

Application Reference 19/00654/OUTMAJ

Appeal Reference APP/D2320/W/20/3247136



Gladman Developments Ltd

Pear Tree Lane, Euxton

**ECOLOGY STATEMENT OF COMMON GROUND BETWEEN GLADMAN
DEVELOPMENTS LTD & CHORLEY BOROUGH COUNCIL**

28th May 2020

FPCR Environment and Design Ltd

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Rev	Issue Status	Prepared / Date	Approved/Date
	Draft 1	SMM/ 06.05.20	07.05.20
	Draft 2	SMM/18.05.20	26.05.20
	Final	SMM/27.05.20	28.05.20

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1.0 INTRODUCTION & SCOPE

- 1.1 This statement of common ground has been jointly prepared between Gladman Developments Ltd and Chorley Borough Council.
- 1.2 This application seeks outline planning permission for the development of up to 180 dwellings of which 30% are proposed to be affordable. Access to the site is sought as part of this application and would be from School Lane via two new priority junctions to the west and north of the site. The outline plan includes for the provision of planting, landscaping, public open space, children's play area and surface water attenuation with all the details to be considered at reserved matters stage.
- 1.3 The application was refused permission on 13 November 2019 for the following reason:
- The proposed development would be located within an area of Safeguarded Land as defined by the Chorley Local Plan 2012 – 2026. The Council has a five year housing land supply as required by the National Planning Policy Framework. The proposal therefore conflicts with policy BNE3 of the Chorley Local Plan 2012 – 2026. It is not considered that the material considerations put forward in favour of the development are sufficient to outweigh the presumption against it.*
- 1.4 This Statement sets out the agreed matters of fact and agreed position relating to ecology between the Council, and the appellant.

Background

Application Site

- 1.5 The application site is located to the south and east of School Lane and to the east of Euxton. The site comprises five field compartments and includes existing hedgerows and a small pond. The site is approximately 7.34 hectares in an area which is designated as 'Land safeguarded for future development' in the development plan. To the east of the site is open countryside within the Green Belt beyond Pear Tree Lane, and to the south is open countryside.

Surveys Submitted

- 1.6 The application was submitted on 8 July 2019 and was accompanied by an updated Ecological Appraisal (April 2019). That Appraisal provided a Phase 1 habitat and protected species survey, which concluded as follow:
- 1.7 The study area is dominated by improved grassland bounded by hedgerows that contain various mature trees. A small strip of woodland is located within the northern extent of the study area. A continuation of an off- site woodland bordering the southern boundary forms another small woodland area.
- 1.8 The grassland is of negligible nature conservation value. The hedgerows are habitats of principal importance under the Natural Environment and Rural Communities Act 2006 and their retention has been recommended. Where loss is unavoidable mitigation would be provided in the form of new native planting. Hedgerow H2 is considered an 'Important' hedgerow under the wildlife and landscape criteria of the Hedgerow Regulations 1997.
- 1.9 All retained trees and hedgerows are to be protected from damage and from soil compaction during works by maintaining fenced Root Protection Areas and would be managed with nature conservation in mind to maximise their value.

- 1.10 A small shallow watercourse, Rushton's brook, runs off-site along the southern boundary within the adjacent woodland. At one location in the south-eastern extent, this brook briefly enters the study area. The water course will be buffered from the development by a woodland buffer planting and incorporated into landscape design proposals.
- 1.11 A pond lies on an internal hedgerow within the centre of the study area. The habitat suitability assessment indicated that this pond was of average suitability for great crested newts in 2013 but below average in 2015 and 2019.
- 1.12 Presence/absence surveys were carried out on ponds within 500m of the study area where access was granted in spring 2013 and 2015. Great crested newts were absent throughout the surveys. Given the absence of this species from the on-site pond and the unsuitability of the grassland onsite the Ecological Appraisal concluded that great crested newts were likely to be absent from the study area.
- 1.13 The pond is to be retained and incorporated into the landscaping scheme with an appropriate buffer and be enhanced to maximise the benefits to local wildlife such as the creation of nearby hibernaculum for herpetofauna including GCN.
- 1.14 The results of bat activity surveys, including dusk transects and automated surveys confirmed the presence of six species – common pipistrelle (the most frequently recorded species), soprano pipistrelle, brown long-eared, noctule and two further bat species, *Nyctalus* and *Myotis* species that could not be determined to species level. The species composition and level of activity was typical of the habitats present, comprising foraging and commuting by common and widespread species at relatively low levels. As there has been no significant changes observed to the habitats present within the site surveyed it was concluded that the data collected in 2014 was sufficient to inform appropriate mitigation.
- 1.15 Thirteen trees were considered to have bat roost potential. These trees have been incorporated into the design however if their removal is required further survey via an aerial survey would be required. Light spill would be minimised on these trees, on retained woodland and the hedgerows to allow dark corridors for bat movement. If removal of any of these trees or woodland is required further survey work would be required.
- 1.16 The brook was considered unsuitable for otter, water vole and white clawed crayfish. However, the brook provided ecological value for a range of species and consequently recommendation made to adhere to best practice guidelines to prevent potential pollution impacts during the construction phase to prevent any adverse impacts on this feature.
- 1.17 The inclusion of bird and bat boxes onto existing trees or within new buildings would provide new opportunities for rest and shelter, increasing the ecological value of the site for locally present Lancashire Key Species such as starling and swift.

2.0 AGREED COMMON GROUND

- 2.1 The appeal proposals would not have any impact upon statutory designated ecology sites.
- 2.2 In respect of protected species, it is agreed that Greater Manchester Ecology Unit were consulted on the planning application and did not object to the proposals but did identify that there were significant ecological considerations that would need to be taken into account during the

determination of the application and the implementation of the development. However, it is agreed that suitably worded conditions can be secured to ensure that on-site ecological interest is secured at the Reserved Matters stage.

Ecological Surveys

- 2.3 It is agreed that ecology surveys and assessments that have been carried out to inform the current application have been undertaken by suitably qualified consultants and are to appropriate and generally proportionate standards.

Habitats

- 2.4 An updated habitat survey was completed in March of 2019 in support of this application. Whilst some of the surveys for great crested newts and for bats were completed in 2014 and 2015, since the overall ecological character of the site did not appear to have changed substantively since these bat and newt surveys were undertaken and due to the availability of additional survey information available for sites to the north, updated bat and newt surveys are not required prior to deciding this outline application.
- 2.5 It is agreed that although some of the original surveys were completed outside of the optimal survey season other supporting surveys have been conducted at more optimal times of year and along taking into account GMEU's own assessment of the character of the site, it is do not considered necessary for further habitat or botanical surveys to be carried out before determining the application.
- 2.6 It is agreed that the application site is dominated by relatively species-poor improved agricultural grassland that is not of substantive ecological value, although there are habitats on the site and very close to the site that have local value for wildlife, including hedgerows, trees, woodland and wetlands (stream course).
- 2.7 It is agreed that these habitats are capable of being retained and/or recreated as part of the scheme. It is agreed that undertakings have been given in the application documentation, including in the DAS and Framework Plans, that the important habitats found on the site will be retained and protected.
- 2.8 It is agreed that new landscape proposals would help to mitigate and off-set the residual harm. A comprehensive Landscape Creation and Management Plan for the site can be prepared and secured by condition of any approval that may be granted to this outline application.

GCN

- 2.9 The ecology surveys undertaken in support of the current and previous applications by FPCR have shown that great crested newts (GCN) are probably absent from the pond on the application site, and has assessed other ponds in the area as generally having low potential to support the species.
- 2.10 Separate surveys conducted by independent Ecological Consultants (for TEP) on a development site in the north recorded GCN in a pond within 150m of the application site in 2015, although this record was not subsequently confirmed by more intensive amphibian surveys carried out in 2016.
- 2.11 The species is known to occur locally from previous records for the wider area.

- 2.12 Based on its own field assessments and review FPCR concluded that it was unlikely that GCN would be present within the site. However, GMEU have stated that there are some habitats on this application site with some potential to provide feeding and shelter for newts, and as records have shown these to be present in ponds close to the site relatively recently, GMEU consider it is possible that great crested newts may be found on the application site and therefore could be harmed by the development proposal, particularly during any site clearance and development phases GMEU wish to observe a precautionary approach to great crested newts and other amphibians as part of development.
- 2.13 If great crested newts were found on the site, then under the Conservation of Habitats and Species Regulations 2017 (as amended) enacting the EU Habitats Directive into the UK, a licence may be required from Natural England to derogate the terms of this legislation before any work which has the potential to cause harm to GCN could commence. Before a licence can be granted the following tests must be satisfied. The tests are –
- i) That the development is “in the interest of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequence of primary importance for the environment”.
 - ii) That there is “no satisfactory alternative”.
 - iii) That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”.
- 2.14 In considering planning applications that may affect European Protected Species, Local Planning Authorities are bound by Regulation 9(1) and 3 of the Conservation of Habitats and Species Regulations 2017 to have regard to the Directives when exercising their functions. Government Circular 05/06 gives guidance to local authorities on how these issues should be considered. All three tests must be satisfied before planning permission is granted on a site.
- 2.15 As regards the third test it is noted that:
- No known great crested newt breeding ponds or optimal terrestrial habitat would be lost to the scheme.
 - Habitats on the application site with most value for amphibians are capable of being retained, protected, and enhanced.
 - Habitats to be lost to the scheme are sub-optimal for amphibians.
 - From the available evidence the local population of great crested newts is low, so there would be sufficient remaining habitat available locally to the east and south of the application site for newts if the development was approved to ensure long-term survival of the local population.
 - Connectivity between ponds in the wider landscape is capable of being retained.
 - The local conservation status of great crested newts is capable of being protected.
- 2.16 Given the above, it is agreed that the third test is capable of being satisfied. Whilst the above is agreed, GMEU consider further precautions for great crested newts are justified to avoid any potential harm and recommend that if permission were granted then a comprehensive Amphibian Mitigation Strategy would need to be prepared, implemented, and secured by condition placed on any approval that may be given to the scheme. Depending on the details of the scheme submitted and the implementation of the Strategy a License may be required from Natural England.

Bats

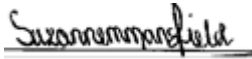
- 2.17 It is agreed that bat activity surveys were professional and adequate to provide a general overview of bat use of the site, and along with other complementary surveys conducted for development in the north have reinforced the understanding of bat usage of habitats locally. Bats have been shown to use parts of the site for foraging and it is agreed that bat use of the site has probably not significantly changed since the last surveys were conducted because the habitats have not significantly changed. Furthermore, it is agreed that bat feeding opportunities on the site are somewhat limited by the dominance of the species-poor improved grassland a view that is also supported by bat survey results indicating that the site is used by relatively small numbers of bats.
- 2.18 It is agreed that the most important habitats for bats on the site (hedgerows and trees as confirmed by bats surveys) are capable of being retained and/or recreated as part of the development, and there is extensive suitable bat foraging habitat around the application site, particularly to the east and south.
- 2.19 It is agreed that the development proposal is capable of being implemented without having a significant impact on local bat populations, providing that valuable habitats are retained, recreated, or enhanced.
- 2.20 Thirteen trees were identified during surveys with features with the potential to support bat roosts. These trees are to be incorporated into the design however if their removal is required it is agreed that further surveys would be required, with appropriate measures agreed in mitigation.

Birds

- 2.21 It is agreed that the bird community recorded from the site is not exceptional, and that as all nesting birds, their eggs and young are specially protected under the terms of the Wildlife and Countryside Act 1981 (as amended) in order to avoid any harm to nesting birds any vegetation clearance required should be undertaken outside of the optimum period for bird nesting (March to July inclusive).

3.0 DECLARATION

- 3.1 It is common ground between the parties that the proposals comply with the relevant legislation and relevant development plan policies in relation to ecological matters.
- 3.2 Greater Manchester Ecology Unit raised no overall objections to the application on ecological grounds but did identify that there were significant ecological considerations that would need to be taken into account during the determination of the application and the implementation of the development, and which can be secured by suitably worded conditions to ensure that on-site ecological interest is secured at the Reserved Matters stage.
- 3.3 This is a statement which the Council would need to consider, taking into account all of the representations made on the application, not just GMEUs comments
- 3.4 Unless otherwise stated, the content of this document is agreed by the Appellant and the Council.



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Date: 28.05.2020**



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Date: 28/05/2020**