

Reid, Shona

From: Youngs, Tim [Tim.Youngs@rspb.org.uk]
Sent: 18 March 2010 09:54
To: Planning Section
Subject: 2/2009/0880 Former broughton lodge, great broughton 3 turbines

FAO Steve Long

I apologise for my late comments re. this proposed 3 turbine windfarm development at Great Broughton. The RSPB have the following comments to make:

- Internationally important numbers of wintering hen harriers occur in the area, the core area for which is defined in a windfarm 'alert' document for Cumbria which RSPB produced in 2007- see www.rspb.org.uk/northwestrenewables
- I have very recently learned, via the Cumbria Bird Club, that the former Broughton Lodge site at Great Broughton **also** supports wintering hen harriers, as part of the same population which winters slightly further south towards Pica, Moresby, Branthwaite and Frizington. The RSPB, Natural England and the Cumbria Bird Club are proposing to extend the hen harrier sensitivity zone to reflect the importance of the former Broughton Lodge area.
- **Although the RSPB are not objecting to this development, the RSPB wish to highlight the importance of this area for wintering hen harrier.** Having looked through the Environmental Statement, it appears as if only one wintering hen harrier was picked up during winter bird surveys, although the low level of vantage point surveys may have missed birds during dawn/ dusk periods.
- The cumulative impact assessment on page 227 of the ES needs to highlight the other windfarm developments in the area which could impact on hen harriers, namely the Fairfield windfarm at Pica which is to be constructed soon.

Some more detailed information on the importance of the area for hen harriers:

- Hen harrier are a species protected under Schedule 1 of the Wildlife and Countryside Act 1981 and Annex I of the EU Birds Directive.
- The network of roosting sites in this area forms one of the most important winter hen harrier roosts in northern England (Richard Saunders, Natural England, pers. comm.).
- Data gathered on hen harriers in the area by the Cumbria Bird Club and wind farm developers, shows the population is such that it would (at least in the years of dedicated survey) qualify for Special Protection Area (**SPA**) status under Annex 1.1 of the Birds Directive (possession of greater than 1% of the national population). The Developer should, therefore, consider the Proposal area to be of equivalent status to an SPA (and SSSI). As an Annex 1 species, hen harriers, outside of protected areas (Special Protection Areas), are protected under Article 4 (4) of the Birds Directive. This states that "Member States shall strive to avoid pollution or deterioration of habitats" for listed species. A recent judgment of the European Court of Justice (C-418/04 Commission vs Ireland) states in respect of this that Member States must make serious attempts to implement this provision: this requires the taking of all reasonable measures to avoid deterioration of the species' habitats (paras 179 and 190).
- In addition, as an Annex I species, Article 4(1) of the Birds Directive applies and member states are required to take special conservation measures of which the designation and protection of SPAs is only one example.
- There is evidence (from wing tagged birds) that some of the hen harriers which winter in the area, breed on SPAs (eg. Langholm- Newcastleton Hills SPA) for which hen harrier are a qualifying species. The hen harriers on this site are therefore functionally linked to SPAs. There are also other designated sites in northern England and the Isle of Man where hen harriers are listed as interest features of Sites of Special Scientific Interest (SSSI)/ Areas of Special Scientific Interest (ASSI) and/or Special Protection Areas (SPA)/ Areas of Special Protection for Birds (ASBP) complex (UK and Isle of Man designations respectively). There is evidence of Isle of Man birds wintering in the immediate area.

Mark Worcester from Peel Energy left me a 'phone message re. this planning application, but I have been unable to make contact with Mark to discuss further,

Many thanks, Tim Youngs.

Tim Youngs

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