



The Planning Inspectorate

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North York Moors National Park
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Development Control Support
Officer
The Old Vicarage
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Helmsley
York
YO62 5BP

Your Ref: NYM/2013/0435/FL
Our Ref: APP/W9500/A/14/2212850
Date: 21 February 2014

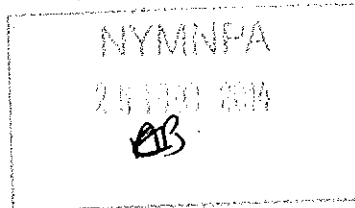
Dear Mrs Farnell

Town and Country Planning Act 1990
Appeal by Mr R Walker
Site at South Moor Farm, Langdale End, Scarborough, YO13 0LW

Please find enclosed a Legislation briefing for birds which is applicable to this appeal.

I also enclose a briefing produced for the inspector. The briefing is not specific to the site, but is generic briefing detailing the legislation that protects the species.

Yours sincerely



Christopher Nash

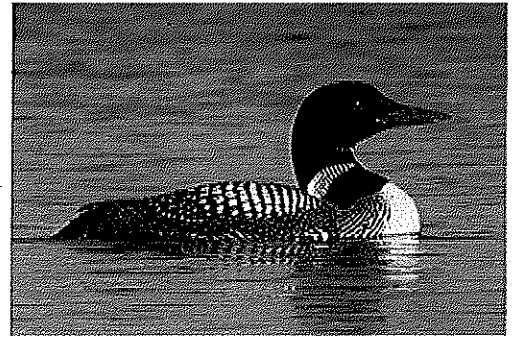
211B(BPR)

You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp> You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button

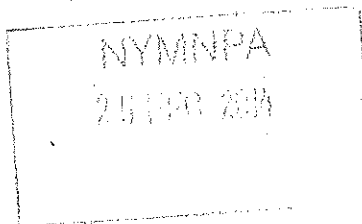


Wildlife Briefings

LEGISLATION BRIEFING FOR BIRDS



1. The Wildlife and Countryside Act 1981 provides statutory protection to all wild birds. This fulfils Great Britain's obligations under the EC Wild Birds Directive.
2. Under Section 1 it is an offence to intentionally kill, injure or take any wild bird, take damage or destroy the nest of any wild bird while that nest is in use or being built, or take or destroy an egg of any wild bird.
3. In addition under Section 1(5), wild birds listed on Schedule 1 of the 1981 are protected further by special penalties. Any activity in which a person intentionally or recklessly disturbs any Schedule 1 bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs the dependent young of such a bird, would be guilty of an offence.
4. Several bird species, are also listed under section 41 of the Natural Environment and Rural Communities Act 2006. This list sets out the species of principal importance in England for the purpose of conserving biodiversity and guides decision-makers (such as public bodies in the exercise of their statutory duty to have regard to biodiversity).
5. The Inspector's attention is drawn to:
 - o The Wildlife and Countryside Act 1981, in particular Section 1.
 - o The Countryside and Rights of Way Act 2000, Section 5(a), Schedule 12.
 - o National Planning Policy Framework and, Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System. Although the Circular provides guidance on the implementation of PPS9 which has been superseded by the National Planning Policy Framework, the guidance is still relevant to species protection issues.



Wildlife Briefings

Generic Briefings

1. The appeal site lies within or in the vicinity of a site which has been designated for its nature conservation importance.
2. The Inspector's attention is drawn to: -
 - a. The comments from English Nature (now Natural England);
 - b. National Planning Policy Framework and, Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System. Although the Circular provides guidance on the implementation of PPS9 which has been superseded by the National Planning Policy Framework, the guidance is still relevant to species protection issues.
3. The Inspector's attention is drawn to s28G of the Wildlife and Countryside Act 1981 (as inserted by Schedule 9 to the Countryside and Rights of Way Act 2000). This sets out the duty on public bodies, including Government Departments and Agencies, "to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest".
4. A public body considering an application for consent for operations likely to damage the special features of an SSSI is required to follow the procedures in s28I, consulting English Nature and allowing 28 days for it to comment.
5. English Nature's advice must be taken into account. If it is proposed to grant permission against the advice of English Nature, the decision must explain how that advice has been considered and taken into account. S28I (6) (b) states that, where granting permission against the advice of English Nature, or where conditions it has suggested are not being attached to a consent, the authority "shall not grant a permission which would allow the operations to start before the end of the period of 21 days beginning with the date of that notice" (i.e. the date of the decision letter).
6. The National Planning Policy Framework, referred to above, sets out policy on development on/or affecting SSSIs, SPAs, SACs and Ramsar sites.

