

Appeal Ref: APP/C3430/W/24/3344658

Application Ref: 23/000145/FUL

Appeal by: Anglo ES Levedale Ltd, C/O Mr James Stone of Anglo Renewables Ltd

Site at: Land on the southwest side of Levedale Road, Penkridge, Staffordshire, ST18 9AH

Consultee comments

Senior Ecologist - South Staffordshire

Comment Date: Fri 03 Nov 2023

Summary of Consultee Position:

No objection subject to conditions

Introduction

Thank you for reconsulting me on this application. In addition to the documents, I viewed as part of my initial response I have now also reviewed the amended layout and amended arboricultural reports for this application, as well as the Naturespace reports.

I have visited the site and have also viewed aerial photographs, biological records from Staffordshire Ecological Record, and information on DEFRA's MAGIC map to inform my response.

Assessment of Submitted Documents and Plans

Designated Wildlife Sites

I consider it likely that the proposed development will not result in significant effects to designated wildlife sites. I am satisfied that the potential risk to designated wildlife sites because of the proposed development is negligible.

Habitats

My previous consultation response noted a concern regarding impacts to the veteran trees on site from the proposed access. I recommended as part of this response that the access be amended to progress further east through a hedgerow, thus avoiding impacts to the veteran trees. I welcome the amended proposed layout, which diverts the access as suggested above, and avoids the impact.

Based on the information submitted I am satisfied that the proposed development will result in a net gain for biodiversity of c.13.10% in habitat units and 36.11% for hedgerows. I note that the biodiversity metric has not been amended since the removal of a small section of hedgerow but based on the significant quantity of proposed new hedgerow planting, I do not consider this minor additional loss to be material to the assessment of biodiversity impacts.

I therefore have no significant concerns regarding the impact of the proposed development to habitats, and welcome the biodiversity net gains associated with the proposed development for which I have recommended a Habitat Management and Monitoring Plan to secure the long-term management of.

Protected Species

My previous response indicated concerns regarding the significant pruning of T6 (as per the arboricultural report), which is a veteran tree and the associated potential impacts to roosting bats. The amended layout has alleviated these concerns by avoiding impacts to T6. I therefore have no significant concerns in relation to roosting bats.

My previous response also noted that the applicant had not submitted reports to confirm that they were participating with Naturespace's District-Level Licensing Scheme. I have now received and reviewed the impact plan and district licence report from Naturespace, and am satisfied that any constraints regarding great crested newts are now addressed. I recommend that the conditions detailed within the Naturespace report are included on any decision notice to secure this approach.

I consider that the habitats proposed on site will likely increase not only the botanical diversity on site but also the diversity of fauna in the local area in comparison to the baseline arable habitat, particularly birds, amphibians, invertebrates, small mammals (including bats) and reptiles. I welcome these enhancements.

I have no significant concerns regarding the proposed development and impacts to protected species. Pre-commencement checks for badger and Schedule 1 birds (specifically hobby) must be progressed and I have recommended a condition to ensure this is progressed. I consider it likely that the site will be enhanced for biodiversity overall from the baseline on completion of the proposed development.

Recommendations

Should you be minded to approve the application, I recommend the following conditions and informative notes are added to any decision notice:

Condition 1 - Compliance with existing documents

All ecological measures including pre-commencement checks for badger and Schedule 1 birds shall be carried out in accordance with the details contained in the ecological impact assessment report by The Environment Partnership (reference 9562.007) dated March 2023 as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To prevent harm to habitats and species of conservation value in accordance with Policy EQ1 of the adopted Core Strategy.

Condition 2 - Construction and Environmental Management Plan (CEMP)

No development shall take place, including groundworks or any necessary vegetation clearance until a construction and environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- a) A risk assessment of potentially damaging activities and the phases associated with them.
- b) Identification of biodiversity protection zones.
- c) Practical measures (both physical measures and sensitive working practices such as

timing) to avoid or reduce impacts to ecological features during site clearance and construction.

- d) The location and timing of sensitive works to avoid harm to ecological features.
- e) The times during construction when an ecological clerk of works (ECoW) needs to be present (as appropriate).
- f) Role and responsibilities of the ECoW if appropriate.
- g) Responsible persons and lines of communication.

The approved CEMP scheme shall thereafter be fully implemented throughout all construction work and any physical protective measures kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed from the site.

Reason: To prevent harm to habitats and species of conservation value in accordance with Policy EQ1 of the adopted Core Strategy.

Condition 3 - Landscape and Ecological Management Plan (LEMP)

Prior to first use of the development, a combined Landscape and Ecological Management Plan (LEMP) must be submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on the site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options to achieve aims and objectives for no less than a 30-year period.
- e) Detailed management prescriptions and a work schedule with annual plan
- f) Responsibilities of bodies/organisations for implementation against actions
- g) Monitoring and remedial measures

The plan shall also set out (where monitoring shows that aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan shall be implemented in accordance with the approved details.

Reason: To deliver biodiversity enhancements as part of the development, in accordance with the requirements of Core Policy 2 and Policies EQ1 and EQ11 of the Core Strategy, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.

Informative Notes:

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. The nesting bird season is considered to be between 1 March and 31 August inclusive, however some species can nest outside of this

period. Suitable habitat for nesting birds are present on the application site and should 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.

Please note that planning permission does not override or preclude the requirement to comply with protected species legislation. Should protected species be found (or be suspected to be present) at any time during site clearance or construction, works must cease immediately and Natural England and/or a suitably qualified professional ecologist must be contacted for advice.

Policy and Legislative context in relation to this application

The National Planning Policy Framework (2021) s.174 states: "Planning policies and decisions should contribute to and enhance the natural and local environment by: ... ? d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"

NPPF s.180 states that "When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity 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..."

South Staffordshire Council adopted Local Plan Core Strategy policy EQ1: Protecting, Enhancing and Expanding Natural Assets states that permission will be granted for development that would not cause significant harm to species that are protected or under threat and that wherever possible, development proposals should build in biodiversity by incorporating ecologically sensitive design and features for biodiversity within the development scheme.

The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended); along with the Protection of Badgers Act 1992, provide the main legislative framework for protection of species. In addition to planning policy requirements, the LPA needs to be assured that this legislation will not be contravened due to planning consent. In addition to these provisions, section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. Section 41 refers to a list of habitats and species of principal importance to which this duty applies.

Natural England Standing Advice which has the same status as a statutory planning response states that survey reports and mitigation plans are required for development projects that could affect protected species, as part of obtaining planning permission.

European Protected Species (to include in Committee/Delegated reports as an Annex, not on Decision Notices)

The Local Planning Authority in exercising any of their functions, have a legal duty to have

regard to the requirements of the Conservation of Species & Habitats Regulations 2017 which identifies 4 main offences for development affecting European Protected Species (EPS).

- Deliberate capture or killing or injuring of an EPS
- Deliberate taking or destroying of EPS eggs
- Deliberate disturbance of a EPS including in particular any disturbance which is likely to:
 - I. impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or
 - II. in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
 - III. to affect significantly the local distribution or abundance of the species to which they belong.

- Actions resulting in damage to, destruction of, or obstruction of an EPS breeding site or resting place.

A district level licence has been applied for in relation to great crested newt, and I am satisfied that issuing of this licence subject to the second-stage fee payment would ensure compliance with the Habitat Regulations. Ecological reports indicate that the risk to other European Protected Species (such as bats) is likely to be negligible, and no further consideration of the Habitat Regulations is therefore necessary.

Comment Date: Mon 15 May 2023

15.05

Thank you for consulting me on this application. I have reviewed the following planning application documentation for the above application:

- o Preliminary ecological appraisal report - The Environment Partnership (Ref: 9562.001)
- o Ecological impact assessment report - The Environment Partnership (Ref: 9562.007)
- o Pre-application advice provided to the applicant by County Ecologist Dr Sue Lawley (15th September 2022)
- o Biodiversity net gain design stage report - The Environment Partnership (Ref: 9562.006)
- o General arrangement (Enplan, Oct 2022)
- o Location plan (DLP Planning, Jan 2023)

I have visited the site (11/05/23) and have also viewed aerial photographs, biological records from Staffordshire Ecological Record, and information on DEFRA's MAGIC map to inform my response.

Summary of Consultee Position: Holding objection subject to further information/scheme amendment.

The majority of the submitted information is satisfactory, however the scheme currently results in significant incursions into the RPA of veteran trees (T5 and T6) as well as significant pruning works to reduce the canopy of T6 up to 63% which may also affect potential bat roosts.

I consider that this objection can be overcome through the redirection of the access track between T6 and T7 (through H3) to avoid the root protection areas of veteran trees and to preclude the requirement for significant pruning works to a veteran tree.

The arboricultural report also identifies a potential cable route extending northeast from the NE boundary. This area hasn't been surveyed in the ecological report (i.e., in relation to potential impacts to habitat, badger etc.) and I require further information on this before I

am able to be satisfied that the impacts arising from this are not significant.

Assessment of Submitted Documents and Plans

Designated Wildlife Sites

I have no concerns regarding the proposed development and designated wildlife sites.

Habitats

The arboricultural report identifies T5, T6 and T9 (references as arboricultural report) as veterans.

I defer to any comments made by the arboricultural officer in relation to the appropriateness of RPAs and tree protection measures, however the trees detailed above have been identified as veteran trees in the arboricultural report. Veteran trees are ecologically important features and qualify as irreplaceable habitat and Natural England's standing advice therefore applies (Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK (www.gov.uk)); the ecological importance of veteran trees has been largely overlooked in the application documents.

Natural England's standing advice states: "For ancient or veteran trees (including those on the woodland boundary), the buffer zone should be at least 15 times larger than the diameter of the tree. The buffer zone should be 5 metres from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter.". At present the proposed RPAs fall 20% short of this recommendation as presented in the table below.

I am also concerned that the crown radius of T6 has been recommended to be pollarded to 4m to facilitate retention due to impacts from access. This results in an 11%, 52%, 58% and 63% reduction to the north, east, south and west respectively. Given the veteran nature of the tree, it is likely that this pollarding will not only remove some veteran features, but it may also result in the loss of potential bat roost features (this has been discussed further below).

It appears that the mitigation hierarchy has not been followed in relation to veteran trees. All veteran trees should be retained and appropriately protected as they are ecologically important features.

I note from the site location plan that the blue line boundary extends significantly further than the red line boundary. To facilitate the appropriate retention of T6, as well as to avoid additional impacts to the RPAs of T5 and T9, at face-value it seems sensible to first avoid impacts by diverting the access track through H3, between T6 and T7. Whilst this would result in the loss of additional hedgerow (though species-poor), it would enable the retention and protection of the veteran tree T6 which is of greater ecological importance, and would preclude the requirement for significant pruning to T6 and RPA incursions into both veteran trees T5 and T6.

The arboricultural report also identifies a potential cable route extending northeast from the NE boundary. This area hasn't been surveyed in the ecological report (i.e., in relation to potential impacts to habitat, badger etc.) and I require further information on this before I am able to be satisfied that the impacts arising from this are not significant.

The application is accompanied by a biodiversity metric (DEFRA 3.1) which I have reviewed and agree with. The resultant biodiversity net gain percentage post-development is a 13.10% gain to habitats and a 36.11% gain to hedgerows. Subject to receipt of further information, I will propose a condition for a combined Landscape and Ecological Management Plan to secure habitat creation measures for a period of no less than 30 years.

GCN

In relation to great crested newt (GCN), the EclA confirms that the applicant will proceed with the district level licence (DLL) approach administered by Naturespace. Naturespace's recent consultation comment confirms that no certificate has been issued in relation to GCN for this site, and until this has been submitted with the application, I cannot confirm that appropriate avoidance, mitigation and compensation measures for GCN have been secured.

Bats
T2 in the EclA (T6 in the arboricultural assessment) has been recommended for significant crown reduction via pollarding to 4m. Further assessment of this tree for roosting bats has not been progressed and I am therefore not satisfied that the potential risk to roosting bats has been fully assessed.

It must be noted that impacts to this tree can be avoided through amendment to the site access (as described above), and that should this amendment be progressed, the further assessment of this tree for roosting bats is not likely to be necessary, though I would expect potential impacts to be fully explored (including the potential for disturbance).

I concur with the assessment in the EclA that most of the site likely has limited suitability for foraging and commuting bats given the arable nature of the site. I also agree that the habitat creation measures proposed will ensure continuity of foraging and commuting resources for bats at the site post-development providing that appropriate management and lighting is secured.

Birds

As most hedgerows are retained, the main impacts to farmland birds are via the loss of the arable habitat. The proposal includes small areas of wildflower foraging habitat and a larger area of tussock grassland. Providing these areas are managed appropriately for farmland birds (such as skylark) I am satisfied that the proposals will not result in significant adverse effects to farmland birds.

The EclA identifies a potential risk to Schedule 1 birds, specifically hobby, that may nest in mature trees. Pre-commencement checks and precautionary working practices have been proposed to address these concerns and I consider these to be appropriate.

Mammals (excl. bats)

The EclA identifies potential impacts to brown hare and hedgehog and recommends that precautionary working measures can be detailed within a CEMP to address potential impacts, I consider this to be appropriate.

The EclA also recommends an update walkover survey for badger at least 6 weeks prior to commencement which I am satisfied with and have provided an appropriately worded condition for below.

In relation to hazel dormouse, I have reviewed the dormouse nut search technical note and am satisfied with the conclusion that hazel dormouse is likely absent. I am satisfied that precautionary working measures will be sufficient to reduce the risk of a legislative breach to this species to a negligible level.

Recommendations

Further information is required prior to determination, this includes:

- o Clarification of how impacts to the veteran trees identified on site will be avoided, to ensure long-term retention of these trees.
- o Clarification of potential impacts to roosting bats in relation to T2 (T6 in the arboricultural assessment) if necessary (dependant on scheme amendment).
- o Provision of certificate from Naturespace to confirm the applicant is joining the district level licensing scheme or further information regarding how impacts to GCN will be

addressed including further survey as appropriate.

Once further information has been provided I will provide detail on suitable planning conditions should you be minded to approve the application.

Policy and Legislative context in relation to this application

The National Planning Policy Framework (2021) s.174 states: "Planning policies and decisions should contribute to and enhance the natural and local environment by: ... ? d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"

NPPF s.180 states that "When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity 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..."

South Staffordshire Council adopted Local Plan Core Strategy policy EQ1: Protecting, Enhancing and Expanding Natural Assets states that permission will be granted for development that would not cause significant harm to species that are protected or under threat and that wherever possible, development proposals should build in biodiversity by incorporating ecologically sensitive design and features for biodiversity within the development scheme.

The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended); along with the Protection of Badgers Act 1992, provide the main legislative framework for protection of species. In addition to planning policy requirements, the LPA needs to be assured that this legislation will not be contravened due to planning consent. In addition to these provisions, section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. Section 41 refers to a list of habitats and species of principal importance to which this duty applies. Natural England Standing Advice which has the same status as a statutory planning response states that survey reports and mitigation plans are required for development projects that could affect protected species, as part of obtaining planning permission.

Arboricultural Officer Consultation

Comment Date: Fri 03 Nov 2023

No objection subject to layout amendments avoiding root protection area incursion.

County Highways

Comment Date: Wed 31 May 2023

Recommendation Summary: Conditional

Site Visit Conducted on: 23-May-2023

1. The development hereby permitted shall not be brought into use until the access to the site within the limits of the public highway has been constructed and completed.
2. The development hereby permitted shall not be brought into use until the access road rear of the public highway has been constructed to a minimum width of 5.0m, surfaced and thereafter maintained in a bound and porous material in accordance with the approved plans.

3. The development hereby permitted shall not be commenced until the visibility splays shown on drawing No. ST5050-2PD-002A have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.

4. The development hereby permitted shall not be brought into use until the parking, servicing and turning areas have been provided in accordance with the approved plans.

Reasons.

1. In the interest of highway safety and to comply with Staffordshire County Council requirements for a vehicular access crossing.

2 - 4. In the interest of highway safety.

To comply with the principles set out in the National Planning Policy Framework.

Informative for Decision Notice.

The construction of the vehicular access shall require a Highway Works Agreement with Staffordshire County Council. The applicant is requested to contact Staffordshire County Council in order to secure the Agreement. The link below is to the Highway Works Information Pack including an application Form. Please complete and send to the address indicated on the application Form or email to

(road.adoptions@staffordshire.gov.uk). The applicant is advised to begin this process well in advance of any works taking place in order to meet any potential timescales.

<https://www.staffordshire.gov.uk/Highways/highwayscontrol/HighwaysWorkAgreements.aspx>

Note to Planning Officer.

The proposed development is located in a rural area. The vehicular access is from a classified road subject to a speed limit of 40 mph. There are no recorded vehicular accidents within the required visibility splay of the access in the last 5 years. The conditional recommendation is based upon the information submitted. This application has been dealt with as a separate site although it is noted that an application has been submitted close by. The predicted daily HGV movements are relatively low.

Staffordshire County Council Flood Risk Management Team

Comment Date: Mon 22 May 2023

Thank you for consulting us on this planning application, our response is as follows:

Advice to LPA

We ask to be consulted on the details submitted for approval to your Authority to discharge this condition and any subsequent amendments/alterations. Please also consult us again on any future major changes to the proposed development or drainage scheme.

Staffordshire County Council Flood Risk Management position

The proposed development will only be acceptable if the following planning condition is imposed:

Condition:

No development shall take place until a fully detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority in

consultation with the Lead Local Flood Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

- o Surface water drainage system(s) designed in full accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (SuDS), (DEFRA, March 2015).
- o Sustainable Drainage Systems designed and implemented in full concordance with the Staffordshire County Council (SCC), SuDS Handbook.
- o Provision of evidence of compliance with the principles of the drainage hierarchy, as described in Part H of the Building Regulations. Satisfactory evidence of fully compliant infiltration testing in full accordance with BRE 365 best practice guidance, in order to confirm or not as to the viability of infiltration as a means of surface water discharge.
- o SuDs designed to provide satisfactory water quality treatment, in accordance with the CIRA C753 SuDS Manual Simple Index Approach and SuDs treatment design criteria. Mitigation indices are to exceed pollution indices for all sources of runoff.
- o Limiting any off-site conveyance of surface water discharge from the site to the rate generated by all equivalent rainfall events up to 100 year plus (40%) climate change in accordance with the guidance in the SCC SuDs Handbook- i.e. to Greenfield equivalent rates.
- o Provision of appropriate surface water runoff attenuation storage to manage all surface water discharge on site.
- o Detailed design (plans, network details and full hydraulic modelling calculations), in support of any surface water drainage scheme, including details on any attenuation system, SuDS features and the outfall arrangements. Calculations should demonstrate the performance of the designed system and attenuation storage for a range of return periods and storm durations, to include, as a minimum, the 1:1 year, 1:2 year, 1:30 year, 1:100 year and the 1:100-year plus (40%) climate change return periods.
- o Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system. Finished floor levels to be set higher than ground levels to mitigate the risk from exceedance flows.
- o Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water drainage systems shall be maintained for the lifetime of the development. To included the name and contact details of the party(/ies) or body(/ies) responsible.

The development shall thereafter proceed in accordance with the approved details.

Reason

To reduce the risk of surface water flooding to the development and properties downstream of the development for the lifetime of the development.

Condition

The applicant and developer are to ensure that adequate and satisfactory provision for the management and control of surface water are in place as part of any temporary works associated with the permanent development, to ensure that flood risk is not increased prior to the completion of the approved drainage strategy and flood risk assessment.

Reason

To reduce the risk of surface water flooding to the development and surrounding properties during construction.

Comment Date: Thu 20 Apr 2023

RESPONSE

Thank you for consulting us on this planning application, our response is as follows:

Advice to LPA:

The LLFA recommends that planning permission is not granted on the following grounds. If you are minded to approve the application contrary to this advice, we request that you contact us again to allow further discussion.

Staffordshire County Council Flood Risk Management position

In the absence of an acceptable Flood Risk Assessment (FRA) and Drainage Strategy the LLFA recommends that planning permission is not granted on this basis for the following reasons:

Rainwater Reuse and Harvesting (SuDs Hierarchy)

In adherence to the SuDs hierarchy (hierarchy of methods of surface water discharge) the applicant should consider utilising rainwater reuse and harvesting as the primary means of surface water management. Where feasible, rainwater should be intercepted and attenuated as close to the source as possible. Therefore the LLFA would like the applicant to utilise rainwater reuse and harvesting wherever possible and feasible.

Infiltration Testing

In order to corroborate that infiltration (soak-away-to-ground), is unviable as a means of surface water discharge on the proposed development site, please can the LLFA request that full and complete infiltration testing is carried out. This should be in complete concordance with the BRE 365 industry best practice infiltration testing guidelines. A full and complete infiltration testing report should be presented for LLFA review.

Detailed Drainage Design Drawing

A fully labelled and annotated detailed drainage design drawing should be submitted for LLFA review and approval. All component structures of the proposed development's SuDS network should be labelled with associated metrics, dimensions etc. All pipes/conveyance structures should be labelled with lengths, slopes, diameters etc. Basins should have side slopes labelled as well as volumes, water levels, and associated freeboards. Network nodes and manholes should also have all cover levels and invert levels appropriately indicated. Any surface water that may be discharge off site should be labelled, with point of outfall and any associated restricted rates.

Management and Maintenance

Please can the specific party/(ies) and/or body/(ies) be identified that are responsible for the management and maintenance of the proposed development's drainage system for its entire lifespan. Contact details should be provided as well as the funding mechanism evidenced.

Hydraulic Modelling Calculations

In order to demonstrate the satisfactory performance of the proposed drainage system, please can the LLFA request that hydraulic modelling (e.g. MicroDrainage), is undertaken. This modelling should evidence a range of return periods, including the 1 in 1, 1 in 2, 1 in 30, 1 in 100 and 1 in 100 plus (40%) Climate Change. Critical duration storms only need be presented.

Discharge Agreements

Please can the applicant provide evidence as to any appropriate agreements/ permissions to discharge surface water flows into downstream surface water networks.

Development Management and Construction Phasing Plan (CEMP/CSWMP)

In order to demonstrate that surface water runoff quality and quantity has been adequately

provisioned for, from the inception of any site activities (during all construction phases). A Construction Surface Water Management Plan (which may form part of a Construction Environment Management Plan), should be submitted for LLFA review and approval.

Exceedance Flow Plan

In the event of any extreme rainfall event which may cause the proposed development's drainage infrastructure to become exceeded, it needs to be demonstrated that any exceedance flow routes are directed away from vulnerable receptors. Please therefore may the LLFA request that an exceedance flow plan is submitted for LLFA review and approval .

Impermeable Area Plan

Please may the LLFA request that a plan denoting all proposed impermeable areas, broken down into drainage 'sub-catchments' draining to specific network nodes, is submitted. This should then be able to be cross referenced with the hydraulic modelling calculations requested above.

The above listed points may not necessarily be exhaustive at this stage, please once they have each been directly addressed, in turn, can the LLFA request that we are reconsulted with the revised details for review.

Reason:

The submitted documents do not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

County Planning

Comment Date: Mon 15 May 2023

Further to our letter dated 18 April 2023, I write to respond to additional information submitted by the applicant to address concerns raised by Staffordshire County Council, acting as the Mineral and Waste Planning Authority.

Background

Staffordshire County Council previously responded to your Authority's consultation in relation to the proposed battery energy storage facility with a holding objection (refer to our letter dated 18 April 2023 ref: SCC/23/0046/CON). Since, we have received additional information from the applicant's agent in a letter dated 2 May 2023.

Observations

To reiterate, our records confirm that the site falls within the Mineral Safeguarding Area (MSA) for Superficial Sand and Gravel, as defined in the Minerals Local Plan for Staffordshire (2015-2030).

Paragraph 212 of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015-2030) aim to protect mineral resources from sterilisation by other forms of development.

The additional information confirms that:

The battery modules as set out in the Design and Access Statement will involve limited disturbance of the ground with battery storage units being positioned on top of a permeable gravel surface.

o The construction of a BESS site is reversible, thereby meaning that there would be no permanent mineral sterilisation.

Conclusions

Having regard to the policies, guidance and observations referred to above, it is now reasonable to conclude that the proposed development would not lead to the permanent sterilisation of significant mineral resources.

Therefore, in accordance with the powers contained in the 'Scheme of Delegation to Officers', this letter confirms that Staffordshire County Council, acting as the Mineral and Waste Planning Authority, has no objection, to the planning application for a proposed battery energy storage facility and substation with new access and associated fencing and landscaping on Land on the Southwest side of Levedale Road for the reasons described above.

I trust that Staffordshire County Council's observations will be taken into account in reaching a decision on the application.

Comment Date: Fri 21 Apr 2023

I refer to your consultation letter dated 28 March 2023 in connection with the above and write to confirm the observations of Staffordshire County Council, acting as the Mineral and Waste Planning Authority.

Background

The application seeks planning permission for a 49.9W Battery Energy Storage Facility, on a 3.8-hectare site currently in agricultural use. The facility would provide electrical back up to the National Grid.

The facility would comprise of 42 battery cabinets alongside 36 power control units. As well as including a small control room and facility for the storage of maintenance equipment.

Observations

Our records confirm that the site falls within the Mineral Safeguarding Area (MSA) for Superficial Sand and Gravel, as defined in the Minerals Local Plan for Staffordshire (2015-2030).

Paragraph 212 of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015-2030) aim to protect mineral resources from sterilisation by other forms of development. Specifically, Policy 3.2 states that:

Within a Mineral Safeguarding Area, non-mineral development except for those types of development set out in Appendix 6, should not be permitted until the prospective developer has produced evidence prior to determination of the planning application to demonstrate:

a) The existence, the quantity, the quality and the value of the underlying or adjacent mineral resource; and

b) That proposals for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations.

Furthermore, Policy 3.3 states:

Within a Mineral Safeguarding Area, where important mineral resources do exist, except for those types of development set out in Appendix 6, non-mineral development should not be permitted unless it has been demonstrated that:

- a) The non-mineral development is temporary and does not permanently sterilise the mineral; or
 - b) The material planning benefits of the non-mineral development would outweigh the material planning benefits of the underlying or adjacent mineral;
- or,
- c) It is not practicable or environmentally acceptable in the foreseeable future to extract the mineral.

It is assumed that the proposed facility is a permanent installation and therefore, a mineral resource assessment should be carried out in accordance with Policy 3.2 of the Minerals Local Plan. Information should be provided as to the extent that mineral would be disturbed in the construction of the facility and whether there is scope for any prior extraction of underlying sand and gravel.

Conclusions

Having regard to the policies, guidance and observations referred to above, it is reasonable to conclude that the proposed development could sterilise important mineral resources and therefore, prior to determination of the application, information should be provided by the applicant to address the requirements of Policy 3 of the Minerals Local Plan.

Therefore, in accordance with the powers contained in the 'Scheme of Delegation to Officers', this letter confirms that Staffordshire County Council, acting as the Mineral and Waste Planning Authority, has a holding objection to the planning application for a proposed battery energy storage facility and substation with new access and associated fencing and landscaping on Land on the southwest side of Levedale Road, Levedale for the reasons described above.

Staffordshire Fire And Rescue Service

Comment Date: Wed 26 Apr 2023

I refer to the planning application dated 17 February 2023 depicting the proposed development at the above address.

FIRE MAINS, HYDRANTS AND VEHICLE ACCESS

Appropriate supplies of water for fire fighting and vehicle access should be provided at the site, as indicated in Approved Document B Volume 2 requirement B5, section 15 and 16.

I would remind you that the roads and drives upon which appliances would have to travel in order to proceed to within 45 metres of any point within the property, should be capable of withstanding the weight of a Staffordshire firefighting appliance (G.V.W. of 17800 Kg).

AUTOMATIC WATER SUPPRESSION SYSTEMS (SPRINKLERS)

I wish to draw to your attention Staffordshire Fire and Rescue Service's stance regarding sprinklers.

Staffordshire Fire & Rescue Service (SFRS) would strongly recommend that consideration be given to include the installation of Automatic Water Suppression Systems (AWSS) as part of a total fire protection package to:

- Protect life, in the home, in business or in your care.
- Protect property, heritage, environment and our climate;
- Help promote and sustain business continuity; and
- Permit design freedoms and encourage innovative, inclusive and sustainable architecture.
- Increase fire fighter safety
- The use of AWSS can add significant protection to the structural protection of buildings from damage by fire.

Without this provision, the Fire and Rescue Service may have some difficulty in preventing a complete loss of the building and its contents, should a fire develop beyond the stage where it cannot be dealt with by employees using first aid fire fighting equipment such as a portable fire extinguisher.

SFRS are fully committed to promoting Fire Protection Systems for both business and domestic premises. Support is offered to assist all in achieving a reduction of loss of life and the impact of fire on the wider community.

Early consultation with the Fire Service when designing buildings which incorporate sprinklers may have a significant impact on reducing financial implications for all stakeholders.

Further information can be found at www.bafsa.org.uk/ - the website of the British Automatic Fire Sprinklers Association Ltd.

Severn Trent Water Ltd

Comment Date: Mon 24 Apr 2023

With Reference to the above planning application the company's observations regarding sewerage are as follows.

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

Environment Agency

Comment Date: Thu 20 Apr 2023

Thank you for referring the above application for review in respect of COMAH Regulations, which was received by us on 29th March 2023.

According to our records there are no COMAH sites or high hazard assets within the vicinity of the proposed development. We therefore have no comment to make.

Kully Tanda - Designing Out Crime Officer

Comment Date: Thu 20 Apr 2023

The proposal has been reviewed with particular reference to Police CPI's Secured by Design guidance and in accordance with the recognised principles of Crime Prevention Through Environmental Design.

The following comments should be considered in the light of the following:

- o Under the heading Promoting Safe and Healthy Communities, Para 91(b) of the NPPF states "Planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion."
- o Under the heading Achieving Well-Designed Places, Para 127(f) of the NPPF states "Planning policies and decisions should ensure that developments create places that are safe ? and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."
- o Under the heading Planning Should Address Crime Prevention, Design Para 10 of the NPPG states "Designing out crime and designing in community safety should be central to the planning and delivery of new development";
- o South Staffordshire District Council LDF Core Policy:
 - o Core Policy 13, Community Safety states;
The design of buildings and spaces can make a significant contribution towards reducing the scope for crime, and create more pleasant and reassuring environments in which to live, work and play. The opportunities for crime to occur can be minimised by designing and planning out crime in new development. The Council supports the national guidance 'Secured by Design' and will continue to work with Staffordshire Police architectural liaison officer in relation to the design and layout of development proposals.
 - o Policy CS1: Designing Out Crime:
 - o In accordance with Core Policy 13, the design of development must include, means of reducing the opportunities for crime and anti-social behaviour, and must also seek to reduce the potential for fear of crime. This will include support for:
 - o Social facilities to be provided in locations which can be adequately controlled and supervised;
 - o Development to be designed to increase natural surveillance of public and private spaces, with continuous public surveillance as an alternative;
 - o Liaison with the Police to design out crime and fear of crime in specific schemes which also meet other design objectives in Policy EQ11.

Development proposals should be consistent with other local planning policies.

Core Policy 13 sets out the strategic policy for community safety that supports the aims and objectives of the Sustainable Community Strategy and the Community Safety Partnership Plan. The above Policy provides further detail on the design of development and 'Secured by Design', and in turn supports Policy EQ11 covering wider design considerations.

- o The statutory obligation placed on local authorities to do all they reasonably can to prevent crime and disorder in accordance with Section 17 of the Crime and Disorder Act 1998;
- o The 2006 CABE document entitled 'Design and Access Statements: How to Write, Read

and Use Them', which states "Statements should demonstrate how development can create accessible and safe environments, including addressing crime and disorder and fear of crime."

It is important that I take this opportunity to provide the following guidance and recommendations aimed at reducing opportunities for crime and ensuring that high level of physical security is incorporated in this development.

In light of the current energy costs increasing at a rapid rate, there is a potential risk for the at the site for attempts theft, criminal damage and even harm to offenders. With that borne in mind, security at the site is paramount.

Over the past few years, the national trend relating to an increase of crime connected to solar farms has also been observed in Staffordshire, with a solar farm in South Staffordshire being a repeat target. The trend was first observed in 2019, where the solar panels were being stolen, in 2020 the offenders started stealing the copper cables, with approximately 50m of cable being stolen on each occasion. The solar farms were often targeted on more than one occasion in quick succession, as they are already aware of the solar farm, the security levels and if the site has monitored CCTV. The thefts are arranged by organised groups, who often target many solar farms, so they are experienced and know how avoid being captured by the CCTV and/or the police.

The price of scrap metal is on the rise, which also means the reward for the thieves will also rise. The thieves will also know of which scrap metal yards will purchase the copper with no questions asked.

As solar farms are usually found in rural areas, nationally the trend is for solar farm developments are only permitted to install a deer fence as a security perimeter, these do not deter thieves and do not prevent access to the solar farm itself.

Whilst this is not a Solar Farm, the potential for a similar attack must be considered.

Design Concerns

As I mentioned in my preapplication response, I have concerns regarding security of the site. The plans only indicate the perimeter fence will be around the substation. I recommend the perimeter fence enclosed the whole site, including the battery containers and the inverters and transformers.

I recommend the site access is restricted to authorised personnel only. The format this takes, depends on the accessibility of the site.

I support the intention to install a CCTV in these proposals. I recommend this CCTV should be monitored, and the vulnerable areas are covered and where possible alarmed. Views from boundary corners and down straight lengths of the boundary should be considered.

The site is in a very remote location. I recommend an alarm system should be considered for the site. It may be beneficial to install a Perimeter Intruder Detection System (PIDS) within the site, with infrared beams running adjacent to the perimeter fence line, the presence of intruders will activate the alarm as soon as they enter the site, therefore allowing the police to respond whilst the intruders are still onsite.

The only way to prevent this method of criminal attack is to provide Monitored CCTV and a Robust Boundary.

Perimeter Fencing

I recommend that the perimeter fence be constructed of colour coded, expanded metal or welded mesh, to LPS 1175: Issue 7 SR1 to a minimum height of 2.3m. The top horizontal bar can be left off in order to leave the fence topping spiked. The base of the fence should preferably be surrounded with well-compacted gravel.

The rivets should have rounded fixings and joints should be welded. Gate locks should not aid climbing.

The perimeter fence will allow for access of small animals to enter the site, a low growing thorny hedge planted adjacent to the fence will increase security whilst retaining natural surveillance and should not interfere with formal surveillance.

Plants can be grown against the fence line, to help the fence to cause the lowest visual impact, but the planting should hinder the CCTV capability.

Alarm System

A passive infra-red intruder alarm system should be installed compliant with

- o BS EN 50131-1:2006+A3:2020 Grade 3, and
- o BS 8418 is the code of practice for the installation and remote monitoring of detector-activated CCTV systems.
- o ISO 9001:2000 for the management of the system.

A unique reference number for the installation will be required for a Police response.

CCTV Systems

A remotely monitored CCTV system provides a complete security package. Instead of having a CCTV system that just records, a monitored system allows an alarm receiving centre (ARC) to be aware of the status of the site at all times. This means that a prompt response can be initiated when an intrusion or activation is visible, resulting in potential problems being dealt with before they occur.

Reference should be made to Graded Requirements under:

- o BS EN 62676 Standards for CCTV: Technical Guide for Installers and Specifiers (BSIA Form 218) and
- o BS EN 62676 Series: Guidance for Customers About Grading and Other Important Matters (BSIA Form 217).

Both guides relate to the BS EN 62676 standards, themselves developed using Best Practice guidelines from a number of organisations including the BSIA, as well as the Government's Centre for Applied Science and Technology (CAST), while also incorporating ideas from British Standards.

Remotely monitored detector activated CCTV systems must be installed in accordance with BS 8418: 2015: Installation and remote monitoring of detector operated CCTV systems - Code of practice

For guidance on the use of CCTV images as legal evidence see also BS 7958: 2009 Closed circuit television (CCTV). Management and operation. Code of practice.

An Operational Requirement (OR) should be completed for any CCTV system to be installed at the site. An OR is defined as: A statement of needs based on a thorough and systematic assessment of the problems to be solved and the hoped-for solutions. This should address what is required of the CCTV system to be installed rather than the technical specification of this system. The supplier and installer should then specify a system that produces the required results. The installed system can be assessed against the OR and any deficiencies rectified.

The following criteria must be met to ensure best use of it is made:

- o The system must be registered with the Information Commissioner's Office.
- o The time and date displayed must be correct.
- o Check the cameras are covering vulnerable areas.
- o Ensure that the lighting supplies a constant level of light to enable the camera to "see".
- o A bench mark recording without recording people must be made to check subsequent images in the future.
- o Ensure the picture is clear enough to identify people.
- o Ensure that printed images are the same quality as those shown on the screen

Alarm Receiving Centres

If using a remote alarm receiving centre (ARC) to monitor the alarm system, they must be certified to the following:

- i) Cyber Essentials
- ii) BS 8418 Remotely Monitored detector Activated CCTV Systems
- iii) BS7958 Closed Circuit Television (CCTV) Management and Operation Code of Practice
- iv) BS5979 Alarm Receiving Centres Category II (withdrawn but still included for the benefit of legacy systems that remain in service)

or

BS-EN50518:2013 Monitoring and Alarm Receiving Centres + BS8591 Alarm Receiving Centres Category II (not intruder and Hold Up Alarms)

or

BS-EN50518:2019 Monitoring and Alarm Receiving Centre

Further information on securing solar farms can be found within the BRE Oct 2013 document "Planning Guidance for the development of large scale ground mounted solar PV systems", further information on accredited security products can be found at www.securedbydesign.com

Construction Security

It is paramount onsite security is used during the construction phase. Perimeter Intruder

Devices Systems (PIDS) are recommended.

Penkridge Parish Council

Comment Date: Mon 17 Apr 2023

Industrialisation of agricultural land in the Penkridge Area

Historic Environment Officer Archaeology

Comment Date: Thu 13 Apr 2023

Thank you for your consultation request regarding the proposed battery energy storage facility and substation with new access and associated fencing and landscaping at the above site. This letter outlines the response of Staffordshire County Council's Historic Environment Team regarding the historic environment implications of the proposals.

Archaeological/Historic Environment Interest

This application has been reviewed against the information held by the Staffordshire Historic Environment Record (HER), historic mapping and the Historic Environment Desk-based Assessment (HEDBA) submitted in support of the application. The information detailed in the HEDBA will not be repeated in detail here, although it demonstrated that the proposed development site is located within an area which has been subject to little archaeological investigation, hence the archaeological potential of the site is largely unknown; the HEDBA concluded that on the basis of available information, the potential for buried archaeology at the site is generally low, but highlighted that the proposed development has the capacity to disturb archaeological deposits where present. Within the wider landscape of the site, evidence of ridge and furrow and find spots ranging from prehistoric to post-medieval in date indicate past activity in the area.

Recommendations

Taking the above into account with regards to the uncertain archaeological potential of the site, and considering the potential impact of the scheme, it is advised that, should permission be granted, a staged archaeological evaluation be conducted in order to determine the significance of any surviving archaeological remains and to assess the need for and scope of further archaeological mitigation (such as excavation, watching brief etc.). The archaeological evaluation must be undertaken sufficiently in advance of construction so that, should further archaeological mitigation be required, it can be designed and fully implemented. This staged archaeological evaluation should comprise a geophysical survey followed by targeted trial trenching, the scale and location of which should be informed by the geophysical survey and any ground investigation works carried out associated with the proposed development or previously carried out and available.

This approach, i.e. archaeological evaluation, is supported by NPPF (2021) para 194, while any works which stem from the evaluation are supported by para 205. The works should be

undertaken by an appropriately experienced archaeologist working to the requirements of a brief prepared by this office (or approved Written Scheme of Investigation (WSI), the Chartered Institute for Archaeologists (CIfA) Code of Conduct and to a level commensurate with the relevant CIfA Standards and Guidance.

Suggested Condition

The above work* would most appropriately be secured via a condition being attached to any permission issued. This condition should state:

A) Prior to the commencement of the development hereby permitted, a written scheme of archaeological investigation ('the Scheme') shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-fieldwork reporting and appropriate publication.

B) The archaeological site work shall thereafter be implemented in full in accordance with the written scheme of archaeological investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and postfieldwork assessment has been completed in accordance with the written scheme of archaeological investigation approved under condition (A) and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured."

Area Footpath Secretary - Ramblers Association

Comment Date: Thu 13 Apr 2023

The proposal will have no adverse effect on The Staffordshire Way Long Distance Path which goes along Preston Vale Lane.

Therefore The Ramblers' Association has no objections to the proposal.

Environmental Health Protection

Comment Date: Thu 06 Apr 2023

I have reviewed the documents submitted with this application, in order to protect the amenity of the neighboring residential properties it is requested that it is conditioned that mitigation measures suggested in the noise assessment submitted with the application are implemented i.e.

1. The inverters should be fitted with a noise reduction kit comprising external acoustic baffles to the air inlets and outlets capable of reducing the total sound power level to those presented in Table 6 of the report.
2. A 3.5 m high noise barrier at the site boundary facing the closest residential properties as shown in Figure 4 of the report. The noise barrier should be solid, continuous, sealed at all interfaces and have a surface density in the order of 15 kg/m², or provide a minimum sound reduction performance of 15-20dB.

NatureSpace Partnership Newt Officer (Staffordshire)

Comment Date: Wed 05 Apr 2023

Response: Further Information Required

Recommendations:

The applicant has provided a preliminary ecological appraisal and ecological impact assessment and has recommended the applicant apply to join the district licence scheme or commit to further survey effort for great crested newts. Currently the applicant has enquired to use South Staffordshire Councils District Licence (ref: 202210002) but as of today's date they have not formally joined the scheme.

Therefore, in line with the guidance from Natural England (Great crested newts: District Level Licensing for development projects, Natural England, March 2021), there is a reasonable likelihood that great crested newts will be impacted by the development proposals and therefore, the applicant must either:

- Fill in the application form and submit a NatureSpace Report or Certificate to demonstrate that the impacts of the proposed development can be addressed through Stafford Borough Council's District Licence; or
- Provide further great crested newt survey information, in line with Natural England's Standing Advice, to rule out impacts to great crested newts, or demonstrate how any impacts can be addressed through appropriate mitigation/compensation proposals*; or
- If it is determined that there is no suitable habitat impacted on site and the likelihood of GCN is very low, then a precautionary working statement in the form of Reasonable Avoidance Measures (RAMs)/Non-Licensed Method Statement (NLMS) strategy documents completed by a suitably qualified ecologist may be acceptable for the development.

*Please be aware that as part of this potential population assessments may need to be undertaken by a suitable qualified ecologist in accordance with the Great Crested Newt Mitigation Guidelines (English Nature, 2001). If GCN are identified, then an EPS site-based mitigation licence may be required. Some of the surveys are seasonally constrained.

Comments:

This planning application is for the proposed battery energy storage facility and substation with new access and associated fencing and landscaping at Land On South West Side Of Levedale Road Levedale

Summary:

- The development falls within the red impact risk zone for great crested newts. Impact risk zones have been derived through advanced modelling to create a species distribution map which predicts likely presence. In the red impact zone, there is highly suitable habitat and a high likelihood of great crested newt presence.
- There are 21 ponds within 500m of the development proposal.
- There are great crested newt records within 500m of the application site.
- There is direct connectivity between the development and surrounding features in the landscape.

Figure above: The application site is outlined in red. The site lies within the red impact risk

zone. Some of the nearby ponds are shown in light blue. A 250m buffer is shown around the site in blue and a 500m buffer in green. Contains public sector information licensed under the Open Government Licence v3.0.

Pond Locations:

Pond Number/Easting/Northing

1	390039	315683
2	390179	316228
3	390268	316184
4	390315	316100
5	389918	316079
6	389879	316068
7	389807	315727
8	389763	316022
9	390428	315953
10	390430	315676
11	390016	316413
12	389702	315660
13	389620	315734
14	389669	315624
15	390042	316549
16	390567	316201
17	390634	315868
18	389559	315784
19	389740	316421
20	390552	315434
21	389835	315240

Ecological Information

The applicant has provided an ecological report, Preliminary Ecological Appraisal, Land of South of Levedale Road, The Environment Partnership, August 2022 and an Ecological Impact Assessment, The Environment Group, March 2023 Within the reports it states that:

o 'There is a high risk of direct impacts to great crested newt (injury and killing) due to the proximity of ponds to the development, and a record returned within 0.6km of the site. There is potential for great crested newt to be present within terrestrial habitat onsite whilst taking cover, foraging, and travelling through the site; particularly if the ponds within 250m of the site support this species'

o 'The site falls within a red impact risk zone for great crested newt. A separate report to be produced by Nature Space will be commissioned by the applicant to assess impacts on great crested newt based on the HSI results (Table 1 above) and other factors. The report will make any further recommendations, inform the District Level Licensing certificate for the site, and inform any required planning conditions relating to GCN.'

Conclusion and recommendation for conditions:

We are satisfied that the Preliminary Ecological Appraisal and ecological impact assessment has accounted for impacts to great crested newts and their habitats and that further information is required to inform the planning application.

The applicant has not yet formally joined the scheme. A formal application will need to be made to provide the suitable evidence to the LPA that the development has fully considered great crested newts and their habitats.

Therefore, in line with the guidance from Natural England (Great crested newts: District Level Licensing for development projects, Natural England, March 2021), there is a reasonable likelihood that great crested newts will be impacted by the development proposals and therefore, the applicant must either:

- Submit a NatureSpace Report or Certificate to demonstrate that the impacts of the proposed development can be addressed through South Staffordshire Council's District Licence; or
- Provide further information (eDNA or Presence:absence population surveys), in line with Natural England's Standing Advice, to rule out impacts to great crested newts, or demonstrate how any impacts can be addressed through appropriate mitigation/compensation proposals*; or
- If it is determined that there is no suitable habitat impacted on site and the likelihood of GCN is very low, then a precautionary working statement in the form of Reasonable Avoidance Measures (RAMs)/Non-Licensed Method Statement (NLMS) strategy documents completed by a suitably qualified ecologist may be acceptable for the development.

*Please be aware that as part of this potential population assessments may need to be undertaken by a suitable qualified ecologist in accordance with the Great Crested Newt Mitigation Guidelines (English Nature, 2001). If GCN are identified, then an EPS site-based mitigation licence may be required. Some of the surveys are seasonally constrained. More details on the district licensing scheme operated by the council can be found at www.naturespaceuk.com

Reasonable Likelihood of Protected Species

Permission can be refused if adequate information on protected species is not provided by an applicant, as it will be unable to assess the impacts on the species and thus meet the requirements of the National Planning Policy Framework (2021), ODPM Circular 06/2005 or the Conservation of Habitats and Species Regulations 2017 (as amended). The Council has the power to request information under Article 4 of the Town and Country (Planning Applications) Regulations 1988 (SI1988.1812) (S3) which covers general information for full applications. CLG 2007 'The validation of planning applications' states that applications should not be registered if there is a requirement for an assessment of the impacts of a development on biodiversity interests.

Section 99 of ODPM Circular 06/2005 states:

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and / or planning obligations before

permission is granted."

Great crested newts

Great crested newts and their habitats are fully protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Therefore, it is illegal to deliberately capture, injure, kill, disturb or take great crested newts or to damage or destroy breeding sites or resting places. Under the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any great crested newts occupying a place of shelter or protection, or to obstruct access to any place of shelter or protection (see the legislation or seek legal advice for full details). Local Planning Authorities have a statutory duty in exercising of all their functions to 'have regard, so far is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity', as stated under section 40 of the Natural Environment and Rural Communities Act 2006 (NERC). As a result, GCN and their habitats are a material consideration in the planning process.