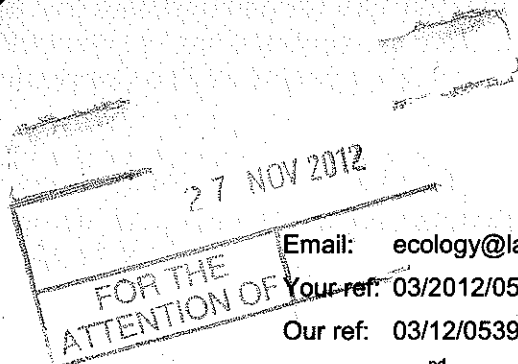




Graeme Thorpe
Planning
Ribbles Valley Borough Council



Email: ecology@lancashire.gov.uk

Your ref: 03/2012/0539

Our ref: 03/12/0539/ASM/ASP/RS

Date: 22nd November 2012

Dear Graeme Thorpe,

Ecological comments following submission of additional information (Bat and Bird Survey Report, Oct 2012)

Planning Application No: 3/2012/0539

Proposals: **Proposed installation of three endurance 50kw wind turbines 46m in overall height**

Location: **Carr Hall Garden Centre**

District: **Ribbles Valley**

I have reviewed the additional information submitted.

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

Bats (European Protected Species)

The bat activity surveys have confirmed that bats regularly use the location of the proposed turbines for foraging/commuting, with bat activity recorded during 6 out of 10 of the survey periods (table 4). Whilst I do not have information on the weather conditions during the survey, weather records accessible online indicate that temperatures were low in the county on some of the survey dates. It is therefore possible that bat activity would be higher during optimal weather conditions for bats.

The surveys have identified that Common Pipistrelle, Soprano Pipistrelle and Noctule use the area of the proposed turbine locations. The Natural England TIN 051 states that, taking into account various factors including habitat preference and flight behaviour, Common Pipistrelle and Soprano Pipistrelle are at medium risk of adverse impacts (killing/injury) from turbines and that Noctule are at high risk. As TIN051 states, when assessing adverse impacts of wind turbines on bats there is a need to distinguish between (a) individual casualties and (b) mortality that affects populations. The submitted bat report appears to assess the risk only in terms of risk to bat populations, concluding that the risk to populations of the species recorded is low and therefore no mitigation measures are necessary. However, the provisions of the Habitats Regulations 2010 also make it an offence to deliberately or recklessly kill or injure a bat. This means that precautions must be taken to avoid the killing or injury of bats which is most unlikely to be permitted under the terms of the licence (taken from the NE Mitigation Guidelines). As individuals of bat species thought to be of medium

and high risk of injury/death from turbines use the area of the proposed turbines, it is reasonably likely that installation of turbines in this location would result in injury/death of individual bats. The applicant has not demonstrated that there would be no impacts on individual bats and therefore the applicant has not demonstrated that the proposed development would not result in a breach of The Conservation of Habitats and Species Regulations 2010.

The NPPF indicates that in order to avoid significant harm consideration should first be given to locating the development on an alternative site with less harmful impacts (Para 118). The RSS states that where proposals affect the region's natural environment, prospective developers and/or local authorities should first avoid loss of or damage. If loss/damage is unavoidable then it should be mitigated and compensated for with a foundation of no net loss as a minimum requirement (Policy EM1). The applicant should therefore firstly consider re-locating the turbines to a location where they would be unlikely to result in impacts on bats and would result in less harmful overall ecological impacts.

If there is a good reason why the turbines cannot be located elsewhere, then adequate mitigation measures should be submitted **prior to determination of the application** in order to ensure impacts on individual bats are avoided / unlikely. For example:

- Through reducing the value of the field for foraging bats and replacement/recreation of the habitat elsewhere, with follow up monitoring in order to determine the need for additional mitigation measures.
- Through disengaging/preventing the turbine blades from moving during periods when bats are likely to be active in the area (if Ribble Valley Borough Council are satisfied that this would pass the condition tests and would be enforceable).

Ribble Valley Borough Council will need to have regards for The Conservation of Habitats and Species Regulations 2010 in reaching a planning decision.

Breeding waders (Species of Principal Importance)

As stated in my previous letter, there will also be a need for adequate mitigation / compensation for impacts on breeding waders.

The Ecological Appraisal & Bird Survey Report (June 2012) states that based on the results of the breeding birds surveys, breeding lapwing could potentially be disturbed/displaced by the proposed turbines and that Curlew appear to nest within 500 metres of the site. Curlews are thought to be particularly sensitive to wind energy developments both during construction and operation (Pearce-Higgins *et al*, 2009 & 2012). Curlew and Lapwing are Species of Principal Importance and DEFRA Circular 01/2005 states that UK Biodiversity Action Plan Priority Species (Species of Principal Importance, NERC Act 2006) are capable of being a material consideration in the making of planning decisions. It would therefore be appropriate for any likely impacts on these species to be adequately mitigation/compensated for. The applicant should therefore be required to submit mitigation/compensation measures **prior to determination of the application** to demonstrate there would be no impacts on breeding waders.

Semi-natural grassland

As stated in my previous letter, there will also be a need for mitigation/compensation measures for impacts on semi-natural grassland although this may be addressed through measures put in place to avoid impacts on bats (see above).

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:**

The site supports ground nesting birds (section 3.2, Ecological Appraisal & Bird Survey Report, QUANTS environmental Ltd, June 2012). It needs to be ensured that impacts on nesting birds are avoided during the development/construction works. The following planning condition is recommended to address this:

- Vegetation clearance works, site preparation, vehicle movements associated with the development, development work or other works that may affect nesting birds (including ground nesting birds) will not be carried out between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections.

In addition, the need for additional conditions is likely to become apparent following submission of mitigation/compensation proposals to demonstrate avoidance of impacts on bats and breeding waders.

Owls and Raptors

Based on the information submitted it seems reasonably unlikely that the proposed turbines would result in significant impacts on owl or raptor species.

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 (as amended).
- The Wildlife and Countryside Act 1981 (as amended).
- The Natural Environment and Rural Communities Act 2006.
- The National Planning Policy Framework, 2012 (NPPF)
- 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.
- Environmental Protection / Nature Conservation policies of the Local Plan.

The RSS states that:

- Where proposals affect the region's natural environment, prospective developers and/or local authorities should first avoid loss of or damage. If loss/damage is unavoidable then it should be mitigated and compensated for with a foundation of no net loss as a minimum requirement (Policy EM1).

- Proposals and schemes should secure a "step-change" increase in the region's biodiversity resources by maintaining extent, achieving condition, restoring and expanding habitat and species populations (Policy EM1(B)).

The NPPF states that:

- In order to achieve sustainable development the planning system should contribute to protecting and enhancing our natural environment, including helping to improve biodiversity (Para 7).
- Pursuing sustainable development involves moving from a net loss of biodiversity to achieving net gains for nature (Para 9).
- One of the core planning principals is that planning should contribute to conserving and enhancing the natural environment (Para 14).
- The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gain in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity (Para 109).
- When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
 - If significant harm resulting from development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
 - Opportunities to incorporate biodiversity in and around developments should be encouraged (Para 118).

The NERC Act 2006 states that:

- Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity (Section 40).

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