

NED/20/00484/FL – Ashover Hay

Speech Provided by Emma King

Proposed building for tractor, implements and log store at barn adjacent to Walnut Barn, Ashover Hay

DWT unequivocally recommended a preliminary ecological survey prior to determination of the application, citing para 99 of circular 05/2006¹, *statutory obligations* regarding wildlife in planning. By failing to survey prior to determination, these statutory obligations, the NPPF², gov.uk guidance³, and NEDDC's own supplemental guidance, Successful Places⁴, are being ignored. This leaves the decision open to legal challenge.

Of the reasons given for ignoring the recommendation to survey prior to determination, none have any basis in policy, guidelines or law. The first is that the development is so small it will not be of detriment. If it's big enough to need planning permission, it's potentially big enough to have an impact on wildlife, especially in a wildlife-rich area. Only trained ecologists can determine impacts, and an ecologist from the DWT already agrees professional surveying is required here⁵. Furthermore, species-specific surveys are merited by habitat and local records, not size of development. For example, the gov.uk guidance on Great Crested Newts⁶ states to survey if there is a pond within 500m (there is). Nowhere does it reference size or exclude small developments.

In contradiction to the first point that there will be no impact, the planning officer stated she knew newts were likely to be present, and would therefore write the newt surveying/mitigation into the planning conditions. According to para 99 of circular 05/2006¹, leaving surveying to planning conditions is only for *exceptional circumstances*, of which there are none.

Preliminary surveying may warrant further species-specific surveys. Since the planning officers are not ecologists, they cannot envisage what requirements will be needed to further assess and mitigate impacts prior to the studies being complete. It is impossible for conditions to be set without professional assessment. The applicants have not attempted to plan any mitigation, but the report cites a new drystone wall as suitable replacement habitat for common lizards. However, no new drystone walls are in the plan, and even if they were, no ecologist has verified that this is acceptable mitigation.

Consultees, the law, policy and guidelines state that ecological surveying prior to determination is necessary. Surveying would establish species present, the impacts of development, and aid planning to mitigate those impacts far better than any pre-survey supposition. The application has failed to demonstrate how it will appropriately survey for, mitigate impacts on and enhance wildlife², therefore permission must now be refused.

5. Make a decision about a planning application

If the proposal is likely to affect a protected species you can grant planning permission where:

- a qualified ecologist has carried out an appropriate survey (where needed) at the correct time of year ✗
- there's enough information to assess the impact on protected species ✗
- all appropriate avoidance and mitigation measures have been incorporated into the development and appropriately secured ✗
- a [protected species licence](#) is needed it is likely to be granted by Natural England or Defra ?
- any compensation measures are acceptable and can be put in place ✗
- monitoring and review plans are in place, where appropriate ✗
- all wider planning considerations are met

Gov.uk guidance (Reference 3).

References

1. Circular 05/2006, see paragraph 99 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7692/147570.pdf Last accessed 10/1/21.
2. NPPF – National planning policy framework. See paragraphs 174-175 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf Last accessed 10/1/21
3. Gov.uk guidance protected species and development: advice for LPAs <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications> Screenshot above is of heading 5, highlights added are my own. Last accessed 10/1/21
4. Successful places, see page 28 site appraisal <https://www.ne-derbyshire.gov.uk/documents/repository-a-z/successful-places/download> I realise this is for residential rather than agricultural buildings, but the advice is similarly applicable. Last accessed 10/1/21
5. Derbyshire Wildlife Trust comments https://planapps-online.ne-derbyshire.gov.uk/online-applications/files/8F6B40B17D390D0A77DEE714C1359C81/pdf/20_00484_FL-DWT_COMMENTS-2534206.pdf last accessed 10/1/21
6. Specific [gov.uk](#) guidance on planning and Great Crested Newts <https://www.gov.uk/guidance/great-crested-newts-surveys-and-mitigation-for-development-projects> last accessed 10/1/21