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From: Liz Rogers [REDACTED]
Sent: 10 May 2017 15:56
To: Claire Potts
Cc: Stephanie Evans
Subject: RE: AL/111/16-OUT Applicants rebuttal of Liz Cross Ecology report

Afternoon Claire

Thank you for the report from 'the Rebuttal of Liz Cross Ecology' I am assuming that this should read Liz Rogers Ecology report, before I go into detail regarding there points I just want to clarify the timeline of progress to date

November 2016 – CDC first consultation response stating that following details and recommendations provided within the Preliminary Ecological Appraisal Arbtech further activity surveys for reptiles would be required onsite due to the suitable habitat for reptiles onsite

November 2016 – The site has been subsequently stripped back to earth removing the above mentioned suitable reptile habitat

03.04.2017 – Following receipt of the Reptile Mitigation Report (March 2017) which states that there is no suitable reptile habitat now on site so only precautionary measures are required, my response detailed that the site had been cleared before further surveys could be undertaken removing suitable reptile habitat and this should be recreated and enhanced. My comments also detailed options to ensure there was a wildlife corridor allowing movement through the site.

10.05.2017 – Rebuttal document submitted by applicant.

From reading above it is clear from the councils perspective that the site was identified as having suitable reptile habitat and following Natural England guidelines (full details of NE guidelines can be found on there website at the

following link <https://www.gov.uk/guidance/reptiles-protection-surveys-and-licences>), further activity surveys were requested which could then be used to inform subsequent mitigation strategy. However these did not take place and the site was cleared in November 2016.

This has resulted in the removal of the identified suitable reptile habitat and any potential reptiles which may have been hibernating onsite. As the reptile activity surveys were not undertaken we are unable to accurately determine if reptiles were present, so it may be the case that the Wildlife and Countryside Act 1981 (as amended) was broken as this act states within paragraph 9.1. (as detailed within the rebuttal) that 'Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.' Without the further surveys we are not able to say that this site did not have any reptiles onsite and none were harmed.

Though a site owner is entitled to clear their own land, if there are recorded protected species onsite then suitable mitigation compiled by a suitably qualified ecologist is required before this can take place. For this planning application we were in the process of determining the presence of protected species however before this could be completed the site was cleared to ensure any reptiles onsite were removed. This does not follow guidance from Natural England or the CIEEM, has potentially broken the Wildlife and Countryside Act 1981 (As amended) and is not a suitable action to take within a planning application.

Now the site is unsuitable for reptiles traditional mitigation measures that may have been proposed for a site with reptiles (including the use of reptile fencing, trapping and translocation) are now not suitable, however as the site had suitable reptile habitat, this needs to be recreated to mitigate for the site clearance prior to the requested surveys and the impact on the potential local reptile population. These requirements could be incorporated within the scheme however the reptile mitigation will need to be robust and provide optimum habitat for reptiles.

Moving onto the point which was raised regarding our request for further surveys and mitigation strategy a local planning authority has the right where there is an identified likelihood of protected species to ask for further activity surveys. If these are not provided an application can be refused. Natural England state on their website the following

When the proposal is likely to affect a protected species you can grant planning permission if:

- an appropriate survey was carried out by a qualified ecologist at the time of year specified in the standing advice*
- a wildlife license is likely to be granted by Natural England if one is needed*
- mitigation plans are acceptable*
- compensation plans are acceptable when mitigation isn't possible*
- review and monitoring plans are in place, where appropriate*
- all wider planning considerations are met*

We were not satisfied that the appropriate surveys were undertaken and the mitigation plans were not acceptable based on the findings from the Arbtech Preliminary Ecological Appraisal. Natural England have a very useful tool to help LPA determine where surveys are required, and in this instance it is clear that there were inadequate surveys for reptile and the LPA should request that these surveys are done or the application refused

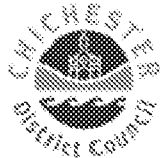
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/536336/protected-species-decision-checklist.pdf) .

Our current position as stated within my comments on 03.04.2017 still stands and is valid and applicable.

If you need any further assistance please do not hesitate to contact myself.

Regards

Liz



Liz Rogers
Environment Officer
Environment
Chichester District Council

<http://www.chichester.gov.uk>



From: Claire Potts [<mailto:Claire.Potts@arun.gov.uk>]
Sent: 10 May 2017 14:12
To: Liz Rogers
Subject: FW: AL/111/16-OUT Applicants rebuttal of Liz Cross Ecology report

Liz,

Please see attached additional rebuttal in relation to ecology at the above site. If you have any further comments please let me know by the 24th may.

Kind regards

Claire

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From: T Croucher [REDACTED]
Sent: 08 May 2017 17:28
To: Claire Potts
Subject: AL/111/16-OUT Applicants rebuttal of Liz Cross Ecology report

Please find attached the above

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