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**For the attention of James Grundy**

Your Ref: ERE/0722/0038

Our ref: DWTERE493a

17<sup>th</sup> May 2023

Dear James

**Proposal: Outline Application for up to 196 dwellings with all matters reserved other than the means of access**

**Location: Land North West Of 1 To 12 Sowbrook Lane Stanton By Dale  
Derbyshire**

**Application Ref No: ERE/0722/0038**

Thank you for consulting the Derbyshire Wildlife Trust with regard to the above planning application. I am responding as the Biodiversity Planning Officer responsible for work relating to the Service Level Agreement, which Erewash 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.



## Comments

I have reviewed the following documents,

- Preliminary Ecological Appraisal prepared by Harris Lamb Property Consultancy 26<sup>th</sup> May 2022
- Biodiversity Net Gain Assessment prepared by Harris Lamb Property Consultancy 24<sup>th</sup> February 2023
- Skylark Mitigation Scheme for land adjacent to Ilkeston Road prepared by Harris Lamb Property Consultancy January 2023
- Figure 1 - Reptile Mitigation Strategy prepared by Harris Lamb Property Consultancy January 2023

I have also reviewed DWT's biodiversity datasets for this area.

The proposed development site does not have any statutory or non-statutory nature conservation designations. The extended Phase I habitat survey, undertaken in April 2022 has identified a range of habitats on site including grassland, hedgerows, trees and ponds. Protected species surveys have been undertaken as part of the PEA and measures have been set out to address potential impacts.

### Impact on Local Wildlife Sites

The site is adjacent to three Local Wildlife Sites (Nutbrook Canal and Fields ER046, Sowbrook Pond, New Stanton ER045 and Ilkeston Road Pond and Nutbrook Canal ER188). Direct impacts on these sites are unlikely, but there could be indirect impacts from pollution, lighting, noise, increased disturbance. The Sowbrook Pond, designated for standing open water (pond) and associated woodland habitats around the pond, is within the site and probably most vulnerable to indirect impacts.

### Impacts on habitats and Biodiversity Net Gain

The habitats directly impacted by the proposal include neutral grassland, mixed scrub, trees and bramble scrub. However, 98% of the impact is on the grassland habitat. The biodiversity metric and net gain assessment are proposing to retain and enhance an area of the grassland and this together with other habitat creation and enhancements have been presented within the metric (version 3.1) and the BNG Assessment. The conclusion presented within the BNG Assessment is that a net gain of 10.55% can be achieved for habitats and a net gain of 56.15% for hedgerows.

There are two issues relating to the metric assessment as follows:

- a) The trading rules for the metric have not been met because the proposed habitat creation and enhancement do not fully address the loss of the other neutral grassland. Other neutral grassland is a habitat that must be compensated on a like for like of higher distinctiveness habitat. There is a loss of 27.46 habitat units (HU) and a gain of 17.67 HU. A further consideration is that if the grassland within the skylark mitigation area can be floristically enhanced it could be included in the metric as an off-site enhancement. Obviously, the priority is to create the optimal conditions for breeding skylark, but this probably does not preclude the enhancement of the grassland floristically. If this grassland enhancement can be added to the metric, it might address the issue with the trading rules.
- b) The metric includes a field for the strategic significance of the habitats being lost and habitats being created or enhanced. In this metric the strategic value for habitats being lost and habitat being created has been set to 'Area/compensation not in local strategy/ no local strategy'. This is the lowest category. However, for the habitats being enhanced the strategic value has been set to 'Location ecologically desirable but not in local strategy' which is a higher value. **The enhanced habitats are in the same location as the baseline habitats so further explanation for the change in strategic value of the area would be useful as it does change the outcome of the metric to some extent.**

In general, the proposals around habitat creation and enhancement and the location of these habitats, as shown on the Indicative Masterplan, are acceptable and should ensure that the adjacent Local Wildlife Sites especially Sowbrook Pond are not adversely affected. However, the above issues should ideally be resolved prior to determination.

#### Species considerations

The assessment has included surveys for protected species and provides sufficient information at this stage of the development process. Mitigation for species has been identified within the PEA and a Reptile Mitigation Strategy has been presented. The full mitigation details for protected species can be included as part of a Construction Environmental Management Plan (see conditions below).

### Skylark

The proposed skylark mitigation strategy is acceptable and the full details for the creation and management of this area should be drawn up within a detailed plan as per a suitable condition (see below). The proposals include the removal of hawthorn shrubs that form part of a fenceline and the strategy should include measures to replace this habitat either towards the edges of the skylark field or as part of the on-site measures.

### Reptile

Potential impacts on reptiles can be addressed through a reptile mitigation strategy and full details can be provided as part of the CEMP (see conditions).

### 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'"

A range of other targeted species enhancements can also be included as part of a Biodiversity Enhancement and Management Plan or equivalent (see conditions).

### **Conclusions**

The proposed development has a site level impact through the loss of grassland habitat. However, the site does not have any nature conservation designations and with suitable mitigation and enhancements as set out within the submitted PEA and BNG Assessment impacts on site and potentially to adjacent Local Wildlife Sites can be addressed. Details for mitigation in relation to impacts on skylark and reptiles have also been submitted and are acceptable.

There is an outstanding issue relating to the trading rules within the Biodiversity metric and it would be advisable to resolve this to ensure that the predicted biodiversity gains are fully in line with best

practice. In this respect it is worth noting that the BNG Best Practice Guidelines (CIRIA C776a, 2019) state that, “A BNG design should improve the extent or condition of biodiversity affected by a project. It should not result in lost or damaged features being replaced by features of lower biodiversity value. This is regardless of whether a metric shows an increased amount of biodiversity after a project compared with the baseline”. The Best Practice Guidelines also require that “Net gains should be in the same habitat as that affected by the development, or a habitat of higher biodiversity value that supports the same species affected”.

## **Conditions**

Notwithstanding the above issues several conditions are likely to be required for the development to address the biodiversity issues at the site.

### Construction Environmental Management Plan (CEMP: Biodiversity)

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 and habitats during construction (reptiles, breeding birds, amphibians, hedgehog, bats).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) 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 Plan (LBEMP)

A Biodiversity Enhancement and Management Plan (LBEMP) 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 provide details for the creation, enhancement and management of habitats and species on the site post development in accordance with the proposals set out in the submitted Biodiversity Metric (Harris Lamb Property Consultancy, February 2023) or subsequent revision of the metric. 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) Details of location of 196 integrated swift bricks in line with British Standard BS 42021:2022.
- c) Details of 8 Schwegler 2F bat boxes (or similar) and 12 external bird nesting boxes and reptile hibernacula.
- d) Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
- e) Detailed specifications for open water habitats to provide biodiversity benefits.
- f) Measures to maintain connectivity for hedgehogs shall be clearly shown on a plan (gaps 140 mm x 140 mm and/or railings and/or hedgerows) and submitted to the LPA for approval.
- g) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- h) Appropriate management methods and practices to achieve aims and objectives.
- i) Prescriptions for management actions.
- j) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- k) Details of the body or organization responsible for implementation of the plan.
- l) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 7, 10, 15, 20, 25 and 30 years.
- m) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- n) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP 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.

#### Skylark Management Plan

A Skylark Management Plan shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the SMP is to provide details for the long-term management of the off-site habitat in accordance with the proposals set out in the submitted Skylark Mitigation Scheme for Land Adjacent to Ilkeston Road (Harris Lamb Property Consultancy, January 2023). The SMP 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 enhanced and managed.
- b) Aims and objectives of management.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 7, 10, 15, 20, 25 and 30 years.
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- i) Requirement for a statement of compliance upon completion of planting and enhancement works.

The Skylark Management Plan 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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