

## Guidance on Ecological Surveys and Planning Applications

March 2018

This document provides guidance on biodiversity or ecological issues in the planning application process. The term biodiversity is commonly used when referring to wildlife and includes all species of plants and animals and the natural systems that support them.

The Council has a legal duty to consider the conservation of biodiversity within the District, this is of significant importance when considering the impact of both major and minor developments. There are a number of legislations and policies which enforce this including;

- Wildlife and Countryside Act 1981 (as amended) – In the UK it is an offence to deliberately capture, kill or disturb most protected species, or to destroy their resting places or breeding sites.
- Conservation of Habitat and Species Regulations (2010) – A EU Directive which provides protection to designated sites and species and provides the highest level of environmental protection within the UK.
- National Planning Policy Framework - Wildlife is a material consideration when considering a planning application within the NPPF paragraphs 109 to 125. . Chichester Local Plan 2014-2029 - *Policy 49 Biodiversity* of the Chichester Local Plan details that before planning permission will be granted the applicant will need to demonstrate that certain criteria is met to ensure the biodiversity value of the site is safeguarded and demonstrable harm to habitats and species which are protected is avoided or mitigated

### Pre-application Advice

Where a proposed development is situated within, or is likely to affect a **designated site or priority habitat** (see Appendix 2), or there is either evidence or a reasonable likelihood of the presence of a **protected or priority species (see appendix 5)** an initial scoping survey (often called an extended phase 1 survey) followed by more in depth surveys (if required) should be carried out before a planning application is submitted. Without these environmental surveys the authority is unlikely to approve an application.

- If a survey is necessary, it should be carried out **before** you submit your planning application to avoid delays in the application process.
- If protected or priority species or habitats are found to be present, the authority must be satisfied that any detrimental effects can be avoided, mitigated or compensated for before planning permission can be granted.

## Protected Species Survey Checklist

To determine whether or not an application is likely to impact on protected species, applicants should review and complete the Protect Species Survey Checklist. If this identifies that a species survey is needed then an adequate survey and assessment should be carried out and submitted with the planning application.

### Which applications does this apply to?

The survey requirements apply to:

- full, outline and reserve matters planning applications
- listed buildings consent
- residential and non-residential (commercial) applications  
householder applications involving the demolition or conversion of agricultural or derelict buildings in a rural setting, or where there is a significant likelihood of a protected species being impacted.

## Ecological Survey and Assessment

If an Ecological Survey and Assessment is required it should be carried out **before** you submit your application to avoid delays in the application process.

The Scoping **Survey (Phase 1 Habitat Survey) and any subsequent protected species surveys** should be undertaken and prepared by a suitably qualified ecologist with suitable experience and membership to the Institute of Ecology and Environmental Management. The surveys must be carried out at the right time of year, using methods that are appropriate for the species and the area. Surveys should be up to date and ideally from the most recent survey season (this can vary depending on the species). A survey will need to include

- A detailed methodology
- An ecological data search from the Sussex Biodiversity Record Centre which then informs the survey
- Any species present on site recorded and their numbers identified (may be approximate)
- Map of the species distribution and use of the area and site, structure or feature within the area surveyed (e.g. feeding, shelter, breeding)
- Record any uncertainties and limitations that might affect survey results
- Identify any further surveys required, and undertake these
- Where required provide mitigation measures to ensure protected species are not harmed due to the proposed works.

We can refuse planning applications or ask for a survey to be redone if;

- It isn't suitable
- It is carried out at the wrong time of year
- There is not enough information to assess the effect on protected species
- The surveys are over 3 years old
- Mitigation is not suitable

If protected species are present then the Assessment must identify and describe any potential impacts from the development likely to harm the protected species and/or their habitats identified by the survey (these should include both direct and indirect effects both during and after construction). Where harm is likely, evidence must be submitted to show:

- How alternative designs or locations have been considered;
- How adverse effects will be avoided wherever possible;
- How unavoidable impacts will be mitigated or reduced;
- How impacts that cannot be avoided or mitigated will be compensated for (i.e. by new habitats being created).
- When it isn't possible to avoid affecting species an applicant must include a mitigation strategy to remove and reduce the negative effects of the proposal and identify what risk reduction measures will be undertaken. Mitigation must be effective against the predicted impact of the proposed development on a protected species

If the development proposal is likely to have a negative effect on European protected species, a Natural England Protected Species Licence will also need to be granted for the works. More information regarding these licences can be found at <https://www.gov.uk/guidance/wildlife-licences>

### **Recreational Disturbance**

Policies 50 and 51 of the Chichester Local Plan set out how new residential development in the district has an in-combination effect on the protected bird species of Chichester Harbour SPA and/or Pagham Harbour SPA. This is due to recreational disturbance whereby a growing population in the area increases use of the coastline and harbour for recreational and in turn leads to increased disturbance of the feeding and breeding birds in the harbours.

As most new residential developments are not large enough to set up and sustain their own bespoke schemes of mitigation, schemes of Strategic Access Management and Monitoring have been set up by relevant planning authorities in order to facilitate the delivery of their local plans.

Chichester and Langstone Harbour SPA forms part of the Solent-wide project called the Solent Recreational Mitigation Partnership, which delivers the 'Bird Aware Solent' scheme.

01.03.2018

Developments pay a fixed contribution per net new dwelling which is used to fund a package of wardening, education, green infrastructure improvements and monitoring.

Pagham Harbour SPA has a similar but smaller SAMM set up by Chichester and Arun Districts. Wardening will be delivered by the RSPB as site managers, with education and monitoring activities bought in from the SRMP.

For both schemes there is a zone of influence within which contributions are required from new developments. Based on visitor survey evidence these are set at 5.6km from SPA boundary for Chichester and Langstone Harbour SPA and 3.5km from boundary for Pagham. The Local Plan contains a map showing where policies 50 and or 51 apply.

Further information regarding the Solent Recreational Mitigation Partnership and the contributions required can be found on the Chichester District Council website at <http://www.chichester.gov.uk/planningadvice>

### **Quick reference guide**

1. Determine whether a scoping survey (Phase 1 habitat survey) is required for the site
2. Have the scoping survey undertaken by suitably qualified ecologist
3. Any further protected species surveys required by the scoping survey should be undertaken
4. Mitigation strategy and site enhancements produced by ecologist
5. This mitigation and the enhancements incorporated into the site's design
6. Submit planning application
7. Once planning is granted, apply for the Natural England Protected Species Licence as required

### **Useful Contacts & Further Information**

**Natural England** hold a wide variety of publications providing standing advice on protected species, habitats and development. All are available to download free of charge.

<https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications#standing-advice-for-protected-species>

**The Sussex Biodiversity Record Centre** can provide individual species information or produce a full biodiversity information report for a site or geographical area on request (there is a charge for this service). [www.sxbrc.org.uk](http://www.sxbrc.org.uk)

**Chichester District Council** If you wish to discuss your project before you submit the application, please contact the council on [01243 785 166](tel:01243785166). Alternatively, you may wish to research further into the planning application process online using the Council's planning portal <http://www.chichester.gov.uk/planningpermission>

**Joint Nature Conservation Committee (JNCC)** is the statutory adviser to Government on UK and international nature conservation. JNCC offer further information on wildlife law and a full list of species protected under the Wildlife and Countryside Act 1981.

<http://jncc.defra.gov.uk/page-1377>

### **Organisations who may be able to help you find a suitable qualified ecologist**

For further information on competent specialist ecologists to undertake a species Survey and Assessment, please contact one of the following:

Chartered Institute of Ecology and Environmental Management (CIEEM)

<https://www.cieem.net/>

Wildlife Trust Consultancies [www.awtc.co.uk](http://www.awtc.co.uk)

**Appendix 1 - Suitable Times of the Year to Conduct Ecological Surveys** For certain species and habitats, surveys can be carried out at any time of year. However, for other species, surveys are required to be carried out at particular times of year to ensure the most reliable results are achieved. Surveys conducted outside of these optimal times may be unreliable. An application may not be valid until survey information is gathered from an optimum time of year. Species surveys can also be very weather dependent so it may be necessary to delay a survey or to carry out more than one survey if the weather is not suitable (contact Sussex Biodiversity Records Centre for more details). Surveys involving the disturbance, capture or handling of some protected species, require a license. For more information on licensing contact Natural England by email: [wildlife@naturalengland.org.uk](mailto:wildlife@naturalengland.org.uk). Or visit their website: <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications#when-applicants-need-a-species-survey>

Species	When to Survey
<b>Badgers</b>	February to April or October to November
<b>Bats (hibernation roosts)</b>	November to mid-March
<b>Bats (summer roosts)</b>	May to mid-September
<b>Bats (foraging/ commuting)</b>	May to September
<b>Birds (breeding)</b>	March to August
<b>Birds (winter behaviour)</b>	October to March
<b>Dormice</b>	May to September
<b>Great Crested Newts</b>	Mid-March to mid-June
<b>Invertebrates</b>	April to September
<b>Natterjack toads</b>	April to May
<b>Otters</b>	Any time of year but better in summer as signs may get washed away in winter months
<b>Reptiles</b>	Mid-March to June and September
<b>Water voles</b>	March to September
<b>White-clawed crayfish</b>	July to September

**Appendix 2 - Designated Sites and Priority Habitats** Where a proposed development is situated within, or is likely to affect a **designated site or priority habitat** shown below, a survey and assessment must be submitted with the application.

<b>1. DESIGNATED SITES</b>	
<b>Internationally designated sites</b>	Special Protection Area (SPA) Special Area of Conservation (SAC) Ramsar Site
<b>Nationally designated sites</b>	Site of Special Scientific Interest (SSSI) National Nature Reserve (NNR)
<b>Regionally and locally designated sites</b>	Local Sites (e.g. Site of Nature Conservation Importance - SNCI) Local Nature Reserve (LNR)
<b>2. PRIORITY HABITATS</b> (Habitats of Principal Importance for Biodiversity under section 41 of the Natural Environment and Rural Communities Act 2006)	
<ul style="list-style-type: none"> <li>▪ Ancient and/or species-rich hedgerows</li> <li>▪ Coastal saltmarsh, sand dunes, vegetated shingle and inshore sands, muds and gravels, saline lagoons</li> <li>▪ Floodplain grazing marsh</li> <li>▪ Fen, marsh, swamp and reedbeds</li> <li>▪ Lowland beech and yew woodland</li> <li>▪ Lowland calcareous grassland (e.g. species-rich chalk and limestone grasslands)</li> <li>▪ Lowland heathland and/or dry acid grassland</li> <li>▪ Lowland meadows (e.g. species-rich flower meadows)</li> <li>▪ Lowland mixed deciduous woodland (ancient woodland)</li> <li>▪ Lowland raised bog</li> <li>▪ Lowland wood-pasture and parkland</li> <li>▪ Native pine woodlands or Upland woodlands (e.g. mixed ashwoods, oakwoods, and birchwoods)</li> <li>▪ Rivers and streams (e.g. chalk streams)</li> <li>▪ Standing open water and canals (e.g. lakes, reservoirs, ponds, aquifer fed fluctuating water bodies)</li> <li>▪ Wet woodland</li> </ul>	
<b>3. OTHER BIODIVERSITY FEATURES</b> (as identified by the Local Biodiversity Partnership - see paragraph 84 ODPM Circular 06/2005)	
<ul style="list-style-type: none"> <li>▪ Secondary Woodland and Mature/Veteran Trees</li> <li>▪ Caves and disused tunnels and mines (e.g. roosts for bats)</li> <li>▪ Trees and scrub used for nesting by breeding birds</li> <li>▪ Previously developed land with biodiversity interest – from SxBRC records</li> <li>▪ Urban green space (e.g. parks, allotments, flower-rich road verges and railway embankments)</li> </ul>	

### ***Appendix 3 - Wildlife and Law***

#### **The National Planning Policy Framework (Paragraphs 109 – 125)**

The NPPF is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.

The NPPF details how the planning system should contribute to and enhance the natural environment by

- Protecting and enhancing valued landscapes
- Recognising the wider benefits of ecosystem services
- Minimising impacts on biodiversity and providing net gains in biodiversity where possible
- Preventing both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable level of soil, air, water or noise pollution or land instability
- Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate

#### **Chichester Local Plan 2014 – 2029**

Chichester Local Plan 2014 – 2029 Policy 49 Biodiversity states that planning permission will be granted for a development where it can be demonstrated that all the following criteria have been met;

- The biodiversity value of the site is safeguarded;
- Demonstrable harm to habitats or species which are protected or which are of importance to biodiversity is avoided and mitigated;  
The proposal has incorporated features that enhance biodiversity as part of good design and sustainable development;
- The proposal protects, manages and enhances the District's network of ecology, biodiversity and geological sites, including the international, national and local designated sites (statutory and non-statutory), priority habitats, wildlife corridors and stepping stones that connect them;
- Any individual or cumulative adverse impacts on sites are avoided
- The benefits of development outweigh any adverse impact on the biodiversity on the site. Exceptions will only be made where no reasonable alternatives are available;  
and planning conditions and/or planning obligations may be imposed to mitigate or compensate for the harmful effects of the development.



## **Wildlife and Countryside Act 1981**

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. This protection is contained in Section 9 of the Act (as amended), which makes it an offence to:

- intentionally kill, injure or take any wild animal included in Schedule 5 (see Section 9(1));
- possess or control any live or dead wild animal included in Schedule 5 (see Section 9(2));
- intentionally or recklessly damage, destroy or obstruct access to any structure or place which any wild animal included in Schedule 5 uses for shelter or protection;
- disturb any such animal while it is occupying a structure or place that it uses for shelter or protection (see Section 9(4)); or
- sell or advertise for sale any wild animal included in Schedule 5 or possess any such animal (or part of one) for the purpose of sale (see Section 9(5)).

Not all species in Schedule 5 are afforded the complete protection described above. Certain species are only protected against certain actions. An up-to-date list of the species included in Schedule 5 and the protection that they are afforded is available on the JNCC's website.

## **The Conservation of Habitats and Species Regulations 2010**

The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild population of the species concerned.

Wildlife law is complex and this appendix only provides a very brief introduction to the subject. Where relevant, applicants should seek additional specialist advice **before** submitting a planning application.

#### ***Appendix 4 - Some Important & Protected species found in Chichester District***

**Bats** All species of bats, their roosts and hibernation places are protected by UK and European law. These places can include all sorts of buildings (new and old), bridges, trees and underground places.

**Badgers** Badgers and their setts are protected by UK law, they can occur in a wide variety of both rural and urban places. They are often found in woods and copses, scrubs, hedgerows, quarries, moorland, open fields and even in housing estates.

**Dormice** Dormice and their habitats are protected by UK and European law. They inhabit deciduous woodland with scrub, coppiced woodlands and hedgerows and spend a large proportion of the year hibernating. Their nests may be located close to the ground, but have been found as high as 22 metres. Loss of suitable habitats in Britain has led to a steep decline in their numbers in recent years.

**Great Crested Newts** Great Crested Newts and their terrestrial and aquatic habitats are protected by UK and European law. They breed in ponds and other water bodies but spend most of their lives on land, sometimes up to several hundred metres from a water body. They can be found in both rural and urban settings and hibernate over winter.

**Otters** Otters and their habitats are protected by UK and European law, they live and breed in and near open water and watercourses. They have suffered serious decline in recent years but are starting to recover. Sightings of Otters in Chichester District are rare, but possible, especially in the Rother Valley and the harbour areas.

**Water Voles** Water voles and their habitats are protected by UK law, their habitats include rivers, streams, canals, ditches and ponds. They have suffered serious decline in the last 30 years due to the loss of habitat and being preyed upon by feral mink. They are currently the UK's most endangered mammal. The ditches and rifes of the Chichester Coastal plain form one of the last refuges for water voles in the UK.

**Wild Birds** Wild birds, their nests and eggs are protected by UK law, they can be found in a wide variety of places including trees, hedges, buildings and also on the ground. Some particularly vulnerable birds such as barn owls have additional protection.

**Butterflies** Most native UK butterflies and their habitats are not directly protected by Wildlife law, but many species are now high priority species for conservation as they have suffered serious decline in recent years due to habitat loss. The *Large blue* has recently been re-introduced to the South of England and is protected by UK and European law.

Guidance on Ecological Surveys and Planning Applications

**Reptiles** Slow worms, Turtles, Grass snakes, Adders, and Common lizards are all protected by UK law. Smooth snakes and Sand lizards and their habitats have additional protection are also listed under European Wildlife law. British reptiles can be found in a range of habitats, both in countryside and urban situations, frequently occurring on brownfield sites. Suitable timing is crucial for all reptile surveys.

**Flora** It is illegal for any person to pick, uproot or destroy any plants listed under Schedule 8 of the Wildlife & Countryside Act 1981. Please note that there are no licences available to remove or relocate protected plants purely for the purposes of development, only with the exception of European protected plant species, where a licence can be sought.

*The above list is not exhaustive, for more information about different species and their protection please refer to Natural England or JNCC. For more information specifically on priority species in Sussex, please refer to the Sussex Biodiversity Action Plan [www.biodiversitysussex.org](http://www.biodiversitysussex.org).*

## Appendix 5 - Protected Species Checklist

### Protected Species Survey Checklist – October 2009

This checklist is designed to help applicants determine whether their proposal is likely to impact on protected species. If so a species survey and assessment will be needed to be carried out and submitted with the planning application.

Read through the development proposal descriptions in the first column and answer 'yes' or 'no' for whether the description applies to your application. The right hand side of the table indicates species likely to be affected by this type of proposal, therefore requiring a survey.

***This checklist should be completed and submitted with your planning application and any required survey information.***

Proposals for development that will trigger a protected species survey/ priority species survey and assessment	Please tick:		Species likely to be affected and for which a survey will be required													
	Yes	No	Bats	Barn Owls	Breeding Birds	Gt. Crested Newts	Otters	Dormouse	Water Vole	Badger	Reptiles	Amphibians	Plants	Wintering & Migrating Birds	Invertebrates	Other BAP Species
Demolition or conversion of agricultural or derelict buildings in a rural setting			•		•								•			
Developments involving field hedgerow or woodland removal			•		•			•		•			•		•	
Proposals affecting large old trees			•		•											
Works within 50m of a pond						•					•				•	
Works on or immediately adjacent to watercourses including rivers, ditches and rife			•			•	•		•			•	•			
Proposals affecting mature or overgrown gardens, rough grassland, derelict land, allotments, of an area over 0.25Ha					•	•				•		•			•	
Proposals affecting flower-rich meadows or parkland			•		•	•				•			•			
Proposals involving flood lighting within 50m of woodland, water, hedgerows or obvious connecting lines of trees			•		•											
Proposals affecting or adjacent to heathland					•											
Proposal site within proximity of a known location of a protected species					•											

As records indicate – please consult Sussex Biodiversity Records Centre [www.sxbrc.org.uk](http://www.sxbrc.org.uk)