

Boorley Park Nursery, Nairn Road, Botley, SO32 2SH - application ref. F/22/94241 and F/22/94242

Erect single-storey children's nursery with off road car parking

Rebecca Altman

1/3/23

Senior ecologist Sarah Boyd has responded to application F/19/85348 for a similar proposal on this site and her response must also be considered for this application. She had raised a holding objection on lack of habitat provision and drainage. She also stated: *The ecological baseline for this site must be taken from the time of the outline application, when the site comprised predominantly patchy scrub interspersed with semi-improved grassland with good connectivity to surrounding habitat networks, and not taken from more recent years after the habitats on site have been severely degraded due to construction activity in the delivery of development on adjacent land.*

I will expand on her response here and have reviewed the following documents:

Preliminary Ecological Appraisal report by KJF Consultancy Ltd (February 2023), and the proposed site plan by Asplan (Rev D, October 2022). There is a drainage report but the ecology issues are more pressing at this point so I have not included surface water drainage in this response.

The Preliminary Ecological Appraisal report is not complete and represents insufficient survey effort.

Under mitigation measures the report states:

*A request for data should be made to the Local Environmental Records Centre to obtain details of any records they hold of any protected species for the site.*

This is not mitigation, it is part of the normal background data search that should be done as part of any preliminary ecological assessment, especially if there is suitable habitat and evidence such as regularly used badger paths as have been reported on site and shown in photos at the end of the report.

The report states that *A request for data was not made to the Local Environmental Records Centre to obtain details of any records they hold of any protected species for the site as it is highly unlikely they will have a record of a protected species for the site. However, this is recommended.*

I don't agree. There are records of protected species on our system in the near vicinity of the site. There are records of stag beetles, badger, and dormouse in the vicinity of this site, with records of reptiles further afield. The photos in the report show tussocky grassland which is

suitable reptile habitat, habitat for nesting birds, well used badger trails (shown on a photo and mentioned in the text) and dense bramble habitat that could potentially contain a badger sett but that has not been checked.

Although this site appears to be surrounded by development, there are still some green corridors connecting it to the surrounding undeveloped areas. The site is still potentially connected to Botley Park Wood SINC and Botley Golf Course Wood SINC which are both ancient woodland. Using the time slider on Google earth it is clear that in 2016 these connections were undisturbed so it is possible that there could be remnant reptile populations on site. This preliminary ecological assessment has not checked or identified any of the surrounding areas nor mentioned any habitats near or adjacent to the site.

The guidelines for badger survey require the surveyor to check for evidence of badgers within a 30 m zone surrounding a site and this has not been done. If the dense bramble is not accessible to the surveyor I would expect to see some evidence from multiple camera traps and sticky tape (to catch hairs) used on the fence where the trails pass through. If badgers are foraging on site, they may also be living on site, or close by.

A phase 1 or UK Hab habitat map must be provided so that the extent and position of each habitat type is clear to the LPA. The aerial photo submitted from Google is dated September 19- assuming that is 2019 this is over three years old and is not an acceptable substitute for a habitat map created at the time of the survey. Badger trails must be marked and target noted on the map.

Unfortunately without a habitat map it is difficult to compare the landscape proposals to the existing habitat and to know what vegetation is proposed to be retained, what is proposed to be removed and how much of which types of habitats would be lost to this proposal. A habitat map with this information is required in order to assess any recommended mitigation for loss of habitat and whether any biodiversity net gain is provided on site as required by EBC and national planning policy. From the information given and the ecological baseline from the time of the outline application, it appears that this proposal would represent biodiversity net loss which is contrary to local and national planning policy.

There are additional inconsistencies in the report. It states that *No protected habitats and/or protected species were found; however, mitigation measures are required to offset the loss of a foraging area (grassland and Bramble) and to ensure badgers, bats, hedgehogs, nesting birds and slow worms will not be adversely impacted.*

The loss of grassland and bramble has not been quantified and no replacement habitats for these species has been proposed. The mitigation proposed in the report was only precautionary working methods not replacement habitat.

The report continues: *The site consists of rough native grassland dominated by Common bent (Agrostis capillaris) and Cocksfoot (Dactylis glomerata), with Doves-foot Cranes-bill (Geranium*

*molle*), a native annual, being locally dominant. Since this survey was done in January and February of 2023 it is quite possible that there are more herbaceous species present in this grassland than have been reported. The ecological consultant has acknowledged that the vegetation was surveyed outside of the optimal season but gives no evidence as to why *further information about plant species would not alter the conclusion*. An additional botanical survey may be required in the spring or summer to identify whether this grassland is ecologically significant. A qualified botanist should assess this grassland.

The report states that *The centre and southwest area of the site is dominated by an area of dense impenetrable bramble (Rubus fruticosus agg.), a native shrub. Mature Hawthorn hedgerows are along the south and west boundaries*. Are there any other species other than hawthorn within these hedgerows? How long are they? Are they complete or do they contain gaps? These are both good habitats for breeding birds. If they are proposed to be removed, what additional habitat is proposed to replace the habitat lost to development? There are records of dormice in the area, but the report has not scoped them out.

The report continues: *The grassland is a habitat for Slow worms (Anguis fragilis) that will forage within the site and pass through it*. In my experience if this grassland is a habitat for slow worms, they don't just pass through, they live, feed and reproduce there. No evidence is provided in any case, only a photo of tussocky grassland with bramble scrub that looks like ideal slow worm habitat. A reptile survey is required.

The report recommends that the hedgerows be retained, however this is not shown on the site plan. It states that appropriate planting within the site should be proposed to offset the loss of the grassland and bramble but does not recommend anywhere specific on site where this could be achieved or discuss how much is proposed to be lost or gained.

Generic enhancements for bats, birds, bees and hedgehogs are recommended in the biodiversity enhancement section of the report. There are no records of hedgehogs in this area, however this does not mean they aren't present. Bee bricks without a range of flowering plants for bees to forage on may not attract any pollinators.

I note that F/19/85348 was permitted with conditions on 26 May 2020. The site may have changed since then and more habitat for reptiles and badgers has developed. One of the conditions was that the development be commenced no later than three years from the date of this permission, which would be by 26 May 2023. If this development was to commence now, it would destroy potential reptile and badger habitat before it had been surveyed for reptiles and badgers, which is against the law. I would strongly advise the applicant to rule out the presence of slow worms and badgers on site using best practice survey methodology and provide this evidence to the Local Planning Authority before commencing any development on this site.

The presence of protected species is a material consideration and must be established or ruled out before determination.

All reptiles are protected under the Wildlife and Countryside Act 1981, as amended.

If active badger setts or foraging signs are discovered setts and foraging corridors should be protected or mitigated within the development. If setts require closure a licence will need to be obtained from Natural England.

Information on Crown Prosecution Service *Wildlife Offences* is available at:

<https://www.cps.gov.uk/legal-guidance/wildlife-offences>

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. These habitats are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

If evidence of an active bird's nest is found during construction, a 5 m buffer must be erected around the nest to protect it from disturbance until after the chicks have fledged and left the nest.

I raise an objection to this application based on inadequate ecological information.

Lisa Malter

Ecologist