

7 October 2015



Dear Lisa Jackson,

Application No: SMD/2015/0151
Development: Demolition of Ivy Cottage, erection of 13 dwellings and construction of new road access
Location: Ivy Cottage, Tythe Barn, Alton Staffordshire ST10 4AZ
Grid reference: SK072416
Area of site: 0.41 hectares

The Wolsley Centre
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Thank you for consulting Staffordshire Wildlife Trust on the above application, received on 9/4/2015 along with various subsequent amended and updated documents. We have viewed the following documents:

- Bat and Bird Scoping Survey Report 11 February 2015 by Evolution Ecology
- Preliminary Ecological Appraisal Report 11 February 2015 by Evolution Ecology
- Bat and Bird Presence and Absence Survey Report May 2015
- Arboricultural Survey Report February 2015 by Tree Heritage
- Landscaping Scheme 2014-1983-20 Rev B 5 October 2015
- Site Plan 2014-1983-05 Rev C 31 July 2015 Sammons Architectural Ltd
- Appendix 2 Evolution Ecology extract showing flora at Ivy Cottage- undated
- Appendix 1 - Protected plants list
- Ivy Cottage Additional statement re flora and fauna received 2 September 2015

HABITATS

Wider Ecological Network

BIODIVERSITY ACTION PLAN PRIORITIES

Staffordshire Biodiversity Action Plan

The site is within the Species Rich Farmland Ecosystem Action Plan area, where priority habitats and species include Hedgerows, as well as several priority bird and mammal species present in the area.

Chairman
Richard Higgs
Chief Executive
Julian Woolford

Registered Charity No. 259558
Limited Company No. 959609
Registered Office: The Wolsley Centre
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Working for a Living Landscape

LIVING LANDSCAPE PROJECTS

The site is within the Churnet Valley Living Landscape Project and Staffordshire Rivers project.

<http://www.churnet-valley.org.uk/>

<http://www.staffs-wildlife.org.uk/what-we-do/protecting-wildlife-and-wild-places/living-landscapes/staffordshire-rivers-living-landsca>

Statutory and Non-Statutory Wildlife Sites

There are no currently designated wildlife sites that would be impacted by the proposals.

Potential Local Wildlife Sites

Many areas of potentially high value habitat exist that have not yet been assessed for Local Wildlife Site (LWS) status, either through lack of funding or access restrictions. If such areas are to be impacted it is important to establish their status. The ecology assessments of the site have not attempted to evaluate the site in terms of potential LWS status, or the standard spatial methods of Ecological Impact Assessment e.g. national, regional, county, district or local value.

We are of the view that the habitat on site has potential to be of LWS quality. The Guidelines for the Selection of Sites of County Biological Importance in Staffordshire Version 4.03 April 2014 (SBI Guidelines) do not currently contain specific criteria for traditional orchards, although this is to be considered for addition at the next Wildlife Sites grading committee meeting in December, and the criteria are likely to be similar to those in other counties, such as Cheshire (available at <http://www.cheshirewildlifetrust.org.uk/sites/default/files/files/Cheshire%20LWS%20criteria%20V40.pdf>). As the site qualifies as a Traditional Orchard under the definition within the UK Habitats of Principal Importance it is likely to qualify as a LWS once criteria are adopted.

The guidelines include criteria for hedgerows, but the hedges on site do not appear to have been surveyed as they are not included in the Phase 1 Habitat plan or in the habitat descriptions within the Preliminary Ecological Appraisal (PEA).

The Evolution Ecology extract showing flora at Ivy Cottage is not sufficient to allow assessment of the habitat against the grassland, woodland or parkland criteria which the habitat is closest to. The species list is not separated into each of the habitats present and there are no abundances given (normally the DAFOR scale is used). The flora list appears to be an appendix to another document - we would expect the full survey report for the area to be supplied, which should contain methodology, full results and discussion.

We are also not confident that all species present have been identified, as only two grass species are listed which is surprising; a thistle is listed but not identified to species (a good botanist should be able to do this), also no mosses are mentioned when it is obvious from photos that there is an abundance of these present. Lichens on fruit trees and walls would also be relevant to the site's value. The hedgerows and dry-stone wall

on site are also not mentioned, and could contain further flora species. The record of Giant Hogweed *Heracleum mantegazzianum* needs to be verified, as this is an invasive and harmful non-native species, listed on Schedule 9 of the Wildlife and Countryside Act. This is not discussed in any of the reports. Common hogweed which is a harmless native plant can be mistaken for the giant species. Therefore, the flora list is unlikely to be comprehensive.

A number of flora species present on the site are 'scoring' species within the SBI Guidelines checklists for grasslands (Bulbous Buttercup, Cuckoo flower, Ribwort plantain, Sorrel) and woodlands (Bluebell, Crab apple, Wood forget-me-not), indicating the site has not been agriculturally improved and has some semi-natural characteristics.

The criteria for parkland sites are as follows:

Sites of Biological Importance

All sites with 10 or more broad-leaved veteran trees.

All sites with an Alexander Index (1996)² of saproxylic beetles of 10 or more.

Biodiversity Alert Sites

All sites with 5 or more broad-leaved veteran trees.

It is not possible from the information provided, to judge whether or how many trees could be considered veterans, or what the invertebrate value of the site may be. The PEA does however state that 'The majority of the fruit trees onsite are in a semi-mature/mature state' and so veteran trees may be present.

The points made in the Ivy Cottage Additional statement re flora and fauna and reference to Appendix 1 - Protected plants list are not particularly relevant in terms of evaluating the site, as it is the number and abundance of indicator species that determines a site's value, and these do not need to be rare or legally protected, although any such plants would add to the value. The statement is in fact incorrect in its assertion that there are no protected plants on the site, as one of the listed species, Bluebell, is present - although this is protected from sale only.

In summary, the site has not been assessed in terms of its value at a local or county scale, and it is not possible to assess the site against the SBI Guidelines given the current information. However it has high potential to be a Local Wildlife Site once appropriate survey information is gathered, and in the light of planned updates to the Guidelines. The site has clearly not been subject to intensive management, and displays some semi-natural characteristics - this is discussed further below.

Habitats of Principal Importance for Conservation in England (Natural Environment and Rural Communities (NERC) Act 2006)

[Section 40 of the Natural Environment and Rural Communities Act 2006](#), places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by Government in its [Biodiversity 2020 strategy](#). (Planning Practice Guidance Paragraph: 007 Reference ID: 8-007-20140306).

A list of Habitats of Principal Importance for Conservation in England (also known as 'priority habitats') is provided under Section 41 of the NERC Act, which is intended to guide decision makers in exercising their duty.

Relevant commitments within 'Biodiversity 2020: A strategy for England's wildlife and ecosystem services' include:

IA. Better wildlife habitats with 90% of priority habitats in favourable or recovering condition...

IB. More, bigger and less fragmented areas for wildlife, with no net loss of priority habitat and an increase in the overall extent of priority habitats by at least 200,000 ha; (References to "priority" species and habitats refers to those species and habitats identified as being of principal importance in England, Section 41 of the Natural Environment and Rural Communities Act 2006.)

Paragraph: 008 of the Planning Practice Guidance sets out how LPAs authorities should set about planning for biodiversity. This includes seeking to '*develop and deliver a strategic approach to protecting and improving the natural environment based on local priorities and evidence*' and considering '*the potential effects of a development on the habitats or species on the Natural Environment and Rural Communities Act 2006 section 41 list (in [Biodiversity 2020](#))*'

Paragraph: 009 of the Planning Practice Guidance explains local ecological networks and what evidence should be taken into account in identifying and mapping them.

Relevant evidence in identifying and mapping local ecological networks includes:

- *the distribution of protected and priority [habitats and species](#);*
- *habitats where specific land management practices are required for their conservation;*

ODPM Circular 06-2005 Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System 16 Aug 2005 states:

'Habitats and species of principal importance in England

84. The potential effects of a development, on habitats or species listed as priorities in the UK Biodiversity Action Plan (BAP)⁸⁸, and by Local Biodiversity Partnerships, together with policies in the England Biodiversity Strategy⁸⁹, are capable of being a material consideration in the preparation of regional spatial strategies and local development documents and the making of planning decisions.'

It is clear from the above policy and guidance that LPAs have a duty to identify, map and consider Habitats of Principal Importance (HPI) within their plans and decisions. In order to meet Biodiversity 2020 commitments, the seeking of favourable/ recovering condition, no net loss of, and an increase in area of these habitats is part of the 'significant contribution' that the planning process should make.

Although a large proportion of the Staffordshire Moorlands district has been mapped in terms of habitat types, there are many areas that have not been surveyed, and a comprehensive audit of all HPI present within the district has not been carried out. Therefore there will be areas of HPI that have not been identified and mapped for the purposes of informing strategic plans or individual development proposals.

Traditional orchards

The majority of the site qualifies as traditional orchard, due to the presence of more than five fruit trees less than 20m apart, and the low-intensity management of the area. It is registered on the Inventory of Traditional Orchards of England and Wales, site number STAF0666. The flora list provided in 'Appendix 2 Evolution Ecology extract showing flora at Ivy Cottage' shows a diverse flora, including several species indicative of semi-natural grassland and woodland. The site certainly has not been 'improved' with fertilisers or pesticides for many years. One would expect an intensively managed orchard to have a sward of mainly grasses with little diversity. It is also one of many habitat types 'where specific land management practices are required for their conservation.'

The proposals would result in the loss of most of the orchard in terms of trees, but also the character, soil structure and the non-intensive management. No compensation is proposed. Even if trees are retained in gardens, there is no guarantee these will remain unless protected, and then no guarantee of suitable management. Post-development, the site would no longer qualify as a traditional orchard and therefore this would result in the loss of 0.3 hectares of priority habitat. This, clearly, does not contribute to aims in the UK Biodiversity Strategy.

The NPPF states:

118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;*

As well as its status as a HPI, the site contains mature and potentially veteran trees.

Avoidance through locating on an alternative site with less harmful impacts is the first option to be considered when significant harm would result from a development. The site is the smallest of seven potential housing allocation sites recently consulted upon in the Site Options Consultation Booklet Staffordshire Moorlands Site Allocations - July 2015, although in our view the orchard area should not have been included as an option due to its habitat status. The other sites in Alton total 7.64 ha with potential to provide 229 homes; although not all sites would be allocated in the final plan. The estimated housing need 2011 - 2031 for Alton is 25 dwellings.

Site AL012 just to the west of Ivy Cottage is currently the subject of a planning application SMD/2014/0824 where the outline layout suggests 13 houses. Sites AL019 and AL022 have also come forward as an application SMD/2015/0435 for 23 houses, although the site allocations document suggests the sites could hold a total of 63 homes. Both these sites, from the ecological surveys provided, are species-poor grassland with most biodiversity value in the boundary hedges (which could be retained); development would not appear to cause significant harm on these sites. This would indicate that not

only are there alternative sites with less harmful impacts, but there is not a shortage of potential housing sites in Alton that would cause an overriding need to impact an priority habitat and potential veteran trees.

Consideration also needs to be given to the relevance of the habitat with regard to existing Local Plan Policies e.g. NE1 as well as the Churnet Valley Area Study, which have been covered by M Sutcliffe and Associates in their comments letter of 1 September 2015.

Hedgerows

All native intact hedgerows are Habitats of Principal Importance. The site is bounded on the eastern and southern sides by hedgerows, and, we understand, to the west by a dry-stone wall. The hedges have not been surveyed or described in either the PEA or the Arboricultural survey. It is not clear what impacts may occur to the hedgerows, as they are not labelled on the current Landscaping Scheme drawing 2014,1983,20 Rev B 5 October 2015, although several proposed hedges are shown. There is insufficient information to determine the proposed impacts to hedgerows.

Landscape Features of Major Importance for Wild Flora and Fauna (Article 10 Habitats Directive (92/43/EEC))

Article 10 asks member states to:

"endeavour, where necessary, in their land use planning and development policies, and with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora."

It then goes on to mention some specific features which can contribute to that coherence:

"Such features are those which, by virtue of their linear and continuous structure or their function as stepping stones .are essential for the migration, dispersal and genetic exchange of wild species."

We consider the site is highly likely to be a stepping stone for species such as fungi and invertebrates which rely on the unimproved soils and deadwood of traditional orchards, as well as many priority birds which are associated with this habitat. Given the historical loss of orchards in the area this is particularly key for this habitat type.

SPECIES

European protected species (Habitats Regulations 2010)

If a European protected species will be affected and therefore a licence required for the development, the LPA must actively consider the 3 tests within the Habitat Regulations 2010, which is required for the LPA to have due regard to the Habitats Directive. Derivations from the regulations should only be permitted:

1. For the purpose of 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.
2. Where there is no satisfactory alternative.
3. Where the proposed action is not be detrimental to the maintenance of the species concerned at a favourable conservation status in its natural range.

Therefore, actions to minimise impacts and avoid the need for a licence are preferable in the first instance. If impacts will occur, adequate information for the LPA to determine the above 3 points is required.

Bats (all)

The Bat and Bird Scoping Survey covers only the cottage, while the PEA supposedly considers bat and bird potential within the orchard as well. In fact, the only reference or assessment of the orchard's potential value to bats is on page 17 of the PEA:

'The site overall is considered to be of high value to protected species, with particular reference to birds and potentially bats ... predominantly due to the presence of the scattered fruit trees and building unit.'

Despite the Arboricultural Survey reporting that many of the trees are mature with deadwood and cavities, there is no survey or assessment of the trees on site for bat roosting potential.

Both the scoping survey and the PEA concluded that Ivy Cottage has high potential to support roosting bats, and that therefore two dusk/dawn activity surveys would be required within the optimal survey period (May-September).

However, the most recent relevant guidance, Bat Surveys: Good Practice Guidelines, 2nd edition 2012 by the Bat Conservation Trust, which all the reports reference, states on page 62:

"If a building or built structure is considered to have a moderate or high likelihood of use by bats, the preliminary roost assessment, even if negative for bats, should be followed by several presence/absence surveys. It is recommended that at least three dusk emergence surveys, pre-dawn re-entry surveys per roost should be undertaken during the summer period in order to give confidence in a negative survey result. At least one of these surveys should be a pre-dawn reentry survey. At least two of the surveys should be completed between mid-May and August."

It also states on page 59:

"8.2.5 Trees

All trees near to proposed developments that are likely to have an impact on bats should be subject to a preliminary roost assessment."

The subsequent Bat and Bird Presence and Absence Survey involved only two dusk activity (emergence) surveys on the 19th and 28th May 2015. Given the surroundings of the cottage, it would also have been difficult for the two surveyors positioned at the north and south elevations of the building to see the east and west elevations. The start and finish times of the surveys are also not given, and a map of bats observed is only provided for one of the dusk surveys.

Despite the report methodology stating 'A walkover survey of the site and a visual inspection of the building/s and any trees was undertaken ...'

no trees on the site were surveyed for bat roost potential and no bat activity surveys were conducted specifically within the orchard. The only assessment made of the orchard was the observation of bats foraging within it during the building survey - the report concludes that:

"... the orchard to the south is being used as foraging habitat by a nearby bat roost of common pipistrelle (Pipistrellus pipistrellus) bats."

and:

"the adjacent orchard to the south (which is also proposed to be re-developed) was identified as providing important foraging habitat for the local common pipistrelle (Pipistrellus pipistrellus) populations"

Despite not surveying within the orchard, but concluding it to be an important bat foraging habitat, the report then states that its loss "would be of relatively low detriment to the bats, as alternative foraging areas are present within the immediately surrounding semi-rural landscape." This still constitutes a loss of habitat and habitat quality that is not compensated.

We understand that two trees on the site have been 'pollarded' with permission under the current Tree Protection Order. It is not clear whether a bat survey was carried out on the trees prior to this work- one tree had a large cavity suitable for roosting bats.

We conclude that the potential for bat roosts to be present on the site has been inadequately assessed, as insufficient survey effort has been carried out on the cottage, and no survey at all of trees has been conducted. The loss of the orchard would also remove bat foraging habitat, which the smaller area of managed gardens, plus added lighting, would not replace.

Great crested newt (GCN) (Also UK protected, NERC S41, Staffs BAP)

A large garden pond is present around 20m to the east of the site, where smooth newts have been recorded, as well as common toad and frogs. It is unknown whether GCN are present, but the pond obviously has qualities to support amphibians, and is close to open countryside. There are also at least six other waterbodies shown on OS maps within 500m.

The PEA interprets records wrongly, as if nearest record can be taken to be the nearest actual GCN population. Records are not comprehensive and are only what has been reported- if there is suitable habitat nearer to the site then GCN could be anywhere in-between.

The PEA should identify and consider all ponds within 500m of the site, ruling out any that are separated by barriers or where there is unsuitable linking habitat to the site; assess these ponds for GCN suitability and assess the potential risk to GCN and the need for further surveys. There does not appear to have been any attempt to locate ponds beyond the site boundary.

There is potential for GCN to be present on the site if they are breeding in the nearby pond. The development on the site would involve loss of a significant area of terrestrial habitat that newts would be likely to use. Further assessment of the nearby ponds and potential risk to GCN is required.

UK protected species (Wildlife and Countryside Act 1981 as amended, Protection of Badgers Act 1992)

All wild nesting birds

All wild native birds are protected from killing, injuring, damage/ destruction of active nests and eggs. The surveys and recommendations cover this adequately.

Reptiles (all) (Also NERC S41)

Grass snake has been recorded in several locations in Alton, the closest being 217m to the north of the site in 2001. Slow-worm has also been recorded in a nearby garden – records are being uploaded to the Staffordshire Ecological Record database.

No reptile surveys have been conducted, but we are of the view that the proposals would remove suitable reptile habitat and given the current plans, the habitat post-development would not be of the same quality for reptiles.

Badger

Although no setts were recorded, it is clear badgers use the site and have a habitual path which would need to be catered for. A sett has been recorded in the vicinity and this information has been reported to the Staffordshire Ecological Record centre.

Priority Species - Species of Principal Importance for Conservation in England (NERC Act 2006 Section 41) and Staffordshire Biodiversity Action Plan Species

Local authorities have a duty to consider species listed on the NERC S41 list, Staffordshire BAP and any local BAP, and they can be a material consideration (as per HPI, discussed above). Several legally protected species are also priority species therefore we deal here with any species not already mentioned above.

The data search within the PEA (reproduced in the Bat and Bird Scoping report) includes only protected species, without covering priority species. This means any records of priority species on or near the site have not been considered.

Birds

According to the PEA, 'a number of small garden species were seen' but these were not identified, and the potential for priority birds to use the site is not mentioned or considered.

SER hold a record for a flock of Tree Sparrow on the site in 2000 - 2001, and sparrows (either House Sparrow or Tree Sparrow - both are SPI) have been observed regularly in the area by local residents. Bullfinch has also been observed in the orchard.

Given the habitat, many other priority birds may be expected to breed or forage on the site including Yellowhammer, Song Thrush, Starling and Dunnock.

Due to the likelihood of priority birds using the site, and the proposed loss of most of the habitat present, a breeding bird survey would be required to determine impacts and proposed adequate mitigation/ compensation.

Mammals

Hedgehog has also been recorded locally and the orchard would be ideal habitat.

Amphibians

Common Toad is a SPI and likely to use the site given their presence in the pond nearby.

Invertebrates

No survey undertaken, but the site could be expected to support SPI due to the habitat present.

Fungi, lichens, mosses

No survey undertaken, but the site could be expected to support SPI due to the habitat present.

SUMMARY

Staffordshire Wildlife Trust submits an objection to the proposals, due to:

- A. Loss of a potential Local Wildlife Site- requires further survey and assessment to determine the current status of the site.
- B. Net loss of a Habitat of Principal Importance (Traditional Orchard) where alternative sites are available and with no compensation proposed.
- C. Potential impacts to a Habitat of Principal Importance (Hedgerows) which requires further survey and assessment.
- D. Loss of a Landscape Feature of Major Importance for Wild Flora and Fauna
- E. Inadequate assessment of the potential for bat roosts to be present/ impacted, due to insufficient survey effort on the cottage, and no survey at all of trees on site.
- F. Insufficient assessment of potential presence and impacts to Great Crested Newt.
- G. Insufficient assessment of, and loss of habitat for, reptiles
- H. Insufficient assessment of, and loss of habitat for priority species; namely birds, hedgehog, common toad and potentially invertebrates, fungi and lower plants.

Staffordshire Wildlife Trust would like to be kept informed of progress with this application, and receive details of the final permission/ refusal. The Trust would be pleased to assist in formulating any conditions or biodiversity advice on site. Please contact me if you have any queries regarding this response.

Regards,

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