



Wildlife Recording and the Planning System

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What does the local planning authority need to see in letters responding to planning applications?

**What
do
they
NOT
need
to
know?**



Being fluffy does not make me a material consideration!!!

What is a material consideration???



A legal term describing a matter or subject which is relevant material for a local authority to consider when using its powers under planning law. Relevant material is that which is planning **legislation or planning **policy**.**

Key elements of a response letter



- 1. What is the biodiversity interest?**
- 2. Why is the biodiversity important?**
- 3. How will the biodiversity be affected by the development proposed?**
- 4. Why is the potential effect on the biodiversity contrary to legislation/policy/best practice guidance?**
- 5. What are your concerns – are you objecting, or suggesting amendments/improvements to the development proposal?**

What is in your toolbox to help you answer these questions?



Different types of tools available



- Legislation
- National policy
- Regional policy
- Local policy
- Local plan maps
- Biodiversity Action Plan
- List of species of importance to nature conservation
- Good practice guides
- Existing biological records
- Aerial photographs
- County recorders
- Derbyshire Wildlife Trust

Legislation incorporating the protection of specific species



Wildlife and Countryside Act 1981, as amended

The Conservation (Natural Habitats &c.) Regulations 1994, (otherwise known as the Habitats Regulations)

The Wildlife and Countryside Act



The Act makes it an offence to intentionally kill, injure, or take any wild bird or their eggs or nests. The Act also protects particular species of animal and plant.

- Schedule 1: Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young.
- Schedule 5: The Act makes it an offence to intentionally kill, injure, or take, possess, or trade in any wild animal listed in Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places.
- Schedule 8: The Act makes it an offence to pick, uproot, trade in, or possess any wild plant listed in Schedule 8, and prohibits the unauthorised intentional uprooting of such plants.

Lists of species on each schedule are available from
<http://www.jncc.gov.uk/page-3408>

The Habitats Regulations



Protection of certain wild animals

39(1) A person commits an offence if he—

- (a) deliberately captures, injures or kills any wild animal of a European protected species;
- (b) deliberately disturbs wild animals of any such species in such a way as to be likely significantly to affect—
 - (i) the ability of any significant group of animals of that species to survive, breed, or rear or nurture their young; or
 - (ii) the local distribution or abundance of that species;
- (c) deliberately takes or destroys the eggs of such an animal; or
- (d) damages or destroys a breeding site or resting place of such an animal.

Legislation incorporating the protection of specific species



European Protected Species listed in Schedule II of the Habitats Regulations....

Bats(all species), Large Blue Butterfly, Wild Cat, Dolphins, porpoises and whales (all species), Dormouse Sand Lizard, Great Crested Newt, Common Otter , Smooth Snake, Sturgeon, Natterjack Toad, Marine Turtles

Legislation protecting wider biodiversity



Natural Environment and Rural Communities Act 2006

40 Duty to conserve biodiversity

(1) Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

Legislation protecting wider biodiversity



Natural Environment and Rural Communities Act 2006

41 Biodiversity lists and action (England)

(1) The Secretary of State must, as respects England, publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of principal importance for the purpose of conserving biodiversity.

Legislation protecting wider biodiversity



Natural Environment and Rural Communities Act 2006

(3) Without prejudice to section 40(1) and (2), the Secretary of State must—

(a) take such steps as appear to the Secretary of State to be reasonably practicable to further the conservation of the living organisms and types of habitat included in any list published under this section, or

(b) promote the taking by others of such steps.

National Policy



Planning Policy Statement 9: Biodiversity and Geological Conservation

Planning Policy Statement 9 (PPS9) sets out national planning policies on protection of biodiversity and geological conservation through the planning system.

<http://www.communities.gov.uk/publications/planningandbuilding/pps9>

National Policy



Planning Policy Statement 9: Biodiversity and Geological Conservation Associated Circular:

The circular provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It complements the expression of national planning policy in *Planning Policy Statement 9: Biodiversity and Geological Conservation* (PPS9)

<http://www.communities.gov.uk/publications/planningandbuilding/circularbiodiversity>

Regional Policy



Regional spatial Strategy for the East Midlands (EM RSS)

The current Regional Spatial Strategy for the East Midlands was published in March 2009 as the East Midlands Regional Plan. It provides a broad development strategy for the East Midlands up to 2026.

http://www.gos.gov.uk/497296/docs/229865/East_Midlands_Regional_Plan2.pdf

Local Policy



- Look in the current local plan (available on all LPA websites) for policies on....
- Biodiversity
- Landscape
- Local character
- Local designations
- Green infrastructure
- Sustainability
- Don't forget local plan maps!!!!
 - Is the site designated for something else, such as open space, green belt, green infrastructure etc

Good Practice Documents



Look for documents produced by government departments (e.g. DEFRA, DCLG), government agencies (e.g. Natural England) or nationally recognised conservation bodies (e.g. RSPB, Wildlife Trusts).

Planning Policy Statement 9 Good Practice Guide



This guide complements PPS9 and its Circular, and provides good practice guidance on ways regional planning bodies and local planning authorities can help deliver the national policies in PPS9 and comply with legal requirements set out in the Circular.

<http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/historicenvironment/pps9/>

Guidance for Local Authorities On Implementing the Biodiversity Duty (Section 40 of the NERC ACT 2006)



The DEFRA publication is available at.....

<http://www.defra.gov.uk/environment/quality/biodiversity/documents/la-guid-english.pdf>

Natural England Documents



Environmental Quality in Spatial Planning

- <http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/default.aspx>
- Biodiversity checklist for development
- http://www.naturalengland.org.uk/Images/Biodiversity%20Checklist_tcm6-10160.pdf
- Best practice guides for surveys, e.g. bats and great crested newts

Derbyshire Biodiversity Action Plan



What species and habitats form part of the local biodiversity action plan for Derbyshire? What are the current targets/initiatives/projects?

Check the Derbyshire BAP website.....

<http://www.derbyshirebiodiversity.org.uk>

Harm to BAP habitats and species is contrary to the BAP for which the LPA is a partner

Habitats and Species of Principal Importance to Nature Conservation



What species and habitats are on the list relating to Section 41 of the NERC ACT?

Check the current list at the biodiversity reporting website.....

<http://www.ukbap-reporting.org.uk/news/details.asp?X=45>

Sources of information on existing wildlife records.....



County Recorders..... Check your sheet in the conference pack

Derbyshire Wildlife Trust.... Holds databases for a range of plants and animals

Derby Museum..... Similarly holds a number of databases

Some records may not be available to the wider public and some will be charged for.

Aerial photographs

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- How does the site fit in with the wider habitat network?
- Does it link designated sites together, or link them to wider countryside?
- Does it form a buffer for a designated site?
- Is it an important wildlife corridor?
- Link to GREEN INFRASTRUCTURE policies!!!!

Remember....

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- Use legislation, policy and best practice guidance to back up all statements made
- No emotional wording
- Be clear, professional, concise



No squirrels!