

Daniela Ripa
Planning
Ribble Valley Borough Council

Email: ecology@lancashire.gov.uk
Your ref: CONRSPB/3/2014/0438
Our ref: 03/14/0438/ASM/ASP/RS
Date: 18th June 2014

Dear Daniela,

Ecological comments

Planning Application No: **3/2014/0438**

Proposals: **Development of 106 residential units, including affordable housing, new vehicular and pedestrian accesses, landscaping, public open space and ecological enhancement measures**

Location: **Land East of Chipping Lane**

District: **Ribble Valley**

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

The following comments are provided under the terms of the Service Level Agreement (ecology). Please note 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.

RECOMMENDATIONS

At this stage the surveys are incomplete (European Protected Species surveys) and the principal of the proposed development has not therefore been established. I am therefore unable to provide full comments at this stage. I will be able to provide further comments once information has been submitted to address the matters listed below.

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

- The site supports suitable terrestrial habitat for amphibians which would be affected and there are ponds within and adjacent to the site which are suitable to support Great Crested Newt. The submitted *Ecological Assessment Report* (Tyler Grange, 11th April 2014) states that Great Crested Newt surveys to establish the presence/absence of Great Crested Newt and the need for a Natural England licence are ongoing (para 5.30).

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). These surveys will need to be complete prior to determination of the application.

If surveys reveal the presence of amphibians which are likely to be affected, then the applicant will need to submit proposals for mitigation and compensation. If the presence of Great Crested Newt is established then Ribble Valley Borough Council will also need to have regard for the requirements of the Habitats Directive in reaching a planning decision. Ribble Valley Borough Council should not approve the application if there is reason to believe that Natural England would not issue a licence. 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 Great Crested Newts would be affected then before the application is determined, information should be provided by the applicant to demonstrate how the above three tests will be addressed. This should include mitigation proposals, informed by adequate survey data in order to address the third test.

- 5 mature trees are proposed for removal (Site Layout plan). Based on the submitted information it is not clear to me whether the presence of bat roosts in these trees can be reasonably ruled out. Further information should be submitted to address the following matters:
 - There does not appear to be any information submitted regarding the suitability of the 2 trees proposed for removal from the hedgerow in the middle of the site (referred to as hedgerow 8 in the Ecological Assessment and G2 in the tree report) to support roosting bats. These trees do not appear to be numbered or described in the submitted tree report and do not appear to be mapped on the Habitat Features Plan in the Ecological Assessment report. An assessment of the suitability of these trees to support roosting bats will need to be provided, and if suitable then, unless impacts (direct and indirect) can be avoided, surveys (dusk emergence/dawn re-entry surveys) will be required to establish the presence/absence of bat roosts.
 - The 3 trees along the site frontage (Chipping Lane) (T18, T19, T20, Ecological Assessment Report) to be removed are categorised as having no potential to support roosting bats (appendix 4, Ecological Assessment Report), however, the descriptions provided highlight the possible presence bat roosting features:
 - Old ivy cover is present and Ivy stems can themselves provide suitable bat roosting features and can also hide other potential roosting features.
 - The report details the presence of a knot hole which "*appears to be exposed and not lead to a cavity*" and a damaged limb which "*appears exposed and not lead to*

a cavity". The use of the word "appears" indicates to me that it may not have been fully established whether they are suitable features for roosting bats or not.

It is not clear to me that the potential of these features (and the presence of other features that could be hidden from a distance) to support roosting bats has been ruled out following a full up close inspection. I recommend that this is clarified to ensure that Ribble Valley can be satisfied that these trees do not support roosting bats. If these trees have any potential or may have potential to support roosting bats, then further surveys (dusk emergence/dawn re-entry surveys) will be required.

The presence/absence of bat roosts and the likely impacts on bats (European Protected Species) needs to be established prior to determination of the application. Ribble Valley Borough Council will need to have regard to the Habitats Directive in reaching a planning decision (see above).

- I recommend that the Environment Agency and/or LCC Flood Risk Management team are consulted reading the proposals to culvert ditches and dispose of surface water into existing watercourses.

As the principle of development cannot be established before Great Crested Newt and bat matters have been resolved, it is not possible to comment fully on the development proposal at this stage. Ribble Valley Borough Council should however be aware that there will be a need to ensure adequate mitigation/compensation for all unavoidable impacts and that there would be a need for planning conditions/section 106 agreements.

I will be able to consider the overall mitigation/compensation requirements once the presence/absence of Great Crested Newts and the size of any population has been established.

The applicant should be made aware of the following matters:

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

LEGISLATION AND PLANNING POLICY

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

- 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 Protection of Badgers Act 1992.

- 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).

- 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.

The above comments are made without the benefit of a site visit and are based on a review of documents submitted with the planning application as well as a review of ecological records, maps, aerial photographs and images accessible to Lancashire County Council.

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,

Rebecca Stevens
Ecologist
Lancashire County Council