Date: 24 August 2018
Our ref: DAS/13591/255138
Your ref: 6249

Customer Services
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BY EMAIL ONLY

Dear Mr Peter Hoy,

Discretionary Advice Service (Charged Advice): DAS/13591/255138

Development proposal and location: Land at Blythe Bridge, Staffordshire

Thank you for your consultation on the above, which was received on 01 August 2018. This advice is being provided as part of Natural England's Discretionary Advice Service. FPCR and St Modwen Homes Ltd have asked Natural England to provide advice upon:

- Comments on the information detailed within document "Blythe Bridge, Staffordshire Moorlands" Great Crested Newt Survey Report" dated August 2018.

This advice is provided in accordance with the Quotation and Agreement dated 17 August 2018. The following advice is based upon the information within:

- DAS Request Form
- St Modwen Developments Ltd – Blythe Bridge, Staffordshire Moorlands – Great Crested Newt Survey Report, dated August 2018.

Survey Results

The supporting survey information presented within the GCN Survey Report document is generally acceptable and as expected; however, the periods over which survey visits were made for both the 2015 and 2017 field surveys lie towards the end of the survey period and do not contain any visits from mid-April as recommended in the Great Crested Newt Mitigation Guidelines. It is likely that the peak count for the waterbodies surveyed in both years may have been missed.

Mitigation Approach

Section 5 of the document discusses the use of terrestrial habitats; whilst it is correct to say the habitats within 250m of breeding ponds are the most critical for great crested newts it should also be acknowledged that habitats beyond that distance will also offer important foraging opportunities and function as connective habitat to the wider environment. When citing English Nature Research Report No. 576 please take into account the broad conclusions drawn from the trapping of mainly small populations. This factor may have contributed to the low capture rates recorded distant from ponds. There is much more recent evidence to demonstrate that GCNs can be caught a considerable distance from ponds and the relevance of the report's findings has to be determined on a case by case basis.

The arguments presented in the Conclusions section of the document are logical and valid and a case can certainly be made for progressing the planned works according to a Method Statement incorporating Risk Avoidance Measures (RAMs). The location of the development footprint outside of the core and intermediate habitat ranges for newts using Ponds 3, 5 and 6 and the unsuitability of the onsite Pond (Pond1) due to the presence of fish both add weight to the proposal to implement a RAMs-based mitigation strategy.

However, the quality of the supporting survey data should also be considered when determining the likelihood of encountering GCN within the development footprint, and therefore the level of risk associated with pursuing a RAMs-based approach. Given that the true peak count for the meta-population using the nearby waterbodies may have been missed due to the timing of the surveys, the risk of finding GCN within the development footprint may be higher than that currently predicted.

In summary

Ultimately the decision on whether or not to apply for a licence lies solely with the applicant after considering the advice of their ecological consultant. If you do decide to pursue an unlicensed methodology incorporating RAMs then Natural England strongly suggest you agree this approach with the relevant local planning authority prior to starting any works on site. If any GCN are found during the course of works then all activities must cease immediately and Natural England should be contacted to arrange a mitigation licence.

For clarification of any points in this letter, please contact Matt Gill on 020822 56401.

This letter concludes Natural England's Advice within the Quotation and Agreement dated 17 August 2018.

☒ The advice provided in this letter has been through Natural England's Quality Assurance process

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely,



Matt Gill
Midlands Licensing Cluster

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Annex 1
European Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's 'How to get a licence' publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's guidance on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on Natural England's website.