

date 22 May 2009

**Plumpton's Farm, Alresford, Colchester. Continuation of development without complying with condition 17 (restoration) attached to planning permission ref ESS/52/97/TEN(R) seeking variations to the approved restoration scheme to allow for revised contours and the existing amenity lakes to be used for nature conservation purposes, angling and the creation of wet grassland conservation areas. Ref: ESS/04/09/TEN**

## **1. BACKGROUND & SITE**

Plumptions Farm is a former mineral extraction site, the most recent planning permission governing the site is a ROMP ref: ESS/52/97/TEN(R) of which condition 17, approved on the 30<sup>th</sup> January 2002, related to the sites restoration. Condition 17 required that the site be restored to two amenity lakes, nature conservation features, including wet grassland and scrub regeneration and the retention of sand faces for sand martins.

The application site is located approximately 4 km north of Brightlingsea Town within the village of Alresford. Access to the site is obtained via the B1027, St Osyth Road, to which the sites haul road connects.

Alresford Creek mineral extraction site is located immediately adjacent to the site's western boundary, the two site's being intersected by Ford Lane.

The site itself is within a largely rural area surrounded by open fields and areas of woodland to the north and east, with open fields to the south and immediately beyond.

The nearest residential properties to the site are on Ford Lane to the west, abutting the site boundary, part of Ford Lane to the south some 150 metres from the site boundary and lastly Plumptions Farm itself which exists some 150 metres to the south-east on the site access road.

The site is located within the Coastal Protection Belt and immediately adjacent to a County Wildlife Site which abuts the site's northern border.

Footpath 17 Alresford runs along the site's southern boundary.

### **PROPOSAL**

This application seeks to vary the details as previously approved under condition 17 of permission ESS/52/97/TEN.

The revisions to the approved restoration scheme are largely retrospective with the majority of the works proposed having already been achieved as a result of the site regenerating naturally. The proposed works are as follows –

- The already established lakes would be used for angling as well as amenity catering for 100 anglers with 3 informal gravel car parking areas. However, it is anticipated that the average use is more likely to be 45 anglers a day at weekends and 15 a day on weekdays mostly arriving at night and departing after first light. With car sharing, expected traffic levels would probably amount to between 20 and 25 cars at weekends.
- Minor recontouring of the existing lake would be achieved by moving existing overburden on site.
- Areas of acid wet grass land would be allowed to develop.

- The site would, in part, be allowed to further regenerate naturally; there would however be extensive planting of trees and vegetation to aid with site restoration.
- The western bank of the most westerly lake would be adapted to allow for the existing sand face to continue provide a suitable habitat for sand martins. This would be out of bounds to anglers and fenced off.
- A small lake to the east of the site would be created from the existing silt pond to be used for angling.

No exportation or importation of material is proposed. The minor re-contouring of the existing lake would be achieved by moving existing overburden.

## 2. POLICIES

The following policies of the Tendring District Local Plan 2007 (TDLP) and the Minerals Local Plan 1996 (MLP) provide the policy framework for this development. The following policies are of relevance to this application:

	<u>MLP</u>	<u>TDLP</u>
County Wildlife Sites		EN11C
Landscape Character		EN1
Coastal Protection Belt		EN3
Amenity	MLP13	

## 3. CONSULTATIONS

TENDRING DISTRICT COUNCIL – Any comments received will be reported.

HIGHWAY AUTHORITY - No objection.

ENVIRONMENT AGENCY - No objection subject to the following:

- Works requiring tree and shrub removal should be undertaken outside of the bird nesting season, if this is unavoidable then a qualified ecologist should be present to supervise the clearance work.
- The proposed creation of a Nature Conservation Management Plan, as detailed within the submitted Habitat Survey is welcomed.
- The retention of existing habitats is fully supported.
- The programme of tree planting should consist of native local species.
- Marginal vegetated areas should be retained and managed as stated within the submitted Habitat Survey.
- The sandbank used by sand martins should be retained as described within the submitted habitat survey and made out of bounds to anglers.

- The submitted habitat survey notes the presence of New Zealand Pygmy weed and that it requires removal, however it is highly unlikely that removal is possible.

NATURAL ENGLAND - No objection, however has the following comments:

- There is no statutorily designated sites close enough to the application site to expect adverse impacts.
- There are several County Wildlife Sites closeby, Essex Wildlife Trust should be consulted in respect of these sites.
- Mitigation should be undertaken in respect of protected species on site as set out within the submitted Habitat Survey. Highlights the following mitigation measures:
- The areas used by breeding birds and sand martins are to be kept undisturbed and off-limits to anglers. Any necessary site works should be undertaken outside the bird nesting season wherever possible.
- Any works to the western bank of the main lake will need to have prior access by an ecologist to remove any reptiles present.
- New Zealand Pygmy Weed should be removed to prevent its transfer to nereby designated sites.
- A long term Nature Conservation Management Plan is strongly recommended as set out in the submitted Habitat Survey. The site has potential to deliver valuable biodiversity and BAP gains but issues as set out in the report will need to be addressed.

ESSEX WILDLIFE TRUST – Any comments received will be reported.

ALRESFORD PARISH COUNCIL – Objects to the application on the following grounds:

- The applicant has undertaken works in the last couple of years, possibly in contravention of the approved plan, which has undermined the original proposal for this to be a conservation area.

COMMENT: All works on site have been undertaken fully in accordance with the site's existing planning permission.

- The Water Vole, Otter Survey and Habitat Survey submitted with the application are seriously flawed as it is known that there are Water Voles and Badgers within 50 metres of the north western site boundary and there are local reports of both species having been seen on site over the last few years. If the works that have already been carried out have caused a disappearance of these species then that is surely a breach of the current approval and should be subject to an enforcement notice.

- Since the extraction works ceased the area was regenerating extremely well and had attracted a vast array of feeding, nesting and over wintering bird life and it seems inconceivable that left to regenerate further this would not become a nationally important haven for these and other animal and reptile species.
- The access from the B1027 is at a position that has been the scene of numerous accidents and is a section of road subject to the national speed limit. In addition 3 further stable blocks adjacent to the entrance road have been approved in the last year and it is felt that the possibility of cars arriving at all times of the day and night will cause serious security issues.
- The site is within the Coastal Protection Belt which restricts development to uses that cannot be located elsewhere and there is no justification within the application for going against this policy.
- It is believed that part of the site actually falls within an SSSI and there does not appear to be any compelling argument to allow a purely commercial operation within this area.

COMMENT: No part of the application site is within an SSSI.

- The neighbouring properties will suffer a loss of amenity due to both noise and light pollution of traffic movement being allowed at any hour of the day in what is otherwise a very tranquil setting and it is felt that this would affect the suitability of the site for nesting birds.
- There does not appear to be any benefit to the local community from these proposals.

BUILT ENVIRONMENT (ECOLOGY) – No objection, however has the following comments:

- The level of angling proposed will reduce the quality of the water bodies for nature conservation as well as creating more disturbance, particularly as the car parking is so close and potentially create other problems such as litter. Margins of waterbodies are important areas for wildlife and there can be a potential conflict between uses if these are not managed effectively.
- Mitigation measures as set out within the Phase 1 Habitat Survey should be followed.
- Areas not proposed to be used for angling should be left and not disturbed.

LOCAL MEMBER – Tendring – BRIGHTLINGSEA – Any comments received will be reported.

#### **4. REPRESENTATIONS**

9 properties were directly notified of the application. 4 letters of representation have been received relating to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
24hr angling would produce a noise nuisance to neighbouring properties.	See appraisal.
Increased fly tipping on the sites haul road.	This will be a matter for the operator to ensure that the site is secure.
The visual amenity value of the area would be diminished by the construction of car parks.	See appraisal.
The proposal would increase pollution to the nearby RAMSAR site and endangered Water Voles and Otters.	See appraisal.
The site is insecure and isolated and problems of unauthorised access to the site will increase.	See appraisal.
The proposal represents over development of the area that will not benefit the local community.	See appraisal.
Many rare and sensitive birds will not return if humans are present.	See appraisal.
The access with the B1025 is dangerous.	See appraisal.
No decision should be made by the planning committee until a full ornithological survey and bird audit has been carried out at the site.	See appraisal.
There are ample fishing lakes already in the area catering for trout and coarse fishing.	See appraisal.
Disturbance caused upon the woods and meadows by continual vehicle movements along the haul road.	See appraisal.

## **5. APPRAISAL**

The key issues for consideration are:

- A. NEED
- B. IMPACT UPON NEIGHBOURING AMENITY
- C. IMPACT UPON THE HIGHWAY
- D. IMPACT UPON HABITATS & NATURE CONSERVATION

## A NEED

Details submitted with the application state that the proposal would meet a local need for a multi-lake, multi-species day ticket venue that can be night fished and would be secure and well managed.

While it is considered that the applicant has put forward a demonstrable need for the proposed development, the need for the proposal needs to be balance against its potential impacts namely those impacts upon amenity, the highway and habitats and nature conservation.

## B IMPACT UPON NEIGHBOURING AMENITY

In considering the impact of the proposed development upon neighbouring amenity it is necessary to consider the various amenity impacts, particularly those raised as representations from local residents and the Parish Council. Such potential impacts are noise, visual impact and light pollution. The nearest residential properties to the site, are on Ford Lane to the west, abutting the site boundary, part of Ford lane to the south some 150 metres from the site boundary and lastly Plumptions Farm itself which exists some 150 metres to the south-east with access via the site access road.

Noise: Concerns have been raised from local residents in relation to noise, particularly as it is proposed that the site is open for use 24 hours a day. It is considered that vehicles entering and leaving the site via the lengthy access road would generate a level of noise and this noise could potentially be evident at any time of the day or night.

It is considered that while there would be a level of noise generated by traffic using the access road, the nearest residential property is some 80 metres north of the main access road and as such the likelihood of adverse noise impacts upon this property as a result are negligible.

In general, angling is considered to be a relatively quiet pastime and the site is remote, with few neighbouring properties, it is not considered that the proposed use would result in adverse noise impacts upon neighbouring properties.

Visual Impact: The site is screened on the majority of its boundary by well established trees and planting, glimpses of the site are possible from Ford Lane and Footpath 17 to the south and a section of Ford Lane to the west.

While some glimpses of the site would be obtainable from the site boundary, the overall look of the site would not change from what is present. It is considered that with the addition of a minimal amount of planting, landscaping and natural establishment the aesthetic appearance of the site would improve and ultimately provide a positive visual benefit to the local community and the users of Footpath 17.

It is considered that that there would be no adverse impact upon visual amenity.

Light Pollution: No lighting is proposed to be installed on site and a condition could be imposed, should planning permission be granted, to ensure that this remains so.

The proposal is considered to be in accordance with the requirements of policy MLP13 of the MLP which seeks the protection of amenity.

## C IMPACT UPON THE HIGHWAY

Concerns over the safety of the access with the B1027 have been raised by local residents and the Parish Council.

The proposal would utilise the sites existing haul road remaining from when the site was actively used for the extraction of mineral.

The Highway Authority, has raised an objection. The site benefits from a clear visibility splay in both directions onto the B1025.

It is considered that there are no reasons for refusal on the grounds of impact upon the highway and the proposal is in accordance with the requirements of policy MLP13.

## D IMPACT UPON HABITATS & NATURE CONSERVATION

An Ancient Woodland abuts the sites northern boundary, and the site is within a Local Wildlife Site and a Coastal Protection Area.

In respect of Ancient Woodland policy EN1 (Landscape Character) of the TDLP states that any development which would significantly harm landscape character or quality would not be permitted. The proposal would not have any adverse impact upon the adjacent ancient woodland, the proposal is considered to comply with the requirements of policy EN1.

Policy EN11c (County Wildlife Sites) of the TDLP states that development that is likely to have an adverse effect on a County Wildlife Site will not be permitted.

Submitted with the application is a Water Vole and Otter Survey assessing the presence or otherwise of Water Voles and Otters and a Phase 1 Habitat Survey Report assessing ecological potential for the site.

The information submitted with the application demonstrates that while the site does not support any protected Otters or Water Voles, it does support a wide range of other wildlife and provide a habitat suitable for many different species of bird and wildfowl.

Comments raised by local residents and the Parish Council highlight the concern that the natural habitat value of the site would be adversely affected by the proposed development, in particular the increase in activity on and around site from both vehicles and people.

The applicant has stated that the proposed use is conservation led, should not compromise the principle of maintaining and enhancing a natural landform and



private access to the site would lead to greater husbandry and enhancement to the biodiversity of the site.

Angling uses are generally considered not to be overly noisy uses, while the presence of fish within the lakes does reduce the habitat value of the water bodies, by creating additional fish-free 'scrapes' on site both water filled and dry, a much wider variety of habitats can be maintained on site. In addition areas of scrub would be left undisturbed for birds and wildfowl. These requirements could be the subject of conditions should planning permission be granted.

The County Council's Ecologist does not object to the proposal subject to conditions being imposed requiring the submission of a Nature Conservation Management Plan and further actions required within the submitted Habitat Survey. These views are echoed in responses from the Environment Agency and Natural England. The requirements could again be the subject of condition, should planning permission be granted.

The presence of the invasive species New Zealand Pygmy Weed has been reported by several consultees as a matter of concern. The removal of New Zealand Pygmy and its long term management is a requirement of the Nature Conservation Management Plan.

It is considered that a balance can be struck between the proposed angling use and the nature conservation benefits of the site and that with the aforementioned mitigation measures and the introduction of a Nature Conservation Management Plan the nature conservation value of the site and the surrounding area would not be unduly compromised. It is considered that there are no reasons for refusal on nature conservation grounds and the proposal is in accordance with the requirements of policy EN11c of the TDLP.

Policy EN3 (Coastal Protection Belts) states that new development which does not have a compelling functional need to be located in the Coastal Protection Belt, as defined on the Proposals Map, would not be permitted. The onus would be on the applicant to prove such a need, by showing that by reason of its critical operational requirements the development cannot be located outside the Coastal Protection Belt. Even where a compelling functional need is demonstrated, the development should not significantly harm the landscape character and quality of the undeveloped coastline.

It is considered that the proposed development can only be located where large open water bodies exist. The proposal demonstrates the compelling functional need to be located in the Coastal Protection Belt. Furthermore, it has been demonstrated earlier in the report that the proposed development does not significantly harm the landscape character and the quality of the undeveloped coastline. The proposal is in accordance with the requirements of policy EN3 of the TDLP.

## **7. CONCLUSION**

It is considered that the applicant has demonstrated a need for the proposed development. It is considered that the proposed development and use for the site

would aid in protecting and enhancing the nature conservation value of the site. In the absence of any overriding policy considerations or adverse impacts, the proposal is considered acceptable.

## **RECOMMENDED**

That planning permission be **granted** subject to the following condition:

1. The development hereby permitted shall be begun before the expiry of 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the details of the application ESS/04/09/TEN received 23 January 2009 together with drawing numbers P3/284/6 (received 23/01/09) and P3/284/4/3 (received 23/01/09), Phase 1 Habitat Survey by Betts Ecology (December 2008) and Water Vole and Otter Survey by Essex Farming and Wildlife Group (received 23/01/09) except as varied by the following conditions:
3. Clearance of any trees or scrub shall be undertaken outside of the bird nesting season (1<sup>st</sup> March to 31<sup>st</sup> of August inclusive) unless otherwise agreed in writing by the Minerals Planning Authority.
4. The western bank of the 'main lake' shown on plan P3/284/4/3 shall be fenced off and made out of bounds to anglers at all times. Any works to this area shall not be undertaken until a pre-clearance inspection has been carried out by a suitable qualified ecologist and any protected species around are moved to a safe area the details of which shall have firstly been approved by the Minerals Planning Authority.
5. Prior to the commencement of the development hereby permitted a long term Nature Conservation Management Plan as set out within the Phase 1 Habitats Survey by Betts Ecology shall be submitted to and approved in writing by the Minerals Planning Authority. The development shall be carried out in accordance with the approved management plan.
6. Prior to the commencement of the development hereby permitted details showing the location of both wet and dry 'scrapes' within the site shall be submitted to and approved in writing by the Minerals Planning Authority. The development shall be carried out in accordance with the approved details.
7. No lighting of any kind shall be installed on site.
8. Prior to any works being undertaken affecting reed beds and semi improved grassland areas a survey shall be undertaken to establish the presence or otherwise of great crested newts. The survey shall include measures for the relocation of protected species to a suitable location.

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## **BACKGROUND PAPERS**

Consultation replies

Representations

Ref: P/DC/John Snow/ESS/04/09/TEN

**LOCAL MEMBER NOTIFICATION**

TENDRING – Brightlingsea