

Ecology Response to Planning Consultation

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Application Ref: LCC/2021/0012

Proposal: Extraction of sand and gravel including construction of new access road and new junction with A59 Preston New Road, creation of plant site, weighbridge and stockpiling area, silt ponds, landscaping including screen mounding, with progressive restoration to wetland and passive flood management facility, woodland and agriculture.

Location: Lower Hall Farm, Salmesbury

District: South Ribble

Applicant: Harleyford Aggregates Ltd

Planning Officer: Jonathan Haine

Thank you for your consultation in respect of the above planning application. LCC previously commented on this application in May 2021 (Ref: LCC Ecology comments_LCC 2021 0012_13th May 2021). The issues raised in that response all remain valid and include matters which must be addressed prior to determination of the application.

The comments below are intended to inform Lancashire County Council's decision-making, with regard to the requirements of relevant biodiversity legislation, planning policy and guidance. 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. The comments have been informed by a review of additional information submitted to Lancashire County Council by the applicant since the May 2021 response and are also based on a site visit by an LCC ecologist on the 2nd April 2024 and a review of up-to-date survey guidelines and legislation.

Currently the application lacks sufficient information on which to determine the planning application. Given various omissions within the habitat assessment (discussed below), significant gaps in protected species survey information, potential impacts on priority and irreplaceable habitat and a lack of appropriate avoidance/mitigation and compensation measures (in line with the mitigation hierarchy), LCC may wish to consider refusal of the application or may wish to suggest that the application is withdrawn and re-submitted when appropriate information becomes available and consultee concerns have been fully addressed.

Various matters discussed below (and within LCC ecology comments dated May 2021) will need to be addressed prior to determination of the application. This is necessary to ensure that Lancashire County Council has adequate information to discharge its own statutory duties and to inform determination of the application in accordance with statutory requirements, national and local planning policy and best practice guidance. This includes the following:

- If Lancashire County Council is intending to approve the application in its current form (or any amended proposals that would affect ancient woodland), then the secretary of state must first be consulted with regard to impacts on ancient woodland.
- An up-to-date data search, including data from the Lancashire Environmental Records network is required in order to inform the ecological impact assessment.
- Updated surveys and assessments are necessary prior to determination (see details below). Surveys will need to be up-to-date, compliant with current guidelines and will need to address omissions highlighted by LCCs site visit. At present the application lacks sufficient information or up-to-date survey data on the following:

- Priority habitats
 - Ancient woodland
 - Birds
 - Otter and water vole
 - Bats
 - Badger
 - Amphibians
 - Reptiles
 - Brown Hare
 - Invertebrates
 - Invasive species
 - Biodiversity Net Gain (BNG)
- An updated arboricultural report is required to address the omissions identified during LCCs site visit (discussed below). Prior to determination of this application LCC may wish to seek advice from an Arboricultural specialist on the suitability and implications of the updated Arboricultural report.
 - Amendments to the proposed development are required (as discussed below) in order to meet the requirements of the National Planning Policy Framework relating to the mitigation hierarchy. If the applicant is to progress with submission of this application as currently designed, Lancashire County Council must first be satisfied that there is no satisfactory alternative location or design solution with a reduced ecological impact. It needs to be clearly demonstrated that the mitigation hierarchy has been applied to all elements of the scheme in accordance with the principles stated within the NPPF. The applicant has advised that the access road location off the A59 is constrained by the location of a high-pressure gas pipeline, LCC should not approve this application unless they are satisfied there is no satisfactory alternative access point. It seems likely that the remainder of the scheme could be revised to avoid or mitigate impacts on the habitats and species listed below. This will need to be considered and appropriate amendments made wherever possible.
 - Following completion of necessary surveys and amendments to the proposed scheme, an up-to-date ecological assessment and ecology chapter of the environmental statement needs to be provided. This should demonstrate that biodiversity gains can be provided in accordance with the requirements of the National Planning Policy Framework.
 - Determination of this application should be informed by the consultation responses from both the Environment Agency and from Natural England.

Further information is provided in the text below and within LCC ecology comments dated May 2021. Further review and additional comment will be required when these matters have been suitably addressed. Appropriate planning conditions and detailed comments on the proposals can then also be considered.

Further Consultation

The LCC ecology response of May 2021 advised that: *"Given that the application area is part of the Ribble corridor and includes proposals for "enhancements" elsewhere along the Ribble and its tributaries (within the draft Unilateral Undertaking), Lancashire County Council may wish to consult the Ribble Rivers Trust on the proposals."* This advice remains relevant given potential impacts from the works on the River Ribble.

Ecological Surveys and Assessments

Data provided to inform this application is based on surveys undertaken across 2013 and 2015.

The LCC response submitted in May 2021 identified that the majority of survey data was out of date. This was backed up by Natural England's response of May 2021 which states that:

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

The applicant must provide up-to-date survey data (in line with best practice guidance including BS42020 and the CIEEM advice note on the lifespan of ecological reports and surveys¹) prior to approval of this application. These surveys need to inform the design of the development and any mitigation or compensation measures for unavoidable impacts.

Evidence needs to be provided to demonstrate that all ecological surveys, assessments and mitigation/compensation proposals have been undertaken and prepared by appropriately qualified, licenced and experienced ecologists.

It would be expected that any further surveys are completed in line with current protected species survey guidance. Those which have been updated since completion of previous surveys include, but are not limited to:

- Bat Conservation Trust – Bat Surveys for Professional Ecologists, Good Practice Guidelines 4th edition 2023;
- The Mammal Society – The Water Vole Mitigation Handbook 2016;
- UK Habitat classification document V2.0 (2023);
- <https://birdsurveyguidelines.org/> - Bird Survey Guidelines for assessing ecological impacts;

Following completion of the surveys the applicant should be required to submit an up-to-date ecological assessment which adequately assesses proposed impacts on ecology from the works. The Ecology chapter of the Environmental Statement will also need to be updated in line with the latest proposals and in line with requirements set

¹ <https://cieem.net/wp-content/uploads/2019/04/Advice-Note.pdf>

out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Habitats

Based on findings of the site visit undertaken by LCC in April 2024, the habitat map provided within the Ecological Assessment (TEP Ref: 5181.01.001) does not accurately represent the habitats present on site and does not provide enough detail to inform avoidance, mitigation and compensation requirements.

Trees, ponds, hedgerows, scrub and stone walls are all missing from the habitat map. Of particular note the woodland within the west of site appears to be the priority habitat 'wet woodland', there is no discussion on this within the ecological assessment. Photographs of this habitat are included below.



Ponds and hedgerows not previously recorded may also qualify as priority habitats (Habitats of Principal Importance, NERC Act 2006). DEFRA Circular 01/2005 indicates that UK Biodiversity Action Plan Priority Habitats are capable of being a material consideration in the making of planning decisions.

Prior to approval of this application an updated habitat survey of the site and surrounding land must be undertaken to address any omissions highlighted by LCCs site visit and to assess any changes in habitat, these surveys must be undertaken within the appropriate season. In order to inform the biodiversity gain assessment (discussed below) the applicant may wish to update the ecological assessment to a UKHAB survey in line with UKHAB V2.0.

It would be appropriate for the ecological assessment to be undertaken in accordance with the following guidelines:

- Recognised survey and mitigation guidelines, including (but not limited to):
 - current Natural England standing advice, guidelines and Technical Information Notes.
 - UKHAB Habitat Classification System
- The Statutory Biodiversity Metric User Guide and condition assessment sheets:
- CIEEM Guidelines for Ecological Impact Assessment, 2018;
- Ecological Impact Assessment Checklist (CIEEM & ALGE, 2019);
- BS42020 Biodiversity – Code of Practice for Planning and Development.
- Biodiversity net gain. Good practice principles for development - CIEEM, IEMA & CIRIA (2019).

Trees and Ancient Woodland

An Arboricultural report has been provided by the applicant as part of the additional submitted information (Ref: BHA Trees Ltd: 4323 V2).

The Arboricultural report lacks an assessment of impacts on woodland blocks and lacks details of the presence of, or impacts on, any ancient woodland, veteran or TPO trees. It also appears that trees are missing from the Arboricultural report which could be impacted by the development, in particular impacts from required level changes do not appear to have been taken account of. An updated/amended arboricultural report is therefore required. Accurate details of tree loss are required to determine loss of habitat and potential impacts on protected species including roosting bats.

I am not qualified to comment on all of the technical detail within the Arboricultural report, it is recommended that LCC seek advice from an Arboricultural specialist on the updated arboricultural report.

With regard to the Arboricultural report, the root protection area of trees 49 and 50 fall within the boundary of the road. The root protection area radius of these trees is given as 9.8m and 9.6m respectively. This suggests that development will take place within 10m of Samlesbury Wood BHS which is ancient semi-natural woodland.

The Arboricultural impact assessment also shows a number of trees are to be lost, which are associated with the 'wood by St Mary's Church BHS' which is designated as 'Other semi-natural woodland over 1ha where field evidence indicates that they are ancient in origin.'

The site visit undertaken by LCC on the 2nd April 2024 identified a number of ancient woodland indicator species present across the proposed development area including; native bluebell *Hyacinthoides non-scripta*, wild garlic *Allium ursinum*, wood anemone *Anemonoides nemorosa*, opposite-leaved golden-saxifrage *Chrysosplenium oppositifolium*, enchanters nightshade *Circaea lutetiana*, tall fescue *Lolium arundinaceum* and hart's tongue fern *Asplenium scolopendrium*. Indicator species were noted not only in areas currently considered to be ancient woodland but also in the base of hedgerows and in the woodland blocks at the western extent of site.

Both Samlesbury Wood and Seed Park wood are ancient woodland listed on the Natural England ancient woodland inventory. Prior to determination of this application a detailed survey must be undertaken to map the presence of any other areas of ancient woodland on and within influencing distance of the site. This should be completed by a suitably experienced botanist and supported by full species lists showing relative abundance.

Potential impacts on ancient woodland and the associated BHS's are discussed in detail in the LCC ecology response from May 2021. However, it should be noted that current government advice² states that the proposal should have a buffer zone of at least 15 metres from the boundary of the woodland to avoid root damage (known as the root protection area). Where assessment shows other impacts are likely to extend beyond this distance, the proposal is likely to need a larger buffer zone. For example, the effect of air pollution from development that results from a significant increase in traffic.

Ancient woodland is classified as an irreplaceable habitat. Development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists (NPPF, para 186). In order to meet requirements of the NPPF, where avoidance is not possible, planning should be refused until a suitable compensation strategy exists (as per NPPF definition).

In line with current requirements if Lancashire County Council is intending to approve the application the secretary of state must first be consulted.

Ponds

The ecological information as supplied identified three ponds within the woodland at the western end of site. The site visit undertaken by LCC on 2nd April 2024 identified at least four additional ponds within this woodland capable of supporting breeding amphibians which may also qualify as habitats of principal importance.

Prior to determination of this application an updated assessment of ponds on site is required including mapping of all ponds and potentially detailed amphibian surveys (as discussed below).

Species

DEFRA Circular 01/2005 (ODPM Circular 06/2005), referenced in Footnote 65 of NPPF 2023, 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”* and that *“the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted”* (Paragraph 99).

DEFRA Circular 01/2005 states that if protected species are reasonably likely to be present and affected by the proposed development, then a survey/assessment to establish the presence or absence of protected species and the extent that they may be affected by the proposed development needs to be undertaken before planning permission is granted (Para 99).

Documents submitted with the planning application/Records accessible to Lancashire County Council indicate that the proposed development could affect protected species, including (but not limited to):

- Birds
- Otters and Water Vole
- Bats
- Badgers
- Amphibians
- Reptiles

The proposed works have the potential to result in killing/injury/destruction of eggs/damaging levels of disturbance/damage to, or destruction of a breeding site or resting place.

The planning application should demonstrate that relevant species protection legislation will be adhered to and should include mitigation/compensation proposals for unavoidable impacts on such species and their habitats.

If any European protected species (such as bats, great crested newts or otters) are present and likely to be affected, then the planning application should include measures to avoid any breach of The Habitats Regulations. If such a breach would be unavoidable, then a Natural England Licence would be required before development work could commence.

The Conservation of Habitats and Species Regulations 2017 (as amended) state that Local Authorities, in the exercise of their functions, must have regard to the

requirements of the Habitats Directive. This means that the planning authority will need to have regard to the requirements of the Directive in reaching a planning decision. Therefore, if a Natural England Licence would be required for a development, then the planning authority will not be able to approve the application if there is reason to believe that the necessary licence would not be issued. This means that the planning authority will need to consider the licensing tests prior to determination of the planning application. In summary, these tests are that:

1. The works are required for a purpose specified in the Conservation of Habitats and Species Regulations (Reg 55), such as:
 - preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
 - preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
2. There is no satisfactory alternative.
3. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

If there would be licensable impacts on any European protected species or its habitat, the planning application will therefore need to demonstrate how the above 3 tests will be addressed. This should include mitigation proposals to address the third test. The mitigation proposals should be informed by adequate survey data on population size and distribution, collected in accordance with recognised guidelines.

In respect of great crested newts, District Level Licencing is an alternative option. If the applicant chooses to use District Level Licencing, then an Impact Assessment and Conservation Payment Certificate (IACPC) needs to be submitted to the planning authority with the planning application. Provided the IACPC has been signed on behalf of Natural England and the site details and boundaries of the IACPC are the same as the planning application, the IACPC can be relied upon by the Local Planning Authority as confirmation that the impacts of the development on great crested newts are capable of being fully addressed in a manner which complies with the requirements of the Habitats Regulations.

The ecological assessment is supported by species and protected sites data gathered from Lancashire Ecological Records Network. This data was provided on 06/11/2013. As this data is now more than ten years old it is no longer considered valid to support this application, additionally LERN's terms of use specify that the data licence is only valid for a period of one year. Updated desktop data should be applied for to inform this application.

Birds

The site remains suitable to support populations of breeding birds. To adequately determine impacts from this development on breeding birds, prior to determination of

this application up-to-date surveys will be required. These surveys should be undertaken in line with current guidelines³ which recommend a minimum of six survey visits across the season.

Associated with these surveys detailed assessment of the potential for the areas of wet woodland to support willow tit should also be made. Willow tit is a wet woodland specialist species listed as a species of 'principal importance for the purpose of conserving biodiversity' under section 41 (England) of the NERC Act and as a red listed Bird of Conservation Concern.

Otter and water vole

The River Ribble and Bezza Brook are suitable to support otter and evidence of otter was recorded during historical surveys. The site visit undertaken by LCC identified that the watercourses within Samlesbury Wood and Wood by St Mary's church could be used for otter commuting and there is potential for otter holts to be present within these woodlands.

Updated survey of all watercourses for the presence of otter must be undertaken prior to determination of this application. In line with current advice⁴ all suitable otter habitat within 200m of the proposed works should be surveyed, including a systematic search for spraints, paw prints, otter paths, slides, food remains, holts and places used for shelter and breeding.

Updated survey for water vole is also required across all suitable habitat (including Bezza Brook) prior to determination of this application. In line with the water vole mitigation handbook 2016, water vole surveys should include two surveys across a season; one between mid-April and the end of June and one between July and September with the surveys spaced at least two months apart.

Bats

The site is considered to have high suitability for bats, updated bat activity surveys are required in line with the BCT good practice guidelines 4th edition prior to determination of this application. Current guidelines recommend a minimum of one activity survey per season supported by static monitoring.

During the LCC site visit on 2nd April 2024 a significant number of trees were identified as having potential to support roosting bats. In particular a number of mature trees within and along the boundaries of Wood by St Marys Church and Samlesbury Wood were noted as containing features suitable to support bats including cracks, crevices, holes etc. In addition, the wet woodland in the west of site contains a number of mature, primarily willow species, which are in the process of failing with the loss of large limbs and peeling of bark which may offer places suitable to support roosting

³ [Survey methodology | Bird Survey Guidelines](#)

⁴ [Standing advice for planning consultations - Otters | NatureScot](#)

bats. Built structures including an old wall to the north of site and a brick culvert within St Mary's Wood may also be suitable to support roosting bats.

Prior to determination of this application, bat assessment of trees and any built features that would be affected (directly or indirectly) and presence/absence survey of any trees or built features that have potential to support roosting bats must be undertaken.

Badger

During the site visit undertaken by LCC in April 2024 additional badger setts were noted within the woodland to the west of site that had not previously been mapped as part of this application. Prior to determination of this application updated badger surveys of the site and surrounding area, including to establish the presence and usage of setts and to establish the usage of the area by foraging/commuting badger - with mapped badger signs across the survey area, must be undertaken.

Amphibians

Additional ponds to those mapped previously were noted during the site survey. Detailed survey to establish the use of ponds by amphibians including common toad and GCN (where district level licencing is not proposed to be used) will be required prior to determination of this application.

Reptiles

The location of reptile surveys has not been provided within the submitted ecological information. However, as the reptile surveys were last undertaken in 2013 the results of these surveys will no longer be valid.

Within the proposed quarry site there are habitats and built features (such as remnant and existing stone walls) which could support reptiles, wet woodland also provides habitat to support reptiles, in particular grass snake which predate on the amphibians that may occupy wet woodland. During the site visit undertaken by LCC a large manure pile was noted next to the woodland as was a large habitat pile, both of which could support reptiles, as shown below.



Prior to determination of the application updated reptile surveys will be required to establish the presence or absence of reptiles on site.

Priority species

DEFRA Circular 01/2005 indicates that UK Biodiversity Action Plan Priority Species (Species of Principal Importance, NERC Act 2006) are capable of being a material consideration in the making of planning decisions.

The planning application will need to include an up-to-date assessment of likely impacts on species of nature conservation value and mitigation/compensation measures for unavoidable impacts. This should include Species of Principal Importance (NERC Act 2006), red list species and any nationally or locally rare or scarce species.

The following Species of Principal Importance or their habitat would/could be affected by the proposed development:

- Common Toad
- Brown Hare
- Hedgehog

Common toad, a priority species, has previously been identified on site. An assessment of the sites suitability to support common toad must be provided including an assessment of water bodies.

A brown hare was seen on site during the April 2024 site visit. The ecological assessment as currently provided makes no assessment of brown hare and no survey of this species has been undertaken.

Prior to determination of this application an assessment of the sites suitability to support brown hare and any required avoidance, mitigation or compensation should be provided, supported by detailed site survey.

The site contains habitat suitable to support hedgehog including foraging and hibernation potential. Prior to determination of this application an assessment of the sites suitability to support hedgehog and any required avoidance, mitigation or compensation should be provided.

Invertebrates

The site contains significant amounts of dead wood, of note is the amount of deadwood present in the wet woodland to the west of site. Wet woodland is an extremely rich invertebrate habitat, supporting a very large number of species, many of which are now rare in Britain⁵. Prior to determination detailed invertebrate surveys should be undertaken of the wet woodland habitat and any other suitable areas or justification provided as to why these are not deemed to be required.

⁵ [Wet Woodland - Buglife](#)

Invasive species

The ecological assessment submitted with the application identifies both Himalayan balsam and giant hogweed as being present on site. During the site visit by LCC in April 2024 Japanese knotweed was also identified on site, with a large stand being present at the western extent of the site on the banks of the River Ribble. A detailed survey for invasive species will be required prior to determination to determine the type and spread of invasive species.

Biodiversity net gain

As this application was submitted prior to the 12th February 2024 it will not be subject to the mandatory net gain requirements of providing 10% increase in biodiversity. However, under Paragraph 180 part D of the National Planning Policy Framework there is a requirement to show a net gain in biodiversity.

The area and biodiversity value of each habitat type that would be lost, damaged, re-established, enhanced, created or brought into favourable management should be quantified in order to illustrate that the impacts of the development will be fully off-set and that overall biodiversity gains will be delivered.

Details of the change in biodiversity should be provided through a copy of the completed Statutory Biodiversity Metric completed in line with the relevant user guide and condition sheets. During completion of the metric particular attention should be paid to the use of the 'Habitat created in advance' and 'delay in starting habitat creation' columns which should account for the phased development and restoration of the quarry.

Where possible, GIS shape files used for calculating the biodiversity net gain value should be provided.

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