

Dated: 23/01/2024

Our Ref: P2387 Land South West Of Sutton Lane, Market Bosworth

LAND SOUTHWEST OF SUTTON LANE MARKET BOSWORTH LEICESTERSHIRE
RESPONSE TO MATTERS RAISED DATED 19/12/2023 BY RED KITE NETWORK LIMITED
(PLANNING REF: 23/01102/FUL)

Introduction

This response note has been prepared by Tim Elton BSc (Hons) MCIEEM of Elton Ecology Ltd on 12/01/2024 in order to clarify its position on ecology comments raised by Red Kite Network Limited (herein referred to as the 'ecology comments') on 19/12/2023 with reference to the above application.

Elton Ecology Ltd welcomes the constructive comments provided by Red Kite Network Limited, and in close liaison with our client we have amended and re-issued the Preliminary Ecological Appraisal, Biodiversity Net Gain Report, and Biodiversity Metric spreadsheet.

Foreword On Proportionality

With reference to the British Standards Institute *BS 42020:2013 Biodiversity — Code of practice for planning and development*:

'The work involved in preparing and implementing all ecological surveys, impact assessments and measures for avoidance, mitigation, compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development.

Consequently, the decision-maker should only request supporting information and conservation measures that are relevant, necessary and material to the application in question. Similarly, the decision-maker and their consultees should ensure that any comments and advice made over an application are also proportionate. [our emphasis].

The above approach to proportionality has been taken to survey effort and in the development of the mitigation and compensation scheme by Elton ecology Ltd. Therefore, whilst most ecology comments made have been addressed in full within the amended package of ecology outputs, some requests for further surveys within the ecology comments are not viewed as required within the context of the scheme, and further clarification on this is provided within the following response to aid decision making.

Response

Bat Surveys – Nocturnal Presence/ Likely Absence

Ecology comment: *'Buildings B1a to B1c were assessed as low potential for bats, however nocturnal bat presence/absence surveys have not been completed to industry standard guidance as stated in Table 7.1 (page 72) for the Bat Conservation Trust good practice guidelines 4th edition. For buildings assessed as low potential, a single nocturnal presence/absence survey should be undertaken between May and August. While these buildings received the required single survey, this was undertaken in September, outside of appropriate survey timings. It is therefore possible roosting bats may have been missed due to lack of appropriate survey effort and a lower number of incident activity recorded. With this in mind, it is recommended surveys are carried out on this building at an appropriate time of year or justification is provided to explain why the survey was carried out in September.'*

The following response provides justification as to why the survey was carried out in September.

To date, the following bat roost presence/ likely absence surveys have been undertaken of the structures:

- 22/05/2020 - Protected Species Survey (C.B.E Consulting, 2020) which concluded *'The existing building displayed no field signs either internally or externally to indicate the presence of roosting bats.'* [and] *'[...] the building is classified as having low roost potential'.*
- 27/06/2022 – Preliminary Bat Roost Assessment, during which no evidence of roosting bats (such as bat droppings) was recorded, and the building was classified as low roosting suitability (Elton Ecology Ltd, 2022).
- 23/09/2022 – With reference to best practice guidelines, one nocturnal bat survey supported by night vision cameras was carried out to establish the presence/ likely absence of bats, during which no roosting bats were recorded (Elton Ecology Ltd, 2022).

The ecology comments question the conclusion of likely absence of roosting bats based on the survey effort, because the survey was undertaken in September, and not within May – August, siting best practice survey guidelines (Collins, 2016).

The most recent bat survey guidelines (Collins, 2023) state that *'Bat Activity is also determined by what the bats are doing at different times of the year'*. The weather in 2022 bat activity season, particularly August, was not conducive for bat surveys, with prolonged periods of rain which resulted in the cancellation of programmed surveys at this site. Due to this unseasonal period of rain, it is considered that the bat activity season would have been extended into September in 2022, during which temperatures also remained warm. The weather conditions within September 2022 remained well suited to bat activity and bat survey, being 14 degrees at sunset and 12 degrees at the end of the survey undertaken in September by Elton Ecology Ltd, with little wind and no rain. This is corroborated in the results of the September nocturnal bat survey, which identified bat activity from foraging and commuting bats in the wider area from at least four different species of bat and at a typical level of activity which would be expected for the site.

The bat survey guidelines (Collins, 2023) state that *'Recommended timings for surveys are given in Table 7.1, below. This should be adjusted (earlier or later) if necessary by the ecologist, bearing in mind the site-specific circumstances [...]*. The Table 7.1. in the guidelines outline the suggested period for nocturnal presence/ likely absence surveys is May to August, however footnote 'a' within the same Table states that *'September surveys are both weather and location dependent. Conditions may become more unsuitable in these months, particularly in more northerly latitudes, which may reduce the length of the survey season. September surveys are likely to miss maternity roosts due to dispersal before this time, but may pick up mating roosts.'* May to August survey windows are principally in place to establish the presence/ likely absence or roost characterisation of maternity roosts, for which this building is not suitable and the likely absence of such can already be assumed

on the basis of the Preliminary Bat Roost Assessment. The nocturnal presence/ likely absence survey is therefore required to detect the presence of roosts which may support low numbers of bats, such as day roosts or mating roosts, etc, which are typically in use (where present) in September.

Therefore, the September survey date is considered valid within the context of:

- Preliminary Bat Roost Assessment undertaken within the May – August period
- The weather conditions within the 2022 bat survey season preceding the survey
- The suitable weather conditions at the time of survey
- The reasonably assumed likely absence of a maternity roost (which would require May – August survey) based upon the Preliminary Bat Roost Assessment results.

Bat Surveys – Transect and Automated Detector Survey

Ecology Comment: 'The habitat identified on Site suggests at least moderate suitability for bats which, as a minimum, should comprise transect and automated detector surveys completed one per season (Spring - April/May, Summer – June/July/August, Autumn – September/October) totalling at least three surveys between May and October, with further surveys should levels of activity require further observation.'

It is noted that the site likely classifies as of moderate suitability for commuting and foraging bats. However, surveys are only justified if the development proposals would result in a significant negative impact to commuting and foraging bats.

The scheme would not result in significant negative impacts to the local commuting and foraging bat population arising from direct habitat loss. Given that the scheme will negatively affect only a small area of the site in the southwest corner to facilitate the single dwelling, which comprises foraging grassland habitat only. It is considered that the loss of this small area would not significantly adverse the local bat population, given the abundance of similar habitat available in the wider landscape. The scheme will retain all commuting routes within the site and wider landscape, with no significant losses of hedgerows or linear features proposed. Hedgerow losses have been limited to a single gap to facilitate a vehicular access track, which is located at a defunct and gappy section of hedgerow.

It is acknowledged that there could be negative impacts to commuting and foraging bats via indirect impact from artificial lighting. However, it is considered that this can be avoided with via a suitably worded lighting mitigation condition. This is addressed within the Preliminary Ecological Appraisal, as follows:

'Due to the presence of bats in the wider area as highlighted by the desk study, the impacts from external artificial lighting at the site on adjacent habitats should be avoided or mitigated through the design of lighting observing the principles set out in guidelines from the Bat Conservation Trust (BCT) & Institution of Lighting Professionals (BCT & ILP, 2018). This should include any artificial lighting required during the construction phase of the development.'

It is therefore considered that carrying out bat transect and static bat detector surveys would not be proportionate to the degree of risk posed by the development to foraging and commuting bats. Post-development, the habitat enhancements at the site will result in a significant increase in high suitability foraging and commuting habitat at the site, and strengthen the green infrastructure network locally.

Great Crested Newt eDNA Survey

'Regarding great crested newts, clarification is sought on which search radius was used for ponds. A search radius of 250m from the 'site' was stated in Section 2.4 of the PEA. However, Table 9 and Figure 5 suggest this is 500m. Justification is sought as to why Habitat Suitability Index (HSI) assessments for great crested newts were not recommended for the seasonally wet ditches bounding the south-eastern and western Site boundary (described in Section 1.3 of the PEA) and for Pond P2 (indicated on Figure 5, PEA). Given the proposed development plans which seek to change habitat

throughout the blue line boundary through planting and wetland creation, it is recommended HSI and eDNA are carried out;

See updated Preliminary Ecological Appraisal Report Tables 2, Table 12, Table 16 and Figure 4: Pond Plan. No impacts are predicted to GCN as their likely absence is assumed. A 500m radius was considered for suitable ponds. The seasonally wet ditches are of running water and therefore unsuitable for GCN.

Reptile Presence/ Absence Survey

'Given the presence of suitable habitat for reptiles on Site as stated in Table 9 of the PEA, it is advised reptile presence/absence surveys are carried out or justification is provided as to why this was deemed unnecessary;'

Reptiles are partially protected from killing and injury. It is considered that due to the small areas of habitats to be affected during works, Precautionary Working Methods could be utilised during works to sensitively clear these areas whilst avoiding the killing and injury of reptiles. The wider site and surrounding landscape provide significant similar suitable habitat for reptiles, such that the habitat losses on site would be highly unlikely to adversely impact the viability of local reptile populations (if present). It is therefore not considered that presence/ likely absence surveys are required, because any impacts can be reasonably mitigated through sensitive works during construction. This is addressed in the Preliminary Ecological Appraisal (Elton Ecology, 2022) as follows:

'To prevent the killing and injury of terrestrial amphibians and reptiles during the development in the unlikely event that these species should be present, it is recommended that vegetation clearance at the site is carried out under a Precautionary Working Method Statement for amphibians and reptiles, to include staged and directional vegetation removal encouraging the safe displacement of reptiles into retained habitats on site.'

It is suggested that the Precautionary Working Methods could be incorporated into the CEMP secured via appropriately worded condition.

Water Vole Survey

'LRERC indicates the presence of suitable water vole habitat associated with the fish pond immediately SE of the blue line boundary. The PEA indicates that the habitat along the Sutton Brook, which appears to connect to the fish pond and bounds the Site's southern boundary, was suitable for water vole. Therefore, it is recommended that a water vole survey is conducted along the Sutton Brook;'

The brook and associated habitat corridor at the southeast and south west site boundaries offer suitability for these species, however no evidence of these species was recorded during the PEA walkover survey. There is an approximately 30m buffer between the brook and the built development. It is therefore considered that the construction of the dwelling would not result in negative impacts to riparian species.

There are no works proposed to the existing watercourses including Sutton Brook and the drainage ditches at the site.

Summary

It is considered that in every instance above, appropriate avoidance has been designed into the scheme and likely significant adverse effects can be mitigated by measures secured with Precautionary Working Methods during works or via inclusion in a Construction Environmental Management Plan (CEMP) and Landscape Ecological Management Plan (LEMP), to be secured via condition. It is concluded that further ecological surveys should not therefore be required.



The remaining ecology comments have been addressed via an updated site walkover survey, amended Preliminary Ecological Appraisal and amended Biodiversity Net Gain Reports including Biodiversity Metric issued.

For a full summary of responses and actions regarding the ecological comments, please see the Table overleaf.

Table 1: Summary Of Responses and Actions

Ecology Consultee Comment*	Elton Ecology Ltd Response Summary
As per CIEEM's 2019 Advice Note: On the Lifespan of Ecological Reports and Surveys, for reports between 18 and 3 years' old, a professional ecologist should undertake a Site visit to ensure the data within the PEA is still valid and, if necessary, update the PEA, and provide appropriate justification if this is deemed unnecessary. As this report is 18 months old, an update Site walkover should be considered.	See updated Preliminary Ecological Appraisal Report, informed by an updated site walkover survey. The habitats at the site showed no significant changes and there are no material changes to the baseline assessment of the site.
Clarification is sought on definition of 'site'. Figure 1 (Section 6 of the PEA) indicates the 'site boundary' as a red line and 'survey area' by a blue line boundary. Descriptions of 'site' appear to follow the blue line boundary. However, appraisal for some protected species (e.g. pond distance for great crested newts) appears to follow the red line boundary. Also, if known, the extent of works and habitat removal in relation to these boundaries should be stated;	See updated PEA report and supporting figures. All references to 'survey area' and blue line have been removed. One red line site boundary is now used and referred to throughout. See paragraph 1.4 for site definition and Figure 1 for site boundary. Appraisal for protected species uses red line boundary.
Impacts on Local Wildlife Site (LWS) Bosworth Road Verges and Hedgerows should be considered given proximity to the development and proposed removal of hedgerow to facilitate the works (as indicated in 'Habitats' section of Table 12). Recommendations should be made to prevent degradation to this habitat through inappropriate hedgerow removal;	The Bosworth Road Verges and Hedgerows Local Wildlife Site (LWS) is considered in Table 9 and Table 16 of the updated PEA report. There will be no significant impacts to the LWS, which is outside of applicant ownership and will also be included in the CEMP as a Biodiversity Protection Zone on a precautionary basis.
Further recommendations on protection of priority habitats on Site should be suggested, including establishment of buffer zones and root protection areas. This can be provided within a Construction Environmental Management Plan (CEMP);	See updated Preliminary Ecological Appraisal Report, Table 16 'Priority Habitats'.
Buildings B1a to B1c were assessed as low potential for bats, however nocturnal bat presence/absence surveys have not been completed to industry standard guidance as stated in Table 7.1 (page 72) for the Bat Conservation Trust good practice guidelines 4th edition. For buildings assessed as low potential, a single nocturnal presence/absence survey should be undertaken between May and August. While these buildings received the required single survey, this was undertaken in September, outside of appropriate survey timings. It is therefore possible roosting bats may have been missed due to lack of appropriate survey effort and a lower number of incident activity recorded. With this in mind, it is recommended surveys are carried out on this building at an appropriate time of year or justification is provided to explain why the survey was carried out in September;	See detailed response within the present letter.
A Ground Level Tree Roost Assessment (GLTA) for bats is stated to have been carried out in Section 2.6 of the PEA, however no results have been provided. The results of the GLTA and any recommendations on nocturnal bat surveys should be made available for review. Any recommended emergence/re-entry surveys should be carried out;	See updated Preliminary Ecological Appraisal Report Table 13 for a detailed assessment, and Figures 3a and 3b for a map showing the locations of trees with PRFs. Table 16 concludes that all PRF trees will be retained, and therefore no further surveys are required.
Commuting and foraging habitat for bats has not been categorically defined in the report in accordance with industry standard terminology (e.g. 'low', 'moderate' or 'high'). Habitat should be assessed in terms of suitability and, if removal of suitable habitat is anticipated, an appropriate level of activity surveys should be carried out as per Table 8.3 (page 79) of the Bat Conservation Trust good practice guidelines 4th edition. The habitat identified on Site suggests at least moderate suitability for bats which, as a minimum, should comprise transect and automated detector surveys completed one per season (Spring - April/May, Summer – June/July/August, Autumn – September/October) totalling at least three surveys between May and October, with further surveys should levels of activity require further observation;	See detailed response within the present letter, and updated Table 16 of the PEA report. It is acknowledged that the site offers foraging and commuting habitat for bats, however it is not considered that the impacts after mitigation would be significant and therefore no further surveys are required.
Regarding great crested newts, clarification is sought on which search radius was used for ponds. A search radius of 250m from the 'site' was stated in Section 2.4 of the PEA. However, Table 9 and Figure 5 suggest this is 500m. Justification is sought as to why Habitat Suitability Index (HSI) assessments for great crested newts were not recommended for the seasonally wet ditches bounding the south-eastern and western Site boundary (described in Section 1.3 of the PEA) and for Pond P2 (indicated on Figure 5, PEA). Given the proposed development plans which seek to change habitat throughout the blue line boundary through planting and wetland creation, it is recommended HSI and eDNA are carried out;	See updated Preliminary Ecological Appraisal Report Tables 2, Table 12, Table 16 and Figure 4: Pond Plan. No impacts are predicted to GCN as their likely absence is assumed. A 500m radius was considered for suitable ponds.
Given the presence of suitable habitat for reptiles on Site as stated in Table 9 of the PEA, it is advised reptile presence/absence surveys are carried out or justification is provided as to why this was deemed unnecessary;	See detailed response within the present letter, and updated Table 16 of the PEA report.
LRERC indicates the presence of suitable water vole habitat associated with the fish pond immediately SE of the blue line boundary. The PEA indicates that the habitat along the Sutton Brook, which appears to connect to the fish pond and bounds the Site's southern boundary, was suitable for water vole. Therefore, it is recommended that a water vole survey is conducted along the Sutton Brook;	An appropriate buffer zone has been implemented around the riparian habitats, following the mitigation hierarchy. No works are proposed to the brook or wet ditches at the site. It is therefore considered that water vole surveys are not required.
No specific measures are in place to safeguard priority species including brown hare and hedgehog. Therefore, a robust Reasonable Avoidance Measures Method Statement (RAMMS) should be produced to protect these species. This RAMMS should include measures to protect breeding birds including ground nesting birds, badger and common amphibians. This should be implemented prior to commencement of works and should form a pre-commencement planning condition.	Please see amended Table 16 in the PEA report, row 'Other Mammals (Including brown hare, harvest mouse, and hedgehog)'.
The BNG assessment shows the landscape plan used for the created habitats achieves a net gain of +49.04% of habitat units and +14.09% for hedgerow units, with trading rules satisfied. Clarification is required on the following points: • The Biodiversity Metric calculation should be provided for review along with the BNG report; and • The original landscape plan used for the post-development habitats should be provided for clarity, including date, drawing and revision number. Further BNG assessments should be completed after the feasibility stage as the design progresses to ensure the landscape designs are on track to achieving the agreed net gain;	The metric has been provided. The 'relevant documents' section (paragraph 1.2) of the updated BNG report has been amended to reference the specific landscape masterplan drawing used for the post-development habitats, which is available on the planning application webpage. The BNG report has been updated and finalised with reference to the design, and a higher BNG uplift achieved.
In general, the following should be undertaken as pre-commencement planning conditions: • Should works not have commenced within 12 months, an update badger survey should be advised to be undertaken 12 months after the Site walkover in addition to the recommended pre-works badger walkover;	Elton Ecology Ltd are in agreement with these recommendations, which can be attached as suitably worded planning conditions and have therefore not been provided at this stage.

• <i>Production of a bat-sensitive artificial lighting scheme which should be reviewed and approved by an experienced bat ecologist;</i> • <i>Details on how the post-development plan might be achieved should be provided through a Landscape Ecological Management Plan (LEMP) to ensure agreed net gain is reached and the proposed created habitats achieve conditions specified in the BNG calculation. Ideally, a 30- year management plan should be provided in accordance with the Environment Act 2021, although it is accepted that this is not mandatory until Jan 2024.</i> • <i>Production of a Construction Environmental Management Plan (CEMP); and</i> • <i>Establishment and management of ecological enhancements recommended in Section 7 of the BNG, including bat roosting loft, bird nesting enhancements and invertebrate bricks should be included in a Biodiversity Enhancement Management Plan (BEMP).</i>	
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*Taken from Comment by Red Kite Network Limited dated 14/12/2023 concerning Land South West Of Sutton Lane Market Bosworth Leicestershire, Planning Ref 23/01102/FUL.