

Mr Mike Atherton  
Planning  
Fylde Borough Council

Email: ecology@lancashire.gov.uk  
Your ref: 13/0655  
Our ref: 05/13/0655/ASM/ASP/RS  
Date: 3<sup>rd</sup> April 2014

Dear Mike,

### **Ecological comments**

Planning Application No: **13/0655**

Proposals: **Hybrid application (part full / part outline). Full planning application for 6,000 capacity football stadium, 11,431m<sup>2</sup> warehouse and distribution centre, 1,518m<sup>2</sup> neighbourhood retail store, internal spine road with access from A585 roundabout, associated parking, landscaping, drainage and infrastructure. Outline planning application (access, layout and scale sought with other matters reserved) for 6,015m<sup>2</sup> sports science building with multi-use indoor sports, 5 x outdoor floodlit pitches, petrol filling station, 785m<sup>2</sup> non-food bulky goods retail unit, hotel, pub/restaurant, drive through restaurant.**

Location: **Mill Farm**

District: **Fylde**

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.

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

- Amphibians, including Great Crested Newt (European Protected Species) and Common Toad (a Species of Principal Importance)
- Birds, including Species of Principal Importance

Based on the submitted information it is not clear to me whether there would be any impacts on Badger (protected species) or bats (European Protected Species)

### **RECOMMENDATIONS**

**Information should be submitted to address the following matters before the application is determined:**

- A summary of bird observations on the site and close to site boundaries has been provided in the Extended Phase 1 Habitat Survey and Baseline Ecological Impact

Assessment (Cameron S Crook & Associates, October 2013). Based on the information submitted I am unable to assess what the likely impacts on birds would be or what compensation would be required. In addition the applicant has not demonstrated that impacts/losses would be avoided or minimised or that unavoidable impacts/losses would be adequately compensated for. Further information will need to be submitted to address this matter (see below).

- Further information is required regarding the Great Crested Newt surveys (see below).
- The applicant has not demonstrated that impacts on amphibians such as Common Toad (a Species of Principal Importance) would be avoided. Further information to address this matter should be submitted prior to determination of the application (see below).
- The submitted information (*Extended Phase 1 Habitat Survey & Baseline Ecological Impact Assessment* (Cameron S Crook & Associates, October 2013)) appears to contain contradictory statements regarding badgers. Based on the submitted information the presence/absence of evidence of badgers and the likely impact on badgers and their setts is not clear to me. Further information to clarify this matter should be provided (see below).
- Based on the submitted information it is not clear to me that proposed floodlighting would not result in adverse impacts on bats. Further information should be submitted to address this matter (see below).
- I recommend that Fylde Borough Council seeks confirmation that trees to the north of site with potential to support roosting bats would not be directly affected by the proposals as there may be impacts I am not aware of (such as removal of trees to install drainage pipes into the brook).
- Following comparison of information submitted in the Arboricultural Report (Urban Green, 12<sup>th</sup> August 2013) and ecological survey and assessment report I recommend that clarification is required on the suitability of the mature Goat Willows (G9 / Civ), that would apparently be lost as a result of the development, to support roosting bats (see below).
- It is not clear to me whether or not the proposals include removal of the hedgerow (a Habitat of Principal) present along the eastern boundary of the site. The submitted Landscape Strategy (plan no. 6) indicates its removal maybe proposed as it is not marked on the plan but the submitted Master plan appears to indicate it may be retained. I recommend proposed impacts on this hedgerow be clarified.
- The applicant has not demonstrated that ecological impacts would be avoided / minimised or that unavoidable impacts would be adequately compensated for. The applicant will need to demonstrate that unavoidable impacts would be compensated for firstly on site, with residual impacts compensated for off site or, as a last resort, a commuted sum.
- I recommend that the Environment Agency and/or Lancashire County Council Flood Risk Team are consulted regarding the proposals to discharge surface water into existing watercourses.

At this stage I am unable to provide full comments as I am unable to assess what the likely ecological impacts of the proposals would be and the applicant has not demonstrated that the proposals would be in accordance with the relevant legislation, guidance and planning policy.

I will be able to provide further comments when information is submitted to address the above matters.

If the principal of the development can be established then there will be a need for planning conditions/section 106 agreements.

**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 (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.

In order to meet the requirements of the above, it will need to be demonstrated that the development would be located and designed in a way that would ensure that harm to biodiversity will be avoided and minimised and that adequate mitigation /compensation for any unavoidable impacts will be provided.

**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).

- Planning decisions should address the integration of new development into the natural environment (Para 61).
- 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).
- Planning decisions should limit the impact of pollution from artificial light on nature conservation (Para 125).

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).

DEFRA Circular 01/2005 states that:

- UK Biodiversity Action Plan Priority Species and Habitats (Species and Habitats of Principal Importance, NERC Act 2006) are capable of being a material consideration in the making of planning decisions.
- 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).

Natural England Standing advice (a material consideration) recommends that where one or more Species of Principal Importance could be affected by a planning proposal surveys and mitigation for any impacts are secured from the applicant prior to a decision being taken (frequently asked questions, section 3.10).

## **2. ECOLOGICAL ASSESSMENT, AVOIDANCE OF ECOLOGICAL IMPACTS AND MITIGATION/COMPENSATION**

### **2.1 Birds, including Species of Principal Importance**

Based on the information submitted I am unable to assess what the likely impacts on birds would be. In addition the applicant has not demonstrated that impacts/losses would be avoided or minimised or that unavoidable impacts/losses would be adequately compensated for.

The ecology report states that the site supports extensive and diverse habitat for breeding birds (Para 3.39, *Extended Phase 1 Habitat Survey & Baseline Ecological Impact Assessment* (Cameron S Crook & Associates, October 2013)) and the vast majority of habitat on the site would be affected by the proposals. Bird observations were made over three separate visits between April and June supplemented by incidental records made during other survey visits (Para 2.11). The report contains a summary table listing the bird species recorded on site or close to site boundaries and a summary of their breeding status.

It is clear that the site is of value to birds. 42 species of bird were observed using the site, 26 of which were likely to be using the site for breeding (thought to be possibly breeding, probably breeding or confirmed to be breeding) including 4 Species of Principal Importance. However, based on the summary information provided I am unable to assess what the impacts would be on birds. I am therefore unable to assess the level of mitigation / compensation that would be required.

Information should be provided to address the following points:

- Although the report states that bird observations were made, no information has been provided on the survey methods or whether any surveys following recognised survey methodology (e.g. BTO Common Birds Census, Breeding Bird Survey).
- Although the report states that the least important parts of the site are the open agricultural land and the dense coniferous plantation, no survey maps have been provided and I am therefore unable to assess the value of the areas/habitats on the site to birds. I am therefore unable to assess what the likely impacts on birds would be.
- The report provides a summary list of species observed. The value of the site to each of these species is not clear to me, for example Dunnock (a Species of Principal Importance) is confirmed as breeding but no information is provided on likely numbers of pairs/individuals recorded. The scale of the likely impacts is therefore not clear to me.
- The raw survey data and maps should be provided to allow me to assess the results and conclusions provided.

The applicant has not demonstrated that losses would be avoided or minimised or that unavoidable losses would be adequately compensated for. The ecological survey and assessment report recommends that any loss of breeding bird habitat is compensated for by installation of nest boxes (table 4.2.6). Whilst nest boxes can provide temporary replacement of lost nesting habitat; due to their finite lifespan they do not provide permanent compensation. In addition the proposals would result in a loss of bird habitat not just for nesting, but for sheltering and foraging etc and this would also need to be compensated for. In order to compensate for unavoidable losses adequate replacement habitat would need to be provided.

Any replacement planting would have to be suitable and designed for birds. For example, dense scrub areas and not the "lollipops" trees over grassland as shown in the Design and Access Statement. I also note that the Design and Access Statement states that planting and vegetation in vulnerable areas around the site will be kept to maximum height of 1m (Para 11.9). It is not clear to me which areas this would refer to. Keeping vegetation to a maximum height of 1m would not be of good value to biodiversity and would not demonstrate maintenance of biodiversity value of retained habitats or that any replacement planting would be adequate compensation for losses elsewhere.

It is not clear to me whether adequate replacement planting could be provided within the site. The applicant will need to demonstrate that adequate compensation would be provided firstly on the site, with any residual impacts compensated for offsite or, at a last resort, a commuted sum. I recommend that gains and losses are quantified.

## **2.2 Amphibians, including Great Crested Newt (European Protected Species) and Common Toad (Species of Principal Importance)**

The site provides a variety of habitats for amphibians being suitable for foraging, migration, shelter and overwintering (e.g. Para 3.45), which would be affected by the proposals.

The ecology report states that all ponds within 250m of the site with direct habitat linkage with the site were surveyed (para 3.46). Ponds within 250m of the site to the east of the A858 and north of the watercourse to the north of the site were not surveyed. The ecology report concludes that the stream running west to east to the north of the site acts as a significant barrier to newts, although it is stated elsewhere that this watercourse is relatively shallow (Para 3.32). Mapping, aerial photographs and images appear to show this watercourse as a small brook and the submitted Tree Report refers to it as a ditch (Para 5.2.4). No information has been submitted to demonstrate why this brook would be a significant barrier to newt dispersal (i.e. no detailed descriptions or photographs). Further information should therefore be provided to demonstrate why the brook would be a significant barrier to newts. If the brook does not constitute a significant barrier to newt movement then presence/absence surveys of ponds within 250m of the site to the north of this brook will be required.

The ecology report states that the surveys were carried out between 25<sup>th</sup> April and 14<sup>th</sup> June but does not provide the dates of each survey, I am therefore unable to assess whether the survey dates were in accordance with the guidelines (which state that at least 2 survey visits should be in the period mid April to mid May). This information should be provided

The ecology report provides a summary of the survey results only and I am therefore unable to assess the likely impacts on amphibians. Full details of the raw survey results should be provided (survey dates, weather conditions during each survey and numbers of each stage of each amphibian species observed in each pond during each survey method).

The Great Crested Newt surveys of ponds to the west and southwest of the site within 250m, three of which are immediately adjacent to the site, found that they support Common Frog, Common Toad and Smooth Newt. Common Toad is a Species of Principal Importance (a material consideration). The site supports a significant area of suitable terrestrial habitat for amphibians in close proximity to these ponds and which appears to make up a significant proportion of suitable terrestrial habitat available to amphibians in the local area. The proposals have the potential to result in adverse impacts on amphibians both due to habitat loss, risk of killing and injury during the works and the operation phase. I am unable to assess the likely scale of the impacts until the raw survey data has been provided (see above).

The ecology report provides no mitigation or compensation measures for amphibians. The applicant will need to submit measures to demonstrate that impacts on amphibians would be avoided both during the works and operational phases and that unavoidable impact such as habitat losses would be adequately compensated for. This should include replacement habitat and retained habitat connectivity to the wider landscape.

### **2.3. Bats (European Protected Species)**

#### **Roosting**

The ecology report states that the only potential roosting sites are the mature trees to the north of the site (Para 3.26). These trees are outside the site boundary and it therefore appears they would not be directly affected. I recommend however that Fylde Borough Council seeks confirmation of this as there may be proposals I am not aware of that would result in impacts on these trees.

The mature Goat Willow trees to the south west of the site (labelled G9 in the Tree Report and Civ in the ecology report) would apparently be lost as a result of the proposals. Although the ecology report does state that that the only potential roosting sites are the

mature trees to the north, the Arboricultural Report highlights that these Goat Willow have major decay to main stems. The ecology report does not specifically refer to the condition of these trees or any bat roost potential in these trees. I recommend that it be clarified whether or not these trees specifically have any potential to support roosting bats due to possible contradictions between the arboricultural report and ecology report.

I recommend this is clarified in order to ensure that Fylde Borough Council can be satisfied that the proposals would not result in a loss of bat roosts and to allow them to demonstrate that they have had full regard to the relevant legislation in reaching a planning decision.

If trees suitable to support roosting bats would be affected then further information will be needed on the potential of each individual tree to be affected to support roosting bats and clarification would be required on the level of survey effort, in order to be satisfied that the surveys are in accordance with the recognised guidelines and that sufficient survey effort has been carried out to be confident that they do not contain a bat roost.

### **Floodlighting**

The proposals include floodlighting which will apparently result in light spill onto currently unlit habitats used by foraging/commuting bats and trees along the northern boundary of the site suitable for roosting bats (Illumination Impact Profile part 1& 3 and the ecology report). Bats can be displaced / discourage from using their roosts/foraging areas and flyways by the introduction of light, with some species of bat being more sensitive to light than others.

With reference to the recognised guidelines (Bat Conservation Trust published Bat Surveys: Good Practice Guidelines, 2012, 2<sup>nd</sup> edition) bats are reasonably likely to be affected by the proposals (box 2.1).

Some bat activity surveys of the site have been carried out. However it appears that the level of survey effort was not in accordance with the recognised guidelines. In addition, some mitigation measures are outlined in the Illumination Impact Profile part 3 however it is not clear that these would be sufficient to avoid impacts. I recommend that the applicant either:

- 1) Provide further information regarding the bat activity on the site (potentially including the results of further surveys) to demonstrate that bats sensitive to lighting are reasonably unlikely to be using suitable bat habitat to be subject to light spill, or
- 2) Assume that bats sensitive to lighting do use suitable bat habitat and provide information to demonstrate that impacts will be avoided, for example provide information to demonstrate that bat habitat will not be subject to any light spill, or that adverse impacts would be avoided for example through adequate timing restriction of use of the lighting.

Fylde Borough Council will need to be satisfied that any mitigation/compensation measures would be enforceable.

### **Bat activity surveys**

The ecology report states that the site has moderate potential for commuting and foraging bats. This indicates that the site is considered to be of medium habitat quality. The recognised guidelines recommend that the minimum number of bat activity surveys to achieve a reasonable survey effort for sites of this size of medium habitat quality is:

- one transect visit per month (April to September) (at least one comprising dusk and pre-dawn surveys) and

- an automated recorder positioned one per transect and data collected on 3 consecutive nights for each recording period. The guidance recommends that recorders are left in place for at least 3 consecutive nights in order to give representation figures for that time of year.

The bat activity survey at the site comprised 3 night time surveys (2 dusk & 1 dawn) in May, June and August 2013 and included walked transects by 4 surveyors and one static recorder. This level of survey effort does not appear to be in accordance with the guidelines and it is not clear that the surveys were carried out in accordance with the guidelines. The survey result to date recorded Common Pipistrelle only, a species known to be less sensitive to lighting. However for the following reasons it is not clear to me that the bat activity assessment and survey provides a representative sample of the bat activity at the site:

- The number of survey visits carried out appears less than the recommended minimum.
- No map is provided of the transect routes. Maps should be provided to allow me to assess the coverage of the site.
- Only one static recorder was used and it is not clear how long the static recorder was left in position for, the timing of the surveys or where it was positioned.
- The 2 dusk surveys started 15 minutes before sunset until 1hr30mins after sunset. The guidance recommends that dusk surveys start 15m before sunset and last for 2-3 hours. The length of the transect surveys was slightly shorter than the recommended minimum.
- The report provides only a summary of the bat activity recorded. The raw data (e.g. number of bats passes per numbered transect and timing of transects for each survey, a breakdown of the static recorder results etc).
- The ecological assessment does not appear to provide any assessment of likely use of the site by bats sensitive to increased light levels. In addition there does not appear to be any data search of local bats groups to help inform any such assessment.

#### Avoidance of impacts

In order to avoid the need for further information regarding use of the site by bats to be submitted, the applicant could alternatively assume that suitable foraging habitat, commuting corridors and trees with roost potential are used by bats sensitive to artificial lighting.

Some species of bat are very sensitive to even very small levels of light pollution and in order to avoid impacts it would need to be ensured that suitable bat habitat would not be lit at times when bats would be active.

The Illumination Impact Profile (part 3) (Hoare Lea Lighting, Oct 2013) includes some mitigation measures to reduce the impact of the proposed lighting and states that light levels could be further reduced by new planting. However, there does appear to be any information on what the proposed light levels would actually be if measures to reduce light spill were implemented. It is therefore not clear to me whether any such measures would be sufficient to avoid any light spill onto suitable bat habitat and adverse impacts on bats.

The Illumination Impact Profile indicates that restrictions in use of the lighting may be possible. A means of ensuring that suitable bat habitat is not subject to lighting when bats are using it may be to restrict the use of lighting to periods when bats are most likely be inactive (i.e. within the core hibernation period of November to February inclusive).

Information should be submitted to address the above matters and to demonstrate that proposed floodlighting would not result in adverse impacts on bats prior to determination of the application.

### **Badger (Protected Species)**

The Potential Impacts and Mitigation section of the ecology assessment report states that a low level of badger activity was recorded across the site (table 4.2.2), although elsewhere in the report it is stated that no conclusive signs of badger activity and no sign of any setts were found (para 3.25). It is therefore not clear to me whether any signs of badgers were observed or not. This should be clarified and full details of any signs observed provided (including maps).

The site is suitable for badgers, both in terms of foraging and establishment of setts (para 3.24). Some parts of the site, in particular the dense coniferous plantation could not be surveyed in detail for badgers (para 2.21). It is not clear whether the likelihood of badger setts in these plantation areas can be reasonably ruled out or not as it is not clear whether any signs of badgers were observed elsewhere (see above) or whether or not the entire perimeter of the plantations were surveyed for any signs of badger trackways/pathways going into the plantation. Information should be provided to address this matter.

The above comments 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