Wiltshire Council Planning Consultation Response

ECOLOGY

Officer name: Max Hemmings, Ecologist
Date: ~~22/11/2023~~ 20/03/2024
Application No: PL/2023/07106
Proposal: Discharge of conditions 5 & 11 of 19/12100/REM (5 is relevant to Ecology)
Site Address: Land at Foundry Lane, Langley Park, Chippenham, SN15 1GE
Case Officer: Jonathan James

Condition No.	Further information required by condition	**Satisfactorily addressed (Document & Date)**
5	Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, an updated Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following: a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing. b) Working method statements for protected/priority species, such as nesting birds and reptiles. c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for birds and bats; this should comprise the pre-construction/construction related elements of strategies only. d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site. e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).	**Partially** Construction Environmental Management Plan Langley Park, by Vistry Partnerships See below this table for the further information requirements. **22/11/2023** **Please see the comment below this table for the further information requirement.** **20/03/2024**

	f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence. Development shall be carried out in strict accordance with the approved CEMP. REASON: The matter is required to be agreed with the Local Planning Authority before development commences to ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.	

There is a lot of documentation for the site team to digest and therefore we request a clear constraints map showing the construction avoidance buffer zones and where the site team should consult an ecologist before any works commence in the respective areas.

Page 26 of the submitted CEMP includes the statement:

A licence from Natural England will be required for the partial closure/closure of the badger sett onsite, with a replacement provided. The strategy set out within the Environmental Statement[1] and the Updated Ecological Report[2] still apply.

Clarification is required on which badger sett(s) will be closed, which will be retained and where the replacement sett will be provided. These should be clearly mapped on the constraints map.

We would anticipate any badger mitigation strategy to align with the recently published guidelines PLANNING DEVELOPMENT AND BADGERS | Badger Trust.

Since badgers are a mobile species the local changes to the badger population and distribution could lead likely to a change in use of the site by badgers. Applications of this size are likely to be drawn out over a period of time before works commence and so we would anticipate the mitigation strategy to acknowledge this and include measures if the importance of the site and the sett has changed over this time.

The relevant sections of the strategies in the referenced documents should be include in the CEMP and not deflected to another document. The badger mitigation strategy should be included in the CEMP, any badger licence from Natural England will supersede what is detailed in the CEMP.

Information to discharge section f is not detailed in the CEMP.

End of 22/11/2023 comment

20/03/2024

The submission of the Badger Survey Report confirms an active main badger sett in the north-western section of the site. Due the surveys being conducted at a sub-optimal season for badger activity it is assumed all of the identified sett entrances (and any newly discovered entrances in this area) are part of the main sett.

The report's plans confirm the sett will be significantly impacted by the proposed development's operational phase due to close proximity of the proposed residential dwellings and the removal of connectivity for badgers within this sett to the wider landscape. Given the proposed spatial conflict, it is not possible for Ecology to approve the discharge condition 4 of 19/12100/REM being the Landscape and Ecology Management Plan (LEMP - application PL/2023/08492) until a suitable Badger Mitigation Strategy is submitted and approved. The current proposed layout will require the closure of the main sett under a licence from Natural England, therefore the LPA needs to have reasonable certainty that the proposed mitigation will be favourably approved by Natural England. The required details of the Badger Mitigation Strategy are discussed at the end of this comment.

In addition, the sett is located in an area which can readily become isolated by any surrounding construction works or other change of use.

Badgers are known to repeatedly use the same commuting routes and consequentially establish mammal paths. The obstruction of mammal paths and/or removal of key foraging areas could result in the isolation and subsequent demise of the badger clan. Information on where the badgers are commuting and foraging is not included in the Badger Survey Report. This information would confirm the significance of the surrounding area for this clan and inform the appropriate mitigation strategy. Since construction works have already partially started on site any established mammal paths / foraging areas could have already been impacted and will need to be addressed in any forthcoming assessment of the site's importance for badgers.

Currently it is not possible to confirm if phasing the construction is an appropriate mitigation strategy since the significance of the surrounding area for this clan is unknown and an early phase could result in the isolation and demise of the badger clan before the suitable mitigation can be implemented. Therefore, it is not possible for Ecology to approve the discharge conditions 5 and 11 of 19/12100/REM being the Construction Environmental Management Plan and Construction Management Plan respectively (application PL/2023/07106) until a suitable Badger Mitigation Strategy is submitted and approved. In addition, although 19/12100/REM is a phase of a larger application (16/03515/OUT), it is in itself not a phased application, and it is not possible to partially discharge the relevant conditions with the Badger Survey Report's proposed sub-phases until an overall Badger Mitigation Strategy is approved.

A Badger Mitigation Strategy must be prepared by a suitably qualified ecologist and include suitable justification supported by appropriate evidence. The Badger Mitigation Strategy must ensure the badger presence in the main sett and the functionality of the associated surrounding area for these species is maintained. If it is not possible to retain the current main sett *in-situ*, suitable mitigation must be detailed for a replacement main sett on or immediately adjacent to the site. Any mitigation outside of application's the redline boundary must be secured by an appropriate legal agreement. If a replacement sett is proposed, sufficient justification supported by evidence is required on the suitability of the location and specification of the replacement sett along with the suitability of the surrounding area to support the relocated badger population. Evidence is also required that the proposed replacement sett will not cause conflict with another badger clan. The BMS should include but not be limited to; protection zones, any retained/proposed badger setts, runs, and foraging areas along with the key timings/schedules.

Once the Badger Mitigation Strategy (BMS) is approved by the Council (and ideally the Natural England licensing team) the details of the strategy must be appropriately incorporated in the relevant planning documents to remove Ecology's holding objection to PL/2023/08492, PL/2023/07106 and any other relevant applications for this site.

End of 20/03/2024 comment

Final sign off – all matters addressed:

Ecologist	Date