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Your reference:
Our reference:

Date: 12 November 2021

Dear [HEAD PLANNER]

**DAERA NOTIFICATION - PLANNING AUTHORITY INTENTION TO PROCEED WITH A
DECISION ON A PLANNING APPLICATION WITHOUT DAERA ADVICE**

Over recent months DAERA has received correspondence from various Planning Authorities notifying us of their intention to proceed with a decision on a planning application (*in the absence of a response from the Department to their planning consultation request*) on the basis that NIEA has no objections and that no conditions are required.

I would therefore like to take this opportunity to remind you that whilst the Council are within their right to make a determination without input from a statutory consultee, you cannot infer that DAERA has no objections to the proposal and that the Department would not recommend appropriate conditions to protect the environment (after a full assessment had been carried out).

In such circumstances it is assumed that the Council will be aware of their duties as set out under Section 1.1 of the Wildlife and Natural Environment Act (NI) 2011¹ (duty to conserve biodiversity) and section 6.174 of the Strategic Planning Policy Statement² (duty to apply the precautionary principle). The Council may also have additional responsibilities under the Environment Order 2002 if the site lies within an ASSI.

We anticipate that if you are taking a decision to approve an application in the absence of an outstanding response from DAERA, the Council will have undertaken its own assessment / consideration of impacts on the natural environment and associated planning policy based on a range of information including that provided by the applicant or from representations, previous responses from DAERA and any observations from Council case officers, including from their site visits. **As decision maker it is therefore this assessment which should have informed your decision and what conditions are required.**

DAERA also anticipate that all responsibilities and duties in relation to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 will have been completed by the Council prior to any approval being granted.

It is also your responsibility to ensure that the applicant is made aware of policy and legislation in relation to natural heritage features, including species protected by law. Where applicable, and in the absence of robust enforceable conditions, applicants who are granted approvals may be at risk of committing a criminal offence under the Wildlife (Northern Ireland) Order 1985 (as amended), which is enforceable by the PSNI.

We note from our recent internal compliance checks that some decisions have been taken without notification to the Department and as a consequence are still sitting in our work queues for a DAERA response. As advised in our most recent letter to you dated 8 November 2021 the Department is taking a number of actions to improve our planning response times. It would therefore be very helpful **should any Planning Authority wish to make a determination without waiting for DAERA input if you could notify us in advance** so that we can submit any comments from internal DAERA teams that have been received to date and to enable the consultation to be removed from our work queue. In these circumstances, should further advice subsequently be needed a new consultation will have to be initiated with the Department.

Thank you for your cooperation and assistance in this matter.

Yours sincerely,

MARK HAMMOND
HEAD OF NATURAL ENVIRONMENT OPERATIONS