

Badger Mitigation Strategy

May 2024

**Leicester Road,
Earl Shilton**

Prepared by
CSA Environmental

On behalf of
Vistry South East Midlands

Report No: CSA/4519/15

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1.0 INTRODUCTION

- 1.1 This report has been prepared by CSA Environmental on behalf of Vistry South East Midlands. It sets out a badger mitigation strategy for proposed development at Leicester Road, Earl Shilton (hereafter referred to as 'the Site').
- 1.2 The Site was granted outline planning permission in May 2022 by Hinckley and Bosworth Borough Council (ref: 21/00135/OUT) for up to 140 dwellings, with public open space, landscaping and sustainable drainage system (SuDS).
- 1.3 Condition 7 states:
- "Prior to commencement of development a badger mitigation plan shall be submitted to and approved in writing by the local planning authority including updated badger surveys. In order to maintain habitat connectivity and reduce badger casualties, the mitigation strategy should also include traffic calming measures such as rumble strips to be installed where the spine road intersects retained green corridors through the development. The mitigation measures shall be implemented in accordance with agreed details and timeframes.
- Reason:** To ensure that badgers are protected in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD (2016) and Section 15 of the NPPF."
- 1.4 Various ecological surveys and assessments were completed by CSA Environmental in support of the planning application. A summary of badger activity at the Site is summarised in the following chapter.
- 1.5 This mitigation strategy aims to:
- Summarise the baseline ecological conditions at the Site with respect to badgers.
 - Identify the potential adverse effects of the proposed development activities in the absence of impact avoidance or mitigation measures.
 - Set out avoidance and mitigation measures required to address these impacts, including contingency measures in the event that badger setts are found on-site during the construction phase.

2.0 LEGISLATIVE CONTEXT

- 2.1 Badgers and their setts are protected under the Protection of Badgers Act 1992. A Natural England licensing system exists to permit certain works that would otherwise be illegal. Works that require a licence include direct impacts to active badger setts and certain works within close proximity to a sett that may cause disturbance.
- 2.2 As development proposals will result in the loss and potential disturbance of badger setts which fall within or adjacent to the construction area, this mitigation strategy and a Natural England licence will be required to ensure that no offence is committed. Works affecting badger setts can only be undertaken within the period of July to November (inclusive).

Policy Context

- 2.3 DM6 of the Site Allocations and Development Management Policies DPD (2016) states that "Development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including proposals for their long-term future management".
- 2.4 Chapter 15 of the NPPF states that development plans should "*promote...the protection and recovery of priority species*"; and
- "When determining planning applications, local planning authorities should apply the following principles:
- (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- (d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate."

3.0 BACKGROUND INFORMATION

Site Description

- 3.1 The Site comprises four grassland fields bounded by mature native hedgerows with some encroaching scrub and tall ruderal vegetation. The fields have traditionally been grazed on a rotational basis by sheep or managed by mowing (for the southern-most field). Additional habitats include a triangular parcel of semi-mature broadleaved woodland and a small pond.
- 3.2 Woodland and hedgerow habitats are particularly valuable for badgers, providing opportunities for shelter, sett building and foraging. Grassland may also be used by foraging.
- 3.3 The Site is situated on the northern edge of Earl Shilton village, with land to the north, east and west dominated by pasture and agricultural land. Habitat clearance and pre-commencement works have commenced on land to the south of the Site for a separate residential development (20/00916/FUL).

Badger Survey Information

- 3.4 A desktop study was completed in 2020, which included acquisition of biological records from the Leicestershire and Rutland Environmental Records Centre (LRERC). Eighteen records of badger were returned, dating from between 2004 and 2017. The closest record was of a road casualty c. 200m north of the Site (likely along Shilton Road) and there were more distant records of setts and latrines, with a large sett record for an area c. 600m south-west of the Site.
- 3.5 Initial consideration of badgers at the Site was made during a Site walkover and suite of protected species survey work undertaken between September 2019 and August 2020. A formal badger survey was completed by Alex Perry AIEEM and Tom Preece AIEEM in January 2020. No setts or burrows were found but clear mammal paths were recorded along the southern Site boundary with suspected prints found along the southern boundary of Field F2. A latrine was also found along the southern boundary of Field F1 confirming that badgers were making use of the Site, likely for foraging as part of a wider territory.
- 3.6 An update badger survey was completed on 14 May 2024 by Kate Kibble MCIEEM and Georgina Gard using standard survey methods, searching the Site and immediately adjacent areas for field signs of badger and mapping any present. No definitive evidence of badger was found within the Site itself, such as setts or latrines. However, several mammal paths were recorded in and around the on-site area of woodland, as well as through grassland and scrub in the south-east

corner of Field F4 and beneath heras fencing marking the boundary of the adjacent development site. There was a possible badger footprint in mud within the woodland but this was poorly defined.

- 3.7 A badger sett was visible just off-site to the south (within the adjacent development land), and this had been fitted with badger exclusion gates that were partly blocked, indicating that badgers had been excluded from the sett (under licence from Natural England). Documentation on the public domain indicates that a main badger sett and an outlier badger sett were previously found within that land and that mitigation was required as part of the proposed development. Information is limited however as all detail has been withheld from the public realm for confidentiality reasons. It is therefore suspected that the sett found represents the main sett and an artificial sett is likely to have been constructed elsewhere. The location of other badger setts is unknown. Mammal pathways leading to and near the former sett were apparent and there may be extant setts or newly dug setts within that area. The pathways suggest that badgers are accessing the Site.
- 3.8 The survey was undertaken at a time of year when vegetation was very dense, and it wasn't possible to search or view all areas. Whilst there was no evidence of mammal activity across most of the Site to suggest badger activity within an inaccessible area, the eastern boundary of the woodland was found to support several clear pathways as well as a possible badger footprint. This area is relatively close to the impacted sett to the south, so on-site evidence may only relate to foraging badgers. However, there exists potential for a badger sett to be present within the dense scrub/hedgerow surrounding the eastern and southern tip of the woodland. The evidence suggests that if a sett was present, this would likely only be a small outlying sett and not a more significant main sett.
- 3.9 A map summarising badger activity found on-site during the recent survey work is included in Appendix A.

4.0 MITIGATION STRATEGY

Likely Impacts

- 4.1 Construction of the development will require the stripping of grassland for preparatory ground works, as well as the removal of sections of hedgerow along the eastern Site boundary and across two central hedgerows. There will then be significant ground works and disturbance within the Site during the construction phase.
- 4.2 Direct impacts to an active badger sett, or disturbance of badgers within a sett (e.g. from ground works or heavy construction within up to 20m) would constitute an offence under the Protection of Badgers Act, 1992. Badger setts can have extensive networks of tunnels below ground, so impacts could occur many metres away from the actual entrance.
- 4.3 Construction sites also contain many hazards, and badgers could easily be harmed whilst traversing a site at night if no precautions are put in place to safeguard wildlife.
- 4.4 Once the development is in operation, resident/local badgers are potentially at risk from disturbance (from increased human and pet activity) and there is increased risk of harm from road traffic within the new development. Key badger habitat within the Site is retained alongside the development though there will be a reduction in grassland foraging opportunities.

Mitigation Strategy

Mitigation Approach

- 4.5 In this instance, the presence of a sett on or immediately adjacent to the Site has not been confirmed and the mitigation strategy will include a further pre-commencement survey to confirm any constraints from badgers and their setts. There is also the potential for badger setts to be dug at any time in the future so routine monitoring of the Site for badger activity will be continued throughout the construction phase with a contingency plan in place for any digging activity found.
- 4.6 Generic construction-phase safety measures are set out herein to prevent incidental harm to badgers and other wildlife during work.
- 4.7 Finally, detail is included of mitigation measures integrated within the completed development which will reduce harm and disturbance to badgers.

Pre-commencement Measures

Update Survey Work

- 4.8 Update site checks will be undertaken by an experienced ecologist prior to the commencement of development to ensure there are no further changes to badger activity on-site.

Supervised Clearance Works

- 4.9 As hedgerow and scrub removal is proposed for areas near where badger activity has been found/suspected, these areas will be cleared using hand tools, under the supervision of an experienced ecologist to confirm whether or not any setts are present.
- 4.10 The areas to be cleared under watching brief are highlighted on Proposed Site: Landscaping Plan by BRP Architects in Appendix B.
- 4.11 Sufficient scrub will be cleared to enable a comprehensive search of the area for badger setts. Only above-ground vegetation will be cleared to ensure there is no damage to underground tunnels, and any stumps/roots will be left in-situ. Where it can be concluded that no badger setts are present, then the clearance works can be completed (including removal of stumps/roots) and no further constraint from badger applies to that area.
- 4.12 If a badger sett is found then the clearance should be halted whilst further survey and monitoring work is undertaken by the ecologist to confirm the status of the sett. If impacts to the sett cannot be avoided then a licence will need to be applied for from Natural England to permit activities that would otherwise be unlawful (see below for more information).
- 4.13 Clearance works will need to be mindful of legal constraints from reptiles and nesting birds (as appropriate to the time of year). The project ecologist will advise on any pre-commencement nesting bird checks or staged clearance approach which may also need to be completed ahead of scrub/hedgerow removal (see Reptile Mitigation Strategy CSA/4519/13 for further information).

Toolbox Talk

- 4.14 A Toolbox Talk will be given to site staff and contractors at the start of works to set out ecological constraints at the Site and provide information on legislation, as well as the necessary avoidance and mitigation measures to be adhered to.
- 4.15 A register of attendees will be taken to provide confirmation that this information has been delivered.
- 4.16 Contact details for an ecologist will be kept within the Site office during works, in case of queries or questions arising on ecological matters.

Routine Monitoring Checks

- 4.17 Routine checks of the Site will be carried out by the Site Manager as construction works progress, with dedicated checks made at least fortnightly. Checks should cover all areas of the Site but should focus on any spoil heaps, and areas of the development not currently being worked on. Should this result in any new sett evidence being found, mitigation and licensing requirements will be reviewed and the necessary work completed in line with legal requirements.

Contingency Measures

- 4.18 If a badger sett/setts is confirmed on or close to Site then an exclusion area of at least 20m will be immediately established using Heras fencing, or similar, where no construction works can take place until the appropriate permissions have been sought or the sett is proved to be disused.
- 4.19 If the activity is found during the construction-phase monitoring checks then works will immediately cease in the area of the sett and the project ecologist will be contacted for advice. An exclusion area will be established as above.
- 4.20 Signage will be installed on the exclusion fencing at regular intervals to highlight the reason for the fencing to Site workers and the importance that it is not moved/breached. The exclusion zone cannot be used for storage of vehicles, machinery or materials.
- 4.21 Depending on the location of the sett and nature of development works required in that area, it may be that sensitive working methods or slight design adjustments can be made to avoid impacts.

Licensing and licensable works

- 4.22 If the sett is within (or within 20m of) an area where impacts are unavoidable, then construction works in that area will need to be delayed until a licence can be granted by Natural England. Works would then need to abide by any conditions of the licence and be conducted following the agreed methodology. It is likely that the mitigation approach would include fitting one-way gates to the sett and monitoring activity over a minimum 21-day period until the sett can be carefully dismantled (or secured if only temporary impacts are required). In the unlikely event that a main badger sett is found on-site i.e. a significant sett used for breeding, then more significant mitigation including the potential creation of an alternative sett, is likely to be required.
- 4.23 It is important to note that licensed works to a badger sett can only take place between July and November (inclusive) to avoid the most sensitive period for badgers.

General Construction Protection Measures

- 4.24 As badgers are active across the Site, precautionary working measures will be followed during the construction period to prevent accidental killing, injury or entrapment of badgers roaming across the Site. These measures are laid out in Appendix C.

Operational Phase Measures

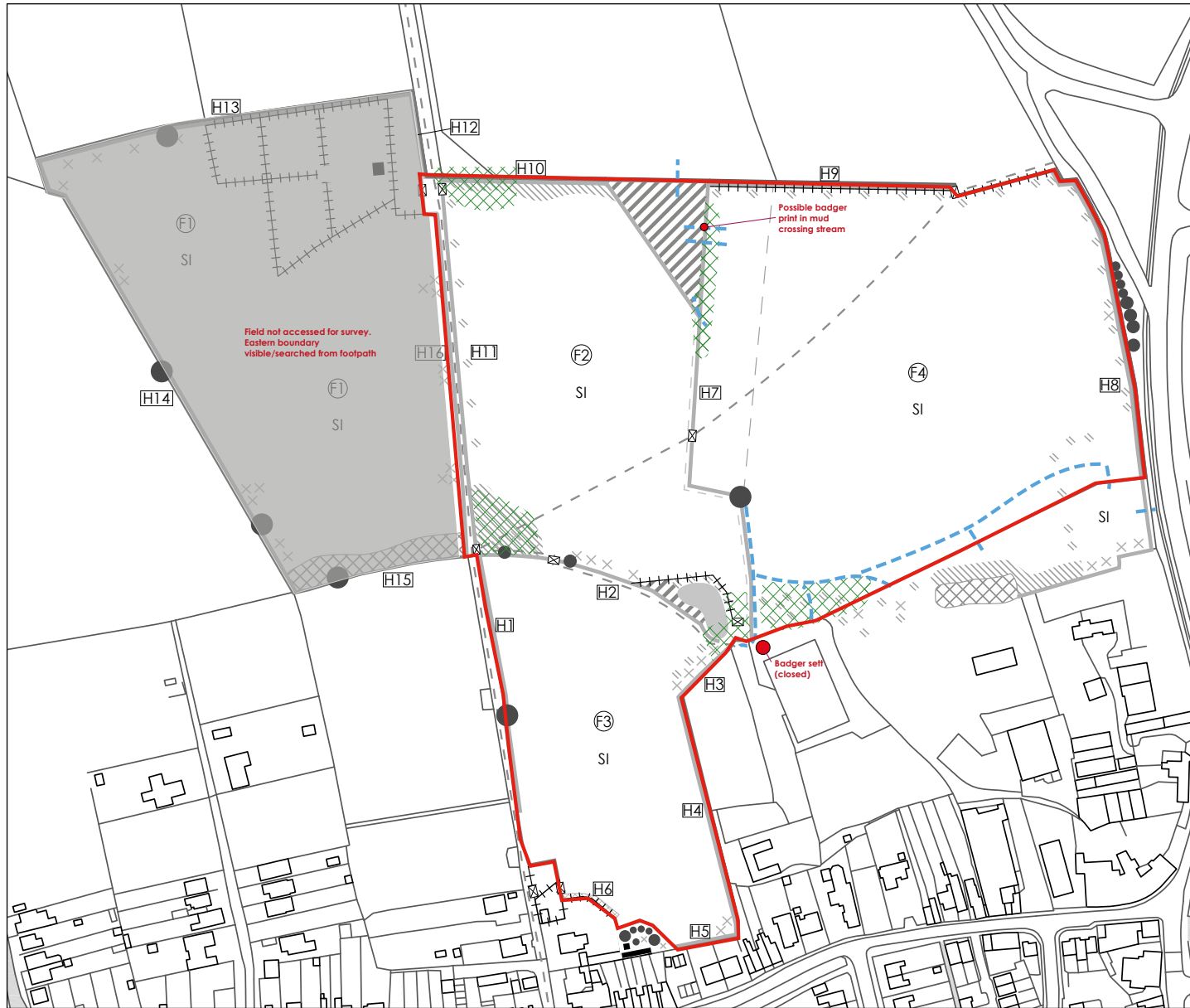
- 4.25 In the event that setts are confirmed on-site during future monitoring works, specific mitigation measures would be agreed and implemented as part of any Natural England licence conditions e.g. increased scrub planting around retained setts.
- 4.26 However, as badgers are known to occur locally and are likely to continue to make use of the Site, mitigation measures for badger have been incorporated into the final development scheme to reduce the potential for harm and ensure opportunities for badger are maintained. These include:
- Provision of new hedgerow planting along the currently unvegetated southern boundary
 - Extensive buffer planting in north-east corner of the Site
 - Provision of wildflower and short grassland habitat in the north-west of the development
 - Infill planting to central hedgerow (minor)
 - Traffic calming measures along internal roads including raised tables along spine road and shared pedestrian/vehicle areas which helps to reduce speed of traffic within the Site and reduce the risk of a collision.
- 4.27 The ongoing management of retained and proposed habitats at the Site is detailed within a separate Landscape and Ecology Management Plan (LEMP)(CSA/4519/14). This makes provision for badger, ensuring that habitats are managed sensitively and providing guidance for working alongside badgers and their setts.

5.0 SUMMARY

- 5.1 Badgers have been found to make use of on-site habitats with badger setts known to occur on land immediately to the south.
- 5.2 There is potential for unseen setts within the Site, and badger activity could further change at any time, especially given recent impacts to an off-site main sett and disturbance from construction works.
- 5.3 As a result, a precautionary approach to the clearance of dense scrub/hedgerow is proposed in combination with a pre-commencement survey for badger activity at the Site, and routine monitoring for badgers to be undertaken throughout the construction process.
- 5.4 General measures are included to avoid harm to badgers during the construction process.
- 5.5 Suitable habitat for badger is retained and created on-site as part of the development and traffic calming measures will be implemented along internal roads to reduce the risk of injury to badgers using key crossing points.

Appendix A

Badger Survey Plan: 2024
CSA/4519/115



-  Survey Area
-  Mammal Pathway
-  Badger field signs (see notes on map)
-  Dense scrub/vegetation inaccessible for full survey

*Base plan adapted from Habitats Plan (CSA/4591/105)



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Project Leicester Road, Earl Shilton

Drawing Title Badger Survey Plan: 2024

Client Vistry South East Midlands

Date May 2024

Drawing No. CSA/4519/115

Scale Refer to scale

Rev -

Drawn KK

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Appendix B

Proposed Site - Landscaping Plan
BRP Architects (C253 0206-P01)

Proposed Site - Landscaping Plan



Land retained for agricultural use -
no change to this land is proposed,
as per the outline approval

Proposed SUDs
features
Subject to Engineer's
details and design.

Proposed LEAP
Children's Play
Area

Proposed
"Village
Green"

Relocation/Renewing
of existing footpaths

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Appendix C

Badgers On-Site: Generic Advice

Badgers on Site: Generic Advice

Where setts and/or badger foraging areas occur within or close to development activities it must be assumed that badgers may roam across the development area. Therefore, provision should be made for their safety within the construction site and potential adverse impacts to badgers should be anticipated and avoided where possible. A number of recommendations are listed below.

- Where any pits/trenches are left open overnight, planks should be placed within these pits/trenches at an angle of no more than 45 degrees in order to provide a means of escape for any badgers which may fall in.
- Any unsafe area, sewage pipes or other underground construction put in place as a result of the construction works should be securely fenced in order to prevent badger access.
- In the event that badgers are found trapped or injured within the site, no attempt should be made to approach the badger and the RSPCA should be contacted immediately.
- Due to the inquisitive nature of badgers it is recommended that any litter, tools and machinery that could potential cause harm to badgers be stored appropriately.
- Be aware of any new holes that might be opened by badgers. It would be unwise to stockpile topsoil at the edge of the site for any period of time; badgers might exploit the easy digging and construct new holes. Any new holes dug in the vicinity of the development area would have legal implications and could introduce new licensing and timing constraints that might then apply.
- In light of the above, it may be appropriate to consider regular checks of badger activity at the site by an ecologist, particularly during the seasonal periods of peak activity (February-April and September-October) and at the start of development when areas of the site are still unaffected by initial works.
- The workforce should be made aware of the badger issue regarding this site and should be informed of these recommendations. Information relating to badgers should be kept on show within the site offices.



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