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Subject	Ecology comments: Application no. LCC/2022/0048	Project Name	LCC Ecology Advice
Attention	Jonathan Haine	Project No.	B2327FE3
From	James Charlton		
Date	26/10/2022		

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### APPLICATION: LCC/2022/0048

Application for Planning Permission for Proposed Development – Proposed cricket facility comprising 2 no. cricket ovals and associated pavilion building and spectator seating, covered cricket nets, access, parking, landscaping and associated works (including temporary event overlay facilities on ticketed match days), realignment of Public Rights of Way Ref 9-12-FP 1, 7-4-FP 6 and Public Right of Way Ref 9-12-FP 2, 7-4-FP 5.

Location: Land at Woodcock Estate, Stanifield Lane, Farington. GR 354744 424731

The ecological response provided has been based on a review of the submitted information relating to biodiversity and ecology for the above application and accessed through the planning portal in October 2022. The documents submitted to support the application were reviewed as part of this consultation response and are listed below:

- BDP (March 2022). Ecological Assessment.
- Urban Green (March 2022). Lighting Proposals Plan.
- Urban Green (May 2022). Biodiversity Net Gain Design Stage Assessment.
- Urban Green (May 2022). Biodiversity Enhancement Management Plan.
- Urban Green (June 2022). Landscape Management and Maintenance Plan.
- Urban Green (July 2022). Arboricultural Impact Assessment.

### Summary

The ecology surveys carried out to inform the application have been undertaken by suitably qualified ecologists. However, the Ecological Assessment and Biodiversity Net Gain (BNG) Stage Assessment prepared in support of the application contain a number of issues where further information is required from the applicant prior to determination. In brief these relate to assessment methodology, impact assessments for ecological receptors to be affected by the development, appropriate mitigation for these impacts, missing information in the BNG report and discrepancies in the overall BNG scores.

## Ecological Assessment

### Methodology

Ecological Assessments for planning should be prepared in accordance with current good practice guidance (Guidelines for Ecological Impact Assessment in the UK and Ireland (CIEEM, 2018); and British Standards 42020:2013. Biodiversity. Code of Practice for Planning and Development (August 2013)) and include:

- Establishment of the ecological baseline through desk study review (including biological data search), Extended Phase 1 Habitat Survey and subsequent detailed survey for habitats and species;
- An Extended Phase 1 Habitat Survey should be undertaken with reference to good practice guidance. As a minimum this survey should include all habitats within and immediately adjacent to the scheme. Where protected/ notable species and habitats are scoped out, the ecological assessment should give a full justification for why these are not considered likely to be affected;
- Determination of the value of ecological features (protected areas or designated sites), habitats and species within the study area;
- Identification of likely ecologically significant effects;
- Mitigation, or compensation to address likely significant ecological effects.

The Ecological Assessment report provided by the applicant fails to provide detail on the value of ecological features, identification of significant effects and mitigation, or compensation to address likely significant effects. The applicant should provide an ecological impact assessment prior to planning being determined.

### Statutory Designated Sites

The Ecological Assessment found one statutory designated (Preston Junction Local Nature Reserve (LNR)) site within 2km of the Site. There are no anticipated impacts on this site. The findings of the Ecological Assessment in relation to statutory designated sites are deemed acceptable.

### Non-Statutory Designated sites

There are four non-statutory designated sites within 2km of the Site, the nearest of which is Preston Junction LNR and Adjacent Habitats Biological Heritage Site which lies approximately 1165m north-east of the Site. There are no anticipated impacts on any of the non-statutory designated sites. The findings of the Ecological Assessment in relation to non-statutory designated sites are deemed acceptable.

### Habitats

The original site survey was undertaken in May 2020 and site visits during 2021 (the latest of which was August 2021) confirmed no significant changes to habitats within and adjacent to the Site. Habitat surveys were undertaken at an appropriate time of year. Habitats recorded included improved grassland, marshy grassland, scattered trees, ditches and species-poor hedgerows. No nationally or locally rare plant species were located during the surveys. The construction of the development would result in direct permanent losses of the terrestrial habitats including hedgerow, grassland and trees. Further comment on the appropriateness of the BNG assessment are described later in the Biodiversity Net Gain section of this response.

Himalayan balsam (*Impatiens glandulifera*) was identified within the Site. It is recommended that a management plan for the removal of Himalayan balsam be conditioned as part of any planning condition.

The hedgerows have been assessed as valuable at a local level. Given the proposals to remove hedgerows on Site, the applicant should confirm whether any of the hedgerows are classified as 'important' under the Hedgerow Regulations 1997. Consideration of this should be taken into account with any impact assessment.

### Species

#### Amphibians

*Great crested newt (GCN) receive full legal protection under both The Wildlife and Countryside Act (1981) (as amended) and the Conservation of Habitats and Species Regulations (2017) (as amended) and their presence is a material consideration when assessing a development proposal that, if carried out, would be likely to result in harm to GCN or damage to or their habitat.*

The applicant's ecologist states that the primary habitat within the Site (improved grassland) provides unfavourable terrestrial habitat for GCN. A habitat suitability index survey was completed on the single pond within 250m of the site boundary which found it to be "below average". The nearest GCN record is approximately 675m north-east of the Site boundary. There are 11 GCN records in total within 2km of the site which are all separated from the Site by major roads. The applicant's ecologist has stated that the Site has low suitability to support GCN and the impact of the proposed development on GCN is considered to be negligible.

It is requested that the applicant justifies as why a survey buffer of 500m was not used to comply with best practice and clarifies whether ditches were assessed for GCN suitability.

#### Bats

*All British species of bat receive full legal protection under both The Wildlife and Countryside Act (1981) (as amended) and the Conservation of Habitats and Species Regulations (2017) (as amended). Their presence is a material consideration when assessing a development proposal that, if carried out, would be likely to result in harm to bats or damage to or their habitat.*

#### *Commuting / foraging bats*

The applicant's ecologist notes that hedgerows and scattered trees within the Site provide foraging and commuting habitat for foraging bats, in particular common pipistrelle which was the predominant bat species recorded within the Site.

During the preliminary assessment of the Site, no explicit assessment has been made as to the suitability of the Site for commuting and foraging bats, as per Table 1, by the applicant. This initial assessment determines the appropriate survey methodology to be followed with regards to bat activity transect surveys.

Bat activity transect surveys were undertaken from July- September 2020 and from May to October 2021. If the Site is classified as having either Moderate or High potential habitat for bats, the following irregularities with best practice guidelines (Collins, 2016) are applicable:

- At least one survey should comprise dusk and pre-dawn (or dusk to dawn) within one 24-hour period;
- There should have been a survey in April;
- Transects should be 3-5km, it appears the transect is >5km.

The applicant should confirm the suitability of the Site for commuting and foraging bats in addition to clarification around any deviations to best practice guidelines.

The applicant's ecologist states that the redevelopment of the site is considered to have a low impact on the foraging and commuting opportunities for local bat population. Prior to determination, the applicant needs to provide a detailed impact assessment in relation to bats and their commuting/foraging habitat on Site. This should reference impacts arising from the construction and operation of the Site (including lighting and noise, in addition to habitat loss and fragmentation) as well as appropriate mitigation or compensation measures to reduce any impacts.

### *Roosting bats*

The applicant's ecologist identified 12 trees with low suitability to support roosting bats, eight trees with moderate suitability to support roosting bats and one tree with high suitability to support roosting bats within the Site. Emergence-re-entry surveys were undertaken in 2020 and 2021. No bat roosts were identified within any of the trees on the Site.

Standard guidance for bat emergence / re-entry surveys (Bat Surveys for Professional Ecologists: Good Practice Guidelines (2016, 3rd edition) states that the duration of dusk emergence surveys should be from 15 minutes before sunset to 1.5-2 hours after sunset, and for dawn re-entry surveys to be from 1.5-2 hours before sunrise to 15 minutes after. It is noted that the dusk emergence surveys were only completed for 1hr 20minutes, less than the minimum recommended timing following best practice. Prior to planning determination, the applicant should explain why best practice was not followed and whether significance limitations on the data are therefore anticipated as a result.

The quantity of emergence and re-entry surveys completed in 2020 was in line with best practice. Although no discussion within the report is given regarding age of survey data and the reasons why additional surveys were undertaken in 2021, it is assumed that additional surveys were completed due to the elapsed time between the 2020 surveys and submission of planning in 2022. Although best practice would be for all surveys to be undertaken within the 18 month period prior to planning submission, this methodology it is considered satisfactory. It is however recommended that pre-construction surveys are conditioned as part of any planning approval to ensure that mitigation for bats remains appropriate. Following these surveys, additional requirements such as removal of trees under Reasonable Avoidance Measures may be necessary and should be advised by the ecologist.

There are a number of buildings adjacent to the Site boundary and a number of trees on the western Site boundary which have not been assessed for their suitability to support roosting bats. When determining planning applications that may have an impact on an EPS, Lancashire County Council in its role as competent authority must give due regard to the full provisions of the species protection afforded under the Conservation of Habitats and Species Regulations 2017 (as amended). In particular, LCC must be satisfied that the proposal adequately addresses the following three legal tests before making a planning decision:

- 1) The consented operation must be for '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' (Regulation 55(2)(e));

- 2) There must be 'no satisfactory alternative' (Regulation 55(9)(a)); and
- 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' (Regulation 55(9)(b)).

The first two tests are not connected to ecology and will be considered when assessing the application as a whole. The third test is connected to ecology and in order to satisfy it, impacts to EPS must be fully understood and mitigation proportionate to the anticipated impact must be secured in order to maintain the conservation status of EPS. Given the potential of disturbance of any bat roosts present within surveyed trees and buildings during construction and operation, the applicant should provide a justification for not including these within their assessment. Should the justification not be deemed appropriate, it is recommended that planning permission not be granted until further surveys are undertaken. All survey work should be carried out to recognised survey standards, unless otherwise fully justified by the ecological consultant. The survey report should include results of the surveys, an assessment of the impacts the proposals will have on the species and if required, details of mitigation measures to be followed to show that the favourable conservation status of identified species would be maintained.

An impact assessment has not been provided detailing the potential impact to bats via removal (permanent or temporary) of bat roosting habitat. Prior to determination, the applicant should provide detail on the impact of the development roosting bats, including any mitigation and/compensation measures. Should installation of bat boxes be recommended, it is suggested that they are installed on the Site during the construction phase of the development. The location of bat boxes should be in line with the commuting and foraging corridors identified in Ecological Assessment to increase the chances of occupation. It is recommended that the maintenance plan of any bat boxes is secured as a condition of any planning permission.

#### Riparian Mammals

*Otters (Lutra lutra), are protected under European Law (The Conservation of Habitats and Species Regulations 2017) and UK Law (Wildlife and Countryside Act 1981, as amended)*

*Water voles (Arvicola amphibius) are protected under UK Law (Wildlife and Countryside Act 1981, as amended).*

The applicant states there is negligible potential for the Site to support otter and water vole and therefore the impact of the proposed redevelopment on riparian mammals is negligible. A single survey was undertaken on 15<sup>th</sup> May 2020.

The assessment regarding otter is deemed appropriate.

A single ditch was surveyed 10m beyond the site boundary on one occasion, contrary to water vole good practice guidelines, which states that waterbodies within the footprint of the works should be surveyed in addition to at least 100m upstream and downstream on two occasions. In addition, there is no discussion regarding survey of the additional ditches located throughout the Site. Given the locality of the desk study records for water vole (approximately 70m north of the Site), it is recommended that the applicant provide clarity as to why best practice methodologies were not followed. Should the applicant be unable to provide a robust argument for why best practice was not followed, or why water vole are unlikely to be impacted by the development, then prior to determination it is recommended that further water vole surveys take place. This should include an assessment of the potential impact to water vole and their habitat as a result of the development.

### Badger

*Badgers receive legal protection under the Protection of Badgers Act 1992.*

Although suitable habitat for badger to construct setts and forage is present within the Site, no signs of the species, such as setts, latrines, prints or hair were recorded during the survey. It is unclear whether badger desk study records were requested for the site.

The impact of the proposed redevelopment of the Site on the local badger population is considered to be negligible by the applicant's ecologist and this is deemed acceptable.

As badger are a mobile species who can easily construct setts within suitable habitat and due to the time between the badger survey (May 2020) and the commencement of construction, it is recommended that a preconstruction survey for badger is conditioned as part of any planning permission.

### Common Reptiles

*Reptiles receive legal protection under The Wildlife and Countryside Act 1981 (as amended).*

The applicant has assessed the Site as providing limited habitat for common species of reptiles. Two slow worm records and a single grass snake record have been recorded within the 2km search area.

Some suitable habitats for reptiles, such as hedgerows (field boundaries) and marshy grassland, are present on Site. Further clarification is sought from the applicant on impact assessment and mitigation (e.g. precautionary working methods) specific to the habitats suitable for reptiles.

### Birds

*Nesting birds receive legal protection under The Wildlife and Countryside Act 1981 (as amended). In addition, a selection of birds are "Schedule 1" birds. This gives them additional protection which means it is an offence to intentionally or recklessly disturb them at, on or near an 'active' nest, or disturb dependent young.*

As stated within the Ecological Assessment, any site works likely to affect potential bird nesting habitat should be timed to avoid the main bird nesting season which in general commences in March and finishes in August. If this is not possible, a check should be carried out prior to any clearance works to ensure there are no active nests present. It is recommended that the controls listed above be secured by way of an appropriately worded planning condition.

The Site environment will change from agricultural land with hedgerows and scattered trees to highly managed grassland and built structures. The development has potential to have an adverse impact on breeding birds including three species which are listed in the red list of birds of conservation concern and two amber listed species. It should be recognised that bird species assemblage is likely to change in composition and diversity. Prior to determination it is recommended that the applicant is requested to provide further information on proposals to address the potential impacts on breeding birds, in particular red list and amber list bird species. This could be linked to any requirement for BNG, additional habitat creation or offsite offsets and any post development monitoring plans.

The BEMP notes the installation of bird boxes. Any bird boxes should be installed on the Site during the construction phase of the development. It is recommended that the maintenance and location plans of any bird boxes are secured as a condition of any planning permission.

### Other Notable Species

No information on other notable species, such as Lancashire Key Species identified in Appendix A of the Ecological Assessment, which may be impacted by the development has been provided by the applicant. Prior to determination, the applicant should provide an impact assessment on other notable species, including appropriate mitigation or compensation measures to reduce any impacts.

### Biodiversity Net Gain (BNG) Design Stage Assessment

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.*"

Additionally, Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 sets out that local authorities "*must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*". Section 40(2) clarifies that "*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*".

A BNG report has been produced by Urban Green (May 2022), which is discussed below. There are some technical issues, missing information, and discrepancies regarding the precise area of the development Site and the baseline habitat units calculated. These require addressing prior to determination to ensure BNG can be achieved in principle as part of this application.

The principal concern to be reviewed prior to determination is the discrepancies of the baseline habitat units and areas detailed in Section 4 Retained Habitats and Section 5 Lost Habitats compared against the baseline habitat units used in the final summary of Table 33. The discrepancies are as follows:

- Table 17 in Section 5.1 determines the total area habitats to be 17.6ha providing a baseline of 36.3 area habitat units.
- Within Tables 20 and 33, the baseline area habitat units is reported as 28.5 (compared to the 36.3 within Table 17) and the baseline linear hedgerow units is reported as 6.38 (compared to the 2.72 within Table 18).
- For linear hedgerow units, Tables 15 concludes a baseline of 3.66 hedgerow units whilst Table 18 concludes a baseline of 2.72 hedgerow units.
- For linear hedgerow units, Table 18 concludes a baseline of 2.72 hedgerow units and a total loss of 5.96 hedgerow units which is not possible.

The percentage net gain of biodiversity units is based on the baseline units; therefore, the percentage net gains stated of 67.33% area habitat units and 8.78% linear hedgerow units may need revising. The reported baseline, lost and retained biodiversity units should be reviewed and tables corrected to confirm that BNG can be achieved in principle.

Table 2 – Site Mapping Sources of Information makes reference to “Ecological Walkover Urban Green 2022” however this document has not been provided. It is recommended that the applicant confirm the purpose and results of this walkover and elaborate on how this might impact any of the subsequent reports provided.

The Site was subject to a field survey, as detailed within the Ecological Assessment (BDP, 2022), and subject to a further field survey in December 2021 by Urban Green. It is described that habitats were recorded on the standard ‘Phase 1’ habitat survey technique (JNCC, 2010), and then converted to UKHab classifications using the UK Habitat Classification V1 guidance tool and the assessor’s judgement. As the data was collected using the Phase 1 habitat survey methodology, which does not contain condition assessments, it is recommended that the applicant provide clarity on how the condition assessments required for BNG were determined.

Version 3.0 of the Biodiversity Metric was used as this document was produced prior to the publication of Version 3.1; therefore, any updates to this report or the calculations should also be undertaken with version 3.0 for consistency.

The Biodiversity Metric calculator has not been provided; therefore, the exact areas of baseline habitats or habitats created cannot be reviewed. The Biodiversity Metric calculator, showing baseline habitats and areas of habitats created, should be provided and reported on by the applicant to confirm that BNG can be achieved in principle.

Paragraph 2.4.4 refers to how Strategic Significance has been assessed; however, no evidence of local plans, as determined through a desk-based assessment, was provided to determine the Strategic Significance of the habitats within the Site and the Strategic Significance of each habitat has not been reported. The Strategic Significance of the baseline and created habitats should be reported and provided by the applicant to confirm that BNG can be achieved in principle.

The Phase 1 habitat survey undertaken categorised a row of planted broadleaved trees, located along the A582 at the northern boundary of the Site, as plantation broadleaved woodland. The conversion to UKHab converted this habitat to other woodland; broadleaved (w1g); however, this conversion should be reviewed against survey data to ensure that this line of trees should not have been recorded as a linear feature of w1g6 and included within the linear hedgerow metrics rather than the area habitat metrics. As per Table TS1-2 in the Biodiversity Metric Technical Supplement (Panks *et al.* 2021), a line of trees up to 5m wide at the base should be mapped as the linear feature w1g6. The applicant should review this data and correctly categorise the stated habitat as required within the appropriate sections within the Biodiversity Metric.

Within Section 7 Created Habitats on Site, it was identified that two proposed habitats should achieve higher target conditions than reported:

- a) Section 7.1.5 proposes a target condition of poor for the other woodland; broadleaved to be created, with a total score of 27. Within the Biodiversity Metric Technical Supplement Woodland Condition Sheet (Panks *et al.* 2021) the threshold score for a target condition of moderate is 26. The target condition for the proposed other woodland; broadleaved can, therefore, be moderate. This will provide greater biodiversity gains.
- It is noted that minor tweaks to the planting plan and an adequate management plan will allow for this habitat to achieve a higher scored moderate condition. This could be achieved by:
  - Planting an additional native tree or shrub species to achieve 3 points, rather than 2, for Indicator 4.



- Removing non-native species from the planting mix to achieve 3 points, rather than 2, for Indicator 5.
  - Management to encourage sapling regeneration to achieve 3 points, rather than 2, for Indicator 7.
  - Management to improve tree health to achieve 3 points, rather than 2, for Indicator 8.
  - Planting of different native tree species to increase structural complexity to achieve 3 points, rather than 2, for Indicator 10.
- b) Sections 7.2.1 and 7.2.2 propose target conditions of moderate for the native species rich hedgerows within Tables 29 and 30. This was proposed due to failing two attributes within the condition assessment for hedgerows; however, the Condition Sheet for hedgerows states that "no more than 2 failures in total and no more than 1 in any functional group" constitutes good condition (Panks *et al.* 2021). The target condition for the proposed hedgerows can, therefore, be good. This will provide greater biodiversity gains.

Planting and management for 30 years is a requirement to achieve any biodiversity gains. The minor updates to the planting mix and management strategy suggested for broadleaved woodland will not greatly increase costs but will allow for greater certainty in achieving biodiversity gains thereby complying with local and national planning policy. The applicant should be requested to determine whether these tweaks to the management strategy are viable and update the Landscape Management and Maintenance Plan as appropriate.

Section 7.1.3 proposes that the cricket greens, classified as modified grassland, will pass Criteria 4 relating to physical damage. Given the recreational pressure and continual maintenance required, the applicant should be requested to justify this particular Criteria.

Section 8 Post Development Unit Summary and Conclusion states: "To ensure that the habitats proposed as part of the post development design of this Site reach the condition detailed within this report and the full gain in value to the environment is achieved by this Site, a long-term management plan (30 years) is required." Only a 10-year Landscape Management and Maintenance Plan has been provided. It is recommended that the applicant provides a landscape management and maintenance plan covering 30 years