



RTPI

mediation of space · making of place

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1st June 2010

Defra
Protected Areas Group
Zone 1/06 Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6EB

Email response sent to: Protected.Areas@defra.gsi.gov.uk

Dear Sir/Madam,

RESPONSE TO DRAFT GOVERNMENT CIRCULAR: BIODIVERSITY AND GEOLOGICAL CONSERVATION – STATUTORY OBLIGATIONS AND THEIR IMPACT WITHIN THE PLANNING SYSTEM

Thank you for the opportunity to respond to this consultation. The RTPI represents over 22,000 spatial planners, existing to advance the science and art of town planning for the benefit of the public.

This document responds to the *Draft Government Circular: Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system*.

The response has been formed drawing on the expertise of members, including the Biodiversity and Countryside Management Group of the RTPI Environmental Planning and Protection Network.

The draft Circular is a helpful distillation, into an accessible form, of several years' worth of legal up-dates and the RTPI welcome this approach. It will provide practitioners in the field with the information required to ensure compliance. However, we suggest that the information in the draft could be presented in a simpler format. At a 122 pages, this document is a considerable collection of material which appears to be intended to provide supplementary detail for some, though not all, of the areas covered by the Circular.

It is noted that the revised circular will complement the 'Consultation on a new Planning Policy Statement: Planning for a natural and healthy environment', and **paragraph 133** states that 'Guidance is also given in PPSXX on the key principles that should be adhered to in considering the possible impacts on protected species where they may be affected by proposed developments'. However, we can find no other reference to

the link between the two other documents within the circular and more . We also call for better communication between Government departments when working on linked documents. We have responded separately to the *Draft Response to Planning Policy Statement Consultation: Planning for a Natural and Healthy Environment (England)* but would stress the need to clearly reference the PPS within the Circular and recommend that additional guidance containing the key detailed, technical advice is released in tandem with both documents to help planners better understand the material diluted in the draft PPS.

The following provides more detail in response to specific paragraphs of the draft circular.

If you require further assistance, have any queries relating to the enclosed or require clarification of any points made, please contact Matt Thomson, Head of Policy and Practice on 0207 929 9494 or email policy@rtpi.org.uk .

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Matt Thomson', with a long horizontal flourish extending to the right.

Matt Thomson
Head of Policy and Practice

Paragraphs 61 and 62: While this seems an overly complex approach which may lead to duplication of effort, we appreciate that the Circular is demonstrating how to implement the law as it stands at present. As such, the draft Circular is a helpful distillation, into an accessible form, of several years' worth of legal up-dates. This is to be welcomed. Until now, practitioners in the field have had to deal with an enormous amount of legal documentation in order to ensure compliance. However, we would suggest that there are simpler ways to present the information contained in the document. This 122 page document is still a massive collection of material which appears to be intended to provide supplementary detail for some, though not all, of the areas covered by the Circular.

Paragraphs 102 – 114: This section makes it clear that the planning system is concerned with both species and habitats. It is understood that this reflects the structure of the European Directive, mirrored in the UK Habitats Regulations, where functions relating to habitats are dealt with in a separate section from functions related to species. We would however question the wisdom of issuing a new version of the Conservation of Habitats and Species Regulations 2010 (issued March 2010) whilst consulting on this draft Circular, particularly as the Circular appears to refer to the previous version. Moreover, the numbering of regulations has changed, and there have been slight comment changes, which only increases difficulty of interpretation. Our principle question is why was there no internal consultation between the government departments responsible before either document was issued? And will the Circular be updated in light of the new version of the Regulations?

Paragraph 117: Refers to planning authorities entering into obligations or imposing conditions relating to: *“long term protection of the species concerned”*. Local Planning Authorities have a statutory responsibility to biodiversity under the Habitat Regulations.

Many planning authorities enter into agreements to ensure long-term species management. However, there are a suite of options available and choosing the appropriate option is very circumstance specific. It may be useful to include information or signposts to these options within the circular.

Again, we would suggest that representing the stages required graphically would be an aid to planners.

Paragraph 118 explains clearly the need for a Local Authority to gather evidence before a decision can be made, for example the need to obtain a licensing form from Natural England before an application can proceed and this is supported.

Paragraph 132 states that a planning authority is a competent authority within the meaning of the Habitat Regulations. It would be extremely helpful if the circular also spelt out that 'listed buildings consent' and 'demolition notices' (both being closely associated with planning and new development) should also be referenced as falling within the requirements of a competent authority under the Regulations (since they are both functions for which local authorities are responsible for). Both can have significant implications for European Protected Species - such as bat species, and yet there is a lot of confusion and misunderstanding among planners (and wide variance in practice among different planning authorities) as to how the Habitat Regulations are applied to these two local authority functions.