Date: 04 July 2013
Our ref: 88511
Your ref: A/74/13

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Mr C Cronin
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BY EMAIL ONLY
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Dear Mr Cronin

Planning consultation: Proposed distribution warehouse and covered storage, trade counter and associated offices. Upgrading of access road for and improvement of existing junction with the A27. This application is a Departure from the Development Plan and affects a public Right of Way.
Location: The Vinery Poling BN18 9PY

Thank you for your consultation on the above dated and received by Natural England on 05 June 2013.

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.

The Wildlife and Countryside Act 1981 (as amended)
The Conservation of Habitats and Species Regulations 2010 (as amended)
The National Park and Access to the Countryside Act 1949
Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites – no objection
Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected landscapes – no comments
This application falls within, or is within the setting of, the South Downs National Park. Natural England has no comments to make on this proposal as we do not believe that this development is likely to adversely affect the purpose of the South Downs National Park.

Given the location of the development, your Authority should seek the view of the South Downs National Park Authorityprior to determining this planning application, as they may have more detailed comments to make on the location, nature or design of this development.

Protected species
Great crested newts
Natural England **does not object** to the proposed development. On the basis of the information available to us, our advice is that the proposed development is likely to affect great crested newts through disturbance of a European protected speices and the damage or destruction of a breeding

site or resting place. We are satisfied however that the proposed mitigation is broadly in accordance with the requirements of the Great crested newt mitigation guidelines and should maintain the population identified in the survey report.

We recommend that the a condition to secure the following should be appended to any consent:

- Prior to the commencement of any works which may affect great crested newts and or their habitat, a detailed mitigation and monitoring strategy should be submitted to, and approved in writing by the local planning authority. All works should then proceed in accordance with the approved strategy with any amendments agreed in writing.

The great crested newt is a 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 through avoidance (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.

Natural England's view on this application relates to this application only and does not represent confirmation that a species licence (should one be sought) will be issued. It is for the developer to decide, in conjunction with their ecological consultant, whether a species licence is needed. 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 we have provided on likely impacts on favourable conservation status and Natural England's guidance on how we apply the 3 tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) when considering licence applications.

We have not assessed the survey for badgers, barn owls and breeding birds[1], water voles, white-clawed crayfish or widespread reptiles. These are all species protected by domestic legislation and you should use our protected species standing advice to assess the adequacy of any surveys, the impacts that may results and the appropriateness of any mitigation measures.

The advice we are giving at the present time relates only to whether, in view of the consultation materials presently before us (including with reference to any proposed mitigation measures), the proposal is likely to be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range (*i.e.* the '*Favourable Conservation Status'* test). We have not considered whether the proposal satisfies the three licensing tests or whether a licence would be issued for this proposal . This advice is based on the information currently available to us and is subject to any material changes in circumstances, including changes to the proposals or further information on the protected species.

Local wildlife sites
If the proposal site is on or adjacent to a local wildlife site, eg Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local wildlife site, and the importance of this in relation to development plan policies, before it determines the application.

Biodiversity enhancements
This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the

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

site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*'. Section 40(3) of the same Act also states that '*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.

Landscape enhancements
This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

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 regarding this letter, for 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

Lisa Boden

Customer Service Consultation Team