

25 August 2015



Dear Mr. Alford,

Application No: 15/22518/FUL
Development: Construction of 196 berth narrowboat marina, facilities building, dry dock/workshop, pump out building; car parking; access and landscaping
Location: Land South Of Shirleywich London Road Pasturefields Stafford Staffordshire
Grid reference: SJ986255
Area of site: 5.85 hectares

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Thank you for consulting Staffordshire Wildlife Trust on the above application, received on 22 July 2015. We have viewed the following documents:

- Preliminary Ecological Appraisal 15 August 2013 by Staffordshire Ecological Services
- Photoview & Footpath Location Plan LL84.02 undated by Land Lizard
- Hydrological Assessment June 2015 Pam Brown Associates
- Planning & Heritage Statement June 2015 by Rob Duncan
- Flood Statement June 2015 by Rob Duncan
- Surface Water Drainage information August 2015 Rob Duncan

POLICY and REGULATION

National Planning Policy Framework

Guidance relating to biodiversity relevant to this site includes the following paragraphs:

109. The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more

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Working for a Living Landscape

resilient to current and future pressures.....

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.

This application would appear not to comply with the NPPF in terms of the consideration of alternative sites where there is a significant harm (an area of high value wetland on site would be destroyed), or providing a net gain for biodiversity. It is also not certain at this time whether the wetland on the site is irreplaceable due to any unique hydrological conditions.

Environmental Impact Assessment (EIA)

We are of the opinion that the application requires screening for an EIA. The proposal is a Schedule 2 development, as it is listed in the first column in Schedule 2 (under 12 b Marinas) and it exceeds the relevant thresholds in the second column (The area of the enclosed water surface exceeds 1,000 square metres). The site is also in a sensitive area, being 15m from Pasturefields SAC and SSSI. It therefore needs to be screened by the local planning authority to determine whether significant effects are likely and hence whether an assessment is required. There is no evidence within the online documents that screening has been carried out.

We feel that aspects that would need addressing include hydrology regarding the SAC/SSSI and also other waterbodies such as the River Trent, its and tributaries and nearby ponds; the type and amount of spoil that would result from the marina and where this would be deposited, and the impact to habitats and species (particularly birds) on the site.

The Preliminary Ecological Appraisal is over 2 years old; surveys were carried out on 3rd July 2013. Therefore an updated survey is required to reflect any changes to the site, including a repeat data search is required. The original data search appears to have omitted priority species, only showing records of protected and invasive species.

HABITATS

Wider Ecological Network

Biodiversity Action Plan (BAP) Priorities

The site is within the Central Farmland Ecosystem Action Plan area of the Staffordshire BAP. If a net gain in habitat area or quality were achieved on the site, this would contribute to several aims in the BAP, and detailed design should refer to these targets.

Green Infrastructure

The site is within a Strategic Watercourse Corridor as set out in A Green Infrastructure Strategy for Stafford The Strategic Plan November 2009. Aims in these areas are to manage flooding and improve rivers and canals as corridors for wildlife and communities. The marina would improve access to the canal, but would need to balance the increase in disturbance with habitat improvements.

Living Landscape Projects

The site is within the Staffordshire Rivers Living Landscape Project, which aims to meet the targets of the EU's Water Framework Directive (WFD) and restore all of Staffordshire's waterways and waterbodies to 'Good Ecological Status' by 2027.

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

Nick Mott, Senior Wetlands Officer nmott@staffs-wildlife.org.uk

Agri-environment schemes

The site is not in an Environmental Stewardship scheme, although much of the land surrounding it is, including the SSSI which is in a Higher Level scheme. The proposals would need to ensure no impact on these schemes.

Statutory and Non-Statutory Wildlife Sites

Pasturefields Saltmarsh SAC and SSSI

This site is managed by Staffordshire Wildlife Trust as a nature reserve, although there is no public access onto the land.

Hydrology –

We share the concerns of several commentators that the Hydrological Assessment June 2015 by Pam Brown Associates does not adequately show that no impact to the saltmarsh would take place. We do not feel that the conclusion of the report ‘There is evidence that the likelihood of significant hydrological effects can be ruled out’ is certain enough to satisfy the question ‘Is the project likely to have a significant effect on the interest features of the site alone or in-combination with other plans/projects?’. There is no evidence that other plans/ project have been considered. This would presumably include any other works in the area affecting drainage, not necessarily development projects. The Standard Data Form for the SAC produced by JNCC on 27/07/11 states under Vulnerability:

‘It is also dependent upon the brine source being maintained and, whilst the hydrogeology of the site is not fully understood, it would be likely to be vulnerable to any abstractions of water from the underground aquifer.’

The Hydrological Assessment does not provide a detailed method for de-watering, only suggesting a likely scheme, and there is no indication of the timescale or time of year this would be undertaken.

It is also clear from the recent Natural England condition assessment of the SSSI, which found it to be Unfavourable No Change, that there is uncertainty around the reasons for this, with a number of actions recommended including a detailed re-survey of flora, obtaining more advice from a hydrologist, and monitoring of salinity, nutrients and water levels. Given that the hydrology of the site is not fully understood, it is hard to have confidence that no significant effects would occur from creation of the marina.

We strongly advise the LPA to obtain independent expert hydrological advice to address these concerns, as we are unable to advise to the appropriate level on this specialism.

Should the proposals be approved at some point, monitoring of key conditions within the saltmarsh before, during and after construction would need to be secured, along with actions should impacts be detected. In order to gain an accurate baseline, monitoring would need to occur for at least a year before construction, and also use any historic data.

Bird interest-

Breeding populations of snipe, redshank and lapwing are also an interest feature of the SSSI and have not been considered in any of the application documents. Birds using the SSSI will use other similar habitats nearby, and so loss or degradation of these could reduce the SSSI's ability to support the birds it is designated for. The proposal site has the potential to support wetland birds associated with Pasturefields, both in terms of nesting and wintering. Snipe have in fact been seen using the site in the past during winter (pers. comm Nick Mott, Senior Wetlands Officer, SWT), and Roger Broadbent, a knowledgeable local ornithologist, has recorded snipe and lapwing on the proposal site (detailed in comments on the previous application 13/19607/FUL). The bird survey conducted as part of the Preliminary Ecological Appraisal in 2013 was a walkover and not carried out to a standard methodology, therefore is unlikely to provide a fully accurate picture of nesting birds on site. No winter visits were made. A breeding and wintering bird survey is required, to enable impacts to be judged and effective mitigation to be designed if appropriate. Any potential disturbance to birds on the SSSI from the proposed works also needs to be assessed.

Boundary-

Any assessment of impact to the site would need to have regard to any review of the SSSI boundary or interest features that is being undertaken by Natural England under their Designations Strategy, and consider whether any further areas may be designated, or additional interest features added.

Given the uncertainty regarding likely significant effects on the SAC, we feel the precautionary approach should be taken, as advocated in Natural England guidance, and an Appropriate Assessment be carried out.

Cannock Chase SAC and SSSI

We support Natural England's comments on this site.

‘Shirleywich Fields and canal towpath’ Local Wildlife Site (also called Site of Biological Importance)

This Local Wildlife Site (LWS) is adjacent the proposal site - the mapped boundary includes the whole canal not just the towpath side. The citation states ‘The section stretches from Pasturefields SSSI to the Ingestre Bridge. It consists of a hedge, towpath, open water and marginal vegetation on both sides of the canal.’ The proposal would involve cutting through the northern bank of the canal and therefore impact the LWS. The LWS is identified in the Preliminary Ecological Appraisal (PEA) but the report does not address any direct impact to it, although it states the loss of marginal reedswamp habitat. The amount of habitat loss needs to be assessed, and measures to reduce and replace this included, such as saving or replacing the vegetation using the new marina margins.

Potential Local Wildlife Sites

Many areas of high value habitat exist in Staffordshire that have not yet been assessed for LWS status, either through lack of funding or access restrictions. If such areas are to be impacted it is important to establish their status, as LWS require consideration under national and local planning policies.

The diverse marshy grassland on site would qualify as Floodplain Grazing Marsh, which is a Habitat of Principal Importance. The semi-improved grassland along the canal is also species-rich, although a smaller area. As the marsh is around 0.5 ha and the semi-improved grassland is adjacent to an existing LWS, these areas are likely to qualify as LWS themselves if assessed against the current Guidelines for the selection of Sites of County Biological Importance in Staffordshire Version 4.03 (April 2014). These areas therefore require a more detailed re-survey to either refer them to a relevant National Vegetation Classification (NVC) community or score them against the grassland checklist, which would require recording a comprehensive species list with DAFOR abundances. While the PEA recognises the value of these areas it does not provide a full species list or abundance scores. It is important that the status and exact area of these habitats are accurately known, in order to assess and plan effective mitigation/ compensation and as a baseline for any future monitoring. It would also be important to re-check for any saltmarsh species.

The proposed layout shown on Photoview & Footpath Location Plan LL84.02 does not match the mitigation design shown in the PEA in ‘Figure 5.2 Ecological Mitigation Proposals’ which recommends translocation of all the wet grassland. This would take up at least 0.5 hectares or over 1/3 of the compensation area which appears to be around 1.4 hectares, although no area figures are provided in the application documents. The wetland area as shown on the plan is too small, and there are too many trees and shrubs, which would prevent wetland birds using the area- only the edge near the marina should be planted. The reasons for the existing wetland holding water would need to be determined in order to replicate them - e.g. whether it is impeded drainage or ground water fed, and whether translocation would actually be feasible.

The new wetland area would need to be excavated to a suitable depth. It appears from the planned layout that much of the compensation area would be mounded up, along with landscaped mounds around the marina, using excavated spoil, and the Planning and

Heritage Statement also states this. In order to create a wetland of the right size, and enable birds to effectively use the habitat, the amount of spoil may be too much to accommodate on the site and alternative areas may need to be sought. The amount, and type, of excavated material needs to be confirmed. If any peat is to be extracted, this needs to be used in the wetland area or re-buried – peat is a carbon store and exposing it to air leads to CO2 release when it decomposes.

We feel there is not sufficient information on the site's habitats to judge their value; that the marshy and semi-improved grassland areas are likely to be of LWS quality, and that the current proposal would not effectively compensate for their loss.

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

Hedgerows

Around 125m of hedgerow would be removed within and to the north of the new access point, with a small section permanently lost and the rest shown replanted back from the visibility splay. This would result in a net loss of a UK priority habitat, and temporary effects for some years as the new hedge establishes. This could be reduced by translocating the hedge shrubs into the new alignment to achieve a more instant hedge while re-using brash as habitat piles or dead hedges. The new planting proposed, if using appropriate species would compensate for residual effects.

Loss /Gain of Habitats on site overall

There are no figures provided as to the area of each habitat that would be lost and gained within the site, so it is difficult to judge the net effect in area and quality, and therefore the net impact on biodiversity. While compensatory habitats are proposed, these cover a smaller area than the marina development. There is also little information on how valuable the marina itself could be for wildlife. A table showing existing and proposed habitats, areas and quality should be included in an Ecological Impact Assessment as part of an EIA, but is often not accurate enough when calculating differences on a small site- therefore applying biodiversity offsetting metrics to the site would be the better method.

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) (Also UK protected, some are priority species)

Some trees on site had potential features for bat roosting. It appears all these trees will be retained on site – if this has or will change, an updated bat check for potential roost features would be required. The trees require appropriate protection during construction and also avoidance of lighting upon them. Additional planting would serve to link isolated trees which may benefit any bat use.

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

As well as the seasonal pool on the site, there are several ponds and waterbodies within 500m of the site boundary. While some may be scoped out as an issue due to distance, migration barriers or lack of connecting habitat, the three ponds to the west would certainly appear to be relevant in terms of GCN potential. The PEA does not address GCN.

A GCN assessment should be made of ponds on and around the site, in terms of suitability for GCN and potential for GCN, if present, to be impacted by the proposals. This may then require presence/ absence surveys on any suitable waterbodies.

Otter (Also UK protected, NERC S41, Staffs BAP)

The PEA found a suspected otter resting site within the strip of alder trees in the south of the site. As the PEA is over 2 years old, a repeat otter survey is required to check whether otter activity has changed. The southern part of the proposal site coincides with a point where the canal is very close to the River Trent, therefore otters are likely to cross here and it could be a key location for otter movements. Otters have a large home range and many resting sites, so may use some only occasionally- however to determine accurately the use of a resting site, and therefore the level of disturbance that may occur, requires repeat visits and potentially site-specific licences to use methods such as camera traps etc.

If the resting site is still present or others are found, this could result in a licence being required if disturbance of otters will be likely.

It is illegal to:

- capture, kill, disturb or injure otters (on purpose or by not taking enough care)
- damage or destroy a breeding or resting place (deliberately or by not taking enough care)

- obstruct access to their resting or sheltering places (deliberately or by not taking enough care)
- possess, sell, control or transport live or dead otters, or parts of otters

It may be more effective to avoid disturbance of otters altogether through mitigatory measures, but these would depend on the evidence of otter usage and the type of construction work, timing and duration. If the resting site is still used, we feel it is unlikely that the 5m fenced buffer proposed by the PEA would be adequate to prevent disturbance of otters during construction. The major earth moving, including within the southern part of the site, would cause a lot of disturbance, and it is not clear how close to the canal the works will reach. We suggest at least a 20m buffer would be needed, with solid protective fencing, although post-construction, a smaller fenced buffer area may be adequate, ideally incorporating additional vegetation planting. However an ecologist with relevant otter experience would need to advise in more detail.

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.

Works would need to either avoid the bird nesting season, ensure birds are dissuaded from nesting using netting of hedges etc. or be preceded by checks of any habitat to be cleared to confirm absence of nesting before commencement. A nesting bird protection/avoidance method statement should be conditioned.

Swans which appear to nest regularly in the marshland within the site could be accommodated in the new wetland if designed appropriately. Other common birds could be encouraged with nest boxes etc.

Schedule 1 Birds

Birds listed on Schedule 1 of the Wildlife and Countryside Act have additional protection for adults and young from *disturbance* while nesting. Depending on the species, habitats and the nature of construction work, this could affect birds some distance from the site.

The following birds have been either recorded on the site or nearby, and have potential to use the habitat on or within disturbance distance of the site: Barn owl, Fieldfare, Redwing, Kingfisher, Green sandpiper, Common Goldeneye, Northern Pintail, Golden Plover, Little Egret, Common Greenshank and Common Quail. In terms of breeding, during which their extra protection applies, Kingfisher and the wading bird species would be most likely to breed on or near to the site, although other as yet unrecorded Schedule 1 listed species could also potentially be present. The breeding bird survey requested would need to identify any nests on or within disturbance distance of the site, and ensure these are protected.

Barn owl, Fieldfare and Redwing are known to use the site for foraging. However all are declining species listed as either red or amber on the Birds of Conservation Concern 3 list; therefore requiring conservation efforts generally. Barn owl is also a Staffordshire BAP species. The proposals would need to ensure their foraging habitat is either retained or replaced.

Wolverine (Also NERC S41, Staffs BAP)

This species has been recorded nearby although not since 1997. The canal has some potentially suitable habitat – the area should be checked as part of updated surveys.

Reptiles (all) (Also NERC S41)

The site has potential for the more common reptiles such as grass snake, which is also a Staffordshire BAP species. As there is adequate space for individuals to escape and also to provide suitable new habitat, a method statement detailing precautions to protect reptiles from harm during clearance and construction should be secured via a condition.

Invertebrates

Native White-clawed crayfish have been recorded in the canal as recently as 2012; surveys and/ or methods to protect crayfish from harm during construction will be required.

Badger

Badgers have been recorded in the area and although no signs have so far been identified on the site, an updated check for any activity/ setts would be required.

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. Several legally protected species are also priority species therefore we deal here with any species not already mentioned above.

Birds

As well as the birds associated with Pasturefields saltmarsh and Schedule 1 protected birds, a large number of other priority bird species (also equates to RSPB red list) have been recorded in the area which have potential to use the site.

The site and areas around it, comprising as it does many wetland habitats, appears to be of some importance for declining birds, and therefore the proposal site is likely to be of

greater value than the same habitat would be in isolation. Any ground-nesting and wetland species on the site are most likely to be displaced permanently, as well as during construction. Other species would be temporarily impacted by hedge removal, but benefit in the long term from shrub planting. Displaced species could potentially be accommodated in the compensation area and in new marginal reedbeds if these are well designed. However it will be necessary to understand bird usage of the site through the surveys requested in order to plan effective compensation.

Mammals

Hedgehog, Brown Hare and Polecat have all been recorded within 200m of the site. Harvest Mouse has been recorded on Pasturefields Saltmarsh in 2003 and near Hixon Industrial Estate approximately 740m east of the site in 2011. Given the habitats present all of these priority mammals could use the site. Hedgehog and Polecat should not be significantly affected and can be conserved with good habitat design; Hare would be affected by loss of grassland but could possibly be mitigated by provision of better quality grassland and new shrub cover. Harvest mouse is the main concern, as if present in the tall vegetation within the marsh or the marginal vegetation on site it may need active measures to prevent harm during construction and to translocate individuals to new habitat areas. A search for harvest mouse signs should be included in the re-survey and mitigation proposed if necessary. Compensatory habitats should be designed to accommodate SPI mammals.

Amphibians

Common Toad is a SPI likely to be present, given the habitat and proximity of other ponds - these should be picked up in any GCN survey. Wet grassland can support many 100's of toads, and their protection can be an issue when clearing this type of habitat, so a method statement may be needed.

Fish

European Eel is a priority species potentially present in the canal; these and fish species generally would need to be considered when impacting on the canal.

Invertebrates

There are a huge number of invertebrates listed under the NERC Act section 41, and the habitats present could support several terrestrial and aquatic species. Good compensatory habitat and translocation procedures (creating some habitat in advance of destroying existing) should be enough to support any terrestrial species, however Depressed River mussel may be present in the canal, and methods would need to consider this species during construction.

Plants

Tubular Water-dropwort *Oenanthe fistulosa* is an attractive wetland plant resembling cow-parsley with white pom-pom shaped flowers It has been recorded in similar habitat just to the north of the site. As it flowers from July-September it may have been missed

in the original survey. This and any other priority plants should be particularly noted in the re-survey.

Fungi, lichens, mosses

These groups were not dealt with in the PEA, but any important species should be noted in the re-survey. For fungi, a check in Autumn should be undertaken.

DRAINAGE, FLOODING, WATER RESOURCES

We would support any recommendations made by the Local Flood Authority, and encourage use of sustainable drainage solutions which maintain the natural hydrology including ground-water recharge.

SUMMARY

Staffordshire Wildlife Trust submits a holding objection to the proposals.

We advise the following are carried out or sought:

Before determination –

- A. Screening for an EIA
- B. Consideration of alternative sites
- C. Independent expert hydrological advice to assist with the Habitats Regulations Assessment and address concerns with the Hydrological Assessment and potential impacts to the SAC/SSSI.
- D. Assessment of potential impacts to bird interest of the SSSI.
- E. Accurate information on the volume and type of spoil to be removed and its location to be deposited.
- F. Updated ecological surveys of the site including:
 - Data search
 - Phase 1 habitat walkover check/ amendments
 - Detailed survey of marshy and semi-improved grassland on site with particular attention to saltmarsh and priority plants including lower plants and fungi. Assessment against Staffordshire Local Wildlife Site criteria, with accurate area measurements. Investigation into marsh hydrology and whether this can be re-created.
 - Breeding and wintering bird surveys of the site, and Schedule 1 birds survey in any areas off-site within disturbance distance of works.
 - Great crested newt assessment, along with presence/ absence surveys if necessary.

- Otter and watervole survey
 - White-clawed crayfish assessment/ survey
 - Badger survey
 - Harvest Mouse survey/ assessment
 - Assessment of impacts to Local Wildlife sites, habitats (giving areas to be retained, lost and gained) and protected/ priority species including fish.
- G. Outline Ecological Management Plan to include measures to protect, replace, enhance, manage and monitor Wildlife Sites, habitats and species on the site, showing an overall net neutral or positive effect.

Secured through conditions should permission be given in future –

- H. A monitoring scheme for key conditions within the saltmarsh before, during and after construction actions to be taken should impacts be detected.
- I. Detailed Ecological Management Plan to include measures to protect, replace, enhance, manage and monitor important habitats and species. To include method statements to avoid/ reduce impacts to relevant protected and priority species.

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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