

Tuesday 13th July

Subject: SIX-FIGURE BILL TO UPHOLD WILDLIFE LAW

For Immediate Release

The Badger Trust has been encouraged to see that the law can be effective in the protection of badgers after the Court of Appeal reversed a judicial review supporting the Welsh Assembly Government's decision to kill the animals.

The WAG had been surveying the badger population in parts of Pembrokeshire and Ceredigion and making other preparations to kill the animals as part of its programme to eradicate bovine tuberculosis (bTB) from Wales.

Welcoming what could prove to be a landmark decision for wildlife, David Williams, chairman of the Badger Trust, said the judicial review proceedings in April and the subsequent appeal had been enormous undertakings for an organisation with only three staff, all part time. "We have invested our money -- our groups' and supporters' subscriptions and donations – to support our conviction that the law had to be tested and that the science was right. Although a protective order saved £10,000 the total bill will be well into six figures. That's a huge sum for us but it has paid off handsomely, thanks in no small measure to our legal team.

Mr Williams added: "We are delighted with this outcome. We are grateful to all the badger groups and supporters whose donations and encouragement made this crucial legal action possible.

"Of all the wildlife organisations the Badger Trust exists to secure the welfare of our native protected species, the badger, and we will continue to do so through lawful means. We are pleased to see that the protection offered by wildlife law cannot be vitiated by political smoke and mirrors and that the court saw the issues so clearly. We also note the court's criticism of the Welsh Ministers' failure to reveal their advice without heavy redactions.

"Scientific evidence about the futility of killing badgers to control bTB remains exactly the same. Although some farmers may see this judgement as a setback, the massive body of rigorously peer-reviewed literature shows that killing badgers can play no meaningful part in the eradication of bTB and that robust cattle measures are sufficient, as demonstrated by evidence that the rate of increase in new TB outbreaks in Wales is already starting to slow. We also hope that the Minister will now adopt a strategy of vaccination as a cost-effective, viable alternative."

Mr Williams, who is an ecologist with the Surrey Wildlife Trust, said wildlife remained a long way down the list of priorities for legislators, both in the case of wildlife slaughter for no good reason as with badgers, or through cruelty and the illegal trade in animals and animal parts.

"It is ironical that there is evidence that bTB in Wales – and in the rest of the UK – is declining without badgers being killed [1], but still the clamour for the deaths of badgers persists in the forlorn hope that such slaughter could ease the serious consequences of bTB. This dreadful disease has been beaten before without killing wildlife".

In the appeal hearing before Lord Justice Pill, Lady Justice Smith and Lord Justice Stanley Burnton sitting in Cardiff the Badger Trust successfully argued that the High Court had made an error of law in holding:

- that the words "substantially reduce" in section 21(2)(b) of the Animal Health Act 1981 meant simply any reduction in TB that was "more than merely minor or trivial"; and
- that, once it arose, the discretion to make an order under section 21(2) could lawfully be exercised without the Minister doing any balancing act to consider the harm involved (i.e. killing over 2000 badgers) against the potential benefit (which the Minister's own model predicted to be a reduction in the rate of cattle herd breakdowns of just 0.3% of farms annually).
- In addition, the Trust argued that the Ministers erred in making an Order for the whole of Wales having only consulted on the basis of the Pembrokeshire Intensive Action Pilot Area

and on the basis of evidence which, at best, supported culling in the IAPA only. The Welsh Ministers conceded the appeal by reference to this point and the court unanimously agreed that it rendered the Order unlawful notwithstanding their findings on the first two points.

Ends

NOTES

[1]

Defra county animal and herd statistics last updated on May 17, 2010: <http://www.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/tb/stats/index.htm>

For further information please see: (Badger Trust) Tel. 0845 828 7878
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