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Frith Wood Basildon: Development Proposal Review

Billericay Relief Road

Prepared by LUC
November 2017

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Project Title: Frith Wood Basildon

Client: Basildon Borough Council

Version	Date	Version Details	Prepared by	Checked by	Approved by
1.0	24.11.17	First draft	Amy Coleman	Peter Lawrence	Peter Lawrence

1 Introduction

- 1.1 LUC were commissioned by Basildon Borough Council (BBC) in November 2017 to undertake an independent review of a development proposal for a proposed relief road in Billericay, to be allocated within the BBC Local Plan. Proposals for the relief road are outlined within a Development Framework Document for a wider large housing development, Land at Kingsman Farm, and are high level at this stage. They include an assessment of options for the location of the road, which involve the loss of a small area of Ancient Woodland, known as 'Frith Wood'.
- 1.2 The purpose of the review is to provide advice to BBC as to whether there is currently a sufficient level of information for BBC to make an appropriately informed decision as to whether the allocation for the road is viable for inclusion within the Local Plan.

Scope of Work

- 1.3 A review of current available information, which comprises the following documents:
 - Development Framework Document – Land and Kingsman Farm, Billericay [Draft] (Taylor Wimpey, October 2017);
 - Technical Briefing Note – Land West of Billericay, Essex. TN3: Arboricultural and Ecological Context to inform Route Selection of Billericay Relief Road, (Sylvan, 06 October 2017); and
 - Technical Briefing Note – Land West of Billericay, Essex. TN1: Results of Botanical Survey of Frith Wood, (Sylvan, July 2017).

Relevant Legislation and Policy

- 1.1 This report has been prepared with reference to relevant legislation and planning policy. An overview of this is provided in **Appendix 1**, with the following documents of particular relevance:
 - National Planning Policy Framework (NPPF) 2012;
 - The Wildlife and Countryside Act 1981 (as amended);
 - The Conservation (Natural Habitats, &c.) Regulations 2017.
- 1.2 Sections of the policy and legislation of particular relevance to this report are detailed below.
- 1.3 Paragraph 118 of the NPPF states:

*“planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including **ancient woodland** and the loss of aged or veteran trees found outside ancient woodland, unless the **need for**, and **benefits** of, the development in that location **clearly outweigh the loss**”*
- 1.4 Ancient Woodland is a material planning consideration, which means it should be taken into account when making relevant planning decisions. Recent Standing Advice (November, 2017) provided by Natural England and The Forestry Commission¹ states a mitigation hierarchy should be followed:

“Avoid impacts, reduce impacts and compensate as a last resort”

¹ <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences#avoid-impacts-reduce-impacts-and-compensate-as-a-last-resort>

- 1.5 The Standing Advice also states that the developer and planning authority should work together to make sure the authority has enough suitable evidence to make its decision. This may include ecology and tree surveys in accordance with guidance approved by the Chartered Institute of Ecology and Environmental Management (CIEEM)² and the British Standard BS 5837 Trees in relations to demolition and design.
- 1.6 Planning Practice Guidance states that the “potential impacts including the effect upon landscapes including landscape features, nature and heritage conservation” are factors that should be taken into account when carrying out Housing and Economic Land Availability Assessments (HELLA)³ in order to determine the suitability of a site for inclusion as a housing allocation in a Local Plan. Therefore, as European Protected Species (EPS) are a material planning consideration, an assessment of potential impacts would be required before an allocation can be appropriately included within the Local Plan.

² <https://www.cieem.net/habitats-terrestrial>

³ <https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment>

2 Review of Existing Information

Baseline Information

- 2.1 The documentation reviewed includes some consideration of ecological implications of the proposed relief road resulting in loss of Ancient Woodland. The material comprises two sections within the Development Framework Document (DFD): section 04 providing details on the need for the relief road; and section 05 investigating the least harmful location or route through the Ancient Woodland. Section 05 is a summary of Technical Briefing Note (TBN) 3, which along with TBN 1 covers the survey details of the woodland. This survey effort was comprised of a botanical survey of the woodland ground flora and a survey to identify features of importance such as veteran trees.

Development Framework Document

- 2.2 The DFD primarily provides a range of information relating to the main proposed housing development for the Land at Kingsman Farm, Billericay. The proposed relief road is discussed in sections 04 and 05 of this document.
- 2.3 Given proposals for the relief road include the loss of Ancient Woodland, in line with the NPPF and recent Standing Advice, in order to have sufficient information to make a decision as to whether the proposed allocation is viable for inclusion within the Local Plan BBC must have robust evidence to be satisfied that:
1. There are no satisfactory alternative route options (avoidance);
 2. There is a need for the relief road; and
 3. Suitable and sufficient compensation measures are deliverable which would significantly outweigh the loss (compensation for loss of Ancient Woodland as a last resort);

Avoidance and Need

- 2.4 Section 04 of the DFD discusses the need for the relief road, presenting three options all of which impact Ancient Woodland. However the stage before this, exploration of alternative options which would avoid Ancient Woodland entirely, is not provided. Given there will be removal of Ancient Woodland, evidence that there are no other suitable alternative routes which would avoid the Ancient Woodland entirely should be provided before a decision can be made. The DFD discusses the new proposed relief road as an 'alternative approach to routing' to the current allocation within the Local Plan. Therefore robust evidence as to why the current allocation is not a suitable option would be required, or indeed that there are no other alternatives that would avoid Ancient Woodland.

Reduce

- 2.5 Although there is no robust evidence to demonstrate that avoidance is not an option, section 05 of the DFD goes some way to satisfying the second stage of the mitigation hierarchy: reduce. However this focuses on the condition of the habitat alone, and does not consider protected and/or notable species which the Ancient Woodland may support. Section 05 is a summary of TBN 3, and therefore reviewed in detail in the section below.

Compensation

- 2.6 Finally, compensation is the last stage in the mitigation hierarchy, the last resort. If evidence of the other requirements can be met, sufficient evidence will be required that it is feasible for compensation to be delivered, which would deliver benefits that would significantly outweigh the loss. Compensation is not discussed within this document. It is accepted that at this stage this may not include detailed design of compensation measures, but outline details will be required.

Technical Briefing Notes

- 2.7 The TBNs comprises the baseline survey information for the site which informs route selection for the proposed relief road based on ecological and arboricultural implications. Survey data is expected to be high level at this stage, and should perform the role of providing BBC with a suitable level of information to be confident that legal requirements can be met. This information is also summarised in section 05 of the DFD. However there is no consideration of EPS.

Scope

- 2.8 The scope of the TBNs cover two ecological receptors. Firstly the woodland habitat, via a woodland survey to identify important features within the woodland, including designated sites. Secondly, botanical surveys with a particular focus on vascular woodland plants.
- 2.9 Other ecological receptors which should be considered within the scope of assessment include;
- Designated sites within a suitable buffer of the development (based on a likely impact zone informed by extent of the development);
 - Habitats, including priority habitats, within a suitable buffer of the development (based on a likely impact zone informed by extent of the development);
 - Protected and notable species, particularly EPS given full protection by international law, likely to be found in Ancient Woodland such as dormouse, great crested newt and bats.

Methods

- 2.10 The methods used were not in line with guidance approved and recommended within the Standing Advice. That is the Chartered Institute of Ecology and Environmental Management (CIEEM)⁴ for ecology and the British Standard BS 5837 Trees in relations to demolition and design for trees. It is not clear what types of survey were undertaken, and which guidance was followed for them.

Value of Ecological Receptors

- 2.11 The valuation of the ecological receptors which have been assessed and included within the scope are considered to be accurate and informed by robust survey data and assessment.
- 2.12 However, as above there are several ecological receptors which have not been valued.

Interpretation of Impacts

- 2.13 The scope does not consider several ecological receptors, therefore interpretation of impacts have not been assessed for these (see 'scope' section).
- 2.14 TBN 3 discusses the least harmful route through the Ancient Woodland, however predictions as to the impact of losing this irreplaceable habitat are not considered. In addition, predicted impacts from the construction process along with the presence of a new road upon the Ancient Woodland are also not considered within this document.

Mitigation / Compensation

- 2.15 There is no discussion on mitigation or compensation, or whether there is the opportunity within the area to effectively deliver the mitigation and compensation that would be required to address likely impacts. Standing Advice states that for development affecting Ancient Woodland, a minimum buffer of 15m should be in place to avoid root damage and at least 50m for pollution or trampling impacts. Therefore evidence that the road could be delivered in accordance with these buffers would be required; or that sufficient compensation can be delivered to offset unmitigatable impacts.

⁴ <https://www.cieem.net/habitats-terrestrial>

3 (Summary of) Further Information Required / Conclusion

- 3.1 The documents provide information as to the need for the relief road on the basis of three options, and an assessment of the least harmful route through the woodland in respect to the quality of the Ancient Woodland habitat. However there are some major limitations in the evidence which would need to be addressed at this stage in order for BBC to allocate the proposed alternative relief road within the Local Plan.
- 3.2 A summary of further information required is detailed below:
- Evidence that avoidance is not an option, that there are no satisfactory alternatives routes for the road which would avoid Ancient Woodland impacts (including the current allocation within the Local Plan);
 - If loss is unavoidable, evidence that suitable and sufficient compensation measures are deliverable which would significantly outweigh the loss of this irreplaceable habitat; and
 - Evidence to be confident that in the event of EPS being present and impacted, the legal requirements for EPS could be met.
- 3.3 It is acknowledged that at this stage in the feasibility / design process it may not be possible or appropriate to undertake detailed survey and assessment, however it is considered that further ecological input is required to ensure that BBC can discharge it's duties with regard to Ancient Woodland and protected species, and determine the acceptable route. Further survey and assessment would then likely be required to inform detailed design and any planning application.

Appendix 1

Policy and Legal Considerations

Statutory nature conservation sites and protected species are a 'material consideration' in the UK planning process (DCLG 2012). Where planning permission is not required, for example on proposals for external repair to structures, consideration of protected species remains necessary given their protection under UK and EU law.

Natural England Standing Advice aims to support Local Planning Authorities decision making in respect of protected species (Natural England 2012). Standing Advice is a material consideration in determining the outcome of applications, in the same way as any individual response received from Natural England following consultation.

The Conservation of Habitats and Species Regulations 2017 transpose the requirements of the European Habitats Directive (Council Directive 92/43/EEC) and Birds Directive (Council Directive 79/409/EEC) into UK law, enabling the designation of protected sites and species at a European level.

The Wildlife and Countryside Act 1981 (as amended) forms the key piece of UK legislation relating to the protection of habitats and species.

The Countryside Rights of Way Act 2000 provides additional support to the Wildlife and Countryside Act 1981; for example, increasing the level of protection for certain species of reptiles.

The Wild Mammals (Protection) Act 1996 sets out the welfare framework in respect to wild mammals, prohibiting a range of activities that may cause unnecessary suffering.

Species and Habitats of Principal Importance for Conservation in England and Wales are species which are targeted for conservation. The government has a duty to ensure that involved parties take reasonable practice steps to further the conservation of such species under **Section 41 of the Natural Environment and Rural Communities Bill 2006**. In addition, the Act places a **biodiversity duty on public authorities** who 'must, in exercising their functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity' (Section 40 [1]). Criteria for selection of national priority habitats and species in the UK include international threat and marked national decline.

The National Planning Policy Framework (DCLG 2012) states (Section 11), that the planning system should minimise impacts on biodiversity, providing net gains in biodiversity where possible. It also states that local planning authorities and planning policies should:

- Plan positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.
- Take account of the need to plan for biodiversity at a landscape-scale across local authority boundaries.
- Identify and map components of the local ecological networks, including: international, national and local sites of importance for biodiversity, and areas identified by local partnerships for habitat restoration or creation.
- Promote the preservation, restoration and re-creation of priority habitats, ecological networks and the recovery of priority species populations, linked to national and local targets and identify suitable indicators for monitoring biodiversity in the plan.

Other paragraphs of particular relevance regarding preparation of Local Plans include:

Paragraph 110: In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment. Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this Framework.

Paragraph 114: Local Planning Authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.

Paragraph 117: Promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan.

