



# Scottish Natural Heritage

All of nature for all of Scotland 26 AUG 2009

NORTH LANKSHIRE COUNCIL ENVIRONMENTAL SERVICES CENTRAL	
Consult	
Development Control	<input checked="" type="checkbox"/>
Design Services	<input type="checkbox"/>
Ecology Services	<input type="checkbox"/>
Environmental Services	<input type="checkbox"/>
Health Services	<input type="checkbox"/>
Highways Services	<input type="checkbox"/>
Food Safety	<input type="checkbox"/>
Recreation	<input type="checkbox"/>
Southside	<input type="checkbox"/>
Northern Area	<input type="checkbox"/>
Other	<input type="checkbox"/>

North Lanarkshire Council  
 Central Area office  
 Kildonan Street  
 Coatbridge  
 ML5 3LN

Your Ref: C/09/00818/FUL

Our Ref: CNS/DC/NL/CEN/56374

Date: 25 August 2009

For the attention of: Gordon Liddell

Dear Sir

**TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997  
 ERECTION OF SECONDARY SCHOOL, ADDITIONAL SUPPORT NEEDS  
 SECONDARY SCHOOL, COMMUNITY FACILITIES, EXTERNAL PLAYING  
 FIELDS, ASSOCIATED ROAD ACCESS AND PARKING  
 DRUMPELLIER COUNTRY PARK, TOWNHEAD ROAD, TOWNHEAD,  
 COATBRIDGE, ML5 1RX**

Thank you for your letter dated 28<sup>th</sup> July 2009 requesting comments from Scottish Natural Heritage (SNH) on the above development proposal.

The following comments are based on examination of GIS data and aerial photographs. No site visit has been undertaken.

### SNH POSITION

SNH has no objection to this proposal, but recommends the following:

- The potential impacts on bats are investigated prior to the application being determined.
- Any consent given for this proposal is conditional on the acceptance of measures to control dust from the construction site.
- A badger survey of the area around the application site is undertaken.

### The Application Site

Examination of aerial photographs suggests the site is primarily comprised of amenity grassland which is used as sports pitches. Some areas of woodland, identified as mature trees on the drawing submitted with your consultation, are present on the fringes of the site, particularly around the south-western boundary.



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### **International Natural Heritage Interests**

No internationally designated sites of nature conservation or landscape interest will be affected by this proposal.

Mature trees bounding the application site may offer potential roosting sites for bats. As construction of the proposed development would require works in close proximity to these trees, SNH recommend that an ecologist assesses their potential for bat roosts to be present, before this application is determined. Should it be considered that trees around the site offer suitable roosting opportunities for bats, a full emergence survey should be undertaken between May and September and again before the application is determined. Only those trees which will potentially be impacted by the proposed development will require to be assessed and surveyed.

All British bats are considered European protected species under the terms of the habitats Directive. Details of the legal situation in respect of bats are given in the attached annex.

### **National Natural Heritage Interests**

No nationally designated sites of nature conservation or landscape interest will be directly affected by this proposal.

We note that both Woodend Loch and Bishops Loch Sites of Special Scientific Interest lie within approximately 1km and 2.5km of the application site respectively. Whilst these sites lie outwith the prevailing wind direction, in order to further reduce the potential for indirect impacts on these sites, SNH recommend that any consent given for this project is conditional on the production and acceptance of a dust management plan which details how dust from the construction site will be monitored and controlled.

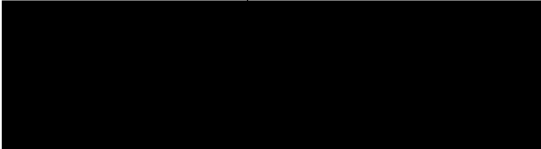
Woodland areas around the application site may support badgers. In order to investigate this further, SNH recommend that a badger survey be undertaken. This should cover all areas of woodland within 30m of the application site as a minimum. If badgers are found, an assessment of how they will be impacted by the development should be made (including consideration of impacts on setts and the availability of foraging resources) and mitigation measures proposed where adverse effects are identified.

### **Local Natural Heritage Interests**

We note that the application site lies within the boundaries of Drumpellier Country Park. We therefore recommend that North Lanarkshire Council give full consideration to whether the proposed use is compatible with the aims and objectives of the Country Park designation when determining this application.

I trust that you will find these comments to be of use. However, please contact me at the address above should you wish to discuss this matter further. I would be grateful if you could let us know of your Council's decision in due course, or of any changes to the application relevant to our interests.

Yours sincerely



Area Officer  
Lanarkshire

## **Annex**

### **TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997 ERECTION OF SECONDARY SCHOOL, ADDITIONAL SUPPORT NEEDS SECONDARY SCHOOL, COMMUNITY FACILITIES, EXTERNAL PLAYING FIELDS, ASSOCIATED ROAD ACCESS AND PARKING DRUMPELLIER COUNTRY PARK, TOWNHEAD ROAD, TOWNHEAD, COATBRIDGE, ML5 1RX**

#### **Bats: Legal Position**

Regulations 39 and 43 of The Conservation (Natural Habitats &c.) Regulations 1994 (as amended) (Habitats Regulations) provide full protection for certain animal and plant species. Bats are referred to as European protected species and are listed on Schedule 2 of the Habitats Regulations.

This means it is illegal to:

- Deliberately or recklessly capture, injure or kill a bat or to deliberately or recklessly (i) harass a bat or group of bats; (ii) disturb a bat while it's occupying a structure or place used for shelter or protection; (iii) disturb a bat while it's rearing or otherwise caring for its young; (iv) obstruct access to a breeding site or resting place, or otherwise deny a bat use of the breeding site or resting place; (v) disturb a bat in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of the species to which it belongs; (vi) disturb a bat in a manner that is, or in circumstances which are, likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young; (vii) disturb a bat while it is migrating or hibernating
- Damage or destroy the breeding sites or resting places of bats

Where it is proposed to carry out works which will affect bats or their shelter/breeding places, whether or not they are present in these refuges, a licence is required from the licensing authority (in this case likely to be Scottish Government). It is strongly advised that you refer to the Scottish Government information on the current interim licensing arrangements, which can be found in the document *European Protected Species, Development Sites and the Planning System: Interim Guidance for Local Authorities on Licensing Arrangements*, (October 2001) before applying for a licence. Copies of this are available at <http://www.scotland.gov.uk/library3/environment/epsg-00.asp> or by writing to the Landscapes and Habitats Division, Scottish Government Rural Directorate, Room GH 93, Victoria Quay, Edinburgh EH6 6QQ or by telephoning 0131 244 7140.

As highlighted in the Interim Guidance, three tests must be satisfied before the licensing authority can issue a licence under Regulation 44(2) of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) to permit otherwise prohibited acts. An application for a licence will fail unless all of the three tests are satisfied. The three tests involve the following considerations:

- Test 1 - The licence application must demonstrably relate to one of the purposes specified in Regulation 44(2) (as amended). For development proposals, the relevant purpose is likely to be Regulation 44(2)(e) for which Scottish Government is currently the licensing authority. This regulation states that licences may be granted by Scottish Government only for the purpose of *“preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.”*
- Test 2 - Regulation 44(3)(a) states that a licence may not be granted unless Scottish Government is satisfied *“that there is no satisfactory alternative”*.
- Test 3 - Regulation 44(3)(b) states that a licence cannot be issued unless Scottish Government is satisfied that the action proposed *“will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”* (Scottish Government will, however, seek the expert advice of Scottish Natural Heritage on this matter).

Consideration of European protected species must be included as part of the planning application process, not as an issue to be dealt with at a later stage. Any planning consent given without due consideration to these species is likely to breach European Directives with the possibility of consequential delays or the project being halted by the EC, as has happened previously.