NA/2024/116900 – FBG (response date 12122024)

Hamsterley Forest Application: NA/2024/116900/01, Hamsterley Forest, River Wear

FBG: Objection- Inadequate evidence that the risks to Protected and Priority Species have been considered.

Environment Agency position

We Object to the proposed development due to the potential risks it may pose to Protected and Priority Species in the Bedburn Beck and its tributary the Euden Beck. Inadequate information has been provided to assess the risks posed by this development, as well as insufficient mitigation and compensation measures that will be in place to address any identified risks. We therefore recommend that the licence application is refused.

Reasons

To safeguard Protected and Priority Species. This is supported by national planning policy set out in paragraphs 174 and 180 of the National Planning Policy Framework.

The documentation submitted for the application refers to various activities that may be taking place as part of the proposed development which could have a detrimental effect on species present. These activities include the construction of a new outfall and development both alongside and above the watercourse, which may impact otter, salmon, trout (migratory and non-migratory) and water vole, if this species is also present.

The documentation does not identify all the species involved or adequately consider the potential risks to which they may be exposed. Specifically, the documentation does not:

- reference water vole or provide an assessment of the potential for the species to be present [*there are historic records of the species in the area*].

- fully consider the effect and risk of noise and disturbance from the scheme on the species present. More consideration needs to be given to the potential impacts during the operational phase. For example, we consider that the likely increased anthropogenic use of the area may have a detrimental effect on otter [*the riparian habitats are considered suitable for transient and foraging otter*]. A number of mitigation measures for mammals are provided in Section 5.3 of the 'Terrestrial Mammal Report' (August 2024). However, these measures largely relate to the construction phase and do not consider fully the overall effect of greater use of the site and likely increased public access to the watercourse. Fish could also be impacted [*the Bedburn Beck and its tributaries are used extensively by salmonids for spawning],* and no fish specific mitigation measures to minimise disturbance during the operational phase appear to have been identified.

- provide sufficient detail on the mitigation measures that will be in place to protect the watercourse from this noise and disturbance. While a buffer zone is proposed for the new camping area at "The Nest", it is unclear how extensive and robust this will be and what arrangements there are for maintenance. It is also unclear whether the 10m grassland buffer proposed includes the existing trees and vegetation alongside the watercourse proposed for 'The Nest'. Grassland alone is unlikely to provide sufficient protection. Another concern is bankside trampling which may occur due to the increased access and use of the areas alongside the watercourse. Furthermore, there does not appear to be a buffer zone for the Go Ape high ropes course and additional development

on the left bank. The extent to which the public will be able to access the watercourse post works, using either formal or informal routes, also needs clarifying.

- provide a detailed design for the new outfall proposed for the Euden Beck, and any improvements planned to the existing outfall on the Bedburn Beck. The process by which the preferred design option in each case has been identified should also be provided.

- provide details of the crossings of the minor watercourses planned as part of the works referenced in Section 4.5 of the 'Pollution Control Statement' (Draft, October 2024).

- provide sufficient information on the nature of the discharge from both outfalls concerned. In Section 5.1.1 of the 'Aquatic Ecology Report' (April 2024), there is a reference to a 'Discharge Management Plan'. However, this document does not appear to have been included as part of the application. There is potential for flows from these outfalls to cause scour to the bed and the banks of the watercourse. There is also scope for impacts on water quality, depending on the nature of these discharges. Salmonids present will be particularly sensitive to any impact. [*During the December 2023 survey, redds (nests in gravel dug by salmonids) were found within 50m of the existing outfall*].

- include a final version of the Construction Environment Management Plan (CEMP) confirming all mitigation measures that will be in place during the activity.

Until this information is provided, the risk posed by the proposed development is unacceptable.

Overcoming our Objection

It may be possible to overcome our Objection by submitting:

- an assessment of the suitability of the habitat for water vole, the risks involved, and any mitigation required. This assessment must be carried out by a suitably qualified ecologist (SQE).

- an assessment of the impact of noise and disturbance during the operational phase of the scheme on the Protected and Priority Species present.

- more detail on the buffers that will be in place around the watercourse. This should include:

- plans showing the extent, width and layout of the buffer zone for each development area [*We recommend a buffer strip width of at least 10m*].

- details of any proposed planting within the buffer zones.

- details of how the buffers, including trees and other vegetation either overhanging or in the channel, will be managed and maintained over the longer term.

- details of any existing access routes to, alongside and across the river, including desire lines and non-designated crossings.

- details of new access routes, areas and points proposed, as well as any designated 'no-go' or wildlife zones.

- details of any existing and planned fencing that will be in place.

- detailed plans of the proposed new outfall. This should include its position relative to the watercourse, angle of discharge, set back distance, height in relation to the watercourse and dimensions. Details of any improvements or modifications proposed to the existing outfall should also be provided, along with the design optioneering process used in each case.

- plans for any new watercourse crossings or modifications to existing crossings. This should include mapped locations, type of crossing, designs of supports and proximity to the watercourse, as well as details of the design optioneering process used in each case.

- a copy of the 'Discharge Management Plan', referenced in Section 5.1.1 of the 'Aquatic Ecology Report' (April 2024), with details of the discharge regime, nature of the water being discharged to the watercourse and any monitoring proposed.

- a completed CEMP which also includes the following information:

- details of the water quality monitoring recommended in Section 5.3.2 of the 'Aquatic Ecology Report' (April 2024).

- the biosecurity protocols that will be in place, as referenced in Section 5.1.2 and 5.1.3 of the 'Water Framework Directive Screening and Scoping Assessment' (June 2024).

- proposals for any dewatering exercises required e.g. as part of the new outfall installation.

Advice to LPA/Applicant

Outfalls

Guidance on the design of outfalls, in order to avoid impacting the watercourse, as well as meet other requirements, can be found in the CIRIA Culvert, screen and outfall manual (C786F). https://www.ciria.org/ItemDetail?iProductCode=C786F&Category=FREEPUBS

Pollution Prevention

Advice to LPA/Applicant Any fuels and equipment should be biodegradable where possible and the refuelling location should be minimum of 10m away from the watercourse, bunded and on a non-permeable membrane. In the event of a pollution spill kits must be employed and the Environment Agency contacted as soon as possible.

All works should adhere to the Pollution Prevention Guidance for Businesses provided by the Department for Environment, Food and Rural Affairs and Environment Agency, in particular the section 'Construction, inspection and maintenance' that includes 'Work in, over or near a river, stream, lake or pond'.

https://www.gov.uk/guidance/pollution-prevention-for-businesses

Pollution Control Statement

We would appreciate sight of the final version of this document confirming mitigation measures will be in place for pollution control. This should include details of the EA Incident Hotline number.

Management of trees and other woody material near and in the channel

In-channel and bankside vegetation, particularly any low lying/trailing material, provides important cover for otter, fish and a range of other species. Woody material, both in and near the channel, is fundamental to natural river processes, causing localised changes in water velocity, aiding sediment regime and improving riverine habitat quality for a range of species. Guidance on managing woody material can be found here: https://www.therrc.co.uk/assets/archive/MOT/References/WT_Managing_woody_debris.pdf

Concreting

No concrete, cementitious material or leachate from the construction activities must be allowed to enter the watercourse. The lime in substances containing cement is highly toxic to fish, salmonids in particular, and dissolves easily in water. Dry working when using concrete, allowing concrete to dry before it is exposed to water and the use of quick drying cement should reduce any associated risk. It is an offence under Salmon and Freshwater Fisheries Act (1975) to knowingly allow any solid or liquid matter injurious to fish, their spawning grounds, spawn or food, to enter the watercourse.

Legislation - water vole

The water vole is fully Protected under Section 9 (Schedule 5) of the Wildlife & Countryside Act. Under this legislation it is an offence to:

- intentionally or recklessly damage, destroy or obstruct access to any structure or place used by a water vole for shelter or protection;
- intentionally or recklessly disturb water voles whilst occupying a structure or place used for that purpose;
- intentionally kill, injure or take water voles.

Offences under Section 9 carry a maximum penalty of £5,000, and the courts may order the forfeiture of any vehicle or other item that was used to commit the offence. The water vole has received this protection on account of its rapid decline in recent decades.

Water vole are listed under section 41 of the Natural Environment and Rural Communities (NERC) Act 2006; Water voles are listed as a species of principal importance. Local planning authorities have responsibilities under NERC to “to have regard” to the conservation of biodiversity when carrying out our normal functions.