

Date: 20th June 2022

Dear Jonathan,

Ecological comments

Application No: **SCP/2022/0003**

Proposals: **Scoping opinion request for sand and gravel extraction**

Location: **Land off Bourbles Farm, Pressall**

Thank you for your consultation in respect of the above.

In addition to the proposed assessment given in the applicant's scoping report, it should be ensured that the following matters are addressed:

Legislation, policy and guidance

The Environmental Statement (ES) will need to demonstrate that the proposed development will fully comply with the requirements of all relevant legislation, including (but not limited to):

- The Conservation of Habitats and Species Regulations 2017 (as amended)
- The Environment Act 2021
- The Wildlife and Countryside Act 1981 (as amended)
- The Eels (England and Wales) Regulations 2009
- The Natural Environment and Rural Communities Act 2006
- The Protection of Badgers Act 1992

The ES should also demonstrate that the proposed development meets requirements stated within the Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact Within the Planning System (DEFRA 01/2005, ODPM 06/2005).

The ES will need to demonstrate that the proposed development will fully comply with the requirements of all relevant national and local planning policies, including:

- The National Planning Policy Framework, 2021 (NPPF)
- Lancashire Minerals and Waste Development Framework Policies
- Wyre Borough Council Local Plan Policies

In order to meet the requirements of the above, the ES will need to demonstrate that all elements associated with the development would be located and designed in a way that would ensure that harm to biodiversity will be avoided and minimised, and that adequate mitigation/compensation for any unavoidable impacts and net gains for biodiversity will be provided.

Guidelines

The ES should demonstrate that the proposed development will follow recognised guidelines, including (but not limited to):

- Guidelines for Ecological Impact Assessment (CIEEM, 2018)
- Ecological Impact Assessment Checklist (CIEEM & ALGE, 2019)
- Biodiversity Net Gain: Good practice principles for development - A Practical Guide (CIEEM, IEMA & CIRIA, 2019)
- BS42020 Biodiversity – Code of Practice for Planning and Development
- Recognised survey and mitigation guidelines, including (but not limited to) current Natural England standing advice, guidelines and Technical Information Notes
- Any emerging guidelines relating to compliance with the requirements of the Environment Act 2021

Consultees

The ES should demonstrate that issues raised by consultees to the scoping report have been addressed.

Data search

The ES should include the results of an ecological data search. In addition to contacting LERN (Lancashire Environmental Records Network) for data and use of MAGIC (Multi-Agency Geographical Information for the Countryside), other relevant local organisations and groups should be contacted for local records, including the local bird club.

It should be demonstrated that the data has informed the scope of field surveys, the design of the proposed development and mitigation/compensation measures.

The data search should not be used as a substitute for field surveys. An absence of records should not be taken as absence of species or habitats. Records over 10 years old should not be discounted, as these can still provide useful contextual information and an absence of more recent records may only indicate a lack of survey.

Habitats

The ES should include the results of a recognised habitat survey (either a Phase 1 habitat survey or UKHab) of the application site and a suitable buffer distance, extended to include any evidence and an assessment of the potential of the various habitats to support specific species groups, including protected species and other species of nature conservation significance. It should be noted that any areas proposed for offsite compensation will also need to be subject to baseline ecological surveys.

The ES should also include the results of more detailed phase 2 vegetation/habitat surveys of any semi-natural habitats, priority habitats and other features with the potential to support ecologically significant species. Results presented should include mapped plant communities and full species lists showing relative abundance. Any quadrat data and locations should be included in the ES.

A comprehensive assessment of faunal interest should also be included. Any species or habitats of nature conservation significance should be clearly mapped.

In addition, in order to inform the Biodiversity Net Gain calculations (discussed below) condition assessments of habitats would also need to be carried out, both for affected habitats and habitat proposed for off-site compensation.

Any hedgerows in the site or affected (direct or indirectly) by the proposals should be assessed according to the criteria specified in the Hedgerow Regulations 1997 (and UK BAP as described above).

Any irreplaceable habitats should be clearly identified and mapped.

Designated sites

There are a number of statutory designated sites within a number of kms of the site.

The Natural England SSSI Impact Risk Zone indicates that the proposals have the potential to result in adverse impacts on statutory designated sites. The planning authority will need to consult Natural England on any proposals.

The ES will need to fully assess all the potential direct and indirect impacts on statutory designated sites.

The application site and surrounding land may have the potential to be used by qualifying bird species from nearby statutory designated sites. The ES should consider the potential for the application site and surrounding land to be functionally linked land. 'Functionally linked land' (FLL) is a term used to describe areas of land or sea occurring outside a designated site which is considered to be critical to, or necessary for, the ecological or behavioural functions in a relevant season of a qualifying feature for which a Special Areas of Conservation (SAC)/ Special Protection Area (SPA)/ Ramsar site has been designated. These habitats are frequently used by SPA species and support the functionality and integrity of the designated sites for these features.

The ES should include sufficient information to enable the planning authority to establish whether there could be a likely significant effect on any European Protected Site. If a likely significant effect cannot be ruled out, then the ES should include sufficient information to enable the planning authority to undertake an appropriate assessment in accordance with the requirements of the Habitats Regulations and related case law.

The ES should also address likely direct and indirect impacts on Biological Heritage Sites and other non-statutory designated sites. Pilling Moss-Head Dyke Biological Heritage Site / BHS 34NEW1 lies partly within the application site, which is identified as a winter feeding ground for flocks of Pink-footed Goose and Whooper Swan.

If it can be demonstrated satisfactorily that impacts on designated sites are unavoidable, then the ES should demonstrate that there will be adequate mitigation/compensation measures to ensure that there will be no net loss of ecological value. Mitigation / compensation proposals must be informed by a comprehensive ecological survey of the areas affected.

Protected Species

DEFRA Circular 01/2005 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"*.

The ES therefore needs to include habitat assessments and survey data for all protected species that could potentially be affected by the proposals. This should include consideration of both potential direct impacts and indirect impacts. For example, the scoping report states that due to the retention of all trees along site boundaries there are no

foreseeable impacts on roosting bats, however there may be potential for indirect impacts on nearby bats roosts, for example through noise, vibration and loss of habitat connectivity, as well as the potential for impacts through loss of bat foraging/commuting habitat. The scoping report does not specifically mention water voles; however, water vole surveys of suitable habitat should be carried out.

The ES 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.

Where planning proposals affect European protected species, the Local Planning Authority is the competent authority for the purposes of The Conservation of Habitats and Species Regulations 2017 (as amended). Therefore, if any European protected species (such as bats, great crested newts or otters) are present, then the ES will need to include measures to demonstrate that any breach of the Habitats Regulations will be avoided. If a breach would be unavoidable, then the ES will need to include sufficient information to demonstrate that Natural England may issue a licence (*i.e.* that the requirements of the Habitats Directive would be addressed). To demonstrate the requirements of the Habitats Directive would be addressed, information will need to be submitted to address the 3 licensing tests. In summary, these are that:

1. The development is required for the purpose of
 - preserving public health or public safety,
 - for other imperative reasons of over-riding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
 - for preventing serious damage to property.
2. There is no satisfactory alternative.
3. The proposal will not be detrimental to the maintenance of the population of the species at a favourable conservation status.

The information should include mitigation proposals to address the third test, informed by adequate survey data on population size and distribution.

In respect of Great Crested Newt, District Level Licencing is an alternative option. <https://www.gov.uk/government/publications/great-crested-newts-district-level-licensing-schemes>. If the applicant chooses to use District Level Licencing, then a IACPC (Impact Assessment and Conservation Payment Certificate) needs to be submitted to the LPA with the ES. Provided the IACPC has been signed for and 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 GCN are capable of being fully addressed in a manner which complies with the requirements of the Habitats Regulations.

Other species

The ES should include the results of surveys for other species of nature conservation value, an assessment of likely impacts on these and mitigation / compensation for unavoidable impacts. This should include all Species Principal Importance (NERC Act 2006), red list species and any nationally or locally rare or scarce species, that could potentially be impacted.

The scoping report includes surveys for Great Crested Newt and other amphibians. There are a number of large waterbodies and fishing lakes within the area of the application site,

which can provide good breeding habitat for Common Toad (a Species of Principal Importance). The ES should include surveys specifically targeting Common Toad, which are undertaken earlier in the year than GCN surveys (*Common toads and roads: Guidance for planner and highway engineers in England*, ARG UK).

The ES should include an assessment of the ornithological interest of the site and the predicted Zone of Influence. The scoping report mentions wintering bird surveys however breeding bird surveys should also be carried out. The surveys should include bird usage across the whole site and surrounding zone of influence, include usage of open fields.

Surveys for Brown Hare (Species of Principal Importance) should be carried out.

Invasive/Injurious Weeds

Surveys for invasive or injurious weeds listed under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) should be carried out. If such species are present, then the ES should demonstrate that the spread of any such species will be avoided during the proposed development works (and ideally how the species will be eradicated from the site). I recommend that Environment Agency guidelines be followed on this matter.

Surveys

All surveys should be carried out at an appropriate time of year, in accordance with recognised methodologies and best practice guidelines, and be carried out by suitability competent and experienced individuals. All survey methodology used should be detailed in the ES, along with any survey limitations.

The extent of survey areas should be defined by the predicted Zone of Influence for each individual ecological feature, along with recognised methodologies and best practice guidelines. The Zone of Influence and any departures from best practice guidelines should be described and justified.

All habitats, species and features of nature conservation significance should be clearly mapped.

Survey data should be provided to Lancashire County Council/LERN (Lancashire Environment Records Network) in electronic form that can readily be integrated into software used by LERN.

Evaluation

The value of sites, habitats, species populations and other ecological features should be evaluated based on the results of completed surveys. A rationale should be provided for the evaluation given to each ecological feature.

Avoidance of ecological impacts

It needs to be demonstrated that measures have been taken to avoid detrimental impacts on sites, habitats, species and features of ecological value, including (but not limited to):

- Statutory designated sites
- Non-statutory designated sites
- Habitats of Principal Importance
- Irreplaceable habitats
- Protected species and their habitats
- Species of principal importance and their habitats
- Other notable species and their habitats (for example, red list species)

Detrimental impacts on habitat connectivity also need to be avoided.

The ES will need to demonstrate that the proposed development has been located and designed to avoid ecological impacts. Adverse ecological impacts should firstly be avoided through good design based on result of surveys and assessments. For example, the scoping includes proposals for direct impacts on existing waterbodies, however surveys are not complete and ecological impacts should firstly be avoided.

Irreplaceable habitats should be identified, and it should be demonstrated that detrimental impacts on such habitats will be avoided. The NPPF states that *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*. Irreplaceable habitats include habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, for example ancient woodland and veteran trees.

Impact Assessment

Likely impacts on sites, habitats, species and features of ecological value will need to be assessed in accordance with recognised guidelines. All temporary and permanent impacts should be stated and assessed, including (but not limited to) habitat loss, damage and disturbance; habitat fragmentation, severance and isolation; potential killing, injury and disturbance of protected and priority species; destruction or disturbance of habitats used by protected and priority species; impacts arising from lighting, noise, dust and vibration etc.

The area of each habitat type that would be lost or damaged should be quantified (see below).

The ES should include an assessment of likely impacts on the water table, water courses, ground and surface water, ground water dependant terrestrial ecosystems and the aquatic environment in general. The Environment Agency should be consulted on these matters.

Mitigation/Compensation/Enhancement/Biodiversity Net Gain

The results of the surveys and impact assessments undertaken should inform the design of the proposed development and associated mitigation and compensation measures. It should be demonstrated that mitigation and compensation proposals meet the requirements of legislation, policy and guidance listed above. It should be demonstrated that impacts will be mitigated and that compensation will be provided for all unavoidable impacts. Habitat creation should not be at the expense of existing habitats or features of ecological importance.

The ES should demonstrate that habitat connectivity would be retained, restored and re-connected across the site and to the wider landscape.

In addition to sufficient mitigation and compensation measures to demonstrate no net loss, it should be demonstrated that an overall net gain in biodiversity will be provided. The NPPF states that planning decisions should contribute to and enhance the natural environment including by providing net gains for biodiversity (para 174). A 10% minimum Biodiversity Net Gain is due to become mandatory through the Environment Act 2021 towards the end of 2023. The scoping report highlights that the scheme will offer potential to provide an overall Biodiversity Net Gain on the site of at least 10%.

In order to illustrate that the impacts of the development will be fully off-set and that biodiversity gains will be delivered, the area of each habitat type that would be lost, damaged, enhanced or created should be quantified and mapped.

I recommend that the DEFRA Biodiversity Metric Net Gain Calculation Tool (currently version 3.1) is used to calculate habitat losses and gains. Use of the DEFRA Metric will become mandatory through the Environment Act 2021 when BNG becomes mandatory at the end of 2023, and it currently provides a recognised and consistent approach for quantifying habitat gains and losses. The Metric takes into account time delays between habitat losses and creation.

All areas to be impacted will need to be included within the calculations assessment, including areas of habitat creation/enhancement within the site boundary and offsite (if required). The full completed Metric calculator (Excel spreadsheet) should be submitted with the ES.

There may be additional/separate requirements for species specific mitigation and compensation.

Habitat creation proposals should comprise native plant communities appropriate to the location, soils, hydrology and site conditions. Guidance on native species appropriate to the locality is given on the Lancashire County Council's Ecology webpages:
<http://www.lancashire.gov.uk/council/planning/planning-application-process/ecology/ecology-advice-for-developers/habitat-re-establishment.aspx>

Establishment maintenance and long-term management proposals for retained, enhanced and created habitats should be stated. In addition, it should be stated how the necessary maintenance and management will be secured in the long term / for the lifetime of the anticipated planning obligations.

Monitoring measures should be included within the ES to measure the success of mitigation and compensation measures, to inform the need for remedial measures and to inform establishment maintenance and long-term management.

I hope these comments are helpful.

Yours sincerely,

Rebecca Stevens
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Lancashire County Council