

Sarah Westwood
Planning Case Officer
Ribbles Valley Borough Council

Email: ecology@lancashire.gov.uk
Your ref: 3/2013/0036
Our ref: 03/13/0036/ASM/ASP/SJM
Date: May 23rd 2014

Dear Mrs Westwood,

Ecological comments

Application: 3/2013/0036

Proposals: Application to discharge condition no.3 (energy requirements) condition no. 6 (contaminated land) condition no.12 (pedestrian/cycle links) condition no.14 (Otters [Lutra lutra] survey) condition no.15 (Water Vole [Arvicolaterrestrs] survey) condition no.16 (White Water Crayfish survey) condition no.17 (repeat survey for Badgers) condition no.20 (habitat Creation/Enhancement and Management Plan) condition no.21 (method of removal/treatment/control of Himalayan Balsam) and condition no.24 (construction method statement) of planning permission 3/2010/0719P.

Location: Land off Henthorn Road Clitheroe Lancashire

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

As you know, Natural England has provided standing advice for planning authorities to assess protected species, and this standing advice is a material consideration in the determination of applications in the same way as a bespoke letter from Natural England would be. I have therefore reviewed the submitted information with reference to the standing advice for protected species.

PLANNING CONDITION NUMBER 14: survey for otters prior to works within 7m of the river edge, together with proposals for mitigation/ compensation if required.

This condition was attached to secure a precautionary repeat survey for otters prior to any works along the river bank. This was recommended by the ecology report submitted in support of application 3/2010/0719, due to the fact that evidence of otters had been seen along the river.

A repeat survey was carried out on October 4th 2012, when no signs of otters were seen, although the FPCR report notes that conditions for survey were sub-optimal due to recent heavy rain and high water levels which would have eradicated any signs of otters.

The FPCR report concludes that otters are not a constraint to the development of this site.

However, given that signs of otters were present during 2010, the absence of signs in 2012 (during conditions when evidence might be expected to be absent) does not indicate that otters (a mobile species) will continue to be absent from this stretch of river/ river bank.

Therefore, and until the development is completed, the recommendation for a repeat survey for otters prior to works within 7m of the river edge must surely remain valid and applicable.

PLANNING CONDITION NUMBER 15: survey for water vole prior to works within 7m of the river edge, together with proposals for mitigation/ compensation if required.

This condition was attached on the recommendation of the 2010 FPCR report, i.e. a full survey should be completed if works are to affect the riverbank or land up to 5m from the top of the riverbank.

In this case, although the nature of proposed works within 7m of the river is unclear, a repeat survey was carried out on October 4th 2012.

The survey report again notes that the riverbank adjacent to the site is optimal habitat for water voles and although several small burrows were noted, no further field signs were found to confirm the presence of water voles.

However, and as with otters, the timing of the survey was suboptimal and followed a period of heavy rainfall and high water levels which may well have obliterated field signs of water vole.

Moreover, although Natural England's standing advice species sheet: water vole does indicate that surveys can be carried out during the period April to October, the Water Vole Conservation Handbook indicates that outside of the period mid-April to September, surveys can only confirm the presence of water voles and not absence and should not be used as a means of informing impact assessment or mitigation options except in very straightforward cases.

In this case, given the suboptimal weather conditions for survey, and the apparently suboptimal time of year, it is not clear that the survey could reliably establish the absence of water vole; and without any further information about the nature, scale and duration of the proposed works within 7m of the watercourse, I am unable to concur with the conclusion of the FPCR report (that water vole is not a constraint to development).

As with otters, it would seem appropriate for this condition to remain 'live' until such time as the development is completed, i.e. works within 7m of the river edge must be preceded by a pre-works check for water voles (carried out at an appropriate time of year, and in appropriate weather conditions).

PLANNING CONDITION NUMBER 16: survey for whiteclawed crayfish prior to works affecting watercourses, together with proposals for mitigation/ compensation if required.

Surveys for white-clawed crayfish were carried out on October 4th 2012.

According to Natural England's standing advice species sheet: White-clawed crayfish, the optimal time of year to carry out surveys for this species is during the period mid-July to mid-September. Surveys were thus not undertaken within the optimal period for survey. However, the description of the habitat within the site, and the nature of the survey, seem comprehensive and sufficient to reasonably rule out the presence of this species within this site.

I note that the Environment Agency has also responded, and raised no further concerns in respect of this species.

Condition 16 can therefore be discharged.

PLANNING CONDITION NUMBER 17: repeat survey for badgers, together with proposals for mitigation/ compensation if required.

A repeat survey for badgers was also carried out on October 4th 2012. Natural England standing advice species sheet: badgers indicates badgers surveys can be carried out at any time of year, although the optimum time is spring or early autumn/ winter. Surveys were therefore carried out at an appropriate time of year.

As with the earlier surveys (submitted in support of application 3/10/0719), no evidence of badgers was noted although there were again unidentified mammal tracks at site boundaries.

The FPCR report concludes that badgers are not a constraint to development at this site. Whilst I agree with that conclusion, it should be noted that badgers are a mobile species and could potentially colonise the site or surrounding areas (if present in the wider area). The legislative protection afforded to badgers applies even following the granting of planning consent (and discharge of conditions) and site workers should be aware that if the presence of badgers or badger setts is suspected at any time works should cease and the scheme ecologist/ Natural England should be contacted for advice.

PLANNING CONDITION NUMBER 20: habitat creation/ enhancement and management plan, to include treatment of hedgerows, species rich/ neutral grassland, the stream and associated habitats, native scrub and tree planting, and part of the River Ribble BHS.

These comments are based on the report '*Henthorn Road, Clitheroe. Habitat Creation and Management Plan*' (FPCR, October 2012).

In general the Plan appears to indicate that it should be possible to maintain and enhance biodiversity as part of these proposals, and I have very few comments to make. However, the following points should be addressed:

- Paragraph 5.24 indicates that ash *Fraxinus excelsior* would be planted as standard trees. As far as I am aware there remains a restriction on the use of ash in planting schemes due to Chalara dieback of ash. If this restriction applies at the time of implementation, then this species would need to be removed from the planting scheme and substituted with an appropriate replacement native species.
- Grassland creation areas: The Plan indicates that topsoil would be removed, areas re-profiled and top soil replaced prior to seeding or use of green hay. Depending on the soil nutrient status of the topsoil, consideration should be given to not replacing the topsoil. Species-rich grasslands are frequently maintained by low nutrient substrates, and nutrient-rich topsoil may benefit competitive species at the expense of lower and slower growing species of wild flower. The use of nutrient-rich topsoil may therefore result in a greater management burden to achieve the desired endpoint.
- The height and width of hedgerows should be specified within the plan to ensure that management maintains hedgerows of benefit to biodiversity.
- The Plan indicates that species rich and wet grasslands would be created by spreading green hay in the first year. It should be noted however that if the application of green hay in year one fails to increase the botanical composition of grasslands, then further intervention will be required, e.g. repeat spreading of green hay or the introduction of additional plant species as plug plants.
- The Plan refers to monitoring of habitats, but does not appear to include a mechanism for feedback or review with Ribbles Valley Borough Council. This would obviously be appropriate however in order to demonstrate to the LPA that the created habitats have been established and are being maintained in the longer-term.

With the exception of these few minor amendments, the information appears sufficient to discharge planning condition number 20.

PLANNING CONDITION NUMBER 21: method statement for the treatment of Himalayan balsam.

When I commented on the original application (3/2010/0719) I recommended that Himalayan balsam should be eradicated from the site and working methods should be adopted to prevent the spread of the species (in order that the proposals would not result in a breach of the Wildlife and Countryside Act 1981 (as amended)). I did not recommend that a scheme should be submitted for approval or that any such scheme would need to be approved by Lancashire County Council ecologists. Indeed, having discussed this with my manager we are of the opinion that approving method statements for the control of invasive species falls outside the scope of the Service Level Agreement; and Lancashire County Council ecologists are not suitably qualified to endorse the use of chemical controls (often a feature of invasive species management).

The applicant clearly has a legal duty to prevent the spread of this species as a result of development, and has submitted a method statement.

In my opinion it would be appropriate for proposed treatment of this species to be in accordance with Environment Agency guidelines (e.g.

<http://www.lbp.org.uk/downloads/Publications/SpeciesInfo/Managing%20Invasive%20Non-Native%20Plants.pdf>)

These comments are provided under the terms of the Service Level Agreement (ecology). Please note that Lancashire County Council does not support or object to planning applications when providing advice on ecological matters. The comments are intended solely to inform your decision-making, having regard to the requirements of relevant biodiversity legislation, planning policy and guidance.

The County Council provides comments with regard to relevant wildlife legislation. The comments do not constitute professional legal advice; there may be circumstances where you may wish to seek professional legal interpretation of any of the relevant wildlife legislation cited.

I hope these comments are helpful.

Yours sincerely,
Sarah

Dr Sarah Manchester
Senior Planning Officer (Ecology)