

# Protected Species and Habitats in the Development Context

This online resource paper provides information about the legal protection of plants, animals, supporting features and habitats, and related planning considerations

## Definition and Purpose

In England, many species of plants and animals and often their supporting features and habitats are protected. What an applicant can and cannot do by law varies depending on the species and/or habitat in question. The planning authority can seek Natural England's 'standing advice' on the subject of protected species and development

(<https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications>). This is advice that this body gives as part of its role as a statutory consultee.

The planning authority must consult Natural England if a development proposal:

- May affect a Site of Special Scientific Interest (SSSI);
- Needs an Environmental Impact Assessment;
- Requires an Appropriate Assessment under the Habitat Regulations.

## Key Points to Consider

The applicant must **consult Natural England**

(<https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>) if a development proposal:

- might affect a **site of special scientific interest (SSSI)** (<https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities>);
- needs an **environmental impact assessment** (<https://www.gov.uk/guidance/environmental-impact-assessment>);
- needs an **appropriate assessment** (<https://www.gov.uk/guidance/appropriate-assessment>) under the Habitats Regulations.

Natural England may:

- object to a planning application if it is **likely to harm a protected species on a SSSI** (<https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities>);
- give you advice about a protected species affected by a planning proposal or on a specific issue
- that is not covered by this guidance.

There are separate guides for:

- developers to **prepare a planning proposal to avoid harm or disturbance to protected species** (<https://www.gov.uk/guidance/prepare-a-planning-proposal-to-avoid-harm-or-disturbance-to-protected-species>);
- the **effect of nationally significant infrastructure projects on protected species** ([https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11\\_AnnexC\\_20150928.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf));
- **habitats and species of principal importance in England (Section 41 list)** (<https://www.gov.uk/government/publications/habitats-and-species-of-principal-importance-in-england>).

There is standing advice available when making planning decisions for development proposals that affect: **bats, all species** (<https://www.gov.uk/guidance/bats-advice-for-making-planning-decisions>), **great crested newts** (<https://www.gov.uk/guidance/great-crested-newts-advice-for-making-planning-decisions>), **badgers** (<https://www.gov.uk/guidance/badgers-advice-for-making-planning-decisions>), **hazel or common dormice** (<https://www.gov.uk/guidance/hazel-dormice-advice-for-making-planning-decisions>), **water voles** (<https://www.gov.uk/guidance/water-voles-advice-for-making-planning-decisions>), **otters** (<https://www.gov.uk/guidance/otters-advice-for-making-planning-decisions>), **wild birds** (<https://www.gov.uk/guidance/wild-birds-advice-for-making-planning-decisions>), **reptiles** (<https://www.gov.uk/guidance/reptiles-advice-for-making-planning-decisions>), **protected plants, fungi and lichens** (<https://www.gov.uk/guidance/protected-plants-fungi-and-lichens-advice-for-making-planning-decisions>), **white-clawed crayfish** (<https://www.gov.uk/guidance/white-clawed-crayfish-advice-for-making-planning-decisions>), **invertebrates** (<https://www.gov.uk/guidance/invertebrates-advice-for-making-planning-decisions>), **fish** (<https://www.gov.uk/guidance/fish-advice-for-making-planning-decisions>), **freshwater pearl mussels** (<https://www.gov.uk/guidance/freshwater-pearl-mussels-advice-for-making-planning-decisions>), and **natterjack toads** (<https://www.gov.uk/guidance/natterjack-toads-advice-for-making-planning-decisions>).

There is also standing advice provided by Natural England and the Forestry Commission for development proposals that affect **ancient woodland, ancient and veteran trees** (<https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions>).

## **The Practical Implications for Planning Officers and Applicants**

Officers should ask for relevant surveys early in the application process, rather than attaching conditions post decision for such information. The officer can add an 'informative' note to the planning permission to make it clear that a licence is needed.

In order to ensure the protection of relevant species and habitats, planning officers need to consider the full impact of the proposal on protected species before planning permission can be granted. As part of the planning application process, planning officer and/or applicants should:

1. Discuss survey requirements: Before a planning officer needs to consider a planning proposal, there needs to be a discussion between the planning officer and applicant regarding potential survey requirements;
2. Assess the information provided with the planning application: The planning officer is required to check if the applicant has submitted enough information to fully consider the effect on protected species and their habitats, and as far as possible, planned to avoid harm or disturbance in this respect;
3. Agree avoidance, mitigation or compensation measures: The planning officer and applicant need to agree to any avoidance, mitigation or compensation measures and secure these as part of the planning permission using planning conditions or planning obligations. These can include paying for long-term management, monitoring or maintenance of the site or restricting development;
4. Consider if a licence is likely to be granted before giving permission: Protected species licensing requirements are in addition to the requirements for planning permission. Licences are subject to separate processes and specific policy and legal tests;
5. Make a decision about a planning application: if a proposal is likely to affect a protected species, planning permission can be granted where:
  - A qualified ecologist has carried out an appropriate survey (where needed) at the correct time of year;
  - There is enough information to assess the impact on protected species;
  - All appropriate avoidance and mitigation measures have been incorporated into the development and appropriately secured;
  - A protected species licence is needed and it is likely to be granted by Natural England or Defra;
  - Any compensation measures are acceptable and can be put in place;
  - Monitoring and review plans are in place, where appropriate;
  - All wider planning considerations are met.

A protected species decision checklist can help both planning officers and applicants to view what is required to come to an appropriate planning decision where protected species are involved. A PDF of this checklist is available under:

[www.gov.uk/guidance/protected-species-how-to-review-planning-applications](http://www.gov.uk/guidance/protected-species-how-to-review-planning-applications)

## **Relevant Craven Local Plan policies**

- [ENV4: Biodiversity](#) [ENV5:](#)
- [Green Infrastructure](#)

## **Relevant Craven Local Plan policy guidance**

- **Green Infrastructure and Biodiversity Supplementary Planning Document**