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Water vole at Strumpshaw Fen on 14/08/2017. Contributed by: Nick Appleton

Guide to Planning Legislation and Policy

There are many different laws and policies relating to nature conservation in the UK. Some policies and laws affect individual species, some focus on particular habitats and sites such as woodlands or wetlands, whilst others are larger in scale and give protection to whole landscapes.

National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) states that planning decisions should aim to protect or enhance biodiversity and conservation interests, and where possible any development should aim to increase net gains in biodiversity.

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Founded in 1926 as The Norfolk Naturalists Trust, the first Wildlife Trust

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Saving Norfolk's Wildlife for the Future

This sets out the planning policies for England:

[National Planning Policy Framework - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/national-planning-policy-framework).

Key policies in the NPPF relating to biodiversity include:

NPPF 15. Conserving & enhancing the natural environment; Sections 174, 175, 176, 179, 180

The Government provides guidance on applying the NPPF with regard to the Natural environment: www.gov.uk/guidance/natural-environment

Local Plans

All local councils are required to regularly update their strategic plans, which are known as Local Plans. They contain a wide range of policies, including ones which relate to the natural environment and also include maps showing areas where certain types of development are permitted. They cover periods of around 10-15 years. District and Borough Plans usually cover allocations for housing and employment, as well as policies covering the minimum standards for these developments (e.g. design, energy and water efficiency, provision of public open space). The County Council is responsible for the Minerals & Waste plan, which sets out the preferred areas required to meet national mineral supply requirements and areas for the various waste management facilities needed, as well as policies on their operating standards, and what condition minerals sites should be restored to once extraction has finished (e.g. restoration to heathland, farmland, lake or public open space).

Local Plans are prepared in a series of stages, with opportunities for comment at each stage. Consultation takes several different forms and may include public displays, public meetings and questionnaires on plans. The plans are available on local authority websites, in libraries and at council offices. Comments from community groups and individual members of the public, together with those of bodies such as Norfolk Wildlife Trust, will be taken into account by local authorities when drawing up areas to be zoned for development and areas that should be protected from development. NWT and other conservation bodies have achieved much success in ensuring that Local Plans contain policies to protect valuable wildlife sites and provide opportunities for nature's recovery.

Neighbourhood Plans

Neighbourhood Plans arose from the Localism Act 2011. They can be developed by parish and town councils. These plans are being developed in a number of areas in Norfolk and allow for local communities to make decisions on the location of local services and open space, including natural green space. However, they are required

to be in line with the relevant Local Plan and cannot be used to change the level of development that was agreed in the Local Plan.

Legal protection for Habitats and Species

Some sites, habitats and species have specific protection under the law which can influence a planning application and the presence of any of these means that an ecological survey can be required before the planning application is considered, as well as proposals for avoidance, mitigation or compensation of impacts, if they are likely to occur.

Habitats and Species

Conservation of Habitats and Species Regulations (2017) – ‘Habitats Regulations’

Many of our protected sites are designated and protected under [The Conservation of Habitats and Species Regulations 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/2017/103/contents/made). (Also see amended 2019 legislation - [Changes to the Habitats Regulations 2017 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/changes-to-the-habitats-regulations-2017))

Most of these changes involved transferring functions from the European Commission to the appropriate authorities in England and Wales. All other processes or terms in the 2017 Regulations remain unchanged and existing guidance is still relevant.

Under these regulations ‘competent authorities’ such as local planning authorities and the Environment Agency must assess the environmental impact of projects and plans (such as planning applications or local plans) which affect habitats sites/species.

European Protection

Some UK sites are designated as sites of European significance and are called **Special Protection Areas** and/or **Special Areas of Conservation**. Together, these sites are referred to as the Natura 2000 network. These are some of the most important sites for wildlife in the country and receive very strong protection under the Habitats Regulations - [Habitats regulations assessments: protecting a European site - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/habitats-regulations-assessments-protecting-a-european-site). Detailed ecological information must be gathered if a proposed development is considered to have a likely significant effect on the site. Planning permission should only be given if the development will not adversely affect the integrity of the site, or if there are imperative reasons of overriding public interest, including those of a social or economic nature. Impacts must be compensated in order to maintain the overall integrity of the Natura 2000 network.

Site of Special Scientific Interest (SSSI)

SSSIs are nationally important sites and are protected under the Wildlife & Countryside Act - [Wildlife and Countryside Act 1981 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/1981/61/contents/made). Approval must be obtained from Natural England before any operations are carried out which

may damage an SSSI. You can find out where there are protected sites close to you by visiting the UK Government's interactive MAGIC MAP - <https://magic.defra.gov.uk/>

County Wildlife Sites

A County Wildlife Site (CWS) is a non-statutory designation used to identify areas of high conservation importance at a county level. This does not confer legal protection on the site, or right of access, however for any significant change of land use the planning authorities will expect the wildlife interest to be taken into account alongside other normal planning considerations. Look for policy protection for CWSs in the Local Plan.

There are over **1,300** County Wildlife Sites (CWS) in Norfolk. They support a wide range of biodiversity, including many priority habitats and species identified by the UK Biodiversity Action Plan

More detailed County Wildlife Site information is available, as part of a comprehensive service that provides site and species records, from [Home | Norfolk Biodiversity Information Service \(nbis.org.uk\)](https://www.nbis.org.uk/)

Undesignated Sites

Most land has no specific designation. Planning applications on undesignated land are unlikely to be turned down on nature conservation grounds unless they are found to contain species protected by law. In these circumstances the presence of species such as bats or great-crested newts will usually only affect when and how the development takes place, not whether it takes place.

Hedgerow Regulations 1997

These protect certain hedgerows from being removed or destroyed without permission from the local planning authority.

Tree Preservation Orders

These are made by the local authority and can only be issued on trees or groups of trees that have historical, landscape or amenity value. In most cases consent from the LPA must be applied for to permit works to a tree covered by a TPO, including felling or pruning.

Legal protection of Species

Some species of plants and animals are given special legal protection by the following legislation:

- The Conservation of Habitats and Species Regulations 2017 (see above)
- The Wildlife & Countryside Act 1981 (as amended)
- The Protection of Badgers Act 1992

This must be taken into account before planning permission can be granted. The presence of a protected species is unlikely to prevent a development taking place,

however it will mean that the developer will have to take special measures to ensure that the species is protected. Mitigation often involves timing of works to avoid sensitive periods or employing techniques to reduce the risk of harm. Compensation or enhancement may be required to ensure that the site remains suitable for use by the species. The aim should be to retain the species on the site wherever possible, translocation to another suitable location should be a last resort. Where works are likely to affect a protected species, a licence may be required from Natural England to permit works.

Natural England has produced standing advice for local authorities on protected species to help them decide when there is a 'reasonable likelihood' of protected species being present, as well as advice on survey and mitigation. The standing advice is a material consideration in the determination of planning applications. The standing advice for protected species can be viewed on the Government's gov.uk website - [Protected species and development: advice for local planning authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/protected-species-and-development-advice-for-local-planning-authorities)

Lists of legally protected species are available on the UK's Joint Nature Conservation Committee's website - [JNCC - Adviser to Government on Nature Conservation](https://www.jncc.gov.uk) and include amongst others:

Bats

Badgers

Barn owls

Otters

Water voles

Reptiles

Great crested newts

Wildlife and Countryside Act 1981

The Wildlife and Countryside Act 1981 (As Amended), makes it an offence to:

- Deliberately or recklessly injure, kill or capture any animal protected under Schedule 5 - [Wildlife and Countryside Act 1981 | Schedule 5 | UK Legislation | Wildlife Protection | UK Wildlife | Nature | Biodiversity](https://www.legislation.gov.uk/ukpga/1981/69/schedule-5)
- Deliberately or recklessly kill, injure or take any wild bird; to take, damage or destroy the nest of any wild bird while occupied or being built, or to take or destroy the egg of a wild bird. Additional protection is afforded to bird species listed under Schedule 1 - [Wildlife and Countryside Act 1981 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1981/69/schedule-1)
- Intentionally pick, uproot or destroy any wild plant included in Schedule 8 - [Wildlife and Countryside Act 1981 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1981/69/schedule-8)

Badger Protection Act 1992

Badgers (*Meles meles*) benefit from specific protection under the provisions of the Protection of Badgers Act 1992. Under the Act, it is an offence to wilfully kill, injure or take a badger (or attempt to do so), to cruelly ill-treat a badger, to interfere with a sett, cause a dog to enter a sett, and to disturb a badger while it is occupying a sett.

The UK Biodiversity Action Plan (UKBAP)

The UK Biodiversity Action Plan (UKBAP) includes a list of **national priority species and habitats of principal importance**, with all species and habitats having specific action plans defining the measures required to ensure their conservation. Although the UKBAP has since been superseded by the UK-Post 2010 Biodiversity Framework and a focus on County Biodiversity Plans, it remains a useful point of reference.

The full UK BAP list of priority species can be viewed in the '[Priority Lists Spreadsheet](#)', which also contains details of priority habitats.

Natural Environment and Rural Communities Act (NERC) 2006

Section 41 of the Natural Environment and Rural Communities Act (NERC) 2006 requires that any public bodies take into consideration any **species** and **habitats** listed in the **UKBAP** when implementing their duty and exercising any normal functions.



Common spotted orchid at Southrepps Common on 19/06/2019. Contributed by: Julian Thomas

Biodiversity Net Gain (BNG)

Biodiversity net gain (BNG) is a way to contribute to the recovery of nature while developing land. It is making sure the habitat for wildlife is in a better state than it was before development. The following link provides further information - [Understanding biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/understanding-biodiversity-net-gain)

Environment Act 2021

The Environment Act 2021 - [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2021/29/contents), includes a requirement for mandatory delivery of **10% biodiversity net gain (BNG)**, as per the latest Defra Metric for all developments from autumn 2023 - [Biodiversity metric: calculate the biodiversity net gain of a project or development - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-metric-calculate-the-biodiversity-net-gain-of-a-project-or-development).

This ambition is to help halt the decline in species by 2030 and requires new developments to improve or create habitats for nature, and tackle deforestation. The Act includes a new legally-binding target on species abundance for 2030, which will help to reverse declines in British species. The Act also includes the creation of Local Nature Recovery Strategies (LNRS). These are explained in more detail below.

Local Nature Recovery Strategies (LNRS)/Nature Recovery Network

Local nature recovery strategies (LNRS) will be a statutory requirement of the Environment Act (Part 6) - [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2021/29/contents). Defra expect the rollout of the scheme to be ready by the end of 2024. They will form the foundation for a Nature Recovery Network. A 'Nature Recovery Network' is a joined up network of places important for wild plants and animals. It allows plants, animals, seeds, nutrients and water to move from place to place and enables the natural world to adapt to change.

A local nature recovery strategy is to include a statement of biodiversity priorities and a local habitat map, with descriptions of opportunities and priorities for recovering or enhancing biodiversity, in terms of habitats and species in the strategy area.

Norfolk GIRAMS

The Norfolk Green Infrastructure and Recreational Avoidance Mitigation Strategy (GIRAMS) was produced in March 2021 - [girams_strategy_march-2021.pdf \(north-norfolk.gov.uk\)](https://www.norfolk.gov.uk/girams_strategy_march-2021.pdf) It is to assist local planning authorities in Norfolk in their statutory obligations for competent authorities to appropriately consider the cumulative, in combination effects of increased recreational impacts to European Protected Sites associated with residential growth and increased tourism across the entire county. The GIRAMS provides an opportunity to address mitigation strategically at the County level and provides a central fund to allow appropriate monitoring and targeted mitigation where it is required.

Nutrient Neutrality

Nutrient pollution is a major environmental issue for many of our most important places for nature in England. In freshwater habitats and estuaries, increased levels of nutrients (especially nitrogen and phosphorus) can speed up the growth of certain plants, disrupting natural processes and impacting wildlife. This process (called 'eutrophication') damages these water dependent sites and harms the plants and wildlife that are meant to be there. **Nutrient neutrality** is a means of ensuring that a development plan or project does not add to existing nutrient burdens within catchments, so there is no net increase in nutrients as a result of the plan or project. - [NE776 Edition 2 Nutrient Neutrality and Nutrient Mitigation V1.3 \(1\).pdf](#).

However, whilst processes are already in place to mitigate for these impacts, a recent government announcement has placed the future of this approach in doubt. Alongside colleagues across the Wildlife Trusts movement, we are monitoring this situation closely to see what it means for the future of our rivers and wetlands.