

Consultation Response: Kirklees Council Conservation & Design (Biodiversity)

Date	28/10/2016
Officer responding	Tom Stephenson
Application number	2016/93338
Purpose	Initial consultation response
Location	79, Hall Ing Lane, Honley, Holmfirth, HD9 6QW

Assessment

No ecological information has been submitted in support of this application. However, the site lies immediately adjacent to an area of ancient woodland designated as Hey Wood and West Wood Local Wildlife Site (LWS) and therefore there is potential for development to result in significant ecological impacts. There is also an opportunity for incorporating ecological enhancement in to the proposals.

In line with national planning policy and guidance, it will be necessary to demonstrate that the proposals will not result in unlawful impacts to protected species under the relevant nature conservation legislation, and that any adverse significant ecological effects can be avoided, mitigated or compensated for. Guidance has been provided below to aid the applicant in providing this information, and it is strongly advised that a suitably qualified ecological consultant is contacted for advice.

General Advice

Proportionality

According to current guidance (CIEEM, 2015), ecological reports “*should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development*”. The Council will take the need for proportionality into consideration when reviewing ecological information provided in support of an application. However, the need for a proportional reporting format does not negate the importance of providing sufficient information to allow the council to perform its statutory duties.

A summary of the information required, and the policy behind the requirement, is provided below and ecological reports must be sufficient to fulfil this purpose. It is however appropriate to alter the structure and level of detail in reports in proportion to the scale of a development and complexity of potential impacts. It may also be appropriate to alter the scope to consider, with justification, a smaller number of species or species groups in detail.

Mitigation and enhancement measures should also be proportional to the development proposals. However, mitigation in particular must be sufficient to ensure a development does not result in significant ecological effects.

Preliminary Ecological Appraisal

Ecological consultants will often produce a Preliminary Ecological Appraisal (PEA) report. These reports are usually informed by an extended Phase 1 habitat survey and consultation

with the appropriate record centre, e.g. West Yorkshire Ecology and/or West Yorkshire Bat Group.

The primary purpose of these reports is to inform the design stage of a development, and to determine if further survey or mitigation is required. These reports are not intended to provide an assessment of the likelihood of significant ecological impacts or describe detailed mitigation recommendations. Therefore, if the PEA recommends further survey this survey will need to be undertaken, and details of the findings submitted with the application.

Preliminary Ecological Appraisals are only suitable for supporting a planning application where no further survey is needed and the report indicates that the development will not result in significant ecological effects.

Avoiding Significant Ecological Effects

The information supplied in support of any planning application will need to allow the Council to determine if the proposals will result in significant ecological effects. It is strongly recommended that relevant report writing guidance (CIEEM, 2016) is followed by the ecological consultant in preparing an Ecological Impact Assessment (EclA). The guidelines suggest using a geographic frame of reference to evaluate the importance of ecological features, and therefore provide a meaningful assessment of the significance of any impacts.

Any potentially significant ecological effects will need to be avoided, mitigated or compensated for. This is known as the 'mitigation hierarchy' and the preference is for impact avoidance where possible, with compensation used as a last resort only. The reporting should clearly show how this can be achieved.

The importance of this process of evaluation, assessment and application of the mitigation hierarchy is set out in the National Planning Policy Framework (NPPF) (DCLG, 2012), which demonstrates that if the development is considered to result in significant ecological effects this is sufficient grounds for refusal of an application. Relevant text from the NPPF is provided below:

118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- *if significant harm 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;*

The assessment should, unless otherwise justified, cover all species typically considered as part of an EclA. Current guidance (CIEEM, 2015) sets out a list of minimum relevant species/species groups for consideration, which are:

- Plants
- Invertebrates
- Amphibians
- Reptiles
- Birds
- Bats
- Badgers
- Other mammals

Biodiversity Enhancement

The NPPF also indicates that development should where possible provide biodiversity enhancements. Relevant text from the NPPF is:

109. *The planning system should contribute to and enhance the natural and local environment by:*

- *[...];*
- *minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*

And,

118. *When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:*

- *[...];*
- *opportunities to incorporate biodiversity in and around developments should be encouraged;*

It will therefore be appropriate for the proposals to incorporate some form of biodiversity enhancement, which is appropriate to the site location and over and above measures required to mitigate for significant impacts.

References

- CIEEM. (2015). *Guidelines for Ecological Report Writing*. Winchester: Chartered Institute of Ecology and Environmental Management.
- CIEEM. (2016). *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal*. Winchester: Chartered Institute of Ecology and Environmental Management.
- DCLG. (2012). *National Planning Policy Framework*. London: Department for Communities and Local Government.