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For the attention of Alan Redmond

Your Ref: AVA/2021/0611
Our ref: DWTAVA1565c

17th February 2023

Dear Alan,

Proposal: Residential development for 97 dwellings and associated works
Location: Former Exchange Sidings Bridge Street Langley Mill Derbyshire
Application Ref No: AVA/2021/0611

With reference to the above application, I am responding as the Biodiversity Planning Officer responsible for work relating to the Service Level Agreement, which the Amber Valley Borough Council and the Trust have signed. The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development.

Response

I have reviewed the Ecological Impact Assessment (EcIA) prepared by Ramm Sanderson Ecology Ltd November 2022. The EcIA provides additional information on potential or likely impacts on habitats and species at the above site and replaces an earlier version dated March 2022. It also



provides an assessment of the habitat losses and proposed gains both on-site and off-site and uses Defra's Biodiversity Metric v3.1 (Ramm Sanderson RSE 4906 BIA V3 23rd November 2022) to quantify and measure these impacts.

The EcIA has concluded that by providing habitat creation and enhancement measures within the development site, adjacent to the development site (to the south) and at an off-site location to the north a net gain for biodiversity is achievable. The location and boundaries for the two off-site areas is provided in the report and the northern site is shown on a separate plan (RSE 4906 Site Context Plan – Offsite).

The metric calculations now show a net gain of 12.96 habitat units which is a 57% net gain. On reviewing the metric there are a couple of aspects that require comment. The northern off-site location is assessed as being within a formally identified strategic area as it lies within the green belt. Whether this is ecologically strategic is debateable and I think it should probably be re-assigned to a non-strategic area. However, even if the strategic significance of the site is changed the proposals still provide a net gain and as such, I do not think any change to this part of the metric is necessary at this late stage

A more serious problem is that the metric fails to meet the Trading rules set out within the Biodiversity Metric. This relates to the loss of 1.55 ha of open mosaic habitat on previously developed land, a habitat that within the metric requires like for like replacement. Open mosaic habitat is a Habitat of Principal Importance and therefore of high value and distinctiveness. Under the current proposals only a small area (0.151 ha) of this habitat type is being created within the southern off-site area as part of the compensation measures. The field to the north that is being used to deliver most of the biodiversity net gain is currently modified grassland and there are technical difficulties with converting modified grassland into open mosaic habitat. The current proposal is to enhance the modified grassland and increase floristic diversity through over-sowing using a wildflower seed mix (the target habitat is other neutral grassland in moderate condition).

Whilst this is not ideal, the only other option would be to import or translocate some of the open mosaic habitat from the development site. This may be problematic due to the nature of the material and the agricultural nature of the receptor site. It is therefore proposed that additional bespoke measures should be implemented to try and create suitable conditions for the butterfly species Small Heath and Dingy Skipper. Elsewhere in Derbyshire 'butterfly banks' have been

created using stones/rock substrates to create a south-facing bund that is covered with skeletal low fertility soils and sown with a range of wildflowers including a high percentage of common bird's-foot-trefoil. The bunds can create additional topographic variety and increase structural diversity. The creation of habitat that approximates to the open mosaic habitat within the northern field would help mitigate for the mismatch in habitats and the failure to meet the Trading rules. The butterfly bank proposal is included in the recommended condition for the northern field and set out below. The proposed habitat plan for the northern site should be amended to accommodate the creation of the butterfly bank/s.

Swifts – Integrated Nest Boxes Information/Advice

The newly published British Standard (BS 42021:2022 Integral nest boxes – Selection and installation for new developments) provides specifications on the number and type of integral boxes that should be sought within new developments. For example: 1. To provide new and enhanced opportunities for nesting, the number of integral nest boxes on new residential developments shall at least equal the number of dwellings, i.e. the ratio of integral nest boxes to dwellings is 1:1. 2. External nest boxes are additional to the installation of integral nest boxes on new developments and should not be included as part of the 1:1 ratio. This is also supported by the National House Building Council Foundation, the standard-setting body for new homes: "Section 8.1 Nest sites for birds (page 42): "Provision of integral nest sites for swifts is through hollow chambers fitted into the fabric of a building while in construction. Although targeting swifts they will also be used by house sparrows, tits and starlings so are considered a 'universal brick"

Additionally, section 174(b) of the revised National Planning Policy Framework (NPPF, 2019), states: "To promote and enhance biodiversity and geodiversity, plans should: …identify and pursue opportunities for securing measurable net gains for biodiversity…" and is explained further by the accompanying guidance notes (NPPF, Natural Environment Guidance, paragraph 023): "…relatively small features can often achieve important benefits for wildlife, such as incorporating 'swift bricks' and bat boxes in developments…"



[redacted]

Recommendations

The Council is advised to secure the proposed off-site compensation areas with a S106 agreement or equivalent legal mechanism. It is important that the owner of these sites understands that the habitat creation and enhancement will need to be successfully implemented and subsequently managed to maintain the ecological value in accordance with the Biodiversity metric habitat types and conditions. This management is for a 30-year period, but in perpetuity is clearly desirable. There is a need for regular monitoring of the habitats on site and for reports to be provided to the Council to check that the habitats meet the required standard. It is also advisable to ensure that the costs associated with the delivery of the off-site Biodiversity compensation are agreed between the owner of the off-site land, the applicant, and the Council. A clear mechanism for funding the works should be set out in the management plans and the S106 agreement.

Conditions

Breeding birds

No stripping, demolition works, or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Comments: The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

(Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is certain that nesting birds are not present).



Construction Environmental Management Plan (CEMP: Biodiversity)

It will be essential to ensure that potential impacts on habitats and species identified in the EcIA (RammSanderson, November 2022) are addressed on-site throughout the construction period. Precautionary methods of working and other measures should be set out in a CEMP. Suggested wording is below: -

No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

a) *Risk assessment of potentially damaging construction activities.*
b) *Identification of "biodiversity protection zones".*
c) *Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on protected species during construction.*
d) *The location and timing of sensitive works to avoid harm to biodiversity features.*
e) *A plan for control of non-native invasive species.*
f) *The times during construction when specialist ecologists need to be present on site to oversee works.*
g) *Responsible persons and lines of communication.*
h) *The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
i) *Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Biodiversity Enhancement and Management Plans

It is recommended that the proposed biodiversity enhancements that have been proposed in the EcIA (Ramm Sanderson Ecology, November 2022) and the included in the Biodiversity Metric (23rd November 2022) are addressed through two separate plans; one to cover the development site and the southern habitat compensation area and one for the northern off-site area. The plans are designed to ensure that the habitat creation and enhancement works proposed are implemented in accordance with the submitted details, follow best practice, and are monitored to ensure the biodiversity benefits are realised and sustained.

Biodiversity Enhancement and Management Plan (BEMP) – northern site

A Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the BEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats, in accordance with the proposals set out in the submitted Biodiversity Metric (RammSanderson November 2022) and EcIA RammSanderson Ecology November 2022. The BEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following: -

a) *An updated copy of the Bodiversity Metric and the Proposed Habitat Plan to account for any changes as necessary.*
b) *Description and location of features to be retained, created, enhanced, and managed, as per the approved biodiversity metric and to include 200m of butterfly banks.*
c) *Methods to be employed to create and / or enhance habitats*
d) *Aims and objectives of management, in line with desired habitat conditions detailed in the metric.*
e) *Appropriate management methods and practices to achieve aims and objectives.*
f) *Prescriptions for management actions.*
g) *Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).*
h) *Details of the body or organization responsible for implementation of the plan.*

i) *A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 7, 10, 13, 16, 20, 25 and 30 years.*
j) *A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.*
k) *Requirement for a statement of compliance upon completion of planting and enhancement works.*

The BEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Biodiversity Enhancement and Management Plan (BEMP) – for the development site and the southern habitat compensation area

A Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the BEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats, in accordance with the proposals set out in the submitted Biodiversity Metric (RammSanderson November 2022) and EcIA RammSanderson Ecology November 2022. The BEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following: -

a) *Description and location of features to be retained, created, enhanced, and managed, as per the approved biodiversity metric.*
b) *Methods to be employed to create and / or enhance habitats*
c) *Universal nest boxes (integrated swift brick) at ratio of 1 per dwelling, in line with British Standard 42021:2022.*
d) *Integrated and/or external bat boxes x 10*
e) *Log piles and hibernacula x 3*
f) *Insect nest boxes x 10*
g) *Fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs.*
h) *Aims and objectives of management, in line with desired habitat conditions detailed in the metric.*
i) *Appropriate management methods and practices to achieve aims and objectives.*
j) *Prescriptions for management actions.*

k) *Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).*
l) *Details of the body or organization responsible for implementation of the plan.*
m) *A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 7, 10, 13, 16, 20, 25 and 30 years.*
n) *A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.*
o) *Detailed specifications for open water habitats to provide biodiversity benefits.*
p) *Requirement for a statement of compliance upon completion of planting and enhancement works.*

The BEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Lighting

Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

It is hoped that the information provided is helpful to the Council. If you require any further information or wish to discuss any of the comments made, please do not hesitate to contact me.

Yours sincerely,

Kieron Huston

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