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Our ref: 63676
Your ref: 3/2012/0578



Mr G Thorpe
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BY EMAIL ONLY

Dear Mr Thorpe

Planning consultation: Development of outdoor adventure centre & erection of building for customer service facilities, restaurant & ancillary retail sales & new access.
Location: Devil's Elbow, land off Whalley Rd (A671), Read, Lancs.

Thank you for your consultation dated and received on 5 September 2012.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. It appears that Natural England has been consulted on this proposal to offer advice on the impact on a protected species.

Biodiversity Action Plan (BAP) Priority Habitat

The national habitat inventories indicate that this development coincides with an area of BAP priority habitat. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

Natural England's advice is as follows:

We have adopted national standing advice for protected species. As standing advice, it is a material consideration in the determination of the proposed development in this application in the same way as any individual response received from Natural England following consultation and should therefore be fully considered before a formal decision on the planning application is made.

The protected species survey has identified that the following European protected species may be affected by this application are Bats, Great Crested Newts and Otters:

Our standing advice sheets for individual species provide advice to planners on deciding if there is a 'reasonable likelihood' of these species being present. They also provide advice on survey and mitigation requirements.

The standing advice has been designed to enable planning officers to assess protected species surveys and mitigation strategies without needing to consult us on each individual application. The standing advice was issued in February 2011 and we recognise that it will take a little while for planners to become more comfortable with using it and so in the short-term will consider species surveys that affect European protected species against the standing advice ourselves, when asked for support by planners.

We have not assessed the survey for badgers, barn owls and breeding birds¹, water voles, widespread reptiles or white-clawed crayfish. These are all species protected by domestic legislation and you should use our standing advice to assess the impact on these species.

How we used our standing advice to assess this bat survey and mitigation strategy

We used the flowchart on page 10 of our Standing Advice Species Sheet: Bats beginning at box (i) and came to the following conclusion:

Box (i) - Using Nature on the Map we determined that **No**, the application is not within/close to a SSSI or SAC notified for bats. This took us to Box (v).

Box (v) - We looked at the survey report and determined that **Yes**, it did highlight that there are suitable features for roosting within the application site (eg buildings, trees or other structures) that are to be impacted by the proposal. This took us to Box (iv).

Box (iv) - We determined that **No**, detailed visual inspections (internal and external where appropriate) had not been undertaken and no evidence of a roost was found. This took us to Box (vii).

Box (vii) - We determined that **No**, the application does not involve a medium or high risk building as defined in our standing advice. This took us to Box (iii).

Box (iii) advises the authority that "Permission could be granted (subject to other constraints)" and that the authority should "Consider requesting enhancements".

How we used our standing advice to assess this great crested newt survey and mitigation strategy

We used the flowchart on page 8 of our Standing Advice Species Sheet: Great crested newts beginning at box (i) and came to the following conclusion:

Box (i) - Using Nature on the Map we determined that **No**, the application is not within/close to a SSSI or SAC notified for great crested newts. This took us to Box (iv).

Box (iv) - We looked at the survey report and determined that **No**, it did not highlight that there are suitable features on the application site for newts (for example ponds, hibernation sites, foraging habitat, commuting corridors following a Habitat Suitability Index (HSI) survey). This took us to Box (iii).

Box (iii) advises the authority to accept the findings and consider promoting biodiversity enhancements for great crested newts (for example creation of new water bodies and suitable terrestrial habitat) in accordance with in accordance with the NPPF and Section 40 of the NERC Act.

We note that the ecology survey identified a potential holt and that your ecologist, Rebecca Stevens recommended in her report dated 22 August 2012 that prior to determination of the application further information should be submitted to demonstrate how disturbance of the feature and/or other impacts on otters which may colonise in the feature will be avoided and how this will be controlled.

¹ Unless protected by Schedule 1 of the Wildlife & Countryside Act 1981 (as amended)

For future applications, or if further survey information is supplied, you should use our standing advice to decide if there is a 'reasonable likelihood' of protected species being present and whether survey and mitigation requirements have been met.

If you would like any advice or guidance on how to use our standing advice, or how we used the standing advice to reach a conclusion in this case, please contact us on the number above.

This advice is given to help the planning authority determine this planning application. On the basis of the information available to us with the planning application, Natural England is broadly satisfied that the mitigation proposals, if implemented, are sufficient to avoid adverse impacts on the local population of Bats, Great Crested Newts and Otters and therefore avoid affecting favourable conservation status. It is for the local planning authority to establish whether the proposed development is likely to offend against Article 12(1) of the Habitats Directive. If this is the case then the planning authority should consider whether the proposal would be likely to be granted a licence. Natural England is unable to provide advice on individual cases until licence applications are received since these applications generally involve a much greater level of detail than is provided in planning applications. We have however produced guidance on the high-level principles we apply when considering licence applications. It should also be noted that the advice given at this stage by Natural England is not a guarantee that we will be able to issue a licence, since this will depend on the specific detail of the scheme submitted to us as part of the licence application.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Dumayne'.

J Dumayne
Customer Service Consultation Team