

25/03/2015

WSSC Ecological Response to...

APPLICATION No.: Y/12/15/PL

PROPOSAL: Construction of 4 No. houses with associated landscaping & parking.
This application is a Departure from the development plan.

SITE: The Old Coal Yard North End Road Yapton, Arun.

GRID REF: (E) 498096 (N) 104340

Further to a request from the applicant's consultant, Arbtech, I offer the following advice and comments.

I'm not sure where the suggestion of European protected reptile species has come from. These are not the issue here as far as I am concerned. It is exactly those species that Arbtech list in their table (slow worm, common/viviparous lizard, grass snake and adder) that are the issue because there is a reasonable likelihood of them occurring on the site and being impacted by the proposal. All four species are protected under the Wildlife and Countryside Act 1981 (as amended) and are priority species under S41 of the NERC Act 2006. A significant factor for their inclusion on the priority species list is habitat loss due to development. Therefore, the impact of any development on these species is a material consideration in determining a planning application.

Without robust survey data to determine the assemblage of species present, or establish likely absence, the significance of any impact cannot be properly assessed and weighed against other material considerations to ensure a rounded and balanced determination of the application. In particular, the mitigation hierarchy within para 118 of the NPPF cannot be applied, which in the first instance requires proper consideration of avoidance and therefore will have a bearing on the appropriateness of the proposed form of development.

Despite the assertion that the survey could be conditioned, my advice is that this would be inappropriate as it would not allow proper consideration of biodiversity issues (as described above) to inform the decision.

Furthermore, relying on conditions to deal with the issue would be contrary to standing advice from Natural England and ODPM Circular 06/2005. Para 99 of the circular states: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision." Natural England standing advice to local planning authorities is that "You should only attach planning conditions requesting surveys under exceptional circumstances." Examples of exceptional circumstances cited are where further survey is required for reserved matters applications and multi-phased developments to secure additional or updated information. Clearly this does not apply here.

I note that the first para under conclusions and recommendations in Arbtech's preliminary report acknowledges Natural England's standing advice and the second para states that "...it is highly unlikely that the local planning authority will defer the provision of further protected species survey work as a condition of any planning consent." Therefore, none of this should be a surprise and it is unfortunate that, for whatever reason, the opportunity wasn't taken to carry out the surveys last year, given the preliminary survey was apparently undertaken in November 2013.

In conclusion, my advice to the local planning authority, and objection on behalf of West Sussex County Council, still stands.

Mike Bird MCIEEM
Principal Ecologist, Calyx Environmental Ltd