

From: David Dutton
Sent: Monday, July 29, 2024 3:43 PM
To: Clapworthy, Dean <D.Clapworthy@bury.gov.uk>

Subject: [EXTERNAL] Planning application 70903 Land at Pyramid Park

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Hi Dean

Thank you for consulting the GMEU

Summary

The development will result in the loss of an SBI further survey is recommended. Further information is recommended on the proposed biodiversity net gain strategy for the site. Other ecological issues associated with protected species, nesting birds, other wildlife and invasive species can be dealt with via condition and or informative.

Townside Site of Biological Importance

The development will result in the loss of a site of biological interest. Whilst accepting that this site has changed significantly since its original designation, with the lake having dried out, the SBI re-designated for its swamp and marsh habitats, which now are undergoing succession to scrub it is currently still designated as an SBI. We are also aware that the site was allocated for development, prior to the SBI being designated and that therefore, there are conflicting local plan policies associated with this site.

As your ecological advisor's it is our role to remind the LPA and Council of its statutory duty under the NERC Act 2006 sect 40 to conserve and enhance biodiversity, which needs to be weighed along with the sites ecological value against any economic or housing needs of the Council. My view is that whilst restoration of the lake is now unlikely to be reasonable given its artificial nature and the cost that would be involved, that it is feasible for the Council to restore, create and enhance the current habitats and maintain the SBI designation. Given the current local plan is under review, this would be an opportunity to remove the current policy to develop the site, which has proven financially unfeasible for over 20 years and develop instead as an accessible natural greenspace at the heart of the town centre. We understand however the dilemma of conflicting planning policies and therefore whilst advising against development, accept that economic/housing requirements may outweigh the ecological value/potential of the site which is for the LPA to decide. In my opinion the site is of between local and district importance. Whilst, currently designated a grade B site (ie district importance), I accept it is currently declining in value. Therefore, if the development is of equivalent or higher weight we would understand the Council's decision.

I would also recommend an updated botanical survey of the SBI, as neither of the two surveys by the current consultant occurred at an optimal time of year for grassland and wetland habitats, the first survey in March, when many such species would not have fully emerged from dormancy and the second in October when such species will have died back. Given this is an SBI, now primarily for the grassland and wetland habitats, I would expect a botanical survey at an optimal time of year ie end of May through to end of August.

I therefore recommend a botanical survey at an optimal time of year prior to determination.

Bats

The site was assessed for bats. One tree T1 was assessed as having bat low roosting potential. The Market Street bridge also had bat roosting feature, but does not appear to be significantly disturbed as part of the site remediation. I have no reason to doubt the findings of the report with previous bat surveys for the site failing to find any evidence of bats roosting, though high levels of bat activity have been recorded historically associated with the SBI when still wet.

The tree will be lost as a result of the land remediation. Current guidance on trees with low bat roosting potential is that they can be removed under a precautionary working method statement. Other very low risk issues include disturbance of the bridge during land remediation through noised, vibration and lighting. I am satisfied that all potential issues can be dealt with via a precautionary measures working method statement. This can be conditioned along the following lines as part of any permission.

Prior to any earthworks or vegetation clearance a precaution measures working method statement for bats will be provided to and agreed in writing by the LPA

Badger

No badger setts were recorded on the site, though potential evidence of badger foraging on the site recorded. I have no reason to doubt the findings of the report. I recommend a condition along the following lines is applied to any permission.

Prior to any earthworks or vegetation clearance a precaution measures working method statement for badger will be provided to and agreed in writing by the LPA

Other Protected Species

I am satisfied that it is very unlikely that any other protected species will be present given the lack of suitable habitat on the site or within the zone of influence and based on the desk top evidence and previous ecological surveys of the site. No further information or measures are required.

Nesting Birds

Trees and scrub will be lost. It is highly likely that birds nest on the site. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. I recommend a condition along the following lines be applied to any permission.

No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a nesting bird survey method statement by a suitably experienced ecologist has been supplied to and agreed in writing by the LPA.

Other Wildlife

The site was historically important for amphibians other than great crested newts. Whilst the breeding habitat for amphibians has now been lost (or primarily lost as smooth newt and common frog can breed in ephemeral ponds), it is likely that amphibians still utilise the site as terrestrial habitat. The habitat is also suitable for hedgehog and I have personally recorded roe deer on the site within the last year, presumably accessing the site from the ELR corridor. Whilst these species are not legally protected, some such as hedgehog and common toad are UK Biodiversity Priority Species and all mammals are protected from unnecessary suffering under mammal welfare legislation. I am satisfied that the risk of harm is significant, unless the site is cleared sensitively. I therefore recommend a condition along the following lines is applied to any permission .

Prior to any earthworks or vegetation clearance a precaution measures working method statement for mammals and amphibians will be provided to and agreed in writing by the LPA

Note the measures required would be very similar to those for badger and the two documents/conditions combined.

Invasive Species

Japanese knotweed was recorded on the site. This species is listed under schedule 9 part 2 of the Wildlife & Countryside Act 1981 (as amended). I agree with the consultant's that a method statement for its control/eradication is required. I am also aware that Himalayan balsam is located in the locality and whilst not doubting the ecological report, would note that its presence along the metrolink around Buckley Wells means that colonisation is possible in the near future. I therefore recommend a condition along the following lines is applied to any permission.

Prior to any earthworks a resurvey for invasive plant species including japanese knotweed and himalayan balsam will occur and the finding supplied to and agreed in writing to the LPA. A method statement detailing avoidance, control and eradication measures for any invasive species present should also be supplied to and agreed in writing by the LPA, prior to any earthworks.

Contributing to and Enhancing the Natural Environment & Biodiversity Net Gain (BNG)

Section 180 of the NPPF 2023 states that the planning policies and decisions should contribute to and enhance the natural and local environment. 10% BNG is mandatory under Schedule 7A of the Town & Country Planning Act 1990 (as inserted by schedule 14 of the Environment Act 2021).

The development will result in the loss of existing semi-natural habitats including an SBI, which falls within a wildlife corridor. Currently no proposals for habitat mitigation on or off-site have been provided, as this is a land remediation application in advance of a development proposal. A biodiversity unit baseline has however been provided of 16.81BU. Whilst accepting some post-development value will be created, it is very likely that this development would result in a significant net loss at the site level, which would likely reduce the viability of the site. For instance if the net loss was 10BU, purchase of statutory credits would cost more than £400k. In addition, the statutory metric has not been provided, therefore I have not been able to check the accuracy of the biodiversity unit baseline.

I therefore recommend that prior to determination the statutory metric is provided along with a baseline plan showing what if any habitats may be retained and enhanced.

I am also not satisfied that adequate information has been provided to demonstrate that the statutory biodiversity condition can be discharged, which would require the supply of a biodiversity gain plan and Habitat Monitoring and Management Plan.

The site could also be remediated resulting in the loss of an SBI and then never developed with the units still required. *Given this is Council land this could be regarded as a breach of its biodiversity duty and I would regard it as reasonable for the Council to be required to provide adequate detail prior to determination that full mitigation and enhancement can be achieved.*

With regards wildlife the main issue is likely based on the current habitat to be loss of bird nesting habitat and cover for mammals and amphibians. Given this is site remediation any mitigation and enhancement would be at risk of loss, when and if the site came forward for development. Therefore whilst some on-site measures should occur where no future development

is likely, I would recommend that finalised measures for wildlife are carried forward to future development proposals.

David Dutton

Ecologist

Planning

Investment, Development and Housing

Place