the appeal proposal requires a contribution towards the cost of new non-denominational secondary education infrastructure, in line with policy IMP 3 of WLLP. The council's Denominational Secondary Education Infrastructure SPG identifies an appropriate method of calculating the scale of that requirement.

4.72 I recognise that the council does not wish to exacerbate expected capacity issues at the school without confidence that a solution is likely to be in place. However, the council's own policy is to seek contributions from all housing developers towards a future solution. In this context I see no strong reason why a developer contribution should be considered inappropriate simply because the appeal site is not allocated for housing development - the development plan status of the site makes no difference to the education impacts. I am also mindful of the current capacity of St Kentigern's of 1,430 pupils, the relatively modest numbers of additional pupils expected (even if the Burghmuir A appeal were to be allowed) and the inherent uncertainty in future forecasts.

7.3. In supporting so much development in Linlithgow, and other areas in the St Kentigern's catchment area, it is implicit that Winchburgh RC Academy will be opened. Otherwise all the other sites fall. If Winchburgh RC Academy is opened, then there is space for the pupils from the proposed site at Avontoun to attend the school. Developers Contributions, in line with Council policy, would be appropriate.

8. Conclusions

- 8.1. West Lothian Council are still endeavouring to put together a financial package from developers, to allow for the opening of Winchburgh Academy. If this is successful, then it has been demonstrated in para 6 of this report that there would be sufficient space vacated in Linlithgow Academy to allow the proposed development at Avontoun to come forward. If the Council are unsuccessful, then almost all the developments in Linlithgow, and developments in Winchburgh (over the initial 550 dwellings) cannot go ahead.
- 8.2. Linlithgow Bridge Primary School currently has sufficient empty spaces to allow this development to come forward. This is independent on the outcome of any catchment area review, which as West Lothian Council states, cannot be pre-empted.
- 8.3. The RC sector was addressed by Reporters at the Burghmuir & Clarendon Farm appeals as being non-critical.
- 8.4. Subject to the resolution of the funding issue at Winchburgh Academy, there is no reason why this development cannot be supported.