

Save Kiln Meadow (SKiM)

Correspondence Between Committee members of Ipswich Wildlife Group (IWG) and Babergh District Council Regarding Planning Application B/02/01984

1 Planning Archive at Babergh District Council (BDC)

Planning application was submitted by Ipswich Borough Council, to Babergh District Council, in 2002. The planning application is B/02/01984, the site known as Thorington Hall Area F, which includes Kiln Meadow. The archive, viewed by members of IWG after several requests for access, show that there was considerable discussion about various matters, including additional fencing to mitigate the impact on Spring Wood (Local Nature Reserve and County Wildlife Site). A sum of £28,000 was requested for this; £10,000 was finally allowed. No mention was made of the other two nature reserves in the area – Bobbits Lane wet meadows and Millennium Wood.

In March 2007, Suffolk Wildlife Trust notified BDC that the site had a significant population of toads. This was ignored by planners and there is no evidence that this was ever communicated to any council members. Nor do the implications of the Natural Environment and Rural Communities Act 2006 appear to have been considered. Outline planning permission was granted in October 2007, though it seems not to have been discussed by councillors since 2003 when it had been approved in principle.

Ipswich Wildlife Group did not realise that planing permission had been granted until the middle of 2008, too late to appeal against the decision. However IWG were shocked that NERC 2006, and Babergh's own environmental policies were ignored.

IWG wrote to BDC. The bulk of the letter is copied below.

2 IWG's First Letter to BDC

The following letter was sent on 26th August to the chief executive and leader of the council.

Re : Planning Application B/02/01984, outline permission granted October 2007

Ipswich Wildlife Group (IWG) working on behalf of SKiM the Save Kiln Meadow campaigning group, are concerned that wildlife considerations were not taken into account when outline planning permission was granted for the site in the above referenced application. Outline planning permission was granted in October 2007, although the application was made in 2002. Between 2002 and 2007, the site changed considerably from a wildlife perspective, as two new LNRs were declared on adjacent sites and it was recognised that these sites were home to a number of protected and/or valuable species such as otter, water vole, kingfisher, black poplar, bluebell, toad, water rail, egret, bullfinch, stag beetle etc.

In particular, there has been a dramatic increase in toad numbers. In Spring 2008, IWG organised a toad patrol to take toads across Bobbits Lane and counted over 4,400 toads migrating across Kiln Meadow (part of the site for which you have granted planning permission for over 100 houses) and Millennium Wood. This was reported to BBC Radio 4's 'World on the Move'

and was the highest toad migration reported to them or to Froglife, the organisation which coordinates toad crossing patrols nationally. Thus the site is of national importance, and it should be noted that the common toad is now a Suffolk BAP (Biodiversity Action Plan) and a National BAP species.

Please could you provide answers to these questions:-

Was any attempt made to survey the wildlife on the site?

Did anyone visit the site to observe any changes to the hydrology and environment between 2002 and 2007?

Were planners aware of the LNR status of the meadow on the other side of Bobbits Lane? Because this means that Kiln Meadow is a green corridor between an LNR and a county wildlife site (Spring Wood Ancient Woodland).

If they were, why did they approve permission even though it contravenes a number of the council's policy directives on biodiversity (see Babergh Local Plan alteration number 2 2006 section 2.1.3 paragraphs EN02 EN03 and EN05)?

If not, do you think they failed in their duty of care under the Natural Environment and Rural Communities Act 2006?

Planners were made aware of the toad migration in March 2007 in an email from Suffolk Wildlife Trust. Why did they approve the plans after having been told this?

What do you intend to do at the detailed planning stage to ensure conformance with your own planning guidelines on biodiversity?

IWG urge you to take careful note of the hydrology of the site and consider the impact of the proposed development on the drainage patterns and flow of water into the wet meadows constituting part of the LNR on the other side of Bobbits Lane.

We await your detailed reply with interest.

Yours sincerely, etc.

3 Babergh's Response

Babergh responded only after a formal complaint had been made about the lack of a response:

(see next page)



2004-2005
Supporting People
2006-2007
Waste and Recycling
2006-2007
Culture and Sport for
Hard to Reach Groups

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Our Ref: **B/02/01984/OUT**
Case Officer:
Direct Line: 01473 826638
Fax: 01473 825708
Email: deborah.board@babergh.gov.uk

Date: 24 September 2008

Dear Mr Sidaway,

Application No: B/02/01984/OUT
Location: Area F, Thorington Hall, Pinewood, Ipswich, Suffolk
Proposal: Outline - Residential Development of Areas F1 & F2

Following our telephone conversation of the 17th September 2008 I am now in possession of a copy of your letter of 26th August 2008 and trust that the following comments will be of assistance to you:

As you are aware the Council's Development Committee resolved to grant planning permission for residential development in this location in February 2003, subject to completion of a s106 Legal Agreement (outline permission was initially granted on appeal in 1990). The planning permission was issued on 31st October 2007 with the substantial time delay being due to the negotiation of the legal agreement.

I have enclosed a copy of the case officer's report to committee which I hope provides some useful background to the case and how the application was assessed by officers and members. You will note that the report makes specific reference to the sites location with respect to Spring Wood and that this is a Local Nature Reserve and County Wildlife Site.

At the time of the application the policy context for assessment was formed by the Suffolk Structure Plan 2001; The Babergh Local Plan Alteration No 1 and The Babergh Local Plan Alteration No. 2 (Second Deposit Draft). The policies relating to nature conservation were LP101 and CR13 respectively and were detailed in the report to the Development Committee. National Guidance contained in PPS9 (Biodiversity and Geological Conservation) was published in 2005 and replaced PPG9, which was in force at the time of the application.

Taking each of your questions in turn:

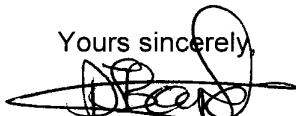
- No wildlife survey was required or undertaken as part of the planning application B/02/01984/OUT;
- The case officer will have visited the site at the time of the application in 2002. There are no file records regarding additional site visits following the committee resolution to grant planning permission;
- The committee report highlights that both the planning officers and committee members were aware of the LNR status when considering the application, indeed the legal agreement associated with the application seeks a commuted sum towards woodland management measures at Spring Wood;

Continued...

- At the time of the application the policies you quote were not material considerations and it is clear that the proposals were properly assessed against the policies in force at the time, indeed paragraphs 44 and 45 of the officer's report specifically address the impact on Belstead Park and Spring Wood;
- Within its remit as the Local Planning Authority I am of the opinion that this Council properly assessed the issues of the development relative to Spring Wood and Brook Park at the time of the application and has properly exercised its duty regarding the conservation of Biodiversity;
- The existence of a previous approval and the policy context at the time of application were also highly material in consideration of the 2002 application;
- This authority had resolved to grant planning permission and reached near completion of the associated legal agreement on the scheme in 2007 and with a committee resolution agreed the Council is duty bound to proceed with the decision;
- If species are now known to be present on site then it may be appropriate, in accordance with the requirements of PPS9, for any subsequent reserved matter applications to contain an ecological assessment and mitigation strategy, indeed in marketing the site the land owner may consider it appropriate to undertake a Phase I survey although I am not in a position to confirm if this has or will be undertaken.

You will appreciate that the comments given above are intended to be helpful and are sufficient to address the matters raised in your correspondence and are given without reference to Members or subject to other consultations. Such comments should not therefore be taken to commit the Local Planning Authority in any way. Please do not hesitate to contact me should you require any further clarification.

Yours sincerely,



Deborah Board
Principal Development Control Officer

4 IWG's Response to Babergh

IWG felt that the response was inadequate and wrote back on 9th October:-

Thank you for your letter of 24th September in reply to my letter regarding the granting of outline planning permission for substantial development on Kiln Meadow (Thorington Hall Area F).

I am extremely dissatisfied with the reply which adds no information beyond that available in the planning archive which I have already looked at.

I find many of your answers to our questions irrelevant because they are based on considerations at the time of application and not considerations at the time of granting the planning approval in 2007. In the document granting the permission, reference is made to Babergh Local Plan Alteration No 2 2006. If this applies, which appears to be the case, then paragraphs EN02, EN04, EN03 EN07 and EN16 are very relevant and should have been taken into account when considering this application. It seems to me that Babergh's written policy is entirely window-dressing, divorced from any implementation by the planning department. I would also remind you the NERC 2006 applies.

It seems that we agree that no-one from BDC visited the site between 2002 and 2007, and that no

attempt, at any stage, was made to consult Suffolk Wildlife Trust (SWT) about the wildlife and biodiversity considerations of the site. Which raises the question – how exactly does BDC planning department make themselves aware of wildlife and biodiversity considerations if they don't consult with bodies such as SWT, the Suffolk biodiversity officer, county ecologist etc?

You mention Spring Wood, one of the three LNR/CWSs immediately adjoining the area. You do not seem to be aware of Bobbits Lane Wet meadows LNR (likely to be upgraded to a County wildlife Site soon) or Millennium Wood LNR. Again, the planning department seems unaware of the contents of the Babergh Local Plan, in which both these LNRs are listed.

To remind you, Area F/Kiln Meadow is bordered on three sides by LNRs/CWSs. Your letter makes no mention of two important aspects – toads and hydrology. The toad population of the area (as counted by Ipswich Wildlife Group's Toad Patrol) has increased to over 1,500 in 2007 and 4,400 in 2008. The toads hibernate in and migrate across Kiln Meadow/Area F, from Spring Wood to Bobbits Lane Wet Meadows. The wet meadows rely on water draining across Kiln Meadow, and support toads, water voles, otters, a unique population of native brown trout, kingfishers, egrets, herons, dragonflies, etc etc. If Kiln Meadow is developed, the wet meadows LNR will be drastically affected. Yet EN02 in the Babergh plan states:-

EN02 Development will not be permitted which, directly or indirectly, would have a material adverse impact on existing or proposed County Wildlife Sites, Regionally Important Geological/Geomorphological Sites or Local Nature Reserves.'

Kiln Meadow/Area F is a green corridor and green wedge and EN04 in the local plan states

'EN04 All development proposals must provide for the protection and, wherever possible, the retention, of existing semi-natural features on the site, including rivers, streams, ponds, marshes, woodlands, hedgerows, trees, features of geological interest, and also including wildlife corridors and green wedges'

Toads (bufo bufo), otter and water vole are protected species. EN03 in the local plan states:-

'EN03 Development will not be permitted which, directly or indirectly, would have a material adverse impact on protected species.'

According to the Chairman of the Suffolk Amphibian and Reptile Group, housing development on Area F/Kiln Meadow would destroy the toad colony.

In your letter of 24th September, your statement that 'if species are now known to be present on site' is to ignore the fact, not acknowledged by you, that BDC were told by SWT of the toad population in March of 2007, some seven months **before** you granted the planning permission. The email is in your archive and we have noted it.

I raised, in a previous letter, the relevance of PPS9 to this case. It states:-

'Networks of Natural Habitats

Networks of Natural Habitats provide a valuable resource. They can link sites of biodiversity importance and provide routes or stepping stones for the migration, dispersal and genetic exchange of species in the wider environment. Local authorities should aim to maintain networks by avoiding or repairing the fragmentation and isolation of natural habitats through policies in plans. Such networks should be protected from development and where possible strengthened by or integrated within it. This may be done as part of a wider strategy for the protection and extension of open space and access routes such as canals and rivers including those within urban areas.'

I raised the issue of PPS9 because the toad numbers make it the most significant national site out of the 720 that were reported to Froglife and BBC Radio 4's 'World on the Move'. The county ecologist has stated that it is certainly the most important toad site in Suffolk, and is aiming to elevate the status of Bobbits Lane LNR to a County Wildlife Site by Christmas 2008.

Your response to the PPS9 issue – that 'it may be appropriate to undertake a Phase 1 survey' does not provide the reassurance we seek that our local wildlife is safe from the depredations of Babergh's planning department and greedy developers. Seriously, why has Babergh not taken this into account? You have not stated exactly what possible mitigation strategy would be appropriate in this case, to preserve the toad population and hydrology. Toads are not a suitable species for translocation. An article by John Baker in the SWT magazine of Winter 2007 states that toads 'are not particularly good at long-distance dispersalthey cannot cross large expanses of unsuitable habitat '.

I would appreciate a prompt response, as Ipswich Borough Council are approaching a decision about the future of the site and I'm sure that potential developers would like to be aware of what mitigation would be likely to be required.

Yours Sincerely, etc.

5 Babergh's Response

Mr N Ward, Chief Planning Control Officer at BDC replied on 20th October:-

As explained by my colleague Mrs Board, the application to develop the land at Thorington Hall was assessed against the provisions of the Development Plan applicable at the time and the relevant national planning policy guidance. That was some five years ago. In the intervening period Toads have been identified as a Biodiversity Action Plan Species. As such and in line with the guidance contained within PPS9 'Biodiversity and Geological Conservation and the requirements of Circular 06/2005 nature conservation interests will have to be taken into account when any subsequent 'reserved matters' application is submitted pursuant to the outline permission.

While it is not possible to prejudge the outcome of any subsequent planning application, we will be working closely with the Suffolk Wildlife Trust and other bodies to ensure that nature conservation interests are taken into account at the appropriate time.

This completely fails to answer any of the questions raised.

IWG are considering what further action to take.

Jen Jousiffe

28th October 2008

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