

Date: 19 June 2013
Our ref: 83497
Your ref: PLAN/KS/HR042



Katherine Snell
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BY EMAIL ONLY

Dear Katherine Snell,

**Planning consultation: Permanent secondary aggregate recycling facility with landscaping
Location: Warren Heath Recycling Facility, The Welsh Drive, Eversley, RG27 0QB**

Thank you for your consultation on the above dated 08 April 2013 which was received by Natural England on the same date.

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.

**Town and Country Planning (Development Management Procedure) (England) Order 2010
The Conservation of Habitats and Species Regulations 2010 (as amended)
The Wildlife and Countryside Act 1981 (as amended)¹**

The proposed site lies adjacent to the Bramshill Site of Special Scientific Interest (SSSI) and Castle Bottom to Yatley and Hawley Commons SSSI. These SSSIs are further designated as the Thames Basin Heaths Special Protection Area (SPA).

Natural England **objects** to the proposed development pending further information on European Protected Species (EPS) (great crested newt), our detailed comments on which are given below. Please also see below our comments in relation to protected sites, other protected species and landscape, which do not form part of our objection.

Objection pending further information – European Protected Species

Natural England **objects** to the proposed development. The survey report provided by the applicant indicates that the proposed site supports potential suitable habitat for great crested newt that is to be affected by the proposed development. The information supplied is insufficient for Natural England to provide advice on the likely impact on this species. We therefore advise the Local Planning Authority (LPA) to ask the applicant for the following additional information:

Great crested newt

- Five waterbodies within the proposed site were surveyed for their habitat suitability for great

¹ This reply comprises our statutory consultation response under provisions of Article 20 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, Regulation 61 (3) of the *Conservation of Habitats and Species Regulations 2010 (as amended)*, and Section 28(I) of the *Wildlife and Countryside Act 1981 (as amended)*.

crested newt, and attributed Habitat Suitability Index (HSI) ranges given that the survey was undertaken during winter. The estimated optimum HSI values were all over 0.5. As such, Natural England advises further species-specific survey work is undertaken at each of these ponds to determine presence/ likely absence of great crested newt, in line with the great crested newt mitigation guidelines (<http://publications.naturalengland.org.uk/publication/810429>).

- In addition, the Extended Phase 1 Habitat Survey report (Volume 2B) refers to a waterbody located outside the proposed site but within 500m of the boundary (Section 3.3.2). This pond has not been assigned an HSI, and no further survey work has been conducted upon it. We would therefore recommend this waterbody is also surveyed to assess its suitability, in line with our standing advice (http://www.naturalengland.org.uk/Images/GreatCrestedNewts_tcm6-21705.pdf). Following this, it should then be considered whether further species-specific surveys for this waterbody are necessary.

Other comments which do not form part of Natural England's objection

European Protected Species – Bats

Based on the information provided in the Environmental Statement and Extended Phase 1 Habitat Survey report, our advice is that the proposed development would be unlikely to affect bats, and as such Natural England does not object to the proposed development on this aspect.

Natura 2000 site – no objection

Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Thames Basin Heaths SPA has been classified. Natural England therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.

SSSI – no objection subject to conditions

In addition, we are satisfied the proposals are not likely to adversely affect the interest features for which the Bramshill SSSI and Castle Bottom to Yatley and Hawley Commons SSSI have been notified, if undertaken in strict accordance with the details submitted.

However, should the Council be minded to grant planning permission, we would recommend the Council seeks to secure the existing and proposed air quality mitigation measures as described in paragraphs 7.101 – 7.106 of Chapter 7 Air Quality through appropriately worded planning conditions.

In addition, we advise the council to include the following SSSI informative:

- Should storage, access or encroachment within the SSSI be found to occur as a result of the proposals during or after the works, this will be considered an offence under Section 28 of the Wildlife and Countryside Act 1981 (as amended) whereby the applicant may be liable on summary conviction to a maximum fine of £20,000 or on conviction on indictment to an unlimited fine.

Other protected species

For further advice relating to non-European Protected Species, including invertebrates, breeding birds and reptiles, please refer to Natural England's Standing Advice for Protected Species: <http://www.naturalengland.org.uk/ourwork/planningdevelopment/spatialplanning/standingadvice/default.aspx>.

Other advice

We are pleased to note the proposed compensation site which will provide an opportunity for heathland restoration (para 10.34 – 35, Chapter 10 Ecology in the main Environmental Statement), to compensate for habitat loss as a result of making the proposed site a permanent aggregates recycling facility. However, this compensation site is currently designated as the Warren Heath Local Wildlife Site; as such we would recommend further information is sought from the local council and/ or local records centre. We would recommend the planning authority seeks to secure this compensation site by way of an appropriately worded planning condition.

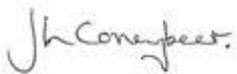
We would also expect the planning authority to assess and consider local landscape character, which is also a material consideration in the determination of this planning application, and we recommend you seek further information from a local landscape characterisation document in order to ensure the authority has sufficient information to fully understand the impact of the proposal on this aspect before it determines the application.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Julia Coneybeer on 0300 060 4062. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely



Julia Coneybeer
Lead Advisor, Land Use Operations – Ashford

Annex One: Legislation relevant to application reference number PLAN/KS/HR042

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. This protection is contained in Section 9 of the Act (as amended), which makes it an offence to:

- intentionally kill, injure or take any wild animal included in Schedule 5 (see *Section 9(1)*);
- possess or control any live or dead wild animal included in Schedule 5 (see *Section 9(2)*);
- intentionally or recklessly damage, destroy or obstruct access to any structure or place which any wild animal included in Schedule 5 uses for shelter or protection;
- disturb any such animal while it is occupying a structure or place that it uses for shelter or protection (see *Section 9(4)*); or
- sell or advertise for sale any wild animal included in Schedule 5 or possess any such animal (or part of one) for the purpose of sale (see *Section 9(5)*).

Not all species in Schedule 5 are afforded the complete protection described above. Certain species are only protected against certain actions. An up-to-date list of the species included in Schedule 5 and the protection that they are afforded is available on the JNCC's website².

In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Schedule 2 and 5³ of the Conservation of Habitats and Species Regulations 2010. While the protection afforded these species is similar to that afforded by the Wildlife and Countryside Act 1981, the licensing requirements are much more stringent. Where a development affects a species protected under the Conservation of Habitats and Species Regulations, a licence issued by Natural England will be required to derogate from the provisions of the Regulations. The licence will only be granted where certain tests, as set out under Regulation 53, have been satisfied.

² <http://www.jncc.gov.uk/page-1815>

³ http://www.opsi.gov.uk/si/si1994/Uksi_19942716_en_8.htm#sdiv2