



20 March 2019
F.A.O. Terry Burns
Essex County Council

Dear Terry,

Application No: ESS/45/18/COL.

Proposal: Continuation of use of land for mineral extraction and ancillary use without compliance with Conditions 1 (Approved Details) and 3 (Duration) of planning permission ESX/27/92/COL originally granted for "Winning and working of sand and gravel, erection of a concrete batching plant and associated facilities, construction of a new site entrance and restoration to agriculture and amenity" to enable a revised restoration scheme and to accommodate an extension of time to achieve site restoration through until 31st December 2029. Land at Birch Pit, Maldon Road, Birch

Location: Birch Pit, Maldon Road, Birch, CO5 9XE

With reference to the above named application and submitted documents received by Place Services on the 16/01/2019, asking for comments from Ecology, Historic Buildings, Archaeology, Landscape, Trees and Urban Design. As per the agreed timescale, our comments on the Planning Application as submitted are made below:

Ecology (Emma Simmonds)

Object, subject to further information

Thank you for consulting us on the above proposals. I refer to the Ecological Impact Assessment (SLR Consulting Limited, undated) which forms Chapter 11 of the Environmental Statement. It is unclear why the study area only covers the north west corner of the site as there are many other areas of developing habitat within the unrestored quarry areas which will require removal as part of the proposed restoration to agriculture. The Ecological Impact Assessment does not appear to take this into account and when it assesses the significance of the study area's impacts it appears to assume that these other areas of habitat will be retained. Furthermore, it should be ensured that restoration of the existing open quarry areas and surroundings (to the south) comply with protected species legislation.

Protected Species

Bats

Two mature oak trees (T3 and T7) were considered by the Ecological Impact Assessment (EclA) to have low roosting potential. T3 will require roost surveys prior to removal. It is not clear what the timescale is for removal, but the mature trees should be checked again for bat roost potential prior to removal and if necessary roost surveys should be undertaken.

The site also appears to support habitat suitable for foraging and commuting bats, although no activity surveys were undertaken to demonstrate the level of use. These surveys should be provided prior to the granting of planning permission.

Birds



This site currently supports a variety of wintering birds as well as providing nesting opportunities. The most important area for breeding birds is the eastern area.

There was not a formal survey of wintering birds but various birds were noted, including three amber listed and two red listed Birds of Conservation Concern (BoCC). Paragraph 11.92 states that "Golden Plover was observed on two separate occasions is included in Annex 1 of the EU Birds Directive which enables specific sites to be designated for their protection as Special Protection Areas (SPA)". This paragraph also states that "Another large intensive arable field located on the west side of Blind Lane was noted to be in regular use by lapwing for loafing, foraging and flying over with up to 180 birds seen over the field on the 12th December 2018 (accompanied by around 20 or more golden plover). It is possible that the intensive arable field which includes a part of the Study Area is also in regular or occasional use by lapwing during the winter period." Phasing of the works should ensure that suitable areas are retained for these species at all times.

The EclA also considered that the area would support one or two pairs of breeding skylark, a Priority species and BoCC. To compensate for (temporary?) loss of habitat, Skylark plots should be provided elsewhere in advance of destruction of the existing nesting habitat, in line with the NPPF. This can be tied into the phasing of restoration and a plan should be submitted showing the land identified for the nest plots. The plots should be delivered in accordance with the guidelines set out in Countryside Stewardship option AB4 (Skylark Plots) available at: <https://www.gov.uk/countryside-stewardship-grants/skylark-plots-ab4>.

Skylark plots are undrilled patches of ground within winter cereal fields and should be provided through the following criteria:

- They should be created within fields $\geq 5\text{ha}$ and of an open aspect and if bounded by tree lines or woodlands, the fields should be $\geq 10\text{ha}$.
- They should be spaced across the field at a density of two plots per ha.
- They should be sited $\geq 24\text{m}$ away from field boundaries or telegraph poles and not connected to the tramlines.
- They should measure 3-8m wide/long (16-24m²).

After drilling, skylark plots may be managed in the same way as the remainder of the field (i.e. they can be sprayed, receive fertilizer applications, etc.), although mechanical weeding of the plots must be avoided between 1st April and harvest. The plots can also be rotated around the arable farm each year rotation.

Badgers

There were no setts during the survey, but badgers have been present previously and may make use of the site again, which is recognised in the EclA. Checks will need to be undertaken prior to any future vegetation clearance. This can be dealt with through a Construction Environmental Management Plan by condition.

Habitats

Hedgerows, Trees and Woodland

No tree report has been provided, but I have referred to the Ecological Impact Assessment. The Hedgerows are not considered in the EclA to be important under the Hedgerow Regulations (11.70), but they are still Priority habitat and 330 metres (H1 and H2) would be lost.



Section 11.73 of the EclA states that there would be the loss of six mature trees (T1-T6), aged at 250-300 years. Five of these are situated within the hedgerows to be removed. It is considered that they will all be good quality and which cannot be replaced in the medium term. It is not clear how they will therefore be compensated. The EclA states in 11.117 that "The mature trees within Hedgerow 1 are good specimens and their loss could not be meaningfully compensated for in the short to medium term". This issue needs to be considered in more detail.

Given that the area to be quarried is reduced there is insufficient justification as to why the good quality trees and hedgerow need to be removed.

Root protection zones should be provided for any trees to be retained, particularly T7.

The woodlands would not be directly affected. However, there may be indirect effects eg from noise and dust and effects to the water table. This does not seem to have been considered.

There is an area of woodland immediately to the north east which is proposed to be retained. Section 11.62 of the EclA states that: "*The EFC data search does not show the presence of any ancient woodland or other Habitat of Principal Importance within or in close proximity to the site. However, the woodland to the north-east of the RLB, which is oak dominated and includes a small number of large mature specimens might merit further survey for the presence of ancient woodland indicators that would indicate it being a Priority Habitat.*" This area is Lowland Mixed Deciduous Woodland Priority habitat anyway. The size of the buffer would be in this area is also not clear.

Scrub/Semi-improved Grassland Mosaic

1.11 ha of scrub/improved grassland mosaic would be removed under both the old and new proposals. This area would probably qualify as Open Mosaic Priority habitat and, nevertheless, is relatively high in biodiversity. It is flower-rich and the EclA says that, "It is likely that at one time this small field was used for grazing" (11.75). Wood small-reed (*Calamagrostis epigejos*) was found in one area which is listed on the Species Indicative Of Ancient Woodland in the Essex Local Wildlife Site Selection Criteria (Revised 2010). Due to the time of year of the survey, no invertebrates were seen but the EclA considered that the "mosaic and hedgerow habitat located in the eastern part of the Study Area may have the potential to support some Essex Red Data species." (11.82). This forms part of the eastern section of the site that was considered to support the most bat activity and breeding birds.

It is not clear what the compensation is for the loss of this area is within the EclA, though it is assumed that it will be the wildflower Meadow.

Given that the area to be quarried is reduced there is insufficient justification as to why this area needs to be removed.

A Construction Environment Management Plan (biodiversity)

A Construction Environment Management Plan (biodiversity) should be provided (and condition) to ensure that all species and habitats actually or potentially affected will be protected. This should incorporate the elements set out within Chapter 3 and the other issues raised above, as well as other factors such as keeping lighting and dust away from retained vegetation.

Restoration

In order to achieve its focus on biodiversity restoration the Essex Minerals Local Plan aims to create 200 hectares of Priority habitat within the life of the Plan. The SPG ([Supplementary Planning Guidance: Mineral Site Restoration for Biodiversity \(June, 2016\)](#)), (hereafter referred to as 'the



SPG'), provides the backdrop to all minerals planning applications in Essex, particularly for the Flagship sites. The role of the SPG is to:

- Implement Policy S12 'Mineral Site Restoration and After-Use'.
- Establish a masterplan framework for 'Flagship Schemes'.
- Identify the detailed policy approach to habitat creation at mineral sites generally.

To secure the habitat objective a new area of land to form part of Birch Quarry was identified as being one of five Flagship schemes. It has a target to create a minimum of 23 hectares of Priority habitat comprising **open mosaic habitat and reedbed** during the life of the Minerals Plan.

The area of the current proposals is a separate area of the Quarry from the proposed Flagship scheme. However, the lengthy delays caused by this part of the site will mean that the extension to the site identified for one of the MLP's Flagship schemes may not now come to fruition within the life of the Plan. We have therefore been encouraging any proposals to implement the MLP targets within the existing parameters of Birch Quarry instead. The restoration proposals for this current area of the Quarry should be considering incorporating the Priority habitats to reflect the details agreed in relation to policy S12 of the Minerals Local Plan and its accompanying SPG.

The 23 hectare Priority Habitat target should be in addition to any mitigation or compensation which needs to be provided as a result of the development of the site so it is important that we measure and distinguish between these. It is not currently clear what is provided as compensation or mitigation for the loss of existing habitats. The level of enhancement can only be calculated once compensation and mitigation has been calculated. Use of the Defra Metric would help to demonstrate this, which takes into account the condition of the habitat as well as temporal factors rather than just size.

To create any additional benefits to support the S12 priority habitat target, the additional Priority habitats need to supplement the Priority habitats which are already committed by the existing planning permission. Other potential appropriate non-target Priority habitats can be also still be created on the site, such as native woodland, hedgerows, ponds and arable field margins.

There are two Priority habitats proposed in the revised Landscape Restoration Scheme (BP 10/5, November 2018) for the current application which are listed within the SPG, ie Reedbeds and Lowland Meadows (wildflower meadow). Long-term habitat management is proposed which would be an increased benefit. However, this is partly offset by the time lag caused by the long delay in restoration. The priority for this part of the site should be these habitats, but it is not clear whether this would be the case, for example, there could be potential conflicts with some forms of recreational usage.

Creation of a wetland system with irregular edges islands, shallows, reed beds and associated ponds and scrapes is welcomed, although the shape of the large water body appears to be more uniform than before in many respects. Open water has increased from 7.8ha to 8.7ha. The area of reedbed has been increased by 0.2ha and the wildflower meadow is the same size as before. Therefore, while these habitats are compatible with the MLP, it would not constitute much of an addition from the current planning permission.

The section provided with the Landscape Restoration Scheme is small scale and a larger section of the profile of the lake perimeter should be provided. A section of the islands is also needed. They should be low lying with shallow edges.



Details of the soil will need to be considered, especially for the wildflower grassland, which requires low fertile soil.

Measuring losses and gains

The table below is my summary of the losses and gains. It is not possible to distinguish between those that are provided as mitigation, compensation or enhancements. While the scheme is compatible with the SPG, I do not consider that there is any significant additional contribution to the Priority habitats made by the new proposals, compared to the previous scheme. However, it is anticipated that the creation and long-term management of the habitats will ultimately be of benefit to biodiversity.

Habitat	Area of Loss (hectares)	Area created under new proposals (hectares)	Area created under 1993/5? Permission (hectares)
Hedgerow (Priority habitat)	330 metres (H1 and H2)	1600	1200
Open Water	0	8.7	7.8
Mature trees	6 (T1 to T6)		
Arable	0.98. Supports various wintering and nesting birds including golden plover and lapwing.	16.6 (new) 7.1 (undisturbed) 23.7 TOTAL	25.3 (new) 0.9 (undisturbed) 26.2 TOTAL
3 Woodlands (Lowland Mixed Deciduous Woodland (Priority habitat) including 1 to NE which is oak dominated. Plus earlier planting.	No direct loss but immediately adjacent so potential for impacts eg disturbance and affects to water table.	2.1	0.9
Open Mosaic habitat (Priority habitat) (scrub and grassland)	1.11		
Wildflower Grassland (Priority habitat)	0	7.3	7.3
Reedbed/ wetland	0	1.8	1.6

Condition 1: Management plan

Condition 2: CEMP

Historic Environment (Richard Havis)

Support (Subject to Condition(s))

Section 8 on cultural Heritage and Archaeology assesses the archaeology that has previously been undertaken on the quarried areas which has identified considerable multi-period archaeological deposits excavated over a number of years. From the consultants work they have concluded the



area which remains to be extracted that has not been disturbed has a high potential to contain archaeological deposits of a multi-period nature.

Within section 8 the applicants have recommended a programme of archaeology comprising only a strip map and sample programme. Although this would allow the archaeology to take place this does not provide the opportunity to understand the implications and extent of the archaeological deposits on site at an early date. It is recommended that a phased programme of archaeological investigation is undertaken as suggested by the conditions below and that trial trenching should form the first element. This will provide an understanding of the extent and complexity of the archaeological deposits and allow any excavation worked to be programmed in with the expansion of the quarry phases.

RECOMMENDATION: Phased programme of archaeological work

- 1) No development or preliminary groundworks can commence on those areas where quarrying has yet to commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.
- 2) A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following the completion of this work and before any reserved matters are agreed.
- 3) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the local planning authority through its historic environment advisors.
- 4) The applicant will submit to the local planning authority a post-excavation assessment (to be submitted within three months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason for Condition 1: Initial trial trenching across the area still to be quarried which will define the archaeology.

Reason for Condition 2: Once 1 is completed the results can be used to define an excavation strategy and identify which areas of the proposed quarry are important to excavate. This will comprise targeted excavation or potentially a strip map and excavate programme on specific areas.

Reason for Condition 3: The excavation phase.

Reason for Condition 4: To ensure the results of the archaeological programme are published.

Historic Buildings (Nina Ogradowczyk)

No Objection

The enclosed documents indicate that there would be no visibility of the proposed development from any surrounding historic buildings. For the above, I have no objection.



Landscape (Anne Westover)

The application will result in further long term visual impacts arising from both the operational excavations and from the lorry movements along the B1022. There will be landscape impacts arising from the removal of mature habitat albeit this was anticipated within the consented scheme. Delays to the final restoration resulting from the extended excavation time period are also of concern.

I have the following queries regarding the current submission:

Landscape Chapter 10

With respect to para 10.77 I think that the landscape impacts of excavation in this area have been somewhat under estimated. Whilst I accept that the woodland copse is now proposed to be retained I remain to be convinced that it is appropriate to remove sections of mature hedgerow and oak trees to facilitate the extended area.

I would find it beneficial to consider this aspect in more detail on site. I also note that the stand-off zones have not been specified. There is reference to new hedgerows and woodland planting but with respect to the latter these are really only small copses.

My comments at pre-application stage and relating to some planting species still apply and I will re-iterate in my formal response.

The form and proposed future use of the water body are still unclear and my comments/queries put forward in the pre-application still apply.

Restoration plan:

It is slightly difficult to match/compare the restoration plan with the original approval and the current Extended Phase 1 Habitat survey plan.

Cross sections; one has been provided but I consider that one or more is needed to show how the excavations relate to the retained woodland and hedgerow on the east side of the excavation. In terms of the retained hedgerow there is need for some clarification regarding the existing alignment and the need for new planting. The position of the dogleg in this hedge and shown on the habitat plan is not clear on the restoration plan.

Brown zone denoting the small agricultural field. I think this denotes current agricultural land but the colour is not keyed in. It would be useful to have clarification for the current access to this field.

I query the loss of mature/veteran oak trees and woodland habitat linkages. Neither the Ecology or Landscape chapters indicate any suitable mitigation for the loss of these trees or any proposals for propagation and maintaining local provenance. I highlighted this in the scoping response.

Para 10.39 I support the proposal for advanced hedge planting along the new northern boundary of the quarry extent however I think there is a need to consider whether this should be a wider planted belt of woodland. I need to consider this further when viewed from Blind Lane. The viewpoint 5 chosen from Blind Lane is not helpful as it is situated adjacent to the roadside tree belt.

Para 11.79 of the Ecology chapter refers to the need for management to take place within the tree belt running along Blind Lane. If this is not already set out it will need to be addressed in conditions relating to longer term management.



Five year aftercare period does not seem sufficient given the habitats being proposed

Ecology Chapter 11

There are references to overgrown/moribund hedgerows with elm and willow in them. I am surprised by the assessment having seen the hedgerows on site. The report states that the hedges do not fulfil the ecological criteria in the 1997 Hedgerows Regulations in terms of species. However they have not been assessed in terms of historic value or plant/woody species.

There is no tree survey included with the application but it is noted in para 11.117 that the oak trees are good specimens and their loss cannot be compensated for.

There may be impacts on the existing woodland to be retained in terms of proximity of the excavations, disturbance and water table changes. Note para 11.119, not clear.

I think that there needs to be a more precise assessment of impact, detail relating to mitigation of any losses and detail for proposed buffer zones to remaining woodland and hedgerows.

I welcome some internal discussion and site visit prior to making a formal response.

Arboriculture (Anne Hooper)

No specific tree report e.g. BS5837 has been provided in support of this application. Tree and hedge removals have been noted within the Ecological Impact Assessment however, although the hedgerows have not been identified as 'important' under the Hedgerow Regulations (11.70), but are still priority habitat. The proposals would see a loss of 330 metres of hedgerow (H1 and H2).

Although the revised area of extraction is smaller than the previous application, it is still proposed that six mature trees (T1-T6), aged between 250-300 years will be lost, five of which are situated within the hedgerows to be removed, despite all of them being noted as being of good quality. These cannot be replaced in the medium term; It is not indicated how their loss could be mitigated. The EcIA states in 11.117 that "The mature trees within Hedgerow 1 are good specimens and their loss could not be meaningfully compensated for in the short to medium term".

In addition to no proper tree report being provided, no arboricultural method statement has been provided, so it is not clear how trees to be retained are to be protected, this needs to be resolved.

Whilst the woodlands would not be directly affected by the proposals, there may be indirect consequences, in particular with relation to the water table, which could have a long-term effect on tree health.

There is an area of woodland immediately to the north east which is proposed for retention and which has been identified by our Ecological Team as a Lowland Mixed Deciduous Woodland Priority habitat. Because no arboricultural method statement has been provided, it is not clear if any provision has been made for a buffer zone to protect the area.

Urban Design (Chris King)

No Comment

UD has no comment relating to the application.



I trust the above comments will be of use to you, should you have any queries please do not hesitate to contact me, or the named specialists detailed.

Yours sincerely,

Luke Pidgeon
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