

BARRATT HOMES /
BOVIS HOMES /
TAYLOR WIMPEY

LONGFORD PARK, BANKSIDE
BANBURY

**Badger Survey Report and Method Statement
for Licence Application
to Interfere with a Badger Set
for the Purpose of Development**

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LEGAL GUIDANCE

The information set out within this report in no way constitutes a legal opinion on the relevant legislation. The opinion of a legal professional should be sought if further advice is required.

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1. INTRODUCTION

1.1. Background

1.1.1. Outline planning permission was granted by Cherwell District Council (Ref: 05/01337/OUT) in September 2009 for the development of land to the east of Bankside, Banbury (see Plan 3266/BLA1) to provide new residential homes and associated facilities including a school and playing fields. In association with the consented development, detailed planning permission (Ref: 13/00150/REM) was granted in March 2013 for the construction of a new access road to service the development (see Appendix 1).

1.1.2. Aspect Ecology was subsequently commissioned by Barratt Homes, Bovis Homes and Taylor Wimpey (“the Developers”) in April 2013 to conduct a survey in respect of Badgers along a stretch of Oxford Road incorporating the consented access road (“the Development Site”; see Plan 3266/BLA2). A number of active setts were identified along the edge of Oxford Road, two of which will be directly affected by the consented access road. Accordingly it is necessary to apply for a Badger licence in relation to these setts.

1.2. Existing Site Characteristics

1.2.1. The Development Site is a stretch of Oxford Road and associated hedgerow, trees and grass verge (see Plan 3266/BLA2), which is situated in a semi-rural context to the east of Bodicate, beyond the southern reaches of Banbury. Existing residential development bounds the west of the Development Site, whilst an arable field forming part of the wider proposed development, and the grounds of a Health Club and Spa bound the site to the east.

1.2.2. The Badger setts identified within the Development Site are situated within a strip comprising shrubs, trees and short sections of hedgerow, which is located along the eastern side of Oxford Road (see Plan 3266/BLA3).

1.3. Consented Development

1.3.1. Full planning permission (Ref: 13/00150/REM) was granted for construction of the access road into the proposed wider development, which is situated off the eastern site of Oxford Road (see Plan 3266/BLA2).

1.3.2. The layout of the consented development is such that the footprint of the proposed access road coincides with the locations of two active outlier Badger setts. Accordingly, to facilitate the development and safeguard Badgers during the construction process, a mitigation strategy is proposed, including an exclusion exercise and the full and permanent closure of both setts.

1.4. Purpose of Report

1.4.1. The purpose of this report is to provide an accompanying statement for a licence application to carry out an exclusion exercise and close two single entrance outlier Badger setts (S3 and S4) within the Development Site boundary. This will allow the development of the site to proceed, whilst ensuring that Badgers are suitably safeguarded.

2. ECOLOGY AND LEGISLATION

2.1. Ecology

- 2.1.1. Badger *Meles meles* are a member of the Weasel family and are widespread throughout the British Isles. It has been estimated that Britain supports in the region of 250,000 Badgers. However, they are not uniformly distributed and are less common in upland areas, East Anglia and northern Britain. In some areas they can be very common particularly in the south and southwest.
- 2.1.2. Badgers are very social animals and in most instances they live in social groups of approximately 5-12 individuals. Setts are usually dug into a suitably firm and free draining substrate and as a result are often located in steep banks and mounds.
- 2.1.3. In lowland Britain earthworms are an important food item, although cereals and fruit may figure significantly in the seasonal diet of a Badger. They will also feed on a range of other invertebrates and animals such as Frog *Rana temporaria*, young Rabbit *Oryctolagus cuniculus* and wasp grubs.
- 2.1.4. Badgers typically have a number of setts in their territory (see Appendix 2) of which the main sett is occupied year round and is the most important for the social group. In addition a social group will often also maintain annexe, subsidiary and outlier setts each of which is of decreasing importance to the group as a whole.

2.2. Legislation

- 2.2.1. In the UK the relevant legislation pertaining to Badger is the Protection of Badgers Act 1992. The legislation aims to protect the species from persecution, rather than being a response to an unfavourable conservation status, as the species is in fact common over most of Britain. It should be noted that the legislation is not intended to prevent properly authorised development.
- 2.2.2. Under the Protection of Badgers Act it is an offence to:
- Wilfully kill, injure, take, possess or cruelly ill-treat* a Badger, or attempt to do so;
 - To intentionally or recklessly interfere with a sett# (this includes disturbing Badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it).

* the intentional elimination of sufficient foraging area to support a known social group of Badgers may, in certain circumstances, be construed as an offence by constituting "cruel ill treatment" of a Badger.

A sett is defined as "any structure or place which displays signs indicating current use by a Badger". Advice issued by Natural England (June 2009) is that a sett is protected as long as such signs remain present, which in practice could potentially be for some time after the last actual occupation by Badger.

2.3. Licensing Requirements

- 2.3.1. Licences can be obtained from the SNCO (in this case, Natural England) for development activities that would otherwise be unlawful under the legislation.
- 2.3.2. In 2002, English Nature produced guidance on the types of activity that should be licensed within certain distances of sett entrances and these were laid out in its publication “Badgers and Development”¹. For example using heavy machinery within 30m of any entrance to an active sett, and lighter machinery within 20m, or light work such as hand digging within 10m, all may require a licence.
- 2.3.3. This guidance was updated by Natural England in the publication “Badgers and Development: A Guide to Best Practice and Licensing. Interim Guidance Document” (the most recent edition of which is dated December 2011)² which includes a more flexible approach to zoning depending on the activities to be undertaken.
- 2.3.4. In June 2009, Natural England published guidelines³ on the interpretation of disturbance in relation to Badgers occupying a sett. This guidance notes that Badgers are relatively tolerant of moderate levels of noise and activity around their setts indicating that Badgers are not necessarily disturbed by such activities. As such Natural England advises that certain levels of apparent ‘trivial’ disturbance are likely to have little or no effect on any Badgers present within a sett and therefore do not require a licence for such actions to be undertaken.
- 2.3.5. Examples of activities at or near setts which Natural England believe do not require licensing are set out within this guidance, including:
- Development or other activities occurring close to Badger setts (use of hand tools and/or machinery), where there is no reason to believe that the ‘disturbance’ will be greater than that which the Badgers commonly tolerate;
 - Vegetation removal (including felling small trees or shrubs) over or adjacent to setts (using hand tools and/or machinery);
 - Clearing out of ditches or watercourses using machinery and/or hand tools where Badgers setts are present.
- 2.3.6. Guidance from Natural England⁴ sets out that:
- “A badger sett is protected by the legislation if it “displays signs indicating current use by a badger”. A sett is therefore protected as long as such signs remain present. In practice, this could potentially be for a period of several weeks after the last actual occupation of the sett by a badger or badgers.”*

¹ English Nature. (2002). “Badgers and Development.”

² Natural England. (2011). “Badgers and Development: A Guide to Best Practice and Licensing. Interim Guidance Document”

³ Natural England. (June 2009). “Interpretation of ‘Disturbance’ in relation to Badgers occupying a sett.”

⁴ Natural England. (June 2009). “Interpretation of ‘Current Use’ in relation to Badgers occupying a sett.”

3. SURVEY METHODOLOGY

3.1. The field boundary to be affected was surveyed for Badger⁵ by Aspect Ecology in April and May 2013. The Badger survey comprises two main elements. Firstly, searching thoroughly for evidence of Badger setts. For any setts that were encountered, each sett entrance was noted and plotted even if the entrance appeared disused. The following information was recorded:

- The number and location of well used or very active entrances; these are free from any debris or vegetation and are clearly in regular use and may, or may not, have been excavated recently.
- The number and location of inactive entrances; these are not in regular use and have debris such as leaves and twigs in the entrance or have plants growing in or around the edge of the entrance.
- The number of disused entrances; these have not been in use for some time, are partly or completely blocked and cannot be used without considerable clearance. If the entrance has been disused for some time all that may be visible is a depression in the ground where the hole used to be and the remains of the spoil heap.

3.2. Secondly, Badger activity such as well-worn paths and push-throughs, snagged hair, footprints, latrines and foraging signs were recorded so as to build up a picture of the use of the site by Badgers.

⁵ Surveys based on: Mammal Society (1989) "Occasional Publication No. 9 – Surveying Badgers"

4. SURVEY RESULTS

4.1. The survey work identified the presence of a number of Badger setts within the hedgerow/band of scrub, in addition to other field signs such as latrines, pathways and foraging signs (see Plan 3266/BLA3). One further active sett, and several additional inactive setts were also identified within the wider study area, beyond the zone of influence of the consented access road. The active setts within the zone of influence of the consented access road are discussed below, with typical sett definitions provided at Appendix 2.

4.2. Badger Activity

4.2.1. **Sett S1** is a single entrance outlier sett that was considered to be active at the time of survey, and featured a fresh mound of spoil and Badger guard hairs at the entrance.

4.2.2. **Sett S2** is a subsidiary sett, which contains three entrances, all three of which were considered to be active at the time of survey due to relatively fresh mounds of spoil and the presence of Badger guard hairs at each entrance.

4.2.3. **Sett S3** is a single entrance outlier sett that was considered to be active at the time of survey, with a fresh mound of spoil and Badger guard hairs at the entrance.

4.2.4. **Sett S4** is a single entrance outlier sett that was considered to be active at the time of survey, with fresh spoil and Badger guard hairs at the entrance.

4.3. **Sett S5** is a single entrance outlier sett that was considered to be active at the time of survey, with fresh spoil and Badger guard hairs at the entrance.

4.4. **Other activity.** Other evidence of Badger activity was recorded in the form of several latrines and occasional foraging signs along the boundary hedgerows of the wider study area, and faint pathways run along the length of the hedgerow / line of trees adjacent to Oxford Road.

4.5. Evaluation

4.5.1. Badgers typically utilise a number of different sett types within their territory (see Appendix 2 for sett definitions). The main sett is the most important sett within any territory and is typically occupied year round and contains a number of active entrances. Other setts within the territory are utilised to varying degrees throughout the year depending often on their status as either annexe, subsidiary or outlier setts.

4.5.2. As described above, all setts within the zone of influence of the consented access road are either outlier or subsidiary setts, and are therefore small, not subject to continuous use, and thus considered to be of relatively low importance to the Badger social group. The direct loss of two outlier setts (S3 and S4) will therefore have minimal impact upon the local Badger population.

5. IMPACTS ON BADGERS

5.1. Impact of Proposed Access Road on Setts S3 and S4

- 5.1.1. Two setts will be damaged or destroyed by the construction of the consented access road, and three additional setts lie within the potential zone of influence of the development. The following impact assessment relates specifically to construction of the consented access road, and sets out in detail the potential impacts that may affect Badgers.

5.2. Direct Impacts on Setts

Setts S1, S2 and S5

- 5.2.1. The consented access road is located more than 20m from setts S1, S2 and S5 (see Plan 3266/BLA3) and accordingly it is unlikely that any sett tunnels will be directly affected by any groundworks associated with construction. Accordingly, these setts can be safely retained, subject to appropriate mitigation measures as described within section 6 of this report.

Setts S3 and S4

- 5.2.2. Setts S3 and S4 lie directly in the path of the consented access road, and as such the setts and associated tunnels will be damaged or destroyed during the process of construction. Given their status as outlier setts and the location of the consented access road, which intersects with both setts, retention of the setts is not a practicable option, and an exclusion and sett closure exercise will therefore be necessary (see section 6 below). The exclusion exercise will require a Natural England licence, assuming the setts are still active at the time of works.

5.3. Disturbance to Badgers Occupying Setts

- 5.3.1. Natural England guidance advises that Badgers are relatively tolerant of moderate levels of noise and activity around their setts and that low or moderate levels of apparent disturbance at or near to Badger setts do not necessarily disturb the Badgers occupying those setts⁶. Therefore, a licence is not considered necessary for such levels of apparent disturbance around setts. Disturbance arising from development, or other activities (e.g. construction) occurring close to Badger setts, may not require licensing where there is no reason to believe that the 'disturbance' will be greater than that which the Badgers commonly tolerate.

- 5.3.2. In the specific case of retained setts S1, S2 and S5, a degree of noise and activity will arise during construction of the access road. However, given that these setts are located within an active agricultural context and adjacent to a busy road, there will already be an existing baseline of noise and activity, for example from farm vehicles and machines operating in close proximity to the setts, and regular road traffic. Taking account of this existing baseline of noise and activity and the distance of the setts from the access road, it is considered that under the above Natural England guidance a licence would not be required in respect of disturbance to Badgers occupying these retained setts.

⁶ *ibid.* footnote 3 above.

- 5.3.3. Nonetheless, appropriate measures are set out within section 6 below to minimise disturbance as far as practicable during construction of the road.

5.4. Maintenance of Links with Other Existing Setts

- 5.4.1. Construction of the access road is unlikely in itself to significantly interrupt links with other existing setts, as substantial areas of land will remain unaffected by the works. In the longer term, the wider development proposals will ensure that links between retained setts within the site and the local vicinity are maintained, primarily through the provision of linear green spaces located across the site. These green links will enable Badgers to access the setts situated throughout the site and in the wider area.

5.5. Potential for Loss of Foraging Grounds

- 5.5.1. Construction of the access road will result in the loss of a relatively small area of sub-optimal foraging habitat. This loss is likely to be of negligible significance to the local Badger population given the abundance of remaining foraging habitat. In the longer term, the provision of areas of public open space within the wider development proposals will consist of a matrix of habitats including scrub and tree planting but will be dominated by permanent grassland. Permanent grassland typically provides a high foraging yield for Badgers and as such represents a high value habitat. In addition, species will be selected for landscape planting that will provide an additional foraging resource in terms of providing a food supply (such as berries) as well as cover.

5.6. Maintenance of Links to Off-site Foraging Grounds

- 5.6.1. Badgers will forage some distance from their setts especially if they have richer foraging grounds elsewhere. Badgers typically travel further to reach foraging grounds that provide a higher return for less foraging effort. Particularly favoured food items are earthworms, which provide a rich protein source.
- 5.6.2. Given the low level of Badger foraging activity at the site, it is considered that Badgers are utilising a variety of off-site foraging resources at the present time, with the agricultural land situated adjacent to the site providing suitable foraging habitat for Badger. These foraging resources will remain unaffected by the proposed access road and all existing links to these habitats with the retained setts would be fully maintained. As such no significant impacts are anticipated in terms of disruption of links to off-site foraging resources.

6. METHOD STATEMENT

6.1. Licensed Exclusion from Setts S3 and S4

Method

- 6.1.1. In order to allow the permanent closure of S3 and S4, an exclusion exercise will be undertaken under a Natural England development licence, as described below.
- 6.1.2. **Gates.** Badger gates (see Appendix 3) will be installed at each of the entrances of each sett. These vertically swinging gates will be of sturdy construction, with a frame extending into the ground/tunnel entrance to prevent Badgers forcing access around the edges.
- 6.1.3. **Proofing.** In order to ensure that Badgers do not dig around or otherwise gain access back into the sett once the entrance gates are in place, it is proposed to proof the area immediately around the setts using heavy, strong mesh (e.g. heavy duty chain-link mesh), which will be securely fixed down at the margins to prevent Badgers digging back into the setts and surrounding bank. Where possible, proofing will extend at least 5m from the existing entrances.
- 6.1.4. **Monitoring.** The gates will be set to allow only one-way passage outwards from the sett for a minimum period of 21 days. The gated setts will be monitored at least once every three days, using sand smoothed over the sett entrance and either side of the gate to reveal Badger footprints, and by placing sticks and hair traps (double sided tape) on the entrances to monitor any use by Badgers during this period.

6.2. Licensed Closure of Setts S3 and S4

- 6.2.1. Once it is ascertained that all Badgers have been excluded (i.e. 21 days without any evidence of use), setts S3 and S4 will be closed under the direction of the Natural England licence holder or an accredited agent. The closure procedure is described below.
- 6.2.2. During daylight hours, the sett entrances will be dug out using hand tools or carefully with a mini-digger, and the associated tunnel system traced back to where it terminates. The setts would then be backfilled (if required) or in-filled and confirmation given that development works are able to proceed, which would commence as soon as possible after the sett closure.

6.3. Timing of Works

- 6.3.1. The precise timetable for partial exclusion and closure works has been established with due regard to the seasonal sensitivity of Badgers. The specific seasonal sensitivity of this species is summarised at Table 1 below.

Month of the year	J	F	M	A	M	J	J	A	S	O	N	D
Badger Sensitivity	H	H	H	H	M	M	L	L	L	L	L	H

Table 1. Badger seasonal sensitivity. (L = Low Sensitivity, M = Moderate Sensitivity, H = High Sensitivity).

6.3.2. The exclusion from and closure of Badger setts will be subject to a Natural England licence, which are typically only valid between 1st July and 30th November to avoid disruption to the Badger breeding cycle. However, in this instance, given the status of setts S3 and S4 as outliers, it is unlikely that the setts are in use for breeding, and there is therefore very little risk of disturbing dependent cubs. As such, the timing of the closure exercise is less sensitive than would otherwise be the case for a sett in use for breeding.

6.3.3. Based on this, it is proposed that the exclusion exercise commences in June 2013 (subject to grant of licence), avoiding the period of high sensitivity. Given the risk of encountering dependent cubs is very low, it is considered that the exclusion exercise can be safely undertaken at this time.

6.4. **Works Within 20 Metres of Setts S1, S2 and S5**

6.4.1. **Contractor briefing.** Contractors and all other site personnel will be briefed that no works, movements of machinery, storage of equipment or other activities should be undertaken within 20m of setts S1, S2 and S5 unless at the discretion of and, where necessary in the presence of, the supervising ecologist. Given that the Badger setts lie within boundary hedgerows that are to be retained, tree protection fencing will be installed which, in addition to protecting the hedgerows, will act as a physical deterrent to works close to the retained Badger setts.

6.4.2. **Noise/vibration control.** In the presence of a supervising ecologist, certain types of work within 20 metres of the retained setts may be able to be undertaken using machinery. The type of any such work that may be appropriate will be at the discretion of the supervising ecologist who will judge the likely disturbance that may be caused to the setts from the type of machinery to be used and type of operation required. The operation of machinery of a heavy weight or with a vibro-compaction facility will be subject to particular scrutiny. The operation of machinery will be under the direction of the supervising ecologist at all times, where appropriate.

6.4.3. Any mechanical activities that are deemed by the supervising ecologist to be likely to cause an undue level of disturbance will not be permitted and the required operations will be undertaken by lighter machinery or by hand.

General Site Construction Safeguards

6.4.4. The following general site construction safeguards will be implemented.

- Any trenches or deep pits within the development site that are to be left open overnight will be provided with a means of escape should a Badger enter. This could simply be in the form of a roughened plank of wood placed in the trench as a ramp to the surface. This is particularly important if the trench fills with water.
- Any trenches/pits will be inspected each morning to ensure no Badgers have become trapped overnight. Should a Badger become trapped in a trench it will likely attempt to dig itself into the side of the trench, by forming a temporary sett. Should a trapped Badger be encountered Aspect Ecology should be contacted immediately for further advice.

- The storage of topsoil or other 'soft' building materials on site will be given careful consideration. Badgers will readily adopt such mounds as setts. So as to avoid the adoption of any mounds, these will be kept to a minimum and any essential mounds subject to daily inspections with consideration given to covering over any such mounds to deter Badgers.
- The storage of any chemicals on site will be well away from the setts and contained in such a way that they cannot be accessed or knocked over by any roaming Badgers.
- All contractors and site personnel will be briefed on the presence of Badgers at the site and a watching brief will be maintained at the site for any additional Badger activity.
- Fires should only be lit in secure compounds away from areas of Badger activity and not allowed to remain lit during the night.
- Food and litter should not be left within the working area overnight.

Maintenance & Monitoring

- 6.4.5. As set out above, the setts S3 and S4 will be monitored regularly up to the point of sett destruction. Thereafter, there will be no need for further monitoring. However, a check survey of the area will be undertaken immediately prior to the start of construction to check that no new setts have been excavated.

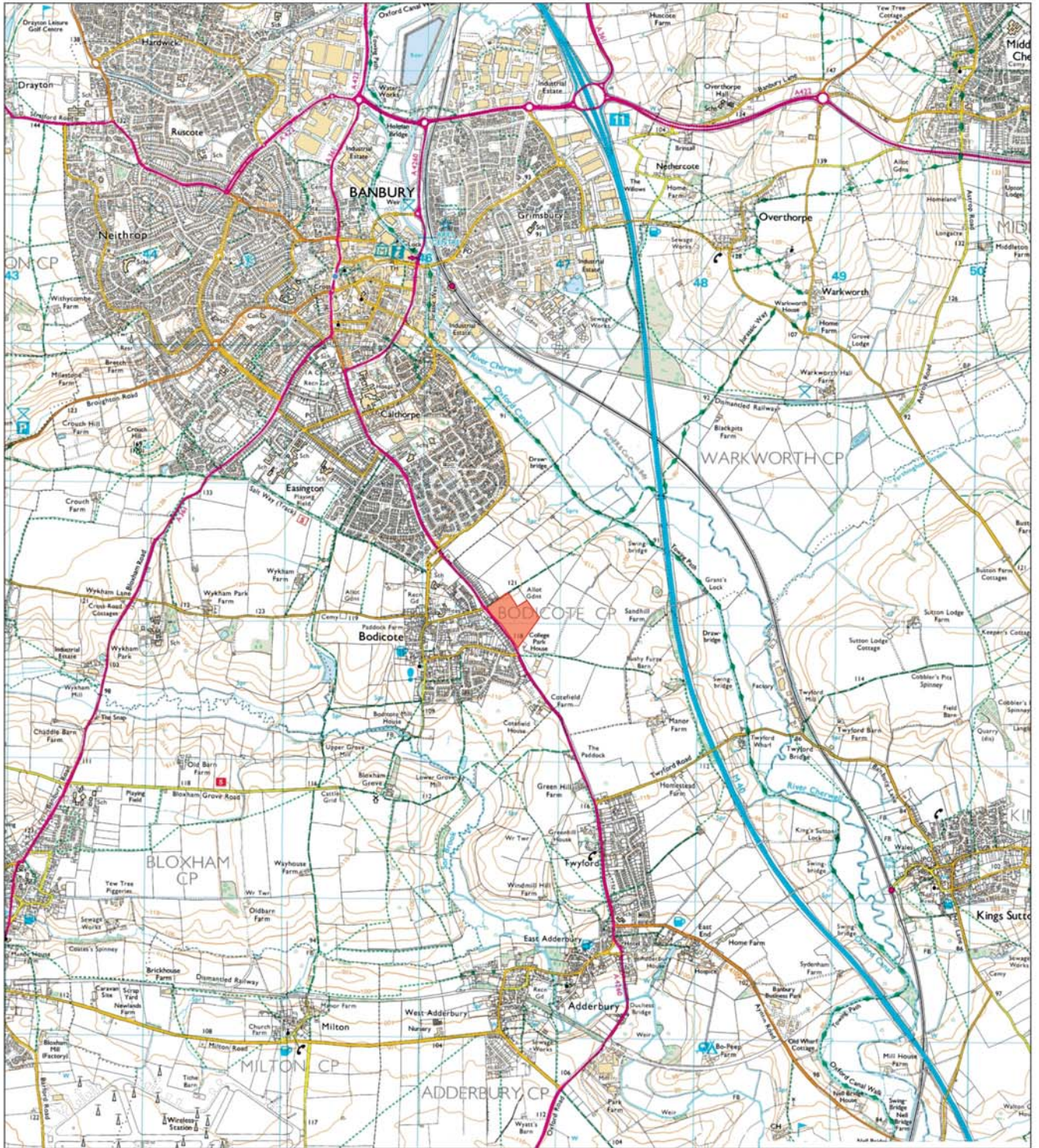
7. SUMMARY AND CONCLUSIONS

- 7.1. Aspect Ecology was commissioned by Barratt Homes, Bovis Homes and Taylor Wimpey to undertake Badger survey work at an area of land located to the south of Banbury, Oxfordshire and to devise an appropriate mitigation strategy in respect of the consented access road.
- 7.2. The site is in receipt of full planning permission (Ref. 13/00150/REM) for the construction of an access road to service a new residential development. However, as the consented road will be located in proximity to known Badger setts, the works will need to incorporate appropriate mitigation measures, under licence from Natural England. The purpose of this report is therefore to provide a licensable method statement to facilitate the implementation of the consented access road, whilst ensuring Badgers are fully safeguarded.
- 7.3. This report describes the current levels of Badger activity at the site, identifies likely impacts arising from the consented development and details an appropriate mitigation strategy and method statement based upon recent survey information.
- 7.4. The survey work confirms that five active Badger setts fall within the zone of influence of the access road, namely setts S1, S2, S3 and S5, two of which (S3 and S4) are situated within the construction footprint. Accordingly, an appropriate mitigation strategy has been drawn up involving the complete closure of setts S3 and S4, following an exclusion exercise, and measures to reduce disturbance to retained setts S1, S2 and S5.
- 7.5. In conclusion, with the implementation of the mitigation strategy described within this report it is considered that Badgers will be appropriately safeguarded during construction of the consented access road.

PLANS

PLAN 3266/BLA1

Wider Study Area Location



KEY:

 **WIDER STUDY AREA**

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**LONGFORD PARK, BANKSIDE,
 BANBURY**

PROJECT

WIDER STUDY AREA LOCATION

TITLE

3266/BLA1

DRAWING
 NO.



JUNE 2013

REV.














DATE

PLAN 3266/BLA2

Ecological Habitats & Features



KEY:

-  SITE BOUNDARY
-  HARD-SURFACING
-  BUILDING
-  AMENITY PLANTING
-  AMENITY GRASSLAND
-  ARABLE
-  RECOLONISING GRASSES
-  DENSE SCRUB
-  SCATTERED SCRUB
-  TALL RUDERAL VEGETATION
-  TREE
-  HEDGEROW
-  BADGER SETT

LONGFORD PARK, BANKSIDE
BANBURY

HABITATS AND ECOLOGICAL
FEATURES

PROJECT

TITLE

3266/BLA2

DRAWING
NO.

JUNE 2013

REV.

DATE

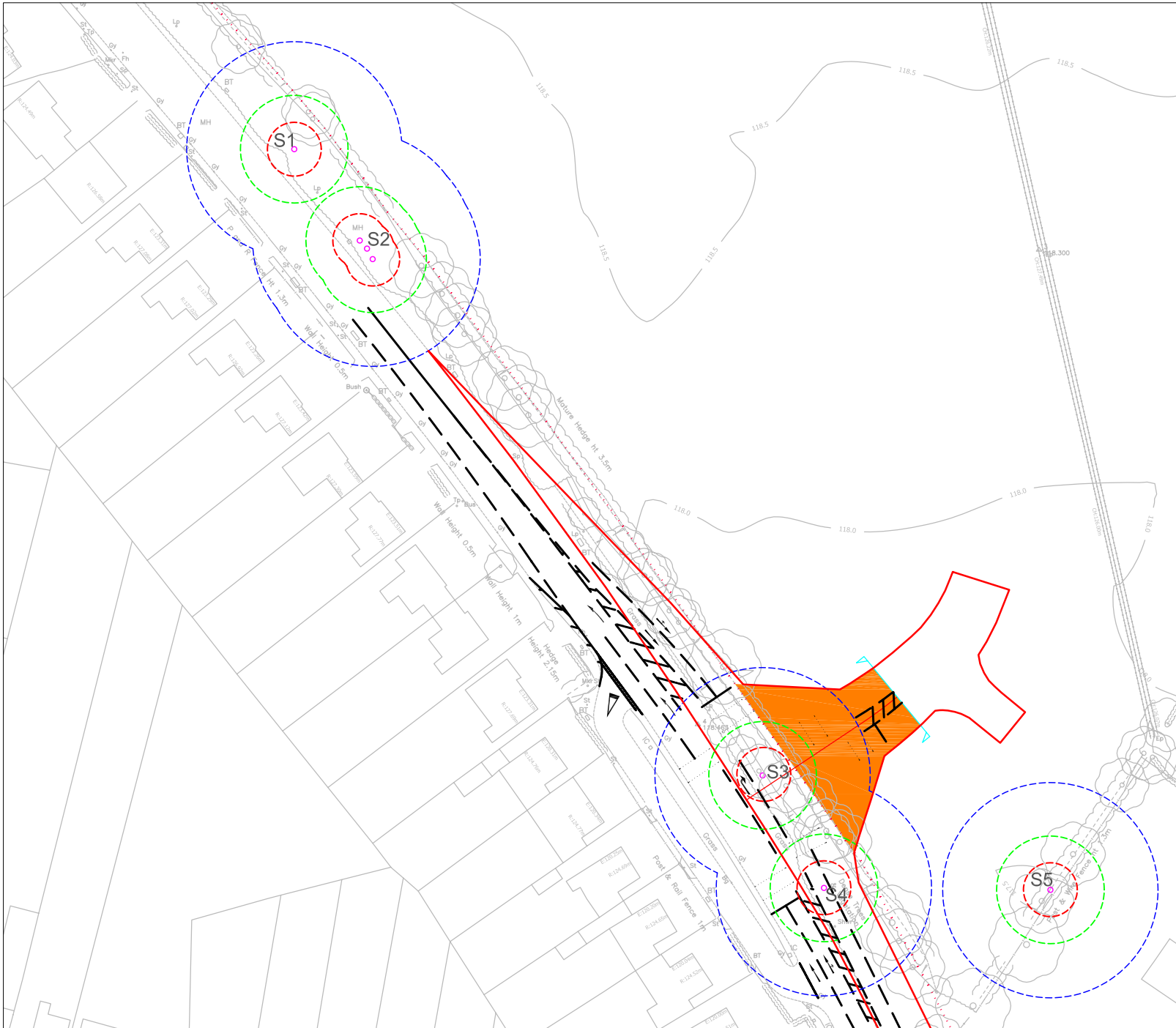


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aspect ecology

PLAN 3266/BLA3

Badger Activity and Proposals



KEY:

-  SITE BOUNDARY
-  BADGER SETT
-  5/10/20M BUFFER

**LONGFORD PARK,
BANKSIDE, BANBURY**

BADGER SETT LOCATIONS

PROJECT
TITLE
DRAWINGS
NO. 3266/BLA3
REV. A
DATE JUNE 2013



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APPENDICES

APPENDIX 1

Copy of Full Planning Permission



NOTICE OF DECISION
TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED)

Name and Address of Agent/Applicant :

Taylor Wimpey, Bovis And Barratt Homes
c/o Taylor Wimpey
Mr Andy Cattermole
Windrush Court
Suite J
Abingdon Business Park
Abingdon
Oxfordshire
OX14 1SY

Date Registered : 6th February 2013

Proposal : Reserved Matters Application - (Outline Application 05/01337/OUT) - Provision of access from Oxford Road with haul type turning area

Location : Land North East Of Oxford Road West Of Oxford Canal And East Of Bankside Banbury

Parish (es): Bodicote

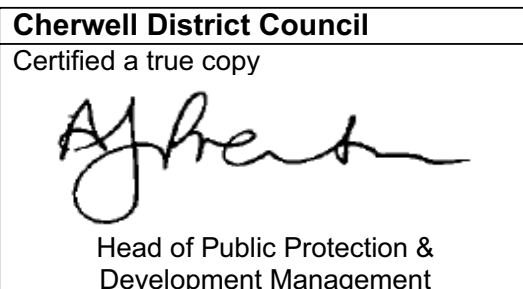
UPRN : 010011903576

APPROVAL OF RESERVED MATTERS SUBJECT TO CONDITIONS

The Cherwell District Council, as Local Planning Authority, hereby **APPROVES** details of the matters reserved in the outline permission reference No. 05/01337/OUT , as described in the above-mentioned application, the accompanying plans and drawings, and any clarifying or amending information **SUBJECT TO THE CONDITIONS SET OUT IN THE ATTACHED SCHEDULE.**

The reason for the imposition of each of the conditions is also set out in the schedule.

Cherwell District Council
Bodicote House
Bodicote
Banbury
Oxon
OX15 4AA



Date of Decision : 27th March 2013

**Head of Public Protection
& Development Management**

SCHEDULE OF CONDITIONS

- 1 Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms and drawings numbered: 1071/SK/300 Oxford Road Proposed Access and 1071/SK/301 Location Plan.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

- 2 Prior to the first use of the proposed access hereby approved, the proposed means of access between the land and the highway shall be formed, laid out and constructed strictly in accordance with Oxfordshire County Council's specification and guidance.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

- 3 Prior to the commencement of development the a report shall be submitted to and approved in writing by the Local Planning Authority which shall include;

(a) A tree protection plan comprising of a drawing at a scale of not less than 1:500 showing, with a solid line, all trees and other landscape features including hedges that are to be retained and, with a dashed or dotted line, those that are to be removed both on and adjacent to the site. This drawing shall also show the position of protection zones, fencing and ground protection measures to be established around retained trees and hedges. Where applicable, two lines shall be shown demonstrating the lines of temporary tree protective fencing during the demolition phase and during the construction phase.

(b) a British Standard 5837 Tree Survey schedule with tree reference numbers corresponding with trees on the plan required by section a.

(c) the specification for protective fencing and a timetable to show when fencing will be erected and dismantled in relation to the different phases of the development;

(d) details of mitigation proposals to reduce negative impacts on trees including specifications and method statements for any special engineering solutions required and the provisions to be made for isolating such precautionary areas from general construction activities;

(e) details of any levels changes within or adjacent to protection zones;

(f) details of the surface treatment to be applied within protection zones, including a full specification and method statement;

The development shall be carried out strictly in accordance with the approved report.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 4 Prior to the commencement of the development hereby approved, a landscaping scheme, to compensate for the loss of trees necessary as part of the creation of the access, shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas to compensate for the loss of trees.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

Legal Agreement

Attention is drawn to a Legal Agreement related to this development or land which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.

Approval of Reserved Matters

Attention is drawn to the conditions imposed on the "outline" permission (App. No 05/01337/OUT) granted on 30 September 2009 which should be read together with this approval. Any outstanding requirement of the conditions to submit details for approval by the Local Planning Authority should be particularly noted.

SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal complies with the outline planning permission and the Design Code and does not have a detrimental impact on the visual amenities of the area, the Area of High Landscape Value, residential amenities or highway safety. As such the proposal is in accordance with saved Policies C 13 and C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. For the reasons given above and having regard to all other matters raised, including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Application No : 13/00150/REM



NOTICE OF DECISION
TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED)

NOTES TO THE APPLICANT

TIME LIMITS FOR APPLICATIONS

By virtue of Sections 91-96 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, planning permissions are subject to time limits. If a condition imposing a time limit has been expressly included as part of the permission, then that condition must be observed. Otherwise, one or other of the following time limits will apply :

Where planning permission is given in outline subject to a condition reserving certain matters for subsequent approval, application for approval of such matters reserved must be made not later than the expiration of 3 years beginning with the date of the outline planning permission and further the development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

Where the planning permission is complete and is not in outline, the development must be begun not later than the expiration of 3 years from the date on which permission was granted.

OTHER NECESSARY CONSENTS

This document only conveys permission or approval for the proposed development under Part III of the Town and Country Planning Act 1990 and you must also comply with all the bye-laws, regulations and statutory provisions in force in the District and secure such other approvals and permissions as may be necessary under other parts of the Town and Country Planning Act 1990 or other legislation.

In particular you are reminded of the following matters :

- The need in appropriate cases to obtain approval under the Building Regulations. **The Building Regulations may be applicable to this proposal. You are therefore advised to contact the District Council's Building Control Manager before starting work on site.**
- The need to obtain an appropriate Order if the proposal involves the stopping up or diversion of a public footpath.
- Data supplied by the National Radiological Protection Board (NRPB) and the British Geological Survey (BGS) suggests that the site of this application falls within an area which is potentially at risk from radon. This may require protective measures in order to comply with the Building Regulations if your consent relates to a new dwelling or house extension. Further advice on whether protective measures are required under the Building Regulations can be obtained by contacting the Building Control Manager on 0300 0030 200, fax 0300 003 0201 or E-mail at building.control@cherwellandsouthnorthants.gov.uk

- The need to obtain a separate “Listed Building Consent” for the demolition, alteration or extension of any listed building of architectural or historic interest from the Local Planning Authority.
- The need to make any appropriate arrangements under the Highways Act in respect of any works within the limits of a public highway. The address of the Highway Authority is Oxfordshire County Council, Speedwell House, Speedwell Street, Oxford, OX1 1NE.
- It is the responsibility of the applicant to ascertain whether his/her development affects any public right of way, highway or listed building.

APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of the Local Planning Authority to grant permission or approval subject to conditions, you can appeal to the First Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990.

If you wish to appeal, then you must do so within six months of the date of this notice. Forms can be obtained from the **Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol. BS1 6PN, Telephone No. 0117 372 8000**. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that permission or approval for the proposed development could not have been so granted otherwise than subject to the conditions imposed by the Local Planning Authority, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

PURCHASE NOTICES

If either the Local Planning Authority or the First Secretary of State grants permission or approval for the development of land subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

COMPENSATION

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.

APPENDIX 2

Badger Sett Definitions



BADGER SETT DEFINITIONS

The following definitions are taken from Natural England's 2007 interim guidance document 'Badgers and Development: A Guide to Best Practice and Licensing', which cites Thornton, P. S. (1988) Density and distribution of Badgers in south-west England - a predictive model. Mammal Review, 18, 11-23.

"Badgers live in family or social groups of related mature and young adults and cubs, sometimes known as clans. Their "home ranges" consist of feeding grounds and one or more setts. A Badger sett is defined in the legislation as "any structure or place which displays signs indicating current use by a Badger". Setts can usually be classified as one of the following:

Main Setts. These usually have a large number of holes with large spoil heaps, and the sett generally looks well used. They usually have well used paths to and from the sett and between sett entrances. Although normally the breeding sett is in continual use all year round, it is possible to find a main sett that has become disused because of excessive disturbance or for some other reason.

Annexe Setts. These are always close to a main sett and are usually connected to the main sett by one or more obvious, well worn paths. They consist of several holes, but are not necessarily in use all the time, even if the main sett is very active.

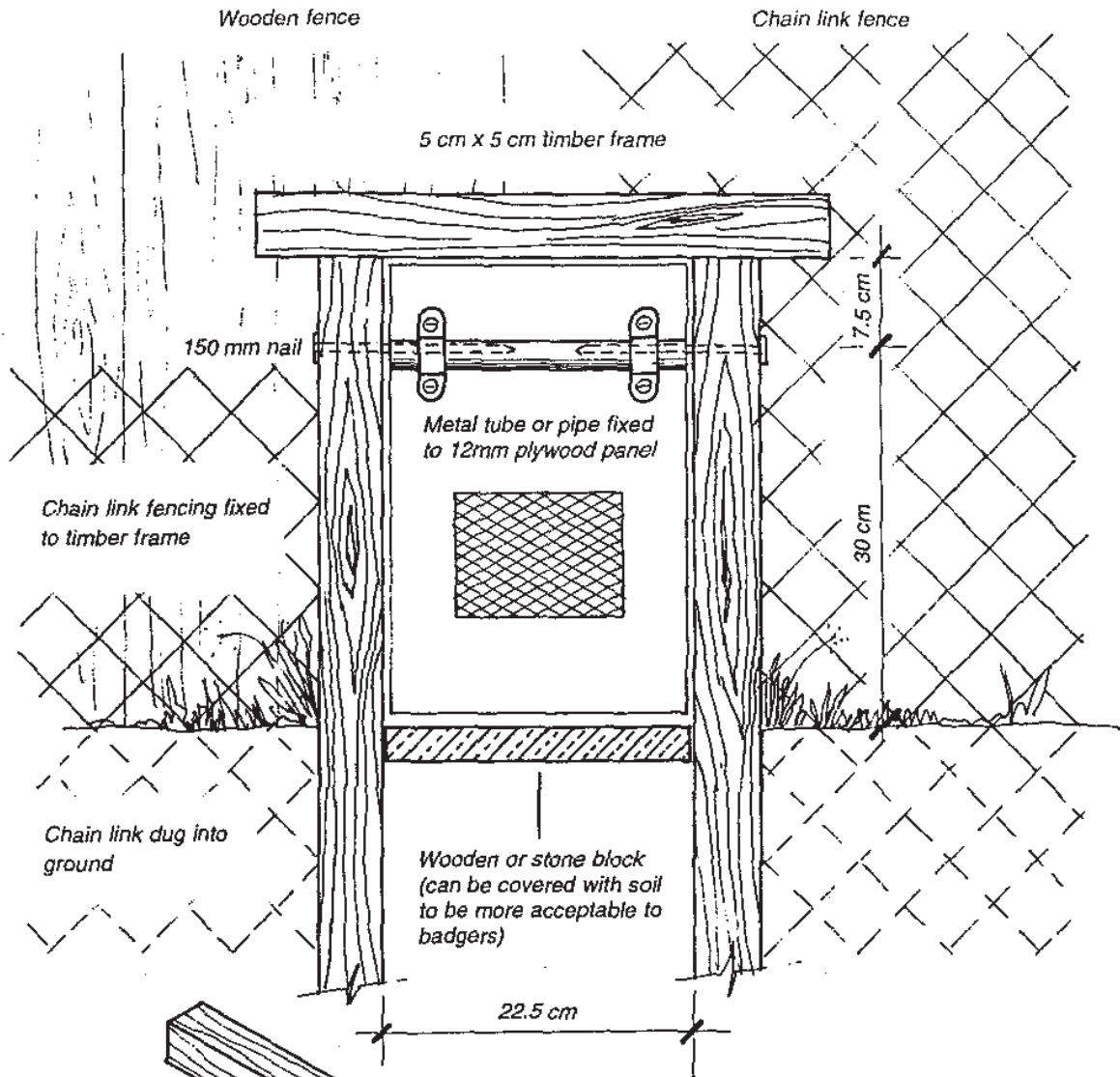
Subsidiary Setts. Often these have only a few holes, are usually at least 50 m from a main sett, and do not have an obvious path connecting them with another sett. They are not continuously active.

Outlying Setts. These usually only have one or two holes, often have little spoil outside the hole, have no obvious path connecting them with another sett, and are only used sporadically.

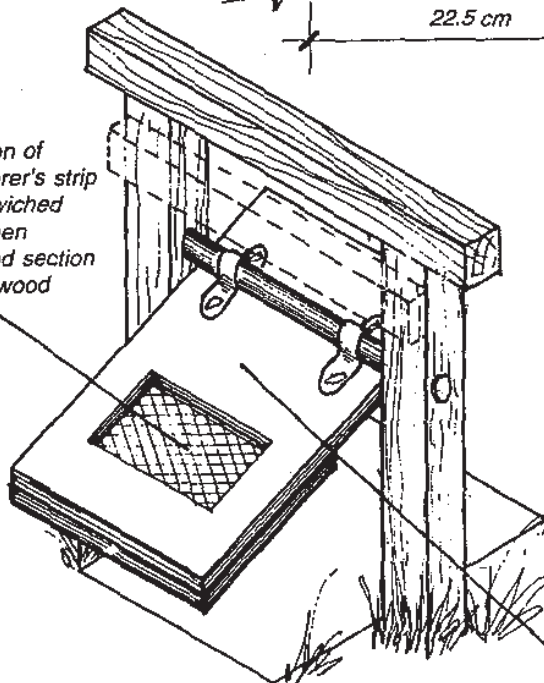
Whilst these categories look clear cut, classification might be difficult in the field. In areas of low Badger density main setts may be relatively small with only a few holes. One should not necessarily expect to find examples of all sett types in a particular area. Many Badger social groups do not have an annexe sett, for instance, whilst in poor Badger habitat large areas may be searched without finding a main sett."

APPENDIX 3

Badger Gate Specification



Section of plasterer's strip sandwiched between second section of plywood



The badger gate can be made to open in one direction by fixing an additional piece of timber as shown by broken lines.

The thickness of the plywood door may need to be increased when used as an exclusion gate if the badgers make determined efforts to get back in.

It is also important that the door fits snugly in the frame, so that the badgers cannot prise the door open with their claws.

Timber frame and panel to be treated with an odourless non-toxic wood preservative

landscape planning • ecology • arboriculture

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