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Daniel Zeichner MP
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25 November 2020

Dear Mr Zeichner,

Environment Bill – Species Conservation Strategies, Protected Site Strategies and Wildlife Conservation: Licences (NC25-27)

I am writing following Environment Bill Committee on 19 November where I agreed to provide further information on government amendment NC27 on wildlife conservation licences. I would also like to take the opportunity to explain our thinking on Species Conservation and Protected Site Strategies in some more detail.

The purpose of Species Conservation and Protected Site Strategies is to improve the conservation status of species and habitats. They are designed to help public authorities deliver existing legal protections in a way that achieves better outcomes for nature. They do not weaken those protections. The mitigation hierarchy is part of the development of the Strategies and is explicitly included in the legislation. Schemes will be developed in consultation with stakeholders and draw upon all relevant expertise and data. We would expect Natural England to monitor the impact of any strategies and take action to amend or stop those which are clearly not working.

District level licencing is an example of a strategic scheme which is delivering benefits to great crested newt conservation. Such schemes take time to generate conclusive results but the emerging evidence is very encouraging. It also shows the mitigation hierarchy being used to good effect. The upfront surveying and mapping for district level licensing identifies areas where it isn't appropriate for the approach to be used, and therefore development should be avoided or suitable mitigation arrangements put in place.

I wish to stress that district level licensing is a scheme which was designed specifically for great crested newts and so it cannot, and will not, be directly used for other species. The legislation provides a power to Natural England to develop bespoke strategies for other species for the purpose of improving the conservation status of that species.

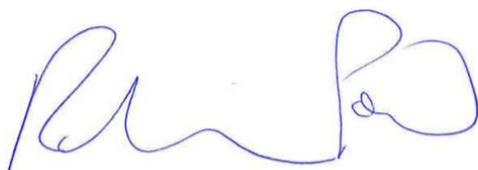
I was pleased to hear that you welcome Protected Site Strategies. I can confirm that the conservation objectives for a site will be essential in informing the objectives of any Protected Site Strategy and the pressures and threats which that strategy will look to address. Ultimately, the aim of the Strategies is to bring about better cooperation between bodies as to how the conservation objectives of a site are to be reached.

Turning to wildlife licencing (NC27), it was rightly recognised by the Committee that there is a range of difficulties in terms of the levels of protection provided by different pieces of legislation. These amendments are in fact intended to simplify the current situation. They will provide greater legal clarity and certainty and support strategic licensing approaches. They will not weaken the strict protections that are in place for our most vulnerable species. Development licences under the Wildlife and Countryside Act 1981 will only be granted by Natural England after full consideration of the impact of development.

Subsection 1 will mean that Natural England only needs to issue one licence to cover an activity for a particular species, providing greater confidence to local planning authorities about strategic licensing approaches. Concern was expressed that a licence issued under the Conservation of Habitats and Species Regulations 2017 could override the additional protection currently afforded by the Wildlife and Countryside Act 1981 and the example of the natterjack toad was cited. I would like to give reassurance that the additional protections will not be eroded. If a licence is issued under the 2017 Regulations, this would cover consequential disturbance related to the purpose of the licence, such as capturing natterjack toads. However, it would not cover any further disturbance which is unrelated to the licensed activity and any additional protections under the 1981 Act would therefore apply.

Adding an “overriding public interest” licensing purpose to the Wildlife and Countryside Act 1981 is a step forward. The additional purpose will set a higher threshold that must be met before a licence can be issued and it will be balanced by two further tests. The first is that the granting of the licence is “not detrimental to the survival of any population of the species of animal or plant to which the licence relates”. The second is that there is “no other satisfactory solution” which will ensure that licences are only granted when other potential solutions have been considered and ruled out. These tests, already applied as a matter of policy, will be strengthened and made clearer by our amendment.

Yours sincerely,



REBECCA POW MP