

Impact of Development on County Wildlife Sites

and other areas of semi-natural habitat



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1. Introduction

This report represents an attempt to assess threats to County Wildlife Sites (CWS) and other semi-natural habitat as a result of planning development over a period of 6 years from the beginning of 2001 (the first whole year when planning data was stored on computer) to the beginning of 2007. Annual reports on planning have been produced by NWT since 2000 and during 2006 planning related information was added to County Wildlife Site database, which is held by NWT. Gathering of information has been aided by the planning authorities move towards web based information, with 5 out of seven authorities uploading information on present and past applications on to user friendly websites. This now makes it possible not only to check planning decisions but also to check for planning conditions and obligations.

An attempt has also been made to assess past losses through other information held in relation to CWS (including information on deleted CWS) and through assessments related to advisory work, including various projects to assess the condition of CWS. This includes fen assessment and grassland condition monitoring projects undertaken by NWT.

During this time there have been major changes in the planning system and significant new advice to planners. An attempt has been made to assess whether this is beginning to lead to positive change in relation to the impacts of planning decisions on biodiversity.

This report does not cover planning control and protected species

2. Planning and Biodiversity Guidance

The major changes have been nationally the publication of Planning Policy Statement 9 (PPS9) in August 2005¹ and locally the adoption of the Biodiversity Supplementary Planning Guidance for Norfolk², which anticipated the enhanced role given to biodiversity in PPS 9. The major changes in relation to planning decisions that these documents encompass are set out in the key principles of PPS9.

Regional planning bodies and local planning authorities should adhere to the following key principles to ensure that the potential impacts of planning decisions on biodiversity and geological conservation are fully considered.

(i) Development plan policies and planning decisions should be based upon up-to-date information about the environmental characteristics of their areas. These characteristics should include the relevant biodiversity and geological resources of the area. In reviewing environmental characteristics local authorities should assess the potential to sustain and enhance those resources.

(ii) Plan policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests. In taking decisions, local planning authorities should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; and to biodiversity and geological interests within the wider environment.

¹ Planning Policy Statement 9: Biodiversity and Geological Conservation, OPDM, 2005

² Biodiversity Supplementary Planning Guidance for Norfolk, Norfolk Biodiversity Partnership

(iii) Plan policies on the form and location of development should take a strategic approach to the conservation, enhancement and restoration of biodiversity and geology, and recognise the contributions that sites, areas and features, both individually and in combination, make to conserving these resources.

(iv) Plan policies should promote opportunities for the incorporation of beneficial biodiversity and geological features within the design of development.

(v) Development proposals where the principal objective is to conserve or enhance biodiversity and geological conservation interests should be permitted.

(vi) The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

In relation to non-statutory sites, these principles mean that protection from harm along with the need for mitigation, compensation and enhancement is applicable to all cases where there may be an impact on biodiversity and not just where impacts relate to statutory sites (Sites of Special Scientific Interest) and sites protected under European legislation). Although forward planning policies had been moving in this direction for several years this was the first time that the need to take account of all aspects of biodiversity has been set out in government guidance.

In terms of planning decisions a very important corollary set out in the Good Practice Guide that accompanies PPS9³ is that full information needs to be made available before a planning decision is made. This is an important change (and one backed up by case law) and means that if a planning proposal has the potential to harm biodiversity that ecological surveys including protected species surveys should be carried out before a planning decision is made. As of Spring 2007 this is still not taking place in all cases and some planners continue to make surveys a condition of planning consent in contradiction of advice from PPS 9 and established case law.

More recently the introduction of a Biodiversity Duty for local authorities within the Natural Environment and Rural Communities Act 2006 includes duties in relation to planning. This is accompanied by Guidance to Local Authorities on implementing the Biodiversity Duty⁴. The Key messages in relation to planning are:

- National planning policy on biodiversity conservation is the primary reference point for those developing or appraising development plans or projects.*
- Establishing a good evidence base is essential when developing planning policies and determining planning applications.*
- Biodiversity conservation involves taking opportunities to enhance biodiversity, as well as protect it.*

³ Planning for Biodiversity and Geological Conservation: A Guide to Good Practice, DCLG, 2006

⁴ Guidance for Local Authorities on Implementing the Biodiversity Duty, DEFRA, 2007

- *Local authorities should play the leading role in establishing systems to conserve and enhance Local Sites and Local Nature Reserves and to give proper consideration to biodiversity outside designated areas.*
- *It is important that local authorities screen development proposals for potential effects on biodiversity to ensure biodiversity is fully considered and prevent delays in determining planning applications.*
- *Effective monitoring is key to ensuring measures put in place to conserve biodiversity are successful.*

3. NWT input to planning

NWT input to planning follows guidance set out in “Guidelines for Norfolk Wildlife Trust Planning Casework” 2000, amended in 2003. These internal guidelines seek to ensure that risks to wildlife sites are assessed and responded to in a consistent way and particularly that strong objections are only made if there are likely to be a significant adverse impact on a site as a result of the proposal.

NWT was consulted on 1541 planning applications in the 6 years between April 2001 and April 2007.

This figure is divided between:

Number of letters of objection = 42

Number of letters with comments = 542

Number of letters where we had no objection or comment = 957

This includes comments in relation to CWS and semi-natural habitats along with comments in relation to protected species. However, NWT sees its major role in relation to development control planning to comment on proposals that may impact on CWS. As a result this report, whilst seeking to encapsulate the breadth of planning work focuses on these sites.

4. Impact of Development on CWS

4.1 Analysis of impacts

The figures above relate to all the cases where NWT has been consulted. However, many of the comments on applications have been of a relatively minor nature and may have been made to ensure that the planner is aware of wildlife sites in the vicinity even though it is not envisaged that there will be an adverse impact. A lesser number relate to proposals where there is a real threat to County Wildlife Sites (or UK Biodiversity Action Plan habitats). There are currently 1240 CWS in Norfolk and NWT see these sites as a priority for advice and for our planning work and therefore have assessed impacts on these sites in more detail. Proposals that are likely to have a significant adverse impact resulting in damage to a CWS are identified in the CWS database and these are summarised in Table 1. Objections or substantive comments were made for all of these applications.

The discussion below relates to Tables 1 and 2

Table 1: Impact of Development on CWS

	2001	2002	2003	2004	2005	2006	Total
Applications with potential to impact on CWS (directly or indirectly)	8	3	15	9	3	11	49
Applications consented which resulted in damage to a CWS.	2	1	3	1	-	1	8
Applications consented where damage has been avoided or is not significant	-	2	7	5	1	2	16
Applications rejected	1	-	3		-	2	6
Applications withdrawn	1	-	2	1	-	3	8
Applications where planning status is unknown	4	-	-	2	2	3	11

Table 2: CWS where damage has occurred

CWS number	CWS name	Type	damage	year	Area (ha)
332	Denver Mill Meadow	Development Control (DC) Planning	Golf course on part of site	2001	2
(deleted as CWS 344)	North Downham Fields	DC Planning	Housing (after Local Plan inquiry decision)	2001	8
532	Pentney Lakes	DC Planning S106	Disturbance due to inadequate enforcement of s106 agreement	2002 & ongoing	30
1054	Broom Green	Gas pipeline	Temporary damage	2003	1
1117	Wolterton Meadow	Gas pipeline	Temporary damage	2003	1
795	Adjacent River Thet	DC Planning	Fishing lakes in wet grassland	2003	1
569	Bircham Newton Heath	Forestry EIA	Site cleared and part sprayed	2004	29
CWS 50	Carleton Rode Fen	DC Planning	Loss of fen and wet grassland due to construction of fishing lakes	2006 & ongoing	9

CWS 639	Fen Plantation	Highways Agency	Loss of part of woodland	Work took place 2002 but planning decision pre-2001	2
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The figures include those for development control planning (including highways and minerals planning) but not those for water abstraction as it is often very difficult to ascertain a clear connection between damage and a particular abstraction. Impacts of abstraction are discussed further below. Information is also included on development that falls within the Un-cultivated Land⁵ and Forestry EIA Regulations⁶.

As can be seen from Tables 1 and 2, although there were 49 cases where NWT considered that there was potential for damage to a CWS, there have only been 8 cases where damage is known to have occurred as a result of planning decisions within the last 6 years, plus one case where damage occurred in 2002 but planning permission was pre-2001.

Inadequate enforcement of section 106 agreements or planning conditions is a known factor in two of the cases, where damage has occurred to CWS (*See Case Study 1 and 2*). In our view, this is an area where work needs to be done to ensure that conditions or agreements which are designed to protect CWS actually achieve the result intended.

In some cases damage has been the result of old permissions. The loss of North Downham Fields CWS, although confirmed by planning decisions in 2005 and 2006, resulted directly from the Local Plan inquiry in 1999, at a time when the profile of CWS was lower before the publication of PPS 9. For others such as those damaged by a major gas pipeline, the damage appears to have been temporary and the damaged areas are now recovering.

The fact that the number of CWS that have been damaged is small in comparison to the number that are potentially threatened (and very small in relation to the total number of consultations) outlines the importance of continuing to engage with planning authorities to ensure that this remains the case. It also highlights the importance of retaining the strong CWS policies that have been included within Local Plans and in the new Local Development Frameworks.

One indicator of the success of our comments on planning proposals is that there were 14 applications with the potential to damage CWS that were rejected or withdrawn after representation by NWT. As far as can be determined from the available information, 9 of these were withdrawn or rejected partly due to biodiversity impacts. The remainder were withdrawn or rejected for other overriding reasons, so it is unclear, in these cases, how much weight was given to our concerns regarding biodiversity. It does seem clear however, from recent "planning decision notices" that cases where impacts on biodiversity are given as a major reason for refusal are on the increase. This has occurred within the last year in relation to a housing proposal at Pinebanks (CWS 1390) in Norwich, pond excavation on floodplain grassland near

⁵ Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (England) Regulations 2001

⁶ Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999

Reepham and a housing proposal on non-CWS woodland in Downham Market (See Case Study 4).

It can be seen from the table that the planning status is still unknown for 11 applications. These are made up of cases that have yet to be decided, ones that relate to authorities where it is difficult to ascertain planning outcomes or to mineral applications, where the CWS aspect is a minor part of a large development. As far as can be determined, significant damage has not occurred in any of these cases.

It is difficult to accurately assess the area of land damaged as a result of development as this may extend to a greater area than that covered by the footprint of the development alone. In addition, some damaged areas may recover over time. Notwithstanding these uncertainties, the total area damaged as a result of planning developments has been assessed as 84 hectares. Of this 29 was a result of a decision taken under the Forestry EIA Regulations with 54ha a result of decisions taken under development control planning, including highways. Only a small percentage of this 54 ha is likely to recover from the damage. Although in some respects this seems fairly small, it is equivalent to an area of land twice the size of Syderstone Common lost or damaged over the last 6 years.

4.2 Past Losses

An attempt has been made to assess past losses before regular recording of planning responses by NWT. Several sources of information have been used. A record is kept of deleted CWS, which includes the reason for deletion. In addition, since 2005 there has been a programme to revisit and assess CWS not visited since initial surveys in 1985 when the system was set up. The visits have included condition assessment of these sites, which includes a checklist of causes of change. Further assessment of site condition has taken place as part of grassland, heathland and fen audit work.

Of 361 deleted sites, there are only 5 that appear to have been lost due to development before 2001. A further site at Diss Cemetery will be assessed for deletion within the next year due to gradual loss of value, as more graves are dug within species rich grassland. For one site near Watton, although the loss of CWS has only just been brought to light, investigation shows that the site was developed in the 1980s before policies protecting CWS were included in the Breckland Local Plan. Similarly CWS 886, a chalk cutting near Swaffham was filled in during the mid nineties before CWS were protected by policies within Local Plans

4.3 EIA Regulations

The existence of these regulations should protect CWS (and other semi-natural habitats) from agricultural intensification and other changes in land-use. However, it is not clear whether the regulations have been widely used. NWT involvement has been limited to one case only in relation to Forestry EIA. However, this case has lead us to be concerned about the value placed on CWS within these systems as CWS designation was not considered sufficient to trigger an EIA scoping.

4.4 Water Abstraction

It is difficult to attribute drying out of wetland sites to a particular cause, particularly in relation to abstractions which relate to a groundwater body below a large area of countryside. In order to get a clearer picture NWT carried out an Assessment of non-SSSI fens in 2005/2006. Of 212 sites visited, 18% (39 sites) were assessed as drying. It is difficult to attribute impacts definitely to abstraction; particularly as drying may result from several causes acting in combination. However, NWT is aware of one case where drying out of Caudlesprings (CWS 2010) is directly attributable to

public water supply abstraction. However, in this case, measures have been put in place to mitigate for the damage.

4.5 Non-planning impacts

All the cases discussed above have been subject to planning applications. There are also a small number of cases where damage has occurred to CWS as a result of development that has been judged to fall outside of the requirement for planning permission. It is hard to gauge the extent of this damage but NWT are aware of at least two cases where waterbodies have been excavated on CWS leading to damage to the site (CWS 856 and 1404), where we believe that planning permission should have been sought.

5. Safeguarding other areas of semi-natural habitat

There are still remnants of semi-natural habitat outside of CWS and these have received recognition through two initiatives that have come to the fore in conservation thinking in recent years and which have both been recognised within recent planning guidance. These are Biodiversity Action Plans and Ecological Networks.

Biodiversity Action Plan habitats are listed within the CROW Act⁷ section 74 list as being of principal importance for nature conservation. Guidance on how to take account of these habitats within planning is given in sections 10 and 11 of PPS 9.

The importance of Networks of Natural Habitats is also recognised within section 12 of PPS 9. All of the emerging Local Development Frameworks contain draft policies on BAP habitats and networks of habitats as do a number of current Local Plans.

Although concentrating our involvement in CWS and planning, NWT has increasingly been asked and has sought to comment on planning proposals that may impact on BAP habitats and ecological networks. All CWS are made up of BAP habitats and many BAP habitats may be of CWS quality.

It is difficult to accurately monitor effectiveness of comments in relation to these areas, as NWT does not have the resources to comment on every planning application that may impact on semi-natural habitats. However, we increasingly make an input to proposals that may impact on these sites. Our aim is to focus on major developments, where there is greatest potential for mitigation and enhancement associated with developments. For this reason we have commented in detail on major housing developments at Bowthorpe and West Costessey and appear to have had some influence in relation to incorporation of proposals to protect and enhance habitats in and adjacent to these sites. In addition areas adjacent to some of these developments have later become CWS as a result of the attention that has arisen from a planning proposal.

A particular issue in relation to semi-natural habitat is the impact of recreation related proposals (mainly angling) on BAP floodplain wet grassland and fen habitats (see *Case Study 3*). Some of these sites are within a CWS but a great many are not protected by any designation. In addition, there are often species protection issues in relation to this type of proposal, in relation to otter, water vole and great-crested newt. This may include lack of survey and mitigation within the planning proposal and unwillingness to include conditions relating to otter proof fencing. Information on impacts of planning on these sites was collated between January 2000 and July 2007 and is summarised in Table 3.

⁷ Countryside and Rights of Way Act, 2000

Of the 11 proposals potentially affecting these habitats, three were approved (with a further damaged site subject to a retrospective application for a 'Certificate of Lawfulness'), four were withdrawn and three refused. Although significant damage is known to have occurred in only three of the cases (plus, in addition, the damage related to the retrospective application), a particular issue in relation to this type of application is that withdrawn applications are very often re-submitted and if finally approved it is unusual for all of the concerns of NWT to have been resolved (see Appendix B). As a result there are eight cases where, in our view, there are unresolved species protection issues. Some of these may have been approved without taking on board this aspect of NWT comments and for others this may be an unresolved aspect of an application that we expect to be re-submitted.

Whilst the majority of these cases relate to applications for fishing lakes and hence have a commercial driver, there are a number of cases where landowners genuinely believe that a new pond will have a greater wildlife value than what they may see as a 'waterlogged' field. In these cases there is a need for education of the value and national conservation significance of wet grassland and fen BAP habitats.

Table 3: Planning Applications Potentially Impacting on BAP Floodplain Wet Grassland, & Fen habitats

	2000	2001	2002	2003	2004	2005	2006	2007	Total
planning applications with potential to impact on floodplain wet grassland and fen BAP habitats	1	0	2	1	2	0	1	4	11
planning applications consented which resulted in damage to floodplain wet grassland and fen BAP habitats	1	0	1	1	1	0	0	1	5
Planning applications with unresolved species protection issues	1	0	1	1	1	0	1	3	8



Another habitat that has suffered losses is secondary woodland particularly within urban fringe areas, where this habitat may provide crucial stepping stones within an otherwise built up area but is often not of CWS or BAP habitat quality. Whilst not all cases have come to the attention of NWT, we commented on one woodland site which was lost to housing in Thetford as recently as 2001 without any mitigation being put in place.

6. Enhancement.

In addition to the need for planning decisions to protect biodiversity and mitigate for any damage caused, one factor in relation to both CWS and non-CWS semi-natural habitats is the need for enhancement of biodiversity. PPS 9 now encourages biodiversity enhancement as a part of all planning proposals and a field has been included in the CWS database to record enhancement due to a planning development. However, in practice very little has taken place to date and only one case has been recorded where the planning development has included definite proposals to enhance the CWS. This was through an application to move a cricket pitch from a grassland CWS at Hales Green, near Loddon, to nearby arable land. However, this was yet to happen at the time this report was compiled. Whilst we accepted the recent loss of North Downham Fields CWS as this is based on a previous public inquiry decision, we were disappointed that the final permissions did not include any mitigation or enhancement measures in relation to biodiversity.

Other recent developments are however, beginning to take this issue on board. Opportunities for enhancement and mitigation of impacts on adjacent CWSs were not included within early housing developments at Bowthorpe, near Norwich but are likely to be included in the most recent phase of this development. Whilst, recent housing development in West Costessey has included biodiversity enhancement measures.

7. Conclusions

This report highlights a number of issues in relation to planning where actions to safeguard biodiversity could be improved through adherence to the guidance given within PPS9, Biodiversity SPG for Norfolk and Guidance on Implementing the Biodiversity Duty. There has been good progress in relation to many of these issues during the last few years with most authorities making improvements with regard to biodiversity and planning, particularly through increased willingness to ask for

surveys and assessment of ecological impacts in relation to developments. Most have also made some progress in employing staff with a biodiversity remit as part of their job and in one case employing an ecologist. However, as this report shows biodiversity guidance has still not become fully embedded in the planning system and there remains an important role for NWT to play, working with partners, in order to ensure that this happens.

Although cases of loss or damage to CWS and BAP Habitats are relatively few in number, sites are still being lost or damaged as a result of planning proposals. Losses are due to a range of factors although it seems that recreational applications driven by the desire of landowners to diversify is the major cause of damage within the rural area. This includes development of both commercial and private fisheries and other leisure activities such as golf courses and chalet developments. In more urban or urban fringe sites housing development is a greater threat and one which will increase particularly around the growth points of Norwich, Thetford and King's Lynn but also around the market towns.

One important area where improvements could be made is in relation to planning agreements, which have great potential for delivering biodiversity mitigation and enhancement in relation to planning developments. This would include not only improvement in monitoring and enforcement of existing agreements but improvement in the number and quality of agreements.

8. Highlighting the issues and seeking solutions

The major issues are:

- Inadequate survey data and conditioning of surveys after planning permission is granted (although both go against guidance within PPS 9).
- Failure to follow up planning conditions or Section 106 Agreements and inadequate monitoring of these
- Insufficient emphasis on habitat creation and enhancement at an early stage
- Lack of specialised in-house ecological capacity by local authorities
- Insufficient regard to CWS status within EIA Regulations
- Insufficient regard to semi-natural habitats within floodplains

Solutions - Actions by Local authorities:

- Adhere to national and local biodiversity guidance in relation to PPS 9, Biodiversity Duty for local authorities within NERC Act and Biodiversity Supplementary Planning Guidance for Norfolk and seek to train planners in relation to guidance.
- Seek to include biodiversity as a regular component when negotiating s106 agreements.
- Monitor conditions and planning obligations and enforce where necessary.

- Employ ecologist or contract ecological expertise in order to advise planners on biodiversity issues
- Ensure current and past planning information is available via the internet (allowing search by planning reference, date and location)

Actions by NWT:

Information base:

- Continue to use and refine CWS database as a tool for assessing impacts of planning on CWS
- Continue to disseminate CWS information to interested parties
- Hold key biodiversity guidance documents and use as basis for commenting on proposals
- Ensure that information relating to CWS and planning contributes to local authority monitoring targets in relation to Local Development Frameworks

Ongoing planning work

- Continue to respond to planning proposals as set out in NWT Planning Guidelines. Update guidelines as required.
- Ensure regular update of CWS system to ensure that all potential CWS are included within the system

Pro-active work

- Work with partners (BAP Partnership and local authority planning departments) to take forward pro-active work in relation to PPS9, Implementation of Biodiversity Duty and the Biodiversity SPG for Norfolk.
- Respond to Local development Frameworks to ensure that CWS and BAP habitats are excluded from development zones.
- Follow up cases where damage has occurred/is occurring through engagement with planning authorities. Particular focus to be made on planning agreements and conditions.
- Seek to work with planners to highlight examples of good practice.
- Work with BAP Partnership to highlight the value of, and the threats to semi-natural habitats, particularly in relation to wet grassland and fen

Case study 1: Denver Mill Meadow, CWS 332

This grassland site made up of neutral, improved and marshy grasslands with ponds and scattered trees and scrub. The site is divided into two main compartments and although one of these was grazed until recently, the other had been un-managed for several years with the grassland becoming rank and threatened by scrub encroachment.

Planning consent was given in 2001 for a golf course on part of the CWS and on adjacent non-CWS grassland. NWT were consulted by the planning authority and by the applicant and agreed that although there would be loss of some areas of the un-managed compartment that this could be mitigated for by incorporating conditions to allow for management of the remainder of the site through grazing or cutting and removal of arisings. This was incorporated into the permission through inclusion of a condition for a conservation management plan to be produced for the site by the applicant to be approved by the planning authority. Although, the golf course was built there has been no enforcement of conditions (despite requests from NWT that this should be followed up the by the planning authority) and the area of the CWS has continued to decline in quality through lack of management and encroachment of the active area of the course further onto this site.

Since that time a marshy area on the second compartment was developed into a pond, which was subsequently enlarged in 2006. It is not clear whether planning permission was sought or deemed necessary by the planning authority for this work. However, the result has been that a rare wetland plant that used to occur in this area appears to have disappeared.

The site is now likely to be no longer of CWS quality and will be assessed for potential deletion in 2007

Conclusions

It appeared at the application stage that it would be possible to mitigate for any damage to the CWS and even to enhance some areas of the site. However, failure to uphold the planning condition and further development that in the view of NWT should have required planning permission has lead to damage and the potential loss of the CWS.

Case Study 2: Pentney Lakes CWS 532

The site consists of a large area of well vegetated gravel and sand workings with an extensive system of lakes. There is fringing vegetation and areas of grassland and scrub, often over skeletal soils. The site is important for birds and has nesting common tern and little-ringed plover.

This large CWS has been subject to numerous planning applications over the last ten years as it has gradually been developed as a watersports holiday and leisure area. The most important wildlife areas were safeguarded under a section 106 agreement in 1999 when the first developments were taking place. This agreement allowed for a conservation management plan to be produced for the site concentrating on Bird Lake (the best area for wildlife). In addition a Section 106 Agreement set out the need for annual meetings to monitor the conservation management plan and agree actions for the forthcoming year. In line with this agreement, NWT and the local authority planners have met with the owner on a regular basis to monitor and agree actions. However, the responsible planner has changed several times in recent years and it has fallen entirely to NWT to take the lead on setting up these meetings and encouraging the owner to honour the s106 agreement. As a result although the site still retains much of its ecological value, it has not been possible to resolve many of the threats to the integrity of the site particularly in relation to disturbance of nesting protected species through activities related to the recreational use of the remainder of the site. Notwithstanding the above, owing to the efforts of the NWT volunteer and Conservation Officer responsible for the site, a good relationship has been maintained with the owner and valuable conservation management work has taken place.

Conclusions

Although there has been broad agreement between NWT and the owner over the management plan and the site has retained much of its ecological value, it has been difficult in practice to ensure that agreed actions take place. The Section 106 did not specify any regular financial or resource contribution from the developer and any that have occurred have been at the discretion of the owner. As a result protection and enhancement of Bird Lake has been piecemeal. Although some actions have taken place through negotiation between NWT and the owner many actions that NWT deem necessary for safeguarding the site or the protected species that use the site have not been forthcoming. A major stumbling block has been the inability of the planning authority to fulfil their responsibility in upholding the Section 106 agreement.

Case Study 3: **Carleton Rode Fen, CWS 50**

This CWS was originally wet grassland, fen and wet woodland within the valley of the River Tas.

The site is subject to three ownerships, two of which have sought to develop commercial fishing on the site. In the area under one ownership, a number of fishing lakes were excavated before NWT sought to comment on planning applications and before policies were in place in the Local Plan to protect these sites. Permission for further lakes was sought in 2006 but withdrawn, partly due to NWT objections to loss of the only remaining fen habitat on this part of the site. An almost identical application was submitted in 2007 as this report was being compiled with a decision still to be made. NWT has re-iterated our objection to loss of fen.

In relation to the second ownership it has become apparent that areas of fen have also been destroyed over a number of years through excavation of fishing lakes, spreading of spoil on adjacent fen areas along with intensive management of these areas for access. During 2007 retrospective planning permission was submitted for some of these lakes with the remaining lakes deemed to have been present long enough to escape the need for retrospective permission.

Only a small area of fen and wet woodland remains of a once valuable fen site and the remainder will be assessed for potential deletion in 2007.

Conclusion

A valuable fen and wet grassland site has been lost by piecemeal development over a number of years. Although, NWT has had some leverage over the latest developments, the majority of the site has been damaged due to past permissions, before CWS were protected within the planning system and by works that were carried out without planning permission being sought. This past development makes it more difficult to sustain objections on developments that may affect the small remaining areas of fen as much of the site has already lost its CWS value. This site highlights the vulnerability of wetland habitats to angling related development and the difficulty of protecting rural sites that are subject to the type of development that frequently takes place without permission being granted or where permission is applied for retrospectively once the interest of the site has been lost.

Case Study 4: Housing proposal in area of semi-natural habitat at Downham Market

This site is not of CWS quality however, it represents an important area of semi-natural habitat on the edge of the town, consisting of mature trees, secondary woodland and grassland. In 2006 an application was proposed to develop most of the site for housing. NWT objected on the grounds of this being contrary to policies in the Local Plan to protect sites of local wildlife interest. Local residents and the Borough Tree Officer also objected. The application was refused on a number of grounds including being contrary to an environment policy in the Local Plan to “protect features of value to the landscape like trees, woodlands ... and also to similar policies in the County Structure Plan to protect all areas of wildlife quality whether designated or not.

Conclusions

Sites outside of designated sites can be protected within the planning system, particularly where other factors are involved. In this case, the site was also outside of areas designated for development. This highlights the importance of lobbying at the forward planning stage to exclude all areas of semi-natural habitat from being zoned for development or to ensure that these sites are included in Design Briefs for retention as local wildlife areas.