



A Biodiversity Guide
for the Planning and Development Sectors
in South East England

The South East England Biodiversity Forum



Preface

The conservation of the biodiversity of South East England is at the heart the South East England Regional Assembly's Regional Sustainable Development Framework (*A Better Quality of Life in the South East*) which was produced in partnership with the South East England Development Agency and the Government Office for the South East and of the South East Development Agency's strategy for the development of the region (*Building a World Class Region*).

The planning system is of key importance to the conservation and enhancement of the region's biodiversity.

There has long been a need for an authoritative guide to the application of biodiversity principles to land use planning. This guidance meets the need admirably and we commend it to the region's planning authorities and other planning professionals as an invaluable tool in the quest for a more sustainable future.



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The South East England Biodiversity Forum

This document has been produced by the South East England Biodiversity Forum. The Forum is a liaison body of governmental and non-governmental bodies and organisations involved in nature conservation, which provides a focus for furthering biodiversity in South East England. Membership that produced this document is:

- The Association of Local Government Ecologists
- English Nature
- The Environment Agency
- The Forestry Commission
- The National Trust
- The Royal Society for the Protection of Birds

- The Wildlife Trusts in the South East Region
- The Department for Environment, Food and Rural Affairs

(NB DEFRA is fully committed to the UK Biodiversity Action Plan (UK BAP) process, and to participating in local BAPs. However, it does not endorse all the recommendations concerning local BAP objectives in this document as they go beyond DEFRA's current national policy commitments).

The South East England Biodiversity Forum,
c/o English Nature, Foxhold House, Crookham
Common, Thatcham, Berkshire, RG19 8TL

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Foreword

This document is primarily aimed at policy makers, forward planners, development control officers and developers (and their agents and consultants). It provides the depth needed by professionals in the planning system and so is fairly technical in places, but it is also hoped that it will prove useful to non-professionals engaged in, or wishing to influence, the planning system to the benefit of biodiversity. It has been produced by the South East Biodiversity Forum (see section following the contents) and so the document does not have statutory status.

It summarises a wide range of directives, statutes, obligations and government guidance (such as PPG9) in relation to the planning system and biodiversity in one relatively short document. It

provides guidance illustrating how the aims, objectives and targets of Biodiversity Action Plans can be fully integrated into land use planning and new development in the South East within the current statutory and planning framework by delivering positive gains as well as avoiding negative impacts.

It is hoped that it will contribute towards an understanding of the implications of biodiversity conservation objectives by showing how planning bodies and authorities, and other professionals in the planning and development sector, can exercise their functions and carry forward their projects in a way that will contribute to the delivery of biodiversity conservation.

Biodiversity Principles for Land Use Planning in the South East

- Conserving and enhancing biodiversity is one of the key aims of sustainable development. The South East Region boasts a great wealth of wildlife and the planning system has a vital role to play in maintaining and enhancing this biodiversity.
- Many habitats are highly fragmented and species and habitats are isolated in their modern agricultural and urban settings.
- Attempts should be made, where possible and appropriate, to reverse habitat fragmentation and species isolation.
- Development should not lead to a net loss of biodiversity and important habitats and species must be protected from inappropriate and harmful development.
- Where losses cannot be avoided they must be kept to a minimum and full compensation provided.
- New development offers an opportunity to contribute towards a net gain in biodiversity. Well-planned development can make significant contributions towards the achievement of national, regional and local biodiversity targets.
- Designated sites (international, national or local) must be afforded levels of protection appropriate to their status.
- Ecological systems must be recognised as being highly complex and influenced by a very wide range of interacting and dynamic factors and processes. Indirect and cumulative impacts should be taken into account in assessing potential impacts.
- Planning policies and their application for biodiversity conservation and management should be guided by Natural Area and Biodiversity Action Plan priorities.
- Many landscape features are crucial for the migration, dispersal and genetic exchange of wild species. These important ‘stepping-stones’ and corridors should be managed sympathetically.
- Plans at all levels should be based on adequate biodiversity information.
- Adequate information must be provided with planning applications to enable the local planning authority to determine what, if any, effects the development will have on biodiversity.
- The land use planning system should monitor the effects of development on biodiversity.
- Wherever possible the land use planning process should give local people the opportunity to become involved in maintaining, enhancing and enjoying biodiversity in their area. Community Strategies should provide a key element in achieving this. Co-operation achieved by dialogue between planners, developers, landowners and local communities can generate important gains for biodiversity.

What is Biodiversity?

Biodiversity simply means the variety of life around us from microscopic bacteria to the tallest tree. It is the living component of the natural world, encompassing all wildlife, common and rare. It embraces all the species, communities, habitats and ecosystems associated with terrestrial, aquatic and marine environments; i.e. everything that collectively constitutes the biological diversity ('biodiversity') of the planet.

Biodiversity is vital for quality of life; from the simple pleasure of bird song to life-saving cancer drugs from yew trees. It is a life support system that provides for all our needs – whether practical or spiritual – and one that must be safeguarded, not only for ourselves, but for future generations. Biodiversity is a 'barometer' of the health of our environment.

A habitat is the place in which a particular plants or animal lives. It is often used in a wider sense, referring to major assemblages of plants and animals.

In 1992 the Prime Minister and over 150 other Heads of State or Government signed the Convention on Biological Diversity at the Earth Summit in Rio de Janeiro¹. They did so to express a shared belief that action must be taken to halt the world-wide loss of animal and plant species and genetic resources. Subsequently the UK Biodiversity Action Plan was published in 1994² and the UK Steering Group Report in 1995³.

These documents have guided and stimulated action by local and national government and demonstrate the importance of biodiversity at all levels. If the national commitment is to be realised, Regional Planning Guidance and Development Plans need to recognise the importance of biodiversity.

The richness of biodiversity in the South East is an essential part of the area's unique character – it is a key part of the

infrastructure of the region. Characteristic features of the countryside, such as traditional field hedges and banks, wild heaths, small woodlands, rivers and streams and ancient flower meadows support a great diversity of species, both common and rare. They are also a major source of attraction and pleasure for residents and the millions of visitors who come to the region each year.

The maintenance and enhancement of biodiversity is therefore vital if we are to achieve the overall aim of sustainable development; namely that present and future generations shall enjoy both environmental quality and economic benefits. As the UK Government's sustainable development strategy makes clear, the maintenance of biodiversity is a key measure of the achievement of sustainable development. Hence biodiversity conservation must be a regional priority.

It is important to stress that this is not simply a matter of protecting the best of what we have. Biodiversity conservation involves enhancing the status of wildlife – a step already strongly endorsed through the UK Biodiversity Action Planning process. Equally, it entails the positive conservation of all facets characteristic of the South East. These broader goals can be met through the active management of change within the context of the character of the Region (including site protection, together with restoration and compensation where appropriate).

To play a full role in the conservation of biodiversity, it is important that land use planning, as a whole, does not result in a net loss in either the quality or quantity of biodiversity in the region. On the contrary, it should contribute positively to its enhancement. The Government (Command 3260)⁴ acknowledges the important role of the land use planning system in helping to deliver Biodiversity Action Plan (BAP) objectives and targets that are a key test of sustainable development.

¹ United Nations Convention on Biological Diversity, Rio 1992.

² The UK Biodiversity Steering Group (1994) Biodiversity: The UK Action Plan. Cm 2428. HMSO, London.

³ The UK Biodiversity Steering Group (1995) Biodiversity: The UK Steering Group Report: Volume 1 Meeting the Rio Challenge. and The UK Biodiversity Steering Group (1995) Biodiversity: The Steering Group Report: Volume 2: Action Plans. Both HMSO London.

⁴ Department of the Environment (1995) Reply to the Biodiversity Steering Group Report (Vols. 1 and 2) Government Command 3260.

Biodiversity in the Region

The South East boasts both a wide variety and a significant proportion of the UK's key habitats. Most of these are identified as priorities in the UK Biodiversity Action Plan. A large area of the region is therefore of international conservation importance. While the South East comprises only 9.3% of the total land area of the UK, it holds:

- 68% of chalk reefs
- 50% of chalk rivers
- 49% of vegetated shingle
- 40% of the lowland heath
- 36% of saline lagoons
- 32% of unimproved lowland meadows
- 29% of ancient semi-natural woodland
- 27% of lowland wood pasture and parkland
- 24% of calcareous grassland
- 16% of dry acidic grassland
- 11% of coastal and flood plain grazing marsh
- 11% of saltmarsh

The South East is also very important for a number of species, with over 200 national priority species listed in the UK Biodiversity Action Plan. Some of these species are found nowhere else in the world.

Whilst the proportion of many habitats in relation to the UK resources is high, the region has sustained significant habitat loss, particularly over recent decades. The remaining habitats are often fragmented and isolated in their modern agricultural and urban settings. Examples of losses include:

- Wet grassland: over the last twenty years there has been a loss of some 20% over the region as a whole and nearer 30% in East Sussex and Kent.
- Neutral grassland: in Berkshire between the mid-1980s and 1995 some 50% was damaged or destroyed.
- Lowland heathland: some 90% has been lost in Hampshire, Berkshire, Sussex and Surrey in the last 200 years.

There have been concomitant declines and losses of species. In the South East (in this case including London and Hertfordshire) 97 are extinct, or probably extinct.



3

Climate Change

Climate change will have serious impacts on biodiversity and land use in the region. Predicted winter rainfall increases, drier summers and higher temperatures will have major consequences for priority habitats and species and hence their management. The reaction of habitats and species to climate change is likely to be complex due to the interaction of many factors.

In many cases (e.g. wetlands) habitats will be more susceptible to outside influences. Some habitats may no longer be able to support current species and, as already evidenced, survival will depend upon the ability to migrate (generally northwards). However, habitat fragmentation and isolation often precludes this. In addition, the limited size of many habitat areas restricts the ability of species to find sub-habitats within a particular site that may allow adaptation to the new conditions.

It is true that some species will benefit from the new conditions and could expand their range. However, so far, the isolation of habitats seems generally to counter this potential benefit. Planning for development, together with changes to agricultural and other policies can help by increasing habitat areas and creating linking corridors and 'stepping-stones' (see section 9) to reduce fragmentation.

Higher winter rainfall means that greater care needs to be taken when locating development in higher flood risk areas. Drier summers will put stress on some wetland habitats and moisture-dependent species and particular consideration must be given to the maintenance of satisfactory hydrological regimes throughout the year.

Because of uncertainties surrounding the impacts of climate change, it is essential that development proposals take a precautionary approach.

4 Making Use of the Existing Land Use Planning System

Planning Policy Guidance (PPG) Note 9¹ sets out the principles and policies that apply to the integration of nature conservation priorities with land use planning. Planning Policy Guidance (PPG) Note 11² sets out the principles that apply to regional planning.

This regional guide summarises but also amplifies and extends upon PPG9 by providing a resume of key aspects of the range of other statutes and guidance relating to biodiversity and showing how progress towards the objectives and targets of the UK Biodiversity Action can be achieved by the planning and development sectors.

The issues and proposals raised here can be addressed through existing planning powers and regulations. However, legislation and government planning guidance is evolving and planning authorities will need to keep their policies under continual review.

Appendix 1 provides a summary of some of the key objectives set out in this document in relation to the current land-use planning system and some of the current planning mechanisms that enable their implementation. However, It does not cover all the laws and Conventions relating to designated sites etc.

¹ Department of the Environment (1994) Planning Policy Guidance Note 9: Nature Conservation. PPG9. HMSO London.

² Department of the Environment Transport and the Regions (2000). Planning Policy Guidance Note 11 – Regional Planning. (PPG11). HMSO London.

5 The Biodiversity Planning Process

5.1 Action for Biodiversity in South East England

The South East England Biodiversity Forum produced the document *Action for Biodiversity in South East England*¹ in early 2001 in consultation with key partners in regional business sectors and agencies.

It sets out the importance of the region's habitats and provides planners and developers with essential information on regional biodiversity targets, plus supporting justifications. Its aim is to promote consensus on biodiversity priorities in the region. It includes an analysis of the contribution that regional sectors and agencies can make to help achieve these targets and a range of actions for different sectors to further biodiversity. The document can be obtained from the South East England Biodiversity Forum. It complements this Guide in providing more information on habitats and species in the region, targets for restoration and re-creation and what different sectors (water, agriculture and planning etc.) can do to help deliver these. It was preceded by publication of *The Biodiversity of South East England – An Audit and Assessment* produced by the Wildlife Trusts and RSPB in 1998². This document included London and Hertfordshire in the area covered.

5.2 Biodiversity Action Plans

Biodiversity Action Plans (BAPs) set measurable targets for the conservation (and, in many cases, increase in numbers or area) of threatened species and habitats, and identify ways of achieving these. The BAP process is the Government's response to commitments made at the 1992 Earth Summit (see What is Biodiversity? section 1 above). National BAPs have been endorsed by the Government. The process incorporates the principle of 'champion' organisations and lead agencies, and working in partnerships.

It is expected that the new version of PPG9 will oblige local planning authorities to support and promote Local BAPs. The Rural White Paper states that new PPG9 'will emphasise to local

planning authorities the need to take account of ... biodiversity action plans in their planning policies and proposals' (para 10.3.1)

The Countryside and Right of Way (CROW) Act 2000 (section 74)³ enshrines key elements of the UK biodiversity planning process in law. When carrying out their functions, all Ministers and Government Departments have a duty to have regard to conserving biodiversity, in so far as this is consistent with their functions, in accordance with the requirements of the 1992 UN Convention on Biological Diversity.

In addition, the Secretary of State in England is required to publish a list or lists of species and habitats which are the most important for biodiversity in accordance with the Biodiversity Convention. In the first instance it is anticipated that current lists of priority species and habitats in the UK Biodiversity Action Plan will be adopted.

Whilst the CROW Act does not include local authorities or agencies in the duty in relation to the Convention on Biodiversity, it gives the Secretary of State a duty to take or to promote the taking by others of such steps that are reasonably practical to further the conservation of the species and habitats on the list or lists. The DETR Circular on the CROW Act⁴ states in relation to this that 'However, the Secretary of State may include local authorities in exercising his duty to promote the taking of steps by others to further the conservation of the habitat types and species of principal importance to biodiversity'.

To maintain and revise lists and promote the aims of the Convention, other parts of the biodiversity planning process, such as monitoring, research, standards and systems for data management will need to be undertaken.

Local Biodiversity Action Plans (LBAPs) are a key delivery mechanism for identifying and achieving national objectives and targets at a local level. As part of their Local Agenda 21 Initiatives, and in partnership with other organisations, 'local authorities are expected to prepare (or at least contribute towards) Local Biodiversity Action Plans' (Rt Hon. M. Meacher; Feb 1998).

¹ South East England Biodiversity Forum (2001). *Action for Biodiversity in South East England*.

² The Wildlife Trusts and RSPB (1998). *The Biodiversity of South East England – An Audit and Assessment*. Obtainable from the South East England Biodiversity Forum.

³ The Countryside and Right of Way Act 2000. HMSO London.

⁴ DETR circular on The Countryside and Right of Way Act 2000 (04/2001). February 2001. HMSO, London.

Box 1. Elements of a Local Biodiversity Action Plan

- Establish a plan partnership
- Agree broad objectives
- Establish a database and review
- Identify priorities within the national, regional and local context
- Set specific targets and proposals for action
- Identify delivery mechanisms and sources of finance and advice
- Publish the plan and implement the agreed programme of action
- Establish a long term monitoring programme to measure the effectiveness of the plan in achieving national and local targets

Guidance for LBAPs has been prepared nationally by the UK Local Issues Advisory Group (a joint working group between the Local Government Management Board and UK Biodiversity Group)⁵. These guidance notes indicate how local plans should be prepared and implemented. A summary of the recommended process is provided in Box 1.

Regionally, the South East England Biodiversity Forum (2001)⁶ has produced Systems and Resources to Sustain Biodiversity in South East England, which includes a review and recommendations for achieving a more consistent approach to the production of LBAPs and monitoring them.

The information produced in LBAPs plans will provide planning authorities with the means to identify the key biodiversity issues relevant to their area. For instance, the priority species and habitats occurring in the area and relevant conservation objectives and targets. This information should then be taken into account in the exercise of their land use planning functions.

5.3 Community Strategies

Section 4 of the Local Government Act 2000⁷ includes a mandatory requirement for every local authority to produce a Community Strategy for promoting or improving the social, economic and environmental wellbeing of their areas and contributing to the achievement of sustainable

development. However, Government Guidance does not impose a prescribed content, format or methods of preparation.

To date, many have focussed mainly on socio-economic issues and, as required by the Act, need widening to include environmental issues. The production of LBAPs links closely to the promotion and improvement of environmental wellbeing and they are therefore an important resource to use in the production of Community Strategies.

At the Report Stage on the CROW Act 2000 the Government made a commitment to promote the integration of LBAPs into Community Strategies and make it clear in further statutory guidance that biodiversity should be an important element in Community Strategies. The DETR circular on the CROW Act 2000 (04/2001) states that 'Local Biodiversity Action Plans ... are amongst the elements local authorities should build upon when preparing the overarching Community Strategy required by section 4 of the Local Government Act 2000. Local Wildlife sites will be important components within Local BAPs'.

If this is to be undertaken effectively local authorities developing Community Strategies will need to work closely with LBAP partnerships to ensure that biodiversity is properly integrated with the social and economic.

Community Strategies will help set and steer local priorities for services and expenditure. Community Strategies will provide a vital element in engendering community participation. They will also influence other key documents and processes such as development plans and strategies and will be capable of being material considerations in planning decisions.

5.4 Survey and audit of habitats and species

Preparation of Local BAPs will assist in meeting the guidance in Paragraph 24 of PPG 9 *Nature Conservation*. This states that 'Nature conservation issues should be included in the surveys of local authority areas required by sections 11 and 30 of the Town and Country Planning Act 1990, to ensure that the (*local*) plans are based on fully adequate information about local species, habitats, geology and

⁵ The UK Local Issues Advisory Group (The Local Government Management Board/The UK Biodiversity Group) 1997. Guidance for Local Biodiversity Action Plans. UK Biodiversity Secretariat, Bristol.

⁶ South East England Biodiversity Forum (2001). Systems and Resources to Sustain Biodiversity in South East England.

⁷ Local Government Act 2000. HMSO, London.

landform. Plans should not only be concerned with designated areas but also other land of conservation value and the possible provision of new habitats’.

To meet this obligation will require regionally consistent biological data systems. A detailed review and recommendations on these is included in Systems and Resources to Sustain Biodiversity in South East England (2001).

In other words, land use planning should identify sites and features of existing importance and also areas where there is potential to enhance the value of land for nature conservation. In addition to local BAPs, local planning authorities may gain valuable assistance in this task by drawing upon the habitat and species information contained in Natural Area Profiles.

5.5 The role of Natural Areas

Nature conservation effort in the past has been centred on the protection of sites and species considered to be of high wildlife value in the localities where they are best represented. Such an approach may prevent the loss of some species and habitats but, to ensure wildlife gain, efforts must also be focussed on the conservation (management and restoration/enhancement) of the wider countryside and urban areas surrounding protected sites.

Biodiversity is widely but not evenly distributed across the region and therefore it is not appropriate to seek to use all parts of the landscape to meet the entire range of biodiversity targets. Instead it is essential to concentrate effort on the right targets for each locality. To ensure synergistic efforts (e.g. by adjacent local authorities) different organisations and individuals should be seeking broadly the same results. Such objectives must be derived from the

character of the area; e.g. from underlying geology and soils, climate, historic or pre-historic plant and animal communities, settlement patterns and historic land use.

In England, both English Nature and the Countryside Agency have done extensive work to define local character by mapping areas with internal coherence. English Nature’s Programme of *Natural Areas* provides a valuable tool for identifying which ecosystems and natural features are characteristic of the local landscape. This contextual information facilitates the making of consistent choices when identifying/setting priorities and targets for biodiversity at the local level. The approach enables local contributions to be planned in context with and to contribute to national targets.

A Natural Area is not a designation, but an area identified by its unique combination of physical attributes, wildlife, land use patterns and human history. These features give a Natural Area a ‘sense of place’ and a distinctive nature conservation character, which we must seek to conserve and restore.

English Nature has prepared a ‘Profile’ for each Natural Area. Key issues and objectives have been established for all Natural Areas and are listed in English Nature’s Natural Area Profiles for each Natural Area or in a South East summary document⁸. Profiles describe and evaluate the distinctive wildlife and geological features present in an area, and identify priorities for action. Each profile identifies which UK Priority Habitats and Species occur in any given Natural Area. This then enables national action plan targets to be taken down to the sub-regional and local scales where specific action can be implemented on the ground. A map of the Natural Areas of the South East is included in *Action for Biodiversity in South East England* (see section 5.1 above).

⁸ Natural Areas in London and the South East Region, English Nature 1999.

6 Site (Habitat) and Species Protection

6.1 Introduction

Safeguarding existing natural and semi-natural habitats through site protection and management is a primary biodiversity objective. This should be achieved through recognition of a hierarchy of different levels of designation at the international, national and local scale. All designated sites should be of substantive value for nature conservation and therefore consistent with the guidance set out in Section 18 of PPG 9.

Nationally and internationally important sites benefiting from statutory protection represent a selection of the best examples of our natural heritage of wildlife habitats, geological features and landforms. These do not, however, represent the full extent of remaining natural and semi-natural habitat found in the region. Other areas have been designated or selected (by local authorities and/or by County Wildlife Trusts) as locally chosen non-statutory Wildlife Sites (designated under different names – see 6.4). Such habitat is recognised locally as also forming an important element of the total resource, making a valuable contribution to the overall coherence of the ecological network. Indeed, as statutorily designated sites are the best *examples* of habitats, some locally chosen Wildlife Sites can meet the criteria for national or international importance.

Biodiversity Action Plans, *Action for Biodiversity in South East England* and Natural Area Profiles provide information on undesignated sites that will still have value as part of the overall biodiversity of the region.

6.2 International/European sites

International/European sites are of three types:

- Ramsar Sites – wetlands of international importance listed by the UK Government under the Ramsar Convention ¹
- Special Protection Areas (SPAs) – sites of European importance under the EC 1979 Wild Birds Directive ²
- Special Areas of Conservation (SACs) – sites of European importance under the EU 1992 Habitats Directive ³.

Sites which the UK Government has formally identified and/or proposed to the European Union as sites of European importance (i.e. candidate SACs and proposed SPAs) are accorded the same protection in planning law as those that have been designated.

Key test for European sites

Development which would harm the integrity of a European site, or which conflicts with the conservation objectives for such a site, should not be permitted.

Development and land use change, which may affect a European site, must be subject to the most rigorous examination to ensure that there is no potential for direct or indirect impacts to occur.

Development or land use proposals should demonstrate whether or not they are directly connected with or necessary to the *conservation objectives* for management of the site. Likewise they should indicate whether they are likely to have *significant adverse* effects on the site, either individually or in combination with other plans or projects.

The Habitats Directive and national guidance in PPG 9 also provide that harmful development may only be permitted where:

- a) there is no alternative solution; and
- b) there are imperative reasons of over-riding public interest for the development or land-use change.



¹ The Convention on Wetlands of International Importance especially as Waterfowl Habitat (the 'Ramsar Convention') Ramsar, Iran, 1971.

² European Community (EC) Directive (79/409/EEC) on the Conservation of Wild Birds to Protect Bird Species and the Habitat Upon Which They Depend. (The 'Birds Directive') 1979.

³ European Community (EC) Directive (92/43/EEC) on the Conservation of Natural Habitats and Wild Fauna and Flora to Conserve Natural Habitats and Fauna and Flora. (The 'Habitats Directive') 1992.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the development must also:

- c) be necessary for reasons of human health and/or public safety or for beneficial consequences of primary importance for nature conservation.

Where development is permitted that would cause harm to a European site, there is a statutory requirement to compensate for that loss or damage (Regulation 53 of the Conservation [Natural Habitats &c.] Regulations [1994])⁴. Planners should approach decisions with a view to avoiding impacts wherever possible, to mitigate (i.e. minimise) where impacts are unavoidable, and to compensate (i.e. redress) for any impacts that are ultimately incurred. For further information see PPG 9 Annex C.

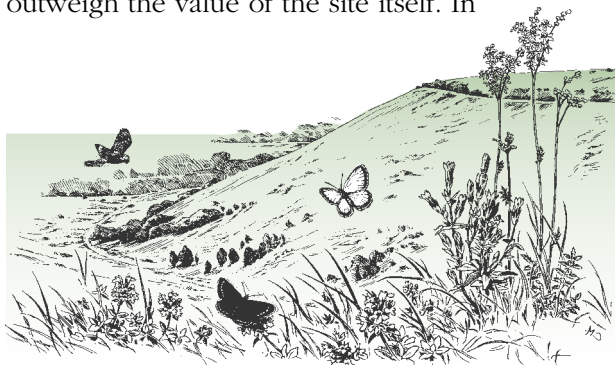
6.3 National sites

National sites are Sites of Special Scientific Interest (SSSIs), designated under the 1981 Wildlife and Countryside Act⁵. Some SSSIs are designated for their geological rather than biological interest. However the key tests are essentially the same.

Key test for national sites

Development which would harm, either directly or indirectly, the wildlife (or geological interest) of a SSSI should not be permitted.

As for European sites, there will be occasions when the importance of a development will justify damage, temporary or permanent, to a SSSI. Such occasions may occur when there are no reasonable alternative means of meeting that development need and the reasons for the development clearly outweigh the value of the site itself. In



such cases, developers must prove that the need for a development clearly overrides the Government's policy to safeguard the intrinsic nature conservation value of the national SSSI network.

These occasions are expected to be extremely rare, and it will not be necessary to anticipate them in the usual run of decisions, or to embody them in development plan policies.

Where development is permitted the authority will need to consider the use of conditions or planning obligations to ensure the protection and enhancement of the site's nature conservation interest.

6.4 Locally chosen (county) sites

Local Nature Reserves are a statutory designation; their objectives are to increase the public enjoyment and understanding of nature, as well as nature conservation.

Local Planning Authorities also designate locally chosen non-statutory sites under a variety of titles e.g. Sites of Importance for Nature Conservation, Sites of Nature Conservation Importance, Wildlife Heritage Sites or County Wildlife Sites. The South East England Biodiversity Forum publication, Systems and Resources to Sustain Biodiversity in South East England (2001), provides a review and detailed recommendations for identifying and managing these sites. PPG9 gives guidance on such sites and says that 'Local Plans should include planning policies to be applied to nature conservation sites indicating the criteria against which a development affecting a site will be judged' (para 25). It is expected that the revised PPG9 will strengthen this. The Rural White Paper states that it 'will emphasise to local planning authorities the need to take account of local wildlife sites in their planning policies and proposals' (Para 10.3.1). It also says that national guidelines for the identification and management of local wildlife sites will be prepared.



⁴ The Conservation (Natural Resources &c.) Regulations 1994 (The Habitats Regulations) SI No 2716, HMSO, London.

⁵ The Wildlife and Countryside Act 1981, SI 1982 1217 (as amended). HMSO, London.

Locally chosen (county) sites should:

- have been selected against published criteria,
- have been approved by the appropriate Local Planning Authority,
- (wherever possible) be subject to consultation through the development plan process or as part of other supplementary planning guidance.

Locally chosen sites are of crucial importance for delivering biodiversity targets. As well as habitats of local importance they hold a large proportion of various nationally important habitats (especially when SSSI status conserves only a small proportion of a particular habitat, e.g. ancient woodland and lowland grassland).

Key test for locally chosen (county) sites

Development which would harm the wildlife or geological interests of a Local Nature Reserve (LNR), a locally chosen (county) site, or a Regionally Important Geological or Geomorphological Site (RIGS), should not be permitted unless the need for it or the benefits from it outweigh the nature conservation importance of the site.

In all cases where development is permitted which would damage the nature conservation value of the site or feature, such damage should be kept to a minimum. Where appropriate the local planning authority should apply conditions and/or planning obligations to provide appropriate compensatory measures.

6.5 Protected and important wild species

Certain wild species are protected under Schedule 1, 5 and 8 of the Wildlife and Countryside Act (1981 as amended). Badgers are protected under the Badgers Act (1992)⁶.

The Habitat Regulations implement the requirements of the Habitats Directive for species listed in annex IV of the Directive. It is an offence deliberately to kill, injure, take or disturb listed animal species; to destroy their resting places or breeding sites; or pick, collect,

cut, uproot or otherwise destroy listed plant species.

The UK Biodiversity Steering Group Report (1994: Vol. 2) and The UK Biodiversity Group Tranche 2 Action Plans (1998)⁷ identify a suite of species which are nationally important. These are the “Priority Species”, identified by Government as priorities for action across the UK.

Key test for protected and important species

Development which would have an adverse effect on statutorily protected species should not be permitted.

Development which would have an adverse impact on “Priority Species” in the UK Biodiversity Action Plans, but which are not protected by statute, should not be permitted unless the need for it or the benefits from it outweigh the nature conservation case.

To avoid harm to protected important species, the Local Planning Authority should consider the use of conditions and/or planning obligations which seek to:

- facilitate the survival of individual members of the species affected by the proposal,
- reduce disturbance to a minimum,
- provide adequate alternative habitats to sustain at least the current levels of populations affected by the proposal,
- provide positive measures to contribute to species conservation targets as set out in the Local Biodiversity Action Plan for the species concerned.

Further specific published guidance on protected species – and how they should be dealt with in the planning system – may be available from DEFRA.



⁶ The Protection of Badgers Act 1992. HMSO, London.

⁷ The UK Biodiversity Group (1998) Tranche 2 Action Plans. English Nature, Peterborough.

7 Protecting Biodiversity in the Wider Countryside and Urban Areas

7.1 Protecting the countryside

Land use planning should maintain and enhance the countryside for the sake of its beauty, the diversity of its landscape and historic character, the wealth of its natural resources and its ecological, agricultural, recreational and archaeological value (Paragraph 2.2 of PPG 7: *The Countryside*)¹. The rich and varied countryside is partly what attracts people to live and work in the South East and therefore is also important to sustaining a healthy economy in the region.

PPG11 says that Regional Planning Guidance should say how structure and unitary plans can protect and enhance the environment in rural areas.

Much wildlife and many important habitats underpinning biodiversity in the countryside are not subject to any special designation. It is nonetheless government policy that features of wildlife, landscape, archaeological interest and the like should be protected as parts of the countryside. That is a material consideration that should be taken into account in policies and decisions.



7.2 Protecting wildlife in urban areas or those important to communities

Urban areas contain many important habitats and species included in Biodiversity Action Plans. Although maintaining traditional management regimes (e.g. grazing) can prove problematic, such areas may have the advantage of not being subject to intensive agricultural management such as the use of agricultural chemicals.

Greenspaces supporting wildlife interest may be of great actual or potential importance to local communities, particularly, but not exclusively, in urban areas. Contact with, and access to, wildlife, as part of people's everyday lives is a significant factor in determining quality of life and wellbeing. Some habitats in urban areas or accessible to rural communities may not be included in the national Biodiversity Action Plans. However, their current or potential value to local communities should be seen as a key factor in assessing the protection and positive management of such sites when considering development plans or planning applications.

PPG11 says that Regional Planning Guidance should set out how structure and unitary plans can protect and enhance the environment in urban areas.

¹ Department of the Environment (1997) Planning Policy Guidance Note 7 (revised): The Countryside – Environmental Quality and Economic and Social Development. PPG7 (revised). HMSO, London.

Key test for urban areas

The actual or potential importance to local communities of areas of biodiversity interest should be a material factor in deciding on development in the vicinity of urban areas.

7.3 Previously developed land and greenfield development

Previously developed land may be present in rural or urban areas. It is sometimes assumed that, unlike greenfield sites, previously developed land has no wildlife value, when in fact the converse may be true. Such sites may also be of importance to local communities for informal recreation and enjoyment of nature.

Previously developed land should be assessed for its wildlife importance and community value just as any other potential development site. Such assessment should include significant potential wildlife or community interest. Sites should be identified on relevant maps.

Significant potential wildlife interest includes areas such as mineral workings where provision for restoration has not been made through the development control process and that could be restored to water or heathland habitats.

Key test for previously developed land

- *On other than designated sites (which are covered in the key tests in section 6 above) development on previously developed land should normally be permitted except where the need for it is outweighed by its nature conservation interest.*
- *Wherever possible, parts of sites having significant nature conservation interest should be retained and provision made for their management in association with relevant planning permissions granted for development.*
- *The value to local communities and the potential of the site for significant enhancement of its wildlife value should be important factors in considering such proposed development.*

7.4 Biodiversity in rural and urban areas

Natural Areas (see Section 5.5) provide an ideal framework for maintaining the integrity of the biodiversity resource.

Key test for biodiversity in the countryside

Development should, wherever possible, help deliver the objectives for Natural Areas and Biodiversity Action Plans.

7.5 Cumulative and indirect impacts

The impacts on wildlife as a result of one development may be small but the impact of several similar developments can be large. Cumulative impacts can include both direct and indirect impacts. Indirect impacts can be just as damaging to habitats and species as direct impacts and both therefore need full and proper assessment at the early planning stages of any development.

Significant impacts can include:

- destruction or damage to habitats and species,
- fragmentation of habitat by development,
- increased disturbance and/or trampling from increased recreational pressure (including dog walking) to habitats and species,
- hydrological changes,
- increased problems from predation of wildlife by cats and dogs,
- increased localised pollution,
- reduction of the ability to maintain traditional management regimes (e.g. grazing).

A development should not be permitted where the cumulative effects would have an adverse impact on important habitats and species. When considering a proposed development in a SPA or SAC or proposed SPA or candidate SAC, cumulative impacts of a series of developments on that site are one of the factors that must be taken into account under the Habitat Regulations. The same provisions apply to Ramsar sites.

If cumulative impacts are not taken into account, the biodiversity value of a site or area may be irreversibly diminished or even lost altogether. The size of the area over which cumulative impacts are to be considered for assessment will need to be determined both by the nature of the development(s) and the biodiversity importance of the site(s) involved.

Halting and Reversing Habitat Fragmentation and Species Isolation

8.1 Habitat fragmentation and species isolation

Whether examined in a local context or at the broad regional scale, most designated sites represent fragments of what were once much more extensive areas of natural and semi-natural habitat. These sites are, of course, some of the most important features in the landscape for nature conservation and constitute good examples of an area's wild flora and fauna. Important individual wild species are not necessarily found on protected sites – they are often widely dispersed in the landscape and their populations may be isolated from each other. This applies in both rural and urban areas.

In the South East, remaining habitat fragments together with landscape features which provide wildlife corridors, links or 'stepping-stones' from one habitat to another, are particularly important in countering the adverse effects associated with fragmentation. They help to form an *ecologically coherent network*; something crucial to maintaining the current range and diversity of our flora, fauna, geological and landform features and the survival of important species (see PPG 9 Paragraph 15).

This is because, throughout the South East, these habitat fragments and 'connecting' landscape features often provide the greatest opportunities for species migration. These features also act as a source and as a means for the spread and dispersal of habitats and species into new areas. This movement, within and between landscapes, enables genetic exchange and variation, which is crucial to the overall health, vigour, adaptability and survival of wild plants and animals.

Two examples at different levels illustrate this. On a large scale many estuaries are important internationally as 'staging posts' or 'stepping-stones' for birds as they follow their long distance migratory routes. At the local level, wild plants may disperse from an agriculturally unimproved flower-rich meadow, being able to spread into surrounding countryside if conditions become suitable.

Unfortunately, many parts of the ecological network have become seriously eroded and patchy, and connections are now often severed. A human parallel to this would be where towns, villages and hamlets are entirely dependent upon each other in socio-economic terms, but are

separated with few means of communication or transportation to connect them.

8.2 Climate change

As set out in Section 3 above, habitats and species will need to be able to migrate either for survival or to take advantage of more favourable conditions and expand their range. This should be a major impetus to plan to reduce fragmentation and to provide corridors and 'stepping-stones' as well as larger and more robust habitat areas to mitigate the impacts of climate change or to take advantage of it.

8.3 Reversal of fragmentation and isolation

The protection, management, and enhancement of *ecological networks* is identified as being particularly important in the EU Habitats Directive (Articles 3 and 10) and this is explained further in PPG 9 (Paragraph 15). The UK Biodiversity Action Plan (page 168) states that 'the fragmentation or isolation of key habitats is to be avoided and, wherever practicable, past fragmentation is to be reversed'.

It is an explicit target in the UK Biodiversity Action Plan to increase, expand and extend the area, range, population size, occurrence and distribution of many priority habitats and species in the countryside.

Fragmentation is a force acting contrary to these targets and may result in species extinction, changes in community composition, reduced genetic diversity, exposure to pollution and physical disturbance from neighbouring external activities. It may also lead to reduced opportunities for species migration and dispersal and hence the deterioration of some habitats and their constituent plant and animal species.

Reversing fragmentation and improving the linkages between wildlife habitats does not just involve SSSIs, but includes all patches of natural or semi-natural habitat and appropriate land in between. Statutory and non-statutory sites represent 'anchor points' which can be enhanced and extended to increase continuity of natural or semi-natural habitat present in the local area. Once

these 'anchors' are safeguarded, practical measures for reversing fragmentation can be implemented. This will involve increasing the level of biodiversity on intervening land through habitat management and enhancement and/or by means of habitat re-creation. Together, these measures aim to increase the natural ecological resources of an area and its overall stock of natural capital.

8.4 Objectives for preventing and reversing fragmentation

Protection of existing fragments (through site protection) and getting these into a favourable condition (through site management) is the first priority. These actions should then be followed by measures to extend and re-connect sites to reverse fragmentation.

The development plan process provides the means to counter fragmentation by:

- halting or reducing further fragmentation of habitats and isolation of species, through policies for site and species protection,
- guiding new development or land use change away from locations where they would otherwise have a significant adverse affect upon the ecological network (e.g. interrupting linear features or acting as a barrier between 'stepping-stones' (existing fragments),
- identifying areas where the potential to reverse fragmentation is highest and where measures for this purpose may be most cost-effective and where such action can be actively promoted and
- identifying and allocating development to the least sensitive sites and to sites where there are opportunities for enhancement.

Key test for reversing fragmentation

Priority areas where the fragmentation of natural habitats should be halted and reversed should be identified in development plans. Elsewhere, the relationship of development sites to features characteristic of the Natural Area should be taken into account.

Development should make every effort to avoid fragmentation of characteristic habitat and/or increased isolation of notable species (such habitats and species should be drawn from those defined in Natural Area Profiles and/or Biodiversity Action Plans) and should, wherever possible, help to reverse it.



As an example, these guidelines could be applied to prevent further fragmentation of such habitat as the Thames Basin Heaths and the further isolation of associated species such as the Silver-studded Blue butterfly.

8.5 Management of landscape features of major importance for wild flora and fauna

Simply protecting a site or species may not ensure its conservation. Remaining habitat fragments and important landscape features must be protected and *managed* to support wild species and provide for migration, dispersal and genetic exchange.

Article 10 of the EU Habitats Directive (1992) and Regulation 37 of the Conservation (Natural Habitats &c.) Regulations (1994), encourages development plans to include policies for the positive management of landscape features which provide valuable 'corridors' and 'stepping-stones' for wildlife (See Box 2).

Fragmentation of habitats is more significant for some species than others. Many species are dependent on one or just a few habitat types and their powers of dispersal, migration and genetic exchange are limited to their ability to find, reach and utilise features and fragments of the right 'type'. For some species with very specialised requirements, fragments of the wrong 'type' will act as a barrier – hindering movement just as seriously as a monoculture crop or extensive area of urban development.

Examples of *features of the landscape of major importance for wild flora and fauna*, as set out in the Habitats Directive, and relevant to the South East, include linear and continuous features (such as rivers and their banks or traditional systems for marking field boundaries, such as hedgerows) or features that function as 'stepping-stones' (such as ponds and small woods). In addition, fragments of semi-natural habitats, such as heathland or chalk grassland, or species-rich road or footpath verges can perform equally important corridor or 'stepping-stone' functions. Protection and management of such features, even where they are not of major importance can make significant contributions to biodiversity conservation in both rural and urban areas.



Key test for the management of landscape features of major importance for wild flora and fauna

Development proposals which may adversely affect features of the landscape of major importance for wild flora and fauna (as defined in Article 10 of the Habitats Directive) should only be permitted if they also provide for restoration, enhancement and management of the features concerned. Such management shall include conservation measures necessary to ensure that the site or landscape feature maintains its nature conservation importance and continues to function as a 'stepping-stone' or corridor, capable of supporting the migration, dispersal and genetic exchange of wild flora and fauna.

Conservation management may be secured by the application of conditions on planning consent, or more likely, through the use of planning obligations (Section 106 Town and Country Planning Act 1990¹), or by entering into management agreements (Section 39 Wildlife and Countryside Act 1981) with landowners and developers to secure provision for long-term management.

¹ Town and Countryside Planning Act 1990. HMSO, London.

Delivering Positive Gain Towards Biodiversity Action Plan Targets for Habitats and Species

9.1 Policy and legislative context

The Planning and Compensation Act (1991) (Box 2) Schedule 2 requires local authorities to include policies for 'the conservation of the natural beauty and amenity of the land' and 'the improvement of the physical environment' within their development plans.

There is also a broad legislative and policy framework for habitat and species restoration, especially when associated with major landscape features contributing to the ecological network. (Box 2 sets out the legislative background for restoration and enhancement.)

Restoration and enhancement is a fundamental part of biodiversity conservation, and is arguably

one of the most important driving forces within both the *UK Biodiversity Action Plan* (1994) and the *UK Steering Group Report* (1995). The reason for this is that without the means to achieve gains in biodiversity, the wildlife of our towns and countryside is likely to deteriorate in quality and diversity. Restoration and enhancement therefore offers an opportunity to rebuild what has been lost as well as to maintain what we have at present.

The Habitats Directive (1992) introduces and defines a number of valuable terms (see Appendix 3 and Box 2). It uses these in the context of international sites – that is the Natura 2000 Network. However, the ecological principles upon which these terms are based may be applied far more generally to all features of biodiversity importance.

Box 2. Legislative background for restoration and enhancement

- The Convention on Biological Diversity (Article 8.f) requires contracting nations to '*rehabilitate and restore degraded ecosystems and promote the recovery of threatened species*'.
- The Berne Convention (Article 11.2.a)¹ also encourages the re-establishment of wild animals and plants where this would contribute to the conservation of an endangered species, provided that a study is first made to ensure that such re-establishment would be effective and acceptable.
- The EU Habitats Directive (Article 2.2) adds to these conventions by stating that its aim is to '*contribute towards ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora*'. The Directive defines conservation as meaning '*a series of measures required to maintain or restore, at favourable conservation status, natural habitats and populations of species of wild fauna and flora of community interest*'.
- Articles 3.3 of the Directive requires Member States '*to endeavour to improve the ecological coherence of networks (particularly the Natura 2000 network (see Appendix 3) SACs and SPAs), by maintaining, managing and where appropriate developing features of the landscape of major importance to wild fauna and flora*'.
- Article 10 of the Habitats Directive (Regulation 37 of the Habitat Regulations) requires that Member States shall '*endeavour, where they consider necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora*'.
'*Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems of marking field boundaries) or their function as stepping-stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.*'

With specific regard to land-use planning, the Town and Country Planning Act (1990) and the Planning and Compensation Act (1991)² require developments to include policies for the improvement of the physical environment.

¹ The Convention on the Conservation of European Wildlife and Natural Habitats. 'The Berne Convention'. Berne, 1979.

² Planning and Compensation Act 1991. HMSO, London.

The Rural White Paper states that the updated PPG 9 (to be produced) *will emphasise to local planning authorities the need to take account of ... biodiversity action plans in their planning policies and proposals*' (paragraph 10.3.1) and the DETR circular on the Countryside and Right of Way Act 2000 (04/2001) states that 'Local Biodiversity Action Plans ... are amongst the elements local authorities should build upon when preparing the overarching Community Strategy required by section 4 of the Local Government Act 2000'.

9.2 National objectives and targets

The *UK Biodiversity Steering Group Report* identifies specific objectives and targets for habitats and species judged to be of national importance. In England, English Nature has taken the national targets and allocated these to appropriate Natural Areas where action is likely to be most cost-effective (See section 5.5).

9.3 Regional targets

The Regional Biodiversity Framework (*Action for Biodiversity in South East England*) has been developed by the South East Biodiversity Forum. It includes a number of specific and quantified regional targets for the protection, enhancement and re-creation of important habitats. See section 5.1 for details. Development and changes in land use requiring planning permission can contribute significantly towards these targets.

9.4 Areas with important concentrations of BAP habitats and areas for significant biodiversity gain

Areas where there are concentrations of important BAP habitats or species will have a high potential for habitat and species restoration and enhancement.

There may also be areas where the nature of the land provides particularly good potential for large areas of habitat creation, even if they are not particularly rich in habitats at present.

Therefore planning authorities should take particular care that proposed development is not allowed in the vicinity of such areas if this may conflict with otherwise significant opportunities for that land to contribute to future biodiversity targets. However, in the right place with the right design, development could enable significant habitat restoration, creation and enhancement, provided that this does not destroy or replace existing valuable habitats and species on a site.

9.5 Biodiversity targets in development plans

9.5.1 Incorporating targets and identifying areas

This section relates to areas where development is acceptable in principle.

Regional Planning Guidance and Development Plans, including Mineral and Waste Plans, can



contribute towards the management, restoration or creation of habitats, but equally may lead to the damage or loss of habitats or the disturbance of important species.

Local Planning Authorities have both a duty and an opportunity to enhance the environment. They can achieve this by identifying the quality and quantity of biodiversity targets (as specified in the relevant BAP, Natural Area Profile or Nature Conservation Strategy) that may be associated with new land use allocations outlined in the plans.

Regional Planning Guidance is required by Planning Policy Guidance 11 (2000) to incorporate biodiversity objectives into regional development objectives and to flag up the potential to increase biodiversity (e.g. the scope for meeting re-creation targets). It should also include specific principles for the management and enhancement of environmental assets of regional and sub-regional importance (down to local authority identified areas of these).

Areas with the greatest potential for habitat restoration and creation (see section 9.4) should be identified in the Regional, Structure, Unitary, Local, Waste and Mineral plans and shown on the proposals map. The more detailed the plan, the greater the precision required for the map.

Action for restoration or creation should be targeted carefully towards areas, habitats, and species where it is technically feasible and most likely to be successful and cost-effective. Wherever practicable, measures for management, restoration or creation should be required in connection with certain forms of development. These fall into three categories:

- types of development which inherently offer opportunities for habitat restoration/creation,
- development on or near sites identified within a Local Biodiversity Action Plan (LBAP) or Natural Area Profile where the potential to meet habitat and species restoration targets is highest,
- in areas currently lacking in wildlife sites and where local communities have few opportunities of direct contact with nature.

However, where the above circumstances do not strictly apply, there is nothing to prevent negotiations with potential developers to create or restore habitats.

The UK Local Issues Advisory Group has published '*Evaluating Priorities and Setting Targets for Habitats and Species*' (Guidance Note 4 1997³). This provides further detailed species and habitat evaluation criteria, which can be used to select appropriate species and habitats for action in Local BAPs, which can then be incorporated into the Development Plan.

There are occasions when a previously unidentified site that fits plan policy 'becomes available' (as may be the case when a developer offers a part of their development site for habitat creation). However, such actions are often ad hoc and may result in the failure of the site to yield its true potential for BAP priorities. At worst, the plan could lead to the creation of an inappropriate habitat for the area that may not be viable in the long term. The chances of a desirable outcome from such opportunistic actions can be improved greatly if the Local Planning Authority indicates which habitats and species are appropriate for the plan area, are consistent with BAP targets and are in character with their surrounding landscape (e.g. consistent with the local Natural Area profile).

Key test for habitat and species restoration

Having determined that development is appropriate in principle, provision should be made for the creation, restoration and enhancement of important habitats and species where opportunities arise in connection with development in both rural and urban areas. The contribution that such provision can make to local biodiversity in the area should be taken into account in:

- development plans and
- planning decisions and development briefs for site specific development proposals.

9.5.2 Biodiversity objectives

Appendix 1 provides a series of possible conservation objectives and actions for a variety of more detailed scenarios. These can be used as the basis for guiding and preparing appropriate planning conditions and obligations relating to restoration and enhancement.

³ The UK Local Issues Group (the Local Government Management Board/The UK Biodiversity Group) 1997. Guidance for Local Biodiversity Action Plans: 4 Evaluating priorities and setting targets for habitats and species. UK Biodiversity Secretariat, Bristol.

9.5.3 Identifying opportunities

Opportunities are likely to arise and should be identified where appropriate in association with:

- the reclamation of former mineral workings and waste disposal sites,
- schemes for derelict land clearance and re-development of previously developed sites that support wildlife,
- the development of public open space and major recreational features (such as golf courses),
- land in areas with a high potential to meet BAP habitat and species targets or those in Natural Area Profiles,
- sites with a high potential to create, restore or enhance locally distinctive habitats and species,
- land where there is the potential to reduce the fragmentation of important habitats and/or the isolation of important species and build ecological networks,
- development, particularly in urban areas, which provides an opportunity to bring peoples' experience of nature closer to where they live,
- extensive development of housing or industry occurring over an area in excess of about one hectare or a number of developments in an area that in total is of this size,
- new roads.

9.6 Biodiversity targets in development site plans and planning briefs

9.6.1 Mineral extraction and waste disposal sites

Where mineral extraction is acceptable in principle there is frequently particularly good potential for creating new wildlife habitats (often with community use) on the sites. Restoration of waste sites can also create valuable new habitats, although these may be more limited in range and quality than those on the bare mineral soils of mineral workings, and will certainly be so for wet pits.

Where such sites have the potential to contribute towards meeting regional or county biodiversity targets such as after use is of greater value than restoration to other uses such as commercial conifer plantation or agriculture.

Where a completed mineral working has potential to deliver an after use that will help meet regional or local biodiversity targets, the site should only be used for waste disposal if this could deliver equal or more important biodiversity targets than those achievable with no landfill.

The mineral planning system, unlike most other sectors, provides for the review of existing permissions. The opportunity should be taken to negotiate positive gains for biodiversity.

9.6.2 Benchmarks for biodiversity restoration and enhancement, and associated public enjoyment

Within Biodiversity Action Plans, targets for restoration and enhancement are commonly concerned with increasing the size of the population of a species or areas of habitat. However, when dealing with actual sites, it is possible to set objectives and targets for restoration and enhancement that cover a far broader set of biodiversity characteristics than simply numbers or size.

Where development is acceptable in principle, broadly speaking, action can be taken to:

- increase and extend the quantity and distribution of wildlife,
- restore and enhance the quality of habitats already present,
- reconnect biological and non-biological components of ecosystems with respect to structure and function.

Effective action for biodiversity conservation is also dependent upon public support, so it is important to encourage and enhance peoples' local contact with and enjoyment of nature and integrate development with recreation and community use.

For anything but the smallest development sites residents will have a desire to use adjacent habitats and this should be incorporated into the design and planning process. Positive design of access and interpretation will have the function of enhancing residents' enjoyment of the area and the quality of their lives. Only if the need to conserve important habitats and species present is appreciated and understood can problems associated with development in the vicinity of wildlife habitats be minimised.

At the same time, it may also be necessary to limit or prevent access to some areas where there are sensitive species. Skilful design and good information will be needed to provide for both conservation and a positive experience. For major developments associated with important new or current habitats, staff will be needed to work with and engage residents and their children in practical management, education and interpretation and to safeguard sensitive areas.

There is always something that can be done, even on a relatively small site with limited wildlife or

potential to create new habitats. For instance, there may be considerable scope to enhance structural diversity and public enjoyment.

9.6.3 Design of developments

The following processes need to be gone through to integrate habitat management, restoration and creation into the design of the development. They must be overseen by a team, including an ecologist independent of the developer.

Survey and impact assessment. To inform decision making (as set out above) appropriate assessment of impacts at each stage is needed, down to full detail in the planning brief. Survey

should precede any decisions or detailed design. The assessment should be used as part of an iterative process of design for larger developments.

The design process. Providing for biodiversity, and public enjoyment of it, should be fundamental to every stage of the planning and design process. Even where planning permission has been granted in the face of arguments about the inappropriateness of the site for development on biodiversity grounds, good design can reduce the impact. All too often biodiversity is considered as an afterthought at a stage when it is very difficult to make critical changes. Planners and developers need to work together to change this. Box 3 sets out how this can be achieved.

Box 3. Design strategy for incorporating nature conservation and related community enjoyment into development

The design process should consider the following right from the start:

- Retain, as a priority, all existing important habitats and landscape features within the proposed development site and protect them during construction.
- Concentrate special effort in areas with the most fragile, sensitive or threatened habitats or species to avoid further fragmentation and direct and indirect impacts.
- Create landscape features and informal green spaces in such a way that they have wildlife value wherever possible.
- Imaginatively integrate the layout of existing and new habitats with buffer zones, landscaping and green spaces, schools grounds etc to provide linkages between similar habitats and reduce fragmentation.
- Create a layout that makes it difficult for residents to reach important habitats and species that are particularly sensitive to disturbance or, where appropriate, designs access provision such that they are not disturbed (e.g. by boardwalks across wetlands where the public would not want to leave them). Buffer zones may be required. Generally, the less sensitive areas should be the more accessible ones.
- Sensitive wetland habitats will only survive if their hydrological regime is maintained. This will require careful design of the layout for housing and roads, open space and new habitats. Important factors include maintenance of high water tables and volume and periodicity and quality of the water supply. (e.g. avoiding input of the alkaline waters from urban runoff into important acid habitats).
- If loss of some habitats or features is unavoidable this should be compensated for, wherever possible, by creating a similar habitat type or expanding a higher priority one already associated with the site. If compensation cannot be achieved on site it should be on an area unaffected by development.
- Translocation of habitats should be seen as a last resort as it will only be justified if they are important habitats, and as such they should be retained. For European sites there is a statutory requirement for compensation or loss or damage and special processes to be gone through before development can be contemplated (see Section 6.2).
- New habitats should be designed to complement current habitats whenever possible, to ensure the right physical conditions for their establishment and maintenance.
- Access, interpretation, and educational use should be planned positively so that the area adds to the quality of life of residents and is a positive resource with the appropriate facilities provided, but in such a way that it minimises conflicts with nature conservation.
- Retained or created habitats must be managed appropriately. This may require infrastructure such as access to the habitat for machinery and grazing animals, water supply, fences etc. This should be built into the planning process.
- Managing habitats and interpretation and educational work may require professional staff input to work with local volunteers from the development on retained or new habitats.
- For major developments in the vicinity of important habitats an area of land not just within the development but surrounding it should be permanently brought into positive management. This should be identified through the assessment process and needs to be extensive enough to encompass the 'footprint' of impacts and use by the residents to absorb use without damage to sensitive habitats.
- The success of management and habitat creation should be monitored and contingency plans put in place for amending management if it fails to achieve the plan's goals.

9.6.4 Biodiversity objectives

Appendix 1 provides a series of possible conservation objectives and actions for a variety of scenarios. These can be used as the basis for guiding and preparing appropriate planning conditions and obligations relating to restoration and enhancement.

9.7 Planning to achieve no net loss

Loss of biodiversity runs contrary to the aims and objectives for achieving sustainable development and, as set out above, the aim should be to secure a gain wherever possible. However where over-riding considerations mean that some habitat area will be lost, then it is reasonable for the planning authority to secure measures from developers that at the very least aim to secure no overall net loss.

PPG 9 (Paragraph 2) states that where conflict between development and nature conservation is unavoidable, local planning authorities should seek to minimise adverse affects. Paragraphs 27 and 28 go on to say that, where necessary, Local Planning Authorities may secure measures from developers which avoid damaging impacts on wildlife or physical features. Likewise, they may also seek measures, which compensate for any features lost when development takes place. Depending on local circumstances, it will not always be possible to provide an exact substitute. However, there should be some relationship between what is lost and what is offered in terms of quantity and quality of features provided (see

also circular 1/97 Planning Obligations: Annex B; Sections 11 and 12).⁴

Where a need for compensation is identified this should be secured, so far as is possible, by agreement with the landowners involved, compulsion being a last resort.

For European sites, under Regulation 53 of the Conservation (Natural Habitats &c.) Regulations (1994) there is a statutory requirement to compensate for loss or damage. Guidance on incorporating nature conservation into development is included in sections 9.6.3 and 9.6.4 and Box 3.

Key test for achieving no net loss

- *Where other material factors do not constitute an over-riding need, significant biodiversity features should be retained and protected before, during and after construction.*
- *Where an over-riding need for development is clearly demonstrated, and where loss or damage to significant biodiversity features is unavoidable, appropriate compensatory habitat provisions should be provided. These should be of the same quality and extent as those affected to maintain the range and number of species and landscape features.*
- *Full provision should be made for the future management of retained and newly created features and habitats.*

⁴ Department of the Environment (1997) Circular 1/97 Planning Obligations. HMSO, London.

Environmental Information

10.1 Securing information

Proposals for new development or changes in land use must, where appropriate, be accompanied by detailed information clarifying their likely effects on wildlife.

Wildlife surveys and data presentation for use in connection with the planning system should be required to a set standard and procedure agreed by the planning authority working with key partners such as English Nature, The Wildlife Trusts and the RSPB and the local record centre (if there is one). This should apply regardless of who is undertaking the surveys, including developers. Only by using standards techniques will it be possible to consistently analyse and compare data. The South East England Biodiversity Forum publication, *Systems and Resources to Sustain Biodiversity in South East England* (2001), provides a review and detailed recommendations for regionally consistent survey and biological data systems needed to achieve this.

Where appropriate, local planning authorities may secure such information through exercise of their statutory powers under:

General Information for Full Applications

Article 4 of the Town and Country Planning (Applications) Regulations 1988¹, and/or

Outline Applications

Article 3 of the Town and Country Planning (General Applications: Development Procedures) Orders 1995², and/or

European Sites

Regulation 48 of the Conservation (Natural Habitats &c.) Regulations (1994) (European Sites);

Environmental Assessment (statutory)

Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999³ sets out when statutory assessment is required.

The first three powers exist irrespective of whether the application requires statutory environmental assessment. They provide the means for a local planning authority to request any information necessary to determine an application, and therefore can be used to obtain information on likely impacts. Local Planning Authorities need to check whether there is a statutory requirement for environmental impact assessment.

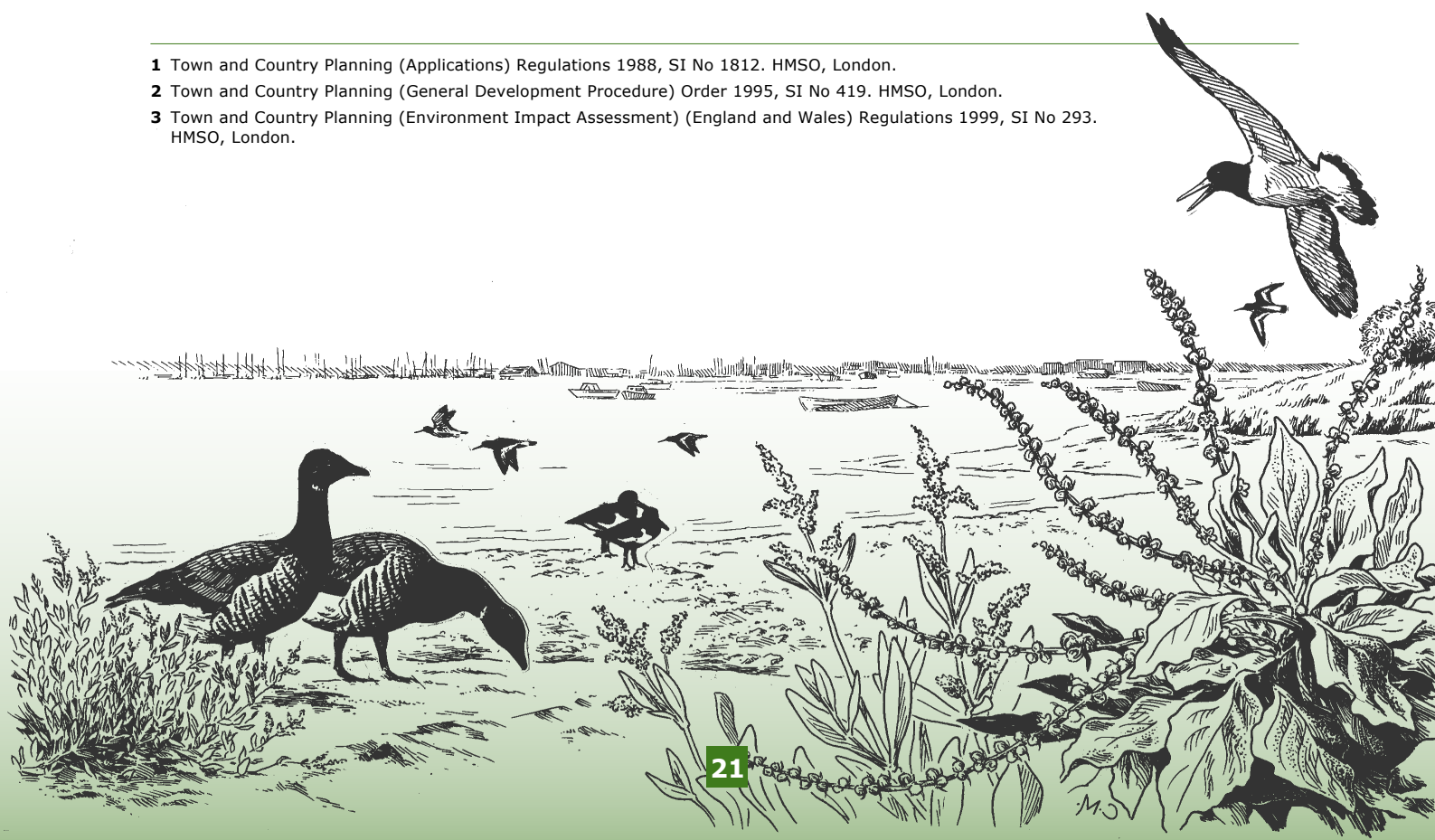
10.2 Assessment of effects

Local authorities require enough information to determine whether damaging impacts can

¹ Town and Country Planning (Applications) Regulations 1988, SI No 1812. HMSO, London.

² Town and Country Planning (General Development Procedure) Order 1995, SI No 419. HMSO, London.

³ Town and Country Planning (Environment Impact Assessment) (England and Wales) Regulations 1999, SI No 293. HMSO, London.



be avoided, reduced or mitigated. Crucial to this process is an assessment of the significance of any likely impacts. If development is permitted in principle, information is needed to determine the type and scale of measures to be incorporated into planning conditions and planning obligations. This will require assessment of the magnitude (scale or severity) of the impact and the value and sensitivity of the environmental resource being impacted. E.g., small impacts on features of high nature conservation importance or large impacts on those of low nature conservation importance will be attributed a low level of significance.

To do this effectively, planning authorities need access to ecological advice independent of the developers. Ideally, planning authorities should employ their own ecologists to play a key part in this.

To enable local planning authorities to make well-informed decisions about the potential effects of development on habitats, species or features of nature conservation importance, ecological assessments should be undertaken to adequately inform the decision. Such information may be required:

- to identify features or species present within the area potentially affected, either directly or indirectly, by the development,

- to place identified features into context with the natural characteristics of the surrounding area (e.g. the local Natural Area),
- to evaluate the importance of the features identified,
- to determine the type, duration, magnitude/scale and significance of potential effects on these features arising from development or the cumulative impact of a series of developments, including hydrological ones and human use (See section 7.5),
- to determine if the type of management essential to the maintenance of important habitats (e.g. grazing) can be maintained,
- to assess residual impacts that are likely after mitigation, indicating the overall balance of losses and gains.

The absence of adequate information accompanying an application showing its likely effects on biodiversity should constitute grounds for refusal of planning permission, since, in its absence, the development proposal cannot be adequately judged against relevant Development Plan policies. If the local planning authority does decide to assess the effects of development on the basis of inadequate information, the precautionary principle should always be applied.

11 Monitoring of Consent Conditions to Inform Decision Making

Monitoring should be designed to detect adverse or beneficial effects, and the results should be incorporated into future actions to change land use planning and management practices. Unless it leads to positive changes it is pointless.

Where permission is granted and accompanied by conditions or obligations for nature conservation measures (e.g. to reduce, mitigate or compensate for impacts, or to restore, create or manage features of nature conservation interest) there should be an associated requirement to prepare and implement a monitoring scheme for an appropriate length of time. This is necessary to ensure not only compliance but also to measure effectiveness and the achievement of stated aims and targets, and to correct implementation as necessary. Monitoring will illustrate the effectiveness of the works undertaken, and should inform

management and mitigation plans that may be required as part of any planning permission.

Monitoring is important because in many situations not enough is known about how proposed activities will affect biodiversity; these include operations intended to be benign or even beneficial such as conservation management. The purpose of monitoring is to measure change. It can address:

- the effect of change, e.g. development, on species and habitats,
- implementation of physical works or compliance with conditions or obligations,
- effectiveness of activities against stated aims and targets,
- validation of models or assumptions about the outcome of an activity,
- baseline monitoring to identify future changes from baseline conditions.

12 Community awareness and participation

People benefit greatly from close contact with nature. There are many practical measures that can improve links between people and their local wildlife resource. However, simply providing such measures may not give local people an opportunity to become actively involved in the decision making process.

Provision should be made in the planning and development process for local communities to participate in decisions on the protection and enhancement of, or access to, sites and features of nature conservation interest. The products of this participation, alongside professional ecological input, may be formalised through planning conditions and obligations and management and access agreements and by providing improved interpretation and information about the natural environment.

The Local Agenda 21 and Community Strategy processes (see section 5.3) make it clear that sustainability can only be achieved when all

parties work together. At the local level, this means local authorities working closely with other sectors, such as businesses, farmers and landowners and community and voluntary groups. These processes should incorporate the Local Agenda 21 and Community Strategy processes so that local authorities can ensure that action on biodiversity is supported by, and involves, the wider community.

Further information on community participation has been produced by the Local Government Management Board (LGMB) in their Roundtable Guidance – see guidance notes 1 and 8¹.

Local communities may have an important role to play in:

- identifying locally distinctive features that should be retained within development,
- design of new features and practical assistance with their creation active restoration and long term management of habitats and species.

¹ The Local Government Management Board/The Environment Trust Associates (May 1994). Creating involvement: A Handbook of Tools and Techniques for Effective Community Strategy Involvement.

Appendix 1. Key Objectives for Delivering Biodiversity Action Plan Targets through the Planning System (see Sections 9.5.2 and 9.6.4)

Biodiversity objectives	Planning justification and mechanisms	Action for land-use planning
<p>1</p> <ul style="list-style-type: none"> To protect current areas of key habitats and to prevent their further loss. 	<p>PPG 9 paras 12 to 18 and 22 and 24.</p> <p>Policy formulation and site designation in Development Plans based on a hierarchical approach for international, national and local sites. Defence of such sites through the development control process.</p>	<p>Site safeguard and protection.</p>
<p>2</p> <ul style="list-style-type: none"> To maintain current populations of key species and to prevent further loss. 	<p>PPG 9 paras 44 to 48.</p> <p>Policy formulation in Development Plans for species protected by law.</p> <p>Defence of such species through the development control process and through use of planning conditions and obligations.</p>	<p>Species safeguard and protection.</p>
<p>3</p> <ul style="list-style-type: none"> To reverse habitat fragmentation and species isolation in the landscape. To link populations and reconnect habitats. To maintain and enhance networks and areas around existing key sites. To enable the migration, dispersal and genetic exchange of wild flora and fauna via the management of 'stepping-stones' and linear features. 	<p>Implementation of Regulation 37 of the Natural Habitats (Conservation &c.) Regulations 1994.</p> <p>PPG 9 para 16 and 23.</p> <p>Policy formulation in the Development Plan and identification of relevant landscape features.</p> <p>Use of planning conditions and obligations.</p>	<p>Management and enhancement of landscape features of major importance to wildlife for dispersal, migration and genetic exchange.</p>
<p>4</p> <ul style="list-style-type: none"> To survey and identify important nature conservation features within the Development Plan area. 	<p>Town and Country Planning Act 1990, Sections 11 and 30.</p> <p>PPG9 para 24.</p> <p>DETR Circular 04/2001 on Countryside and Rights of Way Act, Section 47.</p>	<p>Obtaining adequate information on habitats, species, geology and landforms for preparation of the Development Plan.</p>
<p>5</p> <ul style="list-style-type: none"> To identify and understand the potential impacts of a major development proposal on biodiversity. 	<p>Consideration of environmental effects from planning proposals subject to statutory EA.</p> <p>Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.</p>	<p>Statutory impact assessment and prediction.</p>
<p>6</p> <ul style="list-style-type: none"> To fully characterise and evaluate habitats and species on a proposed development site. To identify potential development impacts and their significance and to determine the predicted success of proposed mitigation. To increase knowledge of poorly understood key ecological features, processes and interactions. 	<p>Consideration of environmental effects from planning proposals not subject to statutory EA.</p> <p>Article 4 of the Town and Country Planning (Applications) Regulations 1988 (for full and outline applications).</p> <p>Article 3(2) of the Town and Country Planning (General Development Procedures) Regulations 1995 (for reserved matters applications).</p> <p>Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (for applications subject to EA).</p>	<p>Exercising powers to obtain from an applicant any information necessary to determine a planning application.</p>

Biodiversity objectives	Planning justification and mechanisms	Action for land-use planning	
<p>7</p>	<ul style="list-style-type: none"> ■ To meet restoration and enhancement targets for habitats and species identified in the UK Biodiversity Report (involving the increase in habitat quality and extent and/or in species population distribution and numbers). 	<p>Convention of Biological Diversity Article 8(F). Berne Convention Article 11.2a. Habitats Directive Article 3 and 10. UK Biodiversity Steering Group Report 1995. Habitat and Species targets. DETR Circular 04/2001 on Countryside and Rights of Way Act, Section 48 Local Government Act 2000, Section 4 Rural White Paper para 10.3.1 PPG11 Section 10</p>	<p>Restoration and enhancement of biodiversity</p>
<p>8</p>	<ul style="list-style-type: none"> ■ To protect features during construction. ■ To avoid adverse impacts on habitats. ■ To avoid harm to species. ■ To mitigate or reduce adverse impacts. ■ To compensate for losses. ■ To enhance/restore nature conservation features. ■ To enable people to access and enjoy nature. ■ To increase knowledge of poorly understood ecological features, processes and interactions. 	<p>PPG9 para 23,27,28,47. Circular 11/95 <i>Use of Planning Conditions</i> and Explanatory statements in Development Plans defining how conditions will be used.</p>	<p>Use of planning conditions for biodiversity in development control.</p>
<p>9</p>	<ul style="list-style-type: none"> ■ To offset losses (substitute, replace, regenerate). ■ To secure land management for nature conservation. ■ To arrange monitoring of mitigation. ■ To decide remedial measures where necessary. ■ To provide off-site surveys. ■ To provide land for nature reserves. ■ To create new habitat/expose new geological features. ■ To restore habitat and to reintroduce species. ■ To translocate species and habitats. ■ To provide interpretative facilities. ■ To provide financial contributions (and other resources). 	<p>PPG9 paras 4,23,27,28 and 47. Circular 1/97 <i>Planning Obligations</i> (annex B sections 11–15) and Explanatory statements in Development Plans defining how conditions will be used.</p>	<p>Use of planning obligations for biodiversity in development control.</p>
<p>10</p>	<ul style="list-style-type: none"> ■ To characterise and evaluate important biodiversity features present within a biogeographic area (e.g. Natural Area) in order to inform proposals for habitat creation, restoration and enhancement. 	<p>PPG7 Countryside: Environmental Quality and Economic and Social Development. What Matters and Why – Environmental Capital. Natural Areas. Biodiversity Steering Group Report 1995.</p>	<p>Identification of 'Environmental Capital' and implementation of 'Character' approach.</p>
<p>11</p>	<ul style="list-style-type: none"> ■ To achieve no net loss of biodiversity as a result of new development. 	<p>PPG9 paras 27 and 28. Circular 11/95. Circular 1/97, annex B Sections 11 and 12. Use of Planning Conditions and obligations to avoid damaging impacts and /or to offset any losses.</p>	<p>Impact avoidance, mitigation and compensation.</p>
<p>12</p>	<ul style="list-style-type: none"> ■ To obtain monitoring information to determine if measures for habitat and species protection, compensation, enhancement and/or management are achieving stated and agreed objectives (as may be required by planning permissions). 		<p>Monitoring for biodiversity.</p>

Appendix 2. Bibliography and Further Reading

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Appendix 3. Definition of Terms and Abbreviations

Habitats Directive terms

The Habitats Directive (1992) introduces and defines a number of valuable terms; it uses these in the context of international sites; that is the Natura 2000 Network. However, the ecological principles upon which these terms are based may be applied far more generally to all features of biodiversity importance.

Conservation means a series of measures required to maintain or restore the natural habitats and populations of species of wild fauna and flora at a favourable conservation status.

Natural habitats means terrestrial or aquatic areas distinguished by geographic, abiotic and biotic features, whether entirely natural or semi-natural.

Conservation status of a natural habitat means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species. The Conservation status of a natural habitat will be taken as 'favourable' when:

- its natural range and areas it covers within that range are stable or increasing, and
- the species structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

Conservation status of a species means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations. The conservation status will be taken as 'favourable' when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its population on a long-term basis.

Integrity is defined by the Habitats Directive as 'the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or levels of populations of the species for which it was classified'. However, this principle can be applied to all levels of sites in the conservation hierarchy.

Other terms used in this document

Compensation means measures which may be used to offset damage that that would otherwise be caused to the integrity of a site by a proposal, such as development, by habitat creation or re-creation off site and its management. The term has special meaning in relation to internationally designated sites.

Creation the process of creating a habitat. It is used either in relation to re-creating a habitat on its original location as part of restoration or can mean creating a habitat where it has not occurred before. Created habitats should use native species and incorporate future management.

Enhancement is the process by which a habitat's wildlife richness (diversity and number of species present, and/or geographic area) is increased.

Landscape features of major importance for wildlife are those which are crucial for the migration, dispersal and genetic exchange of wild species of fauna and flora e.g. rivers with their banks, traditional systems for marking field boundaries and 'stepping-stones' (such as ponds or small woods).

Management The process by which a habitat is conserved by positive action to maintain or enhance its value for wildlife. The type and degree of management depends on the nature and quality of the habitat and the biodiversity targets agreed (e.g., a drained wetland needs re-wetting and then on-going water level management and management such as extensive grazing as appropriate to the habitat). Some management may be adequately provided by maintenance of current activities on site (natural and human processes); in other cases an increase or decrease in the activity or entire change in activity is necessary.

Mitigation means measures which may be used to offset damage that would otherwise be caused to the integrity of a site by a proposal such as development. This may include re-creation of habitats within the same site and provision of management. The term has special meaning in relation to internationally designated sites.

Natural Areas are biogeographic zones that reflect the geological foundation, the natural systems and processes and the wildlife in different parts of England. Natural Areas are a sensible scale at which to view the wildlife resource, from both a national and local perspective, and they are used by English Nature and others as an ecologically coherent framework for setting objectives for nature conservation.

The Natura 2000 Network is the cornerstone of the European Community's nature conservation policy. This network comprises habitats which have been identified as being of Community Importance by a careful process of selection on the basis of common criteria by Member States and the Commission. The overall objective is to encourage the preservation of biodiversity, taking into account scientific, economic, social, cultural and regional requirements.

Restoration or re-creation is the process of reinstating a degraded or lost habitat in its original location, comprising habitat creation and management, depending on degree of loss. It is the process of assisting the recovery and management of ecological integrity. For the purposes of this document, *restoration and enhancement* covers a broad spectrum of activities that may be used to improve the quality and/or quantity of biodiversity in any given area.

Semi-natural habitat. Habitat which has been affected and changed by the activities of humankind. Semi-natural habitats can be many hundreds or thousands of years old and can be as wildlife-rich as natural habitats. Most habitats in the South East are semi-natural.

South East the Government Office South East (GOSE)/South East England Regional Assembly/South East England Development Agency (SEEDA) region.

Acronyms and abbreviations used in this document

BAP	Biodiversity Action Plan
DEFRA	Department for Environment, Food and Rural Affairs.
LBAP	Local Biodiversity Action Plan
RPG	Regional Planning Guidance
SEEDA	South East England Development Agency

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