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DEVELOPMENT MANAGEMENT ADVICE

To: Jennifer Bolton
Organisation: St Helens Council

From: Rachael Rhodes

Your Ref: P/2020/0061/HYBR
File Ref: SH20-004
Date: 30 June 2020

Ecology Comments - Additional information Land west of Lingley Mere Business Park

1. Thank you for consulting Merseyside Environmental Advisory Service in respect of this planning application. The proposals comprise a full application for the erection of a B8 logistics warehouse with ancillary offices, associated car parking, infrastructure and landscaping and Outline permission for manufacturing and logistics development with ancillary offices and associated access infrastructure works. Detailed matters of appearance, landscaping, layout and scale are reserved.
2. Having reviewed the application and supporting documentation, our advice is set out below in two parts.
 - Part One deals with issues of regulatory compliance, action required **prior to determination** and matters to be dealt with through planning conditions. Advice is only included here where action is required or where a positive statement of compliance is necessary for statutory purposes.
 - Should the Council decide to adopt an alternative approach to MEAS Part 1 advice, I request that you let us know. MEAS may be able to provide further advice on options to manage risks in the determination of the application.
 - Part Two sets out guidance to facilitate the implementation of Part One advice and informative notes.
 - Appendix 1 provides the detailed reasoning in respect of the conclusions presented in Part One in respect of Habitats Regulations Three Tests Assessment.

Part One

Merseyside Environmental Advisory Service – delivering high quality environmental advice and sustainable solutions to the Districts of Halton, Knowsley, Liverpool, St.Helens, Sefton and Wirral



3. This response provides a full ecology response on the proposed development and takes into account all additional information provided by the applicant up to the date of 17 June 2020. The following submitted information has informed this response:
- Environmental Statement including the Biodiversity Chapter and all associated appendices;
 - Response to MEAS 2;
 - List of survey personnel;
 - Defra Biodiversity metric calculation for the outline application and full application site (dated 16 June 2020 on St Helens planning portal);
 - CEMP;
 - Amended Detailed planting sheets 1 and 2
 - Amended Full Landscape proposals
 - Amended Landscape Strategy Revision F;
 - Amended Bat survey method;
 - Updated water vole survey;
 - Addendum Chapter 9 Biodiversity;
 - Amended Biodiversity metric calculations;
 - Plot areas for the calculations; and
 - Amended Biodiversity text / summary of metrics Omega 8.

Summary

4. The proposed development site comprises of agricultural land located to the west of the existing Lingley Mere Business Park. The development site comprises of arable fields, intersected by a network of woodland, hedgerows, ponds and ditches. The development will result in the loss of these habitats. This network currently links to Booths Wood LWS and to Mersey Valley Golf Course LWS to the south (both offsite). This network of habitats provides wildlife corridors through the wider arable landscape. This network has been identified within the Liverpool City Region Ecological Network¹ with woodlands on site forming Core Biodiversity Area and ponds providing Stepping Stone habitat. Woodland, hedgerows and ponds are Priority habitat (NERC Act) and NPPF and Local Plan Core Strategy CQL3 apply.
5. The emerging Local Plan allocation 1EA forms part of the proposed development area. However, the proposed development extends further westwards of the allocation into greenbelt. Whilst the proposed allocation 1EA avoids and therefore retains woodland (Priority habitat, NERC) on site, the proposed development scheme will result in significant woodland and tree loss (5.6Ha). The proposed development would also result in the loss of additional existing Priority habitat in the form of an additional seven ponds and 770m of hedgerow in comparison with the 1EA allocation. Although it is accepted pond and hedgerow losses will be mitigated through replacement hedgerow and habitats. Whilst replacement woodland is proposed, additional off site woodland creation would be required to fully mitigate for the loss. In addition, timescales in any woodland planting reaching maturity are considerable. This is discussed in more detail in paragraph 7 below.

¹ <http://www.lcreconet.uk/>



6. The applicant has submitted Defra Biodiversity Metric calculations for both the full and outline sites. The metrics show that with the proposed landscaping² within the development site there will be net loss of 43% for the full application site and net loss of 50% of onsite biodiversity value for the outline planning area. For woodlands there would be a net loss across the whole hybrid scheme of 22.48 BU. This would require the creation of approximately 10 ha of lowland mixed deciduous woodland offsite. The applicant is proposing off site compensation through the provision of a Section 106 payment. **Due to the scale of the biodiversity impacts, should the Council be minded to grant planning permission the provision of a Section 106 payment will be essential to fund habitat creation and enhancement off site.** Payment will need to be of a sufficient level to ensure sufficient habitat creation and long-term management to fully compensate for the significant harm to biodiversity in line with NPPF.
7. In reaching its decision the LPA should consider the timescales associated replacing mature woodland. Whilst the applicant proposes replacement planting within the boundary of the site as well as offsite, through provision of S106 monies the time taken for any planted woodland to mature and become of equivalent ecological value and function of the existing woodland is considerable and will take decades. Until then there will be a loss of woodland habitat that will be significant. This is recognised within the ES which identifies a large negative loss to woodland initially, reducing over time.
8. The scale of habitat loss and the impacts of this on ecological networks is of significant concern.

Habitats Regulations Assessment

9. The development site is near to the following European sites. These sites are protected under the Conservation of Habitats & Species Regulations 2017 (as amended) and Local Plan Core Strategy policy CQL3 applies:
 - Mersey Estuary SPA (7.3km south);
 - Mersey Estuary Ramsar (7.3km south);
 - Manchester Mosses SAC (15km east); and
 - Rixton Clay Pits SAC (13km east).
10. The applicant has submitted a shadow HRA document (*Habitats Regulations Assessment: Stage One, Likely Significant Effects, Omega Zone 8, the ecology practice, dated 24/01/2020*).
11. The conclusions of the shadow HRA are accepted and the document can be adopted by the Council. **The outcome of the Appropriate Assessment report must be included within the Planning Committee to show how the Council has engaged with the requirements of the Habitats Directive.**

Designated Sites

² Proposed landscaping based on Landscaping parameters plan and Amended Landscape Strategy Rev F



12. The site is located close to the following designated sites and Local Plan Core Strategy CQL3 applies:
- Booths Wood LWS (adjacent to the western boundary);
 - Mersey Valley Golf Course LWS (430m south);
 - Whittle Brook LWS (1.3km south west);
 - Dog Kennel Plantation LWS (190m north)
13. Due to the proximity of Booths Wood LWS there is the potential for impacts to the LWS. Potential impacts relate to:
- Construction impacts to trees within the woodland;
 - Release of construction related pollutants into the woodland;
 - Lighting of the woodland both during construction and operational phases;
 - Impacts to woodland from loss of the wider ecological network of woodland, ponds and hedgerows.
14. The ES and submitted CEMP (*Woodland, Tree and hedgerow clearance method statement, CEMP: Biodiversity (Unit 1), Plot 1, Omega Zone 8, the Ecology Practice, 31 March 2020*) details construction phase mitigation measures which will prevent impacts to Booths Wood during construction and are acceptable.
15. The development will result in the loss of woodland adjacent to Booths Wood LWS. This will reduce the network of woodland in this area for associated species. Proposed landscaping (Proposed landscaping strategy Rev F) has been designed to maintain linkages with Booths Wood and is appropriate. However, as discussed above, there is a timescale issue to any woodland creation.
16. Impacts to Whittle Brook LWS, Mersey Valley Golf Course LWS and Dog Kennel Plantation LWS are unlikely to be significant due to the distance from the development site.

Impacts to habitats

Defra metric

17. The applicant has submitted Defra metric spreadsheets for both the full application site and the outline application site.
18. The metrics show losses to woodland, scrub and farmland biodiversity and gains to ponds, tall herb and floodplain wetland mosaic habitat. The metric shows that a total of 22.49 woodland Biodiversity Units (BU) will need to be provided offsite. This equates to approximately 10Ha of woodland planting. Other habitats which will require offsite compensation include scrub habitats (3.22 BU) and farmland habitats.
19. The Biodiversity metric must form the basis of any S106 agreement for offsite compensation.

Protected species

20. Previous comments requested surveyor details for the breeding bird survey and water vole survey. Survey dates were requested for the great crested newt survey and water



vole survey. The applicant has submitted surveyor details for all surveys and these are acceptable.

Bats

21. The updated bat survey (*Amended ES Volume 2. Appendix 9.14, Bat survey*) clarifies the methods used for bat survey as follows: High and moderate trees were either subject to either 3 emergence/re-entry surveys or 3 aerial inspection surveys. I confirm this is a suitable method and is acceptable. Full survey results for all trees are presented within the bat survey report submitted. The bat survey is acceptable and no further bat survey is required.
22. The bat survey confirms that bat roosts are present within trees T23, T32 (both just off site) and T115 (on site). No impacts are predicted to the bat roosts off site. The bat roost on site will be lost. Developments affecting European protected species must be assessed by the Local Planning Authority against three tests set out in the Habitats Regulations prior to determination. The Three Test assessment is included within Appendix 1 of this response. By including the assessment within the Planning Committee report shows how the Council has engaged with the Habitats Directive.
23. Bat tree roost assessment survey identifies 169 trees with bat roost potential of low or above. There are a total of 63 trees with moderate potential on site and a total of 17 trees are identified as having high roost potential. The removal of trees will result in the loss of potential bat roosting habitat. The ES proposes the provision of 17 bat boxes however, given the scale of the loss of potential bat roost habitat greater bat box provision is required.
24. The following planning condition is required to secure bat mitigation measures:
 - Bat mitigation measures as set out within page 30 of the Biodiversity chapter and within the Woodland and hedgerow clearance method statement. Which includes pre-commencement checks and the use of soft felling techniques following best practice at an appropriate time of year, are to be implemented in full;
 - Updated bat surveys are required for any subsequent reserved matters applications;
 - The development hereby permitted shall not be occupied until details of bat boxes to include number, type and location on an appropriately scaled plan as well as timing of installation, has been provided for approval and implemented in accordance with those details.

Water vole survey

25. Previous MEAS comments identified that only one survey visit had been undertaken. However, as some ditches and ponds were identified as suitable for water vole then a second survey should be undertaken. Additional water vole survey has now been completed and submitted (*Amended Appendix 9.13 Water Vole survey*). The survey confirms that no water vole presence was recorded by survey. Should two years elapse from the date of the survey, updated water vole survey will be required to inform



subsequent reserved matters applications. This can be secured by a suitably worded planning condition.

26. The development will result in the diversion of Whittle Brook. Any diversion should be designed to incorporate habitats suitable for water vole.
27. Reptile survey – Previous comments identified limitations with the reptile survey and recommended that precautionary RAMS should be employed. Ecology practice argued that reptile RAMS are not required due to lack of reptile presence. On review I am content that with the deployment of an Ecological Clerk of Works on site and the methods set out within the CEMP documents that specific reptile RAMS are not required.
28. Breeding birds - Habitats on site provide suitable habitat for nesting birds, including ground nesting species. Breeding bird survey recorded a total of 27 species including a number of Priority species (Section 41 NERC Act) and Birds of Conservation Concern (BOCC). These include the following farmland bird species: 7 lapwing (BoCC red list, S41), oystercatcher (BoCC amber list), yellowhammer (S41), Song thrush (S41, BoCC red list), grey partridge (S41, BoCC red list), skylark was recorded offsite to the south. Other Priority and BOCC species include: dunnock (S41, BoCC amber) was recorded. A tawny owl was recorded within a tree cavity during bat survey.
29. The CEMP documents include measures to protect nesting birds and are appropriate.
30. The proposed development will lead to a loss of habitat for breeding birds, including Priority farmland species. Although proposed habitat mitigation will provide alternative nesting sites there will be an initial loss of habitat whilst these habitats mature. There will be a loss of habitat for farmland birds and farmland species such as brown hare. Any S106 will need to ensure that it provides sufficient funds to either create suitable habitat for farmland species or to enhance existing farmland habitats.
31. The Ecology chapter proposes provision of 19 bird boxes, given the scale of habitat loss this is not sufficient. To mitigate for this loss, details of bird nesting boxes (e.g. number, type and location on an appropriately scaled plan) that will be erected on the site should be provided to the Local Planning Authority for agreement. The following planning condition is required.

CONDITION

The development hereby permitted shall not be occupied until details of bird boxes to include number, type and location on an appropriately scaled plan as well as timing of installation, has been provided for approval and implemented in accordance with those details.

Other protected species

32. No evidence of recent badger use was recorded during survey. However, I note that the CEMP (*Woodland, Tree and hedgerow clearance method statement, CEMP: Biodiversity (Unit 1), Plot 1, Omega Zone 8, the Ecology Practice, 31 March 2020*)



includes measures for pre-commencement badger survey and methods to prevent injury to badger during the construction phase. These are appropriate.

33. No evidence of great crested newt was recorded during survey. However, I note that the CEMP documents (*CEMP, Biodiversity (Unit 1), Pond Clearance method statement, Plot 1, Omega Zone 8, The Ecology Practice, 31 March 2020 and Woodland, Tree and hedgerow clearance method statement, CEMP: Biodiversity (Unit 1), Plot 1, Omega Zone 8, the Ecology Practice, 31 March 2020*) includes measures for pond clearance and drain down which will minimise impacts to amphibian species on site.
34. English bluebell is present within Duck Wood on the boundary of the outline application boundary (TN23). English bluebell is protected by the Wildlife and Countryside Act. Mitigation measure which protect these species will be required to be incorporated into a CEMP for any future reserved matters application.
35. Priority species Purple rampion fumitory is present within the motorway verge adjacent to the northern site boundary. Protective measures are detailed within the CEMP (Risk assessment, CEMP: Biodiversity, Omega Zone 8) and the plant is to be protected under Protection Zone 2.
36. An Ecological Clerk of Works (ECW) is to be provided during the construction phase and an Ecological Clerk of Work method statement has been submitted. The proposed method statement is acceptable. The provision of an Ecological Clerk of Works can be secured by the following planning condition:
 - The applicant is to employ an Ecological Clerk of Works for the duration of the construction phase. The applicant is to provide the name and details of the Ecological Clerk of Works to the Council prior to commencement of works. The Ecological Clerk of Works is to provide monthly written updates to the Council detailing mitigation and protection measures employed and any site issues.
37. The CEMP documents are acceptable and their implementation can be secured by a suitably worded planning condition.

Invasive species

38. Himalayan balsam is present within the site throughout the extent of Whittle Brook watercourse. Himalayan balsam is listed on Schedule 9 of the Wildlife and Countryside Act and national Planning Policy Guidance applies³. The applicant should submit a method statement, prepared by a competent person, which includes the following information:
 - A plan showing the extent of the plant;
 - The method that will be used to prevent the plant/s spreading further, including demarcation;

³ <https://www.gov.uk/guidance/prevent-the-spread-of-harmful-invasive-and-non-native-plants>



- The method of control that will be used, including details of post-control monitoring; and
- How the plants will be disposed of after treatment/removal.

39. The method statement should be submitted for approval to the Local Planning Authority prior to commencement of any works on site. The method statement can be secured by a suitably worded planning condition.

Landscape and planting scheme and SUDS design

40. The applicant has submitted a revised landscaping scheme (Revision F). This provides more detailed landscaping plans for the mitigation area as previously requested. The proposed landscaping scheme is to include woodland planting, hedgerows, grassland and wetlands including large SUDS ponds.

41. The proposed planting includes field maple (*Acer campestre*), however this species is not locally native to this area and should be replaced with a more locally native species, such as hawthorn or holly.

42. *Viburnum opulus* is also not locally native and should be replaced in hedgerow planting with blackthorn. In woodland edge planting it should be replaced by an increase in other native species listed.

43. The applicant has submitted a landscape management plan (*Landscape maintenance strategy – Omega Zone 8, St Helens, March 2020, PlaceOnEarth landscape design*). The plan is acceptable. The implementation of the management plan can be secured by a suitably worded planning condition. Full and detailed management plans will be required for any landscaping associated with the reserved matters applications. A review of the management plan and an assessment of the habitat condition of the proposed habitat creation within the 'The Triangle' landscaping area will be required at year 5. The submission of a 5 year review can be secured by a suitably worded planning condition.

44. The proposals include SUDS attenuation ponds, these should be designed to benefit nature conservation. The submission of design (to include profile plans) and planting plans for SUDS ponds can be secured by a suitably worded planning condition.

I would be pleased to discuss these issues further and to provide additional information in respect of any of the matters raised.

Rachael Rhodes
Principal Ecologist



Appendix: Habitat Regulations Three Test Assessment

The three tests are set out in Regulation 55 of the Habitats Regulations 2017. The three-test assessment of the proposals is set out below.

Test 1: Regulation 55(1)(e): *“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”*

The proposed development would provide economic and employment benefits to the local area. This test has been satisfied.

Test 2: Regulation 55(9)(a): *“that there is no satisfactory alternative”*

The proposed scale of the development will necessitate the removal of the tree containing the bat roost. Alternative site layouts which would retain the bat roost are not feasible. This test has been satisfied.

Test 3: Regulation 55(9)(b): *“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”*

The Biodiversity chapter (page 30) details soft felling techniques using best practice for the removal of the tree containing the bat roost. Alternative bat roost provision is proposed in the form of bat boxes. If the mitigation/compensation recommended in the biodiversity chapter is implemented, then this test would be satisfied.

