

Lucy Corner

From: Lucy Corner
Sent: 09 September 2024 09:35
To: David MacFadyen
Cc: Amelia Earley NE
Subject: 24/01168/REG03 Land To The Rear Of 89 To123 Englishcombe Lane Southdown - ECO
Attachments: 2279127-eg230064.03 sHRA-REV03.pdf

ECOLOGY RESPONSE TO DEVELOPMENT MANAGEMENT CONSULTATION REQUEST

App ref No:	24/01168/REG03
Site Address:	Land To The Rear Of 89 To123 Englishcombe Lane Southdown
Proposal:	The erection of 16 no. supported living units (Use Class C3(b)) with associated communal hub (to include ancillary carers accommodation), access, landscaping and ancillary works
DC Case Officer:	David MacFadyen

NOOBJECT	No Objection	
CONDITION	No Objection subject to conditions and the comments below	✓
NAICF	Requires Revision - ie not acceptable in current form	
MOREINFO	Further information required	
OBJECT	Object (see comments below)	

Summary

The scheme is considered to be in accordance with Policy NE3, and therefore does not give rise to ecological objection, subject to:

- It being considered that the principle of development has already been established (*see note below)
- it being considered that material considerations are sufficient in this case to outweigh the ecological value of the site
- conditions as requested, and any further comments by Natural England with regard to the conclusions of the Habitats Regulations Assessment

I defer to case officer judgement regarding whether material considerations are sufficient to outweigh the ecological value of the site.

A Habitats Regulations Assessment (HRA) is attached for comment by NE, comprising the submitted shadow HRA.

*It should still be noted that the allocation for development within the Local Plan of this site as a designated Site of Nature Conservation Interest (SNCI) does give rise to potential conflict with Local Plan Policy NE3, and does not necessarily allow for best long term solutions to safeguard, restore and optimise the ecological value of the site, by comparison with favourable habitat management of the site without development.

NB Previous survey reports from 18/01516/REG04: Please submit as they contain important background information

Full comments

This is a substantially revised proposal compared with the previous scheme (18/01516/REG04), and is supported by new / updated ecological survey and assessment, and BNG assessment and metric, and a Landscape and Ecological Management Plan (LEMP).

The site is a designated Site of Nature Conservation Interest (SNCI), forming part of the SNCI “Stirtingale Farm (including Rush Hill Open Space and Corston View)”, designated for diverse semi-improved limestone and neutral grasslands supporting botanical interest, wetland vegetation and springs, and semi-natural broadleaved woodland and scrub. Policy NE3 applies. The site has been left unmanaged for a considerable time and the condition and species diversity of its grassland habitats has declined over a period of years as a result of this; it would however be capable of restoration to former or enhanced habitat value, if under appropriate management.

Ecology input and advice to the previous scheme (18/01516/REG04) was extensive and remains relevant, and includes details of the site’s ecological value and SNCI status therefore this information won’t be repeated here.

It is accepted that this scheme offers a considerable improvement, ecologically, compared with the previous scheme, with a greater overall area of habitat retention, and improved scope for future ecologically favourable management and restoration of habitats at the site (albeit still not without risk to retained habitats). The scheme now also demonstrates with a higher level of confidence, using the most recent (statutory) biodiversity net gain metric, the ability to deliver net gain for biodiversity, with proposed off-site delivery of BNG alongside on-site habitat retention and enhancement.

Policy NE3 requires that, for Sites of Nature Conservation Importance, development will only be permitted where: “material considerations are sufficient to outweigh the local biological geological / geomorphological and community/amenity value of the site; where impacts have been minimised; and where there are opportunities to replace and/or offset the loss to at least equivalent or greater ecological value”.

I would comment that the question of whether impacts have been minimised would depend on the scale of development – ie the smaller the scale of development, the more successful the scheme could be at minimising impacts on ecology. Consideration to alternative options for the site, other than its development, might also offer better ecological outcomes for the site, eg its potential use as a BNG off-setting site to generate BNG units. However, I defer to case officer judgement regarding consideration of these tests of Policy NE3 and the balance of judgement over whether material considerations are sufficient in this case to outweigh the ecological value of the site.

Policy NE3 section 5 also requires, “in all cases:

- a Firstly, any harm to the nature conservation value of the site should be avoided where possible before mitigation and as a last resort compensation are considered is minimised and
- b secondly, compensatory provision of at least equal nature conservation value is made for any outstanding harm, and
- c Thirdly, Biodiversity Net Gain will be delivered and managed in perpetuity (minimum of 30 years) through the appropriate means e.g. a legal agreement
- d Then, as appropriate:
 - i Measures for the protection and recovery of priority species are made.

- ii Provision is made for the management of retained and created habitat features.
- iii Site lighting details are designed to avoid harm to nature conservation interests; including habitat connectivity and function as part of an ecological corridor.

For protected species this means: Adverse impacts on European, UK protected species, UK Priority and locally important species must be avoided wherever possible”

Overall, the scheme as it stands is considered to meet these requirements (section 5) of Policy NE3, subject to the comments below.

Site Meeting (19th June 2024)

Initial feedback regarding the planning application was provided in discussions during a site meeting on 19th June 2024.

This involved

- requests for changes to the landscape / planting scheme to ensure this is fully in accordance with the proposed BNG habitats, and to minimise habitat losses especially with regard to grasslands;
- discussion regarding the BNG assessment including an appropriate date for the baseline habitats and condition assessments, and appropriate habitat categories, and the requirement for inclusion of a watercourse assessment.
- The need for minimal lighting and retention of dark corridors for bats (in particular bats associated with the SAC) was also discussed.

Since the site meeting, additional and revised documents have been submitted and comments below are based on the most recent versions.

Ecological Impact Assessment (Rev 4 10th July 2024, Engain)

- The report provides updated survey and assessment to ecological assessments. Surveys include botanical, and updated reptile, badger and bat surveys. Findings, including the findings of protected species surveys (including confirmation that the site continues to support badger activity and a slow-worm population) are accepted. Details and implementation of mitigation can be secured by condition.
- The botanical survey results show the previously evident ongoing decline in habitat condition of the grassland has continued, since previous surveys were undertaken. This will be due to the ongoing absence of suitable habitat management.
- No reference is made within the ecological report to the presence of the “calcareous / basic” (or “tufa”) -depositing nature of the wet flushes / watercourses as described in previous ecological reports, which is a little surprising. However, the report confirms that the watercourse habitat remains at the site and in similar condition. This and the proposals for retention of the wet flushes / watercourses are appropriate and welcome.

Biodiversity Net Gain Assessment (Rev 3, 27th Aug 2024)

- The BNG assessment and metric have been updated to now include the watercourse assessment, which is welcome and accepted.
- The date for the baseline assessment of May 2023 and the reasonings given re the decision for this within the report are accepted. Although the update surveys show continued decline of the condition of the grassland habitats on site, it is agreed that use of an earlier date to capture the condition of the site (eg at Jan 2020) would have been unlikely to have made a significant difference to the baseline habitats, and the BNG and condition assessments currently submitted are supported by an appropriate level of survey and data.
- The scheme requires both on- and off-site habitat delivery to achieve the mandatory requirement for 10% net gain. Additional off-site provision (beyond / outside of the mandatory requirement) is also being proposed with a target of bringing the total net gain for biodiversity to 20%. Final details of how this will be achieved have yet to be provided;

this can be secured via the standard BNG condition. To achieve the minimum of 10% net gain, the scheme must address BNG unit shortfalls of an estimated 2.64 area habitat units and 0.53 watercourse units.

- The standard BNG condition will be required to secure final details of BNG provision, and a legal agreement (it is assumed this will be a Unilateral Undertaking) is required to secure long term habitat maintenance, monitoring and reporting for both on- and off-site habitats.
- A Monitoring Fee will also be payable to the Council and will need to be secured as part of the legal agreement / Unilateral undertaking.

Revised landscape scheme

Revisions have been made to remove proposed tree planting from areas of retained grassland and ensure the landscape scheme is fully in accordance with proposed delivery of BNG habitats. This is welcome and accepted. There remains a level of tree planting that could potentially reduce the area of grassland habitat or grassland habitat condition more than is really necessary – priority must be given to designing the scheme to enable the maximum possible area of grassland and watercourse habitats to be retained and restored. Careful consideration and further ecological consultation regarding the final details of proposed tree and shrub planting, including proposed numbers and species, is therefore requested, but final details can be secured by condition. Further consideration is also requested to incorporating more planting and vegetated area into the courtyard spaces between the buildings. These “courtyard” spaces appear to be dominated by paving would benefit from an increased planting component if this could be achieved. This would also improve the permeability of the site for wildlife and add interest and access to wildlife for residents in more immediate proximity to residential units; increased planting within all areas of the site are also particularly relevant due to the site’s SNCI status.

Fencing – where boundary fencing is considered essential, consideration to alternatives to panel fencing is requested and if panel fencing is considered to be essential, it must be installed in such a way as to allow optimal permeability for wildlife. Access holes for wildlife such as badger and hedgehog will be required at frequent intervals; in addition the fence should be raised from the ground (all the way along) by a minimum distance to enable free movement of other wildlife such as reptiles amphibians and small mammals. Where possible, fencing should allow visual access to habitats beyond and adjoining the site.

LEMP (Arcadis)

- The objectives are accepted but the document doesn’t make reference to the requirement for all habitat objectives and maintenance operations to be fully compatible and in accordance with the Biodiversity Net Gain (HMMP) requirements. Some additional ecological measures will be involved with this. Maintenance of the grassland habitats at the site (to be retained and enhanced to restore habitat value and botanical diversity) is described as “low” maintenance in the LEMP – this could be misleading – to restore ecological value and achieve the target habitats and conditions will require care and may involve a need for specialist knowledge.
- The Maintenance Objective for Grasslands is stated as “Maintain as grass meadows which are generally defined as ‘MG1 Arrhenatherum elatius’ grassland, with wet grassland around the watercourse”. This is not a fully correct objective as it will need to be in accordance with the proposed BNG provision for grassland restoration
- All grass cuttings (and any other arisings) will need to be collected and removed from site, unless there is an on-site compost facility that is fit for purpose and meets all relevant regulatory requirements. Creation of compost piles on habitat/s is not acceptable due to it being harmful to the habitat it sits on and due to pollution risk including risk of pollution of watercourses on the site.

Revised lighting Strategy, Arcadis (Rev P03 Sept 2024)

Revisions to the proposed lighting have been made to further reduce light spill onto the eastern

boundary, and additional lux plots on the vertical plane have been submitted; the lighting strategy has updated accordingly. The lighting for the scheme has been designed to enable dark corridors for bats to be retained along boundary vegetation, with particular attention to the eastern boundary and connective N-S habitat along the access route. The submitted details provide confidence that the scheme is capable of achieving the predicted very low levels of light spill onto sensitive habitats whilst being suitable for the uses and lighting required for the site. The sensitive lighting design is being relied upon as a key mitigation measure within the Habitats Regulations Assessment. It will need to be carefully adhered to, and compliance and effectiveness monitored and this will need to be secured by condition.

Habitats Regulations Assessment

A shadow Habitats Regulations Assessment has been submitted and is attached. It concludes that the scheme would not have an adverse effect on the Bath and Bradford on Avon Bats SAC either alone or in combination with other plans or projects.

The submission of the shadow HRA is welcome and its contents and conclusion are accepted. It is recommended that the Council formally adopts this document as the Habitats Regulations Assessment for the scheme. Key mitigation measures are the sensitive lighting to maintain low light levels along features and habitats that provide connective flight routes, and the retention of habitat connectivity and suitable flight route habitat within the landscape scheme. These measures will need to be carefully adhered to and their implementation, and compliance monitoring, must be secured by condition.

This is subject to any further comments from Natural England who must be consulted on the scheme and HRA prior to any decision being issued to approve the planning application.

Conditions

Ecological Construction Environmental Management Plan (CEMP: Ecology) (pre-commencement)

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan for Ecology (CEMP: Ecology) has been submitted to and approved in writing by the local planning authority. The CEMP: Ecology shall include the following:

- a) Risk assessment of potentially damaging construction activities
- b) boundaries of mapped exclusion zones for the protection of ecologically sensitive species or retained habitats and features, with boundaries shown to scale on a plan, and details and specifications for proposed fencing, barriers and warning signs, as applicable
- c) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
- d) The times and frequency of visits during construction when a professional ecologist needs to be present on site to oversee works
- e) Responsible persons and lines of communication
- f) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), to include the location, timing and methodologies of specified works to avoid harm to wildlife and sensitive features, including proposed details for reptile mitigation scheme and translocation exercise; and mitigation schemes for badger, birds and mammals.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: to avoid harm to existing and retained habitats and species during site preparation and construction works

NB The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife that would be otherwise harmed during site preparation and

construction phases.

Biodiversity Net Gain:

This requires a condition (as below) and a legal agreement (unilateral undertaking)

Biodiversity Net Gain Plan (Pre-commencement)

No development shall commence until full details of a Biodiversity Gain Plan achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for any on-site habitats and biodiversity measures, have been submitted to and approved in writing by the Local Planning Authority. The Plans shall be in accordance with current best practice guidelines and standards and shall be in accordance with the approved Biodiversity Net Gain Assessment and calculation and shall include the following:

In all cases:

1. Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric or any successor, and accompanying evidence for baseline condition assessments;
2. A BNG habitat map for on-site proposed habitats
3. Information about the steps taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat and, in the case of any irreplaceable habitat, information on arrangements for compensation for any impact of the development has on the biodiversity of the irreplaceable habitat (which does not include the use of biodiversity credits).
4. Details and evidence of any registered off-site biodiversity gain units allocated to the development and any biodiversity credits purchased for the development;

Where on-site habitat is proposed/retained:

5. Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives;
6. Annual work schedule for at least a 30 year period
7. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; on-site disposal of grass cuttings or other vegetation waste; routine cutting of ivy where there is no specific arboricultural justification; inappropriate maintenance methods, storage of materials; inappropriate machine or vehicle access).
8. Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives.
9. Details of proposed reporting to the Local Planning Authority, and proposed review and remediation mechanism.
10. Proposed costs and resourcing, and legal responsibilities.

The Biodiversity Gain and Habitat Management Plans shall be implemented in accordance with the agreed details and timetable, and all habitats and measures shall be retained and maintained thereafter in accordance with the approved details.

Reason: To protect and enhance ecological interests and to ensure delivery of Biodiversity Net Gain in accordance with Bath and North East Somerset Local Plan Partial Update policies NE3, NE3a NE5 and D5e and paragraph 13 of Schedule 7A to the Town and Country Planning 1990 Act (Biodiversity Gain Condition).

NB The above condition is required to be pre-commencement in accordance with statutory guidance.

Wildlife Mitigation and Enhancement Scheme

No development shall take place until full details of a Wildlife Mitigation and Enhancement Scheme, produced by a suitably experienced professional ecologist, have been submitted to and approved in writing by the local planning authority. These details shall be in accordance with (but not confined to) the recommendations and measures described in the approved Ecological Impact Assessment (Rev 4 10th July 2024, Engain) and shall include detailed proposals for implementation of the wildlife mitigation measures and recommendations of the approved ecological report, including wildlife-friendly planting and landscaping details; provision of bat and bird boxes; provision of additional

features and habitats to benefit wildlife. Details shall include proposed specifications; materials; dimensions; models; design; fixings (as applicable); and proposed numbers, heights and positions. Specifications for fencing and boundary treatments shall include provision of a gap at the base of the fencing, and wildlife access points at intervals, to allow movement of wildlife. All details shall be fully incorporated into the scheme and shown to scale on all relevant plans and drawings. All works within the scheme shall be carried out in accordance with the approved details and completed in accordance with specified timescales and prior to the occupation of the development, and retained and maintained thereafter for the purposes of wildlife conservation.

Reason: To prevent ecological harm and to provide additional benefits for wildlife in accordance with policies NE3 and D5e of the Bath and North East Somerset Local Plan.

External & Internal Lighting (Bespoke Trigger – requires approval of details prior to installation of new lighting)

No new external or internal lighting shall be installed without full details of proposed lighting design being first submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with the approved "Lighting Strategy" Rev P03 dated September 2024 by Arcadis, and the accompanying predicted light spill calculations, and shall include:

1. proposed lamps and lamp models, with manufacturer's specifications; proposed lamp positions; numbers and heights, with details also to be shown on a plan;
2. Light spill modelling, in accordance with the standards and best practice guidelines as described in ILP Guidance Note 08/23 "Bats and artificial lighting in the UK", including details of predicted light spill and lux levels within and beyond site boundaries, onto adjacent land and onto boundary vegetation and all ecological habitats and sensitive features within and adjacent to the site, on both vertical and horizontal planes, with details of predicted light levels to also be shown on a plan, and at heights using sections and drawings;
3. details of lighting controls; proposed hours, frequency and duration of use; and details of all measures and features to contain light spill, and to prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land; and to limit use of lights when not required; and to avoid harm to bat activity and other wildlife.
4. Details of a proposed lighting compliance and operational monitoring and reporting scheme, to demonstrate that the scheme has been installed and is being operated in accordance with approved details and that light spill levels are in accordance with predicted lux levels, to be carried out by suitably experienced professionals and details of reporting to the LPA and proposed actions for remediation if applicable

The lighting shall be installed, maintained and operated thereafter only in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with policies NE3 and D8 of the Bath and North East Somerset Local Plan.

Landscape scheme and LEMP

Please also attach standard **landscape conditions** to secure final details of hard and soft landscaping and planting and boundary treatments and a condition to secure final details of the **LEMP**. Conditions are required to secure these as they require some minor amendments and further revisions may yet be required to ensure they are fully in accordance with the BNG provision.

Ecological Compliance Statement (Pre-occupation)

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by a suitably experienced professional ecologist) confirming and demonstrating, using photographs, adherence to and completion of the approved CEMP (Ecology) and Wildlife Mitigation and Enhancement Scheme, in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the CEMP and Wildlife Mitigation and Enhancement measures, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3 NE3A; NE5 and D5e of the Bath and North East Somerset Local Plan.

Relevant Policies

NE1; NE3; NE3A; NE5; D5e; D8

Please contact Ecology for further discussion, prior to issuing the decision, if the decision will differ from the above advice or requested condition/s.

Please re-consult Ecology on Uniform if further information or revised plans are submitted in relation to the above. Please note that a 14 day period for consideration of revised or additional information from the date of submission of the information is usually requested by officers acting as consultees, although alternative deadlines may be mutually agreed where necessary.

Lucy Corner

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