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Ribble Valley Borough Council

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Your ref: 03/2010/0719FUL
Our Ref: 03/E1/SM
Date: November 26th 2010

Dear Sarah,

Planning Application: 03/2010/0719
Proposal: Proposed residential development of up to 270 dwellings, landscape, open space, highways and associated works.
Location: Land off Henthorn Road Clitheroe Lancashire

Thank you for your consultation in respect of the above planning application. I have now had the opportunity to review information submitted in support of the application, including the updated ecology report (FPCR, November 2010. 'Ecological Appraisal – Rev B (incorporating great crested newt survey information)').

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

- Non-statutory sites (River Ribble Biological Heritage Site).
- Habitats of Principal Importance (hedgerows, grassland)
- Species of Principal Importance and protected species (bats, otters, water voles, badgers, white-clawed crayfish, breeding birds).

Provided mitigation and compensation can be secured through planning condition, the proposals should be in accordance with the requirements of biodiversity planning policy, guidance and legislation.

RECOMMENDATIONS

If Ribble Valley Borough Council is minded to approve the above application or any amended proposals, the following planning conditions are recommended:

- Prior to any works taking place in proximity to habitat suitable for use by otters (*Lutra lutra*), a survey for the presence of otters shall be carried out. 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 otters will be implemented in full.
- No site clearance, site preparation or development work shall take place within 5m of the river bank top unless a water vole (*Arvicola terrestris*) survey has been carried out in advance. The report of the survey (together with a scheme 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 water voles will be implemented in full.
- Prior to the commencement of any works to the watercourse there shall be a survey for white-clawed crayfish (*Austropotamobius pallipes*). 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 white-clawed crayfish will be implemented in full.
- 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, demolition work or other works that may affect nesting birds will be avoided between March and July inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections.

- All trees and hedgerows (and the Biological Heritage Site) being retained in or adjacent to the application area will be protected during construction, in accordance with existing guidelines (e.g. BS5837: 2005 *Trees in relation to construction - Recommendations*).
- 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 include (but not be limited to) further details of measures for: the maintenance and enhancement of retained hedgerows, compensation for hedgerow losses; retention and enhancement of species-rich/neutral grassland (and measures for mitigation/compensation, if retention in situ is not possible); enhancement of the stream and associated habitat; native scrub and tree planting; maintenance and enhancement of part of the River Ribble BHS.
- Himalayan Balsam (*Impatiens glandulifera*) shall be eradicated from the site and working methods shall be adopted to prevent the spread of this species.
- Prior to the commencement of works, details of lighting shall be submitted to and approved by Ribble Valley Borough Council in writing. The lighting scheme shall be implemented in accordance with the approved scheme. The scheme shall demonstrate avoidance of artificial illumination of important wildlife habitats (the River Ribble and its banks, trees with bat roost potential, hedgerows used by foraging and commuting bats).

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

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.
- The Wildlife and Countryside Act 1981 (as amended).
- The Natural Environment and Rural Communities Act 2006
- The Protection of Badgers Act 1992.
- Planning Policy Statement 9: Biodiversity and Geological Conservation.
- 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

Planning conditions/obligations are necessary to ensure compliance with the above policies and guidance.

AVOIDANCE OF ECOLOGICAL IMPACTS AND MITIGATION/COMPENSATION

In order to meet the requirements of the above, the development proposal would need to demonstrate that the development would be located and designed in a way that would avoid ecological impacts and that mitigation/compensation measures were sufficient to fully off-set all unavoidable ecological impacts and maintain and enhance biodiversity. It should also be demonstrated that habitat connectivity would be maintained and enhanced.

In addition to mitigating and compensating for unavoidable ecological impacts, the above policies and guidance require enhancement of the quantity and quality of biodiversity and habitat.

Landscaping and habitat creation schemes should comprise only 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>).

In this case, it appears that the development has been designed to retained features of high biodiversity value (trees, grassland, hedgerows) and that there is sufficient space within the proposed

development to deliver effective mitigation/compensation for impacts on biodiversity. Measures proposed to benefit biodiversity include: grassland adjacent to the river will be enhanced with green hay and a suitable management regime, the stream and associated habitats will be enhanced, losses of limited sections of hedgerow will be compensated with native tree and scrub planting, and habitat connectivity will be enhanced through additional linkages through the site.

The submission of a Habitat Management Plan for approval and subsequent implementation will be key in ensuring that biodiversity is maintained and enhanced as part of these proposals, and will be particularly important since part of the site is designated as a Biological Heritage Site (see below)

Consideration will also need to be given to ensuring that lighting proposals are sensitive to wildlife, and it will be particularly important to ensure that there is no increase in artificial illumination of important wildlife habitats (the river and its banks, trees with bat roost potential, and bat foraging and commuting habitat)

DESIGNATED SITES: BIOLOGICAL HERITAGE SITES

The proposed development would affect the River Ribble Biological Heritage Site. Although the proposed housing development will not impact directly upon the BHS, part will be incorporated into a 'community park' and is thus likely to suffer an increase in recreational activity/impact.

It will be important that the BHS is adequately protected during construction, and that there are no construction activities (e.g. vehicle movements, storage of materials) within the BHS

During the operation of the site, it will be important to ensure that habitats within the BHS are appropriately maintained and enhanced

PROTECTED SPECIES

Information submitted with the planning application indicates that protected species may be present and may be affected by the proposed development.

European Protected Species

If European Protected Species would be affected by the proposal, three tests will need to be met before planning permission is granted. These are that:

- The development is of overriding public interest
- There is no satisfactory alternative
- The development would not be detrimental to maintaining the population of the species concerned at a favourable conservation status.

(DEFRA Circular 01/2005)

Recent case law has confirmed the need for local planning authorities to apply the above tests to the planning decision (*R (on the application of Simon Woolley) v Cheshire East Borough Council*, June 2009).

In this case, although the presence of European Protected Species has been confirmed, significant impacts seem reasonably unlikely.

Great Crested Newts

According to the ecological assessment, ponds in and adjacent to the application area are not suitable to support great crested newts

Bats

Although surveys did not find evidence of roosting bats, several trees within the application area are potentially suitable to support bat roosts. The ecology report therefore makes recommendations for tree works (e.g. paragraph 4.5). These recommendations appear to be in accordance with best practice guidance (i.e. Bat Conservation Trust '*Bat Surveys – Good Practice Guidance*'). It should be noted that if trees with high potential to support significant bat roosts were to be felled to facilitate the development, further surveys and proposals for mitigation/compensation would need to be submitted prior to determination of the application. However, in this case, submitted information indicates that all trees with moderate to high bat roosting potential would in fact be retained within the development.

Clearly, if at any point in the future, trees do need to be felled or pruned, all tree works will need to have due regard to the possible presence of bats/bat roosts.

Hedgerows and hedgerow trees also provide foraging and commuting habitat for bats. The ecology report therefore recommends retention, and it appears from the illustrative masterplan that this will be possible.

However, it needs to be noted that whilst some species of bat are not deterred by artificial lighting, others (including Daubenton's bats, which were recorded in large numbers foraging over the river) will generally avoid street lights/lit areas. According to the Bat Conservation Trust, lighting can be particularly harmful along rivers, and near woodland edges and hedgerows. It will therefore be important to ensure that potential bat roosts, and bat foraging and commuting habitat, are not artificially illuminated as a result of these proposals.

Otters

According to the ecology report, the river and associated bankside vegetation provide optimal habitat for otters. Indeed, signs of otters were found along the river. Although no potential otter holts/shelters were found, the report does recommend a precautionary repeat survey for otters if any works are proposed along the river bank. If it seems likely that proposed works would result in impacts on otters, proposals for mitigation/compensation will need to be agreed.

Water voles

According to the ecology survey, the watercourse within the application area is currently sub-optimal for water voles and it would be appropriate to retain and enhance this feature for water voles. The riverbank adjacent to the site does however provide optimal habitat for water voles, and surveys for water voles would need to be undertaken if works were proposed within 5m of the bank tops.

White-clawed crayfish

According to the ecology survey, watercourses within the application area are not optimal for crayfish but do offer potential. No crayfish were found during surveys. However, as crayfish are present in the catchment there is a possibility that they could colonise suitable habitats within the application area. The consultant has therefore recommended a precautionary re-survey of the watercourse prior to the commencement of works. If crayfish are found to be present at that time, works will need to be delayed until proposals for mitigation/compensation have been agreed and implemented.

Badgers

The ecology survey did not find any evidence to suggest that badgers are currently present within the application area. However, badgers could potentially colonise at any time and 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.

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

Breeding Birds

Habitats on the site have the potential to support nesting birds. It needs to be ensured that detrimental impacts on breeding birds are avoided.

HABITATS AND SPECIES OF PRINCIPAL IMPORTANCE (Section 41 NERC Act 2006)

DEFRA Circular 01/2005 indicates that Habitats of Principal Importance are a material consideration in planning decisions. The following Habitats of Principal Importance would be affected by the proposed development: hedgerows, lowland meadows.

The Illustrative Masterplan appears to indicate that the majority of hedgerows will be retained within the proposed development. However, their incorporation into residential development will inevitably result in detrimental impacts, at least in terms of functionality (e.g. proximity to roads tends to lead to suboptimal conditions for breeding birds and increased risk of traffic collision; proximity to people and pets leads to disturbance and predation of associated species). It will therefore be important for

retained hedgerows to be enhanced, and not merely retained, and for losses of hedgerows to be compensated. Further details can be required as part of a Habitat Management Plan for this site.

The ecology report notes the presence of semi-improved neutral grassland (UK BAP Priority Habitat) adjacent to both the stream and the riverbank, and states that this habitat should be retained and enhanced. It appears that this will be possible near the river, but it is not clear that it could be retained near the stream as the plans indicate a balancing facility in this area. Since there is sufficient land available for mitigation/compensation, it will be appropriate for further details of maintenance and enhancement (or mitigation and compensation, if retention in situ is not possible) to be included within a habitat management plan for the site.

Species of Principal Importance that could potentially occur on the proposed development site include bats, white-clawed crayfish, otters and water voles. Planning Authorities should ensure that these species are protected from the adverse impacts of development (PPS9). As these species are all statutorily protected species, their protection has been dealt with above.

TREES

Submitted information indicates that there are trees with features characteristic of veteran trees present within the application area. PPS9 emphasizes the importance of such trees for biodiversity and recommends their retention as part of development proposals. It appears that retention will be possible. It will be important to ensure that all retained trees are adequately protected during and after construction, and that features characteristic of veteran trees (e.g. deadwood in the canopy) are retained. Therefore, unless trees present a significant health and safety risk, overzealous tree works should be avoided.

INVASIVE & INJURIOUS WEEDS

Himalayan Balsam (*Impatiens glandulifera*) is present on the riverbank and adjacent to the footpath. This species is listed on schedule 9 of the Wildlife and Countryside Act 1981 (as amended), and it will therefore be important to ensure that this species is not spread as a result of this development.

I hope these comments are helpful. A copy of the decision notice would be appreciated.

Yours sincerely,

Dr Sarah Manchester
Planning Officer (Ecology) - Specialist Advisory Team
Development Management Group
Lancashire County Council