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Lancashire County Council

Sarah Westwood
Planning
Ribble Valley

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Your ref: CONECO/3/2011/1071
Our ref: 03/11/1071/RS
Date: 27th March 2012

Dear Sarah Westwood,

Ecological comments

Planning Application No: 3/2011/1071
Proposals: Full planning permission for access, landscaping and the erection of 52 new build properties, the conversion of the former barn and refurbishment of existing residential unit.
Location: Land at Chapel Hill, Longridge
District: Ribble Valley

Thank you for your consultation in respect of the above planning application.

The main ecological issues arising from the proposal include potential impacts on:

- Protected species (bats and breeding birds).
- Alston Reservoirs Biological Heritage Site (BHS 63NW01).
- Habitats of Principal Importance (hedgerows).
- Species of Principal Importance (common toad, hedgehog and house sparrow).

RECOMMENDATIONS

The following matters will need to be addressed before the application is determined:

- There is not enough information to allow me to assess the impacts on the birds (breeding and non breeding) using Alston Reservoirs Biological Heritage Site. Further information is required prior to determination as the layout of the development could be subject to change.

If the above matters can be adequately addressed and Ribble Valley Borough Council is minded to approve the above application, **planning conditions are recommended to address the following matters:**

- No works shall commence until a detailed method statement to avoid impacts on amphibians has been submitted to Ribble Valley Borough Council for approval in

consultation with their ecology advisors. The approved method statement shall be implemented in full.

- If the presence of great crested newts is detected of suspected at any stage before or during development works, then works must not proceed until advice has been sought from Natural England regarding the need for a licence.

- No works shall commence until a detailed mitigation method statement for the avoidance of impacts on bats (and avoidance of any breach of The Conservation of Habitats and Species Regulations 2010) has been submitted to Ribble Valley Borough Council for approval in consultation with their ecology advisors. The approved mitigation method statement shall be implemented in full.

- Trees to be affected by the proposed development shall be re-inspected for their potential to support bats prior to felling. Should at any point before or during works affecting trees, bats be suspected or detected then all works must stop immediately and Natural England contacted for advice regarding the need for a licence.

- No lighting will be installed until a detailed lighting scheme design has been submitted to Ribble Valley Borough Council for approval. The lighting scheme will be in accordance with the Bat Conservation Trust and Institution of Lighting Engineers guidance (*Bats and Lighting in the UK, 2008).* The approved scheme shall be implemented in full.

- No works shall commence until a detailed method statement to avoid impacts on hedgehogs has been submitted to Ribble Valley Borough Council for approval in consultation with their ecology advisors. The approved method statement shall be implemented in full.

- Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds will be avoided between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections.

- No works shall commence until a detailed scheme of replacement bird nesting opportunities has been submitted to Ribble Valley Borough Council for approval in consultation with their ecological advisors. The approved scheme shall be implemented in full.

- No works shall commence until a fully detailed habitat creation and management plan has been submitted to Ribble Valley Borough Council for approval in consultation with their ecological advisors. The plan should include seeding and planting mixes, ground preparation methods, translocation methods (if appropriate), habitat establishment proposals, aftercare and long term management. The agreed plan shall be implemented in full.

- All trees being retained in or adjacent to the application area will be adequately protected during construction, in accordance with existing guidelines (e.g. *BS5837: 2005 Trees in relation to construction - Recommendations*) and as recommended in the Arboricultural Impact Assessment (Bowland Ecology, 2011).

- If works have not commenced within 3 years, repeat surveys for great crested newts and bats should be undertaken and submitted for approval together with any amended mitigation proposals (if necessary).

The applicant should be made aware of the following matters:

- Licences from Natural England may be required if protected species will be affected.

JUSTIFICATION FOR RECOMMENDATIONS

1. LEGISLATION AND PLANNING POLICY

In determining this application, the requirements of the following legislation, planning policies and guidance should be addressed:

- The Conservation of Habitats and Species Regulations 2010.
- The Wildlife and Countryside Act 1981 (as amended).
- The Natural Environment and Rural Communities Act 2006.

- Planning Policy Statement 9: Biodiversity and Geological Conservation.
- Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within The Planning System (DEFRA 01/2005, ODPM 06/2005).

- North West of England Plan Regional Spatial Strategy to 2021, Policies EM1 and DP7.
- Lancashire County Council Supplementary Planning Guidance on Landscape and Heritage.
- Environmental Protection / Nature Conservation policies of the Local Plan (or LDF).

Further information is required in order to demonstrate that the proposed development would comply with the above legislation, policies and guidance.

2. AVOIDANCE OF ECOLOGICAL IMPACTS AND MITIGATION/COMPENSATION

In order to meet the requirements of the above, the applicant would need to demonstrate that the development would be located and designed in a way that would avoid ecological impacts and that mitigation/compensation measures were sufficient to fully off-set all unavoidable ecological impacts and deliver enhanced quantity and quality of biodiversity and habitat. The above policies also require maintenance and enhancement of habitat connectivity.

If harm to biodiversity cannot be prevented, adequately mitigated or compensated for, then planning permission should be refused (PPS9).

In addition to mitigating and compensating for unavoidable ecological impacts, the above policies and guidance require enhancement of the quantity and quality of biodiversity and habitat.

2.1 DESIGNATED SITES

The proposed development is adjacent to Alston Reservoirs Biological Heritage Site (BHS 63NW01), identified as a BHS partly due to its importance to wintering birds, breeding little ringed plover and species rich grassland.

The Ecological Appraisal (Bowland Ecology, 2011) acknowledges that the birds using the BHS are likely to be impacted by the proposals if unmitigated due to increased disturbance (para 5.3 & 5.4). Although the report discusses in general terms how birds respond to disturbance and acknowledges that different species vary in their responses to disturbance (para 5.5), there does not appear to have been an assessment of the likely impacts of the predicted disturbance to the species of bird using the reservoir. It is therefore not possible to assess whether the mitigation proposed is sufficient to avoid impacts.

For example:

- The mitigation proposed to minimise impacts to birds using the reservoir during the construction stage of the proposed development includes preventing construction works occurring after dark (table 4). It is, however, possible that some birds may use the reservoir to rest up during the day or may move to their roost site before dark. Indeed the Ecological Appraisal acknowledges that the reservoir provides safe roosting for Lesser Black-backed Gull (para 3.35), observed using the reservoir during the daytime breeding bird surveys. Without an assessment of how birds using the reservoir would be affected by the construction works it is not clear whether the proposed mitigation would be sufficient to avoid impacts.

- The Ecological Appraisal acknowledges that the birds using the BHS could be impacted by the proposals during the operational phase through increased disturbance (visual, noise, lighting) (para 5.4). The proposed mitigation includes retaining the stone wall between the application site and the reservoir, supplemented with a new hedgerow to form a visual screen (table 4). As there has been not assessment of how the birds using the reservoir are likely to respond to the predicted disturbance it is not clear if a visual screen is sufficient to minimise impacts. In addition, the land within the application site slopes down towards the reservoir (para 2.4: Landscape Strategy Report, 2011) and the embankments of the reservoir slope up from the stone wall. It is not clear if an assessment of bird sight lines from the reservoir to the proposed development site has been undertaken, and it is therefore not clear if the stone wall and hedgerow would actually form a visual screen from birds using the reservoir.

- The proposed "buffer zone" along the southern boundary of the site includes a footpath. It therefore does not function as a buffer zone to protect the BHS from disturbance. Indeed, the footpath will act to bring people and dogs closer to the BHS and may actually increase the likelihood of disturbance. The northern edge of the water appears to be only approximately 20m from the southern edge of the proposed development, and approximately only 30m from the proposed footpath. Without an assessment of how the birds using the reservoir respond to disturbance, it is not clear if the birds would be affected by noise disturbance at this distance (assuming the southern boundary stone wall and proposed hedgerow does act as a visual screen). In addition, the siting of benches along the footpaths and public open space

next to the reservoir will encourage people and dogs to linger, and therefore may result in further increased disturbance to birds using the BHS.

- The Ecological Appraisal acknowledges that light spillage from the proposed development onto the reservoir could potentially affect birds using the site (para 5.4). It is proposed that the lighting scheme will take into account the potential for impacts of light spillage upon the BHS (table 4). Although the details of the lighting scheme design can be subject to condition, it will not be possible to assess whether the lightening scheme is sufficient to avoid impacts to the birds using the BHS without an assessment of how the species of birds using the BHS are likely to be affected by differing levels of lighting.

- The breeding bird surveys recorded a pair of Great Crested Grebe on the reservoir and the Ecological Appraisal states that they are likely to be nesting in the area (para 3.35). There has been no assessment on how the proposals would impact on breeding Great Crested Grebe.

Further information is required to allow me to assess whether the mitigation proposals are adequate to avoid impacts to birds using the BHS. This is required prior to determination of the application as it may have implications on the design and layout of the proposed development.

Little ringed plover and lapwings are known to breed within the BHS to the south of the reservoir. I agreed that due to the distance of this area from the proposed development it is extremely unlikely there will be any direct impacts on little ringed plover (para 5.28) or lapwing.

The proposed development is very unlikely to impact on the species rich grassland as the footprint of the development does not overlap with the BHS and unauthorised entry to the reservoir will be prevented by the stone wall and proposed hedgerow between the application site and the reservoir (table 4).

2.2 PROTECTED SPECIES

<u>European Protected Species</u>

Bats

Building 1 and 2 are known to support bat roosts (para 4.9: Ecological Appraisal, Bowland Ecology 2011). However, information submitted with the application includes measures to avoid any breach of The Conservation of Habitats and Species Regulations 2010 (para 5.20). The mitigation proposals outlined appear suitable to demonstrate that this can be achieved (table 4). These should be expanded into a full detailed stand alone mitigation statement, in accordance with Natural England standing advice (box 14). This can be subject to planning condition.

None of the trees to be affected by the proposed development are considered to have bat roost potential (para 5.21). However, changes in the accessibility for bats may occur in the intervening period between planning approval and commencement of works. A precautionary planning condition is therefore recommended above.

Bats use the site for foraging and commuting routes (para 5.23). Two of these routes (TN7 & TN2) are retained within the proposed development, however TN6 (H3) is proposed for removal and re-establishment (para 3.28). It is not clear why removal of TN6 (H3) is necessary. Retaining the established root system of H3, rather than new planting, would allow this foraging route to recover / be re-established more rapidly.

The Ecological Appraisal (Bowland Ecology, 2011), acknowledges that lighting on the proposed development has the potential to impact on bats. In order to minimise impacts on bats the Ecological Appraisal recommends that any lighting on the proposed development should be in accordance with the Bat Conservation Trust and Institution of Lighting Engineers guidance (*Bats and Lighting in the UK, 2008)* and should be submitted for approval prior to installation. This can be subject to planning condition.

Great Crested Newts

Surveys of the two ponds within 250 m of the development site have been carried out (Ecological Appraisal, Bowland Ecology 2011). It is noted that the timing of these surveys is not strictly in accordance with the Natural England Great Crested Newt Mitigation Guidelines, however, based on the description of the ponds and the survey results it appears reasonably unlikely that great crested newts would be present in these two ponds. As great crested newts are known to be present at just over 500m from the site (paragraph 3.20) and there is some potentially suitable habitat on site (paragraph 4.8) it would seem appropriate to implement measures for the avoidance of impacts on amphibians during works. The report has recommended avoidance measures (table 4) and these should be expanded into a full detailed stand alone method statement. This can be subject to planning condition.

Other Protected Species

Breeding Birds

Habitats on the site, including existing buildings, have the potential to support nesting birds, including ground nesting species. It needs to be ensured that detrimental impacts on nesting birds are avoided. A planning condition is therefore recommended above.

The Ecological Appraisal (Bowland Ecology 2011) acknowledges that breeding bird habitat will be lost due to the development (para 5.26). Birds likely to be breeding on the site include house sparrow (Species of Principle Importance) and swallow (a species listed as amber on the RSPB/BTO Birds of Conservation Concern) (table 3). Although the proposed replacement bird nesting opportunities outlined (table 4) appear suitable for some species likely to be breeding, they do not appear to include replacement opportunities for swallows or house sparrows. In addition, the above policies require enhancement of biodiversity. It may therefore be appropriate to include nesting opportunities for other birds, such as swifts, into the design of the buildings. The outlined proposals should be expanded to include further details of the design and siting of replacement nesting opportunities, and to address the loss of nesting habitat for swallow and house sparrow. This can be subject to planning condition.

2.3 SPECIES OF PRINICPLE IMPORTANCE (Section 41 NERC Act 2006)

The ecological appraisal (Bowland Ecology 2011) acknowledges that the site supports potential habitat for common toad and hedgehog (paragraph 3.4) and that house sparrow are likely to breed on the site (discussed above). These are Species of Principle Importance. Planning Authorities should ensure that Species of Principle Importance are protected from the adverse impacts of development (PPS9). In addition, the above policies require maintenance and enhancement of habitat connectivity.

The report has recommended avoidance measures for impacts on amphibians (table 4) and these should be expanded into a full detailed stand alone method statement (also see great crested newts above). This can be subject to planning condition.

The report does not appear to include any recommendations for avoidance of impacts on hedgehogs. A full detailed stand alone method statement to demonstrate avoidance of impacts on hedgehogs should therefore be submitted. This can be subject to planning condition.

These method statements should demonstrate avoidance of impacts on amphibians and hedgehogs during the construction stage and maintenance of habitat connectivity during the operation stage. In order to retain habitat connectivity for species such as amphibians and hedgehogs, boundary treatments should not be flush to the ground, or suitably sized gaps should be left at strategic points.

2.4 HABITATS OF PRINCIPAL IMPORTANCE (Section 41 NERC Act 2006)

Hedgerows are a Habitat of Principal Importance. DEFRA Circular 01/2005 indicates that Habitats of Principal Importance are a material consideration in planning decisions.

Three hedgerows are proposed for removal (para 5.9: Ecological Appraisal, Bowland Ecology 2011). The proposed landscaping scheme includes sufficient length of hedgerow to compensate for this loss, although it is not clear why removal of the entire lengths of H3 and H2 is necessary to implement the development (table 2; Arboricultural Impact Assessment, Bowland Ecology 2001). Given that these hedgerows will have an established root system it would be more appropriate for these lengths of overgrown hedgerow to be retained and managed appropriately (for example coppiced and the re-growth laid), except for required access points through H2; or, if necessary, for the root system to be translocated. Retaining the root system of these hedgerows would allow for a quicker and more assured recovery / re-establishment of these lengths of hedgerow. In addition, H3 (TN6) is used for foraging bats (para 3.28: Ecological Appraisal, Bowland Ecology 2011). Retaining the established root system of H3, rather than new planting, would allow this foraging route to recover more rapidly.

Hedgerow creation schemes should comprise only native species appropriate to the locality. The species mix and methods outlined in the Planting Plan (D3100.002A) appear suitable.

The Hedgerows should be managed for wildlife. Appropriate hedgerow management includes the British Trust for Conservation Volunteers Guide to Hedgerow Management and the Environmental Stewardship hedgerow management prescriptions. The hedgerows should remain and be appropriately managed for the lifetime of the development.

A detailed plan of hedgerow creation and management can be subject to planning condition.

2.5 LANDSCAPING

The outlined landscaping measures appear sufficient to compensate for losses and have the potential to result in an enhancement of biodiversity. However, there are a few points to note:

Layout

- The above policies require maintenance and enhancement of habitat connectivity. The proposed pond is isolated from semi-natural habitat being surrounded by footpaths. In order to ensure ease of movement for species such as amphibians it is recommended that the pond link into semi-natural habitat on at least one side.
- The siting of scattered trees across the proposed species-rich grassland will reduce the area of species-rich grassland, due to shading from the trees and leaf fall, and will make appropriate management of the grassland difficult. It is recommended that new trees are sited on the areas of amenity grassland, to the northern edge of the species-rich grassland or close to existing trees.
- The siting of species rich grassland surrounding the swales is also likely to make appropriate management difficult. In addition, given they may be used by amphibians, it may be more appropriate to have more suitable habitat for amphibians between the swales and the proposed hedgerow along the southern boundary, such as rough grassland, with species rich grassland between the swales and the footpath.

Planting mixes

- There are some species in the proposed grassland and aquatic planting mixes that may be best omitted. For example: Coarse grasses, such as Timothy, Yorkshire Fog, Rough Meadow-grass, Creeping Bent and Cock's-foot, are competitive and likely to out compete other more desirable species, and therefore likely to have implications for the management regime and success of establishment of species rich grassland. Soft-rush (listed in the proposed aquatics planting mix) is also competitive and may out compete other more desirable species.
- The species-rich grassland mix and wet grassland mix both contain a mixture of species normally found in different grassland communities. For example, both mixes contain a mixture of dry and wet grassland species; and the species rich grassland mix contains a mixture of neutral and more alkaline grassland species. It is not clear what the target grassland communities are. Although it is difficult to establish a precise community, selecting a mixture of species normally found together will create a more natural sward and will increase the likelihood of successful establishment. For example, aiming for an MG5 community with the species rich grassland mix would appear appropriate given the location and existing grassland community. Appropriate guidance on planting mixes is given in Lancashire County Council's Supplementary Planning Guidance on Landscape and Heritage: http://www.lancashire.gov.uk/corporate/web/view.asp?siteid=3654&pageid=11650&e=e
- The proposed aquatics include *Carex riparia*. This is a species listed as "Endangered" on the *Provisional Lancashire Red Data List of Vascular Plants*. It is therefore recommended that this species is omitted from the planting mix as it is unlikely to be of local provenance. Additional appropriate species which could be included in the aquatic planting mix include *Lychnis flos-cuculi* and *Ranunculus flammula*.

- The proposed pond planting includes marginal plants only. It may be appropriate to include submerged plants such as *Potamogeton crispus*.
- The proposed tree and hedgerow species appear appropriate for the locality.

Habitats should be appropriately managed for wildlife for the lifetime of the development. Details of habitat creation, aftercare and management can be subject to planning condition.

The above comments are based on a review of documents submitted with the planning application as well as a review of ecological records, maps and aerial photographs accessible to Lancashire County Council.

The above comments represent the professional opinion of an ecologist and do not constitute professional legal advice. You may wish to seek professional legal interpretation of the relevant wildlife legislation cited above.

I hope these comments are helpful.

Yours sincerely

Rebecca Stevens
Ecologist
Lancashire County Council