Date: 28 May 2021
Our ref: 348053
Your ref: LCC/2021/0012

Mr Jonathan Haine
Development Management
Lancashire County Council

BY EMAIL ONLY

Customer Services
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Dear Mr Haine

Planning consultation: LCC/2021/0012: Extraction of sand & gravel, construction of new access road & junction, creation of plant site, weighbridge etc. Progressive restoration to wetland & passive flood management facility.

Location: Lower Hall Farm, Samlesbury

Thank you for your consultation on the above, which was received by Natural England on 25 March 2021.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Insufficient information provided

There is insufficient information to enable Natural England to provide a substantive response to this consultation as required under the Town and Country Planning (Development Management Procedure) (England) Order 2015. Please provide the information listed below and re-consult Natural England. Please note that you are required to provide a further 21 day consultation period, once this information is received by Natural England, for us to respond.

Natural England have concluded that a significant amount of further work is required for the Environmental Impact Assessment (EIA) and supporting technical appendices which have been submitted in support of the Application. Further information is provided below.

Site of Special Scientific Interest

The Application Site is located within 50 metres of Red Scar and Tun Brook Woods Site of Special Scientific Interest (SSSI) (hereafter referred to as the 'designated site'). Information and a map for this site can be found here: https://designatedsites.naturalengland.org.uk/

Natural England consider that, as submitted, there is insufficient information provided in order to determine the potential impacts on the interest features for which Red Scar and Tun Brook Woods SSSI is notified for in relation to air quality, dust, noise and vibration, and climate change impacts which may arise from the Proposed Development.

Ecological Assessment

Natural England have reviewed the Ecological Assessment prepared by TEP and dated December 2017, which forms a Technical Appendix to the Environmental Statement (ES) submitted in support of the Application. We note that three and a half years have elapsed since the report was prepared.

Guidance published by the Chartered Institute of Ecology and Environmental management (CIEEM) on the lifespan of ecological reports and surveys (April 2019) advises that where reports are more than three years old, the assessment is unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated.

Natural England advise that the Ecological Assessment should be reviewed to ensure that it is still current, supported by updated ecological surveys as required.

As this Application is the subject of an EIA, the Ecological Assessment should also be updated to include:

- An impact assessment which considers the likely effects on protected habitats and species (including the designated site) arising from the construction, operation and decommissioning of the Proposed Development, along with any residual effects; and
- Where potential impacts are identified, measures to avoid, mitigate or compensate for those impacts should be recommended.

We note that the submitted Ecological Assessment uses a 1km radius from the Application Site boundary as a zone of influence, and advise that we consider this to be appropriate for the updated Ecological Assessment and supporting surveys. Natural England support the comments made by the County Ecologist (dated 13 May 2021) with regard to the scope and extent of the surveys.

ES 'Biodiversity' section

As submitted, Natural England consider that the section of the ES which considers likely significant effects upon the biodiversity of the designated site which may arise from the Proposed Development does not meet the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (hereafter referred to as the 'EIA Regulations').

As submitted, the 'Biodiversity' section of the ES (at paragraphs 6.9 to 6.18) does not include any consideration of the effects set out within Schedule 4 of regulation 18(3) of the EIA Regulations. It states at paragraph 6.9 that:

> *Biodiversity effects are addressed in the Ecological Assessment. Some of the potential effects considered in that report, particularly in relation to lighting, pollution, dust and noise, will not arise or are negligible and have therefore been removed from further consideration.*

However, Natural England note that the consideration of likely significant effects on the designated site arising from the Proposed Development within the Ecological Assessment is only discussed at paragraph 5.6, which states that:

> *The Red Scar and Tun Brook Woods Site of Special Scientific Interest (SSSI) lies on the far side of the River Ribble from the proposed quarry site. Potential impacts on this woodland SSSI could include dust/emissions and lighting. Measures should be employed to reduce any potential effects on the SSSI.*

As there is no process of assessment of these potential impacts on the designated site and other biodiversity receptors included within the Ecological Assessment, Natural England advise that there is an absence of evidence to support the statement within the submitted EIA that potential impacts "will not arise or are negligible".

We also advise that while paragraph 5.6 of the Ecological Assessment acknowledges the need to provide mitigation measures to reduce any potential effects on the designated site, no measures are identified within either the Ecological Assessment or the ES section itself.

Natural England therefore advise that this section of the ES should be revised, with reference to the findings and recommendations of the updated Ecological Assessment and supporting surveys.

In accordance with Schedule 4 of regulation 18(3) of the EIA regulations, the updated 'Biodiversity' section of the ES must include full consideration of the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the Proposed Development on the designated site.

Where potential impacts on the designated site are identified, measures to avoid, mitigate or compensate for those impacts should be identified, which may be secured via an appropriate condition.

Air Quality and Dust

Natural England have reviewed the Air Quality Impacts Report (AQIR) prepared by Mineral & Resource Planning Associates Ltd and dated January 2021, which forms a Technical Appendix to the ES submitted in support of the Application. As submitted, the AQIR does not provide sufficient assessment of the likely effects on the designated site in relation to potential air quality impacts arising from the Proposed Development.

Air pollution that typically affects habitat will include dust and particulate matter (PM), nitrogen oxides (NOx), ammonia (NH_3), and sulphur dioxide (SO_2). Although the AQIR provides some analysis of likely PM10 and PM2.5 impacts, it does not provide sufficient consideration of other air pollution arising from vehicular emissions associated with the Proposed Development (both plant on site and HGV movements).

There is also insufficient consideration provided within the AQIR with regard to any likely significant effect on the designated site from disamenity dust associated with the construction and operation of the Proposed Development.

The Institute of Air Quality Management's 2016 Guidance on the Assessment of Mineral Dust Impacts for Planning (IAQM 2016) states that for sand and gravel quarries, dust impacts may extend up to 250m from the source. Despite the proximity of the Application Site to Red Scar and Tun Brook Woods SSSI, there is no further assessment on the likely significant effects of dust on the designated site, and while mitigation is suggested in the form of new tree planting and other landscaping measures, the information submitted does not provide sufficient details regarding the location, design and specification of these proposed mitigation measures.

Furthermore, there is an over-reliance within the AQIR upon the technical information which was submitted in support of the planning application for the nearby Longridge Road Energy Centre (Lancashire County Council ref. LCC/2019/0029) with regard to air quality impacts on the designated site.

The findings and recommendations of this technical information do not obviate the requirement under the EIA Regulations that *"The EIA must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development"* on the factors identified within regulation 4(2).

Natural England therefore advise that a revised Air Quality and Dust Assessment should be submitted.

While we note that the Applicant has referred to IAQM 2016 as the methodological basis for some of the analysis within the submitted AQIR, there is insufficient consideration given to wind within Appendix B, and we advise that this should be addressed within the updated Air Quality and Dust Assessment, in line with *Appendix 3: Illustrative example procedure for a disamenity dust assessment* of IAQM 2016.

The Applicant may also wish to refer to IAQM's 2020 guidance to the assessment of air quality impacts on designated nature conservation sites in reviewing how air quality matters should be addressed within the revised Air Quality and Dust Assessment, in order to determine any likely significant effects upon the designated site, noting that this guidance sets out at paragraph 7.5.1 that:

> *The assessment of the impact of air pollution on designated wildlife sites is best undertaken in collaboration with a suitably qualified and experienced ecologist. An air quality specialist should not be making judgements on whether there is a likely significant effect or an adverse effect on the integrity of a site.*

On this basis, Natural England advise that the updated Air Quality and Dust Assessment could be undertaken in tandem with the updated Ecological Assessment as requested above. Similarly, any consideration of vehicle emissions should accord with the Highway Statement which provides a Technical Appendix to the ES.

ES 'Dust and Air Quality' section

Natural England's concerns regarding this section of the ES align with those expressed above regarding the 'Biodiversity' section.

Where potential impacts on the designated site are identified, measures to avoid, mitigate or compensate for those impacts should be identified, which may be secured via an appropriate condition.

Noise and Vibration

Natural England have reviewed the Assessment of Potential Noise Impact Report (APNIR) prepared by Advance Environmental and dated March 2016, which forms a Technical Appendix to the ES submitted in support of the Application. As submitted, the APNIR does not provide sufficient assessment of the likely effects on the designated site in relation to potential noise and vibration impacts arising from the Proposed Development.

The APNIR is also over five years old, and is based on monitoring undertaken in 2015. Given the time that has elapsed since this work was carried out, we advise that the APNIR and all associated surveys should be updated.

Natural England therefore advise that an updated Noise and Vibration Assessment should be submitted, supported by updated monitoring data and other surveys as required.

ES 'Noise' section

Natural England's concerns regarding this section of the ES align with those expressed above regarding the 'Biodiversity' and 'Dust and Air Quality' sections.

Artificial Lighting

Natural England note that paragraph 5.12 of the ES states that:

> *No extraction, processing or transport etc operations will be undertaken in the hours of darkness. External lighting will not be required save for any emergency or security purposes. The private access road will be unlit. There will be no lighting impact on residents or sensitive species. There are no environmental effects to consider.*

We consider that this approach is appropriate, given the nature of the Proposed Development and the proximity of the Application Site to the designated site, and would advise that these measures should be secured by appropriate conditions should your Authority by minded to grant planning permission for the proposals.

Climate Change

As submitted, Natural England consider that the ES does not meet the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 it does not contain sufficient information with regard to the impact of the Proposed Development on climate and the vulnerability of the project to climate change.

Regulation 4(2) of the EIA Regulations requires the EIA to *"identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development"* on a range of factors, including climate.

As submitted, the ES contains only four references to climate change. Similarly, the submitted Planning Statement contains only four references to climate change (alongside three references to greenhouse gas emissions). Although there is some analysis provided within the submitted Technical Appendices to the ES with regard to the impact of the project on climate and the vulnerability of the project to climate change, as submitted the ES does not provide sufficient information to meet the requirements of the EIA Regulations.

Natural England therefore advise that a 'Climate Change' section should be submitted to form part of the ES.

The 'Climate Change' section should provide an overview of the relevant considerations which are addressed within the Technical Appendices to the ES, including an analysis of the carbon lifecycle of the Proposed Development (which should give consideration to the end uses of the sand and gravel which is proposed for extraction). The Applicant may wish to have regard to the Institute of Environmental Management & Assessment (IEMA) EIA Guide to: Climate Change Resilience and Adaptation (2020) in preparing this section of the ES.

This section should consider the effect of the development on climate change related impacts such as flooding and drought (which should include the relevant climate change projections), the effect of the development on climate change related impacts on biodiversity (which should also include the relevant projections), and analysis of the likelihood of any exacerbation of climate change impacts for people nearby arising from the Proposed Development.

Natural England also advise that this section should discuss the provision of nature-based solutions for climate change adaptation. This analysis of climate change adaptation should include consideration of both impacts on vulnerability/resilience of the features of the designated site, and also impacts on our ability to accommodate change (for both nature and people).

Soils and Best and Most Versatile Agricultural Land

There is also insufficient consideration of the potential impacts on best and most versatile agricultural land, as required by national planning policy and guidance. Our specific concerns are set out below.

Soils

Having examined this proposal in the light of our statutory duties under Schedule 5 of the Town and Country Planning Act 1990 (as amended) and the Government's policy for the sustainable use of soil as set out in paragraphs 170 and 171 of the National Planning Policy Framework (NPPF), Natural England have the following comments to make:

Based on the information provided in support of the planning application, we note that the Proposed Development would extend to approximately 90 ha. A soil survey has been undertaken across 50.3 ha of the Site, of which 34 ha of 'best and most versatile' (BMV) agricultural land was identified; namely Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system.

This information is contained within the 'Soils and Agricultural Land' Report (SALCR) prepared by Dr Stuart McRae and dated November 2010, which forms the Technical Appendix to the 'Soils' section in the ES.

Natural England have the following reservations regarding the SALCR:

- The soil and ALC survey does not cover the full extent of the Site;
- A detailed ALC map, including auger locations) was not provided alongside the Environmental Statement (ES) documents (although reference was made to such figures), therefore, it is not possible to establish the precise location of the ALC survey within the Site, nor the location of the ALC grades and soil types across the survey area;
- There is no discussion in the ES regarding the area of potential loss of BMV;
- There is no discussion in the ES regarding the restoration of different soil types (including soil volumes); and
- The sustainable re-use of all soil resources is not considered within the Report.

The ALC and soil survey should extend across the full extent of the Site; with detailed auger information, locations and mapping provided. The area of BMV loss should be discussed in terms of sensitivity, magnitude of effect and significance in the 'Soils' section of the ES.

BMV Agricultural Land

On the evidence of the information set out in the application, the Proposed Development would result in the irreversible loss of over 20 ha BMV agricultural land.

There has been no submission of soil handling, restoration and aftercare proposals, and therefore the requirements for sustainable minerals development as set out in the NPPF and current Minerals Planning Practice Guidance; have not been met for the following reasons:

- Wholly inadequate soil protection proposals, including failure to translate the specialist SALCR into a realistic soil handling strategy;
- A restoration landform that would render the land incapable of being farmed to its agricultural potential;
- Excavation and restoration below the water table that would inevitably result in lakes and wet margins;
- Failure to consider the re-use of all excavated soil resources in restoration;
- Deficiencies of the proposed phasing and restoration scheme, and outline aftercare scheme for the management of the restored land, including the absence of a soil balance and consideration of excavated soil volumes and soil types at each phase of working, nor does it provide sufficient evidence that soil restoration can be achieved; and
- There are no proposed specifications for separate soil stockpiles (topsoil and subsoil; and the different identified topsoil and subsoil types) (PL16 through PL28A). It is recommended that topsoil mounds shall not exceed 3 m in height; and subsoil mounds shall not exceed 5m in height; and are stored separate to other soil resources. As each soil type needs to be stockpiled separately, the plans need to ensure there is sufficient space for these separate stockpiles, ensuring the height recommendations are conformed to; including the construction screening mound.

Natural England therefore advise that a revised Soils and Agricultural Land Classification Assessment to be submitted.

Natural England would expect this application to be rigorously examined in the light of Government policy as set out in Paragraph 170 and 171 of the NPPF which states that *'Planning policies and decisions should contribute to and enhance the natural and local environment by: […] recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'; and*

'Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework[1]; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.'

Soil is a finite resource which plays an essential role within sustainable ecosystems, performing an array of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food. In order to safeguard soil resources as part of the overall sustainability of the development, it is important that the soil resource is able to retain as many of its important functions as possible through careful soil management and appropriate, beneficial soil re-use, with consideration on how any adverse impacts on soils can be avoided or minimised.

Defra's Good Practice Guide for Handling Soils provides detailed advice on the choice of machinery and method of their use for handling soils at various phases. We would advise the adoption of "Loose-handling" methods (as described by Sheets 1-4 of the Guide), to minimise damage to soil structure and to achieve the high standards of restoration required should the scheme proceed.

More general advice for planning authorities on the agricultural aspects of site working and reclamation can be found in the Defra Guidance for successful reclamation of mineral and waste sites. The Applicant should also have regard to national Planning Practice Guidance (PPG) on agricultural land and soil as set out at Paragraphs 001 and 002 of the Natural Environment guidance (Reference ID: 8-001-20190721; Revision date: 21 07 2019).

ES 'Soils' section

Natural England's concerns regarding this section of the ES align with those expressed above regarding the 'Biodiversity', 'Dust and Air Quality', and 'Noise' sections.

Marine Conservation Zone Assessment

Natural England can confirm that the works will require a Marine Conservation Zone (MCZ) assessment for the Ribble Estuary MCZ, which is designated for one feature: Smelt (*Osmerus eperlanus*). This MCZ Assessment should inform the ES. The Marine Management Organisation (MMO) have published some guidance on carrying out MCZ assessments which may be helpful.

Smelt are sensitive to the following pressures which should all be thoroughly assessed within the MCZ assessment:

- Abrasion/disturbance of the substrate on the surface of the seabed;
- Barrier to species movement;
- Changes in suspended solids (water clarity);
- Smothering and siltation rate changes (Heavy);

[1] Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

- Smothering and siltation rate changes (Light);
- Underwater noise changes; and
- Visual disturbance.

Please note that smelt are particularly sensitive to disturbance during their spawning migration. Adults migrate upstream between the months of October and March, and adults and juveniles migrate back downstream between April and September.

Further information on the Ribble Estuary MCZ itself, including factsheet and designation order, can be found here: https://www.gov.uk/government/publications/marine-conservation-zones-ribble-estuary.

Section 125 of the Marine and Coastal Access Act (2009) states that every public authority must exercise its functions in a manner which the authority considers best furthers the conservation objectives of the MCZ.

Net Gain
We would also encourage the Applicant to consider Biodiversity Net Gain (BNG) within the revised Ecological Assessment. Although this is not currently a statutory requirement, the delivery of ten per cent BNG will become mandatory for all new major development proposals when the Environment Bill is enacted within the next 12 months, and there is a clear opportunity to identify the way in which BNG could be delivered through the restoration proposals for the Application Site, in anticipation of this legislation being passed.

In considering this, the Applicant may wish to use the Defra Biodiversity Metric 2.0. The Metric assists in quantifying the biodiversity value of habitats, and can be used to calculate the losses and gains in biodiversity from interventions, allowing more effective compensation mechanisms to be put in place. It can also be incorporated into design frameworks to determine how on-site features can be created or enhanced.

Species Licencing
European Protected Species protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended)

On the basis of the information available to us, our advice is that the proposed development is likely to affect Choose an item. on, or in the vicinity of the application site through disturbance to individuals and the damage or destruction of a breeding site or resting place.

Natural England's standing advice provides guidance on how protected species should be dealt with in the planning system. Specific advice on great crested newts is provided within the detailed species sheets.

The advice provided in this letter is based on the information currently available to us and is subject to any material changes in circumstances, including adjustments to the proposals or further information on the protected species.

As great crested newts are a European Protected Species protected under the Conservation of Habitats and Species Regulations 2017 (as amended), a licence is required in order to carry out any works that involve certain activities such as disturbing or capturing the animals, or damaging or destroying their resting or breeding places. It is for the Applicant to decide whether a species licence is needed to carry out work directly connected with the proposed development as well as associated mitigation work. The Applicant may need to engage specialist advice in making this decision.

Natural England's advice on this planning application relates only to whether the proposed development (including any proposed mitigation measures) is likely to be detrimental to the maintenance of the species concerned at a favourable conservation status. It does not consider whether the proposal requires a licence, satisfies the three licensing tests or whether a licence is likely to be granted for this proposal. In particular, it should be noted that we are not in a position to advise whether there are alternative solutions that would deliver the stated need while having a lesser impact on the protected species.

Under regulation 9(3) of the Habitats Regulations, competent authorities (in this instance the local planning authority) must have regard to the requirements of the Habitats Directive when exercising any of their functions, including whether or not to grant planning permission. This includes having regard to whether the development proposal is likely to negatively affect any European Protected Species (EPS) and whether any necessary licence is likely to be granted by Natural England.

This should be based on the advice we have provided in this response on likely impacts on favourable conservation status and our published guidance on the three licensing tests (i.e. no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status). More information on the requirements to meet the three tests is provided in Defra's draft guidance on the Habitats Directive (of particular interest are paragraphs 125-143) and Natural England's guidance on how we apply the three tests.

Alternatively, the Applicant may wish to apply for a District Level Licence (DLL), which would remove the requirement to undertake updated surveys. The Applicant will need to send the required information to Natural England if they wish to apply for a DLL. Further information is available at https://www.gov.uk/government/publications/great-crested-newts-districtlevel-licensing-schemes

Natural England should be re-consulted once this additional work has been undertaken and application supporting information has been revised. Please note that we are not seeking further information on other aspects of the natural environment, although we may make comments on other issues in our final response.

On receipt of the information requested, we will aim to provide a full response within 21 days. Please be aware that if the information requested is not supplied, Natural England may need to consider objecting to the proposal on the basis of potential harm to the above designated site.

Please note that in addition to your authority's legal duty to further the conservation and enhancement of SSSIs as outlined above, if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Should the Applicant wish to obtain scoping advice for the revised EIA, and/or explore options for avoiding or mitigating effects on the natural environment with Natural England, we would be happy to provide further advice via our Discretionary Advice Service.

Please send further correspondence to consultations@naturalengland.org.uk, marked for my attention and quoting our reference 348053.

Yours sincerely

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