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Our ref: 20019/AA  
7<sup>th</sup> November 2022

Dear Tom,

## **RE: Ecological Technical Note regarding Application no. LCC/2022/0044**

Ecus Limited (Ltd) were commissioned by Brookhouse Group in October 2022 to undertake a peer review of the ecological elements of the planning application LCC/2022/0044 submitted by Lancashire County Council (LCC) for the strategic site at Cuerden, hereafter referred to as 'the Site'.

Within this peer review the following documents were evaluated:

- Relevant chapters of the Environmental Statement for the current application (Stantec, June 2022), including:
  - Chapter 12 Ecology (Envirotech, July 2022) including Appendix 12.1 Ecological Appraisal
  - Biodiversity Net Gain Report (Envirotech, July 2022)
- Landscape proposals developed for the site (Smeeden Foreman, December 2021)
- The ecology studies that supported a *previous* permission (known as the 'IKEA' proposal), including:
  - Amphibian survey
  - EIA appendix 8.1 Local Nature Reserves
  - EIA appendix 8.2 Phase 1 Ecology Report
  - EIA scoping report
  - EIA scoping opinion
  - EIA Chapter 8 Ecology and Nature Conservation



## Summary

The ecology surveys and reports have been undertaken by suitably qualified ecologists, however there are some discrepancies between the ecological reporting provided to support the application, as well as missing information which is required from the application prior to a planning determination. These generally relate to biodiversity net gain, assessment methodology and missing survey information.

## Habitats

### ***Biodiversity Action Plan habitats***

Within Appendix 12.1 Ecological Appraisal, it is stated that Biodiversity Action Plan (BAP) “*Deciduous woodland*” was present along the north boundary of the Site along the M65 embankment.’ However this is not addressed further within the report. It appears from the report figures that this woodland has been mapped as dense and continuous scrub, but there is no acknowledgement as to whether the BAP habitat is still present. If the BAP “Deciduous woodland” is still present then this should be compensated for, however if this habitat is no longer present it should be acknowledged and justified.

### ***Biodiversity Net Gain (BNG) Report***

As stated above in the summary, the BNGA methodology has missing details that are vital to understanding the results of the BNG Report for the Site. The missing details have highlighted some concerns with regards to the results and lack of recommendations within the BNG Report.

The BNG report states that “due to an existing planning permission 07/2017/0211/ORM being partially implemented, baseline conditions were to be assessed as per pre-development condition” i.e. from the original surveys undertaken in 2012 to inform the ‘IKEA’ proposal. This is in line with the guidance given in the Biodiversity Metric 3.1 User Guide (Panks et al. 2022a) in which it states that “*Where practical, the baseline data inputs to the tool should reflect the value of the habitat pre-degradation/pre-destruction.*” Therefore the baseline assessment of the data is based on the data collected in 2012 with updated spatially referenced drone data collected in 2022. It is understood that condition data for habitats which stayed the same between 2012 and 2022 was collected in 2022, however for habitats that changed between 2012 and 2022 the condition data was inferred from the descriptions given in the EIA appendix 8.2 Phase 1 Ecology Report. This is an accepted methodology, however both the 2012 Phase 1 habitat map and the 2022 Phase 1 habitat map have been provided as part of the report. Without sight of the full Biodiversity Metric (BM) 3.1 tool it cannot be fully understood what the baseline habitats for the Site are.

Following on from the baseline data provided within the BNG report, Phase 1 Habitat Survey methodology (JNCC, 2016) was used to categorise the habitats on the Site. The BM 3.1 tool uses a classification system based mainly on the UK Habitat Classification System (UKHab) (UKHCWG, 2018), with input from other systems including the Water Framework Directive (WFD) Lakes Typology (UKTAG, 2003), the European Nature Information System (EUNIS) habitat definitions (EEA, 2019), Habitats Directive Annex 1 definitions (JNCC, 2019) and habitats specific to the Biodiversity Metric defined in the ‘User Guide’ (Natural England, 2021) and / or ‘Technical Supplement’ (Natural England, 2021). The BNG report states that the “*survey data was subsequently converted into the UK Habitat Classification... for the purposes of using the Defra metric*”, however the methodology does not state what the Phase 1 habitats were converted to, with the exception of the hedgerow habitats which are provided in Appendix C. As the BM 3.1 Tool for the Site has not been provided it is unclear what habitats have been used. It would also be useful to see the direct

Phase 1 habitat – UK Habitat conversion like the table in Appendix C to ensure an appropriate conversion has been used and justified where habitats, such as ‘*Marshy grassland*’ do not have a best fit.

As the BM 3.1 tool has not been provided as part of the application there is no information within the report that discusses what each of the habitats on the Site have been scored as per the strategic significance multiplier. Whilst reference to the Lancashire Grassland Network had been made (and it is assumed this is in reference to strategic significance) no other habitats have been discussed in terms of importance in the local plan.

Within the Chapter 12 Ecology document including Appendix 12.1 Ecological Appraisal, it states that scattered trees are present on the Site. However scattered trees are not mentioned within the BNG report. Without the BM 3.1 tool for the Site it is not understood whether these have been included within the calculations for either baseline or post-development. Clarification should be sought on whether this habitat has been included within the calculations, if they have not been included within the calculations, justification as to why they have not been included should be given.

Within the Chapter 12 Ecology document including Appendix 12.1 Ecological Appraisal, it states that streams are present on the Site. Within the BNG report, streams are not mentioned other than within the 2022 Phase 1 habitat maps in Appendix A in which running water is displayed. The BNG report does not describe the river linear habitats on the Site nor does it discuss the condition of those habitats other than for the ditch habitats, which can be found in Appendix C. If streams are present on the Site, these would need to be condition assessed based on the River Condition Assessment (RCA) methodology within the BM 3.1 Technical Supplement (Panks et al. 2022b). In order to undertake the RCA, the ecologist undertaking the survey and assessment should be trained and certified in order to use the programme which generates the river condition score, which is inserted into the BM 3.1 tool. The BNG report does not detail whether this has been undertaken; as this and the BM 3.1 tool for the Site have not been provided it can be assumed that the streams are not included within the BNG report or calculations.

Paragraph 3.1.3 states *“The redline boundary is plotted to the inside edge of the hedgerows to the site boundary, this is inside the redline planning boundary. This is undertaken so as not to account for the “area” taken by boundary hedgerows which is a linear rather than area habitat so subject to a differing treatment in the metric”*. It should be clarified if these hedgerows are included within the BNG report as if they are within the planning boundary, they should be taken into account in the BNG calculations.

Within Section 3.3 of the BNG report it was proposed that *“BNG credits created during the Phase 1 Infrastructure works will be used against future phases where BNG units pre and post development may not be balanced. BNG Credits in the Phase 1 Infrastructure works will increase in value as habitats are being created “in advance” of future phases against which they are used. Each phase will call off against the balance of credits in the Phase 1 Infrastructure works area until the balance is reduced to the remaining percentage required by planning policy at that time”*. Within the BM 3.1 User Guide it is described that when considering habitat creation, this can be started in advance of the impact that it is compensating for and this would lower the delivery risk of the habitat and affect the biodiversity units. However it is not specified which landscaping proposals relate to each phase. As the whole Site is subject to a BNG report it is assumed that once landscaping has been finalised, the Site will be subject to a further BNG report for the whole Site, as such it is unlikely that habitats could be created “in advance” of other phases unless the habitats were created in advance of Phase 1.

The results of the BNG Report, whilst they reach a 11.18% net gain on the Site in relation to Habitat Units (HU), it is acknowledged that the *“Trading rules are not satisfied due to the overall loss of grassland habitat, scrub and woodland.”* As the BM 3.1 tool excel spreadsheet is not provided, the degree as to how the trading results have failed cannot be understood.

Paragraph 12.424 of Chapter 12 Ecology states that: *‘The scheme does include the provision of similar habitat to that lost, including ponds, woodland, hedgerows, standard trees, and grassland. The provision of wildflower areas and shrubs and will partially mitigate the losses. However, although overall habitat creation and landscaping will be built into the scheme it will not fully compensate for the direct loss of this habitat in either quality or area. Therefore, a residual overall negative impact upon wider biodiversity will arise as a consequence.’* As such it is not stated how the residual losses of the habitats that have been unequally lost will be compensated for. Under Rule 3 of the BM Tool 3.1 *“‘Trading down’ must be avoided. Losses of habitat are to be compensated for on a ‘like for like’ or ‘like for better’ basis. New or restored habitats should aim to achieve a higher distinctiveness and/or condition than those lost. Losses of irreplaceable or very high distinctiveness habitat cannot adequately be accounted for through the metric.”* Therefore the fact that the trading rules are not met suggests that “trading down” has occurred, therefore the net gain cannot be accepted and instead should show that BNG can be achieved without “trading down”.

The Hedgerow Units within the BNG Report do not meet a 10% net gain, there is in fact a -4.45% biodiversity net loss. It is not addressed within the BNG Report how this loss will be compensated for.

The National Planning Policy Framework (NPPF) and accompanying National Planning Policy Guidance (NPPG) have identified that developments in England should deliver a net gain for biodiversity. The NPPF, published in February 2019, states (paragraph 170) that: *“Planning Policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.”* The NPPG for the Natural Environment, updated in July 2019, states (paragraph 020) that: *“Net gain in planning describes an approach to development that leaves the natural environment in a measurably better state than it was beforehand.”* As such the development does not leave the natural environment on the Site in a measurably better state than it was before. It would have been expected that offsite compensation or a monetary contribution would have been recommended and secured before the planning application could be approved.

It also would have been expected that there would be a recommendation to update the BNG report once the landscape plans have been finalised. The BNG report states that *“An indicative layout has been prepared for the outline application showing one of many potential development scenarios along with landscaping. This has been used to show one potential BNG outcome but cannot be taken as the final scheme.”* As the landscaping plans are not final plans it would have been expected that a recommendation be made for updating the BNG report and calculations once the landscape plans have been finalised. This would stipulate the final biodiversity net gain or loss that the Site achieves and therefore would need to stipulate how much offsite compensation is required.

There would need to be a further discussion about how the BNG approach would move forward once the Site is approved to understand if the Site should be assessed as separate infrastructure phases to establish whether each phase has the potential for a net gain or not and therefore the responsibility of

each phase in contributing to the BNG, but also to understand the potential for habitats to be created “in advance” and potential off-site compensation responsibilities.

## Protected Species

With respect to the information provided within the Chapter 12 Ecology including Appendix 12.1 Ecological Appraisal the approaches to the information and conclusions relating to protected species appear to be suitable. However clarification on the methodology, specifically the timings, of the surveys should be sort to ensure the surveys have been undertaken under best practice measures. Species specific surveys have timing and weather constraints to ensure that the data collected do not have limitations associated with it.

With respect to bat survey methodology the Appendix 12.1 Ecological Appraisal states that *“The survey methods comprised a transect route which was walked in order to cover all on-site habitats from sunset until light levels dropped to the extent that bat flight heights could not be determined and walking over the site in the dark was judged to be unsafe. Activity during the hours immediately prior to sunset through to one hour after sunset was detected using Wildlife Acoustics Echo Touch Pro time expansion bat detectors.”* The current guidance (Collins, 2016) for undertaking bat activity transects involves walking a transect route from sunset to 2-3 hours after sunset. From the methodology in the Ecological Appraisal it is unclear as to whether the current guidance has been followed.

The Ecological Appraisal also stated that the foraging habitat on the Site *“is moderate to high value for bat species”*. The report states that a survey on the 2<sup>nd</sup> and 25<sup>th</sup> May had occurred with a further survey scheduled in June and static bat detectors were deployed in late May. The current guidance states that for a moderate suitability habitat for bats, one survey visit per month (April – October) with at least one of those surveys comprising a dusk and a dawn should be undertaken. This should be supported by static deployment of static detectors in two locations per transect. For a high suitability habitat for bats this should be increased to two survey visits per month and three static locations per transect. With the dates provided it would be assumed that two survey visits occurred in May as per the survey guidelines for a high suitability site, however there were no surveys undertaken in April and no mention of surveys to follow in July – October. There appears to be a reliance on previous bat surveys that occurred in 2012, 2016 and 2019 by Simply Ecology. The report does state within Paragraph 5.5.11 that *“Simply Ecology (2012) concluded that the site does not support a large or diverse population of bats for feeding or roosting, this was confirmed by Simply Ecology (2017). Nonetheless, each part of the site does have value of small numbers of these bats, and overall this collectively results in such a large site supporting several tens of bats at any one time. Initial results from the surveys in May 2022 do not contradict this assessment although the level of survey is insufficient to fully confirm.”* However since 2012, the Site has not had a full suite of bat transect surveys from April – October at the level required according to the methodology specified in each ecology report. It should be required that a full justification for the bat transect survey methodology be required to see all limitations of the data provided and if necessary further bat activity transect surveys.

Paragraph 3.9.3 states that *“Surveys at the site have been undertaken over a number of years and as survey results remain similar, it is considered the level of use of the site by species targeted for survey has been determined sufficient to make outline recommendations but full surveys in the 2022 season are required to draw more sound conclusions particularly in respect of breeding birds.”* It was then further stated in Paragraph 5.7.3 that *“Four breeding bird surveys of the site had been completed in the 2022 season by mid-June but data has not yet been fully complied. Initial results suggest a lower number of bird*

*species are present on the site but until the surveys are fully analysed it is not possible to draw definitive conclusions.”* It is recommended that the applicant should provide further information on the bird surveys undertaken and state whether this would affect the current proposals and assessments made.

## **Invasive Species**

Himalayan balsam *Impatiens glandulifera* has been noted within the Site and the locations of the invasive species have been detailed within Appendix 12.1 Ecological Appraisal and mentioned within the Chapter 12 Ecology document. However, there are no recommendations or protocols on how to deal with the presence of the invasive species during construction or during operational phases of the development at the Site. It would have been expected that a Construction Environmental Management Plan or Biodiversity Management and Monitoring Plan would highlight measures on how to address this.

## **Missing Information**

To reiterate the above, as part of the planning application it would have been expected that the following reports would be provided to undertake a full assessment of the impacts on ecology at the Site:

- Appendix 12.1 Ecological Appraisal (Envirotech, 2022) references further bat surveys, which were still to be undertaken, therefore it is expected that there should also be a further bat report from Envirotech.
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- Biodiversity Net Gain Report (Envirotech, July 2022) states that there is a ‘Biodiversity Metric 3.1 Lancashire Central Full Site 2017’ which details the pre-development 2017 habitats. It is also expected that this would have been updated in 2022 to reflect the post-development habitat creation and enhancement. The name of this tool has not been stated, nor has it been provided in full.
- As site of this size, it would be expected that there would be several management plans that would be associated with the planning application and these would at least need to be stated as a planning condition at the Site. The management plans would include as an example a Construction Environmental Management Plan (CEMP) or Biodiversity Management and Monitoring Plan (BMMP). A CEMP has been mentioned throughout the Chapter 12 Ecology document. A BMMP would be created to ensure that biodiversity is managed and monitored after the construction phase of the development and also would include the management and monitoring of habitats to ensure a Biodiversity Net Gain on the Site.

If there is anything that you would like to discuss in more detail with regards to this Ecological Technical Note, please do not hesitate to contact me.

Yours sincerely,



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Consultant Ecologist

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