

[REDACTED]

From: Chris Teeder [REDACTED]
Sent: 28 March 2023 11:15
To: Planning Services - Castle Point Borough Council; Ian Butt
Cc: Darren Parker
Subject: Planning Application Consultation for 23/0085/OUT - Land East Of Rayleigh Road Thundersley Essex SS7 3UB

Dear Ian,

Re: Planning Application Consultation for **23/0085/OUT - Land East Of Rayleigh Road Thundersley Essex SS7 3UB**

The Essex Badger Protection Group wishes to **STRONGLY OBJECT** to the above Planning Application for the following reasons:

We are aware of a high amount of badger activity and a number of very active setts at this location. This can be confirmed in the Ecological Impact Assessment document for the site which has been submitted by SES.

The current Ecological Impact Assessment document submitted by SES is based on a survey which was carried out in April 2021 and is therefore out of date and no longer valid. Within this document, many sett entrances have been observed to be filled with leaf litter and have been marked as disused. The fact that a sett entrance is filled with leaf litter is not an accurate indicator that the entrance is no longer being used.

The accepted standard method of surveying a badger sett will involve an extended observation period of at least 21 consecutive days, preferably with the aid of camera traps/trail cameras. It is not acceptable to make any form of judgement as to the level of badger activity at a sett based on a single visual inspection alone. For example, it is not unusual for badgers to rely on leaf litter for bedding, or for that material to be left in entrances when the badgers retreat into the sett after an evening of foraging. It would be dangerous to base any form of planning decision or mitigation plan on the presence of leaf litter in a sett entrance, and to do so may end up facilitating an offence under the Protection of Badgers Act 1992.

Badgers are dynamic animals, such that the nature and levels of activity throughout their range would be anticipated to vary over time and accordingly, any survey can only provide a snapshot of the current/recent activity to guide consideration of the overall activity levels at a site, with surveys considered remaining valid/up to date for a limited period (no more than 12 months). This is supported by the current Natural England/CIEEM guidance for developments which can be found here: Badgers: advice for making planning decisions - GOV.UK (www.gov.uk) and here: Advice-Note.pdf (cieem.net)

Furthermore, updated Natural England guidance for local planning authorities, which can be found here : Protected species and development: advice for local planning authorities - GOV.UK (www.gov.uk), states that "you should not usually attach planning conditions that ask for surveys. This is because you need to consider the full impact of the proposal on protected species before you can grant planning permission." With this in mind, an updated survey should be provided before consideration is given to the determination of this application.

When planning a badger mitigation strategy for this site, serious consideration needs to be given to what changes the development could have on the badgers foraging and living patterns, as well as the effect this could have in the surrounding area. Any sett closures will cause badgers to become displaced, and it is important that a good assessment is made of where these badgers may go. Suitable provisions need to be put in place such as badger corridors to allow them free access between their setts, foraging and water sources. The construction of artificial setts should also be considered if there are no disused setts nearby they may use or naturally suitable places where they will be able to make their own without causing problems to private or public property. From our own experiences of observing the impact of sett closures in the past, it is impossible to fully predict what the outcome of a sett closure will be. It is very often the case that displaced badgers will try to find new homes and foraging in

private gardens and other green spaces in the surrounding area. This nearly always ends up creating major problems for local property owners, as gardens and property get damaged by badgers building new setts or foraging for food. Also, it can lead to an increase in badger road casualties if they end up having to rely on crossing a busy road in order to get to and from their new setts and foraging areas.

Our group closely monitors the badger populations in the whole of the south of Essex. The badger population in this part of Essex is constantly being squeezed out of its natural habitat areas by new developments, and this is causing major problems for both badgers and local residents alike. It is vitally important that any development plan fully identifies any issues which may affect badgers and other wildlife so that a workable and well thought through mitigation plan can be created which will work well for both wildlife and local residents alike.

In terms of construction related mitigation, the updated survey should confirm the following practices as a minimum, which may need to be adapted should it be found that badgers are still occupying any part of the application site or the immediate surrounds:

- A further badger survey to be conducted by a suitably qualified ecologist as close as practicable, and no earlier than three months, before the commencement of the proposed works. Should the position, in so far as it relates to badgers, have changed, then work should not proceed until such time as a revised mitigation plan has been submitted and approved by planners.
- All workmen on site should be fully briefed concerning the presence of badgers on site and the mitigation measures to be followed.
- Any trenches or deep pits should be securely covered overnight to stop any badgers falling in and becoming trapped. Alternatively, a rough plank can be provided, at an angle no steeper than 45 degrees, to allow any badgers a suitable means of escape.
- Any trenches/pits should be inspected each morning and evening to ensure no badgers have become trapped.
- The storage of topsoil or other 'soft' building materials within the site should be given careful consideration. Badgers will readily adopt such mounds as setts, which would then be afforded the same protection as established setts. To avoid the adoption of any mounds, they should be subject to daily inspections before work commences.
- During the work, the storage of any chemicals should be contained in such a way that they cannot be accessed or knocked over by any roaming badgers.
- Open pipework with a diameter of more than 120 mm should be properly covered at the end of the working day to prevent badgers entering and becoming trapped.
- Fires should only be lit in secure compounds away from areas of Badger activity and should be fully extinguished at the end of the working day.
- Use of noisy plant or machinery should cease at least two hours before sunset in order to avoid causing a disturbance to badgers.
- Litter and potentially dangerous materials on site should be cleared at the end of the working day. Care should be taken to ensure that there are no sharp metal objects or pointed protrusions on the ground which could seriously injure a badger due to their poor eyesight.
- Security lighting should be kept to a minimum and away from setts, so as not to disturb the badgers on site.
- Adherence to these measures to be confirmed to planners at regular intervals by the project ecologist.

In the UK, badgers and their setts are fully protected by law under the Protection of Badgers Act 1992 & Schedule 6 of the Wildlife and Countryside Act 1981. Also, Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. The welfare of badgers therefore needs to be taken into consideration when assessing this planning application and any mitigation measures that are proposed. For the reasons outlined in this letter, we would urge planners to refuse any planning permission to allow development of this site.

Kind regards,

Chris

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Chris Teeder

Chairman

Essex Badger Protection Group

<http://www.ebpg.co.uk>

Patron: Mike Dilger (Natural History Presenter)

