Ian White comments on letter to Jason Hawkes, Horsham District Council, [redacted] [redacted] Principal Ecologist LUC 16/12/2024

Our reference 12450
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Hazel Dormouse Addendum: DC/24/1619 Erection of 14 No. 2, 3 and 4-bedroom dwellings, including 4 bungalows with access from Smock Alley, vehicle parking, public open space, landscaping and borehole

We write on behalf of Castle Properties Limited as their appointed ecologist for the above proposed residential development on a parcel of land at Smock Alley, West Chiltington, RH20 2QS (hereafter referred to as 'the Site').
Thank you for the information on dormouse records and for the further comments provided by the Council's Ecologist. Based on this information, and in line with a precautionary approach, we will assume that dormice are present within the Site and surrounding landscape. This letter therefore provides an assessment of the project proposals in respect of dormice and provides further detail on mitigation measures in order to avoid impacts to this species.

Dormouse Surveys Pre-determination

Dormouse surveys to inform development projects are designed to confirm presence or likely absence of this species. These surveys are not capable of providing more detailed information, such as an estimate of population size, and this is a recognised and accepted limitation.

This isn't strictly true. I would agree that dormouse surveys are designed to confirm presence or likely absence of dormice and while they are unable to give an estimate of population size, they can give an indication of it by looking at the number of nests or live dormice recorded relative to the number of tubes that are put up across the site They can also give an indication of how dormice are using the site so that if a breeding female with a litter is recorded, that would suggest that dormice are resident in that area of the site whereas an area where only juvenile dormice are recorded in the autumn would suggest a dispersal corridor.

As we are already assuming dormouse presence, the findings of a dormouse survey programme would not change our assessment or recommendations to avoid impacts. As such, dormouse surveys to confirm presence/likely absence are not considered to be required or proportionate. This is in line with guidance from the Chartered Institute of Ecology and Environmental Management, which states that "further surveys may not be necessary to the determination of the planning application" where "adequate information is already available

This would suggest that a dormouse survey has previously been done at the site. As far as I am aware it has not and so your assumption of dormouse prescience is based on dormice presence in the locality. This is not adequate information as to the status of dormice on-site.

and further surveys would not make any material difference to the information provided to the decision-maker to determine the planning permission". This statement is echoed in the British Standard BS 42020:2013, Clause 9.2.4.

[redacted]

There is a lot of detail here on the reduction in the amount of scrub removal but no apparent plan on how these habitats are to be maintained post development.

The project proposals currently include the removal of 0.57ha of bramble scrub in order to provide space for the residential curtilages [redacted]

[redacted] These scrub margins are much more recently established over grassland, due to a relaxation in site management, are exposed to edge effects and are between 0.5-1 metre in height. The presence of dormouse within these margins is therefore considered to be unlikely.

Along the western boundary of the southern field, bramble removal will be required within the vicinity of the annexe sett, in order to facilitate its full closure, however this can be limited to only where this is necessary, within the limits of the sett boundary. This habitat was originally recorded as bracken and grassland during the 2020 survey visit, with occasional scattered presence of bramble. The bramble scrub has increased in extent since 2020, due to the relaxation in site management, but remains lower in height, more scattered and less established than the scrub along

the southern boundary. The likelihood of dormouse presence within these area of scrub is still considered to be low and impacts can be easily mitigated (as outlined below). Its recent establishment means that it is unlikely to be relied upon to sustain the local dormouse population in its current form.

Elsewhere within the Site, small localised areas of scrub removal are required around the field boundaries in order to provide space for the residential curtilages. This will be akin to scrub management in these areas, with the scrub cut back to reduce its current encroachment into the fields. As such, the risk to dormouse is low and can be mitigated (as outlined below).

By amending the approach [redacted], the total area of scrub removal will be reduced to approximately 0.183ha (less than a third of what was originally proposed). However, it is important to note that this figure is an accumulation of strips of scrub along field boundaries, much of which is relatively recently established and all of which is associated with hedgerows and woodland edge habitats that will be retained and provide habitat connectivity. As such, much of this habitat is of a lower suitability for dormouse and the risk of impacts resulting from its removal is low. The figure also represents a worst-case scenario, in line with a precautionary approach. In practice, all attempts will be made to minimise scrub removal as much as possible.

Maintenance of Habitat Connectivity, and Provision of Habitat Enhancements and Replacement Scrub Habitat

The hedgerows could be a key habitat are for dormice and without an ongoing management plan, they will slowly degrade. What is the longer-term plan for the hedgerows and how will they be managed in the future?

The existing habitat connectivity will be maintained within the Site and with the wider landscape, by retaining the hedgerows bordering the fields and by retaining and enhancing the woodland immediately to the west of the Site. This woodland is currently dominated by oak trees of the same age, and has a low structural and species diversity, with a very limited shrub layer. Considerable opportunities therefore exist to enhance this habitat for wildlife, including dormouse. Further information is provided in the Habitat Management and Monitoring Plan (HMMP).

In addition, wide habitat buffers will be provided around the hedgerows and woodland edge (outside of the residential curtilages), with retention of existing scrub where possible (as outlined above and below) and provision of additional native species-rich scrub planting (further information, including areas, is provided in the HMMP and the Biodiversity Net Gain Report). These buffers of retained scrub will be 10-25m wide along the southern boundary of the southern field [redacted] and 3m wide along all other field boundaries. The exception to this will be the western field boundary of the southern field [redacted] which will have a buffer of a minimum of 10m, and will have some areas of retained bramble and some areas to be replanted with a species-rich scrub mix after completion of the annexe sett closure. These buffers, along with the retention and enhancement of the above habitats, will provide an enhancement of habitat connectivity and habitat

suitability for dormouse throughout the Site. This would be expected to result in a wider range of plant species providing foraging resources throughout the active season and sheltering opportunities year-round. This will be sufficient to prevent a long-term net loss of dormouse habitat and to maintain the current carrying capacity of the Site, regardless of current dormouse population size.

Dormouse Mitigation Licences and the Three Tests

Page 45 within the Dormouse Conservation Handbook states that “if the proposed activity can be timed, organised and carried out to avoid committing offences, then no licence is required.”

The above mitigation measures are sufficient to prevent any long-term impacts to dormouse, such as net loss of habitat suitability, availability or connectivity. In the short-term, impacts during the site clearance and construction phase can be avoided through the implementation of an appropriate Precautionary Working Methods Statement (PWMS), including programming scrub clearance to a time of year when dormice are unlikely to be present. As such, we consider a dormouse mitigation licence unnecessary for this project.

While we do not consider a licence is required, if the Council were minded to consider the Three Tests, as part of their statutory duty and in line with guidance from Natural England, we have provided the following rationale:

1. The proposals would not have a detrimental effect on the conservation status of the species involved: The measures outlined in this Addendum letter will be sufficient to maintain the favourable conservation status of the local and national dormouse populations.

   How do you know that the measures outlined in this letter will be sufficient to maintain the favorable conservation status of the local population? If you don't know for certain whether dormice are present on-site before the works starts, how do you demonstrate that you have maintained or enhanced the population at the end of the works?

2. There are no reasonable alternatives which would avoid the effect: Scrub removal has been minimised as much as possible and limited only to where this work is essential. All other suitable habitats are to be retained and significant enhancements will be provided.

3. There are reasons of overriding public interest to justify the effect on the species: While this is primarily a planning matter outside of the scope of this Addendum letter, we note that the development will contribute to the much-needed housing supply in this part of the country.

   The BBC states that 1357 houses per year are required in Horsham by government targets set in 2024. 14 dwellings is a 1.03% contribution to that target. Thus while it's not a major contributor to that target, it is a potential loss of wildlife habitat, that will be forever lost.

If a dormouse mitigation licence were to be required, the conditions of the licence could be readily accommodated within the proposed scheme. Indeed, the standard mitigation measures that would likely be requested within a dormouse mitigation licence application are those that are already being provided, such as retention of hedgerows and woodland, wide habitat

buffers, scrub replanting, increased scrub species diversity, woodland enhancement, maintaining habitat connectivity, provision of a sensitive lighting scheme (to be provided via planning condition) and adhering to a Precautionary Working Method Statement (as outlined below). This should therefore provide the Council with confidence that, if a mitigation licence application were required, the licence would be forthcoming.

Precautionary Working Method Statement

While the assumption of dormouse presence at a site and taking appropriate precautionary measures can be useful, it is an approach not without risks.
If a dormouse survey has been done, it is possible to determine dormouse presence (or otherwise) on-site. If that is known, it is then possible to implement a monitoring program to demonstrate that the mitigation and compensation measure have worked. Without knowing if dormice were there in the first place, that is impossible to do.
From a developer point of view of course, they save time and money by not doing a survey and they save time and money from not having to implement a longer-term monitoring programme to demonstrate whether the works they have proposed have actually maintained or benefitted the local dormouse population.

The following Precautionary Working Method Statement (PWMS), will be incorporated into the Construction Environmental Management Plan for Biodiversity and implemented in full, in order to prevent impacts to dormouse during the scrub clearance and construction phase.

All attempts will be made to limit the bramble scrub clearance to only those areas where it is necessary to facilitate the development, [redacted]. A dormouse licenced ecologist will provide advice on site throughout the clearance works on where scrub removal can be minimised.

Where required, the scrub removal will be undertaken at the beginning of November, to avoid the dormouse active season [redacted]. The approach will follow a single-stage clearance method, with the ground subject to a thorough fingertip search by a dormouse licensed ecologist. The single-stage clearance method is a requirement [redacted]. This approach is considered to be low risk in this case, due to the following reasons:

1. The majority of the bramble scrub to be cleared is low in height and recently established over grassland, with a less developed root system.
2. The bramble scrub [redacted] has a disturbed ground level, [redacted]

3. Due to the risk of predation, dormice are unlikely to hibernate on the ground within the footprint [redacted].
4. In some areas along field boundaries, scrub removal will take the form of scrub management, by cutting back the recent encroachment without the need for significant root removal.

The scrub clearance will be undertaken using hand tools only, to allow for greater control and vigilance during the process.

Clearance will be directional, working outwards from the field towards the field boundaries and in the direction of the woodland. The dormouse licenced ecologist will remain present throughout the clearance work, inspecting the bramble scrub metre by metre.

The scrub clearance will be undertaken by JDH Ecological, who are specialist ecological contractors, with extensive experience of ecological mitigation and precautionary working methods.

In the unlikely event that a dormouse is encountered during the works, all scrub clearance works will cease immediately and will not recommence until a dormouse mitigation licence has been issued by Natural England. As outlined above, appropriate mitigation measures have already been embedded within the proposals and therefore we are confident that a mitigation licence would be forthcoming.

Upon completion of the scrub removal works, a letter report will be provided to the Council with photographs, details of the works, confirmation of adherence to the PWMS and confirmation that legal compliance was achieved.

Throughout the construction phase, the hedgerows, retained scrub and woodland edge habitats will be fenced off from the development. A Toolbox Talk will be provided to the construction team to ensure that they understand the mitigation requirements legal protection afforded to [redacted] dormice [redacted]

We trust that you find the above information acceptable and would be happy to discuss further.

Yours sincerely

[redacted]
Principal Ecologist