

SPR EA1N AND EA2 PROJECTS



RESPONSE TO LETTERS FROM THE DEPARTMENT OF BUSINESS ENERGY AND INDUSTRIAL STRATEGY DATED 20 DECEMBER 2021

PARAGRAPH 7 OUTLINE LANDSCAPE AND ECOLOGICAL MANAGEMENT STRATEGY

Interested Party: SASES

PINS Refs: 20024106 & 20024110

Date: 31st January 2022

Issue: 1

SASES' comments on the following question in relation to Badgers:-

“The Applicant is requested to provide details of any additional measures in the Outline Landscape and Ecological Management Strategy associated with the badger and great crested newt licences. The Applicant is also requested to provide details of any other changes to the proposed mitigation and enhancement measures in the Outline Landscape and Ecological Management Strategy.”

Summary

- The Outline Landscape and Ecological Strategy (OLEMS) does not comply with the revisions required in the Letter of No Impediment (LONI) issued by Natural England on 4th August 2021.
- The Applicants classify badgers and their habitat as being of low importance.
- The Applicants did not take the presence of badgers into account when making their site selection.
- The substation site is too constrained to allow for an artificial sett(s) to be created within the Order limits and the Applicants have failed to identify an alternative location.
- The presence of badgers on the substation site has not been considered in relation to the Applicants' proposed mitigation for construction flood risk.

Background

1. SASES has made submissions on the issue of existing extensive badger setts on the substation site during the consultation phases and the Examination (RR-069, REP1-350, REP5-103, REP6-129) but these submissions have been subject to extensive redaction, promoted in part by the Applicants, which has prevented other resident stakeholders from corroborating the existence of the setts. The Badger Survey results provided by the Applicants (APP-279) into the Examination were also redacted and stakeholders were unable to comment.
2. In SASES' REP1-350 at Deadline 1 of the Examination in October 2020, paragraphs 18 – 22 deal with the existence of badger setts on the substation site. Annex 3 to that submission contains photographs of the badger setts in the wooded pit on the substation site.
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010078/EN010078-002540-DL1%20-%20SASES%20written%20representation%20concerning%20Ecology.pdf>

3. This sett was also shown to the ExA on its site visit on 26th January 2021 and its location identified in REP5-103.
4. On 15th February 2021 SASES notified Natural England of two badger setts on the substation site and provided a map and photographs of the locations. SASES also requested of NE that further badger surveys be carried out by the Applicant.
5. Badgers were then discussed at ISH 7 on 17th February 2021 when ecologists from SCC and ESC were present. At the hearing, Brian McGrellis, of behalf of the Applicants denied the existence of any badger setts on the substation site. SASES submitted a Post Hearing Submission at Deadline 6 (REP6-129) again providing a map and photographs of the setts and requesting that further badger surveys be carried out.
6. SASES also contacted the two local authority ecologists and was advised to report the existence of the badger setts to Suffolk Biodiversity Services. A copy of the report to SBS is attached and contains photographs of the badger setts which were in existence as at 15th February 2021. (Annex 1 to this document)
7. In April 2021 SPR began Ground Investigation Works on the substation site and SASES again brought the existing setts on the substation site to the attention of SCC and Natural England expressing its concerns regarding the extensive ground works taking place during the breeding season. The works continued throughout the summer of 2021 until at least the end of August, during which time local residents had little access to the area. It was only after all the Applicants' workforce had left the site, did it become apparent that the setts had become disused and others simply destroyed. This was again reported to Natural England.

Letter of No Impediment – 4th August 2021

8. In the Applicants' Responses to SoS questions of 2nd November, they disclose the LONI which was issued by Natural England on 4th August 2021, confirming receipt of the Applicants' licence application on 28 June 21. NE refer to email correspondence with the Applicants' ecologist (Gordon Campbell) on 28 July 21, by which time the Ground Investigation Works had been ongoing for four months and the adverse impacts on the badger population were likely to have already taken place. The LONI however asks for further revisions of the Method Statement, which include the following:-
 - Updated badger surveys of the site, including previously un-surveyed land within and abutting the DCO boundary....
 - In the event main sett 33b will be lost, additional details regarding the final location of an artificial sett...
 - The presence of livestock susceptible to badger borne disease within 2km of the project.
9. It is assumed that the "main sett" referred to is that located in the field adjacent to Grove Road, which was significantly impacted by the works during the summer months of 2021. This location is where the proposed haul road enters the substation site and the sett will inevitably be destroyed.
10. SASES contends that there is insufficient land within the Order Limits to create an artificial sett of the appropriate size where the badgers could be relocated prior to the construction phase of the substations. Further there is large-scale outdoor dairy farming and sheep rearing taking place in fields to the south-west and south of the substation site in the vicinity of Friston Hall, which is within 2km of the substation site. It is well known that badgers carry bovine tuberculosis and that cattle and deer are particularly susceptible to infection.

If infected the cattle have to be slaughtered, which is no doubt why NE are asking for any artificial sett to be 2km from livestock. DCO consent should not be granted without a potential site for a suitable artificial sett being identified by the Applicants.

Outline Landscape and Ecological Management Strategy

11. The Secretary of State has asked the Applicant for details of any additional measures, or changes to mitigation and enhancement measures in the OLEMS. The OLEMS document identifies five active badger setts, four of which are on the substation site (the fact that four of the five setts within the whole of the onshore development area are on the substation site demonstrates the prevalence of badgers in this area). It is therefore critical that identifying suitable site(s) for an artificial sett(s) for badgers should be a priority before DCO Consent can be considered. No proposed location has been put forward by the Applicants.
12. The OLEMS also recognises (para 258) that construction works will result in the loss of arable and hedgerow foraging habitat. In its evaluation at paragraph 217, the Applicant categorises grassland as being of low ecological value and at paragraph 239 it identifies arable land to be of low ecological importance. In its site selection process, as shown in the RAG Assessment (APP-443), the presence of badgers on the substation site was not considered as a criterion on which to make the selection. Under the ecology section only the presence of National and Local Designations or the proximity to mature woodland were considered, but not any particular species.
13. The Environmental Statement Onshore Ecology (APP-070) has only four short paragraphs on badgers (paras 123-126) and concludes that badgers are of low importance. With four of the five identified badgers setts being located on the proposed substation site, it is clear that the Applicants did not take these setts into consideration in their site selection process.
14. Paragraph 262 of the OLEMS refers to open excavations having a ramp installed to allow badgers or other mammals a means to escape and paragraph 265 refers to any trenches deeper than 1M having to be covered at the end of each working day or include a means of escape for any animal falling in.
15. In its responses to the SoS Questions of 2nd November, the Applicants propose at paragraph 46 that attenuation basins during the construction phase have a depth greater than 1M. They qualify this by saying that these basins will be in a secure site that will have a continuous security presence and to which there will be no public access. The Applicants cannot however ensure that wildlife, such as badgers, will not have access to the site and have not put forward any mitigation in this regard nor demonstrated that any such mitigation would be feasible.

Conclusion

16. The Applicants did not take account of the presence of badgers when making their site selection and consider the species of low importance. The Applicants admit to four badger setts existing on the substation site but have not identified a location within the Order Limits (which are very constrained) where an artificial sett(s) can be provided. Further the Applicants have not considered the welfare and safety of badgers (or other wildlife) during the construction phase. The OLEMS is inadequate in addressing these issues and demonstrates the Applicants' irresponsible attitude to this protected species.