

Graeme Thorpe

From: planning
Sent: 30 January 2013 14:31
To: Graeme Thorpe
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From: Stevens, Rebecca [mailto:Rebecca.Stevens@lancashire.gov.uk]
Sent: 30 January 2013 13:35
To: planning
Subject: 03/2012/1092

Please find attached ecology comments for:

Planning Application No: **03/2012/1092**

Proposals: **Outline application for residential development of up to 140 units with primary access off Henthorn Road with all other matters reserved.**

Location: **Land off Henthorn Road**

District: **Ribble Valley**

Regards
Rebecca

Rebecca Stevens
Ecologist
Lancashire County Council
County Hall
Preston

01772 534 133
rebecca.stevens@lancashire.gov.uk

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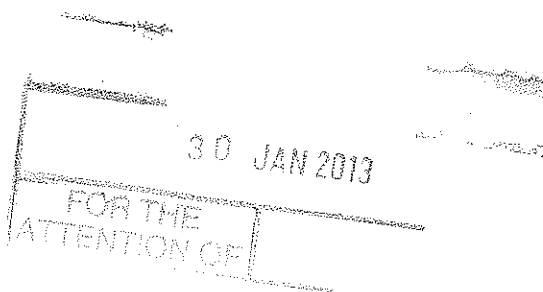
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30/01/2013



Graeme Thorpe
Planning
Ribble Valley Borough Council

Email: ecology@lancashire.gov.uk
Your ref: CONECO/3/2012/1092
Our ref: 03/12/1092/ASM/ASP/RS
Date: 30th January 2013

Dear Graeme,

Ecological comments

Planning Application No: **03/2012/1092**

Proposals: **Outline application for residential development of up to 140 units with primary access off Henthorn Road with all other matters reserved.**

Location: **Land off Henthorn Road**

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)
- Semi-natural habitat (including stream, trees and hedgerows, a Habitat of Principal Importance)

RECOMMENDATIONS

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

- The Illustrative Masterplan shows the removal of a number of trees and some of the trees within the hedgerows are suitable to support roosting bats. No information has been submitted regarding the likely impacts on roosting bats resulting from the loss of these trees. Unless a commitment can be made to retain all the trees, then further information will be required prior to determination of the application (see below).
- If further survey reveals the presence of bats that would be affected, the proposed works may result in a breach of The Conservation of Habitats and Species Regulation 2010 unless a Natural England licence is issued prior to commencement of works. Ribble Valley Borough Council should not approve the application if there is reason to believe that such a licence would not be issued. Ribble Valley Borough Council should therefore have regard to the requirements of the Habitats Directive in reaching the planning decision (see the three tests discussed below).

If the above matters can be adequately addressed and Ribble Valley Borough Council is minded to approve the above application, **it is recommended that the following matters are dealt with at the reserved matters stage:**

- The Illustrative Masterplan shows loss of trees and hedgerows (a Habitat of Principal Importance). The RSS states that where proposals affect the region's natural environment, prospective developers and/or local authorities should first avoid loss or damage and the NPPF indicates that significant impacts should first be avoided (para 118). The Illustrative Masterplan does not appear to have addressed the avoidance of impacts. This should therefore be addressed at the reserved matters stage with the layout of any proposal designed around existing habitats. If impacts can be shown to be unavoidable then it will need to be demonstrated that there will be adequate compensation for any losses.
- In addition, the design of any scheme should demonstrate that retained habitats (such as hedgerows, trees, stream and associated vegetation) will be adequately protected and buffered from the development during the operational phase and that the biodiversity value of the site will be maintained and enhanced.

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:**

- Prior to the commencement of works there shall be a repeat survey for the presence of badgers. The report of the survey (together with proposals for mitigation/compensation, if required) shall be submitted to Ribble Valley Borough Council for approval in consultation with specialist advisors. Any necessary and approved measures for the protection of badgers will be implemented in full.
- Tree felling, vegetation clearance works, development works or other works that may affect nesting birds shall not take place between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections.
- No site clearance, site preparation or development work shall take place until a habitat creation/enhancement and management plan has been submitted and approved by Ribble Valley Borough Council in consultation with specialist advisors. The approved management plan shall be implemented in full. The plan shall demonstrate adequate compensation for any losses and measures for the maintenance and enhancement of the biodiversity value of retained habitats.
- If any plants listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) occur on the site, such as Japanese Knotweed or Himalayan Balsam, then they shall be eradicated from the site and working methods shall be adopted to prevent their spread.
- All trees and hedgerows 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*).
- External lighting associated with the development should be directional and designed to avoid excessive light spill and shall not illuminate bat roosting opportunities within the site, the roof or eaves of the nearby buildings, or trees, streams or hedgerows in

the area. The principles of relevant guidance should be followed (e.g. the Bat Conservation Trust and Institution of Lighting Engineers guidance *Bats and Lighting in the UK, 2008*).

- In order to retain habitat connectivity for Species of Principle Importance, such as amphibians and hedgehogs, boundary treatments should not be flush to the ground, or suitably sized gaps should be left at strategic points.

The applicant should be made aware of the following matters:

- Licences from Natural England may be required if protected species will be affected.
- The submitted tree report recommends works to trees including pruning and severing Ivy growth on trees. It is not clear whether these works form part of the proposed planning application or not. The applicant should be aware of the following:
 - Ivy is a non-parasitic climber and is unlikely to cause direct harm to established trees. Ivy provides a valuable late nectar source for insects, habitat for nesting and wintering birds and provides roosting opportunities for bats. Therefore unless the Ivy is thought to be completely smothering out young trees (which does not appear to be the case on this site) it should be left in situ and intact.
 - The applicant should be aware of the legislation afforded to bats/bat roosts and nesting birds when planning works to trees, including severing of Ivy (see above).
 - Dead and decaying wood is particularly valuable for wildlife. Unless pruning and removal of dead wood is required due to health and safety issues, it would be of significant benefit to wildlife to leave it in situ. If removal of dead wood is essential it is recommended that it is left beneath the tree canopy.

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 (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.

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

2. PROTECTED SPECIES

DEFRA Circular 01/2005 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision (para 99). Paragraph 99 does not distinguish between outline and full planning applications.

Bats (European Protected Species)

The Illustrative Masterplan shows the removal of a number of trees and some of the trees within the hedgerows are suitable to support roosting bats (para 1.7 Summary & para 4.3.2, Ecological Survey Report). On the basis of the information submitted it is not possible to tell which trees are suitable to support roosting bats and the submitted ecology report indicates that an assessment of the bat roost potential of each individual tree has not yet been carried out. If an assessment of bat roost potential of individual trees has not been carried out then, unless a commitment can be made to retain all trees on the site, these assessments will need to be undertaken prior to determination of the application. Following this assessment, unless a commitment can be made to retain all trees with bat roost potential, then the presence/absence of bat roosts will need to be established prior to determination of the application.

If bat roosts would be affected then Ribble Valley Borough Council should not approve the application if there is reason to believe that Natural England would not issue a licence. Ribble Valley Borough Council should therefore have regard to the requirements of the Habitats Directive in reaching the planning decision. The licensing tests given in the Habitats Regulations should be given consideration. In summary, these are that:

1. The development is required for the purpose of
 - preserving public health or public safety,
 - for other imperative reasons of over-riding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
 - for preventing serious damage to property.
2. There is no satisfactory alternative.
3. The proposal will not be detrimental to the maintenance of the population of the species at a favourable conservation status.

(see DEFRA Circular 01/2005).

If bat roost would be affected, information should be provided by the applicant to demonstrate how the above three tests will be addressed prior to determination of the application. This should include mitigation proposals, informed by adequate survey data in order to address the third test.

Great Crested Newts (European Protected Species)

There are 2 ponds within approximately 250m of the site, approximately 250m to the north of the site. The Ecological Survey Report submitted with this application states that these ponds were not surveyed for Great Crested Newts due to lack of access (para 5.2.3). However, these ponds were surveyed in 2010 for a previous planning application, which has been approved, and they were found to be unsuitable to support great crested newts. On the basis of these survey results, the scale of the development and the distance of the site from these ponds, it seems reasonably unlikely that this proposed development would result in impacts on great crested newts.

Water Vole

The watercourse on the site is not suitable to support Water Vole and no signs of water voles were found during the assessment/ survey (para 4.2.4, 4.3.4 & 5.1.4). Based on the information submitted it seems reasonably unlikely that water vole are present or would colonise the watercourse in the future, and therefore it seems reasonably unlikely that they would be affected by the proposals.

Badger

A survey of the site and suitable areas within 30m of the site boundary found no evidence of badgers using the site and no badger setts (Ecological Survey Report). As the site is suitable for badgers (para 4.3.1) there is a possibility that they could start to use the area between the survey and commencement of works (para 5.2.1). A precautionary repeat survey prior to the commencement of works is therefore recommended. If badgers are found to be present at that time, proposals for mitigation/compensation will need to be agreed and implemented prior to works. A planning condition is recommended above to address this matter.

The applicant should be made aware that a licence is likely to be required for works that may disturb badgers.

Breeding Birds

The habitats on the site provide suitable nesting habitat for breeding birds (para 4.3.5) and some of this breeding bird habitat will be lost and degraded due to increased disturbance as a result of the proposed development. It needs to be ensured that any habitat losses are adequately compensated for (see below under semi-natural habitats). It may also be appropriate and necessary for any proposals at the reserved matter stage to provide compensation for loss/de-gradation of breeding bird habitat through provision of nest boxes.

In addition, If Ribble Valley Borough Council is minded to approve the application it needs to be ensured that adverse impacts on nesting birds are avoided during the development works. A planning condition is recommended above to address this matter.

3. SEMI-NATURAL HABITATS

Based on the target notes and description (para 4.2.2) the grassland appears to be poor semi-improved grassland. Although not botanically diverse the grassland may have some value for wildlife, such as for nectaring invertebrates. In addition, the proposed access off Henthorn Road will result in the loss of a length of hedgerow with a diverse range of woody species. There is space within the red line boundary for compensation for the loss of length of hedgerow resulting from the proposed access and for the loss of poor semi-improved grassland (for example through hedgerow creation/shrub planting/creation of areas of species rich grassland).

The Illustrative Masterplan shows loss of 2 hedgerows and a number of trees. Hedgerows are a Habitat of Principal Importance and DEFRA Circular 01/2005 states that Habitats of Principal Importance are a material consideration in planning decisions. Planning policy indicates that losses and harm to biodiversity should first be avoided. This requirement does not appear to have been addressed in the Illustrative Masterplan and it will therefore need to be addressed at the reserved matters stage. If it can be demonstrated that losses of trees and hedgerows are unavoidable then adequate compensation will be required.

In addition to adequate compensation for losses, the above planning policies require enhancement of the natural environment. It would therefore be appropriate for the design and

landscaping of any scheme to not only ensure that there is adequate compensation for any losses but to also ensure that the proposals would result in enhancement of the biodiversity value of the site (for example, the Illustrative Masterplan shows a proposed balancing facility and this should be designed and planted to benefit wildlife).

Habitat creation/compensation schemes should comprise native species and habitats appropriate to the locality. Appropriate guidance 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>. Any compensatory planting / habitat creation should maintain habitat connectivity with existing areas of semi-natural habitat.

The incorporation of retained hedgerows, trees, the stream and associated ground flora into residential development will inevitably result in detrimental impacts/pressures, at least in terms of functionality (such as through informal recreation; garden escapes; green waste tipping; garden encroachment and gardening of retained habitats; proximity to roads leading to suboptimal conditions for breeding birds and increased risk of traffic collision; proximity to people and pets leading to disturbance and predation of associated species). It will therefore be important for retained habitats to be adequately protected and buffered from the development and for them to be enhanced, not merely retained.

The layout proposed at the reserved matters stage should demonstrate adequate protection of retained habitats, for example by situating houses so that they front onto retained habitats such as hedgerows and the stream, and by providing adequate buffers between dwellings/gardens and semi-natural habitats.

In order to compensate for added pressures on retained semi-natural habitat, management should be undertaken to maintain and enhance the biodiversity value of these areas, such as management of existing hedgerows for wildlife.

A fully detailed habitat compensation/creation/management plan can be subject to planning condition.

4. LIGHTING

Planning decisions should limit the impact of pollution from artificial light on nature conservation (NPPF Para 125). Bats may roost/forage/commute in the area and they may be disturbed and/or discouraged from using their roosts, established flyways or foraging areas if these are subject to the introduction of artificial light. A planning condition is therefore recommended above to minimise the potential impacts of lighting on bats.

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

