Property: Caravan Site, Land South of Valois, Finchampstead Road / Range Road, RG40 3NR
Applicant: SHERIDAN
Proposal: Full planning application for the change of use of land to the stationing of caravans to form a Gypsy / Traveller pitch to include works to access and ancillary works (Retrospective).
Ref: 260577

GREAT CRESTED NEWTS

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1. In 2005 Circular ODPM Circular 06/2005 was introduced. This identifies at paragraph 99 as shown at **Tab 1** that:

   developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.

2. Natural England was funded by MHCLG to undertake a national survey of Great Crested Newts. This is shown at **Tab 2**.

3. The results of the MHCLG survey were published in 2019. This is shown at **Tab 3**.

4. The MHCL survey results identified that there is no reasonable likelihood of Great Crested Newts being found in Wokingham.

5. In 2025 an organisation known as Nature Space produced a plan of Wokingham showing what is assumed land that was suitable for the introduction of Great Crested Newts. This is shown at **Tab 4**.

6. The plan produced by Nature Space enabled Wokingham Council to reject the advice of Natural England and use the plan of Nature Space. The plan produced by Nature Space as shown at **Tab 5** identifies that the application site is within an Amber Great Crested Newt zone (i.e suitable for introduction of Great Crested Newts from Peterborough),

7. The application site is within about 200 m of a swimming pool.

8. The application site is more than 500 m distant from a pond that would provide suitable breeding habitat for Great Crested Newts.

9. The site was developed following a fingertip search of the land for Great Crested Newts. Any further work will involve additional finger tip searches.

10. There is no intention of the developer to cause damage to Great Crested Newts. The probability of Great Crested Newts being present on the land is very low.

Stuart H CARRUTHERS
27 March 2026

ODPM Circular 06/2005
Office of the Deputy Prime Minister
Eland House, Bressenden Place, London SWIE 5DU

Defra Circular 01/2005
Department for Environment, Food and Rural Affairs
Nobel House, 17 Smith Square, London SW1P 3JR

16 August 2005

GOVERNMENT CIRCULAR: BIODIVERSITY AND GEOLOGICAL CONSERVATION – STATUTORY OBLIGATIONS AND THEIR IMPACT WITHIN THE PLANNING SYSTEM

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GOVERNMENT CIRCULAR
ODPM Circular 06/2005
Defra Circular 01/2005
To accompany planning policy statement 9

Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system

PURPOSE OF THE CIRCULAR

1. This Circular provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It complements the expression of national planning policy in Planning Policy Statement 9, Biodiversity and Geological Conservation (PPS9) and the accompanying Good Practice Guide. Although this Circular outlines how statutory obligations impact within the planning system, in some cases the legislation will have an equal bearing on other regimes e.g. Transport and Works Act 1992.

THE STRUCTURE OF THE CIRCULAR

2. The Circular is structured on a topic basis, bringing together advice on sources of legislation relevant to various nature conservation topics which may be encountered by planning authorities, rather than a statute-based approach. Part I deals with the conservation of internationally designated sites: Special Protection Areas (SPAs) classified under the EC Birds Directive[1], Special Areas of Conservation[2] (SACs) designated under the EC Habitats Directive[3], and Ramsar sites listed under the provisions of the Ramsar convention[4] on wetlands of international importance; Part II deals with Sites of Special Scientific Interest (SSSI) and the consultation and notification processes; Part III covers planning for nature conservation outside the designated sites; Part IV deals with the conservation of species and Part V provides advice on other duties and use of statutory powers.

[1] The text of the EC Birds Directive is at Annex E

[2] Sites are submitted to the European Commission as candidate Special Areas of Conservation (cSACs). Only following approval by the European Commission are they designated by the Member State as Special Areas of Conservation.

[3] The text of the EC Habitats Directive is at Annex F

[4] The text of the Ramsar convention is at Annex D

PART I

Internationally Designated Sites

Conservation of cSACs, SACs, pSPAs, SPAs and Ramsar Sites

A INTRODUCTION AND CONTEXT

3. The UK is bound by the terms of the EC Birds and Habitats Directives[5] and the Ramsar Convention[6]. The Conservation (Natural Habitats &c.) Regulations 1994[7] (the 'Habitats Regulations') provide for the protection of 'European sites'[8] , which are candidate Special Areas of Conservation (cSACs) and Special Areas of Conservation (SACs) designated pursuant to the Habitats Directive, and Special Protection Areas (SPAs) classified under the Birds Directive. The Regulations apply specific provisions of the Habitats Directive to cSACs, SACs and SPAs which require special considerations to be taken in respect of such sites.

4. Planning authorities should follow the procedures described below for SPAs, cSACs[9] and SACs, and, more generally, should have regard to the Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system.[10]

5. **As a matter of policy, the Government has chosen to apply the procedures described below, unless otherwise specified, in respect of Ramsar sites and potential SPAs (pSPAs), even though these are not European sites as a matter of law[11]. This will assist the UK Government in fully meeting its obligations under the Birds Directive and Ramsar Convention.**

6. Prior to its submission to the European Commission as a cSAC, a proposed SAC (pSAC) is subject to wide consultation. At that stage it is not a European site and the Habitats Regulations do not apply as a matter of law or as a matter of policy. Nevertheless, planning authorities should take note of this potential designation in their consideration of any planning applications that may affect the site.

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[5] Council Directive on the conservation of wild birds of 2nd April 1979 (79/409/EEC) and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora of 21st May 1992

[6] Convention on wetlands of international importance especially as waterfowl habitat Ramsar, Iran 2/2/71 as amended by the Paris Protocol 3/12/92 and the Regina amendments adopted at the extraordinary conference of contracting parties at Regina, Saskatchewan, Canada between 28/5 and 3/6/87

[7] Statutory Instrument 1994/2716 which came into force on 30th October 1994

[8] Regulation 10 The Conservation (Natural Habitats &c.) Regulations 1994 as amended by the Conservation (Natural Habitats &c) (Amendment) (England) Regulations 2000 Statutory Instrument 2000/192

[9] There remain very few cSACs awaiting decisions regarding their designation as SACs, and the title will shortly cease to be of relevance. Therefore, for the sake of simplicity, the Circular will only refer to SACs where the procedures apply to both designations.

[10] Regulation 3(4) The Habitats Regulations 1994

[11] See Hansard 13 November 2000: Column 489W

7. The protection and management of internationally designated sites are achieved by a combination of the provisions in the Habitats Regulations and section 28 of the Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000. In respect of land above mean low water mark, European sites will already have been notified as Sites of Special Scientific Interest (SSSIs) under the provisions of section 28 of the Wildlife and Countryside Act 1981. Planning authorities are also notified of Ramsar sites under the provisions of section 37A of the Wildlife and Countryside Act 1981 as inserted by section 77 of the Countryside and Rights of Way Act 2000. A planning authority is required, under the General Development Procedure Order 1995 (the GDPO)[12], to consult English Nature[13] and, under the provisions of section 28I of the Wildlife and Countryside Act 1981, to notify English Nature before granting planning permission for development likely to damage a SSSI, even if the development is not located in the SSSI (see further Part II below).

8. In responding, English Nature will advise if the SSSI forms part of a European site or is otherwise of significance in terms of the Birds or Habitats Directives or the Ramsar Convention. English Nature will also advise whether, in its opinion, the proposed development would be likely to significantly affect the ecological value for which the site was notified as a SSSI or classified internationally, whether in connection with the proposal there may be reasonable steps that could be taken to further the conservation and enhancement of the SSSI and, if appropriate, will suggest what measures might be taken to avoid any damaging effects.

B CONSIDERATION OF NEW PLANS AND PROJECTS

9. Regulation 48 of the Habitats Regulations restricts the granting of planning permission for development which is likely to significantly affect a European site, and which is not directly connected with or necessary to the management of the site, by requiring that an appropriate assessment is first carried out of the implications of the development for the site's conservation objectives.

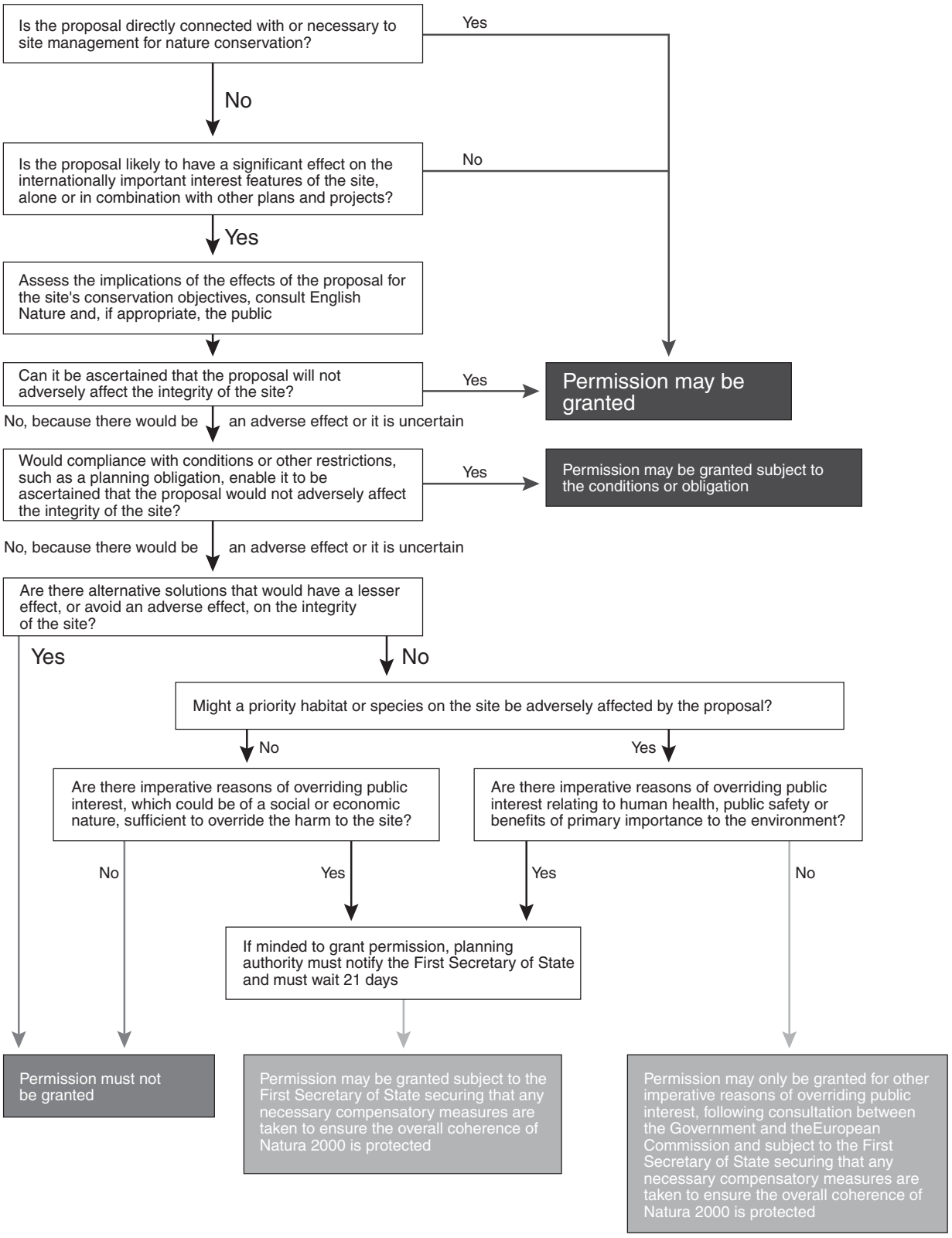
10. Regulation 49 requires an authority proposing to allow development that it can not be ascertained will not adversely affect a European site to notify the First Secretary of State. This will provide the opportunity for the First Secretary of State to consider whether the application falls within the criteria for call-in. Regulation 53 places a duty on the First Secretary of State to secure any necessary compensatory measures where planning permission is granted in accordance with regulation 49. The First Secretary of State will therefore expect to see, and be satisfied by, evidence that necessary compensatory measures will be secured when applications are referred to him under the provisions of regulation 49(5).

11. The approach to be taken in considering a development proposal that might affect a European site is set out below. This process is represented in the flow chart in Figure 1.

[12] See Article 10 and paragraph (u) of the Table in Town and Country Planning (General Development Procedure) Order 1995 Statutory Instrument 1995/419

[13] It is proposed in the Natural Environment and Rural Communities Bill that English Nature, most of the Rural Development Service and parts of the Countryside Agency will form a new agency to be known as 'Natural England'

Figure 1: **Consideration of development proposals affecting Internationally Designated Nature Conservation Sites**



12. The decision-taker must first establish whether the proposed development is directly connected with or necessary to nature conservation management[14] of a European site. Where a development is directly connected with, or the whole of the development is necessary for site management, it will not be subject to the further requirements of regulation 48.

Likely significant effect

13. If the proposed development is not directly connected with or necessary to site management, the decision-taker must determine whether the proposal is likely to have a significant effect[15] on a European site. The decision on whether an appropriate assessment is necessary should be made on a precautionary basis. An appropriate assessment is required where there is a probability or a risk that the plan or project will have significant effects on a site. This is in line with the ruling of the European Court of Justice in Case C-127/02 (the Waddenzee Judgment) which said "*any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects*".

14. The decision-taker should consider whether the effect of the proposal on the site, either individually or in combination with other projects[16], is likely to be significant in terms of the conservation objectives for which the site was classified. The European Commission has also issued guidance, which local planning authorities may wish to consider.[17]

15. It is important that the likelihood of a significant effect is assessed in respect of each interest feature for which the site is classified and for each designation where a site is classified under more than one international obligation. Planning authorities should ensure that the assessment takes into account the full range of Ramsar interests for which the site has been listed and their vulnerability to any effects of the proposed development[18]. English Nature will advise on a case-by-case basis.[19]

16. In considering the combined effects with other proposals it will normally be appropriate to take account of outstanding consents that are not fully implemented, ongoing activities or operations that are subject to continuing regulation (such as discharge consents or abstraction licences) and other proposals that are subject to a current application for any kind of authorisation, permission, licence or other consent. Thus, the assessment is not confined to proposals that require planning permission, but includes all relevant plans and projects.

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[14] Regulation 48(1)(b) The Habitats Regulations 1994.

[15] *ibid*. Regulation 48(1)(a)

[16] *ibid*. Regulation 48(1)(a)

[17] "Managing Natura 2000" April 2000

[18] In May 2005, in England, there were 70 Ramsar sites covering over 377,000 hectares. Of these, only 3 were completely outside the Natura 2000 network of sites. The remaining 67 were either coincident with or substantially overlapping SPAs or SACs. The Government does not envisage that the proportion of Ramsar sites outside the Natura 2000 network is likely to change substantially in the light of planned revisions to both site networks.

[19] See also the Good Practice Guide accompanying PPS9

The appropriate assessment

17. If the decision-taker concludes that a proposed development (not directly connected with or necessary to the management of the site) is likely to significantly affect a European site, they must make an appropriate assessment of the implications of the proposal for the site in view of the site's conservation objectives[20]. These relate to each of the interest features for which the site was classified and will be provided in more detail by English Nature, which should be consulted for the purposes of the assessment[21]. The scope and content of an appropriate assessment will depend on the nature, location, duration and scale of the proposed project and the interest features of the relevant site. It is important that an appropriate assessment is made in respect of each interest feature for which the site is classified; and for each designation where a site is classified under more than one international obligation. English Nature will advise on a case-by-case basis. The decision-taker can require the applicant to provide such information as may reasonably be required to undertake the assessment[22].

18. In the Waddenzee judgement[23], the European Court of Justice ruled that an appropriate assessment implies that all the aspects of the plan or project which can, by themselves or in combination with other plans and projects, affect the site's conservation objectives must be identified in light of the best scientific knowledge in the field.

19. As part of the assessment process, the decision-taker may consult the general public[24]. It is for the decision-taker to decide whether publicity and consultation in addition to that required under the planning or other regulatory procedures should be undertaken and could consider consulting organisations that may have relevant information or expertise, such as the Environment Agency, County Wildlife Trusts, Herpetological Conservation Trust, Plantlife, RSPB or The Butterfly Conservation Society. Where a plan or project may affect sites which are close to, or which straddle local authority boundaries, the relevant local planning authorities should liaise with each other.

Ascertaining the effect on site integrity

20. In the light of the conclusions of the assessment of the project's effects on the site's conservation objectives, the decision-taker must determine whether it can ascertain that the proposal will not adversely affect the integrity of the site(s)[25]. The integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified. It is not for the decision-taker to show that the proposal would harm the site, in order to refuse the application or appeal. It is for the decision-taker to consider the likely and reasonably foreseeable effects and to ascertain that the proposal will not have an adverse effect on the integrity of the site before it may grant permission. If the proposal would adversely affect integrity, or the effects on

[20] Regulation 48(1) The Habitats Regulations 1994

[21] *ibid*. Regulation 48(3)

[22] *ibid*. Regulation 48(2)

[23] ECJ Case C-127/02

[24] Regulation 48(4) The Habitats Regulations 1994.

[25] *ibid*. Regulation 48(5)

integrity are uncertain but could be significant[26] the decision-taker should not grant permission, subject to the provisions of regulations 49 and 53 as described below.

21. In the Waddenzee judgment[27], the European Court of Justice ruled that a plan or project may be authorised only if a competent authority has made **certain** that the plan or project will not adversely affect the integrity of the site. "*That is the case where no reasonable scientific doubt remains as to the absence of such effects*". Competent national authorities must be ***"convinced"*** that there will not be an adverse affect and where doubt remains as to the absence of adverse affects, the plan or project must not be authorised, subject to the procedure outlined in Article 6(4) of the EC Habitats Directive regarding imperative reasons of overriding public interest[28].

Considering conditions or other restrictions

22. As part of the judgement on integrity, the decision-taker must consider the way in which it is proposed to carry out the project and whether conditions or other restrictions would help to ensure that site integrity was not adversely affected[29]. This is an important requirement of the Habitats Regulations and planning authorities should consider whether a consent could be issued in accordance with regulation 48 subject to conditions. In practice, this means that the planning authority should identify the potential risks so far as they may be reasonably foreseeable in light of such information as can reasonably be obtained, and put in place a legally enforceable framework with the aim of preventing the risks from materialising[30]. English Nature may suggest the scope of such conditions in its response to the consultation and can comment on the effectiveness of conditions proposed by the planning authority or the applicant. Regulation 54(4) of the Habitats Regulations prohibits the grant of outline planning permission unless the planning authority is satisfied, whether by reason of the conditions or limitations imposed on the permission, or otherwise, that no development likely to adversely affect the integrity of a European site could be carried out under the permission.

Alternative solutions

23. If the decision-taker is unable to conclude that the proposed development will not adversely affect the integrity of the site, and this effect, or possible effect, will not be removed by conditions or other restrictions, they must not grant planning permission except in the following closely defined circumstances.

24. They must first be satisfied that there are no alternative solutions[31]. If there are alternative solutions that would have no (or a lesser) effect on the site's integrity then

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[26] See ADT Auctions Ltd v Secretary of State Environment, Transport and the Regions and Hart District Council (2000) JPL 1155 at p. 1171 where it was held that, it was implicit in the wording of regulation 48(5) that the adverse effect on the integrity of the site had to be a significant adverse effect

[27] ECJ Case C-127/02

[28] Regulation 49 and paragraphs 25-28 The Habitats Regulations 1994.

[29] Regulation 48(6) The Habitats Regulations 1994

[30] *See WWF-UK Ltd and RSPB – v – Secretary of State for Scotland et al* [1999]1 C.M.L.R. 1021 [1999] Env. L.R. 632 opinion of Lord Nimmo-Smith

[31] Regulation 49(1) The Habitats Regulations 1994 and Dibden Bay decision (2004) (http://www.dft.gov.uk/stellent/groups/dft_shipping/documents/page/dft_shipping_028330.hcsp)

consent cannot be granted in accordance with the Habitats Regulations; permission must be refused or the appeal dismissed. If there are no alternative solutions that would have no (or a lesser) effect, on the site, then the decision-taker should proceed to consider whether there are imperative reasons of overriding public interest why the permission should be granted as described below. In assessing alternative solutions the decision-taker should consider whether there are or are likely to be suitable and available sites (or routes in the case of linear projects) which are alternatives for the proposed development, or different, practicable approaches which would have a lesser impact.

Imperative reasons of overriding public interest

25. If there is no alternative solution, the decision-taker should consider whether there are imperative reasons of overriding public interest to justify the grant of permission despite a potentially negative effect on site integrity. Different tests apply depending on whether the site hosts a priority natural habitat type or species[32].

26. If the site does not host a priority natural habitat type or species, planning permission can be granted if the proposed development has to be carried out for imperative reasons of overriding public interest, including those of a social or economic nature.[33] Such reasons would need to be sufficient to override the harm to the ecological importance of the designation.

27. If the site hosts a priority habitat or species, and there is no alternative solution, the only considerations which can justify the grant of planning permission are (a) those which relate to human health, public safety, or beneficial consequences of primary importance to the environment or (b) other imperative reasons of overriding public interest agreed by the European Commission[34]. The Government may obtain the opinion of the European Commission as to whether any particular reasons may be considered imperative and overriding in the public interest[35].

28. There will be few cases where it can be judged that imperative reasons of overriding public interest will allow a development to proceed which may have a potentially negative effect on the integrity of a European site. This applies equally to new proposals and to developments with extant permissions granted prior to the Habitats Regulations coming into force and/or the classification of the site. The judgement will involve an assessment of the importance of the development and whether it is sufficient to override the harm to the nature conservation importance of that site[36]. In many cases, it may be possible to negotiate a sustainable solution that would remove or reduce an apparent conflict. However, where the local planning authority are unable to conclude no adverse effect on the integrity of the site but consider that the proposed development should nevertheless be allowed to go ahead, regulation 49(5) of the Habitats

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[32] Priority habitats and species are indicated by an asterisk in Annexes I and II of the Habitats Directive. The citation, which is available from English Nature, indicating why the site was designated will show whether it hosts a priority habitat or species. There are no priority species listed in the Birds Directive.

[33] Regulation 49(1) The Habitats Regulations 1994

[34] *ibid* Regulation 49(2)

[35] *ibid* Regulation 49(3) and (4)

[36] See "*The Birds and Habitats Directives: Outline Government Position*" (May 1998) and the EC's guidance "Managing Natura 2000"

Regulations requires an authority to notify the First Secretary of State. Planning permission cannot then be granted for a period of 21 days unless the First Secretary of State notifies the authority otherwise. This notification procedure will enable the First Secretary of State to consider whether to call-in the application for his own determination and will also enable him to ascertain whether or not compensatory measures have been secured as required by regulation 53.

Compensatory measures

29. Where, in the absence of alternatives, the importance of the development is judged, in accordance with regulation 49, to outweigh the harm to a European site, compensatory measures must be taken to ensure that the overall coherence of the network of SPAs and SACs known as Natura 2000 is protected[37]. This may be costly and often technically difficult or ecologically untried. In certain cases the habitat affected may be irreplaceable. Agreement to such a plan or project that did not provide for compensatory measures to secure the coherence of the Natura 2000 network would be contrary to the requirements of the Directive, and harmful to the Government's commitment to halt the loss of biodiversity by 2010.

30. Classification of an alternative, existing area of bird habitat, as a SPA, will not normally meet the compensatory requirements in respect of the EC Birds Directive. This is because all of the most suitable territories should be classified as SPAs in any event. However, where new habitats are created as compensatory measures, the newly created habitats should be in place in time to provide fully the ecological functions that they are intended to compensate for. The newly created habitats should normally be included in the SPA network within a reasonable timescale.

31. Article 4(2) of the Ramsar Convention requires Contracting Parties that delete sites or restrict site boundaries to provide compensatory measures for the loss of conservation interests. The Convention refers to creating additional nature reserves for waterfowl and for the protection, either in the same area or elsewhere, of an adequate portion of the original type of habitat. Compensatory measures should provide, as a minimum, no net loss to the overall value of the national Ramsar site series either by way of quality or area.

32. The European Commission (and the Ramsar Bureau if relevant) will need to be notified by the First Secretary of State of any compensatory measures adopted[38].

Crown Exemption

33. The Government has put in place legislation to end Crown exemption from planning control through the Planning and Compulsory Purchase Act 2004. This does not include trunk road and motorway development, which is subject to separate procedures designed to produce the same effect as planning legislation. Regulation 69 of the Habitats Regulations applies regulations 48-51 to trunk road or motorway construction or improvement projects carried out by the Secretary of State for Transport under the Highways Act 1980. Pending implementation of the legislation ending Crown

[37] Regulation 53 The Habitats Regulations 1994

[38] Article 6(4) of the Habitats Directive.

exemption, local planning authorities will continue to be consulted about proposals for Crown development under the procedures in DOE Circular 18/84. Where such proposals are likely to affect a site of international importance, authorities should apply the same tests in framing their advice as under the Habitats Regulations. The First Secretary of State will do likewise in deciding whether planning clearance should be given for proposals which are the subject of unresolved objections from a local planning authority. Once the planning acts apply to the Crown, development by Crown bodies will be subject to the planning controls under the Habitats Regulations in the usual manner.

C REVIEW OF OUTSTANDING PLANNING PERMISSIONS AND DEEMED PLANNING PERMISSIONS

34. Local planning authorities should consider all extant planning permissions that may affect a European site (i.e. those permissions which have not been implemented at all, and those which have not been fully implemented). This requirement applies to Ramsar sites as a matter of policy, but not to pSPAs.

35. Regulations 50, 51, 55 and 56 of the Habitats Regulations require the local planning authority to review extant planning permissions, including outline permissions, granted by them that are likely to have a significant effect on a European site, either individually or in combination with other plans or projects, and, following that review, to affirm, modify or revoke such permissions. This includes all permissions that are valid but not yet commenced and permissions that have been started but are not yet complete[39]. Regulation 55 requires planning authorities to consider whether certain planning permissions deemed to be granted under section 90(1) of the Town and Country Planning Act 1990 should, in their opinion, be reviewed.

36. Local planning authorities must review permissions as soon as is reasonably practicable. They will often have identified any relevant permission during the consultation exercise in preparation for a site's classification. Since the response to the consultation, local planning authorities may also have granted further planning permissions, some of which may be likely to have a significant effect on the site. Any extant permissions affecting potential European sites, outstanding at the time they formally become European Sites, will need to be reviewed.

37. The review will need to ascertain whether implementation of any permission that is likely to have a significant effect on the site, and is not directly connected with or necessary to its management, may adversely affect its integrity. For the purposes of the review, the local planning authority must make an appropriate assessment of the implications of the implementation of the permission for the site, alone or in combination with other plans or projects. This assessment is the same as that required by Regulation 48. If it is not possible to conclude that no adverse effect will occur, the authority must take appropriate action to remove the potential for harm, unless there is no likelihood of the development being carried out or continued[40].

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[39] Under regulation 57(5) of the Habitats Regulations 1994, an order made under section 97 of the TCPA 1990 in pursuance of regulation 55 shall not affect so much of the development authorised by the permission as was carried out prior to the order taking effect.

[40] Regulation 56(3) The Habitats Regulations 1994

38. If local planning authorities consider that planning obligations restricting or regulating the use of the land would safeguard the integrity of the site, they must invite those concerned to enter into them[41]. Otherwise, subject to regulation 49, they must modify or revoke the permission, or make a discontinuance order sufficient to avoid the potential threat to the integrity of the site[42]. They should also take such action if a developer proceeds with damaging development while the planning authority is endeavouring to secure a planning obligation. Regulation 57 provides that modification, revocation or discontinuance orders take effect when the appropriate notices are served. They must, however, be confirmed by the First Secretary of State. Where compensation is payable, the authority must refer the determination of the amount to the Lands Tribunal, unless the First Secretary of State indicates otherwise[43].

39. Where such review takes place, the relevant planning authority must consult English Nature[44]. The Government encourages English Nature to engage in discussions with the local planning authority (which may be a minerals planning authority) and developers in order to assist the authority in carrying out the review. The following possibilities arise:

    i. The conclusion may be reached on the advice of English Nature that the permission is not likely to have a significant effect on the site, in which case the review will be completed without the need for an appropriate assessment or, following an assessment, that the permission will not have an adverse effect on site integrity. In such cases the permission may be affirmed and implemented as planned.

    ii. A legal agreement or adaptation to the means of working might be adopted to remove the risk of an adverse effect on site integrity.

    iii. An alternative location to that of the existing permission might be agreed for which planning permission could be given (subject to the normal planning processes and considerations) which would not be damaging to that or any other nature conservation site.

    iv. Permissions might lapse through time expiry or, for minerals permissions, may cease to have effect if no scheme of conditions is submitted under the periodic review provisions of Schedule 13 to the Environment Act 1995. Minerals planning authorities are encouraged to exercise their powers under Schedule 9 to the Town and Country Planning Act 1990 to make orders prohibiting the resumption of mineral working in appropriate cases.

    v. The developer might voluntarily relinquish all or part of the planning consent in recognition of the value of the site for nature conservation.

    vi. If there are no alternative solutions and if the threat of damage to the site cannot be removed by any of the above means, in accordance with the Habitats

[41] Regulation 56(1) The Habitats Regulations 1994

[42] *ibid*. Regulation 56(1)

[43] *ibid*. Regulation 59

[44] *ibid*. Regulation 50(2)

Regulations, the permission may still be affirmed and implemented if there are imperative reasons of overriding public interest. All necessary compensatory measures must be taken to ensure that the coherence of the Natura 2000 network of SACs and SPAs is protected [45].

vii. If there are no imperative reasons of overriding public interest (see section A Part I above), the local planning authority is obliged, under the Habitats Regulations, to revoke or modify the permission or make a discontinuance order. In such cases, the local planning authority would be liable to pay any compensation due to the developer.

40. The Government stated in a written Parliamentary answer on 6 July 1994 that in cases where such compensation is payable, it would consider reimbursing the planning authority where costs were high and where the action taken was no more than necessary to remove the risk to the site. That remains the position. However, the Government would need to be satisfied in such cases that discussion and negotiation had explored all the possibilities set out in (i) – (v) above before agreeing to such reimbursement in order to minimise the cost to the public purse. Where it becomes apparent that compensation may become payable, then it is recommended that Defra (European Wildlife Division) is informed as early as possible.

41. PPS23, *Planning and Pollution Control*, advises that controls under the planning and pollution control regimes should complement rather than duplicate each other. Regulations 83, 84, 84A and 85[46] require the review of authorisations granted by local authorities for air pollution control and by the Environment Agency for integrated pollution control authorisations, pollution prevention and control permits, waste management licences and water discharge consents. If, in reviewing a planning permission, local planning authorities consider that action falls to be taken under these other regulations (83 – 85), they should only exercise planning powers under regulation 56 if powers under the other regimes are not available or if their exercise could not achieve what is required. In carrying out reviews and in exercising their own powers, local planning authorities should ensure that where they decide to affirm a permission, because other action to secure no adverse effect on the integrity of the site will be taken by them or another competent authority, that action should be the least onerous to those affected[47]. Where different competent authorities are considering separate permissions that alone or in combination may adversely affect a site, they should ensure that they liaise before determining the applications.

D RESTRICTIONS ON PERMITTED DEVELOPMENT

42. Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO) grants a general planning permission (subject to specified conditions and limitations) for the types of development set out in Schedule 2 to the GPDO. These permitted development rights largely apply to developments which are non-contentious, and which, if they were the subject of individual consideration, would

[45] Regulation 53(b) The Habitats Regulations 1994

[46] Regulations 83 – 85 The Habitats Regulations 1994 as amended by the Pollution Prevention and Control (England and Wales) Regulations 2000 Statutory Instrument 2000/1973

[47] *ibid*. Regulation 51(3)

place an unnecessary burden on householders or other developers and on local planning authorities. Other permitted development rights relate to developments that are controlled through other approval procedures, and to developments by statutory undertakers and local authorities in the performance of their statutory duties.

43. Regulation 60 imposes controls on all permissions granted under the GPDO to ensure that any permitted development is not in breach of the terms of Article 6 of the Habitats Directive[48]. This regulation prevents any development which is likely significantly to affect a European site, alone or in combination with other plans or projects, and is not directly connected with or necessary to the management of the site, from commencing unless the local planning authority has ascertained, after consulting English Nature, that such development would not adversely affect the integrity of the site[49]. It should be emphasised that the condition does not automatically withdraw permitted development rights for such developments, but instead requires them to be subject to a prior approval process. This regulation does not apply to pSPAs and Ramsar sites as a matter of policy.

44. The flow chart in Figure 2 explains the process developers should follow to ensure that permitted development rights are implemented in accordance with the Habitats Regulations. It identifies the role of the local planning authority and English Nature.

45. It should be noted that even if the development can proceed as permitted development after this process has been completed, the provisions of section 28(E) (obligations of owners and occupiers of SSSI land) and section 28(H) (obligations of public bodies relating to operations on SSSI land) of the Wildlife and Countryside Act 1981 still apply and, if the proposed development is listed in the SSSI notification as one that would constitute an operation likely to damage the nature conservation interest features of the site, notice must be given to English Nature before the development is undertaken (see Part II below).

46. Regulation 61 provides that a developer may obtain the opinion of English Nature as to whether it considers any particular proposed development that may benefit from permitted development rights would be likely to have a significant effect on a European site. Where English Nature has sufficient information to provide an opinion, it will notify the developer and the planning authority within 21 days from the receipt of all necessary information[50]. If the information provided is inadequate or incomplete, English Nature will advise what additional information it needs[51]. English Nature's opinion as to whether the development would be likely to have a significant effect will be conclusive[52].

47. The planning authority will normally enter the process at the point where either the developer or English Nature decides that the proposal would be likely to have a significant effect on the site. The developer may apply to the planning authority for

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[48] Regulation 60 The Habitats Regulations 1994 and Article 3(1) The Town and Country Planning (General Permitted Development) Order 1995 Statutory Instrument 1995/418

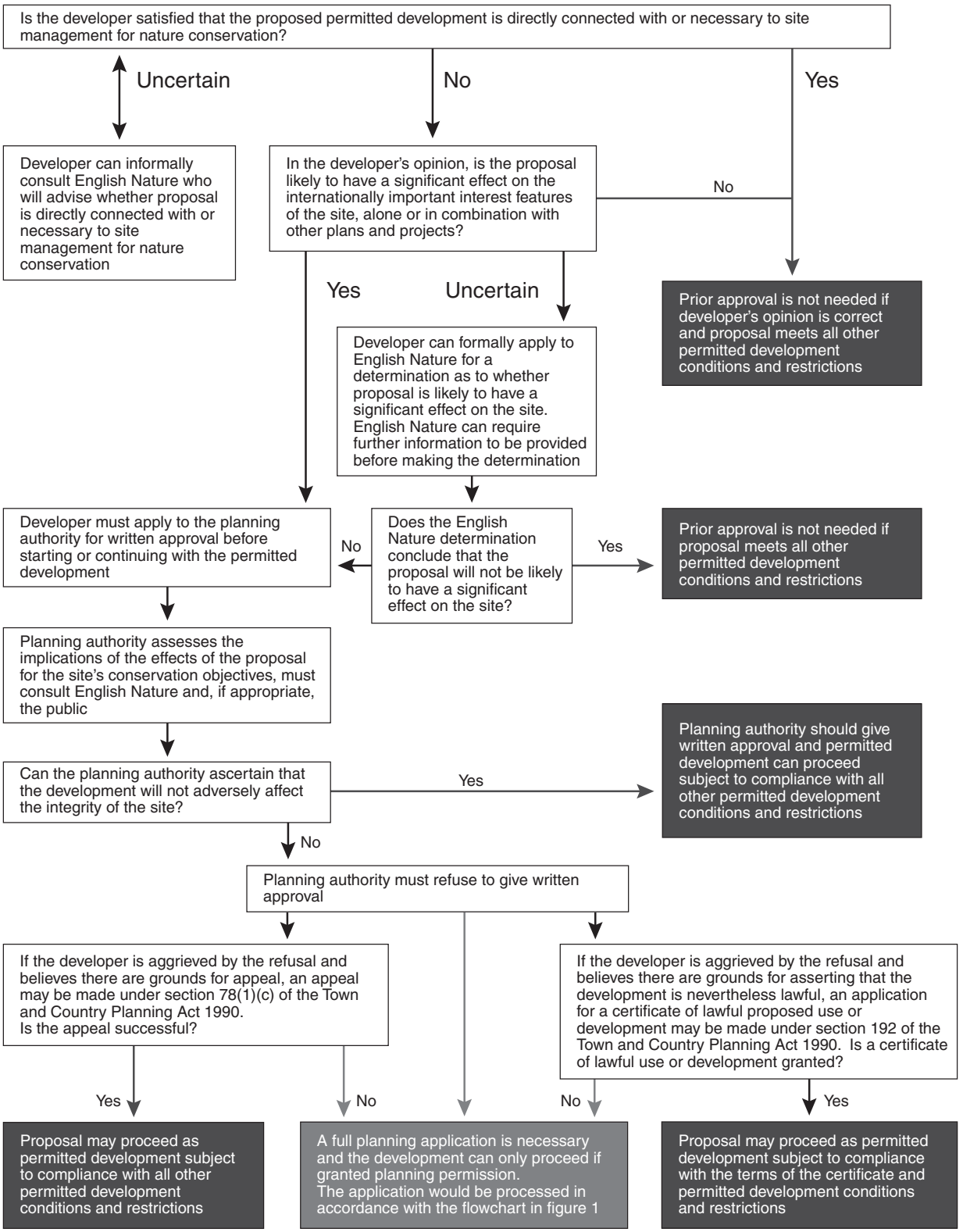
[49] Regulation 60(1) and (2) The Habitats Regulations 1994

[50] *ibid*. Regulation 61(3)

[51] *ibid*. Regulation 61(4)

[52] *ibid* Regulation 61(5)

Figure 2: **Permitted development rights potentially affecting Internationally Designated Conservation Sites**



written approval[53]. The planning authority must undertake an appropriate assessment of the implications of the proposal for the site's conservation objectives, including a formal consultation with English Nature[54]. Where English Nature has sufficient information to provide an opinion, it will respond to the consultation within 21 days from the receipt of all necessary information.

48. Where a developer has not previously sought the opinion of English Nature as to the likelihood of the development having a significant effect on the site, it will be the first time that English Nature comments on the proposal. Where, in its representations, English Nature states that the development would not be likely to have a significant effect on the site, the planning authority should send a copy of the representations to the applicant and the development may proceed without the prior written approval of the planning authority[55].

49. In all other cases, the planning authority should decide whether or not the proposal may adversely affect the integrity of the site. Where the planning authority can ascertain that the development, as proposed, would not adversely affect the integrity of the site they must give written approval and the development may proceed as permitted development. If the authority conclude that it would have such an effect, or the effects are uncertain but potentially significant, the planning authority are prohibited from granting prior approval. If the developer nevertheless wishes to proceed with the development a planning application will be required. Alternatively, if the developer is aggrieved by the decision of the planning authority he may appeal against the decision not to approve the development[56] or he may apply for a certificate of lawful development.

50. Regulation 63(2) provides for a fee to be paid to the planning authority for undertaking this assessment. Advice on likely significant effect, appropriate assessment and site integrity is provided in section A of Part I above[57].

E SPECIAL DEVELOPMENT ORDERS, ENTERPRISE ZONES AND SIMPLIFIED PLANNING ZONES

51. Regulations 64, 65 and 66 provide that existing Special Development Orders, Simplified Planning Zone schemes and Enterprise Zone schemes cease to have effect to grant planning permission for development that is likely to have a significant effect on a European site and which is not directly connected with or necessary to the management of the site. Existing Special Development Orders relate to Urban Development Corporations, former New Town Development Corporations, Atomic Energy Establishments and Telecommunications Networks on Railway Operational Land. The Regulations also prevent new Special Development Orders, Simplified Planning Zone schemes and Enterprise Zone schemes from granting planning permission for development that is likely significantly to affect a European site and which is not directly connected with or necessary to the management of the site.

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[53] Regulation 62 (1) (2) and (3) The Habitats Regulations 1994

[54] *ibid*. Regulation 62(4)

[55] *ibid*. Regulation 62(5)

[56] *ibid*. Regulation 63(3)

[57] See also the Good Practice Guide accompanying PPS9

F FURTHER CONSIDERATIONS IN RESPECT OF RAMSAR SITES

52. Section 37A of the Wildlife and Countryside Act 1981[58] requires the Secretary of State for Environment, Food and Rural Affairs to notify English Nature when she has listed, under the Ramsar Convention, a wetland for inclusion in the list of wetlands of international importance. English Nature must then notify the planning authority as well as owners and occupiers of the land, and other relevant bodies.

53. Article 3(1) of the Ramsar Convention requires Contracting Parties to 'formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and, as far as possible, the wise use of wetlands in their territory'.

G CONSIDERATION OF INTERNATIONAL NATURE CONSERVATION SITES IN DEVELOPMENT PLANS

54. Development plans are not subject to assessment under regulations 48, 49 or 53 of the Habitats Regulations 1994 because they are not considered to be plans or projects within the meaning of regulation 48[59]. European sites will be covered by the SEA Directive 2001/42/EC (on the assessment of the effects of certain plans and programmes on the environment), and this will require the assessment of proposals in development plans affecting such sites. In any event, planning authorities have a general duty under regulation 3(4) of the Habitats Regulations to have regard to the requirements of the Habitats Directive in exercising their functions, including their plan-making functions under the Town and Country Planning Act 1990.

55. Whilst it may not be possible to carry out an assessment at the development plan stage that would be as detailed as that required under regulation 48 for a specific project, for which consent is sought, local planning authorities should nevertheless adopt the precautionary principle and should undertake sufficient assessment of any proposal in a development plan likely significantly to affect a European site. If a proposal for a particular type of development on a particular location would be likely to adversely affect the integrity of a such a site, or the effects of the proposal on such a site are uncertain, planning authorities should not allocate the site for that type of development unless:

    a) they are satisfied that any subsequent or current planning application for that proposal would be likely to pass the tests for derogations in regulation 49; and

    b) there is a reasonable prospect that compensatory measures that may be required by regulation 53 can be secured such as to protect the coherence of the Natura 2000 network and meet the requirements of the Ramsar Convention where relevant.

[58] As inserted by section 77 of the Countryside and Rights of Way Act 2000

[59] The European Court of Justice is currently considering this matter and a ruling is expected later in 2005

PART II
Nationally Designated Sites
Conservation of Sites of Special Scientific Interest

A SUMMARY OF THE LEGISLATIVE REGIME GOVERNING SITES OF SPECIAL SCIENTIFIC INTEREST

56. Section 28 of the Wildlife and Countryside Act 1981 as inserted by section 75 and schedule 9 of the Countryside and Rights of Way Act 2000 sets out significantly improved provisions regarding the notification, protection and management of Sites of Special Scientific Interest (SSSIs). Existing SSSI notifications made to local authorities remain valid, with the exception of the very few remaining notifications under section 23 of the National Parks and Access to the Countryside Act 1949, which cease to have effect. English Nature will write to individual authorities about these sites.

57. The Wildlife and Countryside Act 1981, as amended, (hereafter referred to in this Part as "the Act") imposes an important general duty on a range of authorities exercising functions which are likely to affect SSSIs. This general and overarching duty requires an authority to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the features for which sites are of special interest[60]. It applies whenever an authority is exercising its functions, including when it has the power to take action, and applies at every stage from the formulation of plans, to the carrying out of operations and the making of decisions.

58. Those authorities subject to this duty are called section 28G authorities and include Ministers, Government Departments, local authorities, statutory undertakers and any other public body[61]. The Act also sets out specific procedures that must be followed by these authorities when carrying out or authorising operations which are likely to damage the special interest features of SSSIs[62].

59. Planning authorities are section 28G authorities and as such have specific duties and responsibilities in respect of SSSIs. These are described below. Advice on the full regime, including the responsibilities of and controls on owners and occupiers and third parties which are not described in this document, can be found in the Code of Guidance '*Sites of Special Scientific Interest: Encouraging Positive Partnerships*' [63].

General duty to conserve and enhance SSSIs

60. A planning authority exercises many functions and in doing so will need to take into full account its duty to take reasonable steps to further the conservation and enhancement

[60] section 28G(2) Wildlife and Countryside Act 1981, as amended

[61] *ibid*, section 28G(3)

[62] *ibid*, sections 28H and 28I

[63] Published April 2003 and available at http://www.defra.gov.uk/wildlife-countryside/ewd/sssi/sssi-code.pdf

of the special interest features of SSSIs. It will need to decide what it considers are 'reasonable steps' to be taken and in doing so may wish to consult English Nature. At the strategic level, regional spatial strategies and local development documents must be prepared in accordance with this duty. At the local level, the duty applies to individual decisions on planning applications, including the consideration of whether to impose conditions on a planning decision, on the monitoring of compliance with planning obligations and any subsequent enforcement action a planning authority may consider necessary.

61. The Government expects all section 28G authorities, including planning authorities, to:

a) apply strict tests when carrying out any functions within or affecting SSSIs, to ensure that they avoid or at least minimise adverse effects;

b) adopt the highest standards of management in relation to SSSIs in their ownership, and to take appropriate action to prevent damage by third parties; and

c) as owners or otherwise to take positive steps, wherever possible, to conserve and enhance the special interest features of a SSSI where their activities may be affecting it, or as opportunities arise in the exercise of their functions. English Nature will advise on a case by case basis as to opportunities for enhancement.

Further guidance on how planning authorities, in particular, can comply with their duty is provided in the Good Practice Guide.

B OBLIGATIONS OF PLANNING AUTHORITIES CARRYING OUT OR AUTHORISING OPERATIONS LIKELY TO DAMAGE THE SPECIAL INTEREST OF SSSIs

62. In addition to the general duty under section 28G of the Act, specific obligations under section 28H and 28I apply to planning authorities (as they do to all section 28G authorities), when, having considered their general duty, they nevertheless propose to carry out or authorise operations likely to damage the special interest features of SSSIs (whether or not these will take place on land included in the SSSI)[64]. These provisions ensure that English Nature is able to provide full advice and information about the effects of an operation or authorisation on a SSSI and any steps that might mitigate them. This will enable the decision taker to make an informed decision about whether, and how, to go ahead with an operation or whether to grant an authorisation and, if so, on what terms. They also ensure that where English Nature's advice is not complied with, the decision taker must inform English Nature so that it has sufficient time to consider any further steps it may wish to take.

63. Planning authorities will usually need to be most concerned with these obligations when authorising or granting permission to carry out operations, e.g. determining planning applications. However there may be circumstances where a planning authority wishes to carry out an operation itself. Therefore the obligations for both situations are explained below. The Government expects all planning authorities to give very careful

[64] Section 28H(2) and 28I(3), Wildlife and Countryside Act 1981, as amended

consideration to whether an operation or authorisation is likely to damage the special interest features of a SSSI, and, where it is unsure, to consult English Nature. A planning authority should be able to demonstrate that it has clearly considered the likely effects of an operation, and therefore whether it is duty bound to formally notify English Nature as required by the Act.

64. The planning authority should bear in mind the possibility that certain developments may affect a site some distance away. For example, a wetland site might have its water table lowered as a result of water abstraction some considerable distance away; and a river SSSI might be affected by an upstream development.

65. A planning authority proposing to carry out operations likely to damage the special features of a SSSI must notify English Nature under section 28H of the Act. English Nature has 28 days within which to indicate whether or not it assents to the operation (with or without conditions)[65]. If English Nature does not assent, or does not respond within 28 days, but the planning authority decides to proceed with the operations, it must give English Nature further notice of not less than 28 days notice of the date when the operations will commence and must explain how, if at all, it has taken account of any advice received from English Nature[66]. These requirements also apply if a planning authority does not intend to comply with any conditions attached to English Nature's assent[67]. In addition, in carrying out the works it shall give rise to as little damage to the special interest features of the SSSI as is reasonably practicable, and if damage does occur, shall restore the site to its former condition, again in so far as is reasonably practicable[68]. It is an offence, liable to a penalty on summary conviction of a fine of up to £20,000, or on conviction on indictment an unlimited fine, if a public body fails to comply with the requirements of section 28H[69]. Figure 3 is a flow chart setting out the procedure.

66. Under section 28I of the Act, a planning authority authorising or granting permission for other parties to carry out operations likely to damage the special interest features of a SSSI, such as through the determination of a planning application, must notify English Nature before reaching its decision[70]. It must then allow 28 days before deciding whether to grant its consent unless English Nature has responded sooner[71]. The authority must take account of any advice from English Nature, including advice on attaching conditions to the consent[72]. If the authority decides that it will issue a permission against English Nature's advice, it must notify English Nature of the permission, the terms on which it is proposed to grant it and how, if at all, it has taken English Nature's advice into account. It must then allow a further period of 21 days before the operation can commence[73].This allows English Nature to consider any

[65] section 28H(3) Wildlife and Countryside Act 1981, as amended

[66] *ibid*, section 28H(5)

[67] *ibid* section 28H (4)

[68] *ibid* section 28H(6)

[69] *ibid* section 28P(2) and (3).

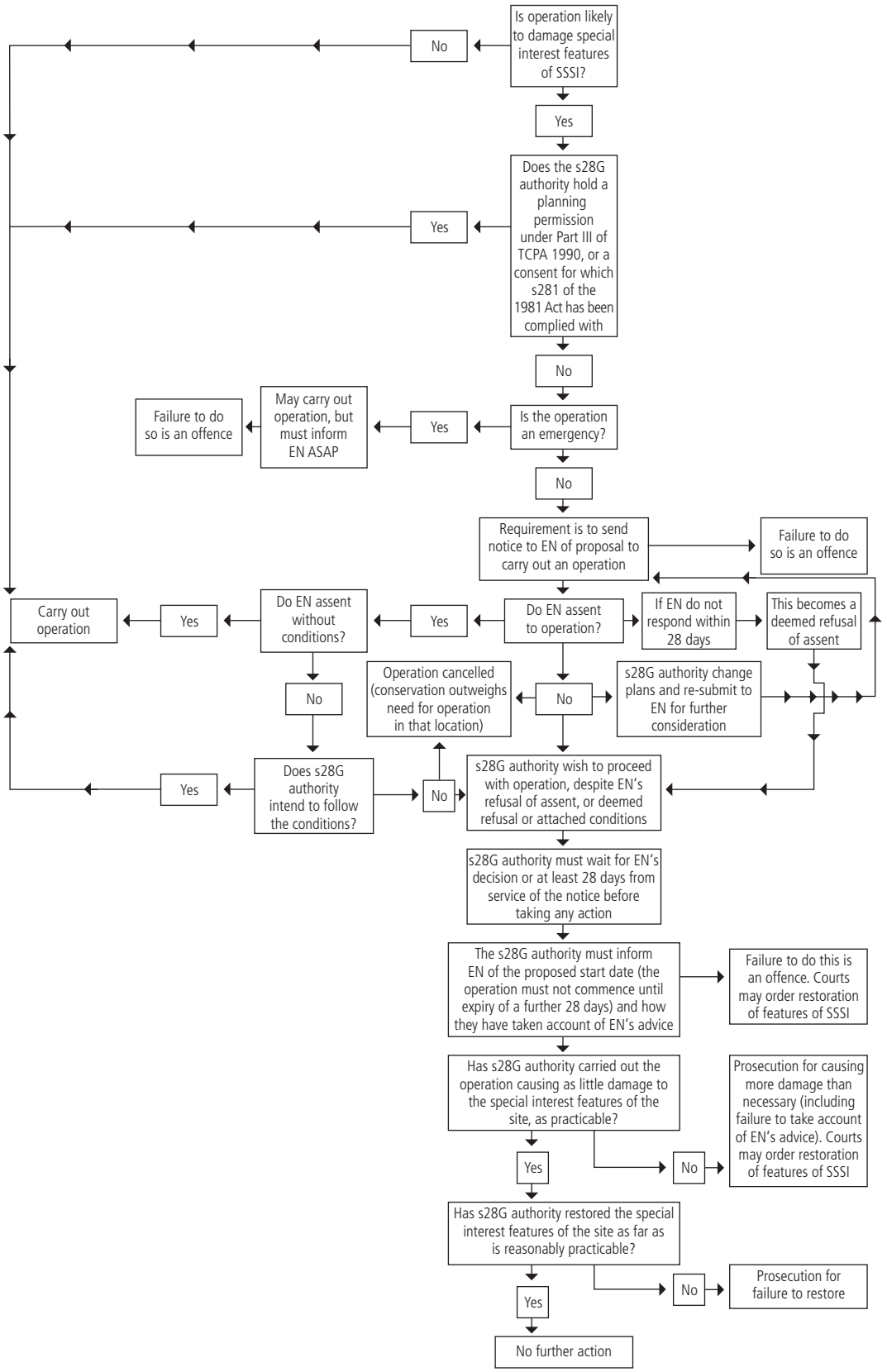
[70] *ibid* section 28I(2)

[71] *ibid* section 28I(4)

[72] *ibid* section 28I(5)

[73] *ibid* section 28I(6)

Figure 3: **Authority carrying out operations**



further action, such as, in exceptional circumstances, legal action challenging the validity of the permission. Figure 4 is a flow chart setting out the procedure.

67. Planning authorities should be aware that planning permission may be granted on an application under Part III of the Town and Country Planning Act 1990 to an owner or occupier of a SSSI for an operation which has been notified to them by English Nature as a potentially damaging operation to the special interest features of the site. The grant of planning permission constitutes a 'reasonable excuse' for carrying out the operation which would otherwise be unlawful without the consent of English Nature[74]. The Government expects proper observance by planning authorities of their obligations. Where both a planning permission and the consent from another section 28G authority is required for an operation, the reasonable excuse of having planning permission cannot be relied on unless both have been obtained[75].

C INTERACTION WITH OTHER CONSULTATION REQUIREMENTS IN RESPECT OF SSSIs

68. In addition to the notification requirements under the Act, other legislation, such as the General Development Procedure Order[76], imposes consultation requirements in respect of SSSIs. In these circumstances, the requirement for a planning authority to give English Nature notice under section 28I (see above) where granting permission for operations likely to damage the special interest features of the SSSI still stands. The other main consultation requirements in respect of SSSIs are set out in sections D and E below. In these circumstances, though the consultation periods may differ (for example 14 or 21 days, or any other period), the period of 28 days provided for in the Act takes precedence. However, the Government expects English Nature to respond to all consultations promptly and within the 28 days timescale wherever there is adequate information available to make the necessary assessments.

69. A planning authority should inform English Nature of decisions on all applications for the development of land about which it was consulted or notified.

D OTHER CONSULTATION REQUIREMENTS

General Development Procedure Order 1995

70. Under the provisions of Article 10 of the Town and Country Planning (General Development Procedure) Order 1995 (the GDPO), planning authorities have a duty to consult English Nature before granting planning permission for any development that:

- is in or likely to affect a SSSI[77]; or
- is within a consultation area around a SSSI notified to the planning authority by English Nature[78]; or

[74] section 28P(4), Wildlife and Countryside Act 1981, as amended

[75] *ibid* section 28P(5)

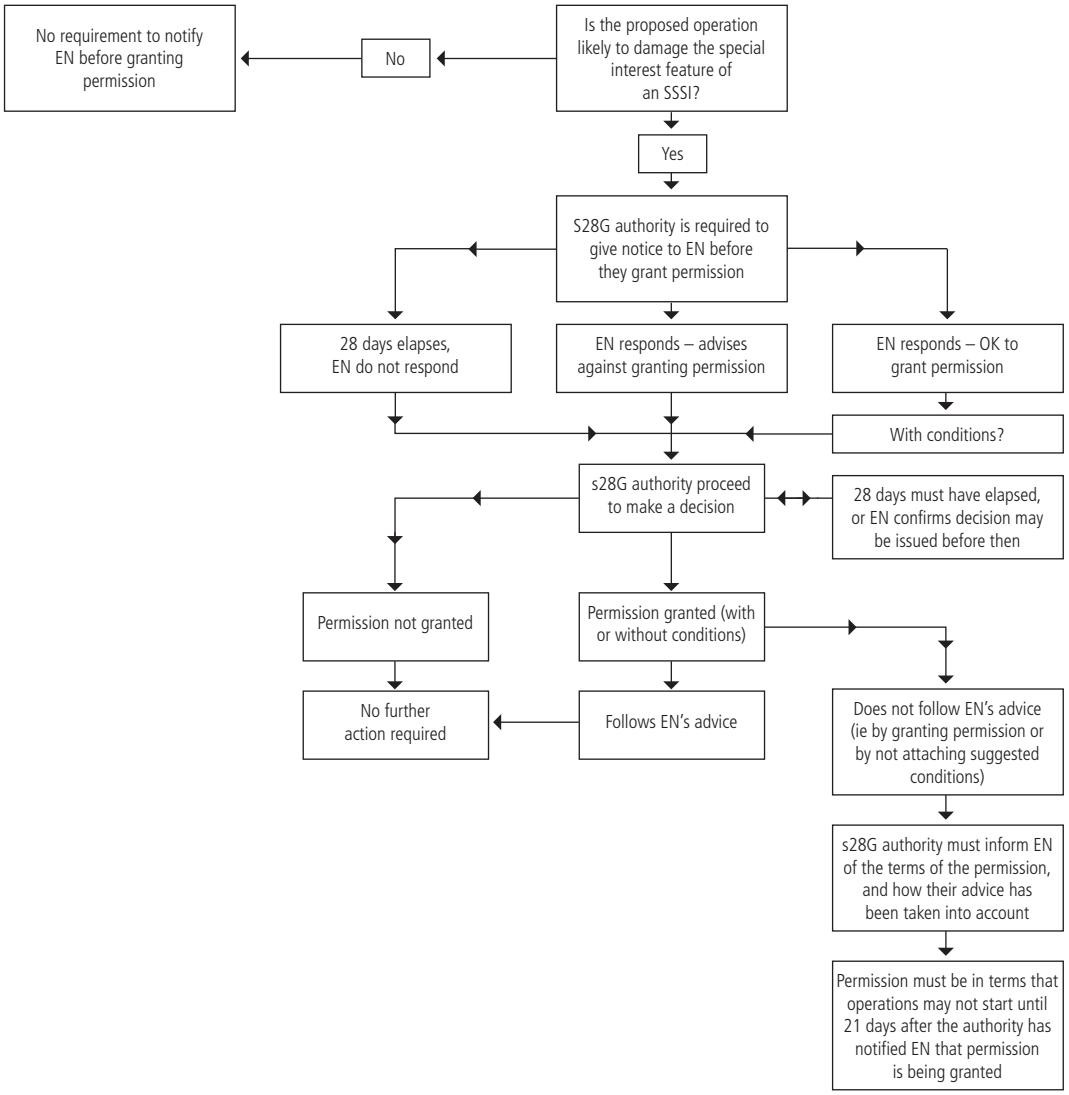
[76] The Town and Country Planning (General Development Procedure) Order 1995

[77] Article 10(1)(u)(i) of the Town and Country Planning (General Development Procedure) Order 1995 Statutory Instrument 1995/419

[78] *ibid*. Article 10(1)(u)(ii)

Figure 4: **Authority granting permission to carry out operations**

Note: permission includes any authorisation, consent or any other type of permission



- is in an area of particular natural sensitivity or interest which appears to a local planning authority may be affected by:

  i) development involving the siting of new establishments or the modification of existing ones which could have significant implications for major accident hazards[79];

  or

  ii) development in the vicinity of existing establishments such as to increase the risk or consequences of a major accident[80].

[79] Article 10(1)(zb)(i) and (ii) of the Town and Country Planning (General Development Procedure) Order 1995 Statutory Instruments 1995/419

[80] *ibid*. Article 10(1)(zb)(iii)

71. The GDPO also requires a planning authority to consult about planning applications in any consultation area around a SSSI defined by English Nature. English Nature will notify the boundaries of such consultation areas to local planning authorities. When notifying a consultation area English Nature may advise that it wishes to be consulted only about certain types of development (see further below in respect of 'standing advice'). It may also advise a planning authority that it would want to be consulted about other types of development (for example, a major industrial facility) beyond the 2 kilometres maximum for a consultation area. An authority is also required to consult where an application is for development that is likely to affect a SSSI, and the application site falls outside the SSSI and any consultation area. This is the case under both the terms of the GDPO and section 28I of the Act.

72. GDPO consultations relating to SSSIs should take place as soon as possible and local planning authorities may not determine any application that could affect such a site within 14 days of initiating consultation. However, as described in sections B and C above, the period in which English Nature now has to respond under section 28I of the Act is 28 days, and the longer timescale in this Act takes precedence[81]. The Government expects English Nature to respond as quickly as possible. Section 28I also requires the planning authority to notify English Nature if it intends to grant permission against its advice (see paragraph 65 above).

Exceptions to consultations under the GDPO

73. In respect of SSSI consultations, the GDPO provides that a planning authority need not consult English Nature, where:

    i) English Nature has advised the authority that it does not wish to be consulted. This exception does not apply to consultations relating to major hazards[82].

    ii) English Nature has provided 'standing advice' to a planning authority[83]. This exception does not apply to any application that is for EIA development, that is, an application for which an environmental impact statement must be submitted. More information on the provision of standing advice is in section G.

    These provisions do not override the requirement under section 28I of the Act for a planning authority to give notice to English Nature before granting a planning permission for operations likely to damage the nature conservation interest features of a SSSI (see section C above). Nor do they override the requirement for a planning authority to consult English Nature in respect of plans and projects under the Habitats Regulations.

[81] See also the *Code of Guidance, Sites of Special Scientific Interest: Encouraging Positive Partnerships*, Defra 2003

[82] Article 10(1)(iii) of the Town and Country Planning (General Development Procedure) Order 1995

[83] Article 4 Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003 Statutory Instrument 2003/2047

Habitats Regulations 1994

74. The requirements described at sections A, B and C of Part I above will often overlap with a duty to consult in respect of SSSI interests because all terrestrial European sites will also be SSSI. However, the procedures relating to the Habitats Regulations relate to the integrity and conservation objectives of a European site (applying as a matter of policy to pSPAs and Ramsar sites) and may be narrower than the interest features of the SSSI. It will therefore be important for the planning authority and English Nature to clearly distinguish how the proposed development may affect the international interests and the interests of the SSSI in order to ensure that all the relevant legislative requirements are complied with.

E PERMITTED DEVELOPMENT AND SSSIs

75. Where an owner or occupier wishes to exercise permitted development rights on a SSSI, and the works involved are listed on the SSSI notification as operations likely to damage the special interest features, then they must apply to English Nature for consent under section 28E of the Act. If English Nature refuses consent for such works it will not be possible to exercise the permitted development rights, without committing an offence under section 28P of the Act. In such cases, or where English Nature attach conditions to a consent, the applicant may appeal to the Secretary of State for Environment, Food and Rural Affairs[84]. Alternatively, the owner or occupier may instead apply to the planning authority for planning permission under Part III of the Town and Country Planning Act 1990. If granted, such planning permission is a reasonable excuse for an owner or occupier carrying out the operation without English Nature's consent[85]. Indeed, where an owner or occupier is intending to carry out on a SSSI an operation which benefits from permitted development rights but which is likely to damage the special interest, there is nothing to stop him from submitting a full planning application to the local planning authority in the first instance. Such planning applications will be considered by local planning authorities in the normal way. Likewise, the normal arrangements would apply to any appeal against a planning authority's refusal of an application for planning permission, or against conditions attached to an approval.

76. Where a section 28G authority in the exercise of its function, wishes to exercise a permitted development right, as well as considering its section 28G duties, it must consider whether the exercise of the permitted development right is likely to damage the special interest features of a SSSI. Where the exercise of the permitted development right is likely to damage the special interest features of a SSSI that section 28G authority must ensure that it complies with the requirements in section 28H of the Act (see paragraph 64).

[84] Section 28(F) Wildlife and Countryside Act 1981 as amended

[85] *ibid*. Section 28P(4)

F LAWFUL DEVELOPMENT CERTIFICATES AND SSSIs

77. Section 28P of the Act provides that it is a 'reasonable excuse' for not having given notice to English Nature of operations likely to damage the special interest features of a SSSI if the operations were carried out in accordance with a valid planning permission granted on application[86]. Unauthorised development affecting a SSSI is not therefore, a reasonable excuse, and in addition to being a breach of planning control, may also be an offence under section 28P of the Act, in the absence of notice given to English Nature or if notice was given where consent has not been granted[87]. However, the planning legislation enables a developer to apply for a certificate of lawful development after the expiry of specified time limits. The planning authority must consider an application for a lawful development certificate on the facts of the case and, although it does not grant planning permission, the issue of a certificate would render the development immune from enforcement under planning legislation. Such a certificate would not provide a 'reasonable excuse' for an offence under section 28P of the 1981 Act.

G STANDING ADVICE

78. The requirement for local planning authorities to consult English Nature about a particular type of planning application under the GDPO is removed if English Nature has provided up-to-date standing advice. Where standing advice has been sent to local planning authorities, they must consult that standing advice instead, and take it into account in determining an application for planning permission. The introduction of standing advice will allow some planning applications to be processed more quickly.

79. English Nature must update its standing advice, or verify that the information is still up-to-date, at least every two years, or the advice cannot act as a substitute for consultation. If advice has not been updated or verified in time, the planning authority must consult English Nature. English Nature may withdraw standing advice at any time by writing to local planning authorities to inform them of the withdrawal.

80. On receipt of a planning application which requires consultation with English Nature, a planning authority should check whether any up-to-date standing advice has been provided which is relevant to the whole of the development described in the application. If it has, and provided the application is not for development requiring an Environmental Impact Assessment, is not likely to damage the features of a SSSI and will not be likely to have a significant effect on a European site (including pSPAs and Ramsar sites), the authority should not consult English Nature. Instead, it should refer to that standing advice.

81. Where standing advice covers only part of the proposed development, a planning authority is still required to consult English Nature. In such circumstances, English Nature could, as part of its response, refer the authority to the standing advice so far as it is relevant to the proposed development. Applications that are not covered by any standing advice should continue to be sent to English Nature.

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[86] Section 28P(4) Wildlife and Countryside Act 1981 as amended

[87] *ibid* Section 28P(1)

82. In determining the application for development that is covered by up-to-date standing advice, a planning authority must take into account that standing advice. The standing advice will be a material consideration in the determination of the planning application in the same way as any advice received from a statutory consultee under the GDPO. It is up to the planning authority to decide the weight to be attached to the standing advice, in the same way as it would decide the weight to be attached to a response from a statutory consultee.

83. Where English Nature revises its standing advice, the new advice should be applied to any application that the planning authority is currently considering. Where English Nature withdraws standing advice, the planning authority should consult English Nature in the normal way on any application received after the date on which the planning authority received notification that the standing advice was withdrawn. The planning authority need not consult English Nature where it has already begun to consider an application on the basis of standing advice valid at the time the application was received.

PART III
Conservation of Habitats and Species outside Designated Sites

A HABITATS AND SPECIES IN UK AND LOCAL BIODIVERSITY ACTION PLANS

Habitats and species of principal importance in England

84. The potential effects of a development, on habitats or species listed as priorities in the UK Biodiversity Action Plan (BAP)[88], and by Local Biodiversity Partnerships, together with policies in the England Biodiversity Strategy[89], are capable of being a material consideration in the preparation of regional spatial strategies and local development documents and the making of planning decisions.

85. Section 74 of the Countryside and Rights of Way Act 2000 places new duties on Government Ministers and Departments in respect of the conservation of biodiversity. In exercising his duty, the First Secretary of State may include local authorities to promote the taking of steps by others to further the conservation of the habitat types and species of principal importance for biodiversity. In PPS9, the Government has indicated that local authorities should take steps to further the conservation of habitats and species of principal importance through their planning function (see PPS9 paragraphs 11 and 14). The lists of the habitat types and species subject to this duty were published by Defra in 2002[90] and comprise the list of species and habitats identified as priorities under the UK Biodiversity Action Plan. The lists are reproduced in Annex C.

86. The DETR circular on the Countryside and Rights of Way Act 2000[91] states that local authorities' responsibilities for preparing their own Local Biodiversity Action Plans do not rely on the provisions of this Act; outside London, these plans are amongst the elements local authorities should build upon when preparing the overarching Strategy required by section 4 of the Local Government Act 2000. Subsequent to Circular 04/2001, the Government identified Local Biodiversity Action Plans as one of the plans that can be 'subsumed' into Community Strategies, as part of the rationalisation of local authority plans. Authorities will need to demonstrate that the subsumed plans have been considered within their Community Strategy and that Community Strategies as a whole are informed by the purposes of biodiversity planning[92].

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[88] *Biodiversity The UK Action Plan, 1994*, Command 2428, and subsequent Habitat and Species Action Plans. See www.ukbap.org.uk for more information.

[89] Defra, 2002, *Working with the grain of nature: a biodiversity strategy for England*

[90] Defra, 2002, *Countryside and Rights of Way Act 2000 Section 74: List of habitats and species of principal importance in England*

[91] Department of Environment Transport and the Regions Circular 04/01, February 2001 *Countryside and Rights of Way Act 2000*

[92] Office of the Deputy Prime Minister circular letter to local authorities, 22 July 2003 – http://www.odpm.gov.uk/stellent/groups/odpm_localgov/documents/page/odpm_locgov_023229-01.hcsp

B BIODIVERSITY ACTION PLANS IN LONDON

87. In London, the Mayor's duties include the preparation of a state of the environment report[93] (which must include information on biodiversity) and a London Biodiversity Action Plan (the London BAP)[94]. The London BAP must contain information on the ecology, wildlife and habitats of Greater London, together with proposals for conserving and promoting biodiversity and the commitments of other bodies intended to achieve the London BAP objectives. The London BAP must have regard to any plans relating to biodiversity prepared by a London Borough Council or the Common Council of the City of London.

C LANDSCAPE FEATURES OF MAJOR IMPORTANCE FOR WILD FLORA AND FAUNA

88. Article 10 of the Habitats Directive requires Member States (where they consider it necessary) to endeavour to encourage the management of features of the landscape that are of major importance for wild flora and fauna. These features are those that, because of their linear and continuous structure or their function as stepping-stones, are essential for migration, dispersal and genetic exchange. Examples given in the Directive are rivers with their banks, traditional field boundary systems (such as hedgerows), ponds and small woods. Suitable planning conditions and obligations may serve to promote such management.

D LIMESTONE PAVEMENT

89. County or unitary planning authorities have powers under section 34 of the Wildlife and Countryside Act 1981 to make limestone pavement orders prohibiting the removal or disturbance of limestone on land covered by the order. Under section 78 of the Countryside and Rights of Way Act 2000, the penalty for an offence under such an order has been increased to £20,000, in line with the penalty for damaging SSSIs and emphasising the importance which the Secretary of State for Environment, Food and Rural Affairs attaches to this nationally important habitat.

E TREES AND WOODLANDS

90. When granting planning permission for any development, local planning authorities are under a duty, where appropriate, to impose planning conditions to ensure adequate provision is made for the protection or planting of trees, and to make Tree Preservation Orders (TPOs) as appear necessary in the circumstances.

91. Veteran and other substantial trees and many types of woodland, especially ancient semi-natural woodland, can be of importance for biodiversity conservation. When considering whether particular trees or woodlands merit a TPO in the interests of amenity, local planning authorities should, where appropriate, include consideration of their nature conservation value.

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[93] Section 351 Greater London Authority Act 1999

[94] *ibid* Section 352

F HEDGEROWS

92. The Hedgerows Regulations 1997 (SI 1997/1160)[95] were made under section 97 of the Environment Act 1995. They aim to protect important hedgerows in the countryside by controlling their removal through a system of notification to local planning authorities (which administer the Regulations). The system applies to most countryside hedgerows in England and Wales, and covers hedgerows on, or adjoining land used for agriculture or forestry, the breeding or keeping of horses, ponies or donkeys, common land or village greens, SSSIs, or local nature reserves. They do not apply to garden hedges.

93. The Regulations set out the criteria to be used by local planning authorities, in determining whether a hedgerow is important. The criteria relates to the value of hedgerows from an archaeological, historical, landscape or wildlife perspective. Hedgerows should be at least 30 years old and meet any of the criteria in order to be deemed important.

94. Permission for removal of a hedgerow is not required if it is less than 20 metres long (unless both ends join with other hedgerows or it is part of a longer hedgerow), or is in, or borders a garden. Similarly permission to remove a hedgerow is not required in certain circumstances for emergency/access purposes.

G LOCAL SITES

95. Defra will be issuing separate guidance on sites of regional and local biodiversity and geological interest, which include Regionally Important Geological Sites, Local Nature Reserves and Local Sites[96]. The guidance will provide advice on the development and management of systems to identify these sites. It will propose frameworks and standards for their operation as well as for the selection, protection and management of the sites themselves.

[95] Further information available from 'The Hedgerows Regulations Your Questions Answered (WACD010) and 'The Hedgerows Regulations 1997: A Guide to the Law and Good Practice' available from Defra email : farmland.conservation @defra.gsi.gov.uk

[96] The guidance will be available from Defra's website – www.defra.gov.uk. Publication is anticipated to be in Autumn 2005.

PART IV
Conservation of Species Protected by Law

A INTRODUCTION

96. Particular species of flora and fauna within England are subject to special protection, normally because of their vulnerable conservation status. For example, a species may be endangered or suffering decline in numbers or range, either within the UK or the European Union, or may be the victim of persecution or cruelty (such as that inflicted on badgers or the collection of the eggs of birds).

97. The two principal pieces of legislation protecting wild species are Part I of the Wildlife and Countryside Act 1981 and the Habitats Regulations. Furthermore, some animals are protected under their own legislation (for example, the Protection of Badgers Act 1992).

98. The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult English Nature before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of the species. They should also advise developers that they must comply with any statutory species' protection provisions affecting the site concerned. For European protected species (i.e. those species protected under the Habitats Regulations) further strict provisions apply, as explained below, to which planning authorities must have regard.

99. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below.

100. All species of wild birds are protected within Great Britain under the provisions of the Wildlife and Countryside Act 1981. A list of all protected species of animals and plants can be found at Table 2 of Annex A of this Circular.

101. The breach of protected species legislation can often give rise to a criminal offence. The Countryside and Rights of Way Act 2000 increased the penalties for offences under the Wildlife and Countryside Act 1981, relating to protected species, to a maximum fine of £5,000 and/or a custodial sentence of up to six months[97].

102. The sections below set out the strict controls which apply to European protected species and provide further explanation of the controls applying to other species of animals, plants and birds.

B PROTECTION AFFORDED TO SPECIES UNDER THE HABITATS REGULATIONS

103. The Habitats Regulations implement the requirements of the Habitats Directive for species listed in Annexe IV of the Directive (European protected species). Stricter provisions than those contained in the Wildlife and Countryside Act 1981 apply for these species and regulation 3(4) of the Habitats Regulations places a duty on local planning authorities, in the exercise of their functions, to have regard to the requirements of the Directive so far as they might be affected by those functions. All European protected species are also separately protected under the Wildlife and Countryside Act 1981.

a) European protected species of animals

104. European protected species of animals are identified with a 'Yes' in the 3rd column of Table 2 in Annex A of this Circular.

105. Under regulation 39 of the Habitats Regulations, subject to certain defences or in the absence of a licence (regulations 40 and 44), it is unlawful to:

a. deliberately kill[98]; or

b. deliberately capture[99]; or

c. deliberately disturb[100]; or

d. deliberately take or destroy the eggs of[101];

a wild animal of a European protected species or, to:

e. damage or destroy[102] a breeding site or resting place of;

a wild animal of a European protected species.

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[97] Section 81 Countryside and Rights of Way Act 2000

[98] Regulation 39(1)(a) the Habitats Regulations 1994

[99] *ibid* Regulation 39(1)(a)

[100] *ibid* Regulation 39(1)(b)

[101] *ibid* Regulation 39(1)(c)

[102] *ibid* Regulation 39(1)(d)

These offences apply to all stages of the life of the animal[103].

106. It is not an offence to deliberately disturb a wild animal of a European protected species, or to damage or destroy a breeding site or resting place of such an animal, where this takes place within a dwelling-house[104]. However, in relation to actions that may affect bats outside a living area in a dwelling-house (such as a loft), this exception only applies where English Nature has been pre-notified allowing them a reasonable time within which to advise on the proposed course of action.

107. It is also an offence to keep, transport, sell or exchange[105], or offer for sale or exchange[106], any live or dead wild animal of a European protected species, or any part of, or anything derived from, such an animal. These offences apply to all stages of the life of the animal[107].

108. Where European protected species are found at any stage during the development process, the protection provisions may be contravened either by the development work itself or by associated mitigation work designed to protect the species concerned, for example, capture and rescue or translocation of the protected species from the development site in advance of works commencing. In order to avoid an offence being committed here, a licence may be available under regulation 44 of the Habitats Regulations (see section C below).

b) European protected species of plants

109. European protected species of plants are those listed in the first part of Table 3 in Annex A of this Circular.

110. Article 13 of the Habitats Directive requires Member States to prohibit the deliberate picking, collecting, cutting, uprooting or destruction of any plant in the wild of a species listed in Annex IV(b), in their natural range throughout the biological cycle of the plants. Regulations 42 – 43 of the Habitats Regulations implement this.

111. It is also an offence to keep, transport, sell, exchange, or offer for sale or exchange, any live or dead wild plant of a European protected species, or any part of, or anything derived from, such a wild plant[108]. These offences also apply to all stages of the biological cycle of European protected species of plants[109].

c) Licences in respect of European protected species

112. Under the Habitats Directive, developments that would result in a breach of the protection afforded to European protected species of plants and animals require to be

[103] Regulation 39(3) The Habitats Regulations 1994

[104] *ibid* Regulation 40(4)

[105] *ibid* Regulation 39(2)

[106] *ibid* Regulation 39(2)

[107] *ibid* Regulation 39(3)

[108] *ibid* Regulation 43(2)

[109] *ibid* Regulation 43(3)

covered by a derogation under Article 16. Article 16 of the Directive is transposed by regulation 44 of the Habitats Regulations under which licences may be issued for certain prescribed purposes – which are listed in regulation 44(2)(a)-(g). As a regulation 44 licence is a specific form of derogation under Article 16 of the Directive, licences may only be granted where the licensing authority is satisfied that two tests are met, which are set out in regulation 44(3)(a) and (b). First, a licence must not be issued unless there is no satisfactory alternative. Secondly, it must not be issued unless the action authorised by the licence would not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range. Planning permission per se does not authorise development to proceed in contravention of any of the provisions of regulations 39 or 43. Instead, a licence obtained under regulation 44 may authorise this.

113. English Nature is the licensing authority for granting licences for the purposes in regulation 44(2)(a)-(d), which include "scientific or education purposes". This purpose would cover undertaking surveys for, or likely to affect, European protected species. In the case of survey work connected with the development, which is likely to result in an offence in regulation 39 or 43 of the Habitats Regulations being committed, it is recommended that a licence is first applied for and obtained from English Nature. Any person wishing to carry out survey work that could affect animals or plants that are a European protected species should contact the relevant local area team of English Nature listed in Annex B to this Circular.

114. Defra is the licensing authority for the purposes within regulation 44(2)(e)-(g). Regulation 44(2)(e) contains the purpose : " preserving public health or public safety, or for reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment". "Overriding public interest" is the purpose most likely to cover the implementation of planning permissions likely to affect an animal or plant that is a European protected species.

115. In practice, licence applications are determined by Defra following, and separately from, the granting of planning permission. Information is normally requested from the planning authority and the developer, in order to assist Defra in making a determination of whether there is 'no satisfactory alternative' to the issue of a derogation licence. The information required by Defra from planning authorities to determine these licence applications was outlined in Defra Circular 2/2002[110]. English Nature is asked to provide advice on whether the issue of a licence would be 'detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'. The above tests are then applied by Defra with the benefit of the information provided.

116. When dealing with cases where a European protected species may be affected, a planning authority is a competent authority within the meaning of regulation 6 of the Habitats Regulations, and therefore has a statutory duty under regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercise of its functions. So the Directive's provisions are clearly relevant in reaching planning decisions, and these

[110] Defra Circular 2/2002, *New Guidance for Local Planning Authorities on European Protected Species and Changes in Licensing Procedures*, 16 October 2002.

should be made in a manner which takes them fully into account. The Directive's requirements include a strict system of protection for European protected species, prohibiting deliberate killing, catching or disturbing of species, the taking of eggs etc and damage to or destruction of their breeding sites or resting places. Derogations from this strict protection are allowed only in certain limited circumstances and subject to certain tests being met (see para 112 above). Planning authorities should give due weight to the presence of a European protected species on a development site to reflect these requirements, in reaching planning decisions, and this may potentially justify a refusal of planning permission.

117. Guidance is also given in PPS9 on the consideration that should be given to protected species where they would be affected by proposed developments.

C PROTECTION AFFORDED TO SPECIES BY THE WILDLIFE AND COUNTRYSIDE ACT 1981

118. Part I of the Wildlife and Countryside Act 1981 sets out the protection that is afforded to all wild birds, and certain wild animals and plants. Section 25 places a duty on all local authorities to do what they consider expedient to bring the provisions of the Act relating to protected species to the attention of the public and particularly school children. Local authorities are also empowered to institute proceedings against any person committing an offence under Part I of the Act within their area.

119. Under section 16 of the Wildlife and Countryside Act 1981, licences may be issued, providing certain conditions are met, derogating from the protection afforded to species for listed reasons, such as public health and safety. However, there is no provision for licences to be granted for the purposes of development.

a) Protection of Birds

120. Part I of the Wildlife and Countryside Act 1981 (as amended) makes it an offence (with certain limited exceptions and in the absence of a licence) intentionally to kill, injure or take any wild bird, or intentionally to damage, take or destroy its nest whilst it is being built or is in use, or to take or destroy its eggs[111]. It is also an offence to possess any live or dead wild bird or egg, or anything derived from a wild bird or egg. Restrictions on trade and on advertising also apply. Consequently, even common birds such as blackbirds or robins, and their nests and eggs, are protected in this way. Further, the Act affords additional protection to specific species of birds listed in Schedule 1 of the Act. In respect of these species it is unlawful intentionally or recklessly to disturb such a bird whilst it is nest-building or is at or near a nest with eggs or young; or to disturb their dependent young[112]. Table 1 of Annex A of this Circular sets out the list of bird species in Schedule 1. Licences to enable surveys to be carried out may be granted by English Nature.

[111] section 1(1) Wildlife and Countryside Act 1981, as amended

[112] *ibid* section 1(5)

b) Protection of Animals

121. Part I of the Wildlife and Countryside Act 1981 (as amended) affords protection to specific species of animals listed in Schedule 5 (see Table 2, Annex A of this Circular). This provides overlapping but separate protection for European protected species covered by the Habitats Regulations. All local authorities are informed about changes to the Schedule. With certain exceptions detailed in Table 2, at Annex A in this Circular, and in the absence of a licence or a relevant defence, it is an offence in respect of any animal of a species listed in Schedule 5 to:

i. intentionally kill, injure or take any wild animal of such a listed species[113];

ii. intentionally or recklessly damage or destroy or obstruct access to any structure or place which any animal of a listed species uses for shelter or protection[114];

iii. intentionally or recklessly disturb an animal of a listed species whilst it is occupying such a structure or place which it uses for that purpose[115];

iv. trade[116] in an animal of a listed species whether alive or dead, or any part of it or anything derived from it[117];

v. intentionally or recklessly disturb a dolphin, whale or basking shark wherever it may be[118];

vi. possess or have in one's control a live or dead animal of a listed species, or any part of it or anything derived from it[119].

Some species are covered by one or more (but not all), of these provisions (as listed in Annex A, Table 2 below).

c) Protection of Plants

122. Part I of the Wildlife and Countryside Act 1981 (as amended) also affords protection to specific species of plants listed in Schedule 8. This also provides overlapping but separate protection for European protected species from the Habitats Regulations. Section 13 of the Wildlife and Countryside Act 1981 (as amended) gives legal protection to certain wild plants listed in Schedule 8. All local authorities are informed about changes to the Schedule. In the absence of a licence or a relevant defence, it is an offence to

[113] section 9(1) Wildlife and Countryside Act 1981, as amended

[114] *ibid* section 9(4)(a) Schedule 12 para 5

[115] *ibid*. section 9(4)(b)

[116] Specifically to sell, offer or expose for sale, possess or transport for the purpose of sale, or publish or cause to be published any advertisement likely to be understood as conveying that the person buys or sells or intends to buy or sell, Section 9(5) Wildlife and Countryside Act 1981, as amended

[117] section 9(5) Wildlife and Countryside Act 1981, as amended

[118] *ibid*. section 9(4A)

[119] *ibid*. section 9(2)

i. intentionally pick, uproot or destroy a wild plant listed in Schedule 8;

ii. not being an authorised person, intentionally uproot any wild plant not included in Schedule 8; or

iii. sell, offer or expose for sale, or have possession of or to transport for the purpose of sale, any live or dead wild plant, or any part of or anything derived from a wild plant listed in Schedule 8.

iv. publish or cause to be published any advertisement likely to be understood as conveying that that person buys or sells, or intends to buy or sell, any live or dead wild plant, or any part of or anything derived from a wild plant listed in Schedule 8.

With the exception of the Bluebell, all plants listed are fully protected. The Bluebell is protected against sale only[120].

D PROTECTION OF BADGERS ACT 1992

123. Although the badger is not a rare animal over most of England, there is specific legislation for the protection of badgers under the Protection of Badgers Act 1992. It is widely known that badgers have been the victim of persecution and cruelty over many years. With certain exceptions it is unlawful to kill, injure, take or possess a badger, or attempt to do so[121]. It is also an offence to cruelly ill-treat a badger[122], and, with certain exceptions, to interfere with a badger sett[123]. English Nature is responsible for issuing licences under section 10(1)(d) of the Protection of Badgers Act 1992 where it is necessary to interfere with a badger sett in the course of development, which can include demolition, building, construction, mining and engineering operations and material changes of use.

124. The likelihood of disturbing a badger sett, or adversely affecting badgers' foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions. Although consideration of the case for granting a licence is separate from the process of applying for planning permission, a planning authority should advise anyone submitting an application for development in an area where there are known to be badger setts that they must comply with the provisions of the Act. Local authorities and other public bodies (except central government) are generally likely to need a licence in respect of any development which they themselves carry out in any areas if it will involve them interfering with a badger sett.

[120] section 13(2) Wildlife and Countryside Act 1981, as amended and Schedule 8

[121] section 1 of the Protection of Badgers Act 1992

[122] *ibid* section 2

[123] *ibid* section 3

PART V

Other duties and use of statutory powers by planning authorities

A ENVIRONMENTAL IMPACT ASSESSMENT

125. Environmental impact assessment (EIA) is mandatory for projects that are 'EIA development' within the meaning of the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 1999 (the EIA Regulations)[124]. Some schedule 2 projects will be screened as EIA development because of their likely significant effects on nature conservation interests. The potential effects on flora and fauna and on natural features and processes should always be carefully considered in the scoping of environmental impact statements to ensure compliance with the EIA Directive. Circular 2/99 provides further advice on the application of the Regulations to the planning system.

B STRATEGIC ENVIRONMENTAL ASSESSMENT

126. Directive 2001/42/EC "on assessment of the environmental effects of certain plans and programmes on the environment" (the Strategic Environmental Assessment or SEA Directive) applies to development plans. Its requirements are incorporated in mandatory sustainability appraisal of Local Development Documents under the Planning and Compulsory Purchase Act 2004. The effects of a plan on European sites would be considered in the Environmental Report which is produced as part of the SEA process (incorporated in the Sustainability Appraisal Report under the 2004 Act).

C WATER FRAMEWORK DIRECTIVE

127. Regulation 17 of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 requires each public body, in the exercise of its functions, to have regard to the river basin management plan for that river basin district and any supplementary plans.

128. The Water Framework Directive introduces a new high level water planning process – based on river basin districts (which are roughly the size of regions). Key aims of the Water Framework Directive in relation to nature conservation and the planning system are the promotion of sustainable water use and to establish a framework for the protection of surface and groundwaters which protects and enhances the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly dependent on the aquatic ecosystems.

129. Strategic planning decisions such as on the nature, size and location of development should take account of their impact on the aquatic environment and have regard to Environment Agency advice and standing guidance.

[124] SI No.1999/293 amended by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2000 SI No. 2000/2867

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MRS H J THOMPSON
Head of European Wildlife Division, Department for Environment, Food and Rural Affairs

Addressed to:
The Chief Executives of:
County Councils in England
District Councils in England
Unitary Authorities in England
London Borough Councils
Greater London Authority
Regional Planning Bodies
Regional Development Agencies
Council of the Isles of Scilly
The Town Clerk, City of London
The National Park Officer, National Park Authorities in England
The Chief Planning Officer, The Broads Authority

Annex A
Lists of species of animals and plants especially protected by law

Table 1
Birds Protected by Schedule 1 Wildlife and Countryside Act 1981 as amended

Avocet	Grebe, Slavonian	Sandpiper, Wood
Bee-eater	Greenshank	Scaup
Bittern	Gull, Little	Scoter, Common
Bittern, Little	Gull, Mediterranean	Scoter, Velvet
Bluethroat	Harriers (all species)	Serin
Brambling	Heron, Purple	Shorelark
Bunting, Cirl	Hobby	Shrike, Red-backed
Bunting, Lapland	Hoopoe	Spoonbill
Bunting, Snow	Kingfisher	Stilt, Black-winged
Buzzard, Honey	Kite, Red	Stint, Temminck's
Chough	Merlin	Swan, Bewick's
Corncrake	Oriole, Golden	Swan, Whooper
Crake, Spotted	Osprey	Tern, Black
Crossbills (all species)	Owl, Barn	Tern, Little
Curlew, Stone	Owl, Snowy	Tern, Roseate
Divers (all species)	Peregrine	Tit, Bearded
Dotterel	Petrel, Leach's	Tit, Crested
Duck, Long-tailed	Phalarope, Red-necked	Treecreeper, Short-toed
Eagle, Golden	Plover, Kentish	Warbler, Cetti's
Eagle, White-tailed	Plover, Little Ringed	Warbler, Dartford
Falcon, Gyr	Quail, Common	Warbler, Marsh
Fieldfare	Redstart, Black	Warbler, Savi's
Firecrest	Redwing	Whimbrel
Garganey	Rosefinch, Scarlet	Woodlark
Godwit, Black-tailed	Ruff	Wryneck
Goshawk	Sandpiper, Green	
Grebe, Black-necked	Sandpiper, Purple	

Table 2

Animals Protected by Schedule 5 Wildlife and Countryside Act 1981 as amended and Regulation 39 Habitats Regulations 1994 (European protected animal species)

Key to Table 2

EPS = European Protected Species

9(1) = S.9(1) intentionally kill, injure or take any wild animal of such a listed species;

9(4)(a) = S.9(4)(a) intentionally or recklessly damage or destroy or obstruct access to any structure or place which any animal of a listed species uses for shelter or protection (at any time even when the animal is not there);

9(4)(b) = S.9(4)(b) intentionally or recklessly disturb an animal of a listed species whilst it is occupying such a structure or place which it uses for that purpose;

9(5) = S.9(5) sell, transport or trade in an animal of a listed species whether alive or dead, or any part of it or anything derived from it;

9(4A) = S.9(4A) intentionally or recklessly disturb a dolphin, whale or basking shark wherever it may be;

9(2) = S.9(2) possess or control a live or dead animal of a listed species, or any part of it or anything derived from it.

• = Denotes that only partial protection is afforded under section 9(1) for this species. The Adder, Viviparous Lizard, Slow-worm and Grass Snake, are only protected under section 9(1) from being killed or injured and the Atlantic Stream Crayfish is only protected under section 9(1) from being taken.

Common Name	*Scientific Name*	*EPS*	*9(1)*	*9(4)(a)*	*9(4)(b)*	*9(5)*	*9(4A)*	*9(2)*
Adder	*Vipera berus*		•*			•		
Allis Shad	*Alosa alosa*		•	•				
Anemone, Ivell's Sea	*Edwardsia ivelli*		•	•	•	•		•
Anemone, Starlet Sea	*Nematosella vectensis*		•	•	•	•		•
Apus	*Triops cancriformis*		•	•	•	•		•
Atlantic Stream Crayfish	*Austropotamobius pallipes*		•*			•		
Bats, Horseshoe	*Rhinolophidae* (all species)	Yes	•	•	•	•		•
Bats, Typical	*Vespertilionidae* (all species)	Yes	•	•	•	•		•
Beetle	*Graphoderus zonatus*		•	•	•	•		•
Beetle	*Hypebaeus flavipes*		•	•	•	•		•
Beetle	*Paracymus aeneus*		•	•	•	•		•
Beetle, Lesser Silver Water	*Hydrochara caraboides*		•	•	•	•		•
Beetle, Mire Pill	*Curimopsis nigrita*			•				
Beetle, Rainbow Leaf	*Chrysolina cerealis*		•	•	•	•		•
Beetle, Stag	*Lucanus cervus*					•		
Beetle, Violet Click	*Limoniscus violaceus*		•	•	•	•		•
Burbot	*Lota lota*		•	•	•	•		•
Butterflies								
Heath Fritillary	*Mellicta athalia (Melitaea athalia)*		•	•	•	•		•
Large Blue	*Maculinea arion*	Yes	•	•	•	•		•
Swallowtail	*Papilio machaon*		•	•	•	•		•
Northern Brown Argus	*Aricia artaxerxes*					•		
Adonis Blue	*Lysandra bellargus*					•		
Chalkhill Blue	*Lysandra coridon*					•		
Silver-studded Blue	*Plebejus argus*					•		
Small Blue	*Cupido minimus*					•		
Large Copper	*Lycaena dispar*		•	•	•	•		•
Purple Emperor	*Apatura iris*					•		
Duke of Burgundy Fritillary	*Hamearis lucina*					•		
Glanville Fritillary	*Melitaea cinxia*					•		

continued

Table 2 – *continued*

Common Name	*Scientific Name*	*EPS*	*9(1)*	*9(4)(a)*	*9(4)(b)*	*9(5)*	*9(4A)*	*9(2)*
High Brown Fritillary	*Argynnis adippe*					•		
Marsh Fritillary	*Eurodryas aurinia*		•	•	•	•		•
Pearl-bordered Fritillary	*Boloria euphrosyne*					•		
Black Hairstreak	*Strymonidia pruni*					•		
Brown Hairstreak	*Thecla betulae*					•		
White Letter Hairstreak	*Stymonida w-album*					•		
Large Heath	*Coenonympha tullia*					•		
Mountain Ringlet	*Erebia epiphron*					•		
Chequered Skipper	*Carterocephalus palaemon*					•		
Lulworth Skipper	*Thymelicus acteon*					•		
Silver Spotted Skipper	*Hesperia comma*					•		
Large Tortoiseshell	*Nymphalis polychloros*					•		
Wood White	*Leptidea sinapis*					•		
Cat, Wild	*Felis silvestris*	Yes	•	•	•	•		•
Cicada, New Forest	*Cicadetta montana*		•	•	•	•		•
Cricket, Field	*Gryllus campestris*		•	•	•	•		•
Cricket, Mole	*Gryllotalpa gryllotalpa*		•	•	•	•		•
Damselfly, Southern	*Coenagrion mercuriale*		•	•	•	•		•
Dolphins	*Cetacea* (all species)	Yes	•	•	•	•	•	•
Dormouse	*Muscardinus avellanarius*	Yes	•	•	•	•		•
Dragonfly, Norfolk Aeshna	*Aeshna isosceles*		•	•	•	•		•
Frog, Common	*Rana temporaria*					•		
Goby, Couch's	*Gobius couchii*		•	•	•	•		•
Goby, Giant	*Gobius cobitis*		•	•	•	•		•
Grasshopper, Wart-biter	*Decticus verrucivorus*		•	•	•	•		•
Hatchet Shell, Northern	*Thyasira gouldi*		•	•	•	•		•
Hydroid, Marine	*Clavopsella navis*		•	•	•	•		•
Lagoon Snail	*Paludinella littorina*		•	•	•	•		•
Lagoon Snail, De Folin's	*Caecum armoricum*		•	•	•	•		•
Lagoon Worm, Tentacled	*Alkmaria romijni*		•	•	•	•		•
Leech, Medicinal	Hirudo medicinalis		•	•	•	•		•
Lizard, Sand	Lacerta agilis	Yes	•	•	•	•		•
Lizard, Viviparous	Lacerta vivipara		•*			•		
Marten, Pine	Martes martes		•	•	•	•		•
Mat, Trembling Sea	Victorella pavida		•	•	•	•		•
Moth, Barberry Carpet	Pareulype berberata		•	•	•	•		•
Moth, Black-veined	Siona lineata (Idaea lineata)		•	•	•	•		•
Moth, Essex Emerald	*Thetidia smaragdaria*		•	•	•	•		•
Moth, Fiery Clearwing	*Bembecia chrysidiformis*		•	•	•	•		•
Moth, Fisher's Estuarine	*Gortyna borelii*		•	•	•	•		•
Moth, New Forest Burnet	*Zygaena viciae*		•	•	•	•		•
Moth, Reddish Buff	*Acosmetia caliginosa*		•	•	•	•		•
Moth, Sussex Emerald	*Thalera fimbrialis*		•	•	•	•		•
Mussel, Fan	*Atrina fragilis*		•			•		•

continued

Table 2 – *continued*

Common Name	*Scientific Name*	*EPS*	*9(1)*	*9(4)(a)*	*9(4)(b)*	*9(5)*	*9(4A)*	*9(2)*
Mussel, Freshwater Pearl	*Margaritifera margaritifera*		•	•	•	•		•
Newt, Great Crested (Warty newt)	*Triturus cristatus*	Yes	•	•	•	•		•
Newt, Palmate	*Triturus helveticus*					•		
Newt, Smooth	*Triturus vulgaris*					•		
Otter, Common	*Lutra lutra*	Yes	•	•	•	•	•	•
Porpoises	*Cetacea* (all species)	Yes	•	•	•	•		•
Sandworm, Lagoon	*Armandia cirrhosa*		•	•	•	•		•
Sea Fan, Pink	*Eunicella verrucosa*		•			•		•
Sea Slug, Lagoon	*Tenellia adspersa*		•	•	•	•		•
Shad, Twaite	*Alosa Fallax*			•				
Shark, Basking	*Cetorhinus maximus*		•	•	•	•	•	•
Shrimp, Fairy	*Chirocephalus diaphanus*		•	•	•	•		•
Shrimp, Lagoon Sand	*Gammarus insensibilis*		•	•	•	•		•
Slow-worm	*Anguis fragilis*		•*			•		
Snail, Glutinous	*Myxas glutinosa*		•	•	•	•		•
Snail, Sandbowl	*Catinella arenaria*		•	•	•	•		•
Snake, Grass	*Natrix helvetica*		•*			•		
Snake, Smooth	*Coronella austriaca*	Yes	•	•	•	•		•
Spider, Fen Raft	*Dolomedes plantarius*		•	•	•	•		•
Spider, Ladybird	*Eresus niger*		•	•	•	•		•
Squirrel, Red	*Sciurus vulgaris*		•	•	•	•		•
Sturgeon	*Acipenser sturio*	Yes	•	•	•	•		•
Toad, Common	*Bufo bufo*					•		
Toad, Natterjack	*Bufo calamita*	Yes	•	•	•	•		•
Turtles, Marine	*Caretta caretta* *Chelonia mydas* *Lepidochelys kempii* *Eretmochelys imbricata* *Dermochelys coriacea*	Yes	•	•	•	•		•
Vendace	*Coregonus albula*		•	•	•	•		•
Vole, Water	*Arvicola terrestris*			•	•			
Walrus	*Odobenus rosmarus*		•	•	•	•		•
Whale	*Cetacea* (all species)	Yes	•	•	•	•	•	•
Whitefish	*Coregonus lavaretus*		•	•	•	•		•

Table 3

Plants Protected by Schedule 8 Wildlife and Countryside Act 1981 as amended and Regulation 42 Habitats Regulations 1994 (European protected plant species)

Dock, Shore	*Rumex rupestris*	Naiad, Slender	*Najas flexilis*
Fern, Killarney	*Trichomanes speciosum*	Orchid, Fen	*Liparis loeselii*
Gentian, Early	*Gentianella anglica*	Plantain, Floating-leaved Water	*Luronium natans*
Lady's-slipper	*Cyprepedium calceolus*	Saxifrage, Yellow Marsh	*Saxifraga hirculus*
Marshwort, Creeping	*Apium repens*		

Plants Protected by Schedule 8 Wildlife and Countryside Act 1981 as amended

Adder's-tongue, Least	*Ophioglossum lusitanicum*	Frostwort, Pointed	*Gymnomitrion apiculatum*
Alison, Small	*Alyssum alyssoides*	Fungus, Hedgehog	*Hericium erinaceum*
Anomodon, Long-leaved	*Anomodon longifolius*	Galingale, Brown	*Cyperus fuscus*
Beech-lichen, New Forest	*Enterographa elaborata*	Gentian, Alpine	*Gentiana nivalis*
Blackwort	*Southbya nigrella*	Gentian, Dune	*Gentianella uliginosa*
Bluebell	*Hyacinthoides non-scripta* (in respect of s.13(2) only)	Gentian, Fringed	*Gentianella ciliata*
		Gentian, Spring	*Gentiana verna*
Bolete, Royal	*Boletus regius*	Germander, Cut-leaved	*Teucrium botrys*
Broomrape, Bedstraw	*Orobanche caryophyllacea*	Germander, Water	*Teucrium scordium*
Broomrape, Oxtongue	*Orobanche loricata*	Gladiolus, Wild	*Gladiolus illyricus*
Broomrape, Thistle	*Orobanche reticulata*	Goblin Lights	*Catolechia wahlenbergii*
Cabbage, Lundy	*Rhynchosinapis wrightii*	Goosefoot, Stinking	*Chenopodium vulvaria*
Calamint, Wood	*Calamintha sylvatica*	Grass-poly	*Lythrum hyssopifolia*
Caloplaca, Snow	*Caloplaca nivalis*	Grimmia, Blunt-leaved	*Grimmia unicolor*
Catapyrenium, Tree	*Catapyrenium psoromoides*	Gyalecta, Elm	*Gyalecta ulmi*
Catchfly, Alpine	*Lychnis alpina*	Hare's-ear, Sickle-leaved	*Bupleurum falcatum*
Catillaria, Laurer's	*Catellaria laureri*	Hare's-ear, Small	*Bupleurum baldense*
Centaury, Slender	*Centaurium tenuiflorum*	Hawk's-beard, Stinking	*Crepis foetida*
Cinquefoil, Rock	*Potentilla rupestris*	Hawkweed, Northroe	*Hieracium northroense*
Cladonia, Convoluted	*Cladonia convoluta*	Hawkweed, Shetland	*Hieracium zetlandicum*
Cladonia, Upright Mountain	*Cladonia stricta*	Hawkweed, Weak-leaved	*Hieracium attenuatifolium*
Clary, Meadow	*Salvia pratensis*	Heath, Blue	*Phyllodoce caerulea*
Club-rush, Triangular	*Scirpus triquetrus*	Helleborine, Red	*Cephalanthera rubra*
Colt's-foot, Purple	*Homogyne alpina*	Helleborine, Young's	*Epipactis youngiana*
Cotoneaster, Wild	*Cotoneaster integerrimus*	Horsetail, Branched	*Equisetum ramosissimum*
Cottongrass, Slender	*Eriophorum gracile*	Hound's-tongue, Green	*Cynoglossum germanicum*
Cow-wheat, Field	*Melampyrum arvense*	Knawel, Perennial	*Scleranthus perennis*
Crocus, Sand	*Romulea columnae*	Knotgrass, Sea	*Polygonum maritimum*
Crystalwort, Lizard	*Riccia bifurca*	Lecanactis, Churchyard	*Lecanactis hemisphaerica*
Cudweed, Broad-leaved	*Filago pyramidata*	Lecanora, Tarn	*Lecanora archariana*
Cudweed, Jersey	*Gnaphalium luteoalbum*	Lecidea, Copper	*Lecidea inops*
Cudweed, Red-tipped	*Filago lutescens*	Leek, Round-headed	*Allium sphaerocephalon*
Cut-grass	*Leersia oryzoides*	Lettuce, Least	*Lactuca saligna*
Deptford Pink	*Dianthus armeria*	Lichen, Arctic Kidney	*Nephroma arcticum*
Diapensia	*Diapensia lapponica*	Lichen, Ciliate Strap	*Heterodermia leucomelos*
Earwort, Marsh	*Jamesoniella undulifolia*	Lichen, Coralloid Rosette	*Heterodermia propagulifera*
Eryngo, Field	*Eryngium campestre*	Lichen, Ear-lobed Dog	*Peltigera lepidophora*
Feather-moss, Polar	*Hygrohypnum polare*	Lichen, Forked Hair	*Bryoria furcellata*
Fern, Dickie's Bladder	*Cystopteris dickieana*	Lichen, Golden Hair	*Teloschistes flavicans*
Flapwort, Norfolk	*Leiocolea rutheana*	Lichen, Orange Fruited Elm	*Caloplaca luteoalba*
Fleabane, Alpine	*Erigeron borealis*	Lichen, River Jelly	*Collema dichotomum*
Fleabane, Small	*Pulicaria vulgaris*	Lichen, Scaly Breck	*Squamarina lentigera*

Table 3
Plants Protected by Schedule 8 Wildlife and Countryside Act 1981 as amended – *continued*

Lichen, Stary Breck	*Buellia asterella*
Lily, Snowdon	*Lloydia serotina*
Liverwort	*Petallophyllum ralfsi*
Liverwort, Lindenberg's Leafy	*Adelanthus lindenbergianus*
Marsh-mallow, Rough	*Althaea hirsuta*
Milk-parsley, Cambridge	*Selinum carvifolia*
Moss	*Drepanocladius vernicosus*
Moss, Alpine Copper	*Mielichoferia mielichoferi*
Moss, Baltic Bog	*Sphagnum balticum*
Moss, Blue Dew	*Saelania glaucescens*
Moss, Blunt-leaved Bristle	*Orthotrichum obtusifolium*
Moss, Bright Green Cave	*Cyclodictyon laetevirens*
Moss, Cordate Beard	*Barbula cordata*
Moss, Cornish Path	*Ditrichum cornubicum*
Moss, Derbyshire Feather	*Thamnobryum angustifolium*
Moss, Dune Thread	*Bryum mamillatum*
Moss, Flamingo	*Desmatodon cernuus*
Moss, Glaucous Beard	*Barbula glauca*
Moss, Green Shield	*Buxbaumia viridis*
Moss, Hair Silk	*Plagiothecium piliferum*
Moss, Knothole	*Zygodon forsteri*
Moss, Large Yellow Feather	*Scorpidium turgescens*
Moss, Millimetre	*Micromitrium tenerum*
Moss, Multifruited River	*Cryphaea lamyana*
Moss, Nowell's Limestone	*Zygodon gracilis*
Moss, Rigid Apple	*Bartramia stricta*
Moss, Round-leaved Feather	*Rhyncostegium rotundifolium*
Moss, Schleicher's Thread	*Bryum schleicheri*
Moss, Triangular Pygmy	*Acaulon triquetrum*
Moss, Vaucher's Feather	*Hypnum vaucheri*
Mudwort, Welsh	*Limosella australis*
Naiad, Holly-leaved	*Najas marina*
Orache, Stalked	*Halimione pedunculata*
Orchid, Early Spider	*Ophrys sphegodes*
Orchid, Ghost	*Epipogium aphyllum*
Orchid, Lapland Marsh	*Dactylorhiza lapponica*
Orchid, Late Spider	*Ophrys fuciflora*
Orchid, Lizard	*Himantoglossum hircinum*
Orchid, Military	*Orchis militaris*
Orchid, Monkey	*Orchis simia*
Pannaria, Caledonia	*Pannaria ignobilis*
Parmelia, New Forest	*Parmelia minarum*
Parmentaria, Oil Stain	*Parmentaria chilensis*
Pear, Plymouth	*Pyrus cordata*
Penny-cress, Perfoliate	*Thlaspi perfoliatum*
Pennyroyal	*Mentha pulegium*
Pertusaria, Alpine Moss	*Pertusaria bryontha*
Physcia, Southern Grey	*Physcia tribacioides*
Pigmyweed	*Crassula aquatica*
Pine, Ground	*Ajuga chamaepitys*
Pink, Cheddar	*Dianthus gratianopolitanus*
Pink, Childling	*Petroraghia nanteuilii*
Polypore, Oak	*Buglossoporus pulvinus*
Pseudocyphellaria, Ragged	*Pseudocyphellaria lacerata*
Psora, Rusty Alpine	*Psora rubiformis*
Puffball, Sandy Stilt	*Battarraea phalloides*
Ragwort, Fen	*Senecio paludosus*
Ramping-fumitory, Martin's	*Fumaria martinii*
Rampion, Spiked	*Phyteuma spicatum*
Restharrow, Small	*Ononis reclinata*
Rock-cress, Alpine	*Arabis alpina*
Rock-cress, Bristol	*Arabis stricta*
Rustworth, Western	*Marsupella profunda*
Sandwort, Norwegian	*Arenaria norvegica*
Sandwort, Teesdale	*Minuartia stricta*
Saxifrage, Drooping	*Saxifraga cernua*
Saxifrage, Tufted	*Saxifraga cespitosa*
Solomon's-seal, Whorled	*Polygonatum verticillatum*
Solenopsora, Serpentine	*Solenopsora liparina*
Sow-thistle, Alpine	*Cicerbita alpina*
Spearwort, Adder's-tongue	*Ranunculus ophioglossifolius*
Speedwell, Fingered	*Veronica triphyllos*
Speedwell, Spiked	*Veronica spicata*
Spike-rush, Dwarf	*Eleocharis parvula*
Stack Fleawort, South	*Tephroseris integrifolia* (ssp. maritima)
Star-of-Bethlehem, Early	*Gagea bohemica*
Starfruit	*Damasonium alisma*
Stonewort, Bearded	*Chara canescens*
Stonewort, Foxtail	*Lamprothamnium papulosum*
Strapwort	*Corrigiola litoralis*
Sulphur-tresses, Alpine	*Alectoria ochroleuca*
Threadmoss, Long-leaved	*Bryum neodamense*
Turpswort	*Geocalyx graveolens*
Violet, Fen	*Viola persicifolia*
Viper's-grass	*Scorzonera humilis*
Water-plantain, Ribbon Leaved	*Alisma gramineum*
Wood-sedge, Starved	*Carex depauperata*
Woodsia, Alpine	*Woodsia alpina*
Woodsia, Oblong	*Woodsia ilvensis*
Wormwood, Field	*Artemisia campestris*
Woundwort, Downy	*Stachys germanica*
Woundwort, Limestone	*Stachys alpina*
Yellow-rattle, Greater	*Rhinanthus serotinus*

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Annex C

Habitat types and species of principal importance in England

(Section 74 Countryside and Rights of Way Act 2000)

Habitats of Principal Importance	
Ancient and/or species-rich hedgerows	Mesotrophic standing water
Aquifer fed naturally fluctuating water bodies	*Modiolus modiolus* beds
Blanket bog	Mud habitats in deep water
Cereal field margins	Mudflats
Chalk rivers	Native pine woodlands
Coastal and floodplain grazing marsh	Purple moor grass and rush pastures
Coastal saltmarsh	Reedbeds
Coastal sand dunes	*Sabellaria alveolata* reefs
Coastal vegetated shingle	*Sabellaria spinulosa* reefs
Eutrophic standing waters	Saline lagoons
Fens	Seagrass beds
Limestone pavements	Serpulid reefs
Littoral and sublittoral chalk	Sheltered muddy gravels
Lophelia pertusa reefs	Sublittoral sands and gravels
Lowland beech and yew woodland	Tidal rapids
Lowland calcareous grassland	Upland calcareous grassland
Lowland dry acid grassland	Upland hay meadows
Lowland heathland	Lowland mixed deciduous woodland
Lowland meadows	Upland heathland
Lowland raised bog	Upland mixed ashwoods
Lowland wood-pasture and parkland	Upland oakwood
Machair	Upland birch woodland
Maerl beds	Wet woodland
Maritime cliff and slopes	

Species of Principal Importance

Vertebrates

Amphibian	*Bufo calamita*	Natterjack toad
Amphibian	*Rana lessonae*	Pool frog
Amphibian	*Triturus cristatus*	Great crested newt
Bird	*Acrocephalus paludicola*	Aquatic warbler
Bird	*Acrocephalus palustris*	Marsh warbler
Bird	*Alauda arvensis*	Skylark
Bird	*Botaurus stellaris*	Bittern
Bird	*Burhinus oedicnemus*	Stone curlew
Bird	*Caprimulgus europaeus*	Nightjar
Bird	*Carduelis cannabina*	Linnet
Bird	*Crex crex*	Corncrake
Bird	*Emberiza cirlus*	Cirl bunting
Bird	*Emberiza schoeniclus*	Reed bunting
Bird	*Jynx torquilla*	Wryneck
Bird	*Lanius collurio*	Red-backed shrike
Bird	*Loxia scotica*	Scottish crossbill
Bird	*Lullula arborea*	Woodlark
Bird	*Melanitta nigra*	Common scoter
Bird	*Miliaria calandra*	Corn bunting
Bird	*Muscicapa striata*	Spotted flycatcher
Bird	*Passer montanus*	Tree sparrow
Bird	*Perdix perdix*	Grey partridge
Bird	*Phalaropus lobatus*	Red-necked phalarope
Bird	*Pyrrhula pyrrhula*	Bullfinch
Bird	*Sterna dougallii*	Roseate tern
Bird	*Streptopelia turtur*	Turtle dove
Bird	*Tetrao tetrix*	Black grouse
Bird	*Tetrao urogallus*	Capercaillie
Bird	*Turdus philomelos*	Song thrush
Fish	*Alosa alosa*	Allis shad
Fish	*Alosa fallax*	Twaite shad
Fish	*Cetorhinus maximus*	Basking shark
Fish	*Coregonus albula*	Vendace
Fish	*Coregonus autumnalis*	Pollan
Fish	*Lota lota*	Burbot
Fish	*Raja batis*	Common skate
Fish	Commercial Fish species	
	Gadus morhua	Cod
	Merluccius merluccius	Hake
	Clupea harengus	Herring
	Trachurus trachurus	Horse mackerel
	Scomber scombrus	Mackerel
	Pleuronectes platessa	Plaice
	Pollachius virens	*Saithe*
	Solea solea	*Sole*
	Merlangius merlangus	Whiting
Fish	Deep water fish species	
	Raja hyperborea	Artic skate
	Aphanopus carbo	Black scabbardfish
	Molva dypterygia	Blue ling
	Reinhardtius hippoglossoides	Greenland halibut
	Merluccius merluccius	Hake
	Molva molva	Ling
	Lophius piscatorius	Sea monkfish/ Angler fish
	Hoplostethus atlanticus	Orange roughy
	Sebastes spp.	Redfish
	Coryphaenoides rupestris	Roundnose grenadier
	Brosme brosme	Torsk
	Macrourus berglax	Roughhead grenadier
	Argentina silus	Argentine/Greater silver smelt
	Micromesistius poutassou	Blue whiting
	Chaceon (Geryon) affinis	Deep-water red crab
Mammal	*Arvicola terrestris*	Water vole
Mammal	*Barbastella barbastellus*	Barbastelle bat
Mammal	*Lepus europaeus*	Brown hare
Mammal	*Lutra lutra*	European otter
Mammal	*Muscardinus avellanarius*	Dormouse
Mammal	*Myotis bechsteinii*	Bechstein's bat
Mammal	*Myotis myotis*	Greater mouse-eared bat
Mammal	*Phocoena phocoena*	Harbour porpoise
Mammal	*Pipistrellus pipistrellus*	Pipistrelle bat
Mammal	*Rhinolophus ferrumequinum*	Greater horseshoe bat
Mammal	*Rhinolophus hipposideros*	Lesser horseshoe bat
Mammal	*Sciurus vulgaris*	Red squirrel
Mammal	Baleen Whale species	
	Balaenoptera musculus	Blue whale
	Balaenoptera physalus	Fin whale
	Balaenoptera borealis	Sei whale
	Balaenoptera acutorostrata	Minke whale
	Megaptera novaeangliae	Humpback whale
	Eubalaena glacialis	Northern right whale
Mammal	Small dolphin species	
	Tursiops truncatus	Bottlenose dolphin
	Grampus griseus	Risso's dolphin
	Lagenorhynchus albirostris	White-beaked dolphin
	Lagenorhynchus acutus	Atlantic white-side dolphin
	Delphinus delphis	Common dolphin
	Stenella coeruleoalba	Striped dolphin
Mammal	Toothed whale species	

Species of Principal Importance – *continued*

	Hyperoodon ampullatus	Northern bottlenose whale
	Ziphius cavirostris	Cuvier's beaked whale
	Mesoplodon bidens	Sowerby's beaked whale
	Mesoplodon mirus	True's beaked whale
	Orcinus orca	Killer whale
	Globicephala melas	Long-finned pilot whale
	Physeter macrocephalus	Sperm whale
Reptile	*Lacerta agilis*	Sand lizard
Reptile	Marine turtle species	
	Dermochelys coriacea	Leatherback turtle
	Caretta caretta	Loggerhead turtle
	Lepidochelys kempii	Kemp's ridley turtle
	Chelonia mydas	Green turtle
	Eretmochelys imbricata	Hawksbill turtle

Invertebrates

Ant	*Anergates atratulus*	Dark guest ant
Ant	*Formica aquilonia*	Scottish wood ant
Ant	*Formica exsecta*	Narrow-headed ant
Ant	*Formica pratensis (= Formica nigricans)*	Black-backed meadow ant
Ant	*Formica rufibarbis*	Red-barbed ant
Ant	*Formica transkaucasica (= Formica candida)*	Bog ant
Bee	*Andrena ferox*	A mining bee
Bee	*Andrena gravida*	Banded mining bee
Bee	*Andrena lathyri*	A mining bee
Bee	*Bombus distinguendus*	Great yellow bumble bee
Bee	*Bombus humilis*	Brown-banded carder bee
Bee	*Bombus ruderatus*	Large garden bumble bee
Bee	*Bombus subterraneus*	Short haired bumble bee
Bee	*Bombus sylvarum*	Shrill carder bee
Bee	*Colletes floralis*	Northern colletes
Bee	*Nomada armata*	A cuckoo bee
Bee	*Nomada errans*	A cuckoo bee
Bee	*Osmia inermis*	A mason bee
Bee	*Osmia parietina*	A mason bee
Bee	*Osmia uncinata*	A mason bee
Bee	*Osmia xanthomelana*	A mason bee
Beetle	*Agabus brunneus*	A water beetle
Beetle	*Amara famelica*	A ground beetle
Beetle	*Anisodactylus poeciloides*	A ground beetle
Beetle	*Anostirus castaneus*	Chestnut coloured click beetle
Beetle	*Aphodius niger*	Beaulieu dung beetle
Beetle	*Bembidion argenteolum*	A ground beetle
Beetle	*Bidessus minutissimus*	A water beetle
Beetle	*Bidessus unistriatus*	A water beetle
Beetle	*Byctiscus populi*	Aspen leaf-rolling weevil
Beetle	*Carabus intricatus*	Blue ground beetle
Beetle	*Cathormiocerus britannicus*	Lizard weevil
Beetle	*Cicindela germanica*	Cliff tiger beetle
Beetle	*Cicindela hybrida*	Northern dune tiger beetle
Beetle	*Cicindela sylvatica*	Heath tiger beetle
Beetle	*Cryptocephalus coryli*	Hazel pot beetle
Beetle	*Cryptocephalus exiguus*	Pashford pot beetle
Beetle	*Cryptocephalus nitidulus*	Shining pot beetle
Beetle	*Cryptocephalus primarius*	A pot beetle
Beetle	*Cryptocephalus sexpunctatus*	Six-spotted pot beetle
Beetle	*Curimopsis nigrita*	Mire pill beetle
Beetle	*Donacia aquatica*	A reed beetle
Beetle	*Donacia bicolora*	A reed beetle
Beetle	*Ernoporus tiliae*	Bast bark beetle
Beetle	*Gastrallus immarginatus*	Maple wood-boring beetle
Beetle	*Gnorimus nobilis*	Noble chafer
Beetle	*Graphoderus zonatus*	Spangled water beetle
Beetle	*Harpalus froelichi*	A ground beetle
Beetle	*Helophorus laticollis*	A water beetle
Beetle	*Hydrochara caraboides*	Lesser silver water beetle
Beetle	*Hydroporus rufifrons*	A water beetle
Beetle	*Laccophilus obsoletus*	A water beetle
Beetle	*Limoniscus violaceus*	Violet click beetle
Beetle	*Lucanus cervus*	Stag beetle
Beetle	*Malachius aeneus*	Scarlet malachite beetle
Beetle	*Melanapion minimum*	Sallow guest weevil
Beetle	*Melanotus punctolineatus*	A click beetle
Beetle	*Oberea oculata*	Eyed longhorn beetle
Beetle	*Pachytychius haematocephalus*	Gilkicker weevil
Beetle	*Panagaeus cruxmajor*	Crucifix ground beetle
Beetle	*Paracymus aeneus*	Bembridge beetle
	Paratachys edmondsi (=Tachys edmondsi)	Edmonds' ground beetle
Beetle	*Procas granulicollis*	Climbing cordydalis weevil
Beetle	*Psylliodes sophiae*	Flixweed flea beetle
Beetle	*Pterostichus aterrimus*	A ground beetle
Beetle	*Pterostichus kugelanni*	Kugelann's ground beetle

Species of Principal Importance – *continued*

Beetle	*Rhynchaenus testaceus*	Alder flea weevil
Beetle	*Stenus palposus*	A rove beetle
Beetle	*Synaptus filiformis*	Hairy click beetle
Beetle	River shingle beetle species	
	Bembidion testaceum	A ground beetle
	Lionychus quadrillium	A ground beetle
	Hydrochus nitidicollis	A water beetle
	Meotica anglica	A water beetle
	Perileptus areolatus	A ground beetle
	Thinobius newberyi	A rove beetle
Bryozoa	*Lophopus crystallinus*	A freshwater bryozoan
Butterfly	*Argynnis adippe*	High brown fritillary
Butterfly	*Boloria euphrosyne*	Pearl-bordered fritillary
Butterfly	*Carterocephalus palaemon*	Chequered skipper
Butterfly	*Eurodryas aurinia (= Euphydryas aurinia)*	Marsh fritillary
Butterfly	*Hesperia comma*	Silver-spotted skipper
Butterfly	*Lycaena dispar*	Large copper
Butterfly	*Lysandra bellargus*	Adonis blue
Butterfly	*Maculinea arion*	Large blue
Butterfly	*Mellicta athalia*	Heath fritillary
Butterfly	*Plebejus argus*	Silver-studded blue
Coral	*Eunicella verricosa*	Pink sea-fan
Coral	*Leptopsammia pruvoti*	Sunset cupcoral
Cricket/ Grasshopper	*Decticus verrucivorus*	Wart-biter grasshopper
Cricket/ Grasshopper	*Gryllotalpa gryllotalpa*	Mole cricket
Cricket / Grasshopper	*Gryllus campestris*	Field cricket
Cricket / Grasshopper	*Stethophyma grossum*	Large marsh grasshopper
Crustacean	*Austropotamobius pallipes*	White-clawed crayfish
Crustacean	*Triops cancriformis*	Tadpole shrimp
Damsel/ Dragonfly	*Coenagrion mercuriale*	Southern damselfly
Fly	*Asilus crabroniformis*	Hornet robberfly
Fly	*Blera fallax*	A hoverfly
Fly	*Bombylius discolor*	Dotted beefly
Fly	*Bombylius minor*	Heath beefly
Fly	*Callicera spinolae*	Golden hoverfly
Fly	*Chrysotoxum octomaculatum*	A hoverfly
Fly	*Cliorismia rustica*	A stiletto fly
Fly	Doros conopseus	A hoverfly
Fly	*Dorycera graminum*	A picture-winged fly
Fly	*Eristalis cryptarum*	Bog hoverfly
Fly	*Hammerschmidtia ferruginea*	A hoverfly
Fly	*Lipsothrix ecucullata*	A cranefly
Fly	*Lipsothrix nervosa*	A cranefly
Fly	*Lipsothrix nigristigma*	A cranefly
Fly	*Odontomyia hydroleon*	A soldier fly
Fly	*Thereva lunulata*	A stiletto fly
Fly	*Thyridanthrax fenestratus*	Mottled beefly
Mollusc	*Anisus vorticulus*	Little ramshorn whirlpool snail
Mollusc	*Atrina fragilis*	Fan mussel
Mollusc	*Catinella arenaria*	Sandbowl snail
Mollusc	*Margaritifera margaritifera*	Freshwater pearl mussel
Mollusc	*Myxas glutinosa*	Glutinous snail
Mollusc	*Ostrea edulis*	Native oyster
Mollusc	*Pisidium tenuilineatum*	Fine-lined pea mussel
Mollusc	*Pseudanodonta complanata*	Depressed river mussel
Mollusc	*Segmentina nitida*	Shining ramshorn snail
Mollusc	*Thyasira gouldi*	Northern hatchet shell
Mollusc	*Vertigo angustior*	Narrow-mouthed whorl snail
Mollusc	*Vertigo genesii*	Round-mouthed whorl snail
Mollusc	*Vertigo geyeri*	Geyer's whorl snail
Mollusc	*Vertigo moulinsiana*	Desmoulin's whorl snail
Moth	*Acosmetia caliginosa*	Reddish buff
Moth	*Aspitates gilvaria gilvaria*	Straw belle
Moth	*Athetis pallustris*	Marsh moth
Moth	*Catocala promissa*	Light crimson underwing
Moth	*Catocala sponsa*	Dark crimson underwing
Moth	*Coleophora tricolor*	A case-bearing moth
Moth	*Coscinia cribraria bivittata*	Speckled footman
Moth	*Cosmia diffinis*	White-spotted pinion
Moth	*Cyclophora pendularia*	Dingy mocha
Moth	*Dicycla oo*	Heart moth
Moth	*Epione vespertaria (= Epione paralellaria)*	Dark bordered beauty
Moth	*Eustroma reticulata*	Netted carpet
Moth	*Heliophobus reticulata*	Bordered gothic
Moth	*Hemaris tityus*	Narrow-bordered bee hawk
Moth	*Hydrelia sylvata*	Waved carpet
Moth	*Hypena rostralis*	Buttoned snout
Moth	*Idaea dilutaria*	Silky wave
Moth	*Idaea ochrata cantiata*	Bright wave
Moth	*Jodia croceago*	Orange upperwing
Moth	*Lycia zonaria britannica*	Belted beauty

Species of Principal Importance – *continued*

Moth	*Macaria carbonia (=Semiothisa carbonaria)*	Netted mountain moth
Moth	*Mythimna turca*	Double line
Moth	*Noctua orbona*	Lunar yellow underwing
Moth	*Oria musculosa*	Brighton wainscot
Moth	*Pareulype berberata*	Barberry carpet
Moth	*Pechipogon strigilata*	Common fan-foot
Moth	*Polia bombycina*	Pale shining brown
Moth	*Pyropteron chrysidiformis (= Bembecia chrysidiformis)*	Fiery clearwing
Moth	*Rheumaptera hastata*	Argent and sable
Moth	*Shargacucullia lychnitis (= Cucullia lychnitis)*	Striped lychnis
Moth	*Siona lineata*	Black-veined moth
Moth	*Trichopteryx polycommata*	Barred toothed stripe
Moth	*Tyta luctuosa*	Four-spotted moth
Moth	*Xestia rhomboidea*	Square-spotted clay
Moth	*Xylena exsoleta*	Sword grass
Moth	*Zygaena loti scotica*	Slender Scotch burnet
Moth	*Zygaena viciae argyllensis*	New Forest burnet moth
Sea Anemone	*Amphianthus dohrnii*	Sea fan anemone
Sea Anemone	*Edwardsia ivelli*	Ivell's sea anemone
Sea Anemone	*Nematostella vectensis*	Starlet sea anemone
Spider	*Clubiona rosserae*	A spider
Spider	*Dolomedes plantarius*	Fen raft spider
Spider	*Eresus cinnaberinus (= Eresus sandaliatus, E. niger)*	Ladybird spider
Stone Fly	*Brachyptera putata*	A stonefly
Cicada	*Cicadetta montana*	New Forest cicada
Wasp	*Cerceris quadricincta*	A solitary wasp
Wasp	*Cerceris quinquefasciata*	A solitary wasp
Wasp	*Chrysis fulgida*	A ruby-tailed wasp
Wasp	*Homonotus sanguinolentus*	A spider wasp
Wasp	*Pseudepipona herrichii*	Purbeck mason wasp

Lower Plants

Alga	*Anotrichium barbatum*	Bearded anotrichium
Alga	*Ascophyllum nodosum ecad mackaii*	Knotted wrack
Fungus	*Armillaria ectypa*	An agaric
Fungus	*Battarraea phalloides*	A phalloid
Fungus	*Boletus regius*	Royal bolete
Fungus	*Boletus satanas*	Devil's bolete
Fungus	*Buglossoporus pulvinus (= Buglossoporus quercinus)*	Oak polypore
Fungus	*Hericium erinaceum*	Tree hedgehog fungus
Fungus	*Hygrocybe calyptraeformis*	Pink meadow cap
Fungus	*Hygrocybe spadicea*	Date coloured waxcap
Fungus	*Hypocreopsis rhododendri*	An ascomycete
Fungus	*Microglossum olivaceum*	An earth tongue
Fungus	*Poronia punctata*	Nail fungus
Fungus	*Tulostoma niveum*	A stalked puffball
Fungus	Threatened tooth fungi species	
	Bankera fuligineoalba	A tooth fungus
	Hydnellum aurantiacum	A tooth fungus
	Hydnellum caeruleum	A tooth fungus
	Hydnellum concrescens	A tooth fungus
	Hydnellum ferrugineum	A tooth fungus
	Hydnellum peckii	A tooth fungus
	Hydnellum scrobiculatum	A tooth fungus
	Hydnellum spongiosipes	A tooth fungus
	Phellodon confluens	A tooth fungus
	Phellodon melaleucus	A tooth fungus
	Phellodon tomentosus	A tooth fungus
	Sarcodon glaucopus	A tooth fungus
	Sarcodon imbricatus	A tooth fungus
	Sarcodon scabrosus	A tooth fungus
Lichen	*Alectoria ochroleuca*	Alpine sulphur-tresses
Lichen	*Arthothelium dictyosporum*	A lichen
Lichen	*Arthothelium macounii (= Arthothelium reagens)*	A lichen
Lichen	*Bacidia incompta*	A lichen
Lichen	*Belonia calcicola*	A lichen
Lichen	*Biatoridium monasteriense*	A lichen
Lichen	*Bryoria smithii*	A lichen
Lichen	*Buellia asterella*	Starry Breck-lichen
Lichen	*Calicium corynellum*	A lichen
Lichen	*Caloplaca aractina*	A lichen
Lichen	*Caloplaca luteoalba*	Orange-fruited elm-lichen
Lichen	*Catapyrenium psoromoides*	Tree catapyrenium
Lichen	*Cladonia botrytes*	Stump lichen
Lichen	*Cladonia mediterranea*	A reindeer lichen
Lichen	*Cladonia peziziformis*	A lichen
Lichen	*Chaenotheca phaeocephala*	A lichen
Lichen	*Collema dichotomum*	River jelly lichen
Lichen	*Enterographa elaborata*	A lichen
Lichen	*Enterographa sorediata*	A lichen
Lichen	*Graphina pauciloculata*	A lichen

Species of Principal Importance – *continued*

Lichen	*Gyalecta ulmi*	Elm gyalecta
Lichen	*Gyalideopsis scotica*	A lichen
Lichen	*Halecania rhypodiza*	A lichen
Lichen	*Heterodermia leucomelos*	Ciliate strap-lichen
Lichen	*Lecanactis hemisphaerica*	Churchyard lecanactis
Lichen	*Opegrapha paraxanthodes*	A lichen
Lichen	*Peltigera lepidophora*	Ear-lobed dog-lichen
Lichen	*Pseudocyphellaria aurata*	A lichen
Lichen	*Pseudocyphellaria norvegica*	A lichen
Lichen	*Schismatomma graphidioides*	A lichen
Lichen	*Squamarina lentigera*	Scaly Breck-lichen
Lichen	*Teloschistes chrysophthalmus*	A lichen
Lichen	*Thelenella modesta*	A lichen
Liverwort	*Acrobolbus wilsonii*	Wilson's pouchwort
Liverwort	*Adelanthus lindenbergianus*	Lindenberg's leafy liverwort
Liverwort	*Cephaloziella nicholsonii*	Greater copperwort
Liverwort	*Herbertus borealis*	Nothern prongwort
Liverwort	*Jamesoniella undulifolia*	Marsh earwort
Liverwort	*Lejeunea mandonii*	Alantic lejeunea
Liverwort	*Leiocolea rutheana*	Norfolk flapwort
Liverwort	*Marsupella profunda*	Western rustwort
Liverwort	*Pallavicinia lyellii*	Veilwort
Liverwort	*Petalophyllum ralfsii*	Petalwort
Liverwort	*Riccia huebeneriana*	Violet crystalwort
Moss	*Acaulon triquetrum*	Triangular pigmy moss
Moss	*Andreaea frigida*	Icy rock-moss
Moss	*Bartramia stricta*	Rigid apple moss
Moss	*Brachythecium appleyardiae*	Appleyard's feather moss
Moss	*Bryoerythrophyllum caledonicum*	Scottish beard-moss
Moss	*Bryum mamillatum*	Dune thread moss
Moss	*Bryum neodamense*	Long-leaved thread moss
Moss	*Bryum warneum*	Sea bryum
Moss	*Buxbaumia viridis*	Green shield moss
Moss	*Cryphaea lamyana*	Multi-fruited river moss
Moss	*Ditrichum cornubicum*	Cornish path moss
Moss	*Didymodon glauca (= Barbula glauca)*	Glaucous beard-moss
Moss	*Didymodon mamillosus (=Barbula mamillosa)*	Perthshire beard-moss
Moss	*Didymodon tomaculosus (= Barbula tomaculosa)*	Sausage beard-moss
Moss	*Ditrichum plumbicola*	Lead moss
Moss	*Drepanocladus vernicosus (= Hamatocaulis vernicosus)*	Slender green feather-moss
Moss	*Ephemerum stellatum*	Starry earth-moss
Moss	*Fissidens exiguus*	Tiny fern-moss
Moss	*Leptodontium gemmascens*	Thatch moss
Moss	*Orthodontium gracile*	Slender thread-moss
Moss	*Orthotrichum obtusifolium*	Blunt-leaved bristle-moss
Moss	*Orthotrichum pallens*	Pale bristle-moss
Moss	*Pohlia scotica*	Scottish pohlia
Moss	*Rhynchostegium rotundifolium*	Round-leaved feather-moss
Moss	*Seligeria carniolica (=Trochobryum carniolicum)*	Water rock-bristle
Moss	*Sematophyllum demissum*	Prostrate feather moss
Moss	*Sphagnum balticum*	Baltic bog moss
Moss	*Thamnobryum angustifolium*	Derbyshire feather-moss
Moss	*Thamnobryum cataractarum*	Yorkshire feather moss
Moss	*Tortula cernua (= Desmatodon cernuus)*	Flamingo moss
Moss	*Tortula freibergii*	Freiberg's screw-moss
Moss	*Weissia multicapsularis*	A moss
Moss	*Weissia rostellata*	Beaked beardless-moss
Moss	*Zygodon forsteri*	Knothole moss
Moss	*Zygodon gracilis*	Nowell's limestone moss
Stonewort	*Chara connivens*	Convergent stonewort
Stonewort	*Chara curta*	Lesser bearded stonewort
Stonewort	*Chara muscosa*	Mossy stonewort
Stonewort	*Nitella gracilis*	Slender stonewort
Stonewort	*Nitella tenuissima*	Dwarf stonewort
Stonewort	*Nitellopsis obtusa*	Starry stonewort
Stonewort	*Tolypella intricata*	Tassel stonewort
Stonewort	*Tolypella prolifera*	Great tassel stonewort

Higher Plants

Vascular Plant	*Alchemilla minima*	An alchemilla
Vascular Plant	*Alisma gramineum*	Ribbon-leaved water-plantain
Vascular Plant	*Apium repens*	Creeping marshwort
Vascular Plant	*Arabis glabra*	Tower mustard
Vascular Plant	*Artemisia norvegica*	Norwegian mugwort
Vascular Plant	*Asparagus officinalis prostratus*	Wild asparagus

Species of Principal Importance – *continued*

Vascular Plant	*Athyrium flexile*	Newman's lady-fern
Vascular Plant	*Bromus interruptus*	Interrupted brome
Vascular Plant	*Calamagrostis scotica*	Scottish small-reed
Vascular Plant	*Carex muricata muricata*	Prickly sedge
Vascular Plant	*Carex vulpine*	True fox-sedge
Vascular Plant	*Centaurea cyanus*	Cornflower
Vascular Plant	*Cerastium nigrescens*	Shetland mouse-ear
Vascular Plant	*Cochlearia micacea*	Mountain scurvy-grass
Vascular Plant	*Coincya wrightii*	Lundy cabbage
Vascular Plant	*Cotoneaster cambricus*	Wild cotoneaster
Vascular Plant	*Crepis foetida*	Stinking hawk's-beard
Vascular Plant	*Cypripedium calceolus*	Lady's-slipper orchid
Vascular Plant	*Damasonium alisma*	Starfruit
Vascular Plant	*Dianthus armeria*	Deptford pink
Vascular Plant	*Epipactis youngiana*	Young's helleborine
Vascular Plant	Endemic eyebright species	
	Euphrasia cambrica	An eyebright
	Euphrasia campbelliae	An eyebright
	Euphrasia heslop-harrisonii	An eyebright
	Euphrasia rivularis	An eyebright
	Euphrasia rotundifolia	An eyebright
	Euphrasia vigursii	An eyebright
Vascular Plant	*Filago lutescens*	Red-tipped cudweed
Vascular Plant	*Filago pyramidata*	Broad-leaved cudweed
Vascular Plant	*Fumaria occidentalis*	Western ramping-fumitory
Vascular Plant	*Fumaria purpurea*	Purple ramping-fumitory
Vascular Plant	*Galeopsis angustifolia*	Red hemp-nettle
Vascular Plant	*Galium tricornutum*	Corn cleavers
Vascular Plant	*Gentianella anglica*	Early gentian
Vascular Plant	*Gentianella uliginosa*	Dune gentian
Vascular Plant	*Hieracium* Sect. *Alpestria*	Hawkweeds
Vascular Plant	*Juncus pygmaeus*	Pygmy rush
Vascular Plant	*Juniperus communis*	Juniper
Vascular Plant	*Leersia oryzoides*	Cut-grass
Vascular Plant	Rock sea-lavender species	
	Limonium britannicum	A rock sea-lavander
	Limonium dodartiforme	A rock sea-lavander
	Limonium loganicum	A rock sea-lavander
	Limonium paradoxum	A rock sea-lavander
	Limonium parvum	A rock sea-lavander
	Limonium procerum	A rock sea-lavander
	Limonium recurvum	A rock sea-lavander
	Limonium transwillianum	A rock sea-lavander
Vascular Plant	*Linnaea borealis*	Twinflower
Vascular Plant	*Liparis loeselii*	Fen orchid
Vascular Plant	*Luronium natans*	Floating water plantain
Vascular Plant	*Lycopodiella inundata*	Marsh clubmoss
Vascular Plant	*Melampyrum sylvaticum*	Small cow-wheat
Vascular Plant	*Mentha pulegium*	Pennyroyal
Vascular Plant	*Najas flexilis*	Slender naiad
Vascular Plant	*Najas marina*	Holly-leaved naiad
Vascular Plant	*Pilularia globulifera*	Pillwort
Vascular Plant	*Potamogeton compressus*	Grass-wrack pondweed
Vascular Plant	*Potamogeton rutilus*	Shetland pondweed
Vascular Plant	*Ranunculus tripartitus*	Three-lobed water-crowfoot
Vascular Plant	*Rumex rupestris*	Shore dock
Vascular Plant	*Salix lanata*	Woolly willow
Vascular Plant	*Saxifraga hirculus*	Yellow marsh saxifrage
Vascular Plant	*Scandix pecten-veneris*	Shepherd's needle
Vascular Plant	*Schoenoplectus triqueter*	Triangular club-rush
Vascular Plant	*Scleranthus perennis prostratus*	Prostrate perennial knawel
Vascular Plant	*Silene gallica*	Small-flowered catchfly
Vascular Plant	*Sium latifolium*	Greater water-parsnip
Vascular Plant	*Sorbus leyana*	A whitebeam
Vascular Plant	*Spiranthes romanzoffiana*	Irish lady's tresses
Vascular Plant	*Thlaspi perfoliatum*	Perfoliate pennycress
Vascular Plant	*Torilis arvensis*	Spreading hedge-parsley
Vascular Plant	*Trichomanes speciosum*	Killarney fern
Vascular Plant	*Valerianella rimosa*	Broad-fruited corn salad
Vascular Plant	*Woodsia ilvensis*	Oblong woodsia

Annex D
Convention on Wetlands of International Importance Especially as Waterfowl Habitat

Ramsar 2.2.1971: as amended by the Protocol of 3.12.1982

The Contracting Parties,

Recognizing the interdependence of Man and his environment;

Considering the fundamental ecological functions of wetlands as regulators of water regimes and as habitats supporting a characteristic flora and fauna, especially waterfowl;

Being convinced that wetlands constitute a resource of great economic, cultural, scientific, and recreational value, the loss of which would be irreparable;

Desiring to stem the progressive encroachment on and loss of wetlands now and in the future;

Recognizing that waterfowl in their seasonal migrations may transcend frontiers and so should be regarded as an international resource;

Being confident that the conservation of wetlands and their flora and fauna can be ensured by combining far-sighted national policies with co-ordinated international action;

Have agreed as follows:

Article 1

1 For the purpose of this Convention wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.

2 For the purpose of this Convention waterfowl are birds ecologically dependent on wetlands.

Article 2

1 Each Contracting Party shall designate suitable wetlands within its territory for inclusion in a List of Wetlands of International Importance, hereinafter referred to as 'the list' which is maintained by the bureau established under Article 8. The boundaries of each wetland shall be precisely described and also delimited on a map and they may incorporate riparian and coastal zones adjacent to the wetlands, and islands or bodies of marine water deeper than six metres at low tide lying within the wetlands, especially where these have importance as waterfowl habitat.

2 Wetlands should be selected for the List on account of their international significance in terms of ecology, botany, zoology, limnology or hydrology. In the first instance wetlands of international importance to waterfowl at any season should be included.

3 The inclusion of a wetland in the list does not prejudice the exclusive sovereign rights of the Contracting Party in whose territory the wetland is suited.

4 Each Contracting Party shall designate at least one wetland to be included in the List when signing this Convention or when depositing its instrument of ratification or accession as provided in Article 9.

5 Any Contracting Party shall have the right to add to the List further wetlands situated within its territory, to extend the boundaries of those wetlands already included by it in the List, or, because of its urgent national interests, to delete or restrict the boundaries of wetlands already included by it in the List and shall, at the earliest possible time, inform the organization or government responsible for the continuing bureau duties specified in Article 8 of any such changes.

6 Each Contracting Party shall consider its international responsibilities for the conservation, management and wise use of migratory stocks of waterfowl, both when designating entries for the List and when exercising its right to change entries in the List relating to wetlands within its territory.

Article 3

1 The Contracting Parties shall formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory.

2 Each Contracting Party shall arrange to be informed at the earliest possible time if the ecological character of any wetland in its territory and included in the List has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference. Information on such changes shall be passed without delay to the organization or government responsible for the continuing bureau duties specified in Article 8.

Article 4

1 Each Contracting Party shall promote the conservation of wetlands and waterfowl by establishing nature reserves on wetlands, whether they are included in the List or not, and provide adequately for their wardening.

2 Where a Contracting Party in its urgent national interest, deletes or restricts the boundaries of a wetland included in the List, it should as far as possible compensate for any loss of wetland resources, and in particular it should create additional nature reserves for waterfowl and for the protection, either in the same area or elsewhere, of an adequate portion of the original habitat.

3 The Contracting Parties shall encourage research and the exchange of data and publications regarding wetlands and their flora and fauna.

4 The Contracting Parties shall endeavour through management to increase waterfowl populations on appropriate wetlands.

5 The Contracting Parties shall promote the training of personnel competent in the fields of wetland research, management and wardening.

Article 5

1 The Contracting Parties shall consult with each other about implementing obligations arising from the Convention especially in the case of a wetland extending over the territories of more than one Contracting Party or where a water system is shared by Contracting Parties. They shall at the same time endeavour to co-ordinate and support present and future policies and regulations concerning the conservation of wetlands and their flora and fauna.

Article 6

1 The Contracting Parties shall, as the necessity arises, convene Conferences on the Conservation of Wetlands and Waterfowl.

2 The Conferences shall have an advisory character and shall be competent, inter alia:

a. to discuss the implementation of this Convention

b. to discuss additions to and changes in the List;

c. to consider information regarding changes in the ecological character of wetlands included in the List provided in accordance with paragraph 2 of Article 3;

d. to make general or specific recommendations to the Contracting Parties regarding the conservation, management and wise use of wetlands and their flora and fauna;

e. to request relevant international bodies to prepare reports and statistics on matters which are essentially international in character affecting wetlands;

3 The Contracting Parties shall ensure that those responsible at all levels for wetlands management shall be informed of, and take into consideration, recommendations of such Conferences concerning the conservation, management and wise use of wetlands and their flora and fauna.

Article 7

1 The representatives of the Contracting Parties at such Conferences should include persons who are experts on wetlands or waterfowl by reason of knowledge and experience gained in scientific, administrative or other appropriate capacities.

2 Each of the Contracting Parties represented at a Conference shall have one vote, recommendations being adopted by a simple majority of the votes cast, provided that not less than half the Contracting Parties cast votes.

Article 8

1 The International Union for Conservation of Nature and Natural Resources shall perform the continuing bureau duties under this Convention until such time as another organization or government is appointed by a majority of two-thirds of all Contracting Parties.

2 The continuing bureau duties shall be, *inter alia*:

a. to assist in the convening and organizing of Conferences specified in Article 6;

b. to maintain the List of Wetlands of International Importance and to be informed by the Contracting Parties of any additions, extensions, deletions or restrictions concerning wetlands included in the List provided in accordance with paragraph 5 of Article 2;

c. to be informed by the Contracting Parties of any changes in the ecological character of wetlands included in the List provided in accordance with paragraph 2 of Article 3;

d. to forward notification of any alterations to the List, or changes in character of wetlands included therein, to all Contracting Parties and to arrange for these matters to be discussed at the next Conference;

e. to make known to the Contracting Party concerned, the recommendations of the Conferences in respect of such alterations to the List or of changes in the character of wetlands included therein.

Article 9

1 This Convention shall remain open for signature indefinitely.

2 Any member of the United Nations or of one of the Specialized Agencies or of the International Atomic Energy Agency or Party to the Statute of the International Court of Justice may become a Party to this Convention by:

a. signature without reservation as to ratification

b. signature subject to ratification followed by ratification

c. accession.

3 Ratification or accession shall be effected by the deposit of an instrument of ratification or accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization (hereinafter referred to as 'the Depositary').

Article 10

1 This Convention shall enter into force four months after seven States have become Parties to this Convention in accordance with paragraph 2 of Article 9.

2 Thereafter this Convention shall enter into force for each Contracting Party four months after the day of its signature without reservation as to ratification, or its deposit of an instrument of ratification or accession.

Article 10 bis

1 The Convention may be amended at a meeting of the Contracting Parties convened for that purpose in accordance with this article.

2 Proposals for amendment may be made by any Contracting Party.

3 The text of any proposed amendments and the reasons for it shall be communicated to the organization or government performing the continuing bureau duties under the Convention (hereinafter referred to as 'the Bureau') and shall promptly be communicated by the Bureau to all Contracting Parties. Any comments on the text by the Contracting Parties shall be communicated to the Bureau within three months of the date on which the amendments were communicated to the Contracting Parties by the Bureau. The Bureau shall, immediately after the last day for submission of comments, communicate to the Contracting Parties all comments submitted by that day.

4 A meeting of Contracting Parties to consider an amendment communicated in accordance with paragraph 3 shall be convened by the Bureau upon the written request of one third of the Contracting Parties. The Bureau shall consult the Parties concerning the time and venue of the meeting.

5 Amendments shall be adopted by a two-thirds majority of the Contracting Parties present and voting.

6 An amendment adopted shall enter into force for the Contracting Parties which have accepted it on the first day the fourth month following the date on which two thirds of the Contracting Parties have deposited an instrument of acceptance with the Depositary. For each Contracting Party, which deposits an instrument of acceptance after the date on which two thirds of the Contracting Parties have deposited an instrument of acceptance, the amendment shall enter into force the first day of the fourth month following the date of the deposit of its instrument of acceptance.

Article 11

1 This Convention shall continue in force for an indefinite period.

2 Any Contracting Party may denounce this Convention after a period of five years from the date on which it entered into force for that Party by giving written notice thereof to the Depository. Denunciation shall take effect four months after the day on which notice thereof is received by the Depository.

Article 12

1 The Depositary shall inform all States that have signed and acceded to this Convention as soon as possible of:

a. signatures to the Convention;

b. deposits of instruments of ratification of this Convention;

c. deposits of instruments of accession to this Convention;

d. the date of entry into force of this Convention;

e. notifications of denunciation of this Convention.

2 When this Convention has entered into force, the Depository shall have it registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter.

In WITNESS WHEREOF, the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at Ramsar this 2nd day of February 1971, in a single original in the English, French, German and Russian languages, all texts being equally authentic which shall be deposited with the Depositary which shall send true copies thereof to all Contracting Parties.

Articles 6 and 7 of the Convention on Wetlands of International Importance especially as Waterfowl Habitat as amended by the Conference of the Parties on 28.5.1987

(amendments are reproduced below in italics)

Article 6

1 *There shall be established a Conference of the Contracting Parties to review and promote the implementation of this Convention. The Bureau referred to in Article 8, paragraph 1, shall convene ordinary meetings of the Conference of the Contracting Parties at intervals of not more than three years, unless the Conference decides otherwise, and extraordinary meetings at the written requests of at least one third of the Contracting Parties. Each ordinary meeting of the Conference of the Contracting Parties shall determine the time and venue of the next ordinary meeting.*

2 *The Conference of the Contracting Parties shall be competent:*

a. to discuss the implementation of this Convention;

b. to discuss additions to and changes in the List;

c. to consider information regarding changes in the ecological character of wetlands included in the List provided in accordance with paragraph 2 of Article 3;

d. to make general or specific recommendations to the Contracting Parties regarding the conservation, management and wise use of wetlands and their flora and fauna;

e. to request relevant international bodies to prepare reports and statistics on matters which are essentially international in character affecting wetlands;

f. to adopt other recommendations, or resolutions, to promote the functioning of this Convention.

3 The Contracting Parties shall ensure that those responsible at all levels for wetlands management shall be informed of, and take into consideration, recommendations of such Conferences concerning the conservation, management and wise use of wetlands and their flora and fauna.

4 *The Conference of the Contracting Parties shall adopt rules of procedure for each of its meetings.*

5 *The Conference of the Contracting Parties shall establish and keep under review the financial regulations of this Convention. At each of its ordinary meetings, it shall adopt the budget for the next financial period by a two-third majority of Contracting Parties present and voting.*

6 *Each Contracting Party shall contribute to the budget according to a scale of contributions adopted by unanimity of the Contracting Parties present and voting at a meeting of the ordinary Conference of the Contracting Parties.*

Article 7

1 The representatives of the Contracting Parties at such Conferences should include persons who are experts on wetlands or waterfowl by reason of knowledge and experience gained in scientific, administrative or other appropriate capacities.

2 *Each of the Contracting Parties represented at a Conference shall have one vote, recommendations, resolutions and decisions being adopted by a simple majority of the Contracting Parties present and voting, unless otherwise provided for in this Convention.*

Annex E
Council Directive of 2 April 1979 on the Conservation of Wild Birds (79/409/EEC)

The Council of the European Communities

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission[1]

Having regard to the opinion of the European Parliament[2]

Having regard to the opinion of the Economic and Social Committee[3]

Whereas the Council declaration of 22 November 1973 on the programme of action of the European Communities on the environment[4] calls for specific action to protect birds, supplemented by the resolution of the Council of the European Communities and of the representatives of the Governments of the Member States meeting within the Council of 17 May 1977 on the continuation and implementation of a European Community policy and action programme on the environment[5];

Whereas a large number of species of wild birds naturally occurring in the European territory of the Member States are declining in number, very rapidly in some cases; whereas this decline represents a serious threat to the conservation of the natural environment, particularly because of the biological balances threatened thereby;

Whereas the species of wild birds naturally occurring in the European territory of the Member States are mainly migratory species; whereas such species constitute a common heritage and whereas effective bird protection is typically a trans-frontier environment problem entailing common responsibilities;

Whereas the conditions of life for birds in Greenland are fundamentally different from those in the other regions of the European territory of the Member States on account of the general circumstances and in particular the climate, the low density of population and the exceptional size and geographical situation of the island;

Whereas therefore this Directive should not apply to Greenland;

Whereas the conservation of the species of wild birds naturally occurring in the European territory of the Member States is necessary to attain, within the operation of the common market, of the Community's objectives regarding the improvement of living conditions, a harmonious development of economic activities throughout the Community and a continuous and balanced expansion, but the necessary specific powers to act have not been provided for in the Treaty;

1 OJ No C 24, 1.2.1977, p. 3; OJ No C 201, 23.8.1977, p. 2.
2 OJ No C 163, 11.7.1977, p. 28.
3 OJ No C 152, 29.6.1977, p. 3.
4 OJ No C 112, 20.12.1973, p. 40.
5 OJ No C 139, 13.6.1977, p. 1.

Whereas the measures to be taken must apply to the various factors which may affect the numbers of birds, namely the repercussions of man's activities and in particular the destruction and pollution of their habitats, capture and killing by man and the trade resulting from such practices; whereas the stringency of such measures should be adapted to the particular situation of the various species within the framework of a conservation policy;

Whereas conservation is aimed at the long-term protection and management of natural resources as an integral part of the heritage of the peoples of Europe; whereas it makes it possible to control natural resources and governs their use on the basis of the measures necessary for the maintenance and adjustment of the natural balances between species as far as is reasonably possible;

Whereas the preservation, maintenance or restoration of a sufficient diversity and area of habitats is essential to the conservation of all species of birds; whereas certain species of birds should be the subject of special conservation measures concerning their habitats in order to ensure their survival and reproduction in their area of distribution; whereas such measures must also take account of migratory species and be coordinated with a view to setting up a coherent whole;

Whereas, in order to prevent commercial interests from exerting a possible harmful pressure on exploitation levels it is necessary to impose a general ban on marketing and to restrict all derogation to those species whose biological status so permits, account being taken of the specific conditions obtaining in the different regions;

Whereas, because of their high population level, geographical distribution and reproductive rate in the Community as a whole, certain species may be hunted, which constitutes acceptable exploitation; where certain limits are established and respected, such hunting must be compatible with maintenance of the population of these species at a satisfactory level;

Whereas the various means, devices or methods of large-scale or non-selective capture or killing and hunting with certain forms of transport must be banned because of the excessive pressure which they exert or may exert on the numbers of the species concerned;

Whereas, because of the importance which may be attached to certain specific situations, provision should be made for the possibility of derogations on certain conditions and subject to monitoring by the Commission;

Whereas the conservation of birds and, in particular, migratory birds still presents problems which call for scientific research; whereas such research will also make it possible to assess the effectiveness of the measures taken;

Whereas care should be taken in consultation with the Commission to see that the introduction of any species of wild bird not naturally occurring in the European territory of the Member States does not cause harm to local flora and fauna;

Whereas the Commission will every three years prepare and transmit to the Member States a composite report based on information submitted by the Member States on the application of natural provisions introduced pursuant to this Directive;

Whereas it is necessary to adapt certain Annexes rapidly in the light of technical and scientific progress; whereas, to facilitate the implementation of the measures needed for this purpose,

provision should be made for a procedure establishing close cooperation between the Member States and the Commission in a Committee for Adaptation to Technical and Scientific Progress,

Has Adopted this Directive:

Article 1

1 This Directive relates to the conservation of all species of naturally occurring birds in the wild state in the European territory of the Member States to which the Treaty applies. It covers the protection, management and control of these species and lays down rules for their exploitation.

2 It shall apply to birds, their eggs, nests and habitats.

3 This Directive shall not apply to Greenland.

Article 2

Member States shall take the requisite measures to maintain the population of the species referred to in Article 1 at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level.

Article 3

1 In the light of the requirements referred to in Article 2, Member States shall take the requisite measures to preserve, maintain or re-establish a sufficient diversity and area of habitats for all the species of birds referred to in Article 1.

2 The preservation, maintenance and re-establishment of biotopes and habitats shall include primarily the following measures:

a. creation of protected areas;

b. upkeep and management in accordance with the ecological needs of habitats inside and outside the protected zones;

c. re-establishment of destroyed biotopes;

d. creation of biotopes.

Article 4

1 The species mentioned in Annex I shall be the subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution.

In this connection, account shall be taken of:

a. species in danger of extinction;

b. species vulnerable to specific changes in their habitat;

c. species considered rare because of small populations or restricted local distribution;

d. other species requiring particular attention for reasons of the specific nature of their habitat.

Trends and variations in population levels shall be taken into account as a background for evaluations.

Member States shall classify in particular the most suitable territories in number and size as special protection areas for the conservation of these species, taking into account their protection requirements in the geographical sea and land area where this Directive applies.

2 Member States shall take similar measures for regularly occurring migratory species not listed in Annex I, bearing in mind their need for protection in the geographical sea and land area where this Directive applies, as regards their breeding, moulting and wintering areas and staging posts along their migration routes. To this end, Member States shall pay particular attention to the protection of wetlands and particularly to wetlands of international importance.

3 Member States shall send the Commission all relevant information so that it may take appropriate initiatives with a view to the coordination necessary to ensure that the areas provided for in paragraphs 1 and 2 above form a coherent whole which meets the protection requirements of these species in the geographical sea and land area where this Directive applies.

4 In respect of the protection areas referred to in paragraphs 1 and 2 above, Member States shall take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid pollution or deterioration of habitats.

Article 5

Without prejudice to Articles 7 and 9, Member States shall take the requisite measures to establish a general system of protection for all species of birds referred to in Article 1, prohibiting in particular:

1. deliberate killing or capture by any method;
2. deliberate destruction of, or damage to, their nests and eggs or removal of their nests;
3. taking their eggs in the wild and keeping these eggs even if empty;
4. deliberate disturbance of these birds particularly during the period of breeding and rearing, in so far as disturbance would be significant having regard to the objectives of this Directive;
5. keeping birds of species the hunting and capture of which is prohibited.

Article 6

1 Without prejudice to the provisions of paragraphs 2 and 3, Member States shall prohibit, for all the bird species referred to in Article 1, the sale, transport for sale, keeping for sale and the

offering for sale of live or dead birds and of any readily recognisable parts or derivatives of such birds.

2 The activities referred to in paragraph 1 shall not be prohibited in respect of the species referred to in Annex III/1, provided that the birds have been legally killed or captured or otherwise legally acquired.

3 Member States may, for the species listed in Annex III/2, allow within their territory the activities referred to in paragraph 1, making provision for certain restrictions, provided the birds have been legally killed or captured or otherwise legally acquired.

Member States wishing to grant such authorisation shall first of all consult the Commission with a view to examining jointly with the latter whether the marketing of specimens of such species would result or could reasonably be expected to result in the population levels, geographical distribution or reproductive rate of the species being endangered throughout the Community. Should this examination prove that the intended authorisation will, in the view of the Commission, result in any one of the aforementioned species being thus endangered or in the possibility of their being thus endangered, the Commission shall forward a reasoned recommendation to the Member State concerned stating its opposition to the marketing of the species in question. Should the Commission consider that no such risk exists, it will inform the Member State concerned accordingly.

The Commission's recommendation shall be published in the *Official Journal of the European Communities*.

Member States granting authorisation pursuant to this paragraph shall verify at regular intervals that the conditions governing the granting of such authorisation continue to be fulfilled.

4 The Commission shall carry out studies on the biological status of the species listed in Annex III/3, and on the effects of marketing on such status.

It shall submit, at the latest four months before the time limit referred to in Article 18(1) of this Directive, a report and its proposals to the Committee referred to in Article 16, with a view to a decision on the entry of such species in Annex III/2.

Pending this decision, the Member States may apply existing national rules to such species without prejudice to paragraph 3 hereof.

Article 7

1 Owing to their population level, geographical distribution and reproductive rate throughout the Community, the species listed in Annex II may be hunted under national legislation. Member States shall ensure that the hunting of these species does not jeopardise conservation efforts in their distribution area.

2 The species referred to in Annex II/1 may be hunted in the geographical sea and land area where this Directive applies.

3 The species referred to in Annex II/2 may be hunted only in the Member States in respect of which they are indicated.

4 Member States shall ensure that the practice of hunting, including falconry if practised, as carried on in accordance with the national measures in force, complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species, in particular migratory species, with the measures resulting from Article 2. They shall see in particular that the species to which hunting laws apply are not hunted during the rearing season nor during the various stages of reproduction. In the case of migratory species, they shall see in particular that the species to which hunting regulations apply are not hunted during their period of reproduction or during their return to their rearing grounds. Member States shall send the Commission all relevant information on the practical application of their hunting regulations.

Article 8

1 In respect of the hunting, capture or killing of birds under this Directive, Member States shall prohibit the use of all means, arrangements or methods used for the large-scale or non-selective capture or killing of birds or capable of causing the local disappearance of a species, in particular the use of those listed in Annex IV (a).

2 Moreover, Member States shall prohibit any hunting from the modes of transport and under the conditions mentioned in Annex IV (b).

Article 9

1 Member States may derogate from the provisions of Articles 5, 6, 7 and 8, where there is no other satisfactory solution, for the following reasons:

a.
- in the interests of public health and safety,
- in the interests of air safety,
- to prevent serious damage to crops, livestock, forests, fisheries and water,
- for the protection of flora and fauna;

b. for the purposes of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes;

c. to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.

2 The derogations must specify:

- the species which are subject to the derogations,
- the means, arrangements or methods authorised for capture or killing,
- the conditions of risk and the circumstances of time and place under which such derogations may be granted,
- the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom,
- the controls which will be carried out.

3 Each year the Member States shall send a report to the Commission on the implementation of this Article.

4 On the basis of the information available to it, and in particular the information communicated to it pursuant to paragraph 3, the Commission shall at all times ensure that the consequences of these derogations are not incompatible with this Directive. It shall take appropriate steps to this end.

Article 10

1 Member States shall encourage research and any work required as a basis for the protection, management and use of the population of all species of bird referred to in Article 1.

2 Particular attention shall be paid to research and work on the subjects listed in Annex V. Member States shall send the Commission any information required to enable it to take appropriate measures for the coordination of the research and work referred to in this Article.

Article 11

Member States shall see that any introduction of species of bird which do not occur naturally in the wild state in the European territory of the Member States does not prejudice the local flora and fauna. In this connection they shall consult the Commission.

Article 12

1 Member States shall forward to the Commission every three years, starting from the date of expiry of the time limit referred to in Article 18(1), a report on the implementation of national provisions taken thereunder.

2 The Commission shall prepare every three years a composite report based on the information referred to in paragraph 1. That part of the draft report covering the information supplied by a Member State shall be forwarded to the authorities of the Member State in question for verification. The final version of the report shall be forwarded to the Member States.

Article 13

Application of the measures taken pursuant to this Directive may not lead to deterioration in the present situation as regards the conservation of species of birds referred to in Article 1.

Article 14

Member States may introduce stricter protective measures than those provided for under this Directive.

Article 15

Such amendments as are necessary for adapting Annexes I and V to this Directive to technical and scientific progress and the amendments referred to in the second paragraph of Article 6(4) shall be adopted in accordance with the procedure laid down in Article 17.

Article 16

1 For the purposes of the amendments referred to in Article 15 of this Directive, a Committee for the Adaptation to Technical and Scientific Progress (hereinafter called 'the Committee'), consisting of representatives of the Member States and chaired by a representative of the Commission, is hereby set up.

Article 17

1 The Commission shall be assisted by the Committee for the Adaptation to Technical and Scientific Progress.

2 Where reference is amde to this Article, Articles 5 and 7 of Decision 1999/468/EC ([1]) shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3 The committee shall adopt its rules of procedure.

Article 18

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within two years of its notification. They shall forthwith inform the Commission thereof.

2 Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

Article 19

This Directive is addressed to the Member States.

Done at Luxembourg, 2 April 1979.

For the Council

The President

J. François-Poncet

1 OJ L 184, 17.7.1999, p.23

Annex F
Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

The Council of the European Communities

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130s thereof,

Having regard to the proposal from the Commission[1]

Having regard to the opinion of the European Parliament[2]

Having regard to the opinion of the Economic and Social Committee[3]

Whereas the preservation, protection and improvement of the quality of the environment, including the conservation of natural habitats and of wild fauna and flora, are an essential objective of general interest pursued by the Community, as stated in Article 130r of the Treaty;

Whereas the European Community policy and action programme on the environment (1987 to 1992)[4] makes provision for measures regarding the conservation of nature and natural resources;

Whereas, the main aim of this Directive being to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements, this Directive makes a contribution to the general objective of sustainable development; whereas the maintenance of such biodiversity may in certain cases require the maintenance, or indeed the encouragement, of human activities;

Whereas, in the European territory of the Member States, natural habitats are continuing to deteriorate and an increasing number of wild species are seriously threatened; whereas given that the threatened habitats and species form part of the Community's natural heritage and the threats to them are often of a transboundary nature, it is necessary to take measures at Community level in order to conserve them;

Whereas, in view of the threats to certain types of natural habitat and certain species, it is necessary to define them as having priority in order to favour the early implementation of measures to conserve them;

Whereas, in order to ensure the restoration or maintenance of natural habitats and species of Community interest at a favourable conservation status, it is necessary to designate special areas of conservation in order to create a coherent European ecological network according to a specified timetable;

1 OJ No C 247, 21.9.1988, p. 3; and OJ No C 195, 3.8.1990, p. 1.
2 OJ No C 75, 20.3.1991, p. 12.
3 OJ No C 31, 6.2.1991, p. 25.
4 OJ No C 328, 7.12.1987, p. 1.

Whereas all the areas designated, including those classified now or in the future as special protection areas pursuant to Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds[5], will have to be incorporated into the coherent European ecological network;

Whereas it is appropriate, in each area designated, to implement the necessary measures having regard to the conservation objectives pursued;

Whereas sites eligible for designation as special areas of conservation are proposed by the Member States but whereas a procedure must nevertheless be laid down to allow the designation in exceptional cases of a site which has not been proposed by a Member State but which the Community considers essential for either the maintenance or the survival of a priority natural habitat type or a priority species;

Whereas an appropriate assessment must be made of any plan or programme likely to have a significant effect on the conservation objectives of a site which has been designated or is designated in future;

Whereas it is recognised that the adoption of measures intended to promote the conservation of priority natural habitats and priority species of Community interest is a common responsibility of all Member States; whereas this may, however, impose an excessive financial burden on certain Member States given, on the one hand, the uneven distribution of such habitats and species throughout the Community and, on the other hand, the fact that the 'polluter pays' principle can have only limited application in the special case of nature conservation;

Whereas it is therefore agreed that, in this exceptional case, a contribution by means of Community co-financing should be provided for within the limits of the resources made available under the Community's decisions;

Whereas land-use planning and development policies should encourage the management of features of the landscape which are of major importance for wild fauna and flora;

Whereas a system should be set up for surveillance of the conservation status of the natural habitats and species covered by this Directive;

Whereas a general system of protection is required for certain species of flora and fauna to complement Directive 79/409/EEC; whereas provision should be made for management measures for certain species, if their conservation status so warrants, including the prohibition of certain means of capture or killing, whilst providing for the possibility of derogations on certain conditions;

Whereas, with the aim of ensuring that the implementation of this Directive is monitored, the Commission will periodically prepare a composite report based, *inter alia*, on the information sent to it by the Member States regarding the application of national provisions adopted under this Directive;

5 OJ No L 103, 25.4.1979, p. 1. Directive as last amended by Directive 91/244/EEC (OJ No L 115, 8.5.1991, p. 41).

Whereas the improvement of scientific and technical knowledge is essential for the implementation of this Directive; whereas it is consequently appropriate to encourage the necessary research and scientific work;

Whereas technical and scientific progress mean that it must be possible to adapt the Annexes; whereas a procedure should be established whereby the Council can amend the Annexes;

Whereas a regulatory committee should be set up to assist the Commission in the implementation of this Directive and in particular when decisions on Community co-financing are taken;

Whereas provision should be made for supplementary measures governing the re-introduction of certain native species of fauna and flora and the possible introduction of non-native species;

Whereas education and general information relating to the objectives of this Directive are essential for ensuring its effective implementation,

Has Adopted This Directive:

Definitions

Article 1

For the purpose of this Directive:

(a) *conservation* means a series of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable status as defined in (e) and (i);

(b) *natural habitats* means terrestrial or aquatic areas distinguished by geographic, abiotic and biotic features, whether entirely natural or semi-natural;

(c) *natural habitat types of Community interest* means those which, within the territory referred to in Article 2:

i. are in danger of disappearance in their natural range;

or

ii. have a small natural range following their regression or by reason of their intrinsically restricted area;

or

iii. present outstanding examples of typical characteristics of one or more of the seven following biogeographical regions: Alpine, Atlantic, Boreal, Continental, Macaronesian, Mediterranean and Pannonian.

Such habitat types are listed or may be listed in Annex I;

(d) *priority natural habitat types* means natural habitat types in danger of disappearance, which are present on the territory referred to in Article 2 and for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority natural habitat types are indicated by an asterisk (*) in Annex I;

(e) *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 within the territory referred to in Article 2.

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 as defined in (i);

(f) *habitat of a species* means an environment defined by specific abiotic and biotic factors, in which the species lives at any stage of its biological cycle;

(g) *species of Community interest* means species which, within the territory referred to in Article 2, are:

i. endangered, except those species whose natural range is marginal in that territory and which are not endangered or vulnerable in the western palearctic region;

ii. vulnerable, i.e. believed likely to move into the endangered category in the near future if the causal factors continue operating; or

iii. rare, i.e. with small populations that are not at present endangered or vulnerable, but are at risk. The species are located within restricted geographical areas or are thinly scattered over a more extensive range; or

iv. endemic and requiring particular attention by reason of the specific nature of their habitat and/or the potential impact of their exploitation on their habitat and/or the potential impact of their exploitation on their conservation status.

Such species are listed or may be listed in Annex II and/or Annex IV or V;

(h) *priority species* means species referred to in (g)(i) for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority species are indicated by an asterisk (*) in Annex II;

(i) *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 within the territory referred to in Article 2;

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 populations on a long-term basis;

(j) *site* means a geographically defined area whose extent is clearly delineated;

(k) *site of Community importance* means a site which, in the biogeographical region or regions to which it belongs, contributes significantly to the maintenance or restoration at a favourable conservation status of a natural habitat type in Annex I or of a species in Annex II and may also contribute significantly to the coherence of Natura 2000 referred to in Article 3, and/or contributes significantly to the maintenance of biological diversity within the biogeographic region or regions concerned.

For animal species ranging over wide areas, sites of Community importance shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction;

(l) *special area of conservation* means a site of Community importance designated by the Member States through a statutory, administrative and/or contractual act where the necessary conservation measures are applied for the maintenance or restoration, at a favourable conservation status, of the natural habitats and/or the populations of the species for which the site is designated;

(m) *specimen* means any animal or plant, whether alive or dead, of the species listed in Annex IV and Annex V, any part or derivative thereof, as well as any other goods which appear, from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be parts or derivatives of animals or plants of those species;

(n) *the committee* means the committee set up pursuant to Article 20.

Article 2

1 The aim of this Directive shall be to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies

2 Measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest

3 Measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics.

Conservation of natural habitats and habitats of species

Article 3

1 A coherent European ecological network of special areas of conservation shall be set up under the title Natura 2000. This network, composed of sites hosting the natural habitat types listed in Annex I and habitats of the species listed in Annex II, shall enable the natural habitat types and the species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range.

The Natura 2000 network shall include the special protection areas classified by the Member States pursuant to Directive 79/409/EEC.

2 Each Member State shall contribute to the creation of Natura 2000 in proportion to the representation within its territory of the natural habitat types and the habitats of species referred to in paragraph 1. To that effect each Member State shall designate, in accordance with Article 4, sites as special areas of conservation taking account of the objectives set out in paragraph 1.

3 Where they consider it necessary, Member States shall endeavour to improve the ecological coherence of Natura 2000 by maintaining, and where appropriate developing, features of the landscape which are of major importance for wild fauna and flora, as referred to in Article 10.

Article 4

1 On the basis of the criteria set out in Annex III (Stage 1) and relevant scientific information, each Member State shall propose a list of sites indicating which natural habitat types in Annex I and which species in Annex II that are native to its territory the sites host. For animal species ranging over wide areas these sites shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction. For aquatic species which range over wide areas, such sites will be proposed only where there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction. Where appropriate, Member States shall propose adaptation of the list in the light of the results of the surveillance referred to in Article 11.

The list shall be transmitted to the Commission, within three years of the notification of this Directive, together with information on each site. That information shall include a map of the site, its name, location, extent and the data resulting from application of the criteria specified in Annex III (Stage 1) provided in a format established by the Commission in accordance with the procedure laid down in Article 21.

2 On the basis of the criteria set out in Annex III (Stage 2) and in the framework both of each of the seven biogeographical regions referred to in Article 1(c)(iii) and of the whole of the territory referred to in Article 2(1), the Commission shall establish, in agreement with each Member State, a draft list of sites of Community importance drawn from the Member States' lists identifying those which host one or more priority natural habitat types or priority species.

Member States whose sites hosting one or more priority natural habitat types and priority species represent more than 5% of their national territory may, in agreement with the

Commission, request that the criteria listed in Annex III (Stage 2) be applied more flexibly in selecting all the sites of Community importance in their territory.

The list of sites selected as sites of Community importance, identifying those which host one or more priority natural habitat types or priority species, shall be adopted by the Commission in accordance with the procedure laid down in Article 21.

3 The list referred to in paragraph 2 shall be established within six years of the notification of this Directive.

4 Once a site of Community importance has been adopted in accordance with the procedure laid down in paragraph 2, the Member State concerned shall designate that site as a special area of conservation as soon as possible and within six years at most, establishing priorities in the light of the importance of the sites for the maintenance or restoration, at a favourable conservation status, of a natural habitat type in Annex I or a species in Annex II and for the coherence of Natura 2000, and in the light of the threats of degradation or destruction to which those sites are exposed.

5 As soon as a site is placed on the list referred to in the third subparagraph of paragraph 2 it shall be subject to Article 6(2),(3) and (4).

Article 5

1 In exceptional cases where the Commission finds that a national list as referred to in Article 4(1) fails to mention a site hosting a priority natural habitat type or priority species which, on the basis of relevant and reliable scientific information, it considers to be essential for the maintenance of that priority natural habitat type or for the survival of that priority species, a bilateral consultation procedure shall be initiated between that Member State and the Commission for the purpose of comparing the scientific data used by each.

2 If, on expiry of a consultation period not exceeding six months, the dispute remains unresolved, the Commission shall forward to the Council a proposal relating to the selection of the site as a site of Community importance.

3 The Council, acting unanimously, shall take a decision within three months of the date of referral.

4 During the consultation period and pending a Council decision, the site concerned shall be subject to Article 6(2).

Article 6

1 For special areas of conservation, Member States shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.

2 Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the

species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

3 Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

4 If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Whereas the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

Article 7

Obligations arising under Article 6(2),(3) and (4) of this Directive shall replace any obligations arising under the first sentence of Article 4(4) of Directive 79/409/EEC in respect of areas classified pursuant to Article 4(1) or similarly recognised under Article 4(2) thereof, as from the date of implementation of this Directive or the date of classification or recognition by a Member State under Directive 79/409/EEC, where the latter date is later.

Article 8

1 In parallel with their proposals for sites eligible for designation as special areas of conservation, hosting priority natural habitat types and/or priority species, the Member States shall send, as appropriate, to the Commission their estimates relating to the Community co-financing which they consider necessary to allow them to meet their obligations pursuant to Article 6(1).

2 In agreement with each of the Member States concerned, the Commission shall identify, for sites of Community importance for which co-financing is sought, those measures essential for the maintenance or re-establishment at a favourable conservation status of the priority natural habitat types and priority species on the sites concerned, as well as the total costs arising from those measures.

3 The Commission, in agreement with the Member States concerned, shall assess the financing, including co-financing, required for the operation of the measures referred to in paragraph 2, taking into account, amongst other things, the concentration on the Member State's territory of priority natural habitat types and/or priority species and the relative burdens which the required measures entail.

4 According to the assessment referred to in paragraphs 2 and 3, the Commission shall adopt, having regard to the available sources of funding under the relevant Community instruments and according to the procedure set out in Article 21, a prioritised action framework of measures involving co-financing to be taken when the site has been designated under Article 4(4).

5 The measures which have not been retained in the action framework for lack of sufficient resources, as well as those included in the above mentioned action framework which have not received the necessary co-financing or have only been partially co-financed, shall be reconsidered in accordance with the procedure set out in Article 21, in the context of the two-yearly review of the action framework and may, in the meantime, be postponed by the Member States pending such review. This review shall take into account, as appropriate, the new situation of the site concerned.

6 In areas where the measures dependent on co-financing are postponed, Member States shall refrain from any new measures likely to result in deterioration of those areas.

Article 9

The Commission, acting in accordance with the procedure laid down in Article 21, shall periodically review the contribution of Natura 2000 towards achievement of the objectives set out in Article 2 and 3. In this context, a special area of conservation may be considered for declassification where this is warranted by natural developments noted as a result of the surveillance provided for in Article 11.

Article 10

Member States shall endeavour, where they consider it 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 for 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.

Article 11

Member States shall undertake surveillance of the conservation status of the natural habitats and species referred to in Article 2 with particular regard to priority natural habitat types and priority species.

Protection of species

Article 12

1 Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV(a) in their natural range, prohibiting:

a. all forms of deliberate capture or killing of specimens of these species in the wild;

b. deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;

c. deliberate destruction or taking of eggs from the wild;

d. deterioration or destruction of breeding sites or resting places.

2 For the species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3 The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4 Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV(a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Article 13

1 Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV(b), prohibiting:

a. the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;

b. the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2 The prohibitions referred to in paragraph 1 (a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies.

Article 14

1 If, in the light of the surveillance provided for in Article 11, Member States deem it necessary, they shall take measures to ensure that the taking in the wild of specimens of species of wild fauna and flora listed in Annex V as well as their exploitation is compatible with their being maintained at a favourable conservation status.

2 Where such measures are deemed necessary, they shall include continuation of the surveillance provided for in Article 11. Such measures may also include in particular:

- regulations regarding access to certain property,
- temporary or local prohibition of the taking of specimens in the wild and exploitation of certain populations,
- regulation of the periods and/or methods of taking specimens,

- application, when specimens are taken, of hunting and fishing rules which take account of the conservation of such populations,
- establishment of a system of licences for taking specimens or of quotas,
- regulation of the purchase, sale, offering for sale, keeping for sale or transport for sale of specimens,
- breeding in captivity of animal species as well as artificial propagation of plant species, under strictly controlled conditions, with a view to reducing the taking of specimens from the wild,
- assessment of the effect of the measures adopted.

Article 15

In respect of the capture or killing of species of wild fauna listed in Annex V(a) and in cases where, in accordance with Article 16, derogations are applied to the taking, capture or killing of species listed in Annex IV(a), Member States shall prohibit the use of all indiscriminate means capable of causing local disappearance of, or serious disturbance to, populations of such species, and in particular:

a. use of the means of capture and killing listed in Annex VI(a);

b. any form of capture and killing from the modes of transport referred to in Annex VI(b).

Article 16

1 Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Member States may derogate from the provisions of Articles 12, 13, 14 and 15 (a) and (b):

a. in the interest of protecting wild fauna and flora and conserving natural habitats;

b. to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property;

c. in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;

d. for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants;

e. to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.

2 Member States shall forward to the Commission every two years a report in accordance with the format established by the Committee on the derogations applied under paragraph 1. The

Commission shall give its opinion on these derogations within a maximum time limit of 12 months following receipt of the report and shall give an account to the Committee.

3 The reports shall specify:

a. the species which are subject to the derogations and the reason for the derogation, including the nature of the risk, with, if appropriate, a reference to alternatives rejected and scientific data used;

b. the means, devices or methods authorised for the capture or killing of animal species and the reasons for their use;

c. the circumstances of when and where such derogations are granted;

d. the authority empowered to declare and check that the required conditions obtain and to decide what means, devices or methods may be used, within what limits and by what agencies, and which persons are to carry out the task;

e. the supervisory measures used and the results obtained.

Information

Article 17

1 Every six years from the date of expiry of the period laid down in Article 23, Member States shall draw up a report on the implementation of the measures taken under this Directive. This report shall include in particular information concerning the conservation measures referred to in Article 6(1) as well as evaluation of the impact of those measures on the conservation status of the natural habitat types of Annex I and the species in Annex II and the main results of the surveillance referred to in Article 11. The report, in accordance with the format established by the committee, shall be forwarded to the Commission and made accessible to the public.

2 The Commission shall prepare a composite report based on the reports referred to in paragraph 1. This report shall include an appropriate evaluation of the progress achieved and, in particular, of the contribution of Natura 2000 to the achievement of the objectives set out in Article 3. A draft of the part of the report covering the information supplied by a Member State shall be forwarded to the Member State in question for verification. After submission to the committee, the final version of the report shall be published by the Commission, not later than two years after receipt of the reports referred to in paragraph 1, and shall be forwarded to the Member States, the European Parliament, the Council and the Economic and Social Committee.

3 Member States may mark areas designated under this Directive by means of Community notices designed for that purpose by the committee.

Research

Article 18

1 Member States and the Commission shall encourage the necessary research and scientific work having regard to the objectives set out in Article 2 and the obligation referred to in Article 11. They shall exchange information for the purposes of proper coordination of research carried out at Member State and at Community level.

2 Particular attention shall be paid to scientific work necessary for the implementation of Articles 4 and 10, and trans-boundary cooperative research between Member States shall be encouraged.

Procedure for amending the Annexes

Article 19

Such amendments as are necessary for adapting Annexes I, II, III, V and VI to technical and scientific progress shall be adopted by the Council acting by qualified majority on a proposal from the Commission.

Such amendments as are necessary for adapting Annex IV to technical and scientific progress shall be adopted by the Council acting unanimously on a proposal from the Commission.

Committee

Article 20

The Commission shall be assisted by a committee.

Article 21

1 Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC ([1]) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

2 The Committee shall adopt its rules of procedure.

1 Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p.23).

Supplementary provisions

Article 22

In implementing the provisions of this Directive, Member States shall:

a. study the desirability of re-introducing species in Annex IV, that are native to their territory where this might contribute to their conservation, provided that an investigation, also taking into account experience in other Member States or elsewhere, has established that such re-introduction contributes effectively to re-establishing these species at a favourable conservation status and that it takes place only after proper consultation of the public concerned:

b. ensure that the deliberate introduction into the wild of any species which is not native to their territory is regulated so as not to prejudice natural habitats within their natural range or the wild native fauna and flora and, if they consider it necessary, prohibit such introduction. The results of the assessment undertaken shall be forwarded to the committee for information;

c. promote education and general information on the need to protect species of wild fauna and flora and to conserve their habitats and natural habitats.

Final provisions

Article 23

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within two years of its notification. They shall forthwith inform the Commission thereof.

2 When Member States adopt such measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3 Member States shall communicate to the Commission the main provisions of national law which they adopt in the field covered by this Directive.

Article 24

This Directive is addressed to the Member States.

Done at Brussels, 21 May 1992.

For the Council

The President

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Natural England’s Geoportal: England-wide data for great crested newts now available

Natural England, 17 December 2019 - Wildlife

Jen Almond, Natural England’s District Level Licensing Programme Manager, on the new data that will benefit great crested newts and developers alike.

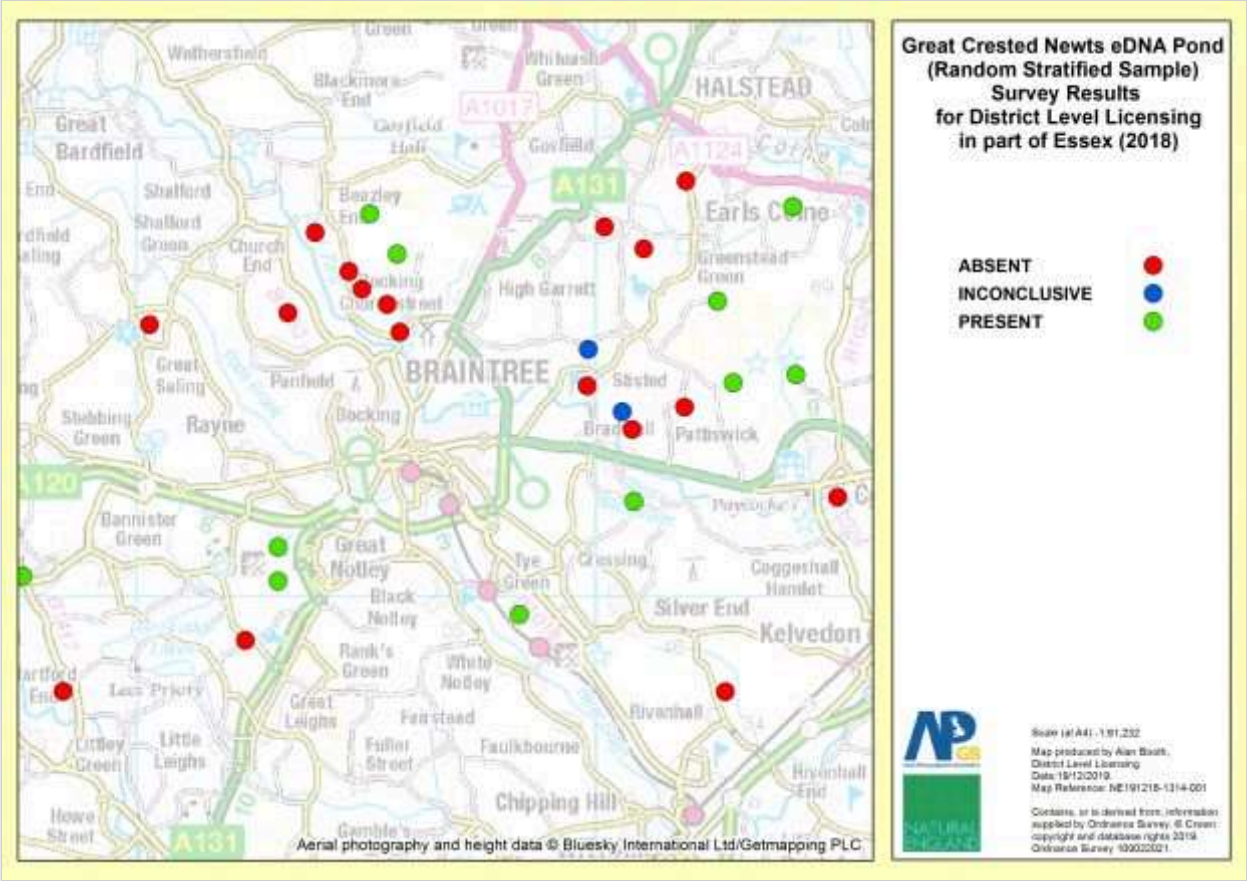
Natural England has now uploaded baseline survey data on great crested newts (GCN) to make it available to all. The project – taking three years to complete – is the largest ever survey of its type for great crested newts across England, and was funded by the Ministry for Housing, Communities and Local Government (MHCLG).

Why is the project important?

This England-wide survey data has enabled Natural England’s district level licensing programme – without this data we couldn’t have developed this significant new licensing option, an approach that better supports GCN populations, as well as reducing delays for developers.

We hope the data will bring other benefits: it is a fantastic resource coming out of the district level licensing programme, available to all. The data will mean that Local Environmental Record Centres and other groups such as the Wildlife Trusts can help better protect the species. Whilst only a sample of ponds were surveyed, the data will help inform conservation efforts. We hope making the data available will means that GCN habitats can be better managed as well as linked-up on a landscape scale, helping the species to thrive.

TAB 2



A extract from Geoportal showing the location of GCN ponds

What did we do?

GCN are a visually striking but an elusive species, breeding in ponds and hibernating on land, typically in rough grassland, scrub and woodland. We worked with contractors, with permission from landowners, to survey more than 7,518 ponds using the relatively new environmental DNA (eDNA) sampling technique to establish the presence or absence of GCN.

The survey results are being used alongside mapped landscape features such as pond density to develop landscape scale licensing strategies for the species. We carefully ensured we surveyed a random stratified sample of ponds across a range of landscape and habitat types.

Central to the project are award-winning state-of-the-art species distribution models which predict suitable habitat for great crested newts. These spatial models incorporate all the pond survey data we collected plus existing records correlated with predictive geographic layers which are ecologically important for the species. The resulting model prediction maps of suitable habitat filter through to every part of the project. To find out more about the district level licensing approach read our blog post on protecting great crested newts.

A male great crested newt (Triturus cristatus). Its skin colour and crest is typical for breeding time.

Why should we protect great crested newts?

GCN are a European protected species. The animals and their eggs, breeding sites and resting places are protected by law. They are widely distributed throughout lowland England. However, the species has suffered enormous declines, with approximately 50% of ponds in the UK lost in the 20th Century and 80% of current ponds in a poor state. A traditional or a district level licence is required from Natural England if you're planning an activity and can't avoid disturbing them or damaging their habitats (ponds and the land around ponds).

Who can use the data?

As the data is available under an Open Government Licence absolutely anyone can use it. It is already being put to good use – the data will form part of the evidence used to update the 'Favourable Conservation Status' statement for great crested newts. The Conservation Status is considered 'favourable' when the population and range of the species is healthy and will be maintained into the long term. Monitoring this helps environmental managers, policymakers and scientists effectively protect habitats and species such as great crested newts.

What is the Natural England Open Data Geoportal?

The Natural England Open Data Geoportal was launched 2017 and provides free and open access to geographic products for download in multiple formats (CSV, KML, Shapefile and ESRI File Geodatabase), web services (ESRI REST and

GeoJSON APIs), web applications and story maps. All content is available under the Open Government Licence v3.0, except where otherwise stated.

A simple explanation of how to access the service can be viewed here.

If you have and ArcGIS Online organisational or public account you can access and use our data on the ArcGIS Online platform. Sign in at the top right of the Natural England Open Data Geoportal home page and try it out, or register for a Public account here. A subset of our geospatial open data layers are also published on the ESRI Living Atlas of the World.

Updates to existing data and new content are released by the end of each month and you can view the latest releases on the Geoportal home page. We also tweet data and service updates, so please follow us to keep up with the latest news.

You can contact us at Data.Services@naturalengland.org.uk with any feedback.

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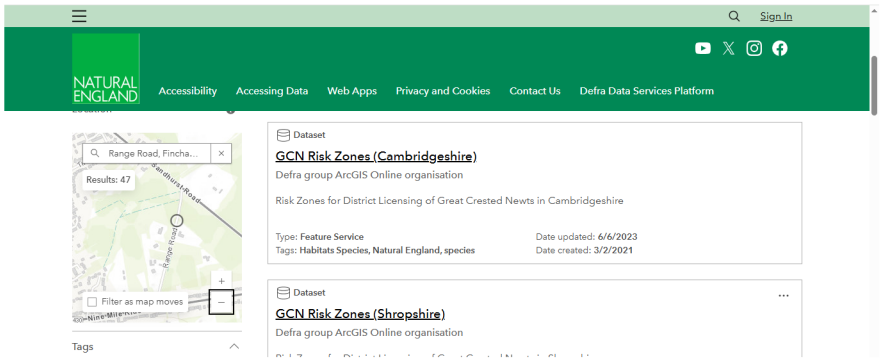
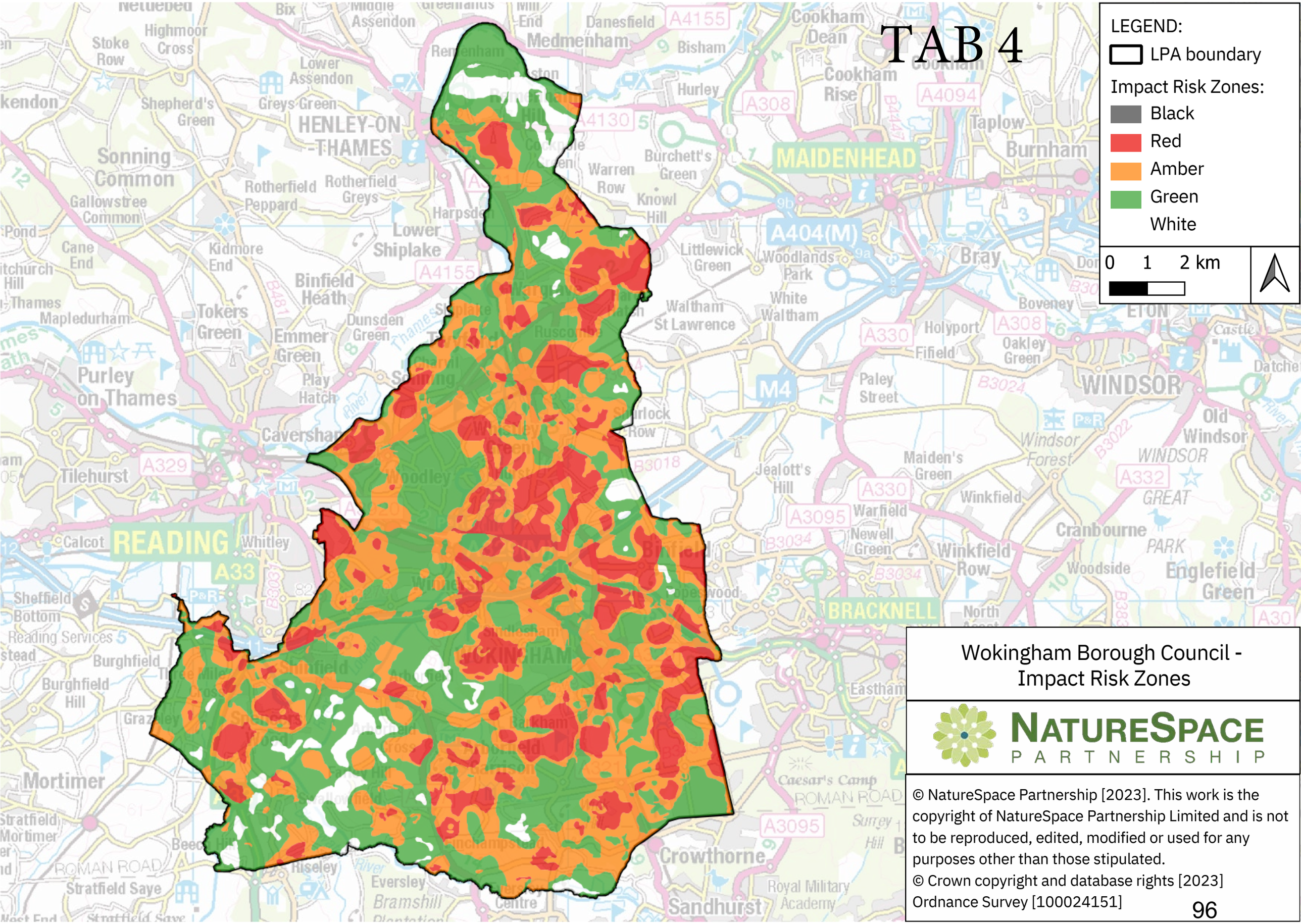
TAB 3


Sign In
NATURAL ENGLAND
Accessibility
Accessing Data
Web Apps
Privacy and Cookies
Contact Us
Defra Data Services Platform
Range Road, Fincha...
Results: 47
Filter as map moves
Tags
Dataset
GCN Risk Zones (Cambridgeshire)
Defra group ArcGIS Online organisation
Risk Zones for District Licensing of Great Crested Newts in Cambridgeshire
Type: Feature Service
Tags: Habitats Species, Natural England, species
Date updated: 6/6/2023
Date created: 3/2/2021
Dataset
GCN Risk Zones (Shropshire)
Defra group ArcGIS Online organisation

TAB 4



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TAB 5

The website may be briefly unavailable between 18:00 and 19:00 today for maintenance, apologies for any inconvenience

Last updated: 17th April 2025

Great Crested Newts

Overview

Read our planning guidance and policy documents

Biodiversity net gain (BNG)

Great Crested Newts

What documents you need to submit

Useful documents to check

Planning application forms

Pay and submit

Great Crested Newts are amphibious creatures native to the UK and parts of mainland Europe. They are generally found within 500m of ponds, although they can travel much further than this – up to 1.6km. Great crested newts and their habitats are protected under UK legislation which means the Council must take this into account when considering planning applications.

The likelihood of Great Crested Newts being on a site has been modelled and is shown by NatureSpace's impact risk zones which you can view on the Co planning constraints map.

Planning Policies and Constraints Map Open in new tab

Works without a licence

If the risk of harming Great Crested Newts is low, it may be possible to carry out work without a licence. However, care should be taken and appropriate avoidance measures applied. If Great Crested Newts are found, contact Natural England or a qualified ecologist for advice. Remember it is illegal to move Great Crested Newts without a licence.

Natural England Licensing

It is possible to gain a licence directly from Natural England but only once planning permission has been granted. An application will need to be supported by surveys of ponds within 500 metres of the site and should include details of impact assessment, mitigation and compensation.

Apply for a licence

District Licensing

The Council holds a district licence designed by NatureSpace and granted by Natural England. Developments can be covered by this licence through a process approved at the same time as planning permission which can make the process quicker and easier for applicants. Before submitting a planning application, contact NatureSpace to get an assessment carried out. You can then submit a NatureSpace report or Certificate with your planning application to the Council. Visit the NatureSpace website for further information.

Licensing and Biodiversity Net Gain

Users of the District Licence scheme can also benefit from the integrated Biodiversity Net Gain package managed by NatureSpace and the Newt

Conservation Partnership. More information on this can be found on the NatureSpace website.

Further information

Queries about the district licence should be sent to NatureSpace by email info@naturespaceuk.com or by phone 01865 688307. Resources for the licence scheme and further information are on the NatureSpace website.

Previous
Biodiversity net gain (BNG)

Next
What documents you need to submit

Give website feedback

Back to top

Sign up to the Wokingham Borough Council Newsletter

Get the latest news and updates within the area.

Find the help you need

Submit a complaint

Report wrongdoing (whistleblow)

Learn about fraud

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Emergency out of hours: 0800 212 111

Social care out of hours: 01344 351 999

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Careers

Consultations

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https://experience.arcgis.com/experience/d76c713282874f3da74b3e46bc473d3f#data_s=id%3Awidget_30_output_config_2%3A0

WOKINGHAM BOROUGH COUNCIL

Planning Policies and Constraints Map

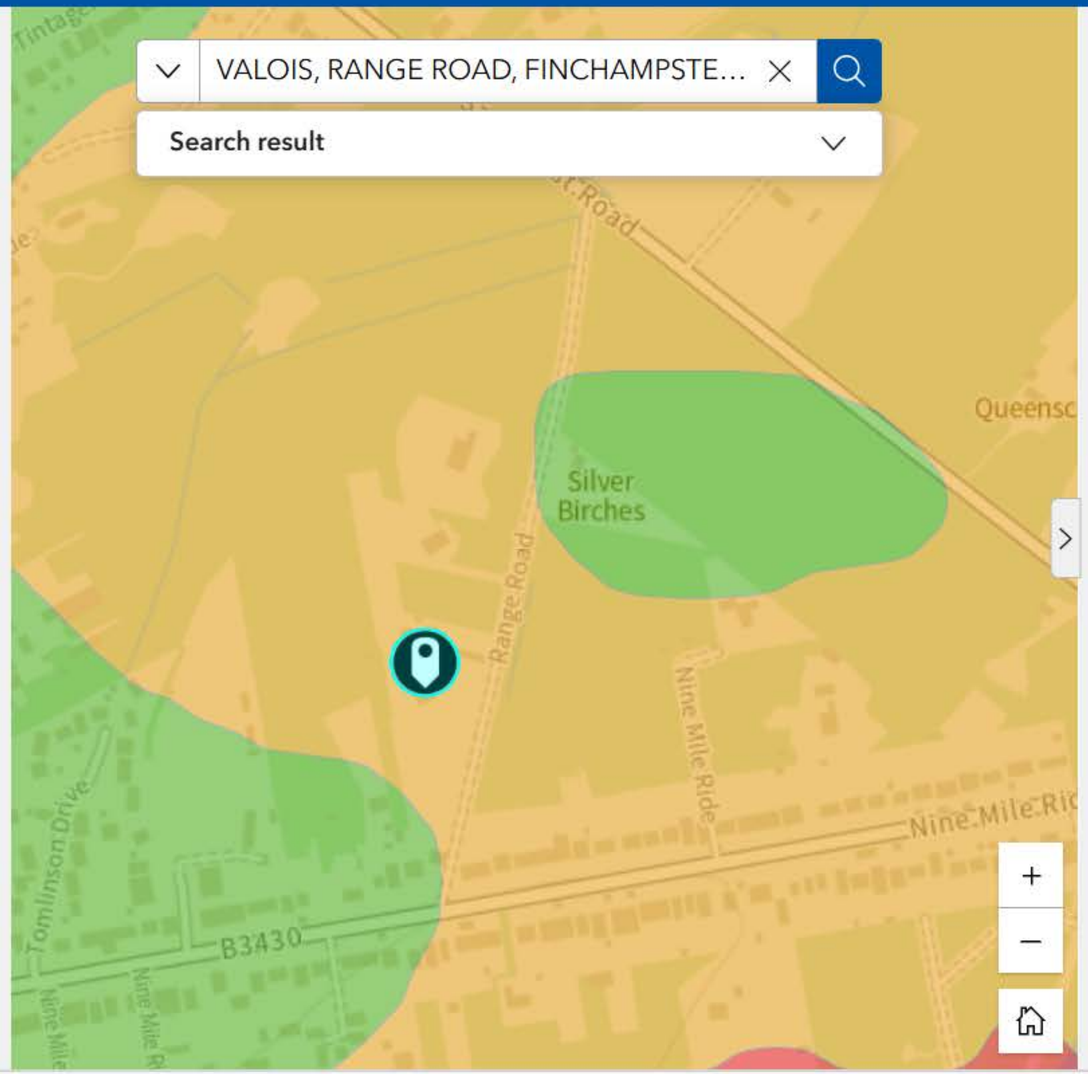
Map Feedback

- Public Rights of Way
- Safety Hazard Areas
- Other, including consultees
- Hydrology and Drainage
- Ecology and Environment

Great Crested Newt Impact Risk Zones

- White
- Green
- Amber
- Red

- Air Quality Management Areas



How to...

Layers:

- Layer visibility can be toggled on and off by checking and unchecking the box to the left of the layer in the map layers list to the left.
- Layer groups can be expanded and collapsed using the arrow to the left of the layer group in the map layers list to the left.
- Some layers will not be visible when zoomed out. These layers will appear grey in the map layers list to the left.

Legend (Styling):

- Layer styling can be shown and hidden using the 'hamburger' menu (triple bar icon) to the right of the layer in the map layers list to the left.
- The layer must be toggled on (the box to the left checked) for the layer legend to be displayed.

Pop-ups:

- Left click layer features on the map to see details about the