

Ecology Surveys and Report

Requirements

Planning Application Validation Guidance

Walsall holds numerous statutory and non-statutory designated sites of ecological interest, with many rare and legally protected species present within the green spaces and urban areas of the Borough.

All developments even those involving minor works, have the potential to adversely impact these sites and species. As such Walsall has a duty to protect them by understanding any potential impacts a development may have and ensuring the potential impacts are avoided, mitigated, or compensated for, prior to planning determination.

Government planning policies for biodiversity are set out in the National Planning Policy Framework (NPPF), while the Local Authority's planning policies are set out in the Black Country Core Strategy policy ENV1: Nature Conservation and Walsall Unitary Development Plan policy ENV23: Nature Conservation and New Development and ENV24: Wildlife Corridors. Further guidance can be found within the [Natural Environment Supplementary Planning Document](#)

National legislation covering wildlife and biodiversity are listed below:

- Environment Act 2021
- Conservation of Habitat and Species Regulation 2017
- Natural Environment and Rural Communities Act 2006
- Hedgerow Regulations 1997
- Wildlife and Countryside Act 1981 (as amended)
- Protection of Badger Act 1973
- Wild Mammals (Protection) Act 1996
- Local Nature Recovery Strategies

When are Ecology surveys required?

A Preliminary Ecological Appraisal (PEA) / Ecological Impact Assessment (EcIA) report is likely to be required for the following developments:

- Developments that lie within or in the vicinity of sites internationally, nationally, or local designated for their biodiversity importance e.g., Special Areas of Conservation (SAC), Sites of Special Scientific Interest (SSSI), Local Nature Reserve (LNR), Sites of Importance for Nature Conservation (SINC) and Site of Local Importance to Nature Conservation (SLINC);
- Developments that are likely to affect a protected or nationally, regionally, or locally important species and / or habitat features;
- Development involving the modification, partial demolition or demolition of buildings and structures that include the following:
 - Agricultural buildings (e.g., farmhouses, barns, and outbuildings) of traditional brick or stone construction and / or with exposed wooden beams;
 - Building with weather boarding and / or hanging tiles that are within 200m of woodland / or water;
 - Pre-1960 detached buildings and structures within 200m of woodland and / or water;
 - Pre-1914 buildings with 400m of woodland and / or water;
 - Pre-1914 buildings with gable ends or slate roofs, regardless of location;
 - All tunnels, mines, kilns, ice houses, adits, military fortifications, air-raid shelters, cellars and similar underground ducts and structures, unused chimneys that are unlined and brick / stone construction;
 - Bridges structures, aqueducts and via ducts (especially over water and wet ground);
 - Structures within 50 metres of open land. This includes parks, golf courses, cemeteries, agricultural land, river valley or other unmanaged open land.
 - Structure within 50 metres of the following habitats or features: woodland, mature trees, wetlands, disused transport

corridors, water courses, canals, and all ecologically designated sites.

- Structures within 150 metres of a known bat roost or credible claims that bat/s are present within the application site.
- Applications to install wind turbines close to trees or buildings;
- Developments which will include the removal of trees or other vegetation;
- Developments within 250m of a pond;
- Development works directly affecting, with a pathway to affect or within 200m of watercourses;
- Applications for flood lighting of churches and listed building, green space (e.g., sports pitches) within 50m of woodland, water field hedgerows or lines of trees with connectivity to woodland or water;
- Developments that will result in a loss of areas of natural or semi-natural habitats;
- Proposed tree works (felling or lopping) and or development affecting old and veteran trees that are older than 100 years, trees with obvious holes, cracks or cavities, trees with a diameter greater than 1m at chest height;
- Proposals affecting gravel pits or quarries and natural cliff faces, crevices, or caves.
- Proposals affecting brownfield sites, allotments, and railway sidings;
- Developments identified in pre-application discussion as potentially containing protected and priority species or habitats; and
- Developments that lie within a site identified as a Potential Site of Importance (PSI).

A Habitat Regulations Assessment will be required for the following development:

- Development which lies within 15km zone of influence of Cannock Chase SAC which would lead to a net increase (1 or more) of dwellings. Further details can be found on [Special Areas of Conservation](#):
 - Any housing development;
 - Tourist accommodation, including caravan sites;

- Conversion of buildings into dwellings;
 - Agricultural workers dwellings;
 - Houses of multiple occupancy (HMOs (HOUSE OF MULTIPLE OCCUPANCY));
 - Care homes that fall under use Class C3;
 - Prior approval applications for the creation of dwellings;
 - Gypsy, travellers and travelling show person's accommodation (except showman's yards with no accommodation attached); and
 - New horse/ pony trekking centres, livery yards, or significant extensions to existing ones.
- Development which lies adjacent or within the vicinity of Cannock Extension Canal SAC.
 - Development which lies within the SSSI impact zone and meet the zonal criteria for Cannock Extension Canal SAC.
 - Development that will result in a significant increase in vehicular traffic within 200m of the Cannock Extension Canal SAC, directly or in combination with other developments.

The list above is not a comprehensive list, rather guidance to when ecological surveys are likely to be required. As part of the application process, each development will be individually assessed as such additional surveys may be requested by the Ecology Officer.

Exceptions may be provided on whether ecological surveys and / or assessments are required, when:

- Following consultation by the applicant at pre-application stage, the LPA has placed in writing that no protected or priority species surveys and assessment are required.
- No protected or priority species or habitat are present despite the guidance in the above list indicating that they are likely, evidence should be provided to demonstrate that such species and habitat are absent.
- The development proposal will not affect any protected or priority species or notable habitat present. Evidence should be provided to demonstrate that there will be no significant impact on any protected or priority species or notable habitat present and include a statement acknowledging that the applicant is aware that it is

criminal offence to disturb, or harm protected species should they subsequently be found or disturbed.

What is required?

Minor and major applications that meet the above criteria will be required to undertake and complete a PEA and any pre-determinative survey requirements generated from this initial appraisal.

While minor developments with limited ecological impact may be able to utilise this report for planning submission. A PEA is normally used to inform the applicant on opportunities and constraints as part of the design process and to recommend, if necessary, further survey work. This would then feed into Ecological Impact Assessment.

As biodiversity and protected species surveys are a material consideration in assessing whether the development is acceptable and meets national and local policies and legislation, the surveys and assessment must be submitted with the application and cannot be conditioned as part of a planning decision. If the initial surveys recommend further survey work, these should be carried out and submitted with the application at validation stage.

All Ecological reports submitted should be undertaken and prepared by Suitably Qualified Ecologist and meet the BS 42020:2013 biodiversity, code of practice for planning and development and CIEEM (Chartered Institute of Ecology and Environmental Management) Technical guidance series. All surveys should be carried out at an appropriate time and month of the year, in suitable weather conditions, using nationally recognised survey guidelines and methodology. Any deviation from the guidance would need full justification.

In addition, any development that includes a loss of natural or semi-natural habitat will also need to demonstrate a Biodiversity Net Gain as result of the application. This requirement is described in further detail in the Biodiversity Net Gain Guidance Note.

Ideally survey data for the application should be from the last survey season before the application is submitted. Should the survey data be older then consideration will be given to whether the survey work requires updating prior to determination.

- Preliminary Ecological Appraisal (PEA) / Ecological Impact Assessment (EcIA) report

The scope and detail of the reports will depend on the size, complexity, and ecological importance of the site. However, information must be consistent and link with information in other submitted documents including details relating to SUDs, landscaping, lighting, flood risk and trees.

PEAs are designed to establish baseline conditions and evaluate the importance of ecological features present on site or within locality. A PEA consists of both a field survey and desk-based analysis. The field survey will allow the mapping and evaluation of the habitats present and to assess suitability for protected species to be present. While the desk study will include a data search from EcoRecord the Local Environmental Record Centre on protected species and protected sites within the site and identified zone of influence. Further guidance on the report can be found on [Guidelines for Preliminary Ecological Appraisal](#).

The Ecological Impact Assessment will provide evidence of the evaluation of the existing habitats and assessment and consideration of the potential impacts of the development. The report will fully outline, how the impacts will be addressed by avoiding, mitigating, or compensating for any ecological impacts, as per the mitigation hierarchy. All Ecological Impact Assessments should include the following information:

- Description of the proposal
- Description of the ecological importance of the site and individual habitats and species
- Details including survey methodology and results of all specialist surveys undertaken.
- GIS (Geographical Information System) map (utilising UKHAB or JNCC Phase 1 Habitat Survey categories)
- Impact Assessment
- Mitigation and enhancement strategy
- Implementation of mitigation measures
- Monitoring
- In case of development affecting European Protected Species (e.g., bats, otters, and great crested newts), information required to address the three licensing tests of the Habitat Regulations
- Evidence that the assessment has been informed by an ecological desk study from EcoRecord

Where development will result in a significant loss or de-designation of a SINC or SLINC, a Local Site Assessment may be required to be undertaken. This would evaluate the protected site against the local site criteria to determine whether it still meets the threshold of the

designation. While it would be the responsibility of the applicant to complete the report, the report would be submitted to the Local Site Partnership for evaluation and then endorsement by Walsall Council. The Local Site Assessment report template and guidance to be used can be found on the [Local Wildlife and Geology website](#).

Where development will result in the significant loss of high ecological important habitats, a Local Site Assessment may also be required to be undertaken.

The Local Sites Partnership for Birmingham and the Black Country comprises representatives including all the Local Authorities, the Wildlife Trust for Birmingham and the Black Country, EcoRecord, Black Country UNESCO global Geopark, Canal and River Trust and Environment Agency.

Where the development includes the lighting of ecological features, this should be designed in such a way to avoid any light spill onto surrounding wildlife habitat, proposed bat and bird boxes and known bat roosts. In certain cases, the applicant may be required to submit a sensitive lighting plan.

- Habitat Regulations Assessment

Within Walsall lies a singular SAC identified as Cannock Extension Canal SAC, however, the borough also falls within the zone of influence for Cannock Chase SAC.

Where development is likely to have a significant effect on a SAC, the Council is required to undertake an assessment under regulation 63 of the Conservation of Habitat and Species regulation 2010 and Habitats Directive (92/43/EEC). The applicant must provide detailed information on the proposed development and its likely impact on the SAC. Planning permission will not be granted until the information has been received and it is adequately demonstrated that the proposal will not harm the integrity of the SAC.

The Council, acting as competent authority, has a duty to determine whether the plan is likely to have significant effect on the site, either alone or in combination with other plans or projects and consider the potential for effects upon sites of European importance prior to granting consent. This is known as Habitat regulations Assessment (HRA). Whilst it is the responsibility of the Council, as the competent authority, to undertake the HRA, those proposing or submitting planning will need to provide the Council with sufficient information and evidence to enable the assessment to be undertaken. Applicants are advised to agree the extent of the level of information that will be required to support this process during pre-application discussions with the LPAs (Local Planning Authority).

Stage 1 of the HRA is the screening assessment, is designed to assess whether the development will result in potential significant impacts to the integrity of the SAC. If likely significant effects are identified, by the screening assessment, the competent authority must then undertake an Appropriate Assessment of the implications.

Following the recent CJEU ruling (case C 323/17), LPAs can no longer consider any avoidance and mitigation measures as part of the application at this stage of HRA.

At stage 2 appropriate assessment (integrity test), appropriate mitigation measures can be put forward by the applicant to avoid / reduce any potential for identified adverse effect on the integrity of the protected site. The competent authority will consider and consult with Natural England on whether:

- The measures will remove or reduce the potential adverse effect;
- The certainty the measures will have their desired affect;
- How the measures will be implemented, monitored and their duration;
- How will it be enforced;
- How long for the measures to have their affect; and
- Level of success you expect.

It is the responsibility of the applicant to provide evidence showing avoidance and / or mitigation measures to allow an assessment to be made.

If it is decided that the mitigation measures are appropriate the development can be approved, with the mitigation measures. However, if the measures are not appropriate the development would be refused. Further information can be found on the [Habitats regulations assessments: protecting a European website](#).

[Specific guidance on the Cannock Chase SAC](#).

Householder Applications

With minor developments, such as householder applications, the impact to ecology is more likely to be focused solely on the potential impact to protected species including Bats, Great Crested Newts and Badgers as a result of the works.

In these cases, rather than the production of a PEA / EcIA report, a protected species report should be undertaken. These reports would be required to provide the same information as above for the EcIA, however, it would be focused solely on a specific issue and would be required by any householder application that falls under any of the above criterion.

- Bats

Bats use a wide variety of different roosts during the year, which can be found within natural holes, cracks, and lifted bark of mature trees or within building structures, such as lifted tiles, lintels, and accessible loft voids. As such should the application site include an existing building or a tree characterised as a mature or veteran and involve the demolition, partial demolition or modification of a building, which include work on features such as roofs, hanging tiles and weather boarding, or works to mature or veteran trees, containing obvious holes, cracks or cavities, consideration should be given on whether a bat survey is required. Further detail on the criteria for bat surveys are outlined within the Natural Environment Supplementary Planning Document.

It is strongly advised that consideration to the requirement of bat surveys is undertaken at the earliest possible stage in the development, as there are seasonal constraints to much of the survey work. While the preliminary roost assessment (PRA) surveys can be undertaken all year around on buildings and trees, although ground level tree assessments are optimally completed between November and April, should further survey work be required, such as dusk emergence / dawn re-entry surveys, these can only be undertaken between April and September.

A Natural England Mitigation Licence will be required in addition to any planning approval should the surveys identify a bat roost, that will be impacted by the works. At the planning stage, the application would need to include mitigation for the temporary and or permanent impact to the roost and should provide survey data consistent with that required for an application to Natural England for a European Protected Species Licence. In addition, the LPA will require a response to the three tests noted under the Conservation of Natural Habitat and

Species Regulations 2010 (See Annex 9 in the Natural Environment SPD (Supplementary Planning Documents)) to approve the application.

This information can then be submitted to Natural England, after planning approval, to obtain a Natural England license.

- Great Crested Newts

With householder applications, Great Crested Newt surveys may be required should the application site include a pond or there are adjacent ponds on site.

Where works are minimal, there are no known GCN records within the area or a Suitably Qualified Ecologist determines the pond to be of poor suitability using the Habitat Suitability Index Assessment, an advisory condition will likely be added once the application has been considered, allowing the development to be completed using precautionary working measures.

Where surveys are required, the results should be incorporated into a report to be submitted with the application. If GCN are to be found to be present, mitigation should be provided to avoid, mitigate and or compensate for the potential impact of the works within the GCN survey report.

Should a Natural England Licence be required for the development works, a response to the three tests would need to be completed under the Habitats Regulations (See Annex 9 in the Natural Environment SPD) and included within the application report, as stated above within the bats section. Should planning be approved, a Natural England licence can be applied for to undertake the works.

- Badgers

Should a badger sett be known to be present on site or within 30m, a badger survey would be required to support the householder application. The proximity of the sett to the proposed work, the potential level of impact and the type of sett identified, will determine whether only mitigation and precautionary working practices need to be put in place during the works or whether a Natural England licence would need to be applied for to undertake the works.

The survey results and mitigation proposals should be placed within a protected species report and submitted alongside the planning application. Should planning be approved, a Natural England licence can be applied for to undertake the works.