

Ecological comments
Planning Application Ref: LCC 2021 0002

**AREAS 1 AND 2 OF THE PRESTON AND SOUTH RIBBLE FLOOD RISK
MANAGEMENT SCHEME & ASSOCIATED WORKS**

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

Mitigation hierarchy/consideration of alternatives

The proposed development would result in significant habitat loss, including loss of trees and woodland on a landscape scale as well as losses of other Habitats of Principal Importance (NERC Act, 2006), habitats associated with River Ribble Biological Heritage Sites, habitats of protected and priority species and habitats that may be used by SPA qualifying species.

The NPPF states that planning decisions should contribute to and enhance the natural environment by protecting and enhancing sites of biodiversity value.

The NPPF also states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. This 'mitigation hierarchy' and other requirements of the NPPF should be applied to the planning decision.

Therefore, the scheme should only be approved if Lancashire County Council is first satisfied that there is no satisfactory alternative design solution that would provide adequate flood protection whilst avoiding the proposed extent of habitat loss.

Habitats Regulations Assessment

A shadow Habitats Regulations screening assessment has been provided by the applicant, which concludes that there will be no likely significant effect on a European designated site. Natural England has subsequently stated that "*Based on the plans submitted, Natural England considers that the proposed development will not*

have likely significant effects on the Ribble and Alt Estuaries SPA and Ribble and Alt Estuaries Ramsar and has no objection to the proposed development". Lancashire County Council may choose to adopt the submitted screening assessment and may rely upon the advice of Natural England. In accordance with comments from Natural England, decision making in relation to the Habitats Regulations assessment should be fully documented.

Bat surveys

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"*. This is necessary in order to ensure that the planning authority can discharge its statutory duties in accordance with the Habitats Regulations.

Reports submitted with the planning application indicate that one tree (Tree 5 within the bat survey reports) with moderate potential to support roosting bats would be affected by the proposed development. The submitted reports acknowledge that surveys are required to determine the presence or absence of roosting bats in that tree. Removal of other trees with moderate or high roost potential seems to have been avoided.

The preliminary roost assessment report describes Tree 5 as *"Crack Willow – A mature tree with a number of limbs extending from the crown of the tree. A small bark crack noted on the north aspect at 5m on an eastern limb. A large split in the trees bark on an eastern limb on the western aspect, exposing a rot hole that appears to lead into a branch cavity"*. The recommendations of that report state that this tree *"will require two nocturnal bat surveys (a dusk and a non-consecutive dawn visit) during the months of May to September. One survey will need to be undertaken between May to August"*.

However, it appears that surveys in accordance with the stated requirement were not undertaken. Timing of the surveys undertaken (September and October, 2019) is not in accordance with best practice guidance and the survey was therefore inconclusive. Section 4.2 of the bat emergence survey report states that *"Due to the surveys not following the BCT guidelines, it is not possible to classify this tree as not containing a bat roost"*. The bat roost potential of the tree was subsequently revised to Low. The reason given for revising the roost potential is *"the limited bat activity recorded during the surveys, and that no bats were seen to emerge or re-enter the tree"*. The absence of bats outside of the recognised survey season is not a valid reason for revising the stated bat roost potential of the tree.

Before the application is determined, either:

- Further details should be provided, in order to demonstrate that the Preliminary Roost Assessment is not correct and that tree has low potential to support roosting bats;
- Or

- The results of presence/absence surveys undertaken in full accordance with recognised guidelines should be submitted to inform the need for a Natural England licence;
Or
- The scheme should be revised in order to avoid the loss of that tree.

Section 4.2 of the bat activity reports highlights a range of likely impacts on foraging/commuting bats that would result from the extent of proposed tree removal. Such impacts may affect the core sustenance zone of bat roosts, influencing the resilience and conservation status of a bat colony and potentially resulting in roost abandonment. To fully determine the extent to which bats may be affected by the proposed development, the ecological assessment should explore this potential impact to inform avoidance, mitigation and compensation proposals and the potential need for a licence.

The bat activity surveys do not appear to include any transects along Riverside, on the north bank of the Ribble between Penwortham Old Bridge and the West Coast Main Line (see Bat Survey Results Fig. 1). Without bat activity data for this element of the works, it is not possible to fully determine the extent that they foraging/commuting bats may be affected by the proposed development.

All of the above matters need to be addressed before the application is determined in order to meet the requirements stated within DEFRA Circular 01/2005 and to enable the planning authority to discharge its statutory duties in accordance with the Habitats Regulations.

Mitigation/compensation Location & Extent

Section 4 of the Biodiversity Net Gain report concludes that "*There is still an overall loss in tree cover and additional sites are required to compensate for this habitat loss*". Tree planting/habitat creation at Fishwick Bottoms and Golden Way are discussed within the submitted documents. However, it does not appear that any plans have been submitted to identify the location/extent/boundary of the proposed land. Also, no survey data seems to have been provided to confirm current conditions on these sites. It needs to be ensured that any habitat creation proposals on these sites would not be detrimental to any existing ecological interest. The feasibility of the proposed habitat creation also needs to be demonstrated. Additionally, it needs to be demonstrated that the proposed mitigation function will be achievable, including landscape scale compensation for impacts on habitat connectivity and the loss of bat commuting/foraging habitat. Details of the additional mitigation land should therefore be provided before the application is determined.

Various areas of habitat creation are stated within the submitted Biodiversity Net Gain Metric Tool. This doesn't appear to include habitat creation proposals at Fishwick and Golden Way as above (only onsite baseline and habitat creation data has been given). Offsite baseline data and habitat creation proposals should be included in the metric calculations. The locations of each habitat creation item given on the BNG Metric Tool should be clearly stated and shown on a plan, and reference should be made to the

ecological survey data for existing habitats in each location. As above, this will demonstrate that habitat creation proposals on these sites would not be detrimental to any existing ecological interest.

A tree replacement ratio of 5:1 is proposed. It needs to be clarified how this ratio has been determined. It needs to be demonstrated that the proposed tree planting quantities take account of the proportion of planted trees that are likely to reach maturity as well as the ecological impact of the time lag until replacement trees mature. In the case of woodland, habitat areas would be more relevant and can be justified using the Biodiversity Net Gain metric.

Feasibility of Mitigation/compensation proposals

Species-rich grassland is proposed at Ribble Sidings. However, soil conditions appear to be currently unknown. Section 4.1 of the Biodiversity Net Gain report states that "*At Ribble Sidings, further work is required to confirm what habitats can be achieved*". Further information should be submitted in order to demonstrate that soil conditions are suitable (or can be made suitable) for establishment of the proposed habitat. If the proposed habitat cannot be achieved, then alternative habitat creation proposals will need to be submitted and Biodiversity Net Gain calculations will need to be revised.

Conflicts between ecological mitigation function and recreational use

Ribble sidings is proposed as both an ecological mitigation area and a recreational site. There are potential conflicts between these uses that could be detrimental to the ecological mitigation function. It will need to be demonstrated how recreational pressure on re-established habitats will be avoided.

Distinction between essential mitigation/compensation measures and enhancements

The distinction between essential mitigation/compensation measures and enhancements should be made clear. Many of the enhancements listed in Section 7.2 of the Environmental report appear to be essential mitigation/compensation requirements.

If the above matters can be adequately addressed and Lancashire County Council is minded to approve the application, then I recommend that there should be planning conditions (and/or Section 106 agreements) to address the following matters:

Protected Species

If, at any point, before or during development work, the presence of a protected species that could be adversely affected by the development works is detected or suspected, then works must stop and advice must be sought on the need for a licence from Natural England and necessary species protection measures.

Construction Environmental Management Plan / Environmental Action Plan

Prior to commencement of any works on site, a Construction Environmental Action Plan and Environmental Action Plan should be submitted for approval by the planning authority. These documents should address the following matters (*inter alia*):

- All measures necessary to comply with wildlife protection legislation during the works.
- Pre-works precautionary surveys/inspections for protected and priority species, including (but not limited to) bats, otter and badger).
- A method statement for the felling of trees with bat roost potential, including procedures that will be followed in the event that roosting bats are discovered before or during the works.
- Protection measures for nesting birds and all other protected and priority species that could be adversely affected by the proposed works and associated disturbance, including (but not limited to) bats, otter, badger, reptiles and amphibians, hedgehogs and notable plants.
- Measures to protect retained trees within or adjacent to the working area in accordance with *BS5837*.
- Measures to protect all retained habitats within or adjacent to the working area.
- Methods for the control and eradication of invasive non-native species (to be provided within an invasive species management plan).

The approved CEMP/EAP and invasive species management plan must be implemented in full.

Detailed habitat creation proposals

Prior to commencement of works, detailed habitat creation proposals for each area of replacement habitat should be submitted for approval by the planning authority. This should include:

- A full planting/seeding mix for each area of habitat establishment, comprising locally native species suitable for the location and site conditions.
- Methods of ground preparation, seeding and planting
- Watering
- Method of protecting newly seeded/planted areas
- Establishment Maintenance proposals.
- Weed control
- Contingency plans to be implemented in the event of failed habitat establishment.
- Targeted measures for species likely to be affected by the proposed scheme. For example, this should include replacement roosting opportunities for bats, to compensate for the loss of numerous trees with low/moderate roosting potential, elm trees (food plant of White letter hairstreak), artificial otter holts, nest boxes, transplanting of notable plant species etc.

The approved habitat creation proposals must be implemented in full.

Maintenance/long-term management and monitoring

Prior to commencement of works, an establishment maintenance programme and long-term management plan should be submitted for approval by the planning authority. This should include all retained and re-established habitats and should be implemented in full. Maintenance/management proposals should clearly state aims, objectives and success criteria. Detailed management prescriptions to achieve the aims objectives and success criteria should be stated in full. A detailed work programme should be provided, stating the location and timing of each management operation and clearly showing the

responsible organisation for each operation. As well as habitat management proposals, the management plan should address management of recreation pressure on re-established and retained habitats. Monitoring measures should be proposed to measure the success of mitigation and compensation measures, to inform the need for remedial measures and to inform establishment maintenance and long-term management.

It is stated that long-term management of habitat creation will be taken on by the relevant local authority. This should be the subject of appropriate planning obligations/Section 106 agreement/Unilateral Undertaking to secure management for at least 30 years (in line with the predicted requirements of the emerging Environment Bill).

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 held by Lancashire County Council. I am not qualified to comment on impacts on the marine environment, freshwater fish or certain other aspects of the riparian environment. Advice on these matters should be sought elsewhere. These 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.