

## **Planning Application – DCC 4337/2023 – waste recycling and landfill at Lower Brenton farm. BT Jenkins Applicant/Contractor. Submitted as part of Kenn PC response.**

Compiled by Kelvin Boot on behalf of Kenn PC. Kelvin Boot is a life-long naturalist who has written hundreds of articles concerning wildlife for local press, and in national scientific publications, has made hundreds of programmes for BBC Radio 4 and other media outlets; was previously Senior Curator and Curator of Natural History at RAM Museum, Exeter and Director of the National Marine Aquarium, Plymouth. He was a founding member of the Devon Bat Group; and set up the original Devon Biological Records Centre, based at RAM Museum, Exeter. He is currently involved in the 'Living Churchyards project'. As such, while not a designated 'ecologist' he has a wide knowledge of local fauna and flora and many decades of studying, understanding and interpreting it, he is thus an experienced naturalist with a broad knowledge.

### **General concerns on proposed scheme from BT Jenkins documents:**

A key concern is the continuing 'erosion' of the Devon rural landscape, with accompanying diminishing landscape and biodiversity value. This is particularly pertinent as housing developments around Exminster, Matford grow towards Kennford, inexorably encroaching upon the green belt and one of the key gateways to Devon, which attracts visitors because of its natural beauty. The proximity to other sites of natural importance is worrying – nature does not recognise human boundaries or lines on maps and what happens in areas adjacent (and this can be miles) can have serious consequences for nature, as it is gradually ground out of existence. It is far from acceptable to discuss nature without recognition of adjacent areas and their wildlife.

It is stated in the Non-Technical Summary (3.3.1) that a full suite of surveys were carried out – **THIS IS NOT TRUE**, there have been no invertebrate surveys, reptile and amphibian and mammal surveys have been cursory at best, being restricted to bats. It may be that a full suite of 'desk-top' studies have been pursued but these are largely valueless except as a broad-brush indicator, and only reflect the data that has been submitted rather than a true picture 'on the ground' in this case they are wholly inaccurate and should not be relied upon. As such, to use them as strong evidence is disingenuous at best.

The initial desktop survey (presumably intended to highlight areas or species of interest) was undertaken via a request to the Devon Biodiversity Records Centre. Anyone with even a passing interest in wildlife will be aware that such record centres are only able to provide data from records submitted, and seldom actually reflect the complement of wildlife present, unless the site is designated and been subject to intensive work. Over the last year or so I have personally discovered in the Kennford area numerous species that are considered unusual, rare or even threatened in a county or national context. According to existing Records Centre data they do not exist in this area, or in some cases even in the county; I have bothered to look for them, hence I know they are there. While I am gradually submitting these for inclusion, the existing Devon BRC records are impoverished and not a reliable indicator of the wealth of wildlife that exists in the area. Since the original submission was made (later to be withdrawn in the face of considerable opposition) numerous species have been identified within the planned waste tip area. I am perturbed by the repeated statement that as a result of desk surveys the habitat was regarded as 'sub-optimal' and so no further surveys were deemed necessary. I am also shocked that no invertebrate surveys were carried out at any point. Invertebrates – insects, spiders, molluscs etc - are the key in natural food chains (in building terms it would be like erecting a house without bothering with foundations) To neglect

invertebrates is a serious and unforgiveable oversight. When I queried this with members of the Jenkins' team at the most recent drop-in session at the Kenn Centre, Kennford, I was told that they 'had to be pragmatic' and concentrate on less-difficult-to-survey organisms. In my opinion, that could be interpreted as a reflection of carrying out the absolute minimum due to financial constraints, or lack of expertise. It may be that the surveys appear to meet requirements, but they cannot be considered even remotely as being a true representation of what is there. It is interesting and worrying that specialist surveys for reptiles, for example were 'scoped out' at an early stage. However, I note that Cirl Buntings have taken on some importance in the revamped application, after their presence had been pointed out to the Ecologist – a reflection of the 'pragmatic' approach that only looks for what they know is there from a desk top study!

## **MAMMALS**

It is also interesting that the report includes the fact that certain mammal and reptile species – hedgehog, hazel dormouse, slowworm and grass snake, have been noted within 2 km – yet, still does not recognise that many mammal species are known to inhabit the locale or are highly likely to do so. The default position of accepting that because they do not appear in a 'thin' record on paper, they cannot be there is non-scientific at best, worryingly negligent at worst. One wonders how many other species have not been found, because they have not been surveyed for, because the site is 'sub-optimal' – from lack of evidence in the desk top records?

Certainly Fox, Badger, Stoat, Weasel, Hedgehog are known from the vicinity and will almost certainly forage along the hedges, perhaps for their food of voles, mice and shrews. The antiquated idea that because there are no badger setts, there are no badgers, is equally odd, it's a bit like saying we will protect birds' nests but not where they forage for food. Badgers and other mammals are known to range widely and have been seen close to and on the proposed site.

Otters are now regularly seen on the River Kenn, up to and beyond Kennford, possibly using the river as a routeway across to the River Teign in one direction and the River Exe in another. Otters can have territories of 20 miles or more of riverbank, but also regularly range into adjacent farmland.

## **BATS**

Bats are one group that appears to have been studied in some detail, largely thanks to the advent of remote detection equipment, which can be installed and left to autonomously record passing animals. However, they are largely dismissed despite that 'the scoring system suggests the site may be of **County importance** for Greater Horseshoe and of regional importance for Nathusius' pipistrelle. Bats can be quite wide-ranging in their foraging for insect prey and it appears that some parts of the area are being used for that – note my comments on invertebrates above, even if human surveys fail to look and record insects and other invertebrates bats are good at it!

These survey methods for bats are reliable, but again will only sample in the areas where equipment is positioned. This would normally be a good indicator of presence of bat species but it does not take into account the proximity of the River Kenn and its resident Daubenton's Bats. There are undoubted Daubenton's bats (regularly detected and videoed) on the nearby River Kenn, an important wildlife feeder up and down stream. Bats are known to have a negative reaction to light and sound, causing them to desert such disturbances.

All Long-eared species are assumed to be Brown Long-eared. Just because something appears to be unlikely does not mean it is not there, this is how we overlook species. The Grey Long-eared is a rare species that may be missed by wrong assumptions, it may well be present in this part of Devon. I

discovered, identified and submitted a record of one of Devon's earliest occurrences of Grey Long-eared Bat to the National Records Centre, so they are around! Long-eared bats are difficult to detect using equipment to the nature of their calls and sonar signals, so are unlikely to have registered using these methods. Absence of record does not mean absence of species!

There is an assumption that records of Greater Horseshoe Bat which were high on one night, are anomalous and hence are 'Removed' for future graphical representation. Is this done to smooth the result rather than reflect the actual occurrence of a very rare and highly protected species? I would be asking why there was an anomaly and what did it mean, rather than scrubbing it from the record as an inconvenient truth! Other species will no doubt be impacted, especially as the site entrance has been relocated closer to Kennford and its river.

Anthropogenic noise is a major constraint on bat activity, so noise of machinery, especially the reversing bleeps, during the operational phases are likely to have impacts on bats.

## **BIRDS**

The River Kenn is also ignored when it comes to birds. This river which has suffered much agricultural pollution in recent years still manages to hold some interesting, and increasingly scarce, bird species, including Kingfisher and Dipper, as well as Heron, Little Egret and other species which use the river itself or take advantage of the bankside vegetation for foraging and nesting.

The breeding bird survey has now highlighted species of interest including Linnet, Song thrush, Greenfinch, Dunnock and Skylark, which has been assessed as of **District Importance. All of these and other species were highlighted in our first submission and have obviously been picked up by the ecologist as a result.** It is stated that Barn owl is not present as the area is 'sub-optimal', but Barn owls have been spotted quartering the land and Little Owls are known to nest within a short distance of the site boundary. These species and others were highlighted in my comments to the original application, now being included they are another example of HOW THE SUB-OPTIMAL APPROACH FAILS AGAIN AND AGAIN. It is stated that additional surveys have been/are being carried out but as yet these do not accompany the application proposal! The statement that Cirl buntings are not on the site is NOT TRUE, many Shillingford residents, as well as myself, have noted the birds singing from territorial perches within the existing hedgerows. Nightjars have been heard 'churring' in the vicinity. What is particularly interesting is that these bird species were only added to the report following having them pointed out by local people – you will not see things if you don't look for them – Why were these omitted in the first surveys? Buzzards are regularly seen on the fields foraging for food, Sparrowhawk and the dwindling Kestrel hunt field edges and hedgerows on the proposed site, Red Kite are increasingly being spotted above the fields, as are Peregrine falcon.

Wintering birds, it is true, do not use the site in large numbers as their primary residence, but mixed flocks of finches, especially linnets, and redwings and fieldfares are seen flying over the land and alighting in the hedgerows every winter. As nomadic flocks they require a wide area in which to forage. Taking the proposed site out of this mosaic could have serious consequences for winter survival.

The group of birds that have been marked as being especially threatened over the last few decades are the farmland species, existing along field boundaries for nesting and feeding. Since 1970 populations of this category of birds have declined by 50%, and they continue to do so. It is odd that a number of hedges on the site will be grubbed out because they are deemed in the way and sub-optimal for birds. If hedge removal does take place, it appears that this will be at times which are unsuitable. Willow warbler, Chiffchaff and Whitethroat are all migrants that are now either

overwintering or having to extend their nesting seasons, largely due to climate change, an ever present and increasing threat which alters temperatures and rainfall patterns in a way that birds cannot keep pace with.. The existing guidelines stating that hedge removal is OK outside of the period of 1<sup>st</sup> March-31<sup>st</sup> August no longer match up with changes wrought by an altered climate. Currently it is difficult to draw hard lines in time, and I remind you that birds cannot read the guidelines and adhere to them, they will, therefore, be a real risk of disturbance and deprivation of habitat when a stable environment is at its most important. Cirl buntings among other species are now nesting well into September. THIS SHOULD BE EMBRACED BY ANY MITIGATION MEASURES. A further quandary in setting guidelines is that the current guiding legislation – The Hedgerow Regulation Act 1997 is due to be end in January 2024. Currently we do not know how this will affect any proposed hedge removals or mitigation, it is thus unsafe to base hedge proposals on two existing factors of which one, climate change, is already impacting and making nonsense of existing ‘wisdom’, while the second the Hedgerow Regulation, is likely to be changed.

### **REPTILES.**

This data is so out of date and incomplete as to be embarrassingly useless, a classic case of data banks showing records, not actual presence/absence. The survey suggested that further detailed surveys for this group were “not recommended”. The idea that because only two records were found in existing data sources, it reflected the actual picture is bizarre to say the least. Biological Data Banks only contain what has been put in, so the results of previous observations. If observations/surveys have not taken place they cannot be included. I suggest these records mirror the lack of previous input and do not begin to represent the true picture and any conclusions are drawn in a most unscientific way. All reptile species are in decline and so efforts should be made to establish real presence/absence and act accordingly to maintain populations.

Slow-worm is undoubtedly present, probably in large numbers across the site – it is everywhere else in the Parish.

Grass snake, likewise is frequently spotted across the Parish (especially near water – was the pond checked for this species?). Indeed, it has been photographed in Sampson’s Hill Lane

Adder is again present in the Parish, though less frequently seen, due to extreme shyness.

The Viviparous Lizard, erroneously called the common lizard, is regularly spotted at the base of hedgerows and around gate posts. It can be found in large numbers along the roadside verges, including adjacent to Lower Brenton land – it will be on the proposed site.

### **AMPHIBIANS.**

A single visit at the very beginning of the breeding season is hardly adequate to establish presence or absence of Great-crested Newt. Also, the application of the method used is questionable. The recommendations for environmental DNA (eDNA) survey is that four visits take place between April 15th and the end of May, with a strong suggestion that May is the best time. It appears that one visit took place on 15th April 2020, the earliest date deemed reasonable. Research shows that the days prior to the single visit experienced temperatures below or close to zero degrees centigrade, way below the temperature necessary for newt activity. It is also worth noting that while eDNA is a recognised technique, the survival rate of useful material ranges from days to a few weeks. It is hardly surprising therefore that no newts were detected. Is this another case of preconceived ideas – the newts are unlikely so we will not make much effort! I will accept that Great-crested newts are

unlikely, though not impossible. However, a cursory and ill-timed (because of ambient temperature) survey could be regarded as a reflection of the general approach which appears to only address the basic legal requirements – pragmatic?

There is no data here for other newt species, frog, which is highly likely to be present, or toad which is known to reside in the vicinity. The common frog, in particular, is declining rapidly. Other newt species are likely in and around wet areas such as ponds.

#### **INVERTEBRATES.**

There is no attempt to provide comment on any invertebrates including, insects such as butterflies, beetles and grasshoppers (all food for birds etc.) and spiders. These organisms can often remain as relict populations in very small areas within otherwise degraded farmland. However, there are numerous species that have been spotted and photographed along the boundaries. One group that has received some attention by a local expert has highlighted that in and around the adjacent areas, at least, there is a number of spider species that are of national concern being regarded as extremely rare and vulnerable. If that is the case with spiders, further investigation is likely to reveal that other invertebrates of concern are likely too.

#### **IMPACTS**

The statements in the impacts section (7.5) major on ‘temporary’ disturbance or loss. This is simply not acceptable and reeks of finding excuses to do the work at all costs and don’t worry about nature it will sort itself out! Again, a reflection of the ‘pragmatic approach’. True there are plans for some limited ‘enhancement’ for biodiversity but these are all closing the door after the tipping waste horse has bolted. – it is no recompense for destroying perfectly good existing opportunities for wildlife. And let’s not forget that the suggested proposal timeline is at least ten years, but there is a statement that says the life of the operations may be looked at again in light of market ‘forces’, so likely to be open-ended.

Impacts during the construction, operational and restoration phases, despite long explanations, boils down to ‘everything will get out of the way and return once work has finished’. The problem with this approach is that wildlife is being pushed further and further away from its chosen locations, exacerbated by encroaching developments from Exminster/Matford/Alphington, so wildlife that has already been squeezed out will be subject to further pressure to move. This attitude is now quite old fashioned and discredited. Nature cannot be treated as moveable, subject to the whims of developers and planners; nature develops within particular locations over many decades or centuries and cannot be moved and then returned – that is not how it works. The human health and welfare benefits of nature are now well known, so any displacement will result in an impoverished landscape and biodiversity range, with negative impacts on both wildlife and people.

It is stated in the ecological report accompanying the application that acknowledged losses will be temporary, but this only refers to the construction phase. The operational phase will also bring significant disturbance to some of those species already agreed as being of county, regional or national importance. Anthropogenic noise from the tipping and recycling activities will have the capacity to propagate for long distances, potentially a kilometre or more, and this will have the effect on birds, for example, of reducing the overall suitability of habitats. It is well documented that noise, which will be an ongoing pollutant during construction and operation, can seriously impact the behaviour and breeding success of birds species. It is suggested that the noise levels will be similar to the ambient noise from road traffic, for example. However, this noise will be introduced into areas away from the proximity of the main roads and so should be regarded as ‘new noise’ not a

replacement of existing. The well-studied impact on birds demonstrates very clearly that song-birds have to raise their voices to compete over artificial noise in order to hold territories and attract potential mates. Any increase in volume may result in greater energy consumption and singing for longer – both negated by the need to find food, something of a potential downward spiral for the hapless birds. During the operational phase the unique, loud and piercing beeping warning alarms on operational vehicles will introduce a completely novel source of disturbance, one that is less predictable for wildlife and hence one that is especially alarming for them. Bats, which rely on sensitive hearing for navigation and prey capture, will undoubtedly be impacted during the late summer/autumn darker evenings when operations are still underway – in an area that is recognised as being of **County Importance!**

#### **MITIGATION.**

There is much made of the post operational mitigation measures. Including the inclusion in the report of Ecological Net Gain tables (Table 7.1 et seq.) which outlines proposed measures to make up for losses incurred as a result of construction/operation. I do find it impossible to understand how one can talk about net gain when the biodiversity report, which is meant to be a baseline, is lacking in key information due to the ‘pragmatic’ approach which by its nature is highly selective. I return to invertebrates, which inhabit most niches including soil, grassland, banks, hedgerows, trees, etc. These will form the basis of any ‘recovery’ post operations but as there is no data, at all, of what is there it is impossible to assess ‘net gain’. This tier of the biodiversity pyramid will be crucial to any other ‘net gain’ in the form of birds etc. but is likely to take a long time to approach its former wealth, some species will likely never return. Table 7.2 suggests as being ‘probable’ that residual impact on birds and bats is likely to be ‘significant’, perhaps taking 20 years to become positive.

I do consider the sudden, unprecedented interest in ecological sustainability something of a surprise and can only think it must be ‘greenwash’. There has been plenty of time over ‘the five generations’ that have farmed this land to consider nature, as has been done elsewhere in the Parish, it’s a shame the track record does not match or give confidence in the future aspirations.

It is not clear, if the proposal goes ahead, how the biodiversity impacts and suggested mitigation ‘gains’ will be monitored and administered. The response I had to a question of the Jenkins team at the public ‘drop-in’ was that this would likely be the landowner – bizarre if true. It is also not clear whether any ‘improvements’ would be in perpetuity or would be conveniently forgotten once permission had been granted.

#### **SUMMARY**

- a. This ecological report has been steered by a desk top study, which itself was populated by sparse and inaccurate data. This guided subsequent research, much of which was deemed unnecessary. Thus a reliable baseline cannot and has not been achieved.
- b. It is relatively easy to prove presence of a species, almost impossible to prove absence.
- c. Desk top survey from existing data only reveals records submitted and does not reflect what is actually present, certainly in this case, it has many gaps, e.g. the reptile data is wholly inaccurate. Indeed it is stated that the existing records for all species, from the desktop research, indicate a total of 125 species – this is absurdly incorrect.
- d. Large tranches of species, birds, mammals, reptiles etc., have been considered not worth looking for because the desk top survey indicates they are not there – this is wholly unacceptable and tantamount to deception. There are too many assumptions that because something wasn’t spotted during field surveys, it cannot be present. Cirl buntings are now

known to use the area, if not for nesting, they have moved along Kenn Lane and are in the village environs. They are also recorded from adjacent farmland, which incidentally is the subject of an official Cirl Bunting habitat restoration scheme. The poor list of species noted is a reflection of the (largely desktop driven) survey and bears little relation to reality.

- e. A single visit, or few visits, at particular times of day will not register every species: hedgehogs are left out of the report, largely because they are nocturnal and difficult to spot unless being sought. Other species of small mammal will also be over-looked as they can be difficult to survey by cursory visits.
- f. The report only addresses those species which it is required to, to meet the minimum criteria for legislation, or those which are relatively easy to assess; it is thus a minimal report and does not consider the value of the broader mosaic of nature. A single plot of land cannot disregard the surrounding landscape. It is impossible to consider one stretch of countryside in isolation of the surrounding landscape, especially under a destructive, noisy and dust-creating activity.
- g. It is surprising and disappointing that the River Kenn, which passes within the 500m proximity measure, has not been included. Despite damage through agricultural pollution and habitat destruction in the past, it still manages to maintain some interesting and rare fauna, and is an important, route into and alongside the proposed area. Now that the entry point to the site has been moved closer to the River Kenn, this becomes more concerning.
- h. It is my opinion that the survey is inadequate and does not represent a true wildlife picture of the site and its immediate environs. It does not provide a reliable baseline and thus should not be used to justify the proposed landfill site.
- i. In the unlikely event that permission be given for the landfill operations to take place the mitigation measures suggested need to be significantly strengthened.