

Written Representation:

**Ecology and the
Natural Environment
Summary**

**regarding the application for
Development consent to complete
the Heysham to M6 Link Road**

IPC Reference: TR010008

**On behalf of
Transport Solutions
for Lancaster and Morecambe
(TSLM)**

Unique Reference: 10015381

April 2012

1.0 Summary

- 1.1 My name is Michael Porter and I am a local resident who strongly objects to the proposed scheme. The report that I present relates to the significant effects the scheme has on biodiversity. I have previously contributed to the interpretation of published documents and to the various written responses to them submitted by TSLM.
- 1.2 My ability to discuss these issues is based on having attained the Degree of Bachelor of Science (BSc Hons) in Ecology from the University of Lancaster. I have also satisfied examination entry criteria for Associate Membership of the Institute of Environmental Management and Assessment (AIEMA).
- 1.3 Biodiversity data is taken from the Application Documents Environmental Statement, with particular reference to Volume 3 Part B - Ecology and Nature Species Reports. The scope, content and accuracy of the individual reports submitted by ADAS are not contested as a reflection of the existing biodiversity status.
- 1.4 The IPC Scoping Opinion produced in May 2011 gave important guidance in the way that the ES and the topics within it were presented in the Application Documents. Paragraph 2.42 states: *"It is important that any necessary updates apply to the whole of the proposed development and any associated development, and are not limited to areas which have been the subject of changes since the submission of the previous application."*
- 1.5 Species reports which have not been updated include:
- | | | |
|-------------------|---------------------------------|----------------------------------|
| <i>Brown Hare</i> | <i>Freshwater Invertebrates</i> | <i>Otters</i> |
| <i>Bryophytes</i> | <i>Freshwater Mussel</i> | <i>Ponds</i> |
| <i>Butterfly</i> | <i>Lichens</i> | <i>Reptiles</i> |
| <i>Deer</i> | <i>Molluscs</i> | <i>Terrestrial Invertebrates</i> |
| <i>Fish</i> | <i>Moths</i> | <i>Vascular Plants</i> |
- 1.6 Bats were previously recorded with moderate activity in the western section and the Lancaster Canal. They are European Protected Species, listed under Annex IIa and Annex IVa to the EU Habitats and Species Directive. They are strictly protected under UK law.

- 1.7 Bats are nocturnal and adapted to low-light conditions meaning that most bat species find artificial light disturbing. The Bat Conservation Trust guidelines (www.bats.org.uk) suggest that artificial light shining on roosts, their access points and flight pathways must be avoided.
- 1.8 The adverse effects of removing hedgerows and potential roost sites, coupled to the linear barrier of the well lit road and conflicts with road traffic would create permanent adverse impacts which were very significant for the local population.
- 1.9 All wild birds are protected to some degree, but some are afforded special protection. Species recorded along the route with National or Local BAP status include Lapwing, Skylark, Linnet, Song Thrush and Bullfinch. Hawfinch is included in the Wildlife and Countryside Act 1981, and Kingfisher receives added European Protected status under the Birds Directive.
- 1.10 According to latest Breeding Bird survey the four sections have varying species that will be compromised by the destruction of habitat:
A - Lapwing (Red), Song Thrush (Red), Oystercatcher (Amber).
B - Song Thrush (Red), Willow Warbler (Amber).
C - Herring Gull (Red), House Sparrow (Red), Kestrel (Amber).
D - Lapwing (Red), Song Thrush (Red), House Sparrow (Red), Linnet (Red), Wheatear (Amber), Curlew (Amber).
- 1.11 Bryophyte species (mosses) are also affected. There is no updated survey although there are several references to them in general within the Notable Trees survey. The Environmental Statement therefore relies on the previous surveys completed prior to 2005 submissions to DfT.
- 1.12 ADAS previously reports 3 examples that are rare at County level are at risk. Removal of the supporting trees to 2 examples results in major negative impacts that are permanent. Bryophytes *Syntrichia laevipila*, *Cryphaea heteromalla* and *Orthotrichum pulchellum* are recorded notable species, and whilst not protected under the Wildlife and Countryside Act, are recognised as scarce or rare at County level.
- 1.13 Salmon are protected species under Annex II(a) and Annex V(a) of the EC Habitats Directive (92/43/EEC). ADAS suggests effects are of "major to critical" importance on one of the top 5 sporting rivers in the UK.

- 1.14 Long term impacts would include pollution from road salt during the winter periods with possible fish mortalities. Motor vehicle accidents could release oil and other pollutants with potentially devastating results. Stream diversions and culverts could obstruct local migrations of fish seeking refuge or feeding, spawning or nursery areas. These impacts have significant adverse effects on a European protected species.
- 1.15 The latest Drainage Management report also confirms that the River Lune will receive traffic related pollution through outfalls. TSLM consider the massive disruption to European protected species habitats and the pollution that will affect the River Lune water environment is unacceptable.
- 1.16 Previous surveys had identified six species of fungi being listed in the British Red Data List or Provisional European Red Data List. Most notable was a species of Principal Importance, the Pink Wax Cap. Fungi are important components in the diversity of Valley Meadow, where negative impacts occur. Status of the Pink Wax Cap is now an "Additional Species of Conservation Concern".
- 1.17 Transferring turf from existing fungi-rich meadow to an adjacent location is an unproven and speculative species management concept, shown by the need to undertake additional surveys. The geological, hydrological and ecological surveys that were requested in the original Fungus Survey are not presented.
- 1.18 The IPC Scoping Opinion states in 3.16 *"The EIA Methodology outlined in section 6 of the Scoping Report is not provided in great detail. The Applicant should be explicit in describing the survey and assessment methodologies to be applied for each topic."*
- 1.19 Section 3.17 continues *"Methodologies should be outlined for each topic heading in the ES and should, as a minimum, clearly define the study area, sources of baseline information, survey methodologies, approach and criteria for classifying potential environmental impacts, any standards, legislation or guidance followed, and any data gaps or limitations to the study."*
- 1.20 The update provided for Great Crested Newt in the ES informs that surveys have been conducted in 2009, 2010 and 2011. These are not in the Application Documents. The update text indicates that it is currently absent from the scheme corridor and falls back on the original report for methodologies etc.

- 1.21 The methodology described does outline precise protocols used for "bottle trapping" studies of newt populations in ponds within the scheme corridor. This fails to address concerns that using this method alone does not reflect an adequate investigation as described in the English Nature Mitigation Guidelines.
- 1.22 Great Crested Newts are afforded protection as Strictly Protected Fauna in Appendix II of the Bern Convention 1979, Schedule 5 of The Wildlife and Countryside Act 1981, Annex II and IVa of the Habitats Directive 1992 and Schedule 2 of the Habitats Regulations 1994. LCC have become vulnerable to legal opinion similar to the ill-fated Western Route.
- 1.23 Over 11 kilometres of hedgerow will be removed by the scheme, 87% of which are protected under the Hedgerow Regs 1997 and losing what is recognised as one of the most important habitat types for numerous flora and fauna. Hedgerows will have no acceptable mitigation habitat for about 15 years and the ultimate ecological structure of hedgerow networks may be considerably different from the original.
- 1.24 An update of the previous "Veteran Tree" report was produced during 2009 and 2010. Some 29 notable trees were noted as affected by the scheme, and most of those are predicted as permanently lost. This is significant permanent loss of regional importance, which cannot be mitigated for.
- 1.25 Young trees are veteran trees of the future and loss represents significant impact. Proposals to plant four new trees for the loss of one veteran tree cannot be considered as adequate compensation. It is illogical for LCC to also identify a younger tree already in situ as the sole long-term replacement for a veteran as it cannot be assumed that any particular replacement would actually achieve veteran status.
- 1.26 There has been no updated survey for otters even though the report text acknowledges: "*Records from the Environmental Agency and local residents confirm the presence of this species. The original survey failed to confirm a presence and a recent Water Vole survey (dated Nov 2009) also failed to confirm a presence.*"
- 1.27 TSLM consider this to be an inappropriate response for a European protected species which is known to frequent the area of the Lune West Bridge. Otters are listed as Annex II(a) and IV(a) species under the Habitats Directive. The species is also listed on Appendix 1 of CITES, and Appendix II of the Bern Convention.

- 1.28 The recent otter survey commissioned by Halton residents is particularly revealing in that the dismissive checks made by ADAS are contradicted when a dedicated survey is conducted. A holt has been located but its exact position is withheld. It is logged by Police Wildlife Protection Officers who acted to prevent illegal felling of trees close to the holt.
- 1.29 LCC have responded to questions on the Environmental Management plans by saying that it is a working document, expected to be *"reviewed and updated as the project proceeds"*. Questions then arise about how reviews would take place, and by whom, with what critical appraisal, and how they are accommodated in the financial budgeting of the scheme.
- 1.30 By referring to the Infrastructure Planning (EIA) Regulations 2009 we find that Regulation 17 deals with the situation where application for Development Consent has been accepted but the Environmental statement is inadequate.
- 1.31 The passage goes further in the way the Planning Inspector should respond where Regulation 17.1 (c) states:
"the application should be suspended until further appropriate information has been provided".
TSLM contend that this sanction should apply to this application.