



**Derbyshire**  
Wildlife Trust

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 Derbyshire Wildlife Trust

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Mike Ashworth - Strategic Director  
Economy, Transport and Environment  
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Your Ref: 5.5373.1  
Our ref: PlanCon353

For the attention of Justine Proudler

6<sup>th</sup> February 2017

Dear Justine,

**Proposal: Restoration of former colliery lagoons and settlement ponds to agriculture and nature conservation**

**Location: Land at former Creswell Colliery Lagoons, Frithwood Lane, Creswell**

**Planning Application: CW5/1116/71**

Thank you for consulting the Derbyshire Wildlife Trust with regard to the above planning application. I am now responding under the terms of the Service Level Agreement which Derbyshire County Council and the Trust have signed.

The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development.

The application seeks permission for the importation and disposal of inert waste to facilitate the restoration of former colliery lagoons and settlement ponds.

From the submitted information it would appear that it is intended to restore the site to rough grazing and nature conservation. However, we would point out that these comments have been provided in the absence of reference to a final restoration layout showing the location and extent of habitat types that will be required to mitigate and compensate for the adverse ecological impacts of the proposal.

To inform our response we have checked the site against the Trust's data sets (see Endnote) and we have considered the relevant chapter (Chapter 4, Ecology) of the Environmental Statement prepared in support of the application. The Phase 1 Habitat Survey identified the site to comprise a mosaic of habitats including bare ground (colliery shales), shallow seasonal pools, short ephemeral vegetation, species-rich grassland, scattered and dense scrub, immature broad-leaved plantation woodland.

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The site supports areas of tall grassland vegetation, areas of species-rich grassland and areas of disturbed grassland. Although the ecological interest of the grassland varies across the site the overall assemblage is relatively species-rich of a distinctive nature unlike other semi-natural grasslands in the local area.

There are other areas of extensive bare ground with shallow seasonal pools and ephemeral vegetation some of which are particularly diverse with abundant Kidney Vetch, Fairy flax, Common Bird's-foot-trefoil and Common Centaury.

A single grass snake was recorded on the site during a targeted reptile survey and, as such, a low population of grass snake is assumed to be present on the site. This corresponds with previous records for grass snakes in the area which were recorded in 2013 as part of the planning application for the nearby solar farm development. It is noted however that the targeted reptile survey was carried out during August which is considered to be outside the optimal time for surveying for this reptile species and, as such, the population estimate may be undervalued.

The ecological surveys did not include a targeted breeding bird survey and the information provided in respect of birds is limited to results of a desk study and observations made during other survey visits

Five bird species of principal importance and two bird species afforded special protection under Schedule 1 of the Wildlife and Countryside Act were identified on the site during the surveys. Based on the receipt of anecdotal local information we are also aware of the successful breeding of the ground nesting species Lapwing and the Schedule 1 Little Ringed Plover at the site in recent years

The Schedule 1 species Barn Owl was previously recorded as using the lime dosing unit as a roost site but the roost was later abandoned due to human intrusion and subsequent fire damage. From anecdotal information, it is understood that barn owl previously bred on the site as well as using the building as a roost site. Although Barn Owl has not been observed in the vicinity of the site since January 2016, the site and surrounding area continues to provide suitable foraging habitat for barn owl.

The second Schedule 1 species, Woodlark was considered to have bred on or in close proximity to the site given the observation of a family of four birds, including juveniles, on 27<sup>th</sup> June 2016 and the presence of suitable nesting habitat for this species on the site. The Creswell observations are the first confirmed breeding occurrence of Woodlark in Derbyshire and, as such, the site is considered to be of significant importance for its ornithological interest. The loss of open grassland at the woodland edge will result in the loss of suitable nesting habitat for this species.

The site is recognised as supporting suitable habitat for the UK priority butterfly species dingy skipper on account of the presence of sparsely vegetated areas with bird's-foot trefoil and records for the species in the immediate vicinity. A second UK priority butterfly Small Heath was recorded on the site during the surveys carried out in August 2016. It is considered that the loss of grassland and open vegetation could have an adverse impact on butterflies and other invertebrates that are associated with such habitats. However, it is understood that there will be some continuity of habitat throughout the construction

phase for invertebrates that are associated with disturbed, open ground and ephemeral vegetation.

The very rare grass Annual Beard Grass was recorded in a seasonally wet lagoon on the site. It is described in *The Flora of Derbyshire* (Willmot & Moyes, 2015) as a very rare casual of disturbed ground. The proposal will result in the loss of this species in the absence of the implementation of targeted mitigation measures. As a casual, the species does not have a conservation status in Derbyshire but is nonetheless of interest and, as such, is worthy of retention.

There will be a total loss of open water including the shallow ephemeral water bodies from the site. It is understood that there are no plans to accommodate standing water at the site as part of the restoration. This is a significant biodiversity loss. The shallow pools and wet mud associated with their drawdown zones are an important component of the habitat required to successfully raise the chicks of ground nesting and wader bird species such as lapwing, little ringed plover and shelduck, which are known to have bred on the site. We therefore do not agree that the impacts of loss of open water are negligible as they are a component of the habitat mosaic and, as such, provision needs to be made for the creation of areas of open water within the restoration proposals.

There will be some loss of native hedgerow amounting to approximately 38 metres to accommodate the formation of passing bays along Frithwood Lane and provide suitable visibility splays. It is understood that replanting of hedgerows will take place and, as such, there should be no net loss of hedgerow priority habitat.

It is noted that the proposal will result in a significant ecological impact in the short term due to habitat loss but depending on the nature of the restoration which should replicate the former habitat interest it may be possible to offset the impact.

It is our view that the site contains habitat characteristic of the UK BAP priority habitat Open Mosaic Habitat on Previously Developed Land (OMHPDL) and, as such, the characteristics of this habitat should be replicated in the final restoration scheme.

We broadly agree with the proposed mitigation measures during construction and after completion as set out in Tables 5 and 6 of the Ecology chapter. In particular we support the translocation of species-rich grassland in the SE area of the tip, the use of the existing substrates and their associated seed banks for habitat creation rather than the importation of soils and use of proprietary seed mixes and the provision of areas of bare ground within the final layout. However, it is important that the location and extent of the various habitat types are shown on a Final Restoration Layout.

With regard to mitigation for protected species, it is likely that the implementation of the mitigation measures outlined in Tables 5 and 6 of the Ecology chapter for bats, reptiles, nesting birds, barn owl and woodlark will satisfy current legislation, guidance and policies relating to biodiversity.

We would therefore recommend that a condition to secure the following is attached to any consent:

***“The development shall be carried out in strict accordance with the mitigation measures detailed in Tables 5 and 6 of Chapter 4. Ecology of the Environmental Statement prepared by Baker Consultants issued 06 October 2016.”***

While we consider the majority of impacts after completion to be either neutral or positive, provided that the works are carried out strictly in accordance with the measures set out in Tables 5 and 6, an exception is in relation to the lack of provision of replacement shallow seasonal water bodies within the final restoration which we regard as having an adverse impact, particularly in respect of the continued suitability of the site to support successful breeding of ground nesting waders such as lapwing, redshank and little ringed plover. We would therefore advise that the final restoration incorporates the creation of areas of open water and seasonal water bodies.

We would advise that a Construction Environmental Management Plan is required to ensure that ecological and other environmental protection is integrated into the construction process. A condition to secure the following should therefore be attached to any consent:

***“No development shall take place (including ground works and vegetation clearance until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.***

- a) Risk assessment of potentially damaging construction activities.***
- b) Identification of “biodiversity protection zones”.***
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.***
- d) The location and timing of sensitive works to avoid harm to biodiversity features.***
- e) The times during construction when specialist ecologists need to be present on site to oversee works.***
- f) Responsible persons and lines of communication.***
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.***
- h) Use of protective fences, exclusion barriers and warning signs.***

***The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.”***

The long-term appropriate management of the site for nature conservation is integral to achieving the aim of a net gain for wildlife in line with the environmental dimension of sustainable development. We therefore recommend that a condition to secure the following is attached to any consent:

***“A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development ( including any ground works or vegetation clearance)***

***The content of the LEMP shall include the following.***

- a) Description and evaluation of features to be managed.***
- b) Ecological trends and constraints on site that might influence management.***
- c) Aims and objectives of management.***
- d) Appropriate management options for achieving aims and objectives.***
- e) Prescriptions for management actions.***
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a twenty-five year period).***
- g) Details of the body or organization responsible for implementation of the plan.***
- h) Ongoing monitoring and remedial measures.***

***The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.***

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

***The approved plan will be implemented in accordance with the approved details.”***

It is hoped that the information provided is helpful to the Council. If you require any further information or wish to discuss any of the comments made, please do not hesitate to contact me.

Yours sincerely,



Trevor Taylor  
Biodiversity Planning Officer

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**CC:** Tom French, Ecologist, Conservation and Design, Environmental Services, DCC, Shand House

**Endnote:**

*Please note that the datasets listed below are those used by DWT to assist us to respond accurately to each planning application we receive. The fact that these datasets are listed should not be taken as evidence of the presence of a particular species or habitat. Where potential impacts on a species or habitat are identified these will be described in full in the text of the letter.*

- ❖ Presence of protected species included on the Derbyshire Protected Species Database 2013. This includes water vole, otter, Atlantic stream crayfish, bat roosts, great crested newt and reptiles.
- ❖ DWT species datasets for UK or local Biodiversity Action Plans Priority species including common toad, birds, fish, mammals, butterflies and moths.
- ❖ DWT badger database.
- ❖ Presence of plant species listed on the Derbyshire Vascular Plant Red Data List (2014).
- ❖ Presence of any statutory or non-statutory sites of ecological interest (SSSIs, Local Wildlife Sites, Regionally Important Geological Sites)
- ❖ Presence of any existing potential Local Wildlife Sites
- ❖ Presence of UK BAP Priority habitat types.

- ❖ Presence of ancient semi-natural woodland.
- ❖ Presence of other stands of woodland (broad-leaved or coniferous)
- ❖ Presence of other areas of semi-improved grassland