

FAO: Tom Whitehead, Group Town Planning Manager
Brookhouse Group
Prospect House
168 – 170 Washway Road
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Cheshire
M33 6RH

Our ref: 20019/AA V2.0
21st February 2023

Dear Tom,

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

Ecus Limited (Ltd) were originally 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'. There have since been responses to the comments on the application and this technical note has been updated based on the responses.

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
- Responses to the original application including:



- Council Response - Reeves, P (2023) Letter to Rob Hope regarding Application Reference Lcc/2022/0044 Lancashire Central, A.K.A Cuerden Strategic Site, East Of Stanifield Lane, North Of Clayton Farm, West Of Wigan Road, Lostock Lane, Lostock Hall, Lancashire, 10th January 2023.
- Biodiversity Net Gain Report (Envirotech, October 2022, Version 5) with accompanying Biodiversity Metric 3.1 Lancashire Central Full Site 2017 R6.
- Ecology Response - Gardner, A (2023) Letter to Rob Hope regarding Re: Lcc/2022/0044 Cuerden Strategic Site, East Of Stanifield Lane, North Of Clayton Farm, West Of Wigan Road, Lostock Hall- Ecology, 7th November 2023.

Summary

The ecology surveys and reports have been undertaken by suitably qualified ecologists and some previous comments made in the first version of this technical note have been addressed however there are still some discrepancies between the ecological reporting provided to support the application, as well as concerns of justifications which would need to be addressed prior to a planning determination. These generally relate to biodiversity net gain, assessment methodology and protected species justifications.

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. This has not been addressed by the responses to the original application.

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 July BNG report stated 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 and there was originally confusion

with regards to which habitats are which without sight of the full Biodiversity Metric (BM) 3.1 tool. The BM 3.1 tool has now been provided which now correlates the maps and this comment has been addressed and is acceptable.

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”*. Originally the methodology did not state what the Phase 1 habitats were converted to, with the exception of the hedgerow habitats which are provided in Appendix C. The BM 3.1 Tool for the Site has now been provided and the habitats within the October BNG report have been converted to UKHab with justifications for the conversion. This previous comment has now been addressed and the is acceptable.

As the BM 3.1 tool had not been provided as part of the application there was no information within the report that discussed what each of the habitats on the Site had been scored as per the strategic significance multiplier. Reference to the Lancashire Grassland Network had been made (and it was assumed this was in reference to strategic significance) no other habitats had been discussed in terms of importance in the local plan. This comment has now been addressed as the BM 3.1 tool has been provided and strategic significance has been addressed as originally thought, however there is still no reference to the Biodiversity Action Plan habitats discussed above with regards to the woodland.

Within the Chapter 12 Ecology document including Appendix 12.1 Ecological Appraisal, it stated that scattered trees were present on the Site, however scattered trees are not mentioned within the BNG report. The BM 3.1 Tool provided also does not include reference to scattered trees (known in the BM 3.1 as Urban Trees). As they have not been included there should be a justification as to why they have not been included as there is the potential that they are losing more biodiversity value than they are currently accounting for.

Within the Chapter 12 Ecology document including Appendix 12.1 Ecological Appraisal, it stated that streams were present on the Site. Within the October 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 October 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 and displayed in the BM 3.1 Tool received. 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 October BNG report does not detail whether this has been undertaken; and as the BM 3.1 tool for the Site also does not include reference to streams it can be assumed that the streams are not included within the BNG report or calculations. There is therefore, the potential that they are losing more biodiversity value than they are currently accounting for.

Paragraph 3.1.3 stated *“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 is believed that the October BNG report addresses this comment and therefore is not longer identified as an issue.

Within Section 3.3 of the July 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”*. This has been taken out from the October BNG report which is thought to be a better course of action, because due to the phases of the project and potential longevity of the project, there was no way to determine whether habitats would be created ‘in advance’ of future phases. As such the comment that was detailed in the first version of this technical note has been addressed and is acceptable.

The results of the July BNG Report, whilst they reached a 11.18% net gain on the Site in relation to Habitat Units (HU), it was acknowledged that the *“Trading rules are not satisfied due to the overall loss of grassland habitat, scrub and woodland.”* The BM 3.1 tool has now been provided and the October BNG report now states there is to be a 22.5% net gain on the Site in relation to HU and again acknowledges that the trading rules have not been met *“due to an overall loss of woodland and scrub habitat”*. In order to compensate for this loss they state that *“This would involve the creation of 1ha of broadleaf woodland in moderate condition and 0.6ha of mixed scrub in moderate condition. 400m of native hedgerow with trees would be planted to its boundary. This will be undertaken in the later phases of development and or offsite.”* As such there is no definite way that they can account for the unsatisfied trading rules. If the net gain is to meet the Biodiversity Net Gain Best Practice Principles then not only should a net gain be guaranteed, it should be guaranteed and meet the trading rules. As they cannot guarantee that the 1 ha of broadleaf woodland and 0.6 ha of scrub is to be created they this can't be considered a true net gain.

The Hedgerow Units within the July BNG report do not meet a 10% net gain, there is in fact a -4.45% biodiversity net loss. The October BNG report adds off-site compensation and there is now a 0.19% biodiversity net gain. However this does not meet 10% net gain and whilst it says that *“offsite compensation may be required and or additional planting provided in the later, outline, phases of development”*. There is no guarantee that this will occur.

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 July BNG report stated 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. This was vaguely addressed in the October BNG report with respect to updating baseline data but does not mention updating the report based on the post-development and new landscape plans at the Site. The report should state that when future phase of the development have detailed landscape designs the BNG report should be updated so they can understand how the BNG is being thought about and being achieved at the Site. 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. The council have stated that *“the developer(s) will be responsible for the administration and assignment of BNG Credits, and that such details will eventually be handed over to a management company who will oversee the long-term management, funding, and upkeep of habitat areas via a service charge. It is envisaged that monitoring will be undertaken in Years 1, 2, 3, 5, and 10, and then carried out every 5 years thereafter. Habitat areas will be assessed against the pre-development target condition scores. Reports on habitat condition and actions required to achieve target condition will be provided to the Local Authority”*, which goes towards looking to the future of the Site but still neglects the in between responsibility of achieving 10% BNG on the Site, despite the fact that 10% is not being achieved with fully satisfied trading rules at the Site currently.

It should be noted that further discrepancies have been identified in the October BNG Report. The BM 3.1 tool provided does not match the stated gains within the report. The report states that a 26.80% net gain in HU is achieved by the BM 3.1 tool states that a 22.53% net gain has been achieved. These should be looked at again to ascertain the true net gain. There also is the mention of off-site compensation within the report and an off-site location is identified within a map in the October BNG report. As off-site compensation has been identified for hedgerow habitats within the BM 3.1 tool it is understood that there is an intention to provide offsite compensation, however the October BNG report does not make this clear and does not discuss the consequence of an off-site compensation area in respect to area habitats.

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 Ecology response clarified that the surveys in May did not follow guidelines but that the subsequent surveys in June and August did follow the guidelines.

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 2nd and 25th May had occurred with a further survey scheduled in June and static bat detectors were deployed in late May. The Ecology Response also stated that another survey had been undertaken in August. 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 in July, September or October, with only one survey undertaken in June and one in August. 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. The last known transect surveys undertaken were in 2019 and as such it would have been expected that those survey results were out of date based on CIEEM guidelines¹ and as such the surveys should not be relied on and updated in full.

Paragraph 3.9.3 stated 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 compiled. 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.”* Whilst the majority of the comments have been addressed within the Ecology Response, there should be a full survey report discussing how those methodologies and results have been assessed against the proposals, with further recommendations that have been picked up by the EIA.

It should be noted that within the Ecology Response reference to wintering bird surveys and a Habitats Regulations Assessment (HRA) has been made. Concerns have been raised regarding the justification of

¹ Chartered Institute of Ecologists and Environmental Mangers (CIEEM) (2019) ADVICE NOTE – On the Lifespan of Ecological Reports and Surveys. (April 2019).

not undertaking wintering bird surveys and also a HRA based on the previous application not needing the assessments and not supporting suitable habitat for overwintering birds. The breeding bird surveys identified oystercatcher as well as lapwing and several gull species. These species can often be part of over-wintering bird populations and if they have been identified during breeding bird surveys, it is expected this would trigger further surveys in the form of over-wintering birds. The Site itself is large and comprised of mainly grassland field which are open and would be considered suitable for over-wintering birds. With a Special Protection Area and Ramsar site within 10 km of the Site, it would be expected that these surveys would be undertaken to inform whether a HRA is required, or would help form an argument for only undertaking the HRA screening assessment and ruling out an HRA appropriate assessment. HRAs are normally scoped in if an internationally designed site is located within 10 km of a site and as such it would be expected that at least a HRA screening assessment would be undertaken to come to the justification that the Site is unsuitable and would have no impact pathways.

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. A CEMP has not been provided on the basis that “Until the timing and extent of work is known, preparation of these plans is not possible. It would be usual for these to form a pre-start planning condition.” It is Ecus’ experience that these often form part of the planning application, especially on a Site this large and complex. A CEMP can be created and then updated when the timing and extent of the work is not known and can often inform construction based on the ecological constraints when construction should occur etc.

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. Whilst the majority of the comments have been addressed within the Ecology Response, there should be a full survey report discussing how those methodologies and results have been assessed against the proposals, with further recommendations that have been picked up by the EIA.
- Appendix 12.1 Ecological Appraisal (Envirotech, 2022) references further breeding bird surveys, which were still to be undertaken, therefore it is expected that there should also be a further bat report from Envirotech. Whilst the majority of the comments have been addressed within the Ecology Response, there should be a full survey report discussing how those methodologies and results have been assessed against the proposals, with further recommendations that have been picked up by the EIA.

- 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. A CEMP has not been provided on the basis that *“Until the timing and extent of work is known, preparation of these plans is not possible. It would be usual for these to form a pre-start planning condition.”* It is Ecus’ experience that these often form part of the planning application, especially on a Site this large and complex. A CEMP can be created and then updated when the timing and extent of the work is not know and can often inform construction based on the ecological constraints when construction should occur etc.

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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