

Barnes Hospital, Richmond

**Technical Note TN2:
Badger Assessment**

December 2018

Quality Management

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1 Introduction

- 1.1 Aspect Ecology has been commissioned by South West London and St George's Mental Health NHS Trust to advise on ecological matters in respect of proposed development of Barnes Hospital, Richmond, London, centred at grid reference TQ 21210 75702.
- 1.2 The site is subject to a planning application for the demolition and comprehensive redevelopment (phased development) of land at Barnes Hospital to provide a mixed use development, for which Aspect Ecology has provided input within the report entitled 'Barnes Hospital, Richmond, Ecological Appraisal', dated November 2018. In addition, a further application has been made for the construction of a new modular extension to the north of Fleming Lodge (labelled as B5 on Plan 5222/BAD1) Aspect Ecology have also provided input for this application, within the report entitled 'Fleming Lodge, Barnes Hospital, Richmond, Ecological Appraisal', dated September 2018.
- 1.3 The site is located in west London, within the Borough of Richmond upon Thames, situated within an urban context. The site is bound by South Worple Way, to the north, beyond which lies a railway, by South Worple Way to the east, by existing residential development to the south and by Old Mortlake Burial Ground to the west. Beyond this is extensive urban development on all sides.
- 1.4 The site itself is formed by a number of buildings which are largely disused, associated with the former use of the site as a hospital, along with associated hardstanding, ornamental planting, scrub and amenity grassland.
- 1.5 Badger *Meles meles* setts have previously been recorded during survey work in 2017 and 2018, located at the south east and south of the site as illustrated at Plan 5222/BAD1, whilst two further mammal burrows were recorded at the north of the site in November 2018. This note details the status of Badger at the site, recommended update survey work to clarify the status of these new burrows, along with proposed mitigation measures and consideration of licensing requirements.

2 Legislation and Conservation Status

- 2.1 Badgers receive legislative protection under the Protection of Badgers Act 1992. The legislation aims to protect the species from persecution, rather than being a response to an unfavourable conservation status, as the species is in fact common over most of Britain, with a stable or increasing population¹. Under the Act it is an offence to:
 - Wilfully kill, injure, take, possess or cruelly ill-treat a Badger, or attempt to do so;
 - To intentionally or recklessly interfere with a sett* (this includes disturbing Badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it).

¹ Roper, T.J. (2010) *The New Naturalist Library: Badger*.

**A sett is defined as “any structure or place which displays signs indicating current use by a Badger”. Natural England advice² is that a sett is protected so long as such signs remain present, which in practice could potentially be for some time after the last actual occupation by Badger. Interference with a sett includes blocking tunnels or damaging the sett in any way.*

- 2.2 Licences can be obtained from the Statutory Nature Conservation Organisation (SNCO) for development activities that would otherwise be unlawful under the legislation, provided there is suitable justification. The SNCO for England is Natural England. In this regard, licences for sett exclusion/closure are typically only granted for the period of 1 July to 30 November (inclusive).
- 2.3 Badger setts can be classified according to their usage by Badgers³: a ‘main sett’ is usually in continuous use with a large number of entrances; an ‘annex sett’ located close to the main sett with several entrances but not usually in continuous use; a ‘subsidiary sett’ is located some distance from the main sett (e.g. over 50m)⁴ comprising a small number of entrances and not usually in continuous use; and an ‘outlier sett’ is located some distance from the main setts, usually comprising one or two entrances and subject to sporadic use, typically used only by a single Badger as a temporary refuge.

3 Survey Results and Evaluation

- 3.1 Four one/two entrance Badger setts have been recorded at the east and south of the site, adjacent to the eastern side of building B4, and the southern site boundary (see Plan 5222/BAD1). Sett S1 was recorded to be active at the time of survey, although given the fact that this sett supported a single entrance, it is considered that this forms an outlier sett. Setts S2, S3 and S4 were all recorded to be inactive and supporting a maximum of 2 entrances, and as such are also considered to form outlier setts. Given the low number of entrances to each sett, and the lack of evidence for regular use of the site by Badger (appearing to be limited to occasional use of outlier setts), the site is considered to be of low importance to the local Badger population. In order to safeguard Badgers under the proposals, mitigation measures are detailed at Section 4 below.
- 3.2 In terms of foraging, habitats across the site and near surrounds are likely to provide some minor suitable opportunities for Badger, largely restricted to grassland and scrub at the site margins, however no evidence of Badger foraging activity or other use of the site was recorded during the survey work, such that it is considered that Badgers make greater use of adjacent, off-site habitats.
- 3.3 On this basis, the site is considered to be of low ecological value to Badgers at the local level, and loss of the outlier setts under the development proposals would be of low significance to the local Badger population. Given the common and widespread status of Badgers, the outlier setts are therefore not considered to form a constraint in terms of planning, although consideration will need to be given to legislative requirements, given the protection of Badgers under the Protection of Badgers Act 1992. As such, in

² Natural England (June 2009) *Protection of Badgers Act 1992 (as amended): Guidance of ‘Current Use’ in the definition of a Badger sett*

³ Thornton, P.S. (1998) *Density and distribution of badgers in south-west England – a predictive model*. Mammal review, 18, 11-23.

⁴ Natural England (December 2010) *Badgers and Development – A guide to best practice and licensing*.

order to comply with legislative requirements, mitigation measures are proposed below in order to safeguard Badgers at the site.

- 3.4 In addition to the above Badger evidence above, two further mammal entrances were recorded at the north of the site in November 2018, associated with the area proposed for the extension of the Garden Building. At the time of survey, there was lack of evidence associated with these burrows and as such it could not be confirmed at the time of survey whether these burrows formed Badger setts, or the burrows of other mammals such as Fox *Vulpes vulpes*.
- 3.5 As such further survey work will be necessary, in order to establish the whether these burrows form setts, and if so, their current status. Given update survey work will be necessary prior to works, it is proposed that this survey is undertaken following grant of planning consent, in line with the approach agreed with the council (see Appendix 5222/1), in conjunction with an update survey of the site as a whole to establish an up to date assessment of Badger at the site, and to inform the specific mitigation, as outlined below.

4 Mitigation and Licensing Requirements

- 4.1 Evidence for the presence of Badger within the site was recorded during the survey work undertaken in the form of four one/two entrance Badger setts at the south east and south of the site, which are considered to be of low importance to the local Badger social group. In addition, two further burrows have been recorded at the north of the site which could potentially also form outlier setts.
- 4.2 At the time of survey, a single sett (S1 on Plan 5222/BAD1) was recorded to be active, whilst setts S2-S4 were recorded to be inactive. Furthermore, two burrows of unknown status are present at the north of the site. Under the Protection of Badgers Act 1992, it is an offence to intentionally or recklessly interfere with an active sett, and a licence would therefore be required from Natural England to close the sett to permit the proposed development.
- 4.3 However, Badgers are dynamic animals and accordingly, intensity and nature of use of setts can frequently change over time, and setts may be abandoned or brought back into use (particularly in the case of outlier setts which are often subject to temporary occupation). In this regard, Natural England advice⁵ sets out that *“a sett remains protected by the Act until such time as the signs (i.e. ‘field signs’) have deteriorated or decayed to such an extent that they no longer indicate that the sett is in “current use”.*
- 4.4 Accordingly, an update survey and monitoring of the setts and northern burrows will be undertaken in following grant of planning permission, prior to commencement of works at the site, to determine whether the setts are in ‘current use’ and accordingly whether a licence would be required to close the setts. Following this survey, a programme of mitigation measures will be implemented as detailed below in order to safeguard Badgers and comply with legislation.

⁵ Natural England (June 2009) *Protection of Badgers Act 1992 (as amended): Guidance of ‘Current Use’ in the definition of a Badger sett*

Update Survey and Monitoring

- 4.5 To determine the current status of the setts and burrows, an update survey will be undertaken following grant of planning permission, prior to commencement of works at the site. Should the update survey indicate that the setts and burrows are disused (or the results are inconclusive), a 21 day monitoring exercise of the setts and burrows will be undertaken in order to confirm whether they are inactive, using footprint traps, camera traps and placing sticks across the entrances to ascertain whether there are any signs of occupation over this period. Should no evidence of Badger be recorded, indicating that the setts are disused, they will be closed as set out at paragraph 4.6 below. Should the presence of Badger be confirmed, it would be necessary to proceed under a licensed approach (see paragraph 4.9 below).

Sett Closure (if inactive)

- 4.6 Based on the monitoring set out above, should the setts and burrows be found to be disused (with no signs of occupation for a period of at least 21 days), it would no longer constitute a sett in 'current use' and accordingly would no longer be protected under the Protection of Badgers Act 1992. On this basis, it can be closed without a requirement for licensing.
- 4.7 Under this scenario, the setts and burrows will be closed under the supervision of a suitably qualified ecologist. This would involve digging and backfilling the sett with the assistance of a mini-digger of similar, with a digger tracing the tunnel system back to any chambers, where the tunnel terminates, where this is possible. Once the setts are fully excavated, the area would then be back-filled and compacted, following which development works would be able to proceed within the area. This will take place between 1 July and 30 November.
- 4.8 Where this is not possible, such as at the site boundary, where tunnels may extend offsite, the tunnels will be traced back as far as possible following the methodology set out above. Following this sturdy one-way 'gates' will be placed at the entrance of the setts, along with ground proofing around the setts to prevent Badgers digging new entrances around the gates. This gate and proofing will be removed following completion of works at the site. Again, this will take place between 1 July and 30 November.

Sett Closure (if active)

- 4.9 Should any of the setts be found to be active following the update survey, it will be necessary for the sett to be closed under licence from Natural England. These works will be undertaken between 1 July and 30 November, in accordance with the standard requirements of a Badger licence.
- 4.10 To enable any such setts to be closed, an exclusion exercise will be undertaken, whereby egress from a sett is enabled but access into the sett is prevented, with the theoretical result that after 21 days, no Badger will be present within the sett. This exclusion exercise, to be carried out under the supervision a suitably qualified ecologist, will be achieved through the use of sturdy one-way 'gates' placed at the entrance of the sett, along with ground proofing around the setts to prevent Badgers digging new entrances around the gates.

- 4.11 Following the installation of gates and ground proofing, the setts will be monitored at intervals of no more than three days for a period of at least 21 days, to confirm that there is no evidence of Badgers having regained access to a sett. In the unlikely event that Badgers manage to re-enter the sett during this period, the 21 day exclusion exercise would be need to be re-set.
- 4.12 Following completion of the exclusion exercise (with at least 21 consecutive days following the last sign indicating possible access by Badgers into a sett), the setts will be closed under the supervision of a suitably qualified ecologist, by digging and backfilling the setts with the assistance of a mini-digger of similar. This work would involve a digger tracing the tunnel system back to any chambers, where the tunnel terminates. Once the sett is fully excavated, the area would then be back-filled and compacted, following which development works would be able to proceed within the area.
- 4.13 Where this is not possible, such as at the site boundary, where tunnels may extend offsite, the tunnels will be traced back as far as possible following the methodology set out above. Following this sturdy one-way 'gates' will be placed at the entrance of the setts, along with ground proofing around the setts to prevent Badgers digging new entrances around the gates. This gate and proofing will be removed following completion of works at the site. Again, this will take place between 1 July and 30 November.

Other Mitigation Requirements

- 4.14 Given the low status of the outlier setts, there is no requirement for replacement sett habitat (such as an artificial sett), and there will be no further specific mitigation requirements following closure of the sett.
- 4.15 However, general construction safeguards in regard to Badger will be implemented, as detailed at Section 6.1.8 of Aspect Ecology's Ecological Appraisal reports (dated September and November 2018), accompanying the planning application, to safeguard Badger in the event that the enter site during construction works.

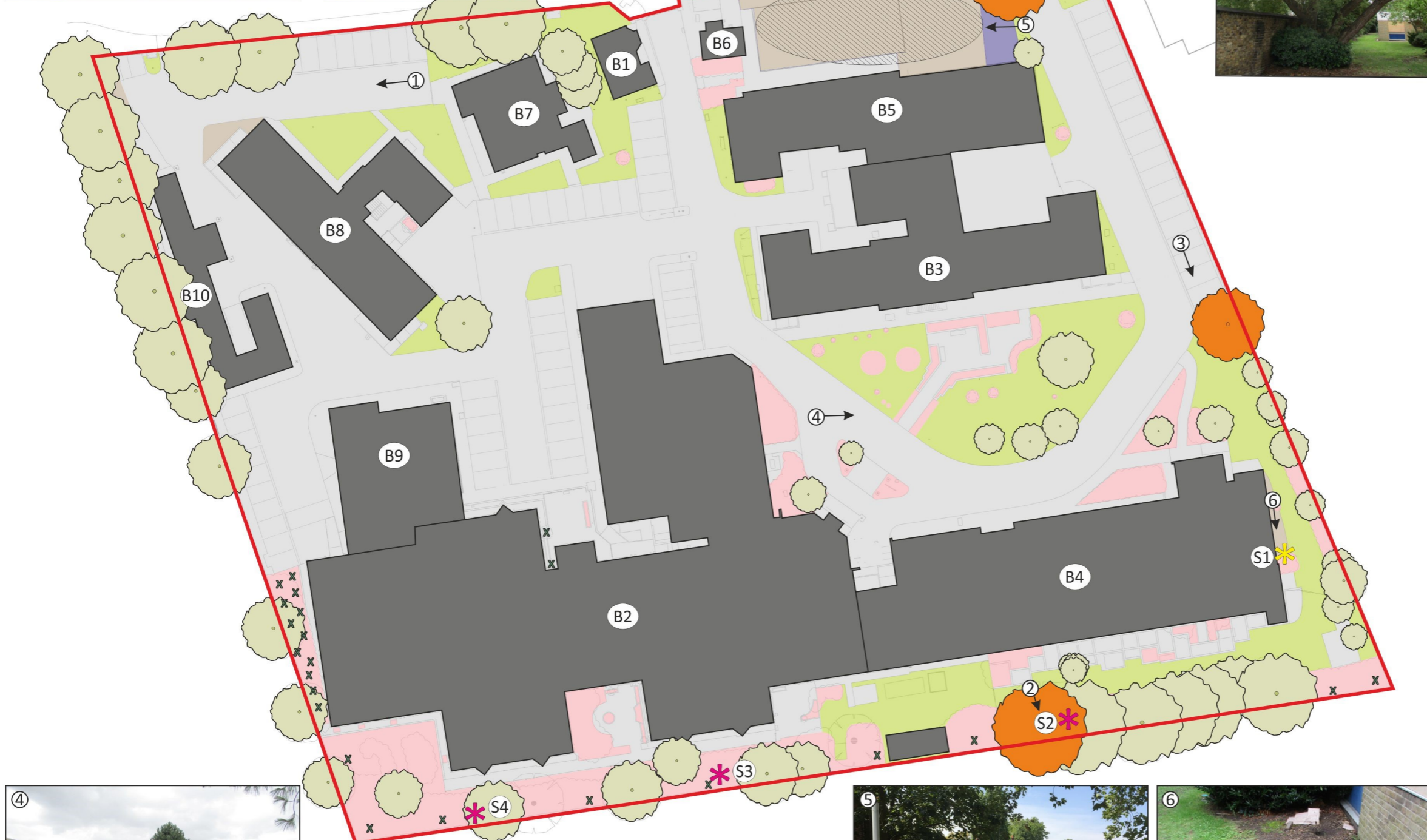
5 Summary and Conclusion

- 5.1 Aspect Ecology has been commissioned by South West London and St George's Mental Health NHS Trust to advise on ecological matters in respect of proposed development of Barnes Hospital, Richmond.
- 5.2 Four one/two outlier Badger setts have been recorded at the site, located at the south eastern and southern margins, considered to be of low importance to the Badger social group. In addition two burrows of unknown status have also been recorded at the north of the site. In order to fully safeguard Badgers at the site and comply with legislation, proposed survey, mitigation and licencing measures have been detailed.
- 5.3 The setts and burrows will be subject to an update survey and monitoring exercise following grant of planning permission, and prior to commencement of works at the site. Should the setts and burrows prove to not be active, it will be closed under ecological supervision. Should any of the setts be active, they would be closed under a Natural England licence, following erection of one way Badger gates and ground proofing and monitoring for a period of at least 21 days.

- 5.4 Following these mitigation measures, along with the general safeguards detailed within Aspect Ecology's Ecological Appraisal reports (dated September and November 2018), it is considered that Badgers at the site will be fully safeguarded under the proposals at the site.

Plan 5222/BAD1:

Badger Survey Results



- Key:**
- Site Boundary
 - Amenity Grassland
 - Ornamental Planting
 - Tall Ruderal
 - Tree
 - Scattered Scrub
 - Bare Ground
 - Building
 - Hardstanding
 - Tree supporting low bat roosting potential
 - Active Outlier Badger Sett
 - Inactive Outlier Badger Sett
 - Area Supporting New Mammal Burrows
 - Photograph Location

aspect ecology

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Barnes Hospital, Richmond PROJECT

Badger Survey Results TITLE

5222/BAD1 DRAWING NO.

- REV.

December 2018 DATE



Appendix 5222/1:

Correspondence with Council

Matthew Davey

From: Hunter, Tasha <Tasha.Hunter@richmondandwandsworth.gov.uk>
Sent: 18 December 2018 15:30
To: Matthew Davey; Garside, James
Cc: Daniel Maughan
Subject: RE: Barnes Hospital mammal burrows

Official

Hi Matt

Thanks for your email, I have copied this to James as Case Officer. I can confirm I am happy with that approach.

Best wishes

Tasha Hunter
Ecology Policy and Planning Officer
Serving Richmond and Wandsworth Councils

Tel:- 020 8831 6125

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From: Matthew Davey [mailto:matthew.davey@aspect-ecology.com]
Sent: 18 December 2018 15:20
To: Hunter, Tasha <Tasha.Hunter@richmondandwandsworth.gov.uk>
Cc: Daniel Maughan <dan.maughan@aspect-ecology.com>
Subject: Barnes Hospital mammal burrows

Dear Tasha,

Following our conversation earlier, I write to confirm our plan for the mammal burrows at Barnes Hospital. We propose that rather than investigate the burrows now, we undertake this survey prior to commencement of works. Should the burrows be found to be Badger setts, mitigation such as sett closures will follow standard guidance and NE licencing procedures. I will set this strategy out in further detail within a technical note to be submitted to the council, as we discussed.

Please let me know if you would like to discuss this further at all.

Kind regards,

Matthew Davey
Ecologist
t: 01295 276066 | e: matthew.davey@aspect-ecology.com

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Visit our website for the latest news from Aspect Ecology: **October 2018** Consultation opens on a revision of the NPPF to restore the presumption in favour of sustainable development (the tilted balance) following Appropriate Assessment where a finding of no effect on integrity of a habitats site - SAC / SPA - is recorded. Click [here](#) for further details.