



From: Richard Willis, Ecologist

To: Katherine Robbie, Senior Planning Officer

Your Ref: 19/00247/FUL

Date: 19/02/2019

Copy to: David Feige, Principal Ecologist

Extension: 01670 622661

Re: Construction of a publicly accessible landmark, commissioned to commemorate Queen Elizabeth II and the Commonwealth. Land At Cold Law Kirkwhelpington

In summary I have no objection to the proposal subject to a number of planning conditions being imposed and a legal agreement being completed.

Legal Agreement

The applicants ecological appraisal report has stated that, "There is good potential for the enhancement of habitats through reduced grazing pressure, creation of low nutrient substrates, some native tree and shrub planting, and re-wetting of drained land." and has proposed to manage the wider 60Ha area to re-wet degraded bog habitat and reduce grazing in order to increase the naturalness of the setting of the sculpture. I welcome this commitment as it shall result in improvements to biodiversity in line with the aim of the NPPF.

This shall require a legal agreement given that areas outside of the redline boundary are proposed to be managed. A time period has not been proposed by the applicant however a long term period of rewetting and grazing reduction shall be necessary to achieve meaningful gains. Given that the permission being sought does not include a temporary permission the associated management should be ongoing in perpetuity. The works are likely to involve an initial period of drain blocking, then a less intensive period of monitoring and maintenance as well as grazing control.

Accordingly a legal agreement is required to secure the management of the wider 60Ha and shall do the following:

- Secure the wider 60Ha area into conservation management in perpetuity.
- Require the submission of a detailed conservation management plan the objective of which is re-wet the habitats and use grazing as a conservation management tool.

Designated sites

The site is in the vicinity of Ridsdales Quarries Local Wildlife Site, The Wanneys and Aid Moss LWS, Linnheads Lakes and Lises Burn LWS and Ottercops Burn and Mosses LWS.

The later has some potential to be impacted as from any potential pollution to watercourses, however providing that the proposed construction environmental management plan which is proposed is secured and robust the waters should not be affected.

An area of ancient woodland, Shaw Cleugh Wood, is within 3km of the site.

The other sites, including woodland are unlikely to be impacted due to the nature of the development and the separation between the designated site and the development.

Habitats

The habitat survey was undertaken during the winter, which is suboptimal for the habitats present. However the vegetation recorded and plants that were observed, together with the surveyors knowledge of the area, does help to make the assessment robust.

The site is a upland mosaic of habitats including grassland and heathland habitats. It also seems likely that degraded bog habitat is also present.

As always with phase 1 survey the habitats categorised are subject to interpretation, and given that peat depths weren't obtained it cannot be ruled out that significant areas of wet modified bog are present, this would be the case where peat depths greater than 0.5m are present. This would further strengthen the potential for restoration works and benefits of site re-wetting.

The development shall result in the loss of acid grassland, marshy grassland and heath habitats. It could be that the heath present could be considered to be priority habitat, though it is generally degraded due to grazing and drainage. Loss of this habitat is nonetheless a material consideration.

I also concur that potential siltation and pollution from the development works may potentially harm watercourses in the local area, accordingly a robust construction environmental management plan (CEMP) is required, which shall be overseen by an ecological clerk of works whilst operations that present most risk of harm are undertaken.

I welcome that it is proposed to utilise the rock arising from the development to assist the creation of grassland and heathland habitats. This has not been translated onto a landscaping masterplan, therefore further details are required. Where there is potential to create whin grassland habitats from arising whinstone, priority should be given to this. This should also be informed by whin grassland restoration trial at Turners Quarry, associated with Barrasford Quarry, which is operated by Tarmac.

I also note a commitment to control grazing to low stocking density; grazing should however be avoided during May-July where species rich grassland habitats are being established.

I very much concur that any habitat restoration should be followed monitoring so that the restoration works could be assessed and the management revised where appropriate.

Birds

No bird survey work has been presented in support of the planning application, which is a significant. The site is likely to support upland wader and raptor species, as well as passerines such as meadow pipit and skylark. As documented these could include birds of conservation concern and species listed on schedule 1 of the Wildlife Countryside Act, such as barn owl, peregrine and merlin.

The development shall remove habitat which may be used by nesting birds. In addition the development is very likely to increase bird disturbance during the short term construction works and in the long term an increase in disturbance from visitors is likely to be anticipated. This may result in displacement of nesting species. However due to the habitat creation and enhancement that shall be delivered with the scheme bird habitats are likely to be improved in diversity and quality in the long term.

Species

In the area there are records of adder, barn owl, common lizard, bats, badger and otter. In the wider environment there are also records of white clawed crayfish and freshwater pearl-mussel.

In addition hedgehog and hare, which are priority species may be present at the site, though the habitats present are not optimal for either of these.

In addition there are a range of priority invertebrate species in the area such as small pearl-bordered fritillary, small and large heath. Habitat restoration works shall benefit these species.

I concur that the development should be undertaken in accordance with a reptile method statement, the detail of which can be gained post determination. I also note and welcome that it is proposed to create rock/habitat piles, which shall benefit reptiles.

Simple precautions are also required to avoid harm to mammals during the construction process, however otherwise mammals are unlikely to be significantly impacted.

On balance given consideration to all of the risks and impacts and the mitigation and enhancement, I consider that the development has potential to enhance the biodiversity of the site and local area, in accordance with the NPPF. Accordingly I have no objection providing the conditions below are imposed and a legal agreement is made to secure the enhancement proposals in areas outside of the redline boundary but still within the landowner's control.

Policy and legislation considerations

Under Section 25 (1) of the Wildlife & Countryside Act (1981) local authorities have a duty to take such steps as they consider expedient to bring to the attention of the public the provisions of Part I of the Wildlife & Countryside Act, which includes measures to conserve protected species.

The Natural Environment and Rural Communities Act (2006) places a Statutory Biodiversity Duty on public authorities to take such measures as they consider expedient for the purposes of conserving biodiversity, including restoring or enhancing a population or habitat.

The National Planning Policy Framework (NPPF) makes it clear that aside from purely mitigating against the harm that a development may cause to biodiversity the definition of sustainable development includes biodiversity enhancement.

Paragraph 8 of the NPPF states that the planning system should, "contribute to protecting and enhancing our natural environment; including making effective use of land, helping to improve biodiversity...". In addition paragraph 170 states that, "Planning policies and decisions should contribute to and enhance the natural and local environment by: minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;". Accordingly biodiversity enhancement over and above mitigation should be clearly proposed.

When determining planning applications in accordance with the Local Plan and the presumption in favour of sustainable development local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles, including if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. (Paragraph 175).

Conditions

Condition 1 - ecological precautions

The development should be undertaken in strict accordance with the recommendation and mitigation documented in the report, "Ecological Appraisal, Elizabeth Landmark, Ray Estate", dated January 2019, by E3 Ecology, including the following:

1. Vegetation clearance will be undertaken outside of the bird nesting season (March to August inclusive) unless a checking survey by a suitably experienced ornithologist confirms the absence of active nests.
2. Soil stripping will not be undertaken whilst reptiles are hibernating, during November to February.
3. An ecological clerk of works shall be present on-site to provide advice during site clearance, SuDS construction, construction of areas of temporary and permanent hard standing, and habitat creation post construction.
4. Any excavations left open overnight will have a means of escape for mammals that may become trapped in the form of a ramp at least 300mm in width and angled no greater than 45°.

Reason: to avoid harm to protected and priority species and habitats.

Condition 2 - reptile method statement

No development shall commence until a method statement to avoid harm to reptiles has been submitted to the LPA for written approval. The method statement shall detail measures to be taken to reduce the risk of potential harm to reptiles which may use the area. All areas with a risk of supporting reptiles shall be identified by the project ecologist and shall only be cleared and development in strict accordance with the approved method statement.

Reason: to reduce the chance of harm to a protected species from the outset of the development.

Condition 3 - construction environmental management plan -(this could include other consultees requirements for a construction method statement)

No development shall be undertaken until a construction environmental management plan (CEMP) has been submitted and approved by the LPA. The CEMP shall detail the following:

Measures to reduce the risk of pollution to the nearby watercourses

Measures to be taken in the event of a pollution incident

Responsible persons and lines of communication

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure that a watercourse is not polluted or contaminated during development works.

Condition 4 - landscape and biodiversity management plan

Prior to the commencement of development details of a landscape and biodiversity management plan shall be submitted to and be approved in writing by the local planning authority. The content of the LBMP shall include details of the following:

1. Aims and objectives for the plan.
2. The method of use of rock arisings to create species rich grasslands including whin grassland as a priority.
3. Native grass seed mixtures and tree/shrub species to be planted.
4. The creation of refugia for reptiles.

5. Details of grazing, not exceeding 0.5 livestock units hectare and being suspended during May-July where species rich grassland habitats are the target vegetation.
 6. The two barn owl boxes to be provided, including type, location, orientation and height.
 7. A work schedule, including an annual work plan.
 8. Methods of drains blocking and maintenance.
 9. Provision of access and information to visitors.
 10. Details of the body responsible for the implementation of the plan.
 11. Details of ongoing ecological monitoring and remedial measures.
- Once approved in writing the LBMP shall be implemented in accordance with the approved plan.

Reason: To maintain and protect the landscape value of the area and to enhance the biodiversity value of the site in accordance with the aims of the NPPF.

Condition 5 - Ecological enhancement plan (remaining land of 60Ha which is outside of redline boundary)

Prior to the commencement of development an ecological enhancement plan (EEP) shall be submitted to and be approved in writing by the local planning authority. The EEP shall include details of the following:

1. Aims and objectives for the plan
 2. Identification of ditches that are to be blocked
 3. Methods of drainage ditch blocking and ongoing maintenance of blocked ditches.
 4. Details of conservation grazing.
 5. A work schedule, including an annual work plan.
 6. Provision for review of the EEP every 5 years.
 7. Details of the body responsible for the implementation of the plan.
 8. Details of ongoing ecological monitoring and remedial measures.
- Once approved in writing the land shall be managed in accordance with the approved plan.

Reason: to conserve and enhance the biodiversity of the area in accordance with the aim of the NPPF.

I hope that these comments are of assistance but if you require any further information or assistance regarding this matter please contact me at this office.

Richard Willis
Ecologist