

BADGER CROWD SETT FOR THE ROYAL COURTS OF JUSTICE

Tom Langton, Ecologist and Badger Campaigner, joined a Tribunal brought by the Information Commissioners Office (ICO) to oppose a Natural England appeal against its July 2017 ruling for NE to hand over the un-redacted environmental impact assessments (Habitats Regulations Assessments or HRA's) relating to badger culling. NE wanted to keep the HRA's secret but after a 2-day hearing in December 2017 the case was won and recently NE released the 2016 HRA details that are currently being studied. Direct access Barrister (Tim Nesbitt of Outer Temple Chambers) acted for Tom Langton. The Expert Witnesses who supported the case were Dominic Woodfield and Ray Puttock. Total costs were £14,400 and the information now available may give further scope for Judicial Review of legal points. That is a decision to be taken in the future and is dependent upon the necessary funds being raised. The main difference between the ICO Tribunal and JR regarding costs recovery, is that in the Tribunal no costs are awarded.

Legal challenges against Defra and Natural England relating to English Badger Culls, led by Tom Langton on behalf of the Badger Crowd

Permission has been granted for two Judicial Review applications made by Tom Langton to be listed for a three-day High Court Hearing. It is agreed that the cases will be joined and heard by the same Judge on the same days. An early listing is to be requested so that a judgement is given before the 2018 culling period begins in September. The JR challenges relate to two concerns:-

Firstly, Supplementary Culling and how the method for that relates to the 2011 badger culling policy and its science (the Randomised Badger Culling Trial: RBCT). We question the way in which it was consulted upon in 2016/2017. Supplementary Culling allows the killing of badgers to maintain estimated low numbers for a further 5 years after an initial four year cull and potentially beyond and until the incidence of Bovine Tuberculosis (BTB) comes down.

The second JR relates to the 2017 badger culling licences for five of the 11 areas where culling was introduced for the first time that year on the basis that the assessment of ecological impact (including HRA's) were not done correctly. In brief, one major focus is on the way in which the reduction of badgers may cause fox numbers to increase together with disruption of their home ranges and territories. These are possible likely effects, evidenced in part by the Randomised badger Culling Trials research. They may play out at the edge of and outside the allocated badger cull areas having impact on roosting, nesting and overwintering rare birds and other wildlife and habitats.

If won, the first JR would require the Government to stop the Supplementary Culling in West Somerset and West Gloucestershire where culls were restarted in 2017 and to re-consult. Winning this battle would effectively block one of the developing 'pro-cull' positions, that 'all we need to do is to keep badgers down to below 30% of original numbers'. The 2017 Supplementary Culling Licences for Gloucestershire and Somerset would be quashed and discussions resumed.

The second JR relates to the 2017 badger culling licences for 5 of the 11 areas where culling was introduced for the first time. We have seen the HRA's for the 2017 licences (excluding the cull area boundaries at present) and are challenging their thoroughness. A win means some or all of the licences would be quashed.

While this would not stop the HRA's being re-done and licences re-issued, the failure by NE to regulate correctly would be a public scandal and we will be generating interest in the press from now until the end of the case. It would show them to be failing in the very area for which they are supposed to be the watchdog – a seriously reputation damaging outcome. NE might amongst other obligations be required to stop culling in some areas and to carry out monitoring of potential damage done to wildlife and to monitor badger/fox numbers.

Funding

To bring the Judicial Review of the two matters to the Hearing stage has involved considerable legal work since August 2017 and the costs to date amount to £21,000. We have a first-class legal team with Barristers Richard Turney and Ben Fulbrook and Lisa Foster at Richard Buxton solicitors working with expert witness Dominic Woodfield (Bioscan) and Tom Langton on technical aspects.

The ongoing Crowd funding site continues to attract donations and there are also pledges from anonymous donors. Current calculations estimate that even so, and with generous terms from our legal team, there is still a potential shortfall of £40,000 to cover future costs and a further £10,000 if we lose and we may need more for the possible one or two further challenges that may yet be made this year. Some of the expenditure can be recovered if either or both JR's are won, which was not the case with the Tribunal. There are a variety of permutations on the financial aspects but matters are now at the stage where serious consideration needs to be taken on how or if the legal challenges can continue and funds found for future related action. Fighting through the Courts for badgers and wildlife in disrupted countryside is a very expensive venture. We hope to gain some of the funds from crowd funding but other sources are now urgently needed.

The Badger Crowd now needs to raise a substantial amount of funding within the next two months to be able to take the case forwards. A view will be taken on 15th March according to pledges made by that date. If anybody wishes to discuss this privately with Tom Langton, his e-mail is TL@langtonuk.co.uk and his no is 01986784596. There are ways of donating that can attract gift aid so please ask if you are unsure. Finally, thank you to those who have already supported this cause, which would not have reached the current stage without you. Thank you for reading this – if you have any questions please contact Tom.

Best regards, The Badger Crowd

3rd March, 2018.