

19 November 2014

Via email only

Dear Mrs. Wright,

Application No: 14/20886/OUT
Development: Outline development of 77 houses (resubmission of 13/19532/OUT)
Location: Land Off Little Tixall Lane Lichfield Road Great Haywood Stafford
Grid reference: SK003225
Area of site: 7.46 hectares (this now appears to have changed to 5.31 ha, 'excluding the A51 works')

Staffordshire Wildlife Trust has been notified of the amended plans submitted for this application by members of the public and would like to comment as there are nature conservation issues. We have viewed the following documents:

- Extended Phase 1 Habitat Survey dated 4th December 2013 by Leigh Ecology Ltd.
- Amphibian Survey dated 11 July 2013 by Leigh Ecology Ltd.
- Planning Proposals Site Layout 13L23GH N P01 Rev C dated 5 November 2014 by MBD Architects

HABITATS

Wider Ecological Network

Our previous comments of 25th September 2014 regarding SBAP priorities, green infrastructure and Living Landscape project opportunities stand.

Designated Sites

Recommendations for assessment of impact and any mitigation required to Cannock Chase SAC, and Pasturefields SAC should be followed. We have not assessed this issue in detail and advise further liaison with Natural England.

Habitats on site

The existing pond on the site appears to be covered by housing within the plan, without any replacement pond provided.

The new layout provides some green space and habitats that link existing features, however now that there is less area of green space, it will be harder to achieve no net loss or a net gain to biodiversity on the site, taking into account the loss of grassland, section of roadside hedgerow and added disturbance. As per our previous comments, any green spaces would need to be of high wildlife value. It is not clear how the land within the blue edge is to be treated, apart from the tree/ shrub planting along the red edge boundary.

It is not clear whether no net loss of biodiversity would be achieved via the current plan, given the loss of habitat features, unless the land within the blue edge can be enhanced.

SPECIES

European protected species (Habitats Regulations 2010)

Great Crested Newt (GCN)

Planning and development- guidance provided by GOV.UK instructs planning authorities on how to review planning proposals that affect protected species, including European protected species:

<https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

We are again very concerned that no further information on impacts to or mitigation for GCN has been provided, given the additional records of this species on and adjacent the site that have been reported since the Amphibian Survey and Habitat Survey were undertaken (detailed in our previous letter). We have had some discussion of this issue with Leigh Ecology since our previous comments, and the consultant has accepted that the GCN population was/is a small one, which in 2013 was possibly at a low level or didn't enter the ponds to breed. However, it appears that no further information or mitigation measures for GCN have been put forward with the amended plans.

Since our last comments, we have obtained the report Great Crested Newt Survey, July 2009 by SLR, which provides more details of the survey conducted in this area for another landowner. The data was forwarded to the planning authority and Leigh Ecology on 1st October 2014. The survey covered 6 ponds, including the pond on the application site (P1 in the Leigh Ecology surveys) and three ponds near to the site boundary. 1 GCN was found in Pond 1 (on the application site), and a small population, peak count of 4 GCN was found in Pond 2 which is around 70m south east of the current amended site boundary. No GCN were found in the other 4 ponds surveyed in the area. The report concluded that there was a low breeding population within Pond 2, and a possible non-breeding population in Pond 1, although the individual GCN could have been moving through to Pond 2. It also concluded that any development within the survey area would require a licence.

This information along with the more recent records of GCN in nearby gardens indicates that there is a probable small population in the area, that P1 has been used by GCN and that P2 should be considered as a breeding pond (although not necessarily used by GCN every year). The nil result for GCN from the Amphibian Survey July 2013 is not sufficient to conclude that GCN do not use the site or that P2 is no longer a breeding pond, as GCN activity across any area will naturally vary year on year. We are still of the view that the survey was not sufficiently robust in its methods to be adequate due to the short spread of survey dates, but even if it were, a negative result in one year cannot prove that GCN are not present.

We have checked the proposals as they stand through the Natural England 'Do I need a licence?' – rapid risk assessment tool within the GCN Method Statement template. The proposals would involve loss or damage of land within 100m, 100-250m and over 250m of a breeding pond. We also feel that without mitigation measures there is a reasonably likely risk of works killing or injuring newts, obstructing dispersal and capturing newts in excavations. Permitting the proposal in its current state would therefore mean an offence is

highly likely, and therefore it would require a licence. A licence would not be granted by Natural England without a six-visit survey to determine the current population size; therefore if the proposals as shown are taken forward, further surveys in spring 2015 will be required. The rapid risk assessment is however a general guide, and detailed consideration of newt population size, pond density, habitat quality and length of construction period are among many factors which could increase or decrease risk.

Planning authorities need to consider whether the proposal will affect a European protected species, and if a licence is required. As part of this, they need to be satisfied that the proposal will meet the 3 tests for licence applications before issuing planning consent:

(1) **Regulation 53(2)(e)** states: a licence can be granted for the purposes 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) **Regulation 53(9)(a)** states: the appropriate authority shall not grant a licence unless they are satisfied “that there is no satisfactory alternative”.

(3) **Regulation 53(9)(b)** states: the appropriate authority shall not grant a licence unless they are satisfied “that 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.”

Further information on how to determine these tests is given in Natural England guidance Note: European Protected Species and the Planning Process (NE292) 1 Jan 2010
<http://publications.naturalengland.org.uk/publication/113030>

It is for the planning authority to decide whether the proposal is of overriding public interest, compared to impacts on a probable small GCN population- more information may be needed from the applicant to show the overriding need.

Without suitable mitigation, we feel that the current would be detrimental to the maintenance of the GCN population at a favourable conservation status, especially as any losses would affect an already small population.

We feel that satisfactory alternatives have not been explored to retain and avoid GCN habitat, and reduce the risk of GCN being killed, injured, disturbed or obstructed. We suggest P1 be retained in situ as part of an amended amenity and SUDS area, and that development is avoided within 100m of P2, to show that satisfactory alternatives have been considered and built in to the design. However, we cannot see that harm to GCN could be avoided without the use of some newt fencing to ensure newts are kept out of construction areas; therefore a licence would still be needed.

We request that an updated Amphibian Report is produced relating to the current proposals or any further updated/ amended proposals, including:

- An updated desk study, with all records plotted on a map of the area to illustrate the current GCN data.
- Risk assessment of the proposals and need for a GCN licence, referring to Natural England guidance
- Proposed avoidance and mitigation measures

- Recommendations for further surveys if necessary.

Protection of Badgers Act 1992

Badger

Evidence of badgers was identified in the Extended Phase 1 Habitat Survey, and ongoing survey was recommended to inform detailed design. No further update surveys appear to have been undertaken since late 2013, and since then the design has changed considerably. In order to make an up-to-date assessment of any potential impacts, a check of the site should be made to inform this application, and confirmation of any mitigation measures needed. A condition requiring ongoing survey to inform detailed design and construction methods as necessary could be applied should permission be given in future.

UK Species of Principal Importance for Conservation (NERC Act 2006)

The LPA has a statutory duty to consider Species of Principle Importance (SPI), however there is no further information on these on the species that we consider could be displaced from the site, which include Lapwing, Yellowhammer, Reedbunting and Brown Hare, or any mitigation measures or enhancement to encourage other SPI appropriate to local action plan priorities.

The land within the blue edge on the amended plan would be ideal for some enhancement measures, although would not be large enough to support birds of open farmland. However, the proposed planting would encourage some woodland edge birds, and enhancement or management changes to the grassland could increase other SPI species.

SUMMARY

Staffordshire Wildlife Trust submits a holding objection to the proposals, due to further information being required on protected and priority species, and retention of habitat features.

We advise the following are sought:

Before determination –

- A. Amendments to the plan to retain and avoid impact to GCN habitat including the existing pond on site.
- B. Updated Amphibian Survey report with updated data, licence risk assessment, and proposed mitigation/ further survey measures
- C. Updated badger survey
- D. Information on impacts/ enhancements to Species of Principle importance

Secured through conditions should permission be given in future –

- E. Recommendations in the Extended Phase 1 Habitat Survey dated 4th December 2013 by Leigh Ecology Ltd, and any further details required for species protection and enhancement.
- F. Detailed landscaping and drainage design

Secured through a section 106 agreement should permission be given –

- G. Any off-site mitigation

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,

Kate Dewey BSc (Hons) MCIEEM

**Planning and Conservation Officer
Staffordshire Wildlife Trust**

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