



ECOLOGICAL ADVICE SERVICE

TO: *Robert Allen*

FROM: *Helen Forster*

DATE: *30 July 2018*

SUBJECT: *Princes Parade Promenade, Hythe Y17/1042/SH including Conditions.*

The following is provided by Kent County Council's Ecological Advice Service (EAS) for Local Planning Authorities. It is independent, professional advice and is not a comment/position on the application from the County Council. It is intended to advise the relevant planning officer(s) on the potential ecological impacts of the planning application; and whether sufficient and appropriate ecological information has been provided to assist in its determination. Any additional information, queries or comments on this advice that the applicant or other interested parties may have must be directed in every instance to the Planning Officer, who will seek input from the EAS where appropriate and necessary.

We have reviewed the additional information submitted and we advise that we have the following comments to make:

Ecological Surveys

The following surveys have been carried out within the proposed development site:

- Amphibian
- Reptile
- Breeding birds
- Botany/NVC
- Mammal
- Invertebrates
- Badger

The submitted surveys have detailed the following:

- Nationally notable invertebrates present within the site.
- Breeding population of common toads.
- Presence of slow worms, common lizards and grass snakes
- 36 species of bird recorded within the site /surrounding area during the surveys.

- Use of the site by breeding birds – potentially 26 species breeding within the site or adjacent habitat
- Foraging Badgers and two active Setts within the site
- Suitable habitat for hedgehog (although none were recorded during the survey)
- Least 8 species of foraging bat within the site.

When we originally reviewed the submitted surveys we did have concerns that the surveys were carried out predominately from the boundaries of the site however from speaking to the planning officer we understand that large areas of the site are impenetrable due to dense scrub / vegetation.

We accept that the surveys provide a good understanding of the species present within the site and we currently do not require the submitted specific species surveys to be updated at this stage of the planning application.

We highlight that the proposed development will result in a loss of suitable habitat for protected/notable species (including foraging and commuting habitat). The submitted information has made recommendations for ecological mitigation which we largely accept, however we highlight that our main concern is the lack of certainty of when the habitat creation works will be implemented. We advise that there is a need to create the open spaces within the 2nd phase.

We advise that if planning permission is granted there is a need for the following conditions to be included:

1. *Prior to works on each phase a preliminary ecological appraisal (PEA) must be carried out. The results of the PEA, recommended specific species surveys and a review/updated of the detailed mitigation strategy (submitted as part of condition 3) must be submitted to the LPA for written approval.*
2. *Prior to any habitat clearance works commencing a habitat creation plan clearly setting out the habitats which will be created during phase two must be submitted to the LPA. The submitted plan must clearly align with the detailed mitigation strategy to be submitted as part of condition 3*
3. *No development shall take place (including any ground works, site or vegetation clearance) until a detailed ecological mitigation strategy (Informed by the Ecological Mitigation and Enhancement Plan; LloydBore; August 2017)) has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:*
 - a) *Purpose and objectives for the proposed works;*
 - b) *Detailed design(s) and/or working method(s) necessary to achieve stated objectives;*
 - c) *Extent and location of proposed works, including the identification of a suitable receptor site, shown on appropriate scale maps and plans;*
 - d) *Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;*
 - e) *Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;*

- f) *Use of protective fences, exclusion barriers and warning signs;*
- g) *Initial aftercare and long-term maintenance (where relevant);*
- h) *Disposal of any wastes for implementing work.*
- i) *Interim management plan to ensure the habitats created/enhanced as part of the mitigation strategy will be managed appropriately.*

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

4. *A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority within 3 months of commencement of the development. The content of the LEMP shall include the following.*
 - a) *Description and evaluation of features to be managed;*
 - b) *Aims and objectives of the management plan*
 - c) *Appropriate management options for achieving aims and objectives;*
 - d) *Prescriptions for management actions, together with a plan of management compartments;*
 - e) *Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period;*
 - f) *Details of the body or organisation responsible for implementation of the plan;*
 - g) *Ongoing monitoring and remedial measures.*

The Plan must be implemented as detailed within the approved plan.

5. *Within 3 months of commencement of the vegetation clearance works an ecological monitoring plan must be submitted for written approval by the LPA. The plan must clearly set out how the ecological mitigation and habitat creation works will be monitored for the construction period and 5 years post construction. Results of the monitoring must be submitted to the LPA and inform the updates of the Ecological mitigation strategy and Landscape and Ecological Management Plan.*
6. *No development shall take place until a "lighting design plan for biodiversity" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting strategy shall:*
 - a) *Identify those areas/features on site that are particularly sensitive for badgers and bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;*
 - b) *Show how, where and what external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.*

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

We have reviewed the submitted information and advise that we have the following detailed comments to make:

Ecological Mitigation

An ecological mitigation strategy has been submitted and it provides an anticipated development timeframe however as detailed in previous correspondence there is no guarantee of the implementation of the works.

All existing vegetation will be lost due to the proposed site remediation works within the first phase and the development will commence in 3 subsequent phases. It is intended to create the linear park (running East to West) during the 2nd phase when the leisure centre and road realignment is being implemented.

As the linear park will create a vegetated buffer between the proposed development site and the LWS we are supportive of this approach however we do raise concerns that there will be no habitat creation works within the rest of the site until phases 3 and 4 are implemented.

As it is currently understood what habitat creation is proposed, particularly within the western park we suggest that there is a need for these habitats to be created as soon the remediation works have been completed (if planning permission is granted). The habitat creation works will enable protected/notable species recorded during the surveys re-establish and provide connectivity throughout the site. The early establishment will provide plenty of time for the vegetation and habitats to have established prior to the occupation of the development (if granted). If there is a delay to works commencing in phase 3 and 4 it will not affect the implementation of the habitat creation works.

As detailed within our response we have concerns about the timing for the habitat creation works and advise that if planning permission is granted there is a need for the habitat creation and ecological enhancements areas to be implemented during phase 2.

NVC surveys

The NVC surveys have resulted in difference conclusions to the ARCH Habitat surveys (which were carried out in 2011) and the additional information provided by the ecologists have not satisfied us why it is unlikely that sand dune habitat is present on site.

Fixed dunes with herbaceous vegetation is described as: *The herbaceous vegetation of fixed dunes in the UK exhibits considerable variation. The most widespread type is Atlantic dune grassland, consisting of a short sward characterised by red fescue Festuca rubra and lady's bedstraw Galium verum and typically rich in species of calcareous substrates.*

From reviewing the historic landscape plans, we do acknowledge that the maps indicate that the majority of the area was used as landfill – however if sand was used during the capping process it is possible that the habitat established on site.

The ecological mitigation strategy has indicated that different habitats can be created within the proposed development (for example maritime grassland species) therefore there are opportunities to re-create habitats within the site and this must be demonstrated within a habitat creation plan.

The mitigation strategy has confirmed that a green roof will be created on the leisure centre roof if planning permission is granted. We advise that the species composition to be included within the site must be based on the results of the botanical surveys.

Reptiles and amphibians

Common lizard, slow worm and grass snake have been recorded on site. The submitted information has detailed that the proposed receptor site is located to the north of the canal. When we originally commented, we raised concerns that the aerial photos suggested that the site already has suitable reptile habitat and it is likely that reptiles (and amphibians) are already present within this site. A reptile survey has been carried out within the proposed receptor site and it has confirmed that low numbers of grass snake were present during the survey.

We accept that if managed correctly in the long term, the proposed receptor site is sufficient to support the reptile population recorded within the proposed development site. The proposed receptor site area is used as informal recreation and therefore there is a need to ensure that the area is managed appropriately. If planning permission is granted there is a need for a receptor site management plan to be included within the Site wide ecological mitigation strategy.

A breeding population of toads have been recorded within the site and adjacent canal and the proposed development will result in a loss of terrestrial habitat and connectivity within the whole site and the wider area. To minimise the impact the development has on the toad population there is a need to ensure the early establishment of the habitat creation works. As detailed above there is a need for habitat to be created within the wider site as soon as possible.

There is a need to ensure that the drainage scheme will not negatively impact the toad population and there is a need to ensure that where gully pots are required wildlife kerbs are also used. Gully pots must not be offset from the kerbside as this is not supported by the Sustainable Drainage Team.

The proposed road is between the development and the Royal Military Canal and there is a risk that the development will result in toad mortalities as they commute between terrestrial habitat and the canal. We advise that wildlife tunnels are located under the road to enable safe movement across the road – we understand that the road is part of the outline planning permission and if planning permission is granted we advise that the information relating to this point can be addressed as part of the reserve matters applications.

Badgers

The submitted report details the following:

- Sett A (currently not active) will be retained
- Sett B and C are active will be lost and an artificial sett created
- Sett D (currently not active) will be lost

When we originally commented on the badger survey and mitigation strategy we raised concerns that the badger mitigation was not implementable as it was our understanding that the whole site was to be completely cleared to enable the capping to be carried out.

However additional information has been submitted detailing the following:

- Sett A and a 30metre buffer will not be part of the capping works.

- The site clearance works and capping will be phased to enable the replacement sett to be created prior to the removal of Sett B, C and D.

Based on the additional information submitted we accept that sufficient information has been submitted to demonstrate that the proposed badger mitigation can be implemented.

No information has been provided on the location of replacement sett and we advise that it must be located within an area which is connected (via vegetation) to the Military Canal to ensure foraging opportunities are retained.

As discussed above, if planning application is granted, the development will result in a loss of habitat and currently it is intended that the majority of the habitat creation works will not occur until phase 3 or 4. Therefore there will be a delay in the creation of suitable foraging habitat within the site. If planning permission is granted there is a need to ensure that the planting for the open spaces are created as soon as possible to ensure it has sufficient time to establish.

Lighting

The lighting assessment has clearly demonstrated that there will be an increase in lighting within the site. Currently the only lighting associated with this site will be associated with the houses across the canal (we understand the adjacent road doesn't have lighting). Therefore there will be a significant increase in lighting within the site.

The lighting plan does indicate that the proposed lighting will spill in to the adjacent LWS and we do query if there is a need for so many lights to be incorporated in to the development. Whilst we accept that there is a need for lighting the proposed lighting should be minimal. Due to the ecological interest of the site and surrounding area the lighting should be designed with ecology as the major constraint.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Helen Forster MCIEEM
Biodiversity Officer

This response was submitted following consideration of the following documents:

Technical Annex 3 – Ecology; August 2017; Shepway District Council

Ecology Response (x2) to KWT, CPRE, KCC Ecology and EA; Lloydbore; Dated 17th January 2018

Ecological Impacts of lighting; Lloydbore; dated 5th February 2018

Lighting Impact Assessment; Elementa; April 2017