

ONE MAN WENT TO MOW

So, you were thinking of topping those rushes in that field by the river before it gets too wet, much as you have done for years and, no doubt, much as people have done since the widespread use of tractors on farms began. After all, if you didn't, it would probably be an impenetrable and unmanageable jungle by now.

But stop, has it occurred to you that in doing that you may conceivably be breaking the law? We at CLM spend quite some time involved with the ecological side of planning proposals and developers live in abject fear of finding all sorts of rare and wonderful species on the land they hope to build on whether it be Great Crested Newts (rather like rats, you are, it would seem, never more than five metres from one at any given time), Dormice, reptiles or birds. Even the most unassuming of sites very often hold protected species and these developers have to then jump through all manner of hoops to ensure that they comply with the law of the land. Even for species that are relatively common such as Grass snake, due to the fact that it is an offence to intentionally kill them under the Wildlife and Countryside Act, if it is predictable that reptiles are likely to be killed or injured by activities such as site clearance, this could legally constitute intentional killing or injuring. Any development on land deemed likely to hold reptiles will require a survey to ascertain their presence or absence. If found it then follows that any substantial or widespread groundworks would predictably kill or injure the reptiles and so an offence is likely to have been committed.

Currently, although it dates from as far back as 1981, it would appear that the farming sector has not been expected to interpret the law in the same way as other sectors. Although I don't suppose that many of those managing grassland spend their days actively looking for Grass snakes, how many can say hand on heart that they are not aware that there are some there? Taking a large flail or topper through a rushy field in July, August, September or even October is arguably going to result in the killing or injuring of reptiles of one type or another. If a developer performed the same operation on a site

as part of a site clearance he could expect a knock at the door from the powers that be.

From a farming perspective the status quo appears to be the sensible route with the alternative being almost too nightmarish to even contemplate but there have been one or two worrying developments on that front which might give cause for concern. In one instance a farmer, having taken on some neglected land, decided that he wished to top an extremely rushy field which he duly did at the end of June. Unfortunately the field in question was next to a residential area and a small furore ensued revolving around, in this instance, the potential damage to nesting birds which are protected under the Wildlife and Countryside Act in much the same way as reptiles. Fortunately the crisis was averted possibly because any damage to birds or their nests would have been an incidental result of a lawful operation and could not reasonably have been avoided. All the same it presents a worrying spectre.

Ad hoc observations of reptiles and birds as one goes around the farm are one thing but what

happens if there is documented evidence of these species on your holding? At this point, if you were to find yourself in a position such as the one outlined above, it's quite possible that, rather like a developer levelling land known to be inhabited by reptiles, you could find yourself on a sticky wicket. This brings me to the main point of this article; species and habitat information can be used, especially in the sphere of agri-environment agreements, to profitable ends but make no mistake it is also a double edged sword and I would advise you to think carefully about what information does and does not make it into the public domain. Otherwise you may find the verses to the song of the headline being much extended to account for species surveys, suitable habitat mitigation or heavy fines; make that rhyme if you will!



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