



Kent Wildlife Trust Guidance

Responding to Planning Applications



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Introduction

It's Kent Wildlife Trust's ambition that everyone has access to nature in our villages, towns, cities and rural areas. To achieve this, we work with communities, developers and local councils to ensure that wildlife is prioritised within the planning system. We are regularly contacted about developments which are likely to affect wildlife. As a charity, we have limited resources and must prioritise which planning applications we can support. We prioritise those where wildlife is in the gravest danger or where wildlife may have the most to gain from a certain site in the future. As we are not able to respond to all planning applications, we hope to encourage you to take an active interest in local planning matters which impact wildlife.

There are a variety of reasons that you might want to make comments on a planning application. In some instances, development may bring benefits to your local community and support both people and wildlife. In these cases, you may wish to write a letter of support for the planning application. There are also cases where a planning application may negatively affect your local area, for example by impacting the local landscape, increasing traffic and threatening wildlife. Here at Kent Wildlife Trust, we use our expertise to comment on wildlife issues.

When it comes to responding to a planning application, the strongest arguments are those which are supported by planning policy and laws relating to wildlife. Arguments rooted in planning policy and law are more likely to be taken into account by the planning officer when they recommend the application for approval or refusal. We have prepared this guide to make you aware of relevant policy and law, and to help you tailor your response to have the greatest impact.



Planning Policy and Law

Why should Councils take wildlife into account?

Firstly, it is important to understand why your local council should consider wildlife when making decisions on planning applications. All decisions made by planning officers should be guided by planning policy and law, and there are a number of documents which set out the council's responsibility to protect wildlife.

Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 states that: "Every public body 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".

Whilst the legal wording of Section 40 may seem somewhat confusing, in its simplest terms, this sentence says that the NERC Act places a duty on public bodies to protect biodiversity. This duty applies to all policies, decisions and activities of the local authority, not just planning decisions.

The **National Planning Policy Framework** (NPPF) 2021 sets out the Government's planning policies for England and explains how they should be applied. The NPPF covers a great variety of topics including transport, housing, sustainability, climate change, the protection of 'Green Belt' land (which buffers major urban centres) and the conservation and enhancement of the natural environment. NPPF Chapter 15 includes the policies for the natural environment and these often provide the backbone of Kent Wildlife Trust's responses to planning applications as they carry considerable weight in the planning system. Where relevant, we encourage you to make reference to NPPF policies in your response to a planning application.

A relatively new addition to the NPPF is the requirement to provide net gains for biodiversity. In other words, development must always have an overall positive impact on the biodiversity of a site. This new requirement shows a shift in the Government's goals, from wanting to maintain existing levels of biodiversity to actually improving the situation through the planning system. Biodiversity net gain (or BNG) is a hot topic at the moment and you can read more [here](#). If you feel that the documents submitted in support of the planning application do not indicate that there will be measurable benefits for biodiversity, then you may wish to highlight this in your response, making reference to "biodiversity net gain".

It is important to remember that planning officers must take account of all issues, not just those related to the natural environment. Therefore, even where there is an argument for or against a planning application because of the wildlife, the economic and social arguments may be deemed to outweigh environmental arguments. Whilst this realisation can be frustrating, it can also work in reverse, when environmental arguments outweigh social and economic factors. Responses representing the environment will therefore be strongest where species and habitats that are considered a priority for conservation are being impacted (please see step 2).

STEP 1

Find out about planning applications in your local area:

1 Local residents living close to a proposed development site should receive a letter from the council informing them of the application.

2 Applicants may be asked to print out and display a 'site notice' at or near the proposed development site which provides details of the planning application.

3 You may find articles and notifications within local newspapers.

4 The details of the planning application will be uploaded to the council's online Planning Portal. This can be found by entering into your search engine a phrase such as "**Planning Portal [insert Local Planning Authority name]**", then use the search function to find applications near to your address.

5 Whilst not the case for all developments, developers should hold a public consultation event for significant or major developments. The consultation event should be advertised in the local press or displayed near the 'site notice' and will provide the public with the opportunity to give feedback on and influence the development plans.

Copies of the documents sent by the applicant to the council will be available on the Local Planning Authority's online Planning Portal or from the council offices. Please contact your local planning department if you have queries relating to accessing documents.

STEP 2

Identify wildlife which is protected by the planning system

There are a number of things to consider when deciding if there is a strong case to make for or against a planning application on the grounds of biodiversity. Some sites, habitats and species are protected by laws and policies, meaning that they must always be considered as part of the planning process. There are however some instances where certain sites, habitats and species are given limited or no protection. It is therefore useful to know how much impact your arguments are likely to have. The following sections will provide an overview of the types of wildlife sites, habitats and species that may be impacted by development, and the level of legal protection afforded. At the end of this section are links which can help you to identify if these designations, habitats and species can be found on or around the proposed development site.

Wildlife sites

Internationally protected sites

Ramsar sites are wetland sites of international importance, designated under The Ramsar Convention. In the UK, the first Ramsar Sites were designated under The Convention on Wetlands in 1971 and entered into force in 1975. This agreement is named after Ramsar in Iran where the treaty was signed. The Convention covers all aspects of wetland conservation and 'wise use'. It has three main pillars of activity:

- The designation of wetlands of international importance as Ramsar Sites;
- The protection of the wise use of all wetlands in the territory of each country; and
- International co-operation with other countries to further the wise use of wetlands and their resources.

There are five Ramsar sites in Kent:

1. Medway Estuary and Marshes
2. Stodmarsh

3. The Swale
4. Thames Estuary and Marshes; and
5. Thanet Coast and Sandwich Bay

In the UK, Ramsar sites are given the same protection as European protected sites.

European protected sites

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are designated under European Law (The Habitats Directive) which is incorporated in UK law by The Conservation of Habitats and Species Regulations 2017, (as amended) more commonly referred to as the 'Habitats Regulations'. The legislation was updated in 2021 to acknowledge the withdrawal of the UK from the EU, however the sites continue to be protected in the same way.

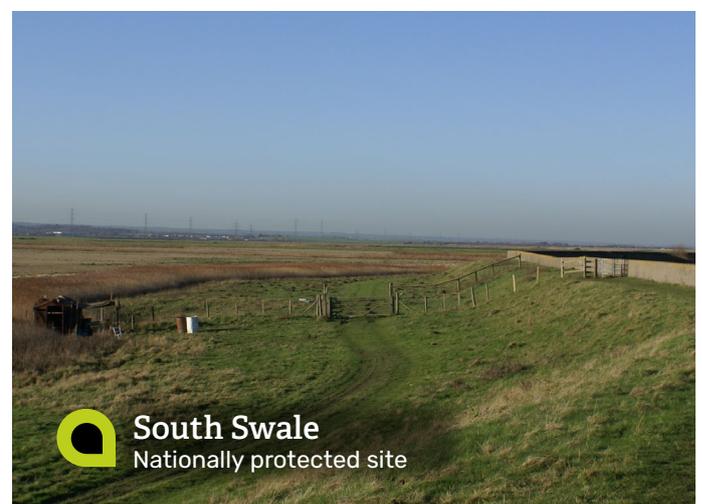
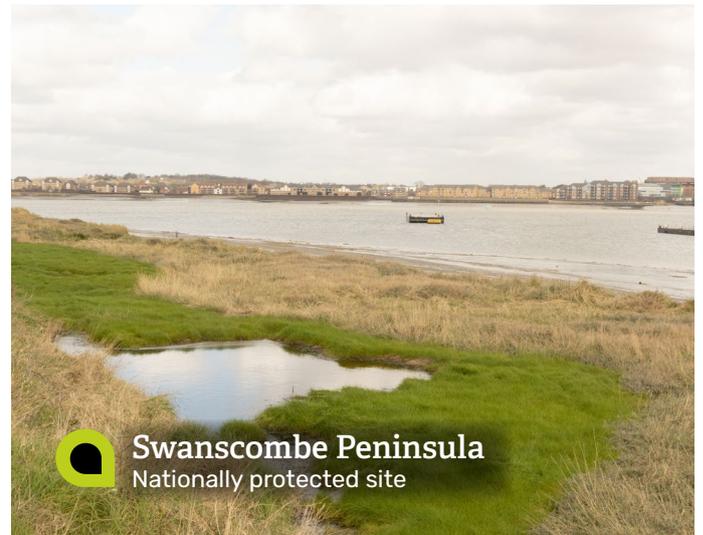
European protected sites are given the highest level of protection in the UK and therefore planning applications must include a full assessment of impacts to these designated sites. Where this assessment concludes that there will likely be significant effects, the applicant must reduce these impacts to an acceptable level using the mitigation hierarchy¹ to ensure that the ecological integrity of the network of European sites is maintained. If the assessment has not been properly carried out or the mitigation hierarchy has not properly been applied, then there would be strong grounds for objecting to the proposal. Planning permission should only be granted if the development will not adversely affect the integrity of the designated site, or if there are imperative reasons of overriding public interest - these may be of a social or economic nature. Due to the high level of protection given to these sites, Natural England (the Government's adviser for the natural environment in England) must be consulted as part of a planning application.

¹The mitigation hierarchy is a term commonly used throughout the conservation sector and is a principle with grounding in planning policy. Paragraph 180(a) of the NPPF states that "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." When assessing a planning application, we look to ensure that the developer has followed the mitigation hierarchy in their scheme design.



Locally protected sites

In comparison to European and nationally designated sites, locally protected sites, such as Local Wildlife Sites (LWS), do not have any legal protection. This does not mean that Local Wildlife Sites are not important. They are sites with substantive nature conservation value and have been identified and selected for their value to nature, based on important, distinctive and threatened habitats and species at national or regional level. Even though they are not protected by law, there is still a strong argument to protect these sites through the planning system. National planning policy expects Local Development Plans to include policies which ensure their protection from harm and loss. These policies should also promote the enhancement of LWS and local ecological networks. These policies can be accessed within your local authority's Local Plan and will vary from district to district. You should then determine if the planning application has satisfied these policies and make reference to this within your response.



Nationally protected sites

Sites of Special Scientific Interest (SSSIs) are designated at the national level under the Wildlife and Countryside Act 1981. Marine Conservation Zones (MCZs) are designated at national level under the Marine and Coastal Access Act 2009. SSSIs are designated because they represent the country's best wildlife and geological sites.

In England, SSSIs are designated by Natural England, who are responsible for protecting England's natural environment. There are 99 SSSIs designated in Kent, covering over 8% of the county, and these play a large part in protecting both the counties' and nation's, wildlife and geology. SSSIs in Kent protect a great variety of habitats, from unimproved neutral, acid and chalk grasslands, to woodlands and wetlands that are vital for waders and waterfowl. For example, Kent has the largest shingle beach in Europe at Dungeness, which is protected for its diverse coastal landscape comprising several habitats such as shingle beaches, sand dunes, mud and sand flats, saltmarsh, saline lagoons, natural freshwater pits and basin fens.

MCZs protect nationally important marine habitats and species, such as cold-water coral reefs and sedimentary seabed habitats. Their protection helps create well-connected marine and coastal areas which can act as a refuge for our vulnerable habitats and species.

Due to their nationally important status, these sites carry great weight within the planning system and an applicant would be expected to assess impacts to SSSIs and MCZs and to apply the mitigation hierarchy to minimise any impacts. If this has not been properly achieved, then there would be strong grounds for an objection. As with European sites, Natural England will be consulted on planning applications which may impact a SSSI.

Roadside Nature Reserves

The Kent and Medway Road Verge Project is a partnership between Kent Highways Services and Kent Wildlife Trust. The project aims to identify, protect and manage road verges which contain habitats that are threatened and/or of particular wildlife value – such as ancient woodland, heathland and chalk grassland, and locally or nationally rare animals or plants. Roadside Nature Reserves (RNRs) are important for reconnecting fragmented habitats so that wildlife does not struggle to survive in isolation.



Hall Hole Rd
Roadside Nature Reserve



Boxley Rd
Roadside Nature Reserve

Sites without designation

The majority of land has no specific protection. Applications on undesignated sites are unlikely to be refused on biodiversity grounds unless these sites have been assessed as supporting priority habitats. Agricultural land (both arable and livestock), horse grazing, sports and recreation grounds are unlikely to be deemed to be ecologically important unless they are

an area of functionally linked land, which occurs outside a designated site and is considered to be critical to, or necessary for, the ecological or behaviour functions of designated sites, or where these areas are important for farmland or wintering birds..

Where a protected habitat or species is found on these undesignated sites, please refer to the information below. In these cases, for example where bats, dormice or great crested newts have been found, the presence of these species more typically results in changes to the design and timing of the development rather than it being refused. Whilst this is not always the case, it may be that other matters will provide a stronger argument against a planning application on an undesignated site (e.g. impacts to wider protected landscapes such as Areas of Outstanding Natural Beauty).

Habitats

Hedgerows

Hedgerows can add important conservation value to a site and may be of historical importance. The Habitats Regulations (1997) protect certain 'important' hedgerows from being removed or destroyed without permission from the local planning authority. The removal of hedgerows without the correct permission is a criminal offence. A hedgerow assessment is required wherever there is the potential for hedgerows within an application site to meet the criteria detailed within the Regulations. If a hedgerow is deemed 'important', the retention of the hedgerow can be issued by the local planning authority.

Irreplaceable habitats

The NPPF defines irreplaceable habitats as:

"Habitats 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, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen." Paragraph 180(c) of the NPPF states that *"development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists"*.

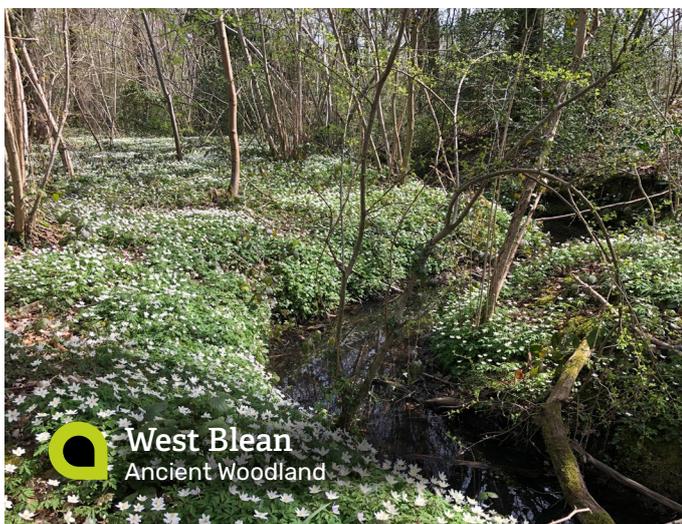
As these habitats are inherently irreplaceable, compensation is extremely difficult and is unlikely to be acceptable unless the social and economic arguments for the development are very strong.

Ancient Woodland

The NPPF describes ancient woodland as:

“An area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites (PAWS).”

As explained above, ancient woodland is given protection by the NPPF due to its classification as an irreplaceable habitat. Of the irreplaceable habitats listed, ancient woodland is most commonly impacted by development due to its scattered distribution throughout Kent, meaning that planning proposals are often submitted directly adjacent to ancient woodland. Even if areas of ancient woodland will not be destroyed, development can have a great number of negative impacts on this habitat type. This report by The Woodland Trust provides a detailed review of [impacts of nearby development on ancient woodland](#).



Priority habitats

The Natural Environment and Rural Communities (NERC) Act (2006) Section 41 requires that the Government publishes a list of habitats and species of principle importance, more commonly known as “priority habitats”. Paragraph 179 (b) of NPPF (2021) requires that planning authorities “*promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*” Public bodies therefore have a duty to pay attention to priority habitats when carrying out their functions, both when assessing planning applications and during their own activities.

Priority Habitat designation provides no specific legal protection, however granting planning permission for a development that would destroy a significant area of a priority habitat may go against the Council’s duty under the NERC Act and against the policies within their Local Plan, as well as conflicting with the Kent Biodiversity Strategy (<https://kentnature.org.uk/strategy/kent-biodiversity-strategy/>) which includes targets for the restoration and creation of priority habitats throughout the county. Kent is home to a great variety of priority habitats including, but not limited to, lowland mixed deciduous woodland, traditional orchards, lowland calcareous grassland, coastal and floodplain grazing marsh, rivers, arable field margins and hedgerows. A complete list of the UK’s priority habitats can be accessed [here](#).

Protected trees

Local Authorities can make Tree Preservation Orders (TPOs) which prevent certain activities without consent from the local planning authority. The Order prohibits the cutting down, topping, lopping, uprooting and wilful damage and destruction of trees without the local planning authority’s written consent. If you believe that works have been carried out on a tree covered by a TPO then you should contact the council.

Ancient and veteran trees

Ancient and veteran trees can be either individual trees or groups of trees within woods, parklands, pastures and hedgerows. All ancient trees are veteran trees, however not all veteran trees are ancient. Veteran trees aren’t always significantly old, however they will show features of decay such as branch death and hollowing, which contributes to its exceptional biodiversity, cultural and heritage value. Ancient and veteran trees are considered as irreplaceable habitats and therefore protected under NPPF paragraph 180(c).

Protected Species

Varying levels of protection are given to species of plants and animals. As is the case for protected sites, some species are protected by European Law, some are protected nationally, and some have very limited protection.

European Protected Species

Great crested newts (GCN), all bat species, hazel dormice and a number of other fauna and flora species (see Appendix 1 Protected Species for full list) are given protection under Schedule 2 and 5 of the Conservation of Habitats and Species Regulations 2017 (as amended). As of 1st October 2022, the European beaver is also a European protected species under the Conservation of Habitats and Species Regulation 2017. It is an offence to kill, injure, capture, or disturb a European Protected Species (EPS), or to damage, destroy or obstruct access to the breeding site or resting place of such an animal. This however does not mean that the presence of these species prevents development – Natural England, the Government’s adviser on the natural environment, is able to issue an EPS licence to undertake works which are otherwise prohibited, as long as the following three tests are met:

- The activity must be for a certain purpose – for example, preserving public health or public safety, or other imperative reasons of ‘overriding public interest’.
- There must be no satisfactory alternative to the proposals that would cause less harm to the species.
- The proposed action must not be detrimental to maintaining the species at ‘favourable conservation status’.

Species protected by UK legislation only

Under Schedule 5 of the Wildlife and Countryside Act 1981 (WCA, as amended), water vole, red squirrel, pine marten and several species of dragonfly, beetle, spider, moth, butterfly and mollusc are fully protected against killing, injury or capture; the damage, destruction, or obstruction of access to any structure or place used for shelter or protection, and the disturbance of an animal while using such a place.

Several other species receive a lower degree of protection under Schedule 5, section 9 of the WCA 1981.

These include the more widespread reptile species – viviparous lizard, adder, slow worm and grass snake – which receive protection against killing and injury, and the more widespread amphibian species – common toad, common frog, smooth newt and palmate newt, which receive protection against ‘sale’ only.



The developer must comply with the legal protection afforded by the WCA 1981 and must demonstrate through their planning application that they will not be committing an offence. Natural England cannot issue a licence to allow development with regard to these species (except water vole, where a licence from Natural England permits intentional damage or destruction of water vole burrows, and/or disturbance to water voles occupying burrows, by use of the mitigation method known as ‘displacement’, prior to carrying out lawful development works). Measures which may be used to avoid an offence include the compilation of an appropriate mitigation strategy, such as the exclusion of animals from construction areas and relocation to a receptor site.

You can access a full list of protected species, and our advice on responding to applications which will impact them, within the table in Appendix 1. Typically, the presence of protected species will not be the sole reason for refusal of an application. The presence of these species is more likely to result in changes to the design of the development – for example the inclusion of measures to avoid and reduce impacts, and the creation of mitigation or compensation habitat – and/or changes to the timing of the development, for example to avoid the bird nesting season or bat maternity and hibernation periods.



Badgers and the law

Badgers and badger setts are protected under the Protection of Badgers Act 1992 in England and Wales. Under this Act, it is an offence to damage, destroy, or block access to a badger sett, or to disturb badgers in their setts. In most cases, developments will be able to avoid disturbing badgers and their setts through careful design. However, a licence from Natural England can be obtained where applicants are required to evidence measures taken to avoid disturbing badgers and their setts.

Accessing existing site location information

We recommend using the following interactive maps to identify whether a development site is located on or near protected wildlife sites, and whether there are any ancient woodland, priority habitats and species and/or protected species records:

MAGIC

Multi-Agency Geographic Information for the Countryside, managed by Natural England on behalf of Government agencies.

KLIS

Kent Landscape Information System' is managed by Kent County Council.

Note: Please refer to these websites and their hosts for more information relating to their data sources and limitations.

STEP 3

Writing your response to a planning application

Once you have identified that there are arguments for or against an application on the basis of wildlife sites, habitats and/or protected species, then it is time to take action. There are a number of ways that you can give wildlife a voice in the planning system, and we would encourage you to explore a number of these to raise the profile of any issue:

- Write a written response to a planning application (see below and Appendix 2 for a sample letter);
- Gain support from other members of your community. With social media featuring so prominently in our everyday lives, you may find this to be a useful tool to encourage likeminded members of your community to also respond to the planning application;
- Contact your local Councillor/MP to ask if they will support your argument;
- Attend the planning committee meeting where the application will be discussed;
- Contact the local media to raise the profile of the application.



Advice for writing a response to a planning application:

- Check if there have been any past planning applications for the proposed development site. Comments made on previous applications may provide an indication of why an application was refused in the past and may indicate key wildlife issues. Previous applications are available via the Planning Portal (for example under “Related Cases”) or by contacting your local Council;
- Use the information on the Planning Portal to identify the location of the proposed development and use the postcode or grid reference to identify nearby wildlife sites, habitats or species using the MAGIC or KLIS maps as per the links above;
- Read through relevant supporting documents submitted with the planning application and decide if the applicant has satisfactorily avoided, mitigated or compensated for any impacts to wildlife. Where you feel that this has not been achieved, be sure to explain your reasoning using the policy and legislation signposted within this guide. You can use our ‘Application Review Checklist’ found in Appendix 3 as a guide on what to look for when going through an application;
- Include information about how the application will impact the protected sites, habitats and species;
- Read your Council’s Local Development Plan to identify relevant local policies. Where you feel that the proposal does not comply with these policies, make reference to this within your response;
- Use the Local Plan to check if the application site has been allocated for development by the Council. Where sites have been allocated for development, it can be difficult to secure a refusal;
- Review the Kent Nature Partnership Biodiversity Strategy 2020 – 2045 to identify if the development might offset the delivery of their goals;
- Attach supporting evidence, including photographs and species records. You may wish to include suggestions on how the application could be changed to address your concerns, such as how a redesign of the scheme and/or Planning Conditions could reduce harm to the local environment and to wildlife.

TOP TIPS

- Take note of the planning application reference which will follow a similar format to **XXX/2020/01234**;
- Be aware of the deadline for submitting a response. Typically, the **deadline for responses is 21 days** after consultees are notified of the application;
- Be clear about whether you are **objecting to** or **supporting** the application. Include this within the email subject and the first line of your response;
- Ensure that your letter is based on **law and policy**, as opposed to your personal opinion;
- Do not include arguments which are not relevant to the planning system, e.g. impacts to house prices;
- Include any additional **records of species or habitats** that you have collected for the site or surrounding area and ensure that these records are submitted to the Kent & Medway Biological Records Centre;
- Where possible and appropriate, include **photographs** which support your argument.



Appendix 1 – Protected Species

The table below provides a summary of legal protections for wild animals in England and Wales. Further information, including details of the habitats in which these species are likely to occur, is available via Natural England's LPA Standing Advice pages: [Protected species and development: advice for local planning authorities - GOV.UK](#)

| Level of protection / relevant law or policy | Protection | Things to look out for in a planning application |
|---|---|--|
| <p>European Protected Species.</p> <p>Certain species are protected by The Habitats Directive (European law) and this is incorporated into UK Law by The Conservation of Habitats and Species Regulations (2017, as amended) - this piece of legislation is often referred to as the 'Habitats Regulations'.</p> | <p>Schedule 2 of the Habitats Regulations 2017 lists European Protected Species.</p> <p>This list includes:</p> <ul style="list-style-type: none"> • All species of bat • Great crested newt • Hazel dormouse • Otter • Beaver • Large blue butterfly • Wild cat • Dolphins, porpoises and whales (all species) • Marine turtle • Pool frog • Natterjack toad • Sand lizard • Smooth snake • Fisher's estuarine moth • Little whirlpool ramshorn • Sturgeon • Shore dock • Killarney fern • Early gentian • Lady's slipper • Creeping marshwort • Slender naiad • Fen orchid • Floating-leaved water plantain • Yellow marsh saxifrage <p>With regard to EPS, it is an offence to:</p> <ul style="list-style-type: none"> • Deliberately capture, injure or kill an animal of such species; • Deliberately or recklessly disturb, in particular (i) any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young; (ii) any disturbance which is likely to impair their ability to hibernate or migrate; or (iii) any disturbance which is likely to affect significantly the local distribution or abundance of the species; • Damage or destroy a breeding site or resting place - even if animals are not occupying the place at the time; • Intentionally or recklessly obstruct access to a sheltering or resting place. | <p>The ecological report should provide the results of protected species surveys wherever habitats likely to support such species are present within a site.</p> <p>Where protected species are likely to be impacted, the applicant should provide details of how they propose to firstly avoid, then mitigate and finally compensate for these impacts. This is referred to as the mitigation hierarchy.</p> <p>Natural England can issue a European Protected Species (EPS) licence which allows activities, that would otherwise be illegal, to take place legally. Natural England considers the extent to which an EPS will be affected, and licences have strict conditions. Because of these licences, the presence of a protected species often does not lead to the refusal of a planning application, but more commonly to amendments which reduce impacts and satisfy the law.</p> |

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| <p>Nationally Protected Species – Wildlife and Countryside Act 1981 (as amended)</p> <p>Wild birds and a number of animal species – including most of those listed above as EPS – are also protected by the Wildlife and Countryside Act 1981 (WCA, as amended).</p> <p>The Countryside and Rights of Way (CROW) Act 2000 provides additional species protection, including the addition of the term ‘recklessly’ to the WCA.</p> | <p>Part 1 Section 1(1) of the Wildlife and Countryside Act makes it an offence to intentionally:</p> <ul style="list-style-type: none"> • kill, injure, or take any wild bird; • destroy, damage, or take the nest of any wild bird (while in use or being built); • destroy or take an egg of any wild bird. <p>In addition, birds listed in Schedule 1 of the Act (such as barn owl) are given further protection from anyone intentionally or recklessly:</p> <ul style="list-style-type: none"> • disturbing a bird while in, on or near a nest containing eggs or young, or while it is building its nest; • disturbing the eggs or dependent young of the bird. <p>Part 1 Section 9(1) of the Wildlife and Countryside Act makes it an offence to kill, injure or take any animal listed in Schedule 5. Section 9(4) also makes it an offence to intentionally or recklessly damage or destroy, disturb an animal occupying, or obstruct access to any structure or place which any wild animal specified in Schedule 5 uses for shelter or protection.</p> <p>Schedule 5 species include:</p> <ul style="list-style-type: none"> • All species of bat • Great crested newt • Otter • Water vole • Smooth snake • Sand lizard • Red squirrel • Pine marten <p>There are also numerous butterfly, moth, beetle, cricket, dragonfly, spider, mollusc, crustacean, hemipteran, annelid worm and sea anemone species listed on Schedule 5.</p> <p>Some species on Schedule 5 receive partial protection only (Schedule 5 section 9). The following species are protected against killing and injury only:</p> <ul style="list-style-type: none"> • Slow worm • Adder • Viviparous lizard • Grass snake <p>For a complete Schedule 5 species list, please see here.</p> | <p>The clearance of vegetation and site works during the breeding season (March to August inclusive) have the potential to cause an offence under the Wildlife and Countryside Act. Therefore, the applicant should demonstrate that works will be timed to avoid the breeding season wherever possible and provide details of additional surveys/mitigation for instances where this may not be possible.</p> <p>Breeding bird surveys may also be required on some sites. Further information can be found in Natural England’s standing advice for wild birds, found here.</p> <p>Where there is potential for impacts to these species, the applicant should demonstrate how an assessment of these impacts has been carried out and what they will do to avoid, mitigate or compensate for impacts. As is the case for European Protected Species, it is more often the case that the presence of a species, such as slow worm, will result in changes to the scheme design and the translocation of the animals to prevent a crime being committed.</p> |
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|---|--|--|
| <p>Nationally Protected Species - Protection of Badgers Act 1992</p> | <p>Badgers are not deemed to be of conservation concern; instead, their legal protection stems from animal cruelty and welfare concerns.</p> <p>Under the Protection of Badgers Act 1992, it is an offence to:</p> <ul style="list-style-type: none"> • kill (or attempt to kill), injure or take a badger • intentionally or recklessly ‘interfere’ with a badger sett through: <ul style="list-style-type: none"> • damaging a badger sett or any part of it; • destroying a badger sett; • obstructing access to, or any entrance of, a badger sett; • causing a dog to enter a badger sett; or • disturbing a badger when it is occupying a badger sett. <p>A licence from Natural England is required to undertake works which would result in the above.</p> | <p>Due to cruelty and welfare concerns, badger survey reports are often kept confidential and are only shared with reputable organisations. If you believe that there is a badger sett on or near to the development site which has not been reported by the applicant then you may wish to share this information with the planning officer, your local badger group (West Kent Badger Group or East Kent Badger Group) or us at Kent Wildlife Trust.</p> |
| <p>Habitats and Species of Principal Importance for conservation in England (often referred to as Priority Habitats/Species)</p> | <p>Under the Natural Environment and Rural Communities Act 2006, the Government is required to publish a list of habitats and species which are of principal importance for conserving biodiversity in England. These species are more commonly known as Priority Species. Full lists can be found on the JNCC website.</p> <p>National planning policy states that planning policies should “promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity” (NPPF paragraph 179b).</p> | <p>For Priority habitats and species of particular focus in Kent, refer to the Kent Biodiversity Strategy.</p> <p>Applicants should provide information relating to these habitats and species within their ecology reports. In line with the NPPF, the Council should ensure that the development includes measures to conserve, restore and/or enhance Priority habitats and populations of Priority species.</p> |

Appendix 2 – Sample Letter/Email of Objection

*The application, site address and name of local wildlife sites used in this example are fictional for the purposes of this sample letter.

| | |
|--|--|
| Your name and address | Mrs A. Smith, Ashford, Kent, TN25 5AC |
| Date | 24th September 2022 |
| Planning application reference and site name | Planning Application Ref: 22/00045/FUL – (site name) |
| Description of the proposals | Residential development of 65 dwellings and new access road from South Lane, Littlewood, Ashford |
| Name of planning officer | Dear (planning officer name) |
| Interest and general view of person writing | I write in relation to the above planning application. I have examined the documents within the planning application, and I wish to strongly object to the development. |
| Reference to any designated sites (SSSIs, SAC, RAMSAR etc.), Local Wildlife Sites and Priority Habitats and Species either within the application boundary or immediately adjacent | There are two non-statutory wildlife sites adjacent to the site's western and northern boundaries which may be impacted by the proposed development. |
| Reference to Government policy, local development plan policy and where acceptable, reference to the Neighbourhood Plan. Highlight any direct or indirect impacts. | <p>The proposed development of 65 dwellings will cause the potential degradation of two Local Wildlife Sites (LWS): Hill Top LWS and Sandbanks LWS. The applicant has acknowledged that the development site is adjacent to the two LWS and mentions a buffer zone that will help to reduce indirect impacts. However, the applicant has not specified the size of the buffer zones proposed between the development and the LWS. There is a risk of adverse effects from indirect impacts, such as increase in artificial lighting, noise and dust pollution, recreational pressures, cat predation, contaminated surface water run-off and colonisation of invasive species from curtilages. The protection of these LWS is supported by Section 15 of the National Planning Policy Framework (NPPF, 2021), which sets out the Government's current planning policy in relation to conserving and enhancing the natural environment. Paragraph 174 of the NPPF (2021) states that planning authorities and decisions should contribute to and enhance the natural and local environment by a) protecting and enhancing valued landscapes, sites of biodiversity and b) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 180 of the NPPF (2021) states that when determining planning application, 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.</p> <p>The protection of the two LWS are also supported by Policy ENV1 in Ashford's Local Plan, which states; "Development should avoid significant harm to locally identified biodiversity assets, including Local Wildlife Sites, Local Nature Reserves and the Ashford Green Corridor as well as priority and locally important habitats and protected species."</p> <p>The proposed development site is also an important wildlife corridor between the two LWS. The proposals would create a fragmented landscape and reduce connectivity between wildlife sites. Maintaining and creating connectivity is a main objective under the Kent Nature Partnership Biodiversity Strategy 2020 to 2045, which aims to create "less fragmented areas of wildlife-rich habitat outside the protected sites network for wildlife, with an increase in the overall extent of all priority habitats to ensure greater connectivity and resilience to climate change".</p> <p>I have also noted that the site's location is not an allocated site for development within the neighbourhood or Ashford local plan and therefore is not in line with the development plan for Littlewood.</p> |

Appendix 2 – Sample Letter/Email of Objection

*The application, site address and local wildlife sites used in this example are not real

Reference to Government policy and to planning history – the local planning authority’s previous planning decisions in the area

A similar applicant (reference number) for 190 dwellings was proposed in 2019 at the same site. This application was rejected due to the negative impacts on the two LWS and failing to align with Policy ENV1 of the Local Plan. The number of residential dwellings has been reduced; however, the 65 dwellings will still have an overriding negative impact on the two LWS and therefore not support Policy ENV1 or NPPE.

Reference to supporting documents within the application, such as Preliminary Ecological Appraisal (PEA), Ecological Impact Assessment (EcIA) and Environmental Statement (ES)

The Preliminary Ecological Appraisal submitted in support of (reference number) states that: “It is recommended that development proposals retain the integrity of the two adjacent LWS, through measures to avoid any impact, or mitigate and compensate where impacts cannot be avoided. An Ecological Impact Assessment (EcIA) is required to fully assess all potential impacts the proposals might have during the construction and operational phases so appropriate detailed mitigation measures can be provided.” From reviewing the supporting documents within the application, it does not appear that the applicant has sought the advice of the applicants’ own report and submitted an Ecological Impact Assessment. Therefore, I urge Ashford Borough Council to secure a detailed Ecological Impact Assessment before the decision stage.

Reference to other bodies who support your position

I understand Kent County Council Ecology are also concerned about the non-specified buffer zones and the insufficient impact assessment and mitigation.

Request to speak at the local planning authority committee meeting

If this application is to be decided at a committee meeting, please take this letter as notice that I would like to speak at the meeting. Please let me know the date of the meeting as soon as possible.

Yours sincerely,

Signature and name

Amanda Smith
Amanda Smith

Appendix 3 – Application Review Checklist

| Question | Answer |
|---|--------|
| Have Ecological Surveys been undertaken? | |
| Have Ecological Surveys been completed to satisfactory standard? | |
| Are further surveys/documents recommended by the Ecology Report? | |
| Have they followed the Mitigation Hierarchy (avoid, mitigate, and only compensate as a last resort)? | |
| Are designated or non-designated sites affected (such as SSSIs, SACs, SPAs, Ramsar sites, LWS and LNR)? | |
| Are UK BAP Priority Habitats or Species affected? | |
| Are European Protected Species affected? | |
| Are protected species affected? | |
| Do the proposals align with National, Local and Neighbourhood legislations and policies? | |