

Ecology in the Planning System

Ecology Technical Information Note No. 06

October 2011



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Head Office
Sustrans
2 Cathedral Square
College Green
Bristol
BS1 5DD

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Registered Charity No. 326550 (England and Wales) SC039263 (Scotland)
VAT Registration No. 416740656

Issue level: 01
Owned by: NCN Director
Contact: hannah.roberts@sustrans.org.uk

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Policy and Legislation

A variety of policies and legislation relating to ecology are in place from European legislation to local policy. These relate to specific sites, to particular species and habitats and also to conservation on a landscape level.

European Directives give protection to 1000 species and 200 habitats as well as designating sites of significance to nature conservation in Europe; Special Protection Areas (SPA) and Special Areas for Conservation (SAC).

Each devolved nation in the UK applies European directives slightly differently through national legislation but the general principle is that councils must require construction and development projects to have minimal impact on biodiversity and enhance it wherever possible.

Each devolved nation has also designated sites of nature conservation significance at a national level which have statutory protection. Nature conservation sites are also designated at a local level and these sites receive protection through the planning process.

Statutory European and national legislation relating to certain plant and animal species is also in place aimed to conserve them, prevent cruelty and also to prevent the spread of invasive species. This legislation is prescriptive and stringently enforced by the relevant statutory organisation.

Whilst policies are implemented through the planning process, the legislation is statutory and applies at all times. This information note is primarily related to projects that require planning permission but ecological assessments should be undertaken for all construction projects and this process should always be followed as best practice and to prevent breaches of statutory legislation.

What is Required

It is easy to forget that despite the environmental benefits of creating traffic free routes, their construction can take out a significant area of habitat, often in important locations and if done insensitively can negatively impact nature conservation.

Any planning application should include the following information;

- A survey of the current ecological interest of the route;
- An assessment of the impacts of the proposal on protected sites, notable and protected species and habitats and on landscape considerations (such as habitat fragmentation)
- Measures proposed to minimise any identified ecological impacts (to avoid and mitigate impacts and compensate for residual impacts); and,
- Measures proposed to enhance ecology.

Without this information councils can refuse planning permission on the basis of insufficient evidence.

Surveys

The first step in an ecological investigation is likely to be an Extended Phase 1 Habitat Survey. This survey can be conducted at any time of the year as it identifies basic habitat types only but spring and summer are the optimal survey times. This report is usually considered to be valid for approximately two years, but if the site was of very low ecological value and is unlikely to change or

if ecologists have been visiting over a longer timeframe to conduct further surveys, older reports may still be considered acceptable. This would be judged on a site by site basis.

The Extended Phase 1 Habitat Survey report comprises;

- A walkover survey to identify habitats along the route;
- A desk study to identify designated nature conservation sites and records of protected and notable species in the area;
- An assessment of whether notable or protected species may occur on site;
- An assessment of potential impacts of the proposed works on habitats/species; and,
- A list of recommendations to ensure no breaches in legislation or policy will occur.

The recommendations made in this report may include requirements for consultation with relevant authorities, measures to avoid/mitigate/compensate predicted impacts or may include the need for further species specific surveys. Further surveys are required when a protected species is considered likely to occur on site and could be negatively impacted by the proposal.

Additional specific surveys may be expensive or could take a long time to complete. It is therefore important to get the Extended Phase 1 Habitat Survey done as early as possible in order to plan these into the project budget and timeframe and whilst your plans are still flexible. If you can tweak your proposals to avoid the predicted impact, there would be no need for the additional surveys, licences or mitigation; thus avoid expense, delays and minimise your environmental impact. Discuss the impact with your ecologist to determine if it can be avoided altogether. It could simply be a case of re-routing the path slightly to avoid the feature (e.g. trees that could be used by roosting bats), timing works to occur at a certain time of year, (e.g. when species are not likely to be present or are less vulnerable) or adjusting your works methodology (e.g. the machinery you use in that location).

If you cannot avoid the impact, further investigation and/or mitigation will be required. If a protected species is likely to be present **and** is likely to be impacted by the works a survey for that species will usually be required.

There are some circumstances where it will be acceptable to skip straight to mitigation under the assumption that a species is present. This will be down to the level of protection the species is afforded and the severity of the impact. This will be determined by the project ecologist, where appropriate in consultation with the Local Authority and relevant Statutory Bodies. Development licences (for European Protected Species and badgers etc) will never be granted without an up-to-date survey.

Protected species surveys have specific methodologies that must be followed. Some require multiple site visits (e.g. reptile surveys), some can only be conducted at a specific time of year (e.g. great crested newts) and some may take extended periods to complete (e.g. dormouse). Links have been provided at the end of this document to survey timetables.

Again, species surveys are generally considered to be valid for approximately two years, however, for some species that are very mobile (bats and badgers) updates may be required more frequently e.g. after one year.

Mitigation and Compensation

Once you have avoided impacts where possible you must propose measures to mitigate the remaining impacts. This involves reducing the impact and compensating for it. How you go about this will vary on a site by site basis. There is rarely a set solution to any issue and there will usually be a unique set of issues at each site that interact.

Reducing the impact could include a variety of measures such as adjusting the timing, location and scale of the proposal or changing your works methodology;

For example; if reptiles are present you might mow the area in advance to make it less suitable for them so they move out of the area naturally and both the mowing and the construction works might be undertaken on a sunny day in summer when reptiles are most active and able to move out of the way. This reduces the chance of a reptile being injured or killed during construction.

Further measures should be undertaken to compensate for the residual impacts;

For example; If you have removed features that could be used by hibernating reptiles and reduced their best foraging habitat you might clear some scrub to create more foraging habitat and build artificial hibernacula to replace those lost. This compensates for the direct effect of construction that you could not avoid.

Ecological Enhancement

This is a requirement of planning and is best practice for any route creation programmes.

The measures proposed should be above and beyond the compensation measures. Compensation makes up for impacts, enhancement makes the site better than it was.

The most valuable thing that could be done is the creation of a long-term management plan for the route designed to enhance the biodiversity along the route but this is not always possible as we cannot always influence the future management of the path.

Other measures could include;

- The creation of new habitats such as hedgerows or grasslands in areas that currently have little value to wildlife conservation;
- The creation of log piles for invertebrates, amphibians or reptiles; or,
- The installation of bird/bat/dormouse boxes where there were previously few features for them to use.

For inspiration and guidance on what is appropriate for your route, consult the Extended Phase 1 Habitat Survey; ask your ecologist, the Local Authority ecologist or local interest groups; or consult local, national and Sustrans Biodiversity Action Plans.

Further Guidance

The Biodiversity Planning Toolkit; <http://www.biodiversityplanningtoolkit.com>
Gives summaries of, and links to, relevant legislation for each UK nation, explains designations for different wildlife sites and provides survey and mitigation timetables and directory of ecological consultants.

Joint Nature Conservation Committee; <http://jncc.defra.gov.uk>
Gives background information about nature conservation and summaries of, and links to, relevant legislation for each UK nation, and designations for different wildlife sites.

Natural England; <http://www.naturalengland.org.uk>
Scottish Natural Heritage; <http://www.snh.gov.uk/>
Countryside Council for Wales: <http://www.ccw.gov.uk/Splash.aspx>

Northern Ireland Environment Agency; <http://www.doeni.gov.uk/niea/>

These statutory bodies provide overviews of biodiversity in each nation, information on designated sites and survey and licensing requirements.