

**PINS Refs: APP/M0655/W/17/3178530**

**LPA Refs: 2019/34768**

On behalf of the Appellant

**IN RESPECT OF  
LAND AT PEEL HALL WARRINGTON**

**Rebuttal to the Proof of Evidence Provided by Geoff Settle  
Relating to Matters of Ecology**

**Of  
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August 2020

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## **1.0 INTRODUCTION**

- 1.1 This rebuttal has been prepared to respond to points raised within the Rule 6 Proof of Evidence relating to Ecology provided by Geoff Settle. It should be noted that my responses relate solely to ecology (except for birds) and as such only responds to the parts of Mr. Settle's Proof that relate to this subject. Additionally, I have not responded to raised points where the evidence is already directly addressed in my Proof of Evidence.
- 1.2 For reasons outlined above, I do not offer a response to all points raised and where such points are not discussed, this does not imply my acceptance of the point.

## **2.0 REBUTTAL**

### **Paragraph 2.2**

- 2.1 Paragraph 2.2 of Mr. Settle's evidence states:

*"I will cover how the applicant has treated wildlife over several decades, but how despite this, the site contains a lot of wildlife despite the active mismanagement."*

- 2.2 Paragraph 5.5 however states:

*"In calculations of current wildlife value, the Offsetting Report uses the current relatively impoverished state of the site."*

- 2.3 The site cannot be both "impoverished" and also contain "a lot of wildlife" as these terms contradictory (and subjective). I set out an accurate description of the site within Paragraphs 5.2 to 5.13 of my Proof of Evidence.

### **Paragraph 4.2 and 5.5**

- 2.4 Paragraph 4.2 states:

*"Very soon after the current owner acquired the site farming ceased, and fields were abandoned as the applicant had no interest in land or wildlife, just the profit they could make from development. There have been three or four occasions when machinery has been brought on to spray the land and turn it over without any benefit to nature and simply to destroy any wildlife value that might reduce development profits. The applicant has no interest in wildlife or the local community."*

- 2.5 Additionally, paragraph 5.5 states:

*"In calculations of current wildlife value, the Offsetting Report uses the current relatively impoverished state of the site. This state has been deliberately created by site management practices intended to reduce the wildlife value."*

- 2.6 The ecological impact assessment for the site does not discuss past/long-term land management. However, the term “abandoned” is not relevant here as true abandonment in the ecological sense indicates no management at all. The spraying and turning over of the land has been undertaken for several decades in order to retain the fields as fields and to halt succession of the grassland to tall ruderal and on to scrub (which is occurring in part on site). The areas of the site where succession has taken place also show low levels of floristic diversity as would be expected from post-agricultural and nutrient enriched soils. It should be noted that land management practices were temporarily halted in 2019 in order to ensure that a correct site baseline for biodiversity could be established. Therefore the land has not been reduced in ecological value in order to prove lesser value in a biodiversity offsetting study.

**Paragraph 4.11**

- 2.7 Paragraph 4.11 states:

*"Surveys have shown that Peel Hall supports a population of great crested newts. A mitigation plan has been put forward as part of the amended ES. However given the record of the applicant in deliberately destroying wildlife, and the potential constraint GCN are on development, together with inevitable hydrology changes after development it is impossible to see a situation where the GCN colony would even survive, let alone thrive."*

- 2.8 It is an offence under Section 9(1) of the Wildlife and Countryside Act 1981 (as amended) to intentionally kill, injure or take GCN. It is also an offence under Section 9(4)(a) to damage, destroy, or obstruct access to any structure or place that GCN use for shelter or protection, and under Section 9(4)(b) to disturb GCN while it is occupying a place used for shelter or protection. In such cases where GCN are present within development sites, a licence is applied for and only granted by Natural England if the mitigation and translocation plans are sufficient.

- 2.9 The EIA includes a GCN mitigation strategy that fully demonstrates how impacts can be minimised through a translocation (exclusion and trapping) programme, in combination with pond creation, habitat enhancement and amphibian underpasses beneath roads. Receptor areas will comprise existing retained habitats that can be enhanced of great crested newts. The ponds to be retained will be enhanced, whilst woodland management and hibernacula installation will also enhance surrounding terrestrial habitats. This will all improve breeding, foraging, refuge and hibernation opportunities for amphibians. Additionally, and in relation to hydrology, the ponds to be created will be designed to ensure areas of permanent water. Current ponds on site are undergoing succession through to dry reedbed and scrub.

- 2.10 With a small breeding population present (maximum count of one adult GCN only), that utilises ponds which dry out on a semi-regular basis, the mitigation strategy outlined above

should not only ensure the conservation status of the local population can be maintained but also enhanced as part of proposals.

**Paragraph 4.14**

- 2.11 Whilst Paragraph 4.14 is directly addressed within my evidence, Mr. Settle asserts that *“an inactive badger sett was found”*.
- 2.12 No setts, inactive or active, were found to be present during any survey visit during the surveys undertaken at the land at Peel Hall between February and October 2019. This is detailed within the badger survey (*Annex Report 8* within the *Updated Ecological Appraisal & Impact Assessment*). Excavations on site were found to be those of fox. Whilst I am not willing to publicly discuss the locations of badger setts in the local area due to the potential for persecution by badger diggers, I can confirm that the fox earths were recorded as badger setts within the data provided by Record. It should be noted that all data provided by record comes with a set of caveats. Point 5 states "RECORD tries its utmost to ensure the accuracy of its records. However, it is impossible to guarantee the veracity of every single species observation and we therefore disclaim responsibility for the accuracy of information supplied. Individual records can be queried with the RECORD office if necessary." No evidence was seen of use of the site by foraging and commuting badgers during any site visit but it is worth noting that badgers are a highly mobile species.

**Paragraph 5.3**

- 2.13 Paragraph 5.3 states:  
*"The developer provides an offsetting report. It does NOT say that the scheme will result in a net biodiversity gain, but concludes (5.12), just that this is theoretically possible although 'it is recognised that further stakeholder engagement is required along with off-site baseline surveys of potential compensation sites.' One wonders why this stakeholder engagement, site identification and baselines surveys have not been carried out. In the absence of this evidence it is hard to see how the applicant can claim any biodiversity gains."*
- 2.14 These surveys have not been carried out for a number of reasons. Firstly, Biodiversity Offsetting is a new topic, and the release of manuals and guidance pertaining to the metric is ongoing, with major updates to it occurring in July 2019, which was already well into the surveying season for the site. Secondly, as this is a new way of assessing biodiversity, there is no current clear guidance as to which point in the planning application stages it is appropriate to undertake such studies (although ideal situations are noted and this project has undertaken the loss calculations at the ideal time). It is clear that biodiversity gains are theoretically achievable for this project if all conditions are met.

#### **Paragraph 5.4**

2.15 Paragraph 5.4 states:

*"The current site is a large, interconnected area which adds greatly to its wildlife value, but this will be completely fragmented by development – habitats and species will become isolated islands, and much more likely to die out as populations fluctuate. "*

2.16 Connectivity is a variable within the calculations as provided by the metric. This variable is accounted for.

#### **Paragraph 5.9**

2.17 Paragraph 5.9 states:

*"The site was included by the Greater Manchester and Cheshire LNPs (local nature partnership) in the Greater Manchester Wetlands Nature Improvement Area (NIA). The developer proposes miniscule wetlands enhancements and as explained elsewhere, development will change the hydrology of the area such that existing wetland may degrade further."*

2.18 The Greater Manchester Wetlands Nature Improvement Area covers 48,000ha of land within this part of the northwest, and as such covers an extensive area. The existing stands of reeds on site do not qualify as Priority Habitat reedbeds, nor do they qualify as reedbeds under UKHAB or the Defra metric. Phase 1 assessment concludes the mixed species stands of common reed to be assessed as swamps, even if they are "found on substrates that are seldom immersed" and the assessment is made on species composition, rather than the underlying ground conditions, which is required for true wetland classification. These are not true wetlands such is found at the central core of the Great Manchester Wetlands NIA; additionally, the site is not connected directly to this core area and lies on the outskirts.

#### **Paragraph 5.10**

2.19 Paragraph 5.10 states:

*"The predicted condition of proposed habitats is based on assumed conditions 30 years after development (Offsetting report 2.24). This means for any theoretical biodiversity gain to materialise will take 30 years."*

2.20 This is accepted practice. Some habitats such as woodland will take such time periods to reach their peak condition as calculated.

#### **Paragraph 8.1.6**

2.21 Paragraph 8.1.6 states that *"...Isolated, bog standard spec builders landscaping is not a replacement for genuinely wild habitats."*

2.22 The habitats at Peel Hall are not "genuinely wild habitats"; they are highly modified habitats that have been historically managed as agricultural fields.

**Paragraph 8.1.7**

2.23 Paragraph 8.1.7 states:

*"Off-site mitigation measures are not detailed – we can't be sure they will be delivered, establish or be maintained over 30 years and in any case they will be remote from existing and future residents."*

2.24 Details of the development are to be determined at the Reserved Matters stage and therefore mitigation measures will also be firmed up at this later stage. As distance from the site is also a variable within the calculation of biodiversity offsetting units (with sites closer to the development conferring higher unit value), the development is incentivised to ensure that the mitigation measures take place close to the site. 30 years is accepted as a standard management period and it is understood that some habitats take this time period to reach target condition.

**3.0 CONCLUSION**

3.1 I have reviewed the evidence submitted by Mr. Settle and have read nothing that alters the conclusions provided within my Proof of Evidence.