

Briefing Note

Prepared by: Victoria Goldberg- Senior Planning Enforcement Officer

Date: 27th May 2015

Re: Downfield Tip – Update

This briefing note sets out the current position on site and is based on the information held by the Local Planning Authority and the licence issued by Natural England.

Planning Background

On the 23rd October 2013 planning permission was granted for the land at Downfield Tip to be used for keeping horses and livestock. This application detailed the removal of unauthorised fly tipping and the importation of material to restore the land to facilitate the use.

A number of conditions were imposed on the permission to control the type and volume of materials delivered and prohibiting deliveries beyond April 2015. Further conditions required the submission of details to ensure the protection of great crested newts on site. The relevant conditions were subsequently discharged on the 10th March 2014 following input from various council departments including highways and the consultant ecologist.

Compliance with the Conservation of Habitats and Species Regulations 2010 (as amended) and Wildlife and Countryside Act 1981 (as amended)

Due to the presence of great crested newts on site the owner was required to apply for a licence from Natural England to implement the planning permission granted. A licence is required as great crested newts (GCNs) are strictly protected under European and UK law. This makes it an offence to:

- capture, kill, disturb or injure great crested newts deliberately;
- damage or destroy a breeding or resting place;
- obstruct access to their resting or sheltering places (deliberately or by not taking enough care);
- possess, sell, control or transport live or dead newts, or parts of them; and
- take great crested newt eggs.

Despite the applicant applying for the licence after securing planning permission, Natural England did not issue the licence until October 2014. This delay meant that the owner was unable to commence work on site before the end of the amphibian active season last year (i.e. between February and October inclusive). In addition the licence issued does not accord with the Great Crested Newt Mitigation strategy detailed and approved in the planning permission, as Natural England felt that the wildlife tunnels proposed were inadequate.

The licence issued by Natural England requires the ecological mitigation on site to take place in two distinct phases. Compliance with this licence is mandatory.

The two stages are detailed below:

Stage 1- The translocation of the GCNs from Area 1 followed by remediation and restoration works and creation of a newt reserve with a series of breeding ponds to provide a suitable replacement habitat for GCNs.

Stage 2- The translocation of GCNs from Area 2 with all GCNs removed to the newly established Area 1. Stage 2 can only commence once the newt reserve has been established.

The licence stipulates that the above phasing will delay work on site until July 2017.

Natural England have restricted the storage of materials and the re-contouring of Area 2 in order to protect the breeding and resting places of GCNs on site. As a result the required volume of material has not been imported and as such the delivery of inert materials will need to continue (albeit at a reduced frequency). The Planning Enforcement Team is working with the site manager to reduce the impact of these deliveries but if any issues are noted these should be reported to the Planning Enforcement Team so that they can be investigated and if necessary resolved.

I have asked Natural England to provide a briefing note detailing the specific instructions that have been given to the site owner to date. The Council does not currently hold this information. In addition I have requested that the Natural England Wildlife Advisor (dealing with this site) attends a meeting with the ward councillors, parish councillors and residents to establish if there is any way in which the work on site can be expedited. As soon as I have received a response I will provide a further briefing note.

Victoria Goldberg

May 2015