

How to respond to planning applications

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Towards a Wilder Planning System

The planning system shapes the places where we live and work, and plays a vital role in determining the type and quality of landscape for future generations.

Inappropriate development can significantly impact wildlife.

However, good planning and developments can help protect nature and secure wildlife's recovery through the restoration and creation of well-connected wild places. If done well, planning can improve the health and wellbeing of the community, connecting people to nature by improving and creating green and wild spaces for people and wildlife to enjoy.

We encourage people to take action to protect their local environment. You can help protect and enhance your local environment by influencing planning decisions to ensure that they benefit rather than harm wildlife and protect important habitats and species.

Local Planning Authorities (usually your local district council, unitary council or National Park authority) welcome people with an interest in a proposed development to comment on applications. We have produced this guide to help those who want to know if they have reasonable grounds for objecting to a planning application because of impact on wildlife and, if so, the best way of going about it.

Hampshire & Isle of Wight Wildlife Trust usually examines the larger proposals with the potential to create major damage to wildlife. Unfortunately, our staff resources mean that we do not usually have the capacity to examine smaller proposals. If we feel that a proposed development has not adequately mitigated any significant harm to important habitats and species, we will make our own independent recommendations or objections to the local planning authority.



How do you know if a planning application has been submitted?

- You may have received a letter from your Local Planning Authority notifying you of a nearby development proposal.
- You may see an application notification posted on the site or in the local paper.
- You may have been asked to join an action group against a development.
- Maybe your neighbour has let you know he/she is making a planning application.
- You have found the application listed on your Local Planning Authority's planning application website:

[Isle of Wight Council](#)

[Southampton City Council](#)

[Portsmouth City Council](#)

[Basingstoke and Deane Borough Council](#)

[East Hampshire District Council](#)

[Eastleigh Borough Council](#)

[Fareham Borough Council](#)

[Gosport Borough Council](#)

[Hart District Council](#)

[Havant Borough Council](#)

[New Forest District Council](#)

[Rushmoor Borough Council](#)

[Test Valley Borough Council](#)

[Winchester City Council](#)

[South Downs National Park Authority](#)

[New Forest National Park Authority](#)

[Hampshire County Council](#)



What can you do?

Commenting on planning applications

Anyone can comment on a planning application but if you wish to make an impact it is good to be prepared and have as much supporting information as possible. If you are concerned that a proposed development will impact wildlife and you want to get involved, you should:

- Find the application on the Local Planning Authority website (usually your local council). You can often search using a road name if you do not know the planning reference number.
- Make a note of the planning application number (it may look something like this: x/x/2014/2468/FUL). If you do not know the number ensure you have the address of the property/site.
- Note the deadline for responses - if they arrive late they may not be given due consideration.
- Read through the application documents on the LPA website. Check if there is any ecology information already submitted. If a survey report is on the website, this may address your concerns.
- Have there been any previous planning applications or proposals for the site? If an application has been refused in the past the reasons may still be valid.
- After looking at the application and gathering supporting evidence you may decide you want to write a response (See Appendices for more information that can help you respond). A written response (letter or email) will be more effective than a telephone call or many LPAs have online systems for submitting comments.



What is the process for a planning application?

- The planning application is submitted to the Local Planning Authority (LPA).
- The Local Planning Authority publicise the application by advertising in the local newspaper and posting planning notices close to the site.
- Your LPA will set a time period during which it will consider comments on a planning application. LPAs often consult a large number of organisations before reaching a decision. This normally includes parish councils and sometimes organisations with special expertise such as the Environment Agency, Natural England or the Wildlife Trust. Individuals are also welcome to comment on planning applications.
- The application and comments are submitted to the Planning Committee which is comprised of elected members (councillors) for determination. Small to medium sized applications may be 'delegated' for the case officer to determine, where there is no conflict with council policies and few objections have been received.

Note: While most developments are covered by Local Planning Authorities it should be noted that nationally significant infrastructure projects (NSIPs), such as new harbours and offshore wind farms, are submitted to and examined by the Planning Inspectorate. For information on proposed NSIPs, the planning process and advice on how you can get involved visit infrastructure.planningportal.gov.uk.



How to write a written response objecting to a planning application

- Address your letter to the case officer and clearly state the planning application number and your address.
- Clearly state whether you are objecting to or supporting an application and the reasoning for this decision.
- Keep your letter brief, calm and polite. Avoid using emotive language.
- Include information about important habitats and wildlife which have been found at the site. Attach supporting evidence such as photographs if necessary. See Appendices for more information on protected habitats and species).
- Base your letter on planning issues rather than your personal opinion.
- It may be more appropriate to object on grounds other than wildlife, if these are more likely to affect the decision. Find out from the Planning Officer what the main issues are.
- Include any relevant policies from the Local Plan or national legislation (See Appendix 2).
- Is the development on a site which has been allocated for development within the Local Plan? If not, then you can highlight this in your response (See Appendix 2).
- If possible, suggest how the impact of the development on local wildlife could be reduced and how it could benefit. Could conditions be attached to avoid or reduce harm, e.g. clearing vegetation outside of the bird breeding season, or to bring about benefits for wildlife?
- State how the application could be changed to address your objections (if possible).
- Could conditions be added to the planning application to reduce or avoid harm to the local environment and wildlife?



What else can you do to influence the planning decision?

- Send a copy of your objection to your local Councillors or MP and ask if they are prepared to support your objection.
- Talk to other local residents to ensure they are informed about the development and encourage them to also comment on the application. Social media can be a great place to share your concerns with your friends and neighbours.
- If you are writing as part of an action group, encourage all members to write individual letters. This will ensure that each one is counted as an individual response. You could offer support to members of the group by providing bullet points of all the issues they need to cover in their letters.
- Find out when the application will go to the Planning Committee. You are entitled to attend Planning Committee meetings to hear the applications being considered. Usually members of the public are given the opportunity to speak at committee meetings for 2 minutes. This time is strictly controlled so it is advisable to have a pre-written speech. The exact procedure will vary between councils, so talk to your LPA for more information about how you can get involved.
- Contact the local media about the application.
- You could start a petition aimed at the local councillors who will make the decision on the application.



What happens after I have submitted my response?

Decision Time

A decision on the application may be made at the Planning Committee meeting but this is not necessarily the end of the process. If the application is refused permission by the Planning Committee, the applicant has 28 days to decide whether they wish to appeal.

Appeals against a decision

If the applicant appeals against a refusal of planning permission, the application will be considered by the Planning Inspectorate. In England, third parties (e.g. the general public) cannot appeal against a planning decision. If you have made an objection to a planning application, which is then refused and the developer appeals, you have the right to make further representations to this appeal, and if an inquiry is held, to appear at the inquiry to make your case. Do not assume your original objections to the LPA will automatically be represented at this stage - it is best to resubmit your comments. The Planning Inspectorate or Local Planning Authority should get in contact with you, with the details of what you have to do when the appeal is lodged. For more information about the appeals process, see www.planningportal.gov.uk.



Appendix 1 - Types of Planning Applications

There are different types of planning application which may affect the comments you might wish to make:

Outline

Outline planning applications establish the scale and nature of a development. Details such as landscaping, drainage or access may be 'reserved' to be dealt with at a later stage. Outline permission on its own does not confer the right to start works.

Full

A full planning application should include all of the information relating to the proposed development necessary for the LPA to make a decision.

EIA Screening

This is an application asking the LPA to determine whether the development requires a full Environmental Impact Assessment. What constitutes EIA development and what should be included in the EIA document are both covered by The Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

Scoping

Scoping applications usually include basic details of the proposed development to allow consultees the opportunity to highlight any issues which they feel should be covered in the full or outline application once it is submitted.

Reserved Matters

A reserved matters application follows an outline permission to deal with the details of larger developments omitted from the outline application. Typically these will include access, layout, scale and landscaping.



Discharge of Conditions

Planning permissions will often attach conditions which must be satisfied either before development can begin, or during or post-works. Wildlife related conditions may include establishment of landscaping, provision of bird or bat boxes, or additional pre-commencement surveys. Sometimes LPAs will condition ecological surveys: case law has demonstrated (*Woolley v Cheshire East Borough Council*, October 2009) that this is not good practice and LPAs should require protected species surveys prior to determination so that they can make a fully informed decision on any potential impacts.

Listed Building Consent

Listed building consent may be applied for independently or sometimes in tandem with a full planning permission. This will be required where a listed building is proposed to be demolished or where alteration or extension of a listed building may affect its character as a building of special architectural or historic interest.

Appendix 2 – National and local planning policy and guidance

There is legislation, policy and guidance relating to the protection of wildlife that may be relevant to your submission:

The National Planning Policy Framework (NPPF)

NPPF came into effect in March 2012 and replaced most previous planning guidance. The Framework makes some over-arching statements about the natural environment and some specific points about protecting nature. It is a material consideration when local authorities make decisions on planning applications, or create their local plans.

"When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm 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." (NPPF paragraph 118)

At first glance, this might seem quite encouraging. However, the NPPF requires planning application decisions to take account of economic and social objectives as well as environmental ones. This means that the environmental case will usually need to be very strong if it is to outweigh the economic and social benefits of a development. Your biodiversity objections might therefore carry more weight if the development proposal affects a feature of ecological importance (See Appendix 3).

To take a look at the NPPF visit www.gov.uk/government/publications/national-planning-policy-framework-2



Local Policy

Local Plans

In England, we operate under a 'plan led system', this means that all decisions as to future development and planning applications in an area are informed (principally) by the policies and supporting information of the development plan.

Your Local Planning Authority's Local Plan contains policies against which planning applications will be tested and identifies areas for development. Applications for development within sites identified in the Local Plan still need planning permission but if they conform with the plan there is a presumption that they will go ahead. Ensuring strong nature conservation policies in Local Plans is the most important planning work we do and you can be involved too.

Local planning authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.

Your local authority should have a Local Development Scheme which sets out how and when they will produce planning policy documents and issue consultations. Local policy documents should be available on the local authority website, they can usually be found in the Local Plan or Local Development Framework section of the planning pages.

LDFs are used to guide daily decisions as to whether planning permission should be granted. They provide a firm basis for consistent and rational decisions on planning and development. Importantly, they also require an examination process before being adopted and used by an authority which allows for public input and adaptation. Influencing the LDF or Local Plan from the start can help to prevent developments in sensitive areas. However, once a plan is agreed it becomes much more difficult to prevent a development.

If you are commenting on local plans/policies, or are considering making representations relating to a planning application, check the national policies on biodiversity conservation contained within the NPPF to see if they support your argument. If they do, then it will add significant weight to your case. Equally, plans and policies contained within the existing Local Plan, Unitary Development Plan, Structure Plan or LDF, can be used in the same way.

Appendix 3 – Protected Sites 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.

The survey should clearly state what methodology was used, what was found and how the planning application will affect the important features. If necessary, it should also suggest compensation or mitigation measures.

If any designated sites, habitats or species are impacted by the planning application, this is likely to carry weight when objecting to a planning application.

Designated Sites

European protection - Special Areas of Conservation (SAC) and Special Protection Areas (SPA)

Together, these sites are referred to as the Natura 2000 network. They are designated under European law (the Habitats Directive and the Birds Directive) with the aim of maintaining or restoring (at a favourable conservation status), the natural habitats and species for which the site is designated. This European law is transcribed into UK law by the Habitat Regulations³. This European law is still applicable until the UK officially withdraws from the EU.

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.

You will not find many planning applications which directly affect European designated sites, as these are well protected under European law and developers know that they will receive stringent scrutiny, with a low chance of planning permission.

However, you may come across planning applications which have the potential to indirectly affect an SAC or an SPA and the species for which it was designated. For example, wading birds associated with an SPA designation might be indirectly affected by the recreation activities and dog walking activities generated by near by housing development proposals. In such cases, the effectiveness of the mitigation measures proposed to deal with the disturbance caused by these activities is a possible ground for objection.

Most local authorities, Planning Inspectors and judges give great weight to Natural England's comments on planning applications affecting SACs and SPAs.

Sites of Special Scientific Interest (SSSIs)

SSSIs are nationally important sites and are protected under the Wildlife and Countryside Act 1981, the Countryside and Rights of Way (CROW) Act 2000 and the Natural Environment and Rural Communities (NERC) Act 2006.

Natural England must be consulted on any application which may impact an SSSI or before carrying out any operations which may damage an SSSI. This applies whether the operations are to take place within an SSSI boundary or outside it. You can find out where there are protected sites close to you by visiting Defra's MAGIC website at magic.defra.gov.uk.

Most local authorities, Planning Inspectors and judges give great weight to Natural England's comments on planning applications affecting SSSIs. They should be particularly concerned about the extent of adverse effects and the likely effectiveness of mitigation measures put forward to deal with them.

Local Wildlife Sites (LWSs)

A Local Wildlife Site (LWS) is a non-statutory designation used to identify areas of substantive nature conservation value at a county level. Unlike SACs, SPAs and SSSIs, they have no legal status.

LWS may, however, be subject to planning policies in Local Plans. The NPPF requires local authorities to map the location of locally designated sites and draw up criteria-based policies against which proposals for any development affecting such sites will be judged (NPPF paragraph 113). Any such criteria are usually rather weak and allow development where the local planning authority considers that mitigation measures are sufficient to prevent significant harm to the County Wildlife Site's habitats and species.

There is, however, scope to object where you consider that these mitigation measures are likely to be ineffective.

Undesignated sites

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

Habitats

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 Local Planning Authority must be applied for to permit works to a tree covered by a TPO, including felling or pruning.

Hedgerow Regulations 1997

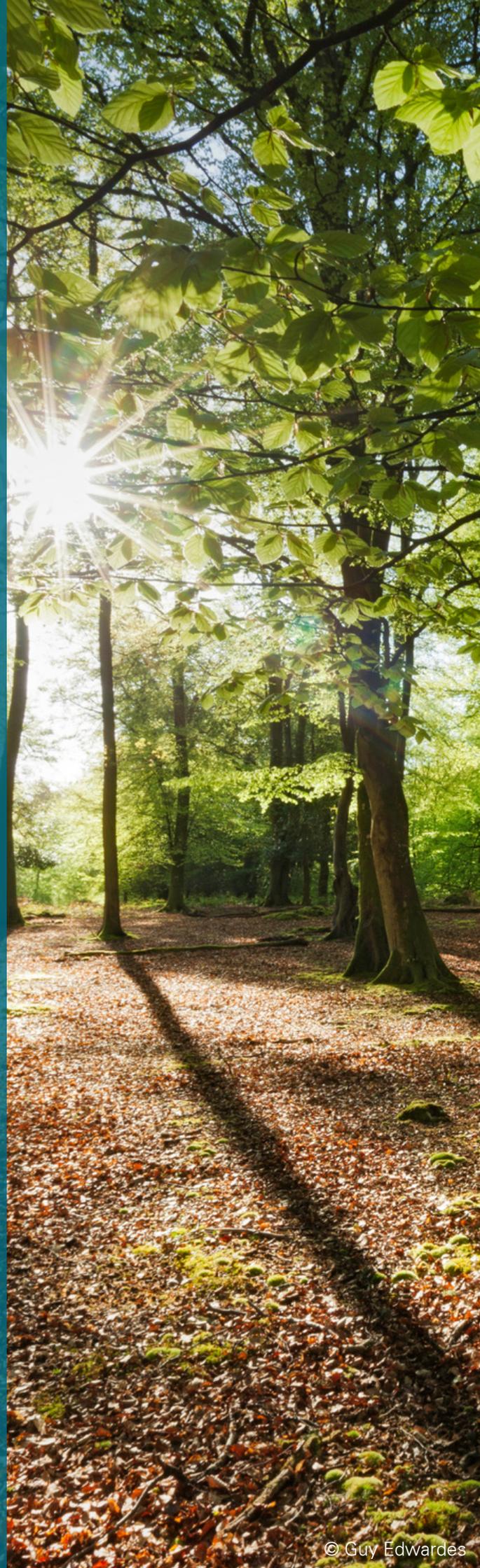
These protect certain 'important' hedgerows meeting a list of criteria from being removed or destroyed without permission from the local planning authority.

Habitats of Principal Importance for conservation in England (also known as a Priority Habitat)

Under section 41 of 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 habitats are more commonly known as Priority Habitats.

There are 56 such habitats in the list that was produced (including 16 marine habitats) but relatively few are likely to be affected by development, they include:

- arable field margins
- traditional orchards
- hedgerows
- coastal saltmarsh
- intertidal mudflats
- ponds
- rivers
- lowland meadows
- purple moor grass & rush pasture
- lowland heathland



- open mosaic habitats on previously developed land
- coastal & floodplain grazing marsh
- lowland mixed deciduous woodland
- wet woodland
- wood-pasture and parkland

National planning policy states that planning policies should - "promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations..." (NPPF paragraph 117)

Much of this Priority Habitat lies within designated sites (SACs, SPAs, SSSIs and CWSs) but there is still a large amount outside these designated areas.

Hedgerows and streams are particular examples of extensive habitats which lie outside designated areas. They form part of the ecological networks which cross the landscape and which support species movement. Most large development proposals on the fringes of towns and villages in Hampshire and the Isle of Wight have the potential to affect hedgerows, whether directly by destroying them or indirectly by disturbing them, and the species that use them.

The ecology report accompanying the planning application should give information on the extent, condition and ecological value of any priority habitat on-site and make recommendations on how any potential harm could be mitigated.

Ancient woodland and veteran trees, whilst not specifically listed as Priority Habitat, are also important ecological features cited in national planning policy -

"planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss". (NPPF paragraph 118)

Species

Protected species

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

- The Conservation of Habitats and Species Regulations 2010
- 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 (or wider area) 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 website.

You should expect the ecology report accompanying the planning application to give information on the presence (or not) of priority or protected species on the planning application site and how they could be affected, with recommendations on how any potential harm could be mitigated. You have scope for objecting if you disagree with the findings and recommendations but, as stated earlier, your objections will carry more weight if they are supported by evidence.

Lists of legally protected species are available on the UK's Joint Nature Conservation Committee's website jncc.defra.gov.uk/ and include amongst others:

- Bats
- Badgers
- Barn owls
- Otters
- Water voles
- Reptiles
- Great crested newts

Protected species

It should be noted that all birds, their nest and eggs are protected by the Wildlife & Countryside Act 1981, and it is an offence to damage or destroy an active nest or prevent parent birds access to their nests. In the case of birds such as the barn owl that are listed on Schedule 1 of the Act, it is an offence even to disturb the birds when at or near the nest. If you believe a protected species to be under direct threat, contact your local Wildlife Crime Officer or call the Police on 101 and obtain an incident number.

If the threat is as a result of a proposed development, contact the planning officer dealing with the application at your local authority to ensure adequate procedures have been followed. You may also wish to contact Natural England who are the statutory authority for protected species. Some species have local action groups may also be able to provide you with advice.

Other species

While all species are important in maintaining a healthy, functioning ecosystem and may be of value to local residents, the majority of species such as rabbits, foxes and deer are not protected and as such they carry very limited weight in the planning process. You may wish to mention any significant populations which may be present on a development site, as mitigation may be possible, however there is no requirement for the LPA to take them into consideration in making their decision.





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Wildlife Trust**

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