

## Felling License Application 022/89/08-09 - Site 44 Deforestation Project

### Purpose

- 1 To consider the above felling licence application and seek the advice of the RAC on whether a felling licence should be granted.

### Background

- 2 Site 44, Coulby Newham, Middlesbrough grid ref NZ 519 143 extends to approximately 3.76 hectares and has been a designated housing site for over 25 years. Naturally regenerated woodland has developed on the site since farming ceased in 1995. Some trees may have also been planted on the site but there are no reliable records of this.
- 3 In September 2008 Middlesbrough Council requested a screening direction from the Secretary of State in accordance with the Town and County Planning EIA regulation 1999, for a proposed residential development, including the felling of trees on Site 44. The Council submitted their request in order to establish whether the proposed project would require an Environmental Statement and to clarify whether it would be classed under the schedule 2 list of projects from the Environmental Impact Assessment (EIA) regulations.
- 4 The reply from Government office for the North East (GONE), to the request for screening was as follows:

*"in the opinion of the Secretary of State and having taken into account the selection criteria in Schedule 3 to the 1999 Regulations, the proposal would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location."*

- 5 The proposal submitted to GONE had been to develop the site for around 80 houses. When Middlesbrough Council contacted the FC in October 2008 they were considering undertaking the site preparation work in advance of any built development in order to speed up the sale of the land. This proposal was subsequently superseded by a new proposal to convert the woodland to grassland. FC understood that the housing development would take place in the future but that it wasn't intended to be part of the felling licence application.

### Application Details

- 6 Following discussions with the FC and Middlesbrough Borough Council's own scrutiny of the felling regulations they decided to fell the trees and restore the site to agriculture land before progressing any proposals relating to the planned future housing development.
- 7 In December 2008 MBC cleared approximately four cubic metres of trees covering 1.29 hectares on Site 44. This enabled them to commence clearance of the site by utilising exemptions within the felling licence rules that permit felling of volumes of up to five cubic metres per calendar quarter before a licence is required. In doing this the council encountered protests from local residents.

- 8 A felling licence application was received from Middlesbrough Borough Council on 22<sup>nd</sup> December 2008. The application was subject to a 28-day period of public consultation beginning on 5/2/2009. The proposal involved the felling of 1.2ha of woodland on Site 44 at Coulby Newham, Middlesbrough grid ref NZ 519 143 then restoring the site to meadowland with the replanting to take place on an alternative site.

A summary of consultation responses received is given as appendix 1

- 9 Details of felling:

Species	Mixed Broadleaves 90% Goat Willow; 10% mixed Oak, Ash and Silver birch
Area	1.20 hectares
Age of trees	7-14 years
Number of trees	1461
Estimated volume	26.94 m3

Map of proposed felling is at appendix 2

- 10 The proposed restocking is to be located at Newham Grange Leisure Farm grid ref NZ 503 153 which is 1.75 km from the proposed felling.

- 11 Details of replanting site:

Species	Dominant species Ash ( <i>Fraxinus Excelsior</i> ) with smaller areas of Oak ( <i>Quercus robur</i> ).
Other species	Will include Lime ( <i>Tilia cordata</i> ), Field Maple ( <i>Acer campestre</i> ), Bird Cherry ( <i>Prunus avium</i> ), Wild Cherry ( <i>Prunus padus</i> ), and Holly ( <i>Ilex aquifolium</i> ).
Shrubs	Will cover 15% of the area
Area	2.38 hectares

Map of original planting proposal is at appendix 3

- 12 Details of replanting: Spacing of trees 1.5 m (4500plants /hectare) total 10710 trees and shrubs. Rabbit guards will protect the trees, and then the trees will be watered and weeded for the first 2 years of establishment. With objective of developing the woodland into mature well-spaced amenity woodland.
- 13 Access will be provided by a footpath, enabling the public to walk and eventually cycle through the woodland. This will connect to an adjacent cycle-way forming part of a countryside walking and cycling route.
- 14 The area would have biodiversity and woodland interpretation signage and could be used for education purposes for school groups visiting the farm's countryside team. It is intended to promote a natural woodland flora and fauna through appropriate ecological management.

### **Ecological Impact Assessment Survey for Middlesbrough Council**

- 15 In September 2008 Middlesbrough Council employed WYG Environment Planning Transport LTD to conduct an extended Phase 1 habitat survey including an Ecological impact assessment (EclA) along with a mitigation report in relation to the area referred to as Site 44.

- 16 The survey encompassed the development of the site itself (3.48ha) and the adjacent West Marton Beck and associated woodland, which is out-with the site boundary, but forms part of a wider study area.
- 17 The survey found that the proposed developments on Site 44 would not result in significant land take and therefore no significant loss of habitat. Prior to development the site was considered to be of limited ecological value, due principally to its size, context, and limited habitat types which were generally poor quality. No habitats or species on site were significant at above District level. The adjacent Marton West beck has no official designation, although it forms a wildlife corridor of which specific sections have Site of Nature Conservation Importance (SNCI) designation. The mitigation measures identified for Site 44 were:

A summary of the WYG Ecological survey is included as appendix 4

- Maintain a buffer between site and Marton West Beck during working follow code of best practice from Environment Agency.
- Existing hedgerow on south side of site to be maintained
- No work to take place within 2 m of hedgerow.
- Removal of scrub outside bird breeding season
- Continued management of footpath network in Marton West Beck SNCI.

### **Deforestation EIA Screening**

- 18 In addition to considering the felling licence application the FC was required to carry out a screening under the EIA (Forestry) regulations as the proposal involved the deforestation and change of land use for a total of 2.5 hectares of woodland. This screening took into consideration both the felling licence proposal to fell 1.2 hectares of naturally regenerated woodland and the 1.29 hectares of the woodland that had been felled in late December under the 5 cubic metre exemption clause.
- 19 To help inform the Forestry Commission's screening of the proposed 2.5 hectare deforestation a meeting was held on the 16<sup>th</sup> January with representatives of the local community.
- 20 On the 6th February the decision was made that the tree felling would not have a significant impact on the environment and therefore did not require the consent of the Forestry Commission. A determination letter was sent to applicant on 17<sup>th</sup> February 2009. The Forestry Commission's screening decision was also published and placed on FC's EIA register on 17<sup>th</sup> February 2009. The main issues considered as part of the screening exercise were:
- Loss of woodland cover; clearing would result in loss of woodland but proposal to plant 2.38 hectares within 1.75 km of site, therefore negligible loss of woodland in Middlesbrough area.
  - Loss of access; local residents have enjoyed informal access. There would still be access on two sides of the site, both informal and formal along the PROW.
  - Impact on Wildlife; the ecological survey concluded the only area of ecological importance was along the southern hedgerow. It is now proposed

not to fell this hedge, its also planned is to leave a buffer zone between site and Marton Beck. No evidence of site being used by protected species.

- Noise; some residents complained about increase in road noise as a result of loss of screening. Unlikely to be significant in terms of EIA significance thresholds due to distance from road to houses.

### **Middlesbrough Green Spaces Public Places Strategy 2007**

21 Site 44 is isolated in south Middlesbrough and is not considered to be part of the Middlesbrough strategic green infrastructure framework and is therefore considered suitable by MBC to retain its long-standing allocation as a housing site. The surrounding area of Coulby Newham is well served by:

- The wooded Marton West Beck corridor
- Bonnygrove park
- New native woodland on western area of Marton West Beck corridor
- Council open space at Lingfield Countryside center, Fairy Dell parkland and Newham Grange Liesure Farm

22 There is a general recommendation within the strategy to improve the beck valleys. The beck valleys are considered to be important public green linking corridors to the countryside and green spaces within Middlesbrough. Any developments impinging on these green spaces should acknowledge this. This has been considered in relation to Site 44 by leaving a 50 meter wide emergent woodland corridor along the length of the existing beck corridor.

23 The external open spaces consultant undertaking the strategy's background reports under Planing Policy Guidance 17 found no lack of woodland cover within south Middlesbrough although there is a general lack of tree cover throughout the rest of the town.

24 It is the aim of the Green Spaces strategy to increase woodland cover across the town. The Council proposes to compensate the felling of unplanned unmaintained emergent woodland, by restocking it with new native woodland on a permanent site at Newham Grange Leisure farm. This new woodland will:

- Strengthen the existing scattered mature trees on the site into a woodland belt
- Provide additional woodland habitat to wildlife living in Newham Beck tree corridor
- Provide an environmental screen to the Newham Grange leisure farm from the A174
- Sited in Coulby Newham the woodland will be open to the public for leisure purposes
- Provide new native woodland that is properly managed for public enjoyment, interpretation of flora and funa on a walking route through the wood
- Area proposed to plant is 2.38 ha doubling the area of 1.20 ha applied for in the felling application.

### **Felling License (FL) Criteria Used to Determine the Application**

25 The Forestry Act (1967) provides the legislative framework for felling licence applications. The Forestry Act (1967) also sets out the circumstances under

which a felling licence application can be refused. Felling licence applications may only be refused where granting the licence would not be:

- in the interests of good forestry or agriculture; or
- in the interests of the amenities of the district; or
- in the interests of maintain an adequate reserve of growing trees.

26 A further consideration in this case is whether the alternative planting site proposed is considered acceptable to interested parties. This is relevant because if the felling licence was granted it would include a condition to plant the alternative site at Newham Grange Leisure Farm.

### **The Amenities of the District**

27 The responses to the felling licence consultation have shown that Site 44 is considered to be a very important local amenity by some members of the local community, particularly for its informal open space and wildlife value. The local community has benefited from public access on the site for approximately 15 years, although this has been on an informal (permissive) basis.

28 The local community made an attempt to have the site designated as a Village Green in 2007. This led to a lengthy appeals process the outcome of which was that the application was turned down in early 2008. In support of their case the local community generated a significant amount of publicity. This included producing a number of short video films to promote their cause.

29 Whilst there would still be opportunities to access the site after the proposed felling had taken place it is likely that the site would be much less attractive in visual terms for walking through for some time after the trees had been removed. There would continue to be both informal and formal access, on paths along the boundaries, after the proposed felling has been completed. However as the access on the site, other than along the Public Right Of Way, has been on an informal basis the landowner (MBC) could withdraw this at any time and this must be taken into account when considering the impact of the proposal.

30 The proposed replanting site has established access networks and the public is encouraged to use the new woodland walks being developed in the new woodland. It is expected that the replanting will enhance the habitat value and improve the amenity value of Newham Grange Leisure Farm. But because of the distance between the sites the farm site is unlikely to be used in the same way by the local residents that have used Site 44.

31 The local response during the consultation process focused on the loss of openspace for public enjoyment, dog walking and for children's play. A summary of the comments received from members of the public is attached as appendix 4. This area of woodland has been referred to as the green lungs of the area and a place of tranquility. It can be gauged from the responses that many people in the local area use the site for informal recreation.

32 The loss of and or changes to green space/ informal open space for public enjoyment are the key issues to be take into consideration when judging whether the application is in the interests of the amenities of the area.

## **Good Forestry**

- 33 Whilst there is no precise definition of 'in the interests of good forestry' the accepted modern standard for good forestry is the UK Forestry Standard. The UKFS includes standards and regulations for woodland management and forestry operations. However in cases such as this where deforestation is being considered the UKFS is of limited use, as assessing the case requires consideration of issues beyond the scope of the forestry standard.
- 34 In this case the main issues to consider under the good forestry criteria are the impact of the proposal may have on the habitat and wildlife value of the area. The ecological survey of the site indicated that the removal of the trees from Site 44 would have no significant impact on the ecology of the local area. By maintaining the hedgerow on the southern boundary of the site the area of ecological importance on the site should be maintained.
- 35 Whilst landscape issues were not raised as an issue during the consultation process, there will clearly be an impact on the local landscape. However, as the woodland is relatively young and there is a significant amount of other woodland visible and prominent in the local area the landscape impact is not expected to be significant.

## **Maintaining an Adequate Reserve of Growing Timber**

- 36 This is not considered to be relevant in this case as the woodland is naturally regenerated and is very unlikely to ever produce any timber. The compensatory planting is situated at Newham Grange Leisure farm 1.75km from the felling site. This replanting area is nearly twice the area proposed for felling under this application. Although it is roughly equivalent to the total area recently felled or proposed for felling on Site 44.

## **Recent Developments**

- 37 Following a site visit to Newham Grange Leisure Farm on 21 May it was noted that the proposed footpath and cycle-way had been constructed. Beside the path a fence had been erected to exclude livestock from the newly planted trees. The trees have been planted in the fenced area, where the map indicated the new native woodland would be created. Approximately 3/4 of the proposed woodland has been planted already. In addition to the proposed areas an additional 0.57 ha of new planting had taken place on the site. This additional 0.57 ha has not been included in the felling licence application. The new pathway is a circular path around the outside boundary of the leisure farm, this now allows the public to use the path for a circular walk, starting and finishing at the leisure farm car park. The new path can also be used as a link between the existing path network.
- 38 MBC have subsequently provided further information in relation to the work carried out so far and this is included as appendix 5 and associated map appendix 6.

## **Further Considerations**

- 39 Middlesbrough Council has made it clear that they would be prepared to consider continuing to fell the remainder of the 1.2 hectares of woodland on Site 44 under felling licence exemptions if a licence was not granted by the FC. Middlesbrough

Council would be able to fell the woodland at Site 44 within approximately 2 years if they instigated a policy of removing the permitted 5 cubic metres every calendar quarter.

- 40 Middlesbrough Borough Council is a statutory consultee in the case of tree felling proposals within their council area. As they are the applicant in this case there is a potential conflict of interests. This being the case the Forestry Commission considers that the individual consultation responses submitted by members of the local community need to be considered very carefully. **In these circumstances the input of the RAC is particularly important in terms of helping to advise on the balance between the merits of the application and the merits of the issues and objections raised by consultation responses.**
- 41 In considering this case the RAC will have the opportunity to visit both sites and hear statements from the applicant and representatives of the local community.

### **Conclusion**

- 42 The Forestry Commission considers that whilst the proposed felling will undoubtedly lead to some short and long term impacts on the amenity value of the site there will still be an acceptable provision of green space and access opportunities in the Coulby Newham area. The replanting proposal effectively compensates for the potential losses of habitat and woodland in the wider area.
- 43 Public access to the site has been on a permissive basis and could have been withdrawn at any time by the landowner. This is an important fact to take into account. As such the impact of the potential reduction in the quality of the access must be discounted to some extent. There has never been secure or guaranteed public access to most of Site 44 and it is therefore considered inappropriate to view the proposal as leading to a reduction in access opportunities.
- 44 The ecological survey found that the development would create no significant impacts on the biodiversity of the area and that the impacts on the biodiversity of the site can be mitigated by the measures outlined in the survey.
- 45 In conclusion the analysis of the application and the consultation responses indicates that adverse impacts of the proposal are unlikely be significant in terms of the felling licence criteria and that the felling licence should be granted.

### **Recommendation**

- 46 The above analysis indicates that the felling licence should be granted in this case.
- 47 The RAC is invited to consider this analysis together with the issues and arguments outlined in the paper and the statements from the applicant and the community representatives
- 48 The RAC is then invited to advise the FC on whether or not the felling licence should be granted in this case.

Attachments:

Appendix 1 – Summary of public consultation responses received

Appendix 2 – Map of proposed felling

Appendix 3 – Map of original proposed planting

Appendix 4 – Summary of Ecological survey

Appendix 5 – Revised planting proposals from MBC

Appendix 6 – Revised map of planting proposals from MBC

Supporting Documents:

Screening Checklist