

Commenting on Planning Applications

Under the Town & Country Planning Act 1990 (Schedule 1, para 8), Parish Councils are statutory consultees and have the right to be notified of planning applications affecting land falling within their Parish boundary. This is where you have the chance to make a difference for wildlife and there are 3 broad questions that can be considered:

- Will the proposed development result in harm to the wildlife of your Parish?
- Will the proposed development result in benefits for the wildlife of your Parish?
- Are there opportunities for enhancements to the wildlife of your Parish?

Biodiversity is a material consideration

In the process of considering planning applications, biodiversity is what is known as a **material consideration**, which means it is something that planning officers and planning committees have to take into account when they are making a decision.

This also means that the Local Plan should have policies relating to biodiversity, and you can use these, and policies in neighbourhood plans, to support arguments against inappropriate developments or support others which will bring benefits.

What to consider when commenting on a Planning Application

Prior to commenting upon a planning application, local knowledge of the habitats and species that may be affected (or enhanced) by the proposed development, including whether any of these that are afforded legal protection, and how measures can be put in place to protect and enhance biodiversity, is also beneficial - there is additional guidance on many of these aspects elsewhere in this series of guidance notes.

It would also be worthwhile to be aware of national and local plans, policy, legislation and guidance that developments need to abide by – the National Planning Policy Framework (more details given below) is particularly important here.

Find out what you have

A good way to decide whether to comment on a planning application and fulfil your legal obligations is to find out any important features or sites for wildlife in the vicinity of the development (usually within 2km). Some sites have been designated legally (statutory designated sites) and others through local policy (non-statutory designations).

Statutory - Designated Sites

These sites are afforded legal protection through either domestic or European law. They include Sites of Special Scientific Interest (SSSIs), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).

Non-Statutory Designations

These are sites like Local Nature Reserves and Local Wildlife Sites (LWS) (www.lrwf.org.uk/what-we-do/local-wildlife-sites/) that are protected in local planning systems but not afforded legal protection. They have been designated due to their importance to wildlife at a county level. These form important habitats in their own right, links between habitats and may also act as corridors linking up other wildlife sites.

See the leaflet on '**Protected Sites**' for more detail about the various protections, both statutory and non-statutory, afforded to sites that are important for wildlife. There are also local green spaces which are identified in Neighbourhood Plans and afforded legal protection through the National Planning Policy [NPPF].

Species Records

These indicate the species using different places and habitats. Some species are afforded legal protection in the planning system, and knowing where they have been recorded could help indicate areas where developments may be undesirable and habitat should be maintained (or enhanced). More information on laws that afford legal protection can be found in the '**Wildlife and the Law**' leaflet.

It is important to know that records of species sent in by members of the public who are not acknowledged naturalists must be validated before the records can be used by planners and their advisors, this is to avoid random claims being presented. Further guidance on this can be found here: - [validating records of biodiversity on local sites](#)

Where to find the locations of Statutory and Non-Statutory Designated Sites and also species records

- **MAGIC** (Multi-agency Geographic Information for the Countryside - www.magic.gov.uk)

Mapping of statutory and non-statutory designations, e.g. Local Nature Reserves [LNRs], Sites of Special Scientific Interest [SSSIs], areas with public access under the Countryside and Rights of Way Act 2000, habitats, important sites for birds and mammals etc.

- **Leicestershire and Rutland Environment Records Centre (LRERC)**
www.leicestershire.gov.uk/environment-and-planning/planning/planning-and-ecology

LRERC holds the most accurate maps of Local Wildlife Sites, along with other statutory and non-statutory-designated sites and also protected species records. You can request a map of both sites and protected species records from LRERC but will have to pay for this service.

- **NatureSpot – Leicestershire's online recording system for biological Records**
www.naturespot.org.uk
- **Local Authorities** may have produced Supplementary Planning Documents that outline good practice guidelines in terms of developments and wildlife .

In addition, there is a free wildlife assessment check online; a free online tool for **householders** and **small to medium-scale developers** who want to undertake a development project to check whether they will need expert ecological advice *before* submitting a planning application’.

<https://www.biodiversityinplanning.org/wildlife-assessment-check/>

National Legislation and Guidance

Further information about wildlife legislation and policies can be found in the ‘**Wildlife and the Law**’ leaflet which is part of this series of leaflets. All of this legislation needs to be considered when deciding whether to comment on a planning application. Some of the most important policy considerations for Parish Councils are mentioned briefly within this document.

The National Planning Policy Framework

[The National Planning Policy Framework \(NPPF\)](#) sets out how local plans and policy should contribute towards ‘net gain’ for biodiversity and establish ecological networks. There is also a presumption for sustainable development.

There are a number of key sections in the NPPF to take into account when considering either a draft local plan or a planning application. In brief, to comply with the NPPF, planning policies and decisions should (the wording is taken from paragraph 170 on page 49 of the NPPF):

- protect and enhance valued landscapes, sites of biodiversity or geological value and soils
- recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland
- minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures
- prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans
- remediate and mitigate despoiled, degraded, derelict, contaminated and unstable land, where appropriate

Paragraph 175 of the NPPF (page 50) states that ‘when determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'

Irreplaceable habitats are those which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, and lowland fen.

Therefore, to comply with the NPPF, you should be asking that any planning application complies with the points above. In addition to this the biodiversity duty, which requires Parish Councils to have regard for biodiversity when carrying out your functions, further enforces the need for you to ensure that planning applications enhance biodiversity in your local area.

More information about the biodiversity duty is available in the '**Parish Councils and the duty to conserve biodiversity**' leaflet

Other useful sources of information

Government Guidance – Natural Environment

There is some really useful guidance in the government website explaining 'key issues in implementing policy to protect and enhance the natural environment, including local requirements.' This can be found here www.gov.uk/guidance/natural-environment and here <https://www.gov.uk/topic/planning-development/protected-sites-species>. It includes sections on agricultural land, soil and brownfield land of environmental value, green infrastructure, biodiversity, geodiversity and ecosystems and landscape.

The Localism Act and Neighbourhood Planning

[Neighbourhood Plans](#), which can be created by a Parish Council under the [Localism Act 2011](#), are an additional valuable way for a Parish Council to seek protection and enhancement of biodiversity in the local area because if passed by local referendum they then have legal status and form part of the wider local authority's development plan.

Neighbourhood Plans contain policies aimed at protecting the environment. More information about Neighbourhood Plans can be found in the '**Neighbourhood Plans and Biodiversity**' leaflet.

National Planning Policy Guidance (NPPF) as amended 2019

<https://www.gov.uk/government/collections/revised-national-planning-policy-framework>

Guidance available to developers

https://www.planningportal.co.uk/info/200187/your_responsibilities/37/planning_permission/8

The RTPI has worked with the [Partnership for Biodiversity in Planning](#) to publish a really useful document with advice on [Biodiversity in planning: Obligations and opportunities to promote biodiversity through the UK planning systems](#)

There is also useful information from the [Building with nature](#) initiative, which brings together guidance and good practice for high quality green infrastructure at all stages of the development process (including policy, planning, design, delivery, and long-term management and maintenance), to help create places that really deliver for people and wildlife.