

VALIDATION REQUIREMENTS FOR PLANNING AND OTHER APPLICATIONS SUBMITTED UNDER THE TOWN AND COUNTRY PLANNING ACTS

APPENDIX BIODIVERSITY AND GEOLOGICAL ASSESSMENTS



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This document has been prepared in partnership on behalf of the above North Yorkshire Planning Authorities and is applicable to all applications submitted to those Authorities (subject to specific local variations).

Adopted April 2011

PART I LOCAL REQUIREMENTS FOR PROTECTED SPECIES

The Planning Authority has a duty to consider the conservation of biodiversity when determining a planning application; this includes having regard to the safeguard of species protected under the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2010 or the Badgers Act 1992. Where a proposed development is likely to affect protected species, the applicant must submit a **Protected Species Survey and Assessment**.

If the application involves any of the development proposals shown in **Table 1** (Column 1), a protected species survey and assessment must be submitted with the application. Exceptions to when a survey and assessment may not be required are also explained in this table. The **Survey** should be undertaken and prepared by competent persons with suitable qualifications and experience and must be carried out at an appropriate time and month of year, in suitable weather conditions and using nationally recognised survey guidelines/methods where available*. The survey may be informed by the results of a search for ecological data from a local environmental records centre. The survey must be to an appropriate level of scope and detail and must:

- Record which species are present and identify their numbers (may be approximate);
- Map their distribution and use of the area, site, structure or feature (e.g. for feeding, shelter, breeding).

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

- How alternative designs or locations have been considered;
- How adverse effects will be avoided wherever possible;
- How unavoidable impacts will be mitigated or reduced;
- How impacts that cannot be avoided or mitigated will be compensated.

In addition, proposals are to be encouraged that will enhance, restore or add to features or habitats used by protected species. The Assessment should also give an indication of how species numbers are likely to change, if at all, after development e.g. whether there will be a net loss or gain.

The information provided in response to the above requirements are consistent with those required for an application to Natural England for a European Protected Species Licence. A protected species survey and assessment may form part of a wider Ecological Assessment and/or part of an Environmental Impact Assessment.

* Further information on appropriate survey methods can be found in *Guidance on Survey Methodology* published by the Institute of Ecology and Environmental Management; available at:

<http://www.ieem.org.uk/Guidelines%20for%20Survey%20Methodology.htm>

* Data relating to protected species and sites in North Yorkshire can be obtained from the North and East Yorkshire Ecological Data Centre at 5 College Street, York, YO1 7JF (Tel. 01904 641631) and at:

<http://www.neyedc.org.uk/index.php>

Proposals affecting gravel pits or quarries and natural cliff faces and rock outcrops with crevices, caves and swallets	•		•						•			
Major proposals within 500m* of a pond or Minor proposals within 100m* of a pond (Note : A Major proposal is for 10 or more dwellings or more than 0.5 hectares of land for residential development; or more than 1000 sq.m. floor are or more than 1 hectare for non-residential development)				•								
Proposals affecting or within 200m* of rivers, streams, lakes or other aquatic habitats.	•		•		•			•		•	•	
Proposals affecting derelict land (brownfield sites), allotments and railway land.			•	•					•	•	•	
Proposed development affecting any buildings, structures, feature or locations where <u>protected species are known to be present</u> **.	•	•	•	•	•	•	•	•	•	•	•	
* Distances may be amended to suit local circumstance on the advice of the local Natural England team and/or Local Biodiversity Partnership ** Confirmed as present by either a data search (for instance via the local environmental records centre) or as notified to the developer by the local planning authority, and/or by Natural England, the Environment Agency or other nature conservation organisation.	Bats	Barn Owls	Breeding Birds	Great Crested Newt	Otters	Dormouse	Red Squirrel	Water Vole	Badgers	Reptiles	Amphibians	Plants

Exceptions for When a Full Species Survey and Assessment may not be Required

- Following consultation by the applicant at the pre-application stage, the LPA has stated in writing that no protected species surveys and assessments are required.
- If it is clear that no protected species are present, despite the guidance in the above table indicating that they are likely, the applicant should provide evidence with the planning application to demonstrate that such species are absent (e.g. this might be in the form of a letter or brief report from a suitably qualified and experienced person, or a relevant local nature conservation organisation).
- If it is clear that the development proposal will not affect any protected species present, then only limited information needs to be submitted. This information should, however, (i) demonstrate that there will be no significant affect on any protected species present and (ii) include a statement acknowledging that the applicant is aware that it is a criminal offence to disturb or harm protected species should they subsequently be found or disturbed.

In some situations, it may be appropriate for an applicant to provide a protected species survey and report for only one or a few of the species shown in the Table above e.g. those that are likely to be affected by a particular activity. Applicants should make clear which species are included in the report and which are not because exceptions apply.

PART II LOCAL REQUIREMENTS FOR DESIGNATED SITES, PRIORITY HABITATS AND GEOLOGICAL CONSERVATION

The Planning Authority has a duty to consider the conservation of biodiversity when determining a planning application; this includes having regard to the safeguard of designated sites and priority habitats. Where a proposed development is likely to affect such a site, habitat or geological feature, the applicant must submit an **Ecological/Geological Survey and Assessment**.

If the application is likely to affect any of the designated sites, priority habitats or biodiversity features listed in **Table 2** or geological features listed in **Table 3**, a survey and assessment for the relevant feature must be submitted with the application. Exceptions to when a survey and assessment may not be required are also explained in these tables. The **Survey** should be undertaken and prepared by competent persons with suitable qualifications and experience and must be carried out at an appropriate time and month of year, in suitable weather conditions and using nationally recognised survey guidelines/methods where available*. The survey may be informed by the results of a search for ecological or geological data from a local environmental records centre. The survey must be to an appropriate level of scope and detail and must:

- Record which habitats and features are present on and where appropriate around the site;
- Identify the extent/area/length present;
- Map their distribution on site and/or in the surrounding area shown on an appropriate scale plan.

The **Assessment** should identify and describe potential development impacts likely to harm designated sites, priority habitats, other listed biodiversity features or geological features (these should include both direct and indirect effects both during construction and afterwards). Where harm is likely, evidence must be submitted to show:

- How alternative designs or locations have been considered;
- How adverse effects will be avoided wherever possible;
- How unavoidable impacts will be mitigated or reduced;
- How impacts that cannot be avoided or mitigated will be compensated.

In addition, proposals are to be encouraged that will enhance, restore or add to designated sites, priority habitats, other biodiversity features or geological features. The Assessment should give an indication of likely change in the area (hectares) of priority habitat on the site after development e.g. whether there will be a net loss or gain. An ecological/geological survey and assessment may form part of a wider Environmental Impact Assessment.

Notes:

Further information on appropriate survey methods can be found in *Guidance on Survey Methodology* published by the Institute of Ecology and Environmental Management; available at:
<http://www.ieem.org.uk/Guidelines%20for%20Survey%20Methodology.htm>

Existing environmental information may be available from Local Record Centres, Wildlife Trusts, and Local RIGS Groups etc. Also online information on internationally and nationally designated sites can be found at: www.natureonthemap.org.uk

TABLE 2

**Local Requirements for Designated Sites and Priority Habitats
Criteria (Trigger List) for When a Survey and Assessment are Required**

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

Exceptions When a Full Survey and Assessment May Not Be Required

International and National Sites: A survey and assessment will not be required where the applicant is able to provide copies of pre-application correspondence with Natural England, where the latter confirms in writing that they are satisfied that the proposed development will not affect any statutory sites designated for their national or international importance.

Regional and Local Sites and Priority Habitats: A survey and assessment will not be required where the applicant is able to provide copies of pre-application correspondence with the Local Planning Authority's ecologist (where employed), or ecological advisor and/or the local Wildlife Trust that they are satisfied that the proposed development will not affect any regional or local sites designated for their local nature conservation importance or any other priority habitats or listed features.

TABLE 3

**Local Requirements For Designated Geodiversity Sites And Features
Criteria (Trigger List) for when a Survey and Assessment are Required**

1. DESIGNATED SITES (as shown on the Council's Development Plan Proposals Map)	
Nationally designated sites	Site of Special Scientific Interest (SSSI) National Nature Reserves (NNRs)
Regionally and locally designated sites	Regionally Important Geological Sites (RIGS) Local Nature Reserves (LNRs)
2. OTHER GEOLOGICAL CONSERVATION FEATURES (Based on the Earth Science Conservation Classification)	
Exposure or Extensive Sites	<ul style="list-style-type: none"> ▪ Active quarries and pits ▪ Disused quarries and pits ▪ River and stream sections ▪ Inland outcrops ▪ Exposure underground mines and tunnels ▪ Extensive buried interest ▪ Road, rail and canal cuttings
Integrity Site	<ul style="list-style-type: none"> ▪ Static (fossil) geomorphological ▪ Active process geomorphological ▪ Caves ▪ Karst
Finite Site	<ul style="list-style-type: none"> ▪ Finite mineral, fossil or other geological ▪ Mine dumps ▪ Finite underground mines and tunnels ▪ Finite buried interest

Exceptions When a Full Survey and Assessment May Not Be Required

International and National Sites: A survey and report will not be required where the applicant is able to provide copies of pre-application correspondence with Natural England, where the latter confirms in writing that they are satisfied that the proposed development will not affect any statutory sites designated for their national importance.

Regional and Local Sites: A survey and report will not be required where the applicant is able to provide copies of pre-application correspondence with appropriate local geological experts (such as the Local RIGS Group) that they are satisfied that the proposed development will not affect any regional or local sites designated for their local nature conservation importance.

Figure 1 ECOLOGICAL SURVEY SEASONS

Key: Optimal Survey Time ■ **Extending into** ■

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Badgers												
Bats (Hibernation Roosts)												
Bats (Summer Roosts)												
Bats (Foraging/Commuting)												
Birds (Breeding)												
BIRDS (Over Wintering)												
Dormice												
Great-Crested Newts												
Invertebrates												
Natterjack Toads												
Otters												
Reptiles												
Water Voles												
White-Clawed Crayfish												
Habitats/Vegetation												

Points to note regarding surveys are as follows:

- For certain species and habitats surveys can be carried out at any time of year, but for other species, particular times of year are required to give the most reliable results, as indicated in Figure 2
- Surveys conducted outside of optimal times (Figure 2) may be unreliable. For certain species (e.g. Great Crested Newt) surveys over the winter period are unlikely to yield any useful information. Similarly negative results gained outside the optimal period should not be interpreted as absence of a species and further survey work maybe required during the optimal survey season. This is especially important where existing surveys and records show the species has been found previously on site or in the surrounding area. An application may not be valid until survey information is gathered from an optimum time of year.
- Species surveys are also very weather dependent so it may be necessary to delay a survey or to carry out more than one survey if the weather is not suitable, e.g. heavy rain is not good for surveying for otters, as it washes away their spraint (droppings). Likewise bat surveys carried out in wet or cold weather may not yield accurate results.
- Absence of evidence of a species does not necessarily mean that the species is not there, nor that its habitat is not protected (e.g. a bat roost is protected whether any bats are present or not).
- Local Biological / Environmental Records Centre may have useful existing information and records.
- Competent ecologists should carry out any surveys. Where surveys involve disturbance, capture or handling of a protected species, then only a licensed person can undertake such surveys (e.g. issued by Natural England). Surveys should follow published national or local methodologies. Further details may be found in the Local Authority's SPD for Biodiversity or on the following web sites:

IEEM at: (<http://www.ieem.org.uk/Publications.htm> - Guidelines for Survey Methodology)
 Natural England: <http://www.naturalengland.org.uk/publications/default.htm>

ANNEX A

Legislative and National Policy Context for Biodiversity in the Planning System

The legislative and national policy context for biodiversity within the planning system in England can be found in the following documents available through the web sites shown.

- Government planning policies for biodiversity are set out in [**Planning Policy Statement 9: Biodiversity and Geological Conservation \(PPS9\)**](#) (August 2005)
- PPS9 is accompanied by a Government Circular: [**Biodiversity and Geological Conservation – Statutory Obligations and their Impact Within the Planning System**](#) (ODPM Circular 06/2005, Defra Circular 01/2005)
- Further information can also be found in [**Planning for Biodiversity and Geological Conservation: A Guide to Good Practice**](#).

ANNEX B

Useful Web Sites

Online information on internationally and nationally designated sites can be found at:

www.natureonthemap.org.uk

Association of Local Government Ecologists	<u>http://www.alge.org.uk</u>
Department of Communities and Local Government	<u>http://www.communities.gov.uk/</u>
Department of Environment and Rural Affairs	<u>http://www.defra.gov.uk</u>
Environment Agency	<u>http://www.environment-agency.gov.uk</u>
Institute of Ecology and Environmental Management	<u>http://www.ieem.org.uk</u>
National Biodiversity Network (NBN)	<u>http://www.nbn.org.uk/</u>
Natural England	<u>http://www.naturalengland.org.uk</u>
North and East Yorkshire Ecological Data Centre	<u>http://www.neyedc.org.uk/index.php</u>
Planning Officers Society	<u>http://www.planningofficers.org.uk</u>
Planning Portal	<u>http://www.planningportal.gov.uk/</u>
Royal Town Planning Institute	<u>http://www.rtpi.org.uk</u>
Royal Society for the Protection of Birds	<u>http://www.rspb.org.uk</u>
The Wildlife Trusts	<u>http://www.wildlifetrusts.org</u>
Town and Country Planning Association	<u>http://www.tcpa.org.uk</u>
Wildlife and Countryside Link	<u>http://www.wcl.org.uk</u>

ANNEX C

SECTION 41: LIST OF HABITATS AND SPECIES OF PRINCIPAL IMPORTANCE FOR THE CONSERVATION OF BIOLOGICAL DIVERSITY IN ENGLAND

This list has been prepared by the Secretary of State for Environment, Food and Rural Affairs under Section 41 of the Natural Environment and Rural Communities Act 2006. It identifies the habitats and living organisms (species) which the Secretary of State, following consultation with her statutory nature conservation advisers, Natural England, considers are of principal importance for the conservation of biological diversity in England, in accordance with the 1992 UN Convention on Biological Diversity.

Habitat and Species Action Plans under the UK Biodiversity Action Plan are already in place or under preparation for all the listed habitats and species. The Biodiversity Strategy for England¹ sets out the means by which the Government will comply with its duty under Section 74 to take or promote the taking by others of steps to further the conservation of the listed habitats and species, including through the continued implementation of the Action Plans.

The list will be kept under review and is available at:

<http://www.defra.gov.uk/wildlife-countryside/cl/habitats/habitats-list.pdf>

Ancient and/or species-rich hedgerows	Mesotrophic standing water
Aquifer fed naturally fluctuating water bodies	<i>Modiolus modiolus</i> beds
Blanket bog	Mud habitats in deep water
Cereal field margins	Mudflats
Chalk rivers	Native pine woodlands
Coastal and floodplain grazing marsh	Purple moor grass and rush pastures
Coastal saltmarsh	Reedbeds
Coastal sand dunes	<i>Sabellaria alveolata</i> reefs
Coastal vegetated shingle	<i>Sabellaria spinulosa</i> reefs
Eutrophic standing waters	Saline lagoons
Fens	Seagrass beds
Limestone pavements	Serpulid reefs
Littoral and sublittoral chalk	Sheltered muddy gravels
<i>Lophelia pertusa</i> reefs	Sublittoral sands and gravels
Lowland beech and yew woodland	Tidal rapids
Lowland calcareous grassland	Upland calcareous grassland
Lowland dry acid grassland	Upland birchwood
Lowland heathland	Upland hay meadows
Lowland meadows	Upland heathland
Lowland mixed deciduous woodland	Upland mixed ashwoods
Lowland raised bog	Upland oakwood
Lowland wood-pasture and parkland	Wet woodland
Machair	
Maerl beds	
Maritime cliff and slopes	

Further References

British Standards Institution (2006) PAS 210 Planning to halt the loss of biodiversity: biodiversity conservation standards for planning in the United Kingdom – Code of Practice.

DCLG (2007) The Validation of Planning Applications: Best practice guidance for local planning authorities

CLG (2010) Information Requirements and Validation for Planning Applications

Institute of Ecology and Environmental Management (2006) Guidelines for Ecological Impact Assessment (EclA)

Judicial Review (2001) Mr. Justice Harrison; Regina -v- Cornwall County Council ex parte Jill Hardy. Journal of Planning Law 786